Delhi Judicial Service Prelims 2023: Solution

Delhi High Court · Delhi Judicial Service Preliminary Examination 2023 · 200 questions

Preliminary Examination

1. X and Y, being both juristic entities have certain commercial disputes which have arisen under a contract which does not contain any arbitration clause. X wishes to resolve these disputes through arbitration and for this purpose seeks to have an arbitration agreement with Y. Which of the following is a possible option for X for the purpose of bringing about an arbitration agreement?

(1) Address a letter to Y proposing that the disputes be resolved through arbitration and calling upon Y to agree to the same.
(2) Enter into an oral agreement with Y for referring the disputes to arbitration.
(3) File a civil suit praying that Y be directed to enter into an arbitration agreement with X.
(4) File an application under Section 11 of the Arbitration and Conciliation Act, 1996, seeking reference of the disputes to arbitration.

Answer: (1) Address a letter to Y proposing that the disputes be resolved through arbitration and calling upon Y to agree to the same.

An arbitration agreement must be in writing (section 7 of the Arbitration and Conciliation Act, 1996), and writing includes an exchange of letters or other communications. A letter proposing arbitration of the existing disputes, if Y accepts in writing, produces a valid agreement. An oral agreement does not satisfy section 7, and neither a civil suit nor a section 11 application can compel parties to make an agreement they never made.

2. What is the date of commencement of arbitration proceedings in relation to a particular dispute?

(1) Date of first hearing before the arbitral tribunal.
(2) Date on which a request for that dispute to be referred to arbitration is received by the opposite party.
(3) Date on which a petition under Section 11 of the Arbitration and Conciliation Act, 1996, is filed by one of the parties.
(4) Date on which arbitral tribunal is constituted.

Answer: (2) Date on which a request for that dispute to be referred to arbitration is received by the opposite party.

Section 21 of the Act provides that, unless the parties agree otherwise, arbitral proceedings in respect of a dispute commence on the date on which the respondent receives a request for that dispute to be referred to arbitration. The first hearing, the filing of a section 11 petition and the constitution of the tribunal are later steps and do not fix the commencement date, which matters mainly for limitation.

3. In an arbitral proceeding with 3 arbitrators, the arbitral award must be signed by -

(1) All the 3 arbitrators.
(2) Any 2 arbitrators, which must include the presiding arbitrator.
(3) Any one arbitrator so long as the reason for any omitted signature is stated
(4) Any 2 arbitrators so long as the reason for any omitted signature is stated.

Answer: (4) Any 2 arbitrators so long as the reason for any omitted signature is stated.

Under section 31 of the Act, in proceedings with more than one arbitrator the signatures of the majority of all the members of the tribunal are sufficient, provided the reason for any omitted signature is stated. So two of three arbitrators may sign if the reason for the third signature missing is recorded. Requiring all three, or the presiding arbitrator in every case, goes beyond the statute.

4. An application under Section 33 of the Arbitration and Conciliation Act, 1996, cannot seek -

(1) Correction of any computation error in the award
(2) Correction of clerical or typographical error in the award
(3) Review of the award on the ground of an error apparent on the face of the record.
(4) Interpretation of a specific point or part of the award

Answer: (3) Review of the award on the ground of an error apparent on the face of the record.

Section 33 allows a party, within thirty days, to seek correction of computation, clerical or typographical errors, or any similar error, and, if the parties agree, interpretation of a specific point or part of the award. The tribunal may also make an additional award on claims left out. It has no power to review its award on the ground of an error apparent, because the award is final subject only to section 34.

5. An appeal under Section 37 of the Arbitration and Conciliation Act, 1996 would not be maintainable against -

(1) An order refusing to refer the parties to arbitration under Section 8.
(2) Dismissal of a petition under Section 34.
(3) Refusing any measure under Section 9.
(4) An order allowing an application under Section 8.

Answer: (4) An order allowing an application under Section 8.

Section 37(1) lists the appealable orders: refusing to refer parties to arbitration under section 8, granting or refusing a measure under section 9, and setting aside or refusing to

set aside an award under section 34. An order that allows a section 8 application and refers the parties to arbitration is not on that list, so no appeal lies against it.

6. It is legally impermissible for an arbitral tribunal to comprise of -

(1) 3 arbitrators
(2) 4 arbitrators
(3) 5 arbitrators
(4) 7 arbitrators

Answer: (2) 4 arbitrators

Section 10 leaves the number of arbitrators to the parties but says it shall not be an even number; failing agreement, the tribunal is a sole arbitrator. Three, five or seven arbitrators are therefore permissible, while a tribunal of four is legally impermissible because an even number could produce a deadlock.

7. A settlement agreement arrived at during the conciliation proceedings under Part III of the Arbitration and Conciliation Act, 1996, stands on the same footing -

(1) As an order made under Section 9.
(2) An order made under Section 17.
(3) A preliminary decree of a civil court of competent jurisdiction.
(4) As an arbitral award rendered under Section 30.

Answer: (4) As an arbitral award rendered under Section 30.

Under section 74 of the Act, a settlement agreement reached in conciliation under Part III and signed by the parties has the same status and effect as if it were an arbitral award on agreed terms made under section 30. It is therefore enforceable like an award. It is not equated with a section 9 or section 17 order or with a preliminary decree.

8. A person 'X' is appointed as the conciliator to attempt conciliation of the disputes between party A and party B. The conciliation proceedings are terminated pursuant to which the parties seek adjudication of their disputes through arbitration. Which one of the following is a possible scenario -

(1) X is appointed as the nominee arbitrator of party A in the arbitration proceedings.
(2) X is appointed as the sole arbitrator through a judicial order passed under Section 11 of the Arbitration and Conciliation Act, 1996.
(3) X appears as a witness in the arbitration between party A and party B despite no consent of parties.
(4) X is appointed as the sole arbitrator with the consent of party A and party B.

Answer: (4) X is appointed as the sole arbitrator with the consent of party A and party B.

Section 80 provides that, unless the parties agree otherwise, a conciliator shall not act as arbitrator, or as representative or counsel of a party, in any arbitral or judicial proceeding on the dispute that was the subject of the conciliation, and cannot be presented as a witness. The bar yields to agreement, so appointment as sole arbitrator with the consent of both parties is possible; a one-sided nomination, a court appointment or compelled testimony is not.

9. A party filed an application for interim measures of protection before a Court, which was disposed of. The other party also wishes to file an application for interim measures of protection. He may do so -

(1) Before the same court where the party had first filed an application for interim measures of protection.
(2) Before the court within whose jurisdiction the seat of arbitration is situated.
(3) Only before the High Court.
(4) Any Court of Original Jurisdiction.

Answer: Question deleted by the High Court

Section 42 of the Act provides that where an application under Part I has been made in a court, that court alone has jurisdiction over the arbitral proceedings and all later applications arising out of the same agreement and proceedings. A second application for interim measures is therefore to be made before the court where the first application was filed, even though that application has been disposed of.

10. An Arbitral Tribunal shall -

(1) Have a lien on the arbitral award for only administration fee.
(2) Have a lien on the arbitral award for only legal fee.
(3) Not have a lien on the arbitral award for any unpaid costs of the arbitration.
(4) Have a lien on the arbitral award for any unpaid costs of the arbitration.

Answer: (4) Have a lien on the arbitral award for any unpaid costs of the arbitration.

Section 39 gives the arbitral tribunal a lien on the arbitral award for any unpaid costs of the arbitration, and also on deposits held. The lien is not confined to administrative or legal fees. If the tribunal refuses to deliver the award because costs are unpaid, a party may apply to the court, which can order delivery on payment of the fees fixed by it.

11. Under section 11 of the Arbitration and Conciliation Act, 1996, the arbitrator has to be appointed-

(1) Within 30 days of the arbitration agreement.
(2) Within 30 days of the arising of the dispute.
(3) Within 30 days of the failure to resolve the dispute on their own by the parties.
(4) Within 30 days from the receipt of request for appointment of arbitrator from the other party.

Answer: (4) Within 30 days from the receipt of request for appointment of arbitrator from the other party.

Under section 11(4) and (5), if a party fails to appoint its arbitrator within thirty days from receipt of a request from the other party, or the two appointed arbitrators fail to

agree on the third within thirty days, the appointment is made on request by the designated institution or court. The thirty days therefore run from receipt of the request, not from the agreement or the dispute.

12. The factors that could disqualify an Arbitrator inter alia are -
I. The Arbitrator is a partner in a law firm acting as a counsel for one of the parties.
II. The Arbitrator has a commercial relationship with an affiliate of one of the parties.

(1) Both I and II
(2) Only I
(3) Only II
(4) Neither I nor II

Answer: (1) Both I and II

Section 12(5) and the Seventh Schedule make a person ineligible if he falls in listed categories. These include a lawyer in the same law firm that represents one of the parties, and a significant commercial relationship of the arbitrator or his firm with a party or its affiliate. Both circumstances described are therefore disqualifying, and the correct option is both I and II.

13. Which of the following is an incorrect statement?

(1) An arbitral award is a contract.
(2) An arbitral award must be in writing and signed.
(3) An arbitral award includes an interim award.
(4) None of the above.

Answer: (1) An arbitral award is a contract.

An arbitral award is not a contract. It is a binding adjudication made by the tribunal in a statutory process, and section 36 makes it enforceable as if it were a decree of a court. The other statements are accurate: section 31 requires the award to be in writing and signed, and section 2(1)(c) says an arbitral award includes an interim award.

14. A nomination of an arbitrator is made by a person who is himself ineligible to act as an arbitrator under section 12(5) read with Seventh Schedule to the Arbitration and Conciliation Act, 1996. In such a case -

(1) The nominee cannot act as an arbitrator.
(2) Such nomination would be void ab initio.
(3) Both (1) and (2).
(4) Such nomination is valid.

Answer: (3) Both (1) and (2).

The Supreme Court has held that a person who is himself ineligible to act as arbitrator under section 12(5) read with the Seventh Schedule cannot nominate another, because he cannot do indirectly what he cannot do directly. The nominee therefore cannot act, and the nomination is void from the start. A party's express written waiver under the proviso to section 12(5) is the only way out.

15. A party seeking appointment of an arbitrator through the High Court or its designate shall make a request under -

(1) Section 11(3) of the Arbitration and Conciliation Act, 1996.
(2) Section 11(2) of the Arbitration and Conciliation Act, 1996.
(3) Section 11(6) of the Arbitration and Conciliation Act, 1996.
(4) Section 10 of the Arbitration and Conciliation Act, 1996.

Answer: (3) Section 11(6) of the Arbitration and Conciliation Act, 1996.

A request to the High Court (or its designate) for appointment of an arbitrator when the agreed procedure fails is made under section 11(6). Section 11(2) concerns the parties' freedom to agree on a procedure, section 11(3) the default procedure for three arbitrators, and section 10 fixes the number of arbitrators. Only section 11(6) is the route to the court.

16. The Preamble of the Constitution of India resolves to secure to the citizens -

(1) Justice, liberty, equality and fraternity.
(2) Justice, liberty, security and prosperity.
(3) Liberty, equality, fraternity and security.
(4) Independence, justice, liberty and equality.

Answer: (1) Justice, liberty, equality and fraternity.

The Preamble resolves to secure to all citizens justice (social, economic and political), liberty of thought, expression, belief, faith and worship, equality of status and of opportunity, and to promote fraternity assuring the dignity of the individual and the unity and integrity of the Nation. Option 1 states the four core objectives; security, prosperity and independence do not appear in that list.

17. Which of the following rights are not included under Article 19 of the Constitution?

(1) Freedom of speech and expression.
(2) Right to form associations or unions.
(3) Right to reside and settle anywhere in the world.
(4) Right to practice any profession.

Answer: (3) Right to reside and settle anywhere in the world.

Article 19(1)(e) guarantees to citizens the right to reside and settle in any part of the territory of India, not anywhere in the world, and even that is subject to reasonable restrictions under Article 19(5). The freedoms of speech and expression, forming associations or unions, and practising any profession or carrying on any occupation are guaranteed by Article 19(1)(a), (c) and (g).

18. Which of the following rights are not guaranteed in Part III of the Constitution?

(1) Right to education.
(2) Right to minorities to establish and administer educational institutions.
(3) Right to Constitutional remedies.
(4) Right to stand for election to Parliament.

Answer: (4) Right to stand for election to Parliament.

The right to stand for election to Parliament is a statutory right under the Representation of the People Act, 1951, not a fundamental right in Part III. The right to education is Article 21A, the right of minorities to establish and administer educational institutions is Article 30, and the right to constitutional remedies is Article 32, all in Part III.

19. Under Article 22 of the Constitution, every person who is arrested and detained in custody is to be produced before the nearest magistrate within -

(1) One week after arrest.
(2) Three days after arrest.
(3) Immediately.
(4) None of the above.

Answer: (4) None of the above.

Article 22(2) requires that a person arrested be produced before the nearest magistrate within twenty-four hours of arrest, excluding the time needed for the journey from the place of arrest to the magistrate's court. None of the periods of one week, three days or 'immediately' is the constitutional requirement, so 'none of the above' is correct.

20. The procedure for amendment of the Constitution under Article 368 of the Constitution requires an Amendment to be initiated by -

(1) Introduction of a Bill in either House of Parliament.
(2) Introduction of a Bill in only the Lok Sabha.
(3) Introduction of a Bill in either House of Parliament or the Legislative Assembly of any State.
(4) A Resolution of the concerned Government.

Answer: (1) Introduction of a Bill in either House of Parliament.

Article 368(2) provides that an amendment of the Constitution may be initiated only by the introduction of a Bill for the purpose in either House of Parliament. A State legislature cannot initiate it, though ratification by half of the States is needed for certain entrenched matters, and a resolution of a government has no role in initiating an amendment.

21. In view of Article 239AA of the Constitution, the National Capital Territory of Delhi is a -

(1) State with a Legislative Assembly.
(2) Union Territory with a Legislative Assembly.
(3) Union Territory without a Legislative Assembly.
(4) State without a Legislative Assembly.

Answer: (2) Union Territory with a Legislative Assembly.

Article 239AA, inserted by the Sixty-ninth Amendment in 1991, provides that the Union Territory of Delhi is called the National Capital Territory of Delhi and the Administrator is the Lieutenant Governor. It has a Legislative Assembly with seats filled by direct election. Delhi therefore remains a Union Territory, not a State, but with a Legislative Assembly and a Council of Ministers.

22. The Fundamental Duties enumerated in Article 51A of the Constitution include the following -

(1) To safeguard public property and to abjure violence.
(2) To value and preserve the rich heritage of India's composite culture.
(3) To defend the country and render national service when called upon to do so.
(4) All of the above.

Answer: (4) All of the above.

Article 51A lists the fundamental duties. These include the duty to safeguard public property and to abjure violence (clause (i)), to value and preserve the rich heritage of our composite culture (clause (f)), and to defend the country and render national service when called upon to do so (clause (d)). Since all three are enumerated, 'all of the above' is correct.

23. The minimum age for eligibility for election to the office of President of India is-

(1) 35 years
(2) 25 years
(3) 21 years
(4) 45 years

Answer: (1) 35 years

Article 58(1)(b) requires a candidate for President to have completed thirty-five years of age, besides being a citizen of India and qualified for election as a member of the House of the People. The age of twenty-five is the minimum for contesting a Lok Sabha seat, and the age of thirty for the Rajya Sabha.

24. Under Article 79 of the Constitution, Parliament for the Union of India consists of -

(1) The President of India and the two Houses of Parliament.
(2) The President of India, the two Houses of Parliament and the Council of Ministers.
(3) The Council of States and House of the People.
(4) The Council of Ministers and the House of the People.

Answer: (1) The President of India and the two Houses

of Parliament.

Article 79 provides that there shall be a Parliament for the Union consisting of the President and two Houses known as the Council of States (Rajya Sabha) and the House of the People (Lok Sabha). The President is thus a constituent part of Parliament. The Council of Ministers is not part of Parliament as such.

25. Does the Constitution provide for an opinion to be rendered by any Court on a question of law or fact other than by way of adjudication of lis?

(1) No.
(2) Yes, the High Courts can exercise advisory jurisdiction on a reference by the Governor of the concerned State.
(3) Yes, the Supreme Court can exercise advisory jurisdiction on a reference of the President of India.
(4) Yes, the Supreme Court can exercise advisory jurisdiction on a request by any Member of Parliament.

Answer: (3) Yes, the Supreme Court can exercise advisory jurisdiction on a reference of the President of India.

Article 143 empowers the President to refer to the Supreme Court a question of law or fact of public importance that has arisen or is likely to arise, and the Court may give its opinion after hearing. This advisory jurisdiction is exercised only on a Presidential reference. High Courts have no such jurisdiction on a Governor's reference, and a Member of Parliament cannot ask for it.

26. Which of the following offices are not provided for in the Constitution of India?

(1) Comptroller and Auditor General of India
(2) Attorney General of India
(3) Election Commission of India
(4) Solicitor General of India

Answer: (4) Solicitor General of India

The Comptroller and Auditor General is provided for in Article 148, the Attorney General in Article 76 and the Election Commission in Article 324. The office of Solicitor General of India is not mentioned in the Constitution; it is a statutory or administrative office whose holder assists the Attorney General.

27. The Preamble of the Constitution constitutes India as a "sovereign socialist secular democratic republic". Which of these words were not in the original Preamble?

(1) sovereign, socialist
(2) socialist, democratic
(3) socialist, secular
(4) secular, democratic

Answer: (3) socialist, secular

The words 'socialist' and 'secular' (and 'integrity') were added to the Preamble by the Constitution (Forty-second Amendment) Act, 1976. The original Preamble of 1950 described India as a 'sovereign democratic republic'. Therefore 'sovereign' and 'democratic' were already there, and the words that were not in the original text are socialist and secular.

28. In which of the following situations can a stay of subsequent suit be granted under Section 10 of the CPC?

(1) Where, the previous suit between the same parties is pending before a Court which prima facie does not have jurisdiction.
(2) Where the first suit has reached the stage of final arguments.
(3) Where the matters in issue in both the suits are substantially similar and it is pending between the same parties.
(4) Where previous suit between the parties on same issue has been decided on merits.

Answer: (3) Where the matters in issue in both the suits are substantially similar and it is pending between the same parties.

Section 10 CPC bars a court from proceeding with a later suit in which the matter in issue is directly and substantially the same as in a previously instituted suit between the same parties, litigating under the same title, pending in a court competent to grant relief. The test is substantial identity of the matters in issue. A suit already decided, or in a court lacking jurisdiction, does not attract the stay.

29. Which of the following is not a legal entity and therefore cannot sue as a plaintiff in its own name?

(1) Sole proprietorship firm
(2) Registered Partnership firm
(3) Hindu Undivided Family
(4) Statutory authority

Answer: (1) Sole proprietorship firm

A sole proprietorship firm has no legal personality separate from its proprietor, so it cannot sue in the firm name and the suit must be filed by the proprietor. A registered partnership firm may sue in the firm name under Order XXX CPC, a Hindu undivided family sues through its karta, and a statutory authority is a juristic person that can sue in its own name.

30. In which of the following situations, after the framing of issues, does the defendant have a right to begin evidence prior to the plaintiff in a civil suit in view of the provisions of Order XVIII Rule 1 of CPC?

(1) Where the facts set out in the plaint are admitted by the defendant but the plaintiff's entitlement to relief is contested in law or on the basis of additional facts asserted by the defendant.

(2) The defendant seeks permission to lead evidence first due to the old age of his/her witnesses.

(3) Either party can elect to begin first and thereafter it is the discretion of the Trial Court.

(4) Both (1) and (2)

Answer: (1) Where the facts set out in the plaint are admitted by the defendant but the plaintiff's entitlement to relief is contested in law or on the basis of additional facts asserted by the defendant.

Under Order XVIII Rule 1 CPC the plaintiff has the right to begin. The defendant has the right to begin only where he admits the facts alleged by the plaintiff and contends that, in point of law or on additional facts alleged by him, the plaintiff is not entitled to any part of the relief. Age of witnesses is not a ground, and the rule is not a matter of election by either party.

31. Whether the service of summons through e-mail without a copy of the plaint is valid service for reckoning the period of limitation for filing of the written statement?

(1) Yes, the defendant must approach the Court registry for obtaining the copy of plaint.

(2) No, summons must be accompanied with a copy of the plaint.

(3) Yes, the defendant must contact the plaintiff for the paper book

(4) No, service by email is not a valid service even if accompanied with a paper book.

Answer: (2) No, summons must be accompanied with a copy of the plaint.

Order V Rule 2 CPC requires every summons to be accompanied by a copy of the plaint. Service by e-mail is permitted as a mode of service, but without the plaint the summons is incomplete, so the thirty days for filing the written statement cannot start running. The defendant is not required to chase the registry or the plaintiff for the plaint.

32. In which of the following situations is review maintainable under Section 114 of CPC?

(1) Discovery of new evidence on question of fact, which despite due diligence, was not within the knowledge of party at the time when the decree was passed.

(2) Challenge to a finding of fact on the basis of unimpeachable evidence, which inadvertently could not be filed at the time of original hearing.

(3) Where the decision on a question of law on which the judgment of the Court is based, has been reversed by a Superior Court in another case.

(4) Reappraisal of the evidence on record to find out the error in the finding of fact.

Answer: (1) Discovery of new evidence on question of fact, which despite due diligence, was not within the knowledge of party at the time when the decree was passed.

Section 114 read with Order XLVII Rule 1 CPC allows review on discovery of new and important matter or evidence which, despite due diligence, was not within the party's knowledge or could not be produced when the decree was passed, on a mistake or error apparent on the face of the record, or for any other sufficient reason. Reappraising evidence to find an error of fact is the function of an appeal, not of review.

33. Do Civil Courts have power to grant status quo ante, when the defendant has dispossessed the plaintiff from the suit property, in violation of the subsisting interim injunction, during the pendency of the suit?

(1) Yes, under Order 39 Rule 2A and Section 151 CPC.

(2) Yes, under Section 94 CPC

(3) No, only the High Court can issue such direction in exercise of its jurisdiction under Article 215 of the Constitution of India and the Contempt of Courts Act, 1971.

(4) No, the plaintiff will have to file a fresh suit seeking possession.

Answer: Question deleted by the High Court

Yes. A civil court can restore the position that existed before the breach of its injunction. Order XXXIX Rule 2A allows attachment and detention for disobedience, and the court has inherent power under section 151 to undo what was done in violation of its own order, including directing restoration of possession. Section 94 and the contempt jurisdiction do not exclude this power.

34. A civil suit for infringement of trademark with applications under Order 39 of CPC and Order 26 Rule 9 CPC was filed by the plaintiff, during the subsistence of a Caveat filed by the defendant under Section 148A of CPC. The Court, however, without issuing notice to the defendant granted ex-parte ad-interim orders in favour of the plaintiff. Whether the Court was correct in doing so?

(1) Yes, the Court was correct since the reliefs sought are urgent and any prior intimation to the defendant would have led to mischief.
(2) No, since purpose of lodging a caveat is to grant an opportunity to defendant to show cause why any order(s) adverse to the defendant should not be passed
(3) No, as the Court has no power to grant an interim order without hearing the defendant.
(4) Yes, as the Court has discretion to grant interim order ex-parte without hearing the defendant, where delay would defeat the interests of the plaintiff.

Answer: (2) No, since purpose of lodging a caveat is to grant an opportunity to defendant to show cause why any order(s) adverse to the defendant should not be passed

Section 148A CPC gives a caveator the right to be heard before any adverse order on an application in a suit or proceeding, and where a caveat has been lodged and an application is filed, the court must serve notice of the application on the caveator. Granting an ex parte ad-interim order without notice defeats the purpose of the caveat, so the court was not correct.

35. What is the limitation for filing of an application for leave to appear or defend in a summary suit filed under Order XXXVII of CPC?

(1) 10 days
(2) 15 days
(3) 20 days
(4) 30 days

Answer: (1) 10 days

Under Order XXXVII Rule 3(5) CPC the defendant must apply for leave to appear and defend within ten days of service of summons for judgment, and leave is granted if the affidavit discloses facts that entitle him to defend. If he fails to apply, or leave is refused, the allegations are treated as admitted and the plaintiff is entitled to a decree.

36. A executed an agreement with B at Delhi promising delivery of goods at Chandigarh. The goods were duly delivered by A at Chandigarh and accepted by B. The invoice recorded that Courts at Gurugram will have exclusive jurisdiction, as the registered office of A was located at Gurugram. Upon non-payment of money, A sued B at civil Court Gurugram. B objected to the territorial jurisdiction of the court at Gurugram. This suit at Gurugram -

(1) Is maintainable, in view of the exclusive jurisdiction clause in the invoice.
(2) Is maintainable, as A has its registered office at Gurugram.
(3) Is not maintainable as no part of cause of action arose in Gurugram.
(4) Is not maintainable, as B is not a resident of Gurugram.

Answer: (3) Is not maintainable as no part of cause of action arose in Gurugram.

Parties can choose by agreement only among courts that already have jurisdiction under sections 15 to 20 CPC; they cannot confer jurisdiction on a court that has none. The contract was made in Delhi, the goods were delivered to and received by B in Chandigarh, and B does not reside at Gurugram. A's registered office does not itself give a cause of action there, so the Gurugram suit is not maintainable.

37. 'L' sues 'T' for the decree of possession of suit property and mesne profits. 'T' fails to file its written statement. The possession is handed over during pendency of the suit. The prayer for damages is decreed with the consent of the parties to be paid at Rs. 15,00,000 in four instalments. T is unable to pay the said damages, and therefore T challenges the said decree on the ground that the said amount has been decreed by the civil court without any evidence being led by the plaintiff. Against the said decree -

(1) an appeal lies under Section 96 CPC.
(2) no appeal lies under Section 96 CPC.
(3) A revision can be maintained before the High Court.
(4) An application under Section 151 CPC to the same Court for setting aside the decree.

Answer: (2) no appeal lies under Section 96 CPC.

Section 96(3) CPC bars an appeal from a decree passed by the court with the consent of the parties. Here the damages were decreed with consent, so T cannot appeal and cannot challenge the decree for lack of evidence. The remedy, if any, is to show that consent was vitiated by fraud or mistake, as in a suit or application under Order XXIII Rule 3A, not an appeal or revision.

38. A suit for specific performance was filed by Ms. A against Mr. B. The summons in the suit were issued on 01.12.2022 and the same was served at his residence, on the adult servant of Mr. B. As per the process server's report the said servant was the only person who was found at the address specified in the summons. The Trial Court declined to accept the same as a valid service and directed the plaintiff to take fresh steps. Whether the service in this case on the servant was a valid service?

(1) Yes, because as per Order V Rule 15 CPC service may be done on an adult member of the defendant's family.
(2) Yes, because as per Order V Rule 14 CPC service may be done on agent of the defendant in charge of the immovable property.
(3) No, because as per Order V Rule 15 CPC service cannot be affected on a servant:
(4) No, because as per Order V Rule 14 CPC a servant cannot be treated as agent.

Answer: (3) No, because as per Order V Rule 15 CPC service cannot be affected on a servant:

Order V Rule 15 CPC permits service on an adult member of the defendant's family residing with him when the defendant is absent and cannot be found, and the explanation says that a servant is not a member of the family. Rule 14 concerns an agent in charge of immovable property in a suit for compensation for wrong to it. A servant found at the address is therefore not a valid recipient.

39. Mr. A filed a suit for partition against his brother Mr. B claiming one half share (1/2) in the suit property admeasuring 200 sq. yds. inherited from their deceased father through intestate succession. Mr. B disputed the claim and setup an oral family agreement claiming that the entire suit property fell to his share exclusively. The Trial Court framed issues and the matter was set down for trial. Mr. A filed his evidence affidavit and was cross-examined partially. At this stage Mr. A filed an application under Order VI Rule 17 CPC for amending the plaint to state that 50 sq. yds. was sold by his deceased father to him by executing an unregistered ATS, GPA, Will and affidavit all dated 01.01.2005. He therefore sought amendment to plead this fact and contend that the partition in the suit is limited to 150 sq. yds. He stated that the said facts were inadvertently left out by his lawyer while drafting the plaint. Whether the said application for amendment filed by Mr. A can be allowed?

(1) Yes, because no party should suffer due to the lapse of the counsel and the matter was at the initial stage of evidence.
(2) Yes, because this is a material fact as the father of the parties was left with no right, title or interest in the area admeasuring 50 sq. yds with the execution of the sale agreement documents..
(3) No, because Mr. A is deemed to have abandoned his claim based on these unregistered documents.
(4) No, because an application under Order VI Rule 17 CPC cannot be moved after commencement of Trial and these documents were always within the knowledge of the plaintiff.

Answer: (4) No, because an application under Order VI Rule 17 CPC cannot be moved after commencement of Trial and these documents were always within the knowledge of the plaintiff.

Under the proviso to Order VI Rule 17 CPC, no amendment is allowed after the trial has commenced unless the court finds that, despite due diligence, the party could not have raised the matter earlier. Trial began when the plaintiff's evidence affidavit was filed. The documents were dated 2005 and always known to the plaintiff, and counsel's oversight is not due diligence, so the amendment is refused.

40. A civil suit was filed under Order XXXVII of the Code of Civil Procedure, 1908 ('CPC'). The defendant filed an application under Order XXXVII Rule 3 (5) CPC seeking leave to defend. The said application of the defendant was dismissed by the Trial Court and the suit was decreed. Under which provisions is recourse available for the defendant against the said impugned order?

(1) Section 115 of the Code of Civil Procedure, 1908.
(2) Section 96 of the Code of Civil Procedure, 1908.
(3) Section 100 of the Code of Civil Procedure, 1908.
(4) Order XLIII of the Code of Civil Procedure, 1908

Answer: (2) Section 96 of the Code of Civil Procedure, 1908.

When leave to defend is refused under Order XXXVII Rule 3(5), the suit is decreed in favour of the plaintiff. The order refusing leave is not separately appealable and merges in the decree, so the defendant's remedy is a regular appeal against the decree under section 96 CPC. Revision under section 115 and a second appeal under section 100 do not apply at that stage.

41. Section 2 (2) of the Code of Civil Procedure, 1908 ('CPC') provides for the definition of 'decree'. Which of the following will be included in definition of 'decree'?
I. Order passed rejecting a Plaint under Order VII Rule 11 CPC.
II. Order passed allowing an application under Order XII Rule 6 CPC.
III. Order of dismissal of a suit in default.
IV. Dismissal of Order I Rule 10 CPC application.

(1) Only I
(2) Only III
(3) Both I and II
(4) Both III and IV

Answer: (3) Both I and II

Section 2(2) CPC defines 'decree' to include the rejection of a plaint, so statement I qualifies. A judgment on admissions under Order XII Rule 6 conclusively decides the rights in dispute and a decree is drawn up, so II also qualifies. A dismissal in default is expressly excluded, and an order on Order I Rule 10 is interlocutory. The answer is I and II.

42. Mr. D was a defendant in a suit for recovery of money. Summons sent for hearing dated 01.02.2019 to Mr. D through registered post was received back with postal endorsement of 'refusal'. This was also the report of the process server attached with the Court. In view of this report, the Trial Court proceeded ex-parte against Mr. D on 01.02.2019. The ex-parte decree was passed in favour of the plaintiff on 01.02.2020 and the execution petition was filed. The executing court issued warrants of attachment for his bank accounts. At this juncture Mr. D filed an application under Order IX Rule 13 of the Code of Civil Procedure, 1908 praying that ex-parte decree of the Trial Court be set aside on the ground that he was not duly served with the summons. Whether the said application of Mr. D can be allowed?

(1) Yes, because Mr. D is entitled to defend the suit on merits.
(2) No, because Mr. D himself refused the summons and was therefore duly served.
(3) Yes, because Trial Court ought to have issued fresh summons at the hearing dated 01.02.2019 and made a second attempt to serve Mr. D.
(4) None of the above.

Answer: (2) No, because Mr. D himself refused the summons and was therefore duly served.

Order V Rule 9(5) CPC provides that where a postal article containing the summons is refused, the court shall declare that the summons has been duly served on the defendant. Mr. D's refusal therefore amounted to due service, the ex parte proceeding was justified, and his Order IX Rule 13 application, based only on non-service, cannot succeed.

43. Mr. A filed a suit for eviction and recovery of arrears of rent against Mr. Y in respect of a commercial shop basis legal notice dated 01.12.2022. Mr. Y filed a written statement stating that he is not a tenant in the premises and it is his son Mr. X who is the tenant in occupation of the said commercial shop. Mr. A filed an application for impleadment of Mr. X as defendant no.2 in view of the said averments made in the written statement. Both Mr. X and Mr. Y opposed the impleadment application on the ground that Mr. X cannot be impleaded in the present suit and a separate suit is to be filed. Is this impleadment application maintainable or not?

(1) No, as this is a separate cause of action and a fresh suit should be filed.
(2) No, as the present suit is based on legal notice dated 01.12.2022 which was not addressed to Mr. X the proposed defendant.
(3) Yes, in view of the defence raised by Mr. Y in his written statement which gives rise to a doubt, so as to enable the plaintiff for grant of the reliefs sought in the plaint.
(4) Yes, as per Section 151 CPC.

Answer: (3) Yes, in view of the defence raised by Mr. Y in his written statement which gives rise to a doubt, so as to enable the plaintiff for grant of the reliefs sought in the plaint.

A court may add as a party any person whose presence is necessary to decide the real questions in the suit effectively and completely (Order I Rule 10(2) CPC), and where the plaintiff is in doubt as to whom to sue, Order I Rule 7 permits joining alternatives. Once Mr. Y claims that his son is the tenant, Mr. X must be impleaded so that the real tenant is bound, and a fresh suit is unnecessary.

44. A suit governed by Commercial Courts Act, 2015 was filed by Mr. A against Mr. C. Mr. C was served with summons of the said commercial suit on 30.06.2022. Mr. C was called on to file Written Statement through the said summons within 30 days, the same was filed by Mr. C on 10.11.2022 (after 132 days) with an application seeking condonation of delay of 102 days. It was stated in the application that he had met with an accident and was hospitalized during this period Can the said Written Statement be taken on record by the concerned commercial Court?

(1) Yes, because the defendant has shown sufficient cause for condoning the delay.
(2) No, because the written statement is to be mandatorily filed within 120 days from the date of service of summons.
(3) No, because the written statement has to be mandatorily filed within 90 days from the date of service of summons.
(4) Yes, because Court has discretion to enlarge the time for filing written statement, subject to payment of costs to Mr. A for the delay.

Answer: (2) No, because the written statement is to be mandatorily filed within 120 days from the date of service of summons.

In a commercial suit the written statement must be filed within thirty days of service, extendable by the court only up to a maximum of one hundred and twenty days, after which the right to file is forfeited and the court has no power to extend. The Supreme Court has held this to be mandatory. Mr. C filed after 132 days, so the written statement cannot be taken on record, whatever his reason.

45. Mr. G a hostel owner rented out one of the rooms to Mr. H, at a yearly rent of Rs. 1,20,000/-. Mr. H defaulted for the years 2016, 2017 and 2018. Mr. G after issuing legal notice dated 01.02.2019 for the arrears, filed a suit for recovery in 2019 for the rent due of the years 2017 and 2018 only. The said suit was decreed in favour of Mr. G on 01.11.2019. Whether Mr. G can file a subsequent suit for recovery of arrears of the year 2016?

(1) No, as per Order II Rule 2 CPC
(2) No, as per Section 11 CPC
(3) Yes, as per Order XX Rule 12 CPC
(4) Yes, as per Order XXIII Rule 1 CPC

Answer: (1) No, as per Order II Rule 2 CPC

Order II Rule 2 CPC requires a plaintiff to include the whole of the claim arising from a cause of action in the suit, and a person who omits to sue for a portion cannot afterwards sue for that portion unless the court gave leave. The 2016 arrears were due when the earlier suit was filed on the same tenancy and were omitted without leave, so a later suit for them is barred.

46. A decree for recovery of money of Rs. 10 Lakhs is passed against a company ABC limited. The decree holder files an execution petition and impleads Mr. A and Mrs. A as Respondent Nos. 2 and 3 since they are the promoter directors of the company. Respondent Nos. 2 and 3 seek their deletion. Is this application liable to allowed or disallowed?

(1) The application is liable to be disallowed as they are proper parties.
(2) The application is liable to be allowed as they were not the defendants in the suit before the Trial Court and are not liable for payment of the decretal amount.
(3) The application liable to be allowed subject to their undertaking that they will pay the decretal amount if ABC limited fails to satisfy the decree.
(4) The application is liable to be disallowed as they are jointly liable in law for the payment under the decree.

Answer: (2) The application is liable to be allowed as they were not the defendants in the suit before the Trial Court and are not liable for payment of the decretal amount.

A decree can be executed only against the judgment-debtor named in it, and an executing court cannot go behind the decree. A company is a separate legal person, and its promoter directors who were not parties to the suit are not liable for its decretal debt merely because of their position. Their deletion from the execution petition must therefore be allowed.

47. Where would a suit for compensation for wrongs to a person be instituted, if the wrong is committed within territorial jurisdiction of one court and the defendant resides within the territorial jurisdiction of another court?

(1) Place where the wrong took place
(2) Place where the defendant resides
(3) Place where the plaintiff resides
(4) Either of (1) or (2)

Answer: (4) Either of (1) or (2)

Section 19 CPC, which covers suits for compensation for wrongs to the person or to movable property, lets the plaintiff choose to sue where the wrong was done or where the defendant resides, carries on business or personally works for gain, if these are in different court areas. The plaintiff's own residence gives no jurisdiction, so the answer is either the place of the wrong or the place of the defendant's residence.

48. Upon institution of a suit, summons may be issued to the defendant to appear on such day -

(1) not beyond 120 days from date of the institution of the suit.
(2) not beyond 90 days from date of the institution of the suit.
(3) not beyond 60 days from date of the institution of the suit.
(4) not beyond 30 days from date of the institution of the suit.

Answer: (4) not beyond 30 days from date of the institution of the suit.

Section 27 CPC provides that when a suit has been duly instituted, summons may be issued to the defendant to appear and answer the claim, on a day not beyond thirty days from the institution of the suit. The longer periods of sixty, ninety and one hundred and twenty days in the other options do not govern the issue of summons; the defendant's time to file a written statement is separate.

49. The Court may, on the application of the decree-holder, order execution of the decree-

(1) by delivery of any property specifically decreed only to the extent of the property of the deceased which has come to his hands and has not been duly disposed of.
(2) by attachment and sale or by the sale without attachment of any property.
(3) by appointing a receiver.
(4) All of the above

Answer: (4) All of the above

Section 51 CPC lets the court, on the decree-holder's application, order execution by delivery of property specifically decreed, by attachment and sale or sale without attachment of any property, by arrest and detention, by appointing a receiver, or in any other manner the nature of the relief requires. Each of the three modes mentioned is available, subject to the limits on proceeding against the estate of a deceased judgment-debtor.

50. Every decree for the payment of money may be executed by either -

(1) detention in the civil prison of the judgment debtor.
(2) by the attachment and sale of property of the judgment debtor.
(3) Both (1) and (2)
(4) None of the above

Answer: (3) Both (1) and (2)

Under section 51 CPC and Order XXI, a decree for payment of money may be executed by attachment and sale of the judgment-debtor's property or by his arrest and detention in civil prison, and both modes may be used, subject to the conditions in sections 55 to 58 and the proviso to section 51 about detention where the amount is small or the debtor is unable to pay.

51. Summary suits under Order 37 of CPC apply to the following classes of suits -

(1) Suits upon bills of exchange, hundies and promissory notes
(2) Suits seeking recovery of liquidated debt based on written contract
(3) Suits seeking damages for breach of contract.
(4) Both (1) and (2)

Answer: (4) Both (1) and (2)

Order XXXVII Rule 1(2) CPC applies the summary procedure to suits upon bills of exchange, hundis and promissory notes, and to suits seeking to recover a debt or liquidated demand in money, with or without interest, arising on a written contract, an enactment or a guarantee. A claim for damages for breach of contract is unliquidated, so it cannot be brought as a summary suit.

52. If a suit, which does not seek any urgent relief, is filed against a public officer without issuance of prior notice, the court shall -

(1) Reject the plaint
(2) Return the plaint
(3) Accept the plaint
(4) None of above

Answer: (1) Reject the plaint

Section 80 CPC bars a suit against the Government or a public officer for an act done in official capacity until two months after a written notice, except that a suit for urgent or immediate relief may be instituted with the leave of the court. A suit with no urgent relief and no prior notice is barred by statute, so the plaint is liable to be rejected under Order VII Rule 11(d).

53. At which of the following stages can the court add or strike out any party to a suit?

(1) Before issuance of summons
(2) Before framing of issues
(3) Before commencement of trial
(4) At any stage

Answer: (4) At any stage

Order I Rule 10(2) CPC lets the court at any stage of the proceedings, on application or on its own motion, strike out the name of any party improperly joined, or add any person whose presence is necessary to decide the questions involved effectively and completely. The power is not limited to the stage before summons, issues or trial, so 'at any stage' is correct.

54. 'A' filed a suit for recovery of Rs.10 lakhs against 'B'. It was B's case that 'A' owed him Rs.20 lakhs but 'B' had not filed a suit to claim the said amount as the limitation period had expired. Which of the following is true?

(1) B cannot raise his claim as it is barred by limitation.
(2) B can raise his claim by way of a separate counter claim.
(3) B can claim set off in the written statement.
(4) B gets a new cause of action for filing a fresh suit after filing of A's suit.

Answer: (3) B can claim set off in the written statement.

Limitation bars the remedy but does not extinguish the debt. Under Order VIII Rule 6 CPC a defendant may plead set-off of an ascertained sum, legally recoverable, in the written statement, and it is a defence, not a fresh suit. A separate counter-claim for the time-barred amount would fail and nothing gives B a fresh cause of action, so claiming set-off in the written statement is the available course.

55. As per section 100(1) of CPC, second appeal lies to High Court on -

(1) Substantial question of law
(2) Substantial question of fact
(3) Both (1) and (2)
(4) None of the above

Answer: (1) Substantial question of law

Section 100 CPC allows a second appeal to the High Court from a decree passed in appeal by a subordinate court only if the High Court is satisfied that the case involves a substantial question of law. The appeal cannot be entertained on questions of fact, and the memorandum of appeal must precisely state the substantial question of law involved.

56. A plaint, under Order VII Rule 11 of CPC, shall be rejected on which of the following conditions-

(1) where it does not disclose a cause of action
(2) where the suit appears from the statement in the plaint to be barred by any law
(3) Both (1) and (2)
(4) None of the above

Answer: (3) Both (1) and (2)

Order VII Rule 11 CPC lists the grounds for rejecting a plaint, including that it does not disclose a cause of action (clause (a)) and that the suit appears from the statements in the plaint to be barred by any law (clause (d)). The other grounds are an undervalued claim not corrected, insufficient stamp paper, and non-compliance with the requirement of filing in duplicate. Both listed conditions apply.

57. Where it appears to the Court that there exist elements of a settlement which may be acceptable to the parties, the Court can refer the parties for which of the following -

(1) arbitration
(2) conciliation
(3) mediation
(4) All of the above

Answer: (4) All of the above

Section 89 CPC provides that where it appears to the court that there exist elements of a settlement acceptable to the parties, it shall formulate the terms and refer the parties to arbitration, conciliation, judicial settlement including settlement through Lok Adalat, or mediation. All the three modes named in the options are therefore available for referral.

58. For the purpose of determining jurisdiction of a "commercial dispute" under the Commercial Courts Act, which of the following factors ought to be considered?

(1) Territorial jurisdiction and Specified Value.
(2) Only Specified Value.
(3) Only territorial jurisdiction.
(4) Neither territorial jurisdiction nor Specified Value.

Answer: (1) Territorial jurisdiction and Specified Value.

Jurisdiction in a commercial dispute depends on both the Specified Value, which must meet the statutory minimum for a Commercial Court or Division, and territorial jurisdiction under sections 15 to 20 CPC, because a Commercial Court is still a civil court. Hence the factors to be considered are territorial jurisdiction and Specified Value, not either alone.

59. The defendant, instead of filing his written statement to a commercial suit, filed an application under Order VII Rule 11 of the CPC. The application was dismissed by the Court, however, in the meantime 150 days had passed since the service of summons of the Suit on the defendant. Defendant prayed that it be granted one week to file the Written Statement.

(1) The court, exercising its powers under Section 151 of the CPC, shall grant defendant the time to file the written statement.
(2) As it was the fault of the court that the application of the defendant under Order VII Rule 11 of the CPC remained pending for a long period, the Court shall grant extension of time to the defendant to file his written statement.
(3) The court cannot grant extension of time to the defendant to file the Written Statement, as 120 days have passed from the service of the summons on the defendant.
(4) The court shall condone the delay in filing the written statement as the defendant has shown sufficient cause for not filing the written statement within time.

Answer: (3) The court cannot grant extension of time to the defendant to file the Written Statement, as 120 days have passed from the service of the summons on the defendant.

For a commercial suit, the Commercial Courts Act amended Order VIII CPC so that the written statement must be filed within thirty days, extendable to a maximum of one hundred and twenty days, and the court cannot extend beyond that. Filing an Order VII Rule 11 application does not stop time running, and the court cannot use section 151 to extend it. Hence extension cannot be granted after 150 days.

60. Aggrieved by the judgment and the decree passed in a Commercial Suit, the defendant filed an appeal to the Commercial Division of the High Court. Which of the following is correct?

(1) The period of limitation for filing such appeal shall be governed by Article 116 and 117 of the Limitation Act.
(2) The period of limitation for filing such appeal shall be governed by Section 13(1A) of the Commercial Courts Act, 2015, and Section 5 of the Limitation Act shall also not be applicable in case there is delay in filing of the appeal.
(3) The period of limitation for filing such appeal shall be governed by Section 13(1A) of the Commercial Courts Act, 2015, however, if there is a delay in filing the appeal, the same can be condoned under Section 5 of the Limitation Act for sufficient cause shown:
(4) There is no period of limitation prescribed for filing of the appeal.

Answer: (3) The period of limitation for filing such appeal shall be governed by Section 13(1A) of the Commercial Courts Act, 2015, however, if there is a delay in filing the appeal, the same can be condoned

under Section 5 of the Limitation Act for sufficient cause shown:

An appeal from a decree of a Commercial Division lies to the Commercial Appellate Division within sixty days under section 13(1A) of the Commercial Courts Act, 2015. The Act does not exclude the Limitation Act, so section 5 can be used to condone delay for sufficient cause. The ordinary articles of the Limitation Act do not govern the period, and the statement that no period is prescribed is wrong.

61. Disputes arising out of which of the following is not a 'Commercial Dispute'?

(1) construction and infrastructure contract.
(2) partnership agreement.
(3) joint venture agreement.
(4) partition of HUF properties

Answer: (4) partition of HUF properties

Section 2(1)(c) of the Commercial Courts Act lists commercial disputes: construction and infrastructure contracts, partnership agreements, joint ventures, mercantile documents, export and import, insurance and similar matters. A dispute concerning partition of Hindu undivided family properties is a family matter, not a commercial transaction, and is not in the list.

62. 'A' raises a claim of Rs. 5 crores in arbitration. 'B' raises a counter-claim of Rs. 2 crores in the said arbitration. A final award of Rs. 4 crores is passed in favour of 'A'. 'Specified Value' for determining the jurisdiction of the Court shall be -

(1) Rs. 5 crores
(2) Rs. 7 crores
(3) Rs. 3 crores
(4) Rs. 4 crores

Answer: (2) Rs. 7 crores

For an arbitration, the amount in dispute before the tribunal includes both the claim and the counter-claim, because the court's jurisdiction is decided by the value of the subject-matter of the dispute and not by the sum finally awarded. The Specified Value is therefore the aggregate of Rs. 5 crores and Rs. 2 crores, which is Rs. 7 crores, and not the award of Rs. 4 crores.

63. In a Commercial Suit, an application seeking a Summary Judgment, under Order XIIIA Code of Civil Procedure, can be filed by the plaintiff -

(1) along with the plaint.
(2) before service of summons on the defendant.
(3) after summons has been served on the defendants and prior to framing of the issues in respect of the suit.
(4) at any time before the final judgment is passed.

Answer: (3) after summons has been served on the defendants and prior to framing of the issues in respect of the suit.

Order XIII-A Rule 3 CPC, inserted by the Commercial Courts Act, allows an application for summary judgment after summons has been served on the defendant and before the court frames issues, and only at that stage unless the court allows later. It cannot be filed with the plaint or before service, and it is not available at any time until final judgment.

64. In a Commercial Suit, along with the plaint, the plaintiff must file documents.-

(1) that support his case.
(2) that support his case and can answer the defence that the defendants are likely to put up.
(3) that are relating to any matter in question in the Suit and can be easily located by him.
(4) that are relating to any matter in question in the Suit are in his power, possession, control or custody as on the date of filing the plaint, irrespective of whether the same is in support or adverse to his case.

Answer: (4) that are relating to any matter in question in the Suit are in his power, possession, control or custody as on the date of filing the plaint, irrespective of whether the same is in support or adverse to his case.

Under the Commercial Courts Act amendments to Order XI CPC, the plaintiff must file with the plaint a list of all documents, with copies, that are in his power, possession, control or custody and pertain to the suit, irrespective of whether they support or go against his case. A plaintiff who does not disclose them cannot rely on them later without the court's leave.

65. In a Commercial Suit relating to a movable property, the 'Specified Value' shall be determined by -

(1) the market value of the moveable property when it was purchased.
(2) the market value of the moveable property at the time of filing of the Suit.
(3) the amount that may be notified by the valuation officer appointed by the Court.
(4) the amount that may be determined by the Court after the parties have led their evidence on the same.

Answer: (2) the market value of the moveable property at the time of filing of the Suit.

Section 12(1)(b) of the Commercial Courts Act provides that where the relief relates to movable property or a right in it, the Specified Value is the market value of the movable property as on the date of filing of the suit, appeal or application. The purchase price, an officer's valuation and a court's later determination are not the statutory measure.

66. A dispute arising out of a construction and infrastructure contract, shall be a "commercial dispute".

(1) The above statement is true only if the contract relates to the construction of a commercial building.
(2) The above statement is true only if the dispute is for recover of money under the contract.
(3) The above statement is false.
(4) The above statement is true.

Answer: (4) The above statement is true.

Section 2(1)(c)(vii) of the Commercial Courts Act lists construction and infrastructure contracts, including tenders, among commercial disputes. The classification does not depend on the type of building, on the dispute being one for recovery of money, or on any other qualification. The statement is therefore true.

67. Against an Award passed in a domestic arbitration at Delhi, a petition under Section 34 of the Arbitration and Conciliation Act, 1996, can be filed before -

(1) only the High Court.
(2) any District Court.
(3) before the Commercial Division of the High Court or the Commercial Court having territorial jurisdiction over such arbitration and depending on the specified value of the dispute.
(4) Before any Civil Court having territorial and the pecuniary jurisdiction over the arbitration.

Answer: (3) before the Commercial Division of the High Court or the Commercial Court having territorial jurisdiction over such arbitration and depending on the specified value of the dispute.

A petition under section 34 against the award in a domestic commercial arbitration lies to the Commercial Division of the High Court or to the Commercial Court having territorial jurisdiction, depending on the Specified Value of the dispute. It does not lie before any civil court or exclusively before the High Court, because the Commercial Courts Act channels such matters to those courts.

68. The Committee gave their _____ to the decision.
The blank in the above sentence can be correctly filled with -

(1) Assent
(2) Ascent
(3) Accent
(4) Descent

Answer: (1) Assent

The word needed is 'assent', meaning agreement or approval, as in 'gave their assent to the decision'. 'Ascent' means rising, 'accent' means a manner of pronunciation or stress, and 'descent' means going down or ancestry, none of which suits the sentence.

69. The Principal presided _____ the meeting.
The blank in the above sentence can be correctly filled with -

(1) In
(2) Over
(3) Through
(4) For

Answer: (2) Over

The verb 'preside' takes the preposition 'over', so the correct sentence is 'The Principal presided over the meeting'. Presiding in, through or for a meeting is not standard usage, because the verb 'preside' is always paired with 'over' when it means to chair or conduct a meeting, a gathering or a session.

70. The expression "the jury is still out" means -

(1) Final decision has not been made.
(2) The court is on vacation.
(3) The decision of the jury is still valid.
(4) The composition of the jury has not been decided.

Answer: (1) Final decision has not been made.

The idiom 'the jury is still out' means that a final decision or conclusion has not yet been reached on a matter. It comes from the practice of a jury retiring to deliberate and has not been given its verdict. It does not refer to vacation, to validity of the decision or to the composition of the jury.

71. The offender persists _____ telling lies.
She reconciled _____ her family.
He was sentenced _____ death.
The blanks in the above sentences can be correctly filled in the order -

(1) With, to, to
(2) In, with, to
(3) On, from, for
(4) From, with, for

Answer: (2) In, with, to

The verb 'persist' takes 'in' ('persists in telling lies'), 'reconciled' takes 'with' ('reconciled with her family') and the sentence passed on a convict is 'to' death ('sentenced to death'). Option 2, 'in, with, to', fills the three blanks idiomatically, while the other combinations give unidiomatic phrases.

72. I _____ the Bar license since 2001.
The correct option to fill the blank is -

(1) Am having
(2) Have had
(3) Was having
(4) Had been having

Answer: (2) Have had

Since the Bar licence is held continuously from 2001 up to now, the present perfect 'have had' is correct. 'Have' as a stative verb is not used in continuous forms, so 'am having' and 'was having' are wrong, and 'had been having' wrongly suggests a past period that has ended.

73. The poet made an _____ to his predecessors in his creative work.
The truth has _____ us all.
Many devices work on the principle of optical _____.
The blanks in the above sentences can be correctly filled in the order -

(1) Illusion, alluded, allusion
(2) Allusion, alluded, illusion
(3) Allusion, eluded, illusion
(4) Illusion, eluded, allusion

Answer: (3) Allusion, eluded, illusion

'Allusion' means an indirect reference, so the poet made an allusion to predecessors. 'Eluded' means escaped from, so the truth eluded us all. 'Illusion' means a false impression, as in an optical illusion. The order allusion, eluded, illusion is option 3. 'Alluded' is a verb and does not fit the first blank.

74. Which one of the following is spelt incorrectly?

(1) Force majeure
(2) Ad valoram
(3) Certiorari
(4) Ultra vires

Answer: (2) Ad valoram

The correct spelling is 'ad valorem', a Latin phrase meaning 'according to value'. 'Ad valoram' is wrong. 'Force majeure' (superior force, an event beyond the parties' control), 'certiorari' (a writ to quash a decision) and 'ultra vires' (beyond one's legal powers) are all spelt correctly, so the incorrect spelling is only in option 2.

75. A polemicist is:

(1) A person who is good at making forceful arguments.
(2) A person who knows many languages.
(3) A person who studies cultures and societies.
(4) A person who studies the philosophy of law.

Answer: (1) A person who is good at making forceful arguments.

A polemicist is a person who is skilled in writing or speaking in strong and forceful argument, particularly in controversial debate on political, religious or social questions. Knowing many languages is being a polyglot, and studying cultures and societies is sociology or anthropology, so option 1 is the meaning.

76. Which one of the following sentences is grammatically incorrect?

(1) Fewer than twenty students came for class.
(2) I ran quick to the bus stop.
(3) Rahul is one of the brilliant boys who have taken the exam.
(4) Every man and woman works for the good of the nation.

Answer: (2) I ran quick to the bus stop.

'I ran quick to the bus stop' is incorrect because the word modifying the verb 'ran' must be an adverb, 'quickly', not the adjective 'quick'. The other sentences are correct: 'fewer' is used with countable nouns, 'one of the boys who have' takes a plural verb, and 'every man and woman works' takes a singular verb.

77. "Domination and inequities of power and wealth are perennial facts of human society." With reference to the above sentence, the antonym of perennial will be -

(1) 'Enduring
(2) Ephemeral
(3) Perpetual
(4) Imperishable

Answer: (2) Ephemeral

'Perennial' means lasting through the year, enduring or recurring. Its antonym is 'ephemeral', meaning short-lived or lasting only a very short time. 'Enduring', 'perpetual' and 'imperishable' are synonyms of 'perennial', since each of them means lasting for a long time or for ever, so none of them can be its opposite.

78. A person who can speak in a manner that the sound seems to come from a distance or from another source is called -

(1) Ambidextrous
(2) Iconoclast
(3) Somnambulist
(4) Ventriloquist

Answer: (4) Ventriloquist

A person who can speak so that the sound seems to come from elsewhere is a ventriloquist. An ambidextrous person uses both hands equally well, an iconoclast attacks cherished beliefs and institutions, and a somnambulist walks in his sleep. The special skill of throwing the voice, usually for a puppet act, is called ventriloquism.

79. Choose the correct spelling

(1) Acquiesce
(2) Aquiesce
(3) Acquiece
(4) Acqueisce

Answer: (1) Acquiesce

The correct spelling is 'acquiesce', meaning to accept something reluctantly without protest. The other forms, 'aquiesce', 'acquiece' and 'acqueisce', are misspelt. The word comes from the Latin 'acquiescere', and the double 'c'

followed by 'qu' and the ending '-esce' should be kept in mind, because the word is common in legal writing on consent and delay.

80. Derrick has <u>the Midas touch</u> and is doing well in his business.
The underlined phrase means -

(1) To be able to predict
(2) To behave in a humble manner
(3) To have the ability to make money
(4) To not lose faith or courage

Answer: Question deleted by the High Court

The idiom 'the Midas touch', from the Greek myth of King Midas whose touch turned things to gold, means the ability to make money out of whatever one handles. Option 3 states this meaning. Predicting the future, behaving humbly and keeping up courage are different ideas.

81. He said, "I am glad to be here this evening."
The above sentence can be written in indirect speech as -

(1) He said that I am glad to be there that evening.
(2) He said that he is glad to be here this evening.
(3) He said that he was glad to be here this evening.
(4) He said that he was glad to be there that evening.

Answer: (4) He said that he was glad to be there that evening.

In reporting a statement made in the past, the present tense 'am' becomes 'was', 'here' becomes 'there', and 'this evening' becomes 'that evening', with the pronoun 'I' changed to 'he'. Option 4, 'He said that he was glad to be there that evening', makes all these changes. The other options keep the present tense or the nearer adverbs.

82. The drawstrings of the dress came _____.
I certainly do not want to _____ my original documents.
It is emotionally draining to _____ a parent.
The blanks in the above sentences can be filled in appropriately with -

(1) lose; lose; loss
(2) lose; loose; lose
(3) loose; lose; lose
(4) loose; loose; lose

Answer: (3) loose; lose; lose

'Loose' is an adjective meaning not tight, so the drawstrings came loose. 'Lose' is a verb meaning to fail to keep or to be deprived of, so 'do not want to lose my original documents' and 'emotionally draining to lose a parent'. The correct order is loose, lose, lose.

83. Res ipsa loquitor means -

(1) The principle behind a court judgement.
(2) Replacement of an old contract by a new.
(3) The burden of proof.
(4) The thing speaks for itself.

Answer: (4) The thing speaks for itself.

'Res ipsa loquitur' is a Latin maxim meaning 'the thing speaks for itself'. In the law of negligence it lets the court infer negligence from the very nature of the accident when the thing causing the harm was under the defendant's control and such accidents do not ordinarily happen without negligence.

84. The term "ceteris paribus" means -

(1) " all other things remaining same.
(2) extreme circumstances.
(3) an admission of guilt.
(4) a position of authority.

Answer: (1) " all other things remaining same.

'Ceteris paribus' is Latin for 'all other things being equal' or 'other things remaining the same'. It is used to isolate the effect of one variable while the others are assumed constant. It does not mean extreme circumstances, an admission of guilt or a position of authority.

85. What was the total membership of the Constituent Assembly of India?

(1) 250
(2) 335
(3) 389
(4) 410

Answer: (3) 389

The Constituent Assembly, formed under the Cabinet Mission Plan of 1946, had a total membership of 389, comprising 296 members from British India (292 from the provinces and 4 from chief commissioners' provinces) and 93 from the princely states. After the partition the membership fell to about 299.

86. In the year 2019, the erstwhile State of Jammu and Kashmir was bifurcated into -

(1) The State of Jammu and Kashmir, and the State of Ladakh.
(2) The State of Jammu and Kashmir, and the Union Territory of Ladakh.
(3) The Union Territory of Jammu and Kashmir, and the State of Ladakh.
(4) The Union Territory of Jammu and Kashmir, and the Union Territory of Ladakh.

Answer: (4) The Union Territory of Jammu and Kashmir, and the Union Territory of Ladakh.

The Jammu and Kashmir Reorganisation Act, 2019, which came into force on 31 October 2019, divided the State into two Union Territories: Jammu and Kashmir, with a legislature, and Ladakh, without a legislature. Neither of them was made a State.

87. The judgment of the Supreme Court in Vishaka & Ors. Vs. State of Rajasthan (1997) dealt with guidelines relating to -

(1) Prevention of sexual harassment of women in the workplace.
(2) Domestic violence against children.
(3) Welfare of prisoners.
(4) Provision for legal aid to indigent litigants.

Answer: (1) Prevention of sexual harassment of women in the workplace.

In Vishaka v. State of Rajasthan (1997) the Supreme Court, in the absence of legislation, laid down binding guidelines for the prevention of sexual harassment of women at the workplace, relying on Articles 14, 15, 19(1)(g) and 21 and the international convention on discrimination against women. The guidelines were later replaced by the 2013 Act.

88. The largest bench of the Supreme Court was constituted in Kesavananda Bharati vs. State of Kerala (1973). How many judges constituted the bench?

(1) 11
(2) 13
(3) 9
(4) 15

Answer: (2) 13

The largest bench in the history of the Supreme Court sat in Kesavananda Bharati v. State of Kerala (1973), which was heard by thirteen judges and decided by a narrow majority. It held that Parliament can amend any part of the Constitution but cannot alter its basic structure.

89. Which is the largest High Court of the country, in terms of sanctioned strength of judges?

(1) Bombay High Court
(2) Madhya Pradesh High Court
(3) Madras High Court
(4) Allahabad High Court

Answer: (4) Allahabad High Court

Measured by sanctioned strength of judges, the Allahabad High Court is the largest in the country, with 160 judges, followed by the Bombay High Court with 94 and the Madras High Court with 75. The Madhya Pradesh High Court, with a sanctioned strength of about 53, is far smaller. The figures are those of 2023.

90. The recent decision of the Supreme Court in Supriyo vs. Union of India (2023), concerned -

(1) Same sex marriage
(2) Decriminalization of homosexuality
(3) Both of the above
(4) Neither (1) nor (2)

Answer: (1) Same sex marriage

In Supriyo alias Supriya Chakraborty v. Union of India, decided on 17 October 2023, a five-judge Constitution Bench of the Supreme Court considered petitions seeking legal recognition of same-sex marriage. It declined to read such a right into the Special Marriage Act and left the matter to Parliament. Decriminalisation of homosexuality was the earlier case of Navtej Singh Johar (2018).

91. Who was the first Chief Justice of the Supreme Court of India?

(1) Justice H. J. Kania
(2) Justice M.C. Mahajan
(3) Justice Vivian Bose
(4) Justice Y. V. Chandrachud

Answer: (1) Justice H. J. Kania

Justice Harilal Jekisundas Kania was the first Chief Justice of India, serving from 26 January 1950 until his death in November 1951. Justice M.C. Mahajan became Chief Justice in 1954 and Justice Vivian Bose in 1956, while Justice Y.V. Chandrachud served much later, from 1978 to 1985.

92. The doctrine of stare decisis relates to -

(1) Judicial precedent
(2) Separation of powers
(3) Parliamentary privilege
(4) Promulgation of ordinances

Answer: (1) Judicial precedent

'Stare decisis', Latin for 'to stand by things decided', is the doctrine of judicial precedent: courts follow earlier decisions on the same point of law to ensure consistency and certainty. It does not concern separation of powers, parliamentary privilege or the promulgation of ordinances.

93. The Bill which was introduced by the Government in Parliament, seeking to replace the Indian Evidence Act, but now stands withdrawn recently, is called the -

(1) Bharatiya Nagarik Suraksha Sanhita, 2023
(2) Bharatiya Sakshya Bill, 2023
(3) Bharatiya Nyaya Sanhita, 2023
(4) Bharatiya Dand Bill, 2023

Answer: (2) Bharatiya Sakshya Bill, 2023

The Bharatiya Sakshya Bill, 2023, introduced in the Lok Sabha in August 2023 to replace the Indian Evidence Act, 1872, was withdrawn in December 2023 and replaced by a revised Bill. The Bharatiya Nagarik Suraksha Sanhita was meant to replace the Code of Criminal Procedure and the Bharatiya Nyaya Sanhita the Indian Penal Code.

94. The recently enacted 106th Amendment to the Constitution provides for one-third seats in various legislatures to be reserved for women. Which of the following legislative bodies is not included within its scope?

(1) Lok Sabha
(2) State Legislative Assemblies
(3) Rajya Sabha
(4) Legislative Assembly of Delhi

Answer: (3) Rajya Sabha

The Constitution (One Hundred and Sixth Amendment) Act, 2023, the Nari Shakti Vandan Adhiniyam, reserves one-third of the seats for women in the House of the People, the State Legislative Assemblies and the Legislative Assembly of the National Capital Territory of Delhi. It does not extend to the Rajya Sabha, so that House is not within its scope.

95. Sarita mischievously takes possession of Namrata's land. Sarita gives it on rent to Sanjay for a fixed period of time. After the expiry of the lease, Sanjay refuses to hand over vacant possession of the property to Sarita. Thereafter, Sarita files a suit for Eviction, which is resisted by Sanjay only on the ground that Sarita is not the owner of the property. Which of the following consequences are to follow?

(1) Sarita is entitled to a decree of eviction, since it is not open to Sanjay to question her title over the property.
(2) Sarita is not entitled to a decree of eviction since she is not the owner of the property. Only Namrata can maintain a suit for eviction against Sanjay..
(3) Sanjay has to be evicted, but Sarita cannot be handed over possession over the property, since she is not the owner of the property.
(4) The Court should enquire from Namrata, if she wishes for Sanjay to continue in possession of the property, or to return the possession to Sarita, since ultimately, she is the owner of the property.

Answer: (1) Sarita is entitled to a decree of eviction, since it is not open to Sanjay to question her title over the property.

Under section 116 of the Evidence Act (BSA s. 122), a tenant is estopped from denying, during the continuance of the tenancy, that the landlord had title when the tenancy began. Sanjay took the lease from Sarita and cannot resist eviction by saying she is not the owner, so Sarita is entitled to a decree, and he can set up a title only by showing a later better title.

96. What is the minimum number of witnesses required to prove a fact, under the Indian Evidence Act?

(1) 1
(2) 2
(3) 3
(4) No particular number is prescribed.

Answer: (4) No particular number is prescribed.

Section 134 of the Evidence Act (BSA s. 139) says that no particular number of witnesses shall in any case be required for the proof of any fact. The court looks to the quality and credibility of the evidence, and a single reliable witness may be enough, although a particular law may require corroboration.

97. Selvam went on a trek in the Himalayas, and went missing, and neither his family nor his friends heard from him for many years. What is the number of years after which it can be presumed that he is dead under the Indian Evidence Act?

(1) 30 years
(2) 7 years
(3) 12 years
(4) No particular number is prescribed.

Answer: (2) 7 years

Under section 108 of the Evidence Act (BSA s. 111), when it is proved that a person has not been heard of for seven years by those who would naturally have heard of him if he had been alive, the burden of proving that he is alive shifts to the person who affirms it. After seven years he is therefore presumed dead, though no presumption arises as to the date of death.

98. George is on trial for the murder of his neighbour Victoria. George informs his lawyer, Pankaj before the bail hearing he is in fact guilty of murder. Pankaj during the course of defending George also comes to learn that George is plotting to kill Sofia, who is his girlfriend. Which of the following is true?

(1) George's confession to the murder of Victoria is privileged communication, but his intention to murder Sofia is not protected from disclosure.
(2) George's confession in respect of murder of Victoria as well as his intention to murder Sofia are both privileged communications and protected from disclosures.
(3) Neither George's confession in respect of murder of Victoria nor his intention to murder Sofia, are protected from disclosure, as there is no attorney client privilege in India.
(4) George's confession to the murder of Victoria is not a privileged communication. The issue of the intention to kill Sofia, will not arise unless and until Sofia is murdered.

Answer: (1) George's confession to the murder of Victoria is privileged communication, but his intention

to murder Sofia is not protected from disclosure.

Section 126 of the Evidence Act (BSA s. 132) protects communications made in confidence by a client to his advocate for professional purposes, so George's admission about the murder of Victoria is privileged. The proviso removes protection for communications made in furtherance of any illegal purpose, so his plan to kill Sofia can be disclosed.

99. Which of the following constitutes secondary evidence?

(1) Copies made from the original by mechanical processes which in themselves ensure the accuracy of the copy.
(2) Oral accounts of the contents of a document given by a person who has seen such document.
(3) Both (1) and (2)
(4) None of the above

Answer: (3) Both (1) and (2)

Section 63 of the Evidence Act (BSA s. 58) lists secondary evidence. It includes certified copies, copies made from the original by mechanical processes which ensure accuracy, copies compared with the original, counterparts, and oral accounts of the contents of a document given by some person who has himself seen it. Both options mentioned therefore constitute secondary evidence.

100. Sylvester is arrested under suspicion of having committed cheating and forgery. In what circumstances will his confession, made in the custody of a police officer, be proved against him?

(1) If it is made in the presence of a police officer, above the rank of Deputy Commissioner of Police.
(2) If it is made in the immediate presence of a Magistrate.
(3) All of the above.
(4) None of the above.

Answer: (2) If it is made in the immediate presence of a Magistrate.

Section 26 of the Evidence Act (BSA s. 23(2)) bars proof against an accused of a confession made while in police custody unless it was made in the immediate presence of a Magistrate. A confession made merely in the presence of a senior police officer is still inadmissible, so only option 2 is correct.

101. As per the Indian Evidence Act, admissions -

(1) Are conclusive proof of facts.
(2) May operate as estoppel against the persons who make them.
(3) Both (1) and (2)
(4) Neither (1) nor (2)

Answer: (2) May operate as estoppel against the persons who make them.

Section 31 of the Evidence Act lays down that admissions are not conclusive proof of the matters admitted, but they may operate as estoppels under the provisions that follow it [BSA s.25]. So the first statement is wrong and the second is right. An admission is only relevant evidence against its maker, who remains free to explain or rebut it unless it has grown into an estoppel.

102. How many years need to elapse before the electronic record in proper custody gives rise to a presumption, as to the correctness of the digital signature, under the Indian Evidence Act?

(1) 5 years
(2) 30 years
(3) 3 years
(4) No such period is prescribed.

Answer: (1) 5 years

Section 90A applies to an electronic record purporting or proved to be five years old and produced from proper custody. The court may then presume that the digital signature on it was affixed by the person it purports to belong to, or by someone authorised by him [BSA s.93]. Thirty years belongs to the ordinary documents rule in section 90; three years has no basis; a period is prescribed.

103. Communication during marriage between spouses is generally protected from disclosure, subject to exceptions, under which section of the Indian Evidence Act?

(1) Section 120
(2) Section 121
(3) Section 122
(4) Section 123

Answer: (3) Section 122

Section 122 forbids a married person, or a person who has been married, from being compelled to disclose any communication made to him during marriage by his spouse, unless the spouse consents or the proceeding is between the spouses or one prosecuted for an offence against the other [BSA s.128]. Section 120 deals with spouses as competent witnesses in civil cases, 121 with judges' privilege, and 123 with unpublished State records.

104. Fill in the blank: When a man has not been heard of for seven years by those who would _____ have heard of him if he had been alive, the burden of proving that he is alive shifts to the person who affirms it.

(1) Ordinarily
(2) Normally
(3) Usually
(4) Naturally

Answer: (4) Naturally

Section 108 provides that when a person has not been heard of for seven years by those who would naturally have heard of him if he had been alive, the burden of proving that he is alive lies on the person who affirms it [BSA s.111]. The statute uses the word naturally; the other three words are near-synonyms but are not the words of the section.

105. Electronic record produced before court is treated as -

(1) Oral evidence
(2) Documentary evidence
(3) Technical evidence
(4) Usual evidence

Answer: (2) Documentary evidence

Since the 2000 amendments, the definition of documentary evidence in section 3 covers all documents including electronic records produced for the inspection of the court. Such a record is proved through the special provisions of sections 65A and 65B, not by a witness narrating it. It is therefore documentary evidence. Evidence is classified only as oral or documentary, so technical or usual evidence are not categories.

106. Evidence given by a dumb witness in writing or by sign language in open court, and reduced in writing, is -

(1) Documentary evidence
(2) Oral evidence
(3) Inadmissible
(4) No evidence

Answer: (2) Oral evidence

Section 119 allows a witness who cannot speak to give evidence in any other manner in which he can make it intelligible, such as writing or signs, but it must be done in open court. The section expressly says such evidence is deemed to be oral evidence [BSA s.125]. It is neither documentary evidence nor inadmissible, and it counts fully as evidence in the case.

107. Burden of proof in a suit or proceeding lies on the person -

(1) Filing the suit or proceeding.
(2) Defendant/Respondent.
(3) Whosever the court calls upon.
(4) Who would fail if no evidence at all was given on either side.

Answer: (4) Who would fail if no evidence at all was given on either side.

Section 102 fixes the burden of proof in a suit or proceeding on the person who would fail if no evidence at all were given on either side [BSA s.105]. It is not automatically the plaintiff, since a defendant who raises a fact in avoidance carries the burden of that fact, and the court has no general power to choose whom to burden. The test is who loses on an empty record.

108. Which of the following is true for burden of proof in civil cases and criminal cases?

(1) In civil cases, it is "preponderance of probabilities" and in criminal cases it is "beyond reasonable doubt".
(2) It is "preponderance of probabilities" in both kinds of cases.
(3) It is "beyond reasonable doubt" in both kinds of cases.
(4) There is no Burden of proof concept in civil and criminal cases.

Answer: (1) In civil cases, it is "preponderance of probabilities" and in criminal cases it is "beyond reasonable doubt".

In a civil case the party with the burden succeeds if the court finds his version more probable than not. In a criminal case the prosecution must prove guilt beyond reasonable doubt, and the accused is entitled to the benefit of any reasonable doubt. Sections 101 to 104 of the Evidence Act build the burden concept for both kinds of proceedings, so the last option is wrong, as are the two that apply one standard to both.

109. For a conduct to be relevant which shows or constitutes some motives or preparation for any fact in issue or relevant fact, under Section 8 of the Indian Evidence Act, the conduct -

(1) Must be prior conduct.
(2) Must be subsequent conduct
(3) May be previous or subsequent conduct.
(4) Conduct is irrelevant.

Answer: (3) May be previous or subsequent conduct.

Section 8 makes relevant the motive or preparation for any fact in issue, and also the conduct of a party or his agent, whether previous or subsequent to the fact in issue, that influences or is influenced by it [BSA s.6]. The statute draws no restriction to prior or later conduct alone, and conduct is plainly not irrelevant. Hence either prior or subsequent conduct can be relevant.

110. A fact is said to be proved when a -

(1) Witness testifies to it.
(2) Court believes it to exist.
(3) Court decides to act upon it.
(4) All of the above

Answer: (2) Court believes it to exist.

Under the interpretation clause in section 3, a fact is proved when, after considering the matters before it, the court either believes it to exist or considers its existence so probable that a prudent man would act on the supposition that it exists [BSA s.2]. Mere testimony by a witness does not prove a fact, since the court may disbelieve him. So the court's belief in the fact's existence is the test.

111. A Will can be proved under Section 68 of Indian Evidence Act by calling -

(1) One of the attesting witnesses.
(2) The Advocate who only drafted the Will.
(3) The stenographer who only typed the Will.
(4) All of the above

Answer: (1) One of the attesting witnesses.

A will is a document required by law to be attested, so section 68 forbids using it as evidence until at least one attesting witness, alive and capable of giving evidence, has been called to prove its execution [BSA s.67]. Someone who merely drafted or typed the will did not witness the testator's signature and attest it, so cannot discharge the section. Only one attesting witness is needed.

112. If a court puts questions to a witness under Section 165 of the Indian Evidence Act, then -

(1) Parties have a right to object to the questions.
(2) Parties have a right to cross examine the witness upon any answer given on such questions.
(3) Both (1) and (2)
(4) Neither (1) nor (2)

Answer: (4) Neither (1) nor (2)

Section 165 gives the Judge wide power to ask any question, relevant or irrelevant, to discover or obtain proof of relevant facts. Its proviso says the parties cannot object to such questions or to the answers, and they cannot cross-examine on them without the leave of the court [BSA s.168]. So neither a right to object nor a right to cross-examine exists, and the fourth option is correct.

113. Under the Indian Evidence Act Court must take judicial notice of -

(1) All laws in force in India.
(2) All seals of which English Courts take judicial notice.
(3) All public Acts passed by the Parliament of the United Kingdom.
(4) All of the above

Answer: (4) All of the above

Section 57 lists facts of which the court must take judicial notice, and it includes all laws in force in the territory of India, all public Acts passed by the Parliament of the United Kingdom, and the seals of which English Courts take judicial notice [BSA s.52]. Since each of the first three statements is covered by the section, the correct choice is all of the above.

114. Radhey is summoned by the Plaintiff only to produce a document. Which of the following statements is correct?

(1) He can be cross examined by the Plaintiff.
(2) He can be cross examined by the Defendant.
(3) He can be cross examined by both the Plaintiff and Defendant.
(4) He cannot be cross examined by either of them.

Answer: (4) He cannot be cross examined by either of them.

Section 139 states that a person summoned only to produce a document does not become a witness by merely producing it, and cannot be cross-examined unless and until he is called as a witness [BSA s.144]. Radhey was summoned only for production, so neither side may cross-examine him. If he were called and sworn as a witness on other points, cross-examination would then be open.

115. As per Section 23 of the Indian Contract Act, 1872, a consideration or object of an agreement is unlawful if -

(1) The court regards it as immoral.
(2) It of such a nature that, if permitted would defeat the provisions of any law.
(3) It involves or implies injury to the person or property of another.
(4) All of the above

Answer: (4) All of the above

Section 23 declares the consideration or object unlawful if it is forbidden by law, is of such a nature that it would defeat the provisions of any law, is fraudulent, involves or implies injury to the person or property of another, or is regarded by the court as immoral or opposed to public policy. Each of the three statements given is one of these grounds, so all of them are correct.

116. Sarita promises to deliver goods to Babita on a certain day on payment of Rs. 20,000. Sarita dies before that day. Under the Indian Contract Act, 1872 -

(1) Sarita's representatives are bound to deliver the goods to Babita and Babita is bound to pay Rs. 20,000 to Sarita's representatives, unless any contrary intention appears from the record.
(2) Sarita's representatives are not bound to deliver the goods to Babita.
(3) Sarita's representatives are not bound to deliver the goods to Babita but Babita is bound to pay Rs. 20,000 to Sarita's representatives.
(4) None of the above

Answer: (1) Sarita's representatives are bound to deliver the goods to Babita and Babita is bound to pay Rs. 20,000 to Sarita's representatives, unless any contrary intention appears from the record.

Section 37 makes promisors bound to perform, or offer to perform, their promises unless the contract itself or the law dispenses with that. A promise binds the representatives of the promisor in case of his death, unless a contrary intention appears from the contract. The delivery of goods does not depend on Sarita's personal skill, so her representatives must deliver, and Babita must pay the price to them.

117. As per Section 52 of the Indian Contract Act, 1872 -

(1) Where the order in which reciprocal promises are to be performed is expressly fixed by the contract, they shall be performed in that order.
(2) Where the order is not expressly fixed by the contract, they shall be performed in that order which the nature of the transaction requires.
(3) Both (1) and (2)
(4) None of the above

Answer: (3) Both (1) and (2)

Section 52 deals with the order of performance of reciprocal promises. It has two limbs: where the contract fixes the order expressly, performance follows that order; where the contract does not fix it, performance follows the order which the nature of the transaction requires. Both statements restate those two limbs accurately, so the answer is that both are correct.

118. As per the Indian Contract Act, 1872, an agreement in restraint of trade or business, is to that extent -

(1) void
(2) voidable
(3) enforceable on the directions of the Government
(4) Both (2) and (3)

Answer: (1) void

Section 27 provides that every agreement by which anyone is restrained from exercising a lawful profession, trade or business of any kind is, to that extent, void. The only exception it recognises is the sale of goodwill, where the seller may agree to refrain from a similar business within specified local limits. Such an agreement is void, not voidable, and no Government direction can make it enforceable.

119. As per Section 22 of the Indian Contract Act, 1872, a contract caused by mistake of one party as to a matter of fact is -

(1) not void
(2) not voidable
(3) not legal
(4) None of the above

Answer: (2) not voidable

Section 22 says that a contract is not voidable merely because it was caused by one of the parties being under a mistake as to a matter of fact. The unilateral mistake gives that party no right to avoid the contract. Mistake affects validity differently where both parties are mistaken about an essential fact, which makes the agreement void under section 20. So the answer is not voidable.

120. Yash employs Aman to stab Amit, and agrees to indemnify him against all consequences of the act. Aman thereupon stabs Amit, and has to pay damages to Amit for the said act. Under Section 224 of the Indian Contract Act, 1872 -

(1) Yash is not liable to indemnify Aman for those damages.
(2) Yash is liable to indemnify Aman for those damages.
(3) Yash is liable to provide surety to Aman for those damages.
(4) None of the above

Answer: (1) Yash is not liable to indemnify Aman for those damages.

Section 224 provides that where one person employs another to do an act that is criminal, the employer is not liable to the agent, on any express or implied promise, to indemnify him against the consequences of that act. A promise to indemnify for a stabbing has an unlawful object. The illustration to the section is this very case, so Yash owes nothing to Aman.

121. As per the Indian Contract Act, 1872, a contract to perform the promise, or discharge the liability, of a third person in case of his default is called a contract of -

(1) Guarantee
(2) Indemnity
(3) Bailment
(4) Pledge

Answer: (1) Guarantee

This is the definition in section 126: a contract of guarantee is a contract to perform the promise, or discharge the liability, of a third person in case of his default. The person giving it is the surety, the person whose default is guarded against is the principal debtor, and the person to whom it is given is the creditor. Indemnity (section 124) is a promise to save another from loss, not to answer for a third person.

122. Under Section 130 of the Indian Contract Act, 1872, a continuing guarantee may at any time be revoked by the surety, as to future transactions -

(1) by notice to the creditor.
(2) without any notice to the creditor.
(3) by notice to the debtor.
(4) without any notice to the debtor.

Answer: (1) by notice to the creditor.

Section 130 allows the surety to revoke a continuing guarantee as to future transactions at any time by giving notice to the creditor. The notice must reach the creditor, since it is the creditor who is affected and who must stop advancing credit on the guarantee. Notice to the principal debtor does not suffice, and revocation without any notice is not allowed. Past transactions stay covered.

123. Dishonestly receiving or retaining any stolen property, knowing or having reason to believe the same to be stolen property is punishable under Section -

(1) 378 IPC
(2) 379 IPC
(3) 410 IPC
(4) 411 IPC

Answer: (4) 411 IPC

Section 411 IPC punishes whoever dishonestly receives or retains any stolen property knowing or having reason to believe it to be stolen, with imprisonment up to three years, or fine, or both [BNS s.317(2)]. Section 378 defines theft and 379 punishes it; section 410 only defines what stolen property is. The offence of receiving is therefore found in section 411.

124. Section 303 of the IPC, which provides that whoever, sentenced to imprisonment for life, commits murder, shall be sentenced to death, was struck down by the Supreme Court in -

(1) Selvi v. State of Karnataka (2010)
(2) Mithu v. State of Punjab (1983)
(3) State of Tamil Nadu v. Nalini (1999)
(4) None of the above

Answer: (2) Mithu v. State of Punjab (1983)

In Mithu v. State of Punjab (1983) a Constitution Bench held section 303 IPC unconstitutional, because a mandatory death sentence for a life-convict who commits murder leaves no room for the court to consider circumstances, offending Articles 14 and 21. Selvi concerned narco-analysis and similar tests, and Nalini was the Rajiv Gandhi assassination case. [BNS s.104 keeps a similar provision, with a sentencing discretion.]

125. A person commits sexual intercourse with the prosecutrix, who is major, by making false promise that he would marry her, but after she gets pregnant, he refuses to do so. Which of the following statements is correct?

(1) No offence of rape is committed as the consent of prosecutrix was there.
(2) Offence of rape is committed as consent was obtained under misconception of fact.
(3) No offence of rape is committed as the prosecutrix was major.
(4) Both (1) and (3)

Answer: (2) Offence of rape is committed as consent was obtained under misconception of fact.

Under section 90 IPC consent given under a misconception of fact is no consent, if the person causing it knows or has reason to believe so. A promise of marriage that the man never meant to keep, made only to obtain sexual intercourse, creates such a misconception, so the act falls under section 375 and is punishable under section 376 [BNS ss.63, 64]. Her being an adult does not remove the offence.

126. 'A' commits house-trespass in order to commit an offence punishable with life imprisonment. The act of 'A' is punishable with -

(1) Imprisonment which may extend to life.
(2) Imprisonment not exceeding 10 years with fine.
(3) Imprisonment not exceeding 3 years, or fine, or both.
(4) Imprisonment not exceeding 7 years with fine.

Answer: (2) Imprisonment not exceeding 10 years with fine.

Section 450 IPC covers house-trespass committed in order to commit an offence punishable with imprisonment for life. The punishment is imprisonment of either description for a term not exceeding ten years, and also fine [BNS s.331(4)]. The offender himself is not liable to life imprisonment merely for the trespass. Three years or seven years are the limits for other forms of house-trespass.

127. 'X' installed a live-naked wire in a drain between his field and that of the neighbour with an intention of preventing animals from entering his field. The neighbour was electrocuted and he died. 'X' has committed an offence under Section -

(1) 302 IPC
(2) 304 Part I
(3) 304 Part II IPC
(4) 307 IPC

Answer: (3) 304 Part II IPC

X meant only to keep animals out, so he lacked the intention to cause death or the bodily injury likely to cause death needed for murder or the first part of section 304. Yet a live bare wire in a place where people may pass is an act done with knowledge that it is likely to cause death. That is culpable homicide not amounting to murder, punishable under section 304 Part II [BNS s.105]. Section 307 needs an attempt, but death occurred.

128. The constitutional validity of the death penalty was upheld by the Supreme Court in the case of -

(1) Jagmohan Singh v. State of UP, 1973
(2) Rajendra Prasad v. State of Punjab, 1979
(3) Macchi Singh v. State of Punjab, 1983
(4) None of the above

Answer: (1) Jagmohan Singh v. State of UP, 1973

In Jagmohan Singh v. State of U.P. (1973) the Supreme Court upheld the constitutional validity of the death penalty, holding that it was not an unreasonable restriction and that a sentence imposed after a trial under the established procedure did not violate Articles 14, 19 or 21. Rajendra Prasad (1979) restricted its use to extreme cases, and Macchi Singh (1983) laid down categories of the rarest of rare cases. Note: Bachan Singh (1980), not listed here, is the leading decision that later reaffirmed validity.

129. The offence of stalking is punishable under Section _____ of the Indian Penal Code, 1860.

(1) 354 C
(2) 354 D
(3) 354 A
(4) None of the above

Answer: (2) 354 D

Stalking was added to the IPC by the Criminal Law (Amendment) Act, 2013 as section 354D. It covers a man who follows a woman, contacts her despite clear disinterest, or monitors her use of the internet or electronic communication [BNS s.78]. Section 354A deals with sexual harassment and 354C with voyeurism. Hence the correct choice is section 354D.

130. The sentence which can be imposed upon a convict for default in payment of fine cannot exceed _____ of the maximum sentence fixed for the offence. Fill in the blank.

(1) half
(2) one-third
(3) one-fourth
(4) one-fifth

Answer: (3) one-fourth

Section 65 IPC limits the term of imprisonment imposed in default of payment of fine, where the offence is punishable with both imprisonment and fine, to not more than one-fourth of the maximum imprisonment fixed for the offence [BNS s.8(3)]. Half, one-third and one-fifth are not the statutory fraction. This limit is separate from the scale in section 67 for offences punishable with fine alone.

131. A clerk or servant committing breach of trust is punishable under which provision of IPC?

(1) Section 406
(2) Section 407
(3) Section 408
(4) Section 409

Answer: (3) Section 408

Section 408 IPC deals with criminal breach of trust by a clerk or servant, or by anyone employed in that capacity, who has been entrusted with property or dominion over it. The punishment is imprisonment up to seven years and fine [BNS s.316(4)]. Section 406 is the general offence, 407 applies to carriers and wharfingers, and 409 to public servants, bankers, merchants and agents.

132. If a person entrusted with money diverts it for his personal gain without intending to deceive, which Section would likely be invoked?

(1) Section 420
(2) Section 406
(3) Section 420 & Section 406
(4) None of the above

Answer: (4) None of the above

Section 420 needs cheating, which means deceiving the victim at the start, and the question rules out deception. Section 406 punishes criminal breach of trust, and section 405 requires dishonest misappropriation or conversion by a person entrusted with the property. The facts mention only diversion for personal gain, with no dishonest misappropriation shown, so no listed section is clearly attracted. Note: the question is loosely framed, and the stated choice is the fourth.

133. A attacks Z under grave and sudden provocation. B, who was passing by, having an intention to kill Z, also takes advantage and attacks Z who dies. What is the offence committed by them?

(1) Murder, as both had common intention to kill.
(2) Both are guilty of offence of culpable homicide not amounting to murder.
(3) Both are guilty of causing grievous injury.
(4) A is guilty only of culpable homicide, while B is guilty of murder.

Answer: (4) A is guilty only of culpable homicide, while B is guilty of murder.

The first exception to section 300 IPC lowers murder to culpable homicide only for the person who is deprived of self-control by grave and sudden provocation. That benefit is personal. A acted under provocation, so he is liable only under section 304. B, who had his own intention to kill and merely used the occasion, gets no such benefit and commits murder under section 302 [BNS ss.105, 103].

134. What of the following is the punishment not specified under Section 53 IPC?

(1) Death
(2) Rigorous Imprisonment with hard labour
(3) Simple Imprisonment with hard labour
(4) Forfeiture of property

Answer: (3) Simple Imprisonment with hard labour

Section 53 lists death, imprisonment for life, imprisonment (rigorous, that is with hard labour, or simple), forfeiture of property and fine [BNS s.4]. Hard labour belongs only to rigorous imprisonment; simple imprisonment carries no hard labour. A sentence of simple imprisonment with hard labour is therefore a contradiction and is not a punishment named in the section.

135. A person is convicted under Section 279 IPC. He cannot be awarded the following sentence -

(1) Only simple imprisonment upto six months.
(2) Fine upto Rs. 1000/-, in default, simple imprisonment of 30 days.
(3) Both simple or rigorous imprisonment upto six months and fine upto Rs. 1000/-.
(4) Fine upto Rs. 1000/-, in default rigorous imprisonment of 90 days.

Answer: (4) Fine upto Rs. 1000/-, in default rigorous imprisonment of 90 days.

Section 279 (rash driving) allows imprisonment of either description up to six months, or fine up to Rs. 1,000, or both [BNS s.281]. Under section 65, where imprisonment and fine can both be awarded, default imprisonment may not exceed one-fourth of the maximum imprisonment, which is about forty-five days here. So a ninety-day default term is not permissible, while thirty days is.

136. A person held guilty of one of several offences specified in the judgement, but it is doubtful of which of the offences he is guilty. The offender shall be -

(1) Punished for all the offences mentioned in the judgement.
(2) He shall not be punished for any offence as he is entitled to be acquitted by giving benefit of doubt.
(3) He shall be punished for the offence for which lowest punishment is provided.
(4) He shall be punished for the offence for which highest punishment is provided.

Answer: (3) He shall be punished for the offence for which lowest punishment is provided.

Section 72 IPC applies when a person is found guilty of one of several offences, but the judgment leaves it doubtful which one. In such a case he is punished for the offence for which the lowest punishment is provided, if the same punishment is not provided for all [BNS s.10]. He is neither punished for all of them nor acquitted, because guilt of some offence is established.

137. An offence committed will be considered as an offence if, at the time of commission of offence, the offender -

(1) Was below 7 years of age.
(2) Was incapable of knowing the nature of offence being of unsound mind.
(3) Was incapable of knowing the nature of offence having voluntarily intoxicated himself.
(4) Had not intended to cause death and was done with the consent in good faith for person's benefit.

Answer: (3) Was incapable of knowing the nature of offence having voluntarily intoxicated himself.

Section 86 IPC says that a person who does an act while intoxicated by his own will is treated as having the same knowledge as if he were sober, so the act remains an offence [BNS s.24]. A child under seven (section 82), a person of unsound mind unable to know the nature of the act (section 84), and acts done in good faith for a person's benefit with consent (section 88) are excused.

138. In which of the following circumstances is protection available for an act committed by a person compelled by threats, under Section 94 IPC?

(1) Committing an offence under Section 300 IPC under the threat of another, where the offender has a reasonable apprehension of instant death.
(2) Committing an offence under Section 121 IPC under the threat of another where the offender has a reasonable apprehension of instant death.
(3) Committing an offence under the threat of another where the offender has a reasonable apprehension of grievous hurt.
(4) All of above.

Answer: Question deleted by the High Court

Section 94 IPC protects an act, other than murder and offences against the State punishable with death, done by a person compelled by threats that reasonably cause apprehension of instant death, provided he did not put himself in that situation by his own will [BNS s.32]. Murder and waging war (section 121) are excluded, and a threat of grievous hurt does not qualify. No option states the law correctly.

139. A person abets an offence, if -

(1) A person abets the commission of offence.
(2) A person abets the commission of an act which if committed, would be an offence.
(3) The act, which may otherwise amount to an offence, is not committed or that the requisite effect to cause offence is not caused.
(4) All of the above.

Answer: (4) All of the above.

Section 108 IPC defines an abettor as one who abets an offence, or the commission of an act which would be an offence if committed. Explanation 2 adds that abetment is complete even if the act abetted is not committed or the effect needed to constitute the offence is not caused [BNS s.46]. Each of the three statements matches the section, so all of them are correct.

140. 'Y' instigates and provokes 'Z' to cause harm to 'X' with a dagger on account of the feud between the latter two i.e. Z and X. However, Z decides otherwise.

(1) Y has not committed an offence of attempt to murder as it was Z who was going to murder X.
(2) Z has committed an offence of attempt to murder and Y cannot be held liable for the acts of another.
(3) Y has not committed the offence of abetment.
(4) Y has committed the offence of abetment.

Answer: (4) Y has committed the offence of abetment.

Instigating another to commit an offence is abetment under section 107 IPC, and by Explanation 2 to section 108 the

offence of abetment is complete even if the act abetted is not committed [BNS ss.45, 46]. Z decided otherwise and did nothing, so Z committed no attempt. But Y is liable for abetment by instigation, punishable under the section that fits the offence abetted.

141. Which of the following is not an ingredient under Section 304B IPC?

(1) Physical assault resulting in injuries confining a woman to bed.
(2) Woman is subjected to harassment or cruelty for or in connection with demand for dowry.
(3) Offence occurred within seven years of marriage.
(4) The offender is the husband or his relative.

Answer: (1) Physical assault resulting in injuries confining a woman to bed.

Section 304B IPC requires the death of a woman caused by burns or bodily injury or otherwise than under normal circumstances, within seven years of marriage, and proof that soon before death she was subjected to cruelty or harassment by her husband or his relative for or in connection with a demand for dowry [BNS s.80]. Injuries that confine her to bed are not an ingredient.

142. Which of the following is the punishment for counterfeiting an Indian coin?

(1) Imprisonment of upto 7 years and fine.
(2) Either imprisonment of upto 10 years or fine.
(3) Imprisonment of upto 10 years and fine.
(4) Imprisonment of upto 7 years or fine or both.

Answer: (3) Imprisonment of upto 10 years and fine.

Section 232 IPC punishes counterfeiting Indian coin, or knowingly performing any part of that process, with imprisonment for life or imprisonment of either description up to ten years, and also fine [BNS s.178]. Among the options, the one that carries a term up to ten years together with fine is the one that matches. Seven years applies to counterfeiting other coin under section 231, not Indian coin.

143. A thief breaks into a house, holds the owner of the house at gunpoint and ties him up. He takes money and jewellery from a cupboard and escapes. The act amounts to -

(1) Theft
(2) Theft amounting to Robbery
(3) Dacoity
(4) Extortion amounting to Robbery

Answer: (2) Theft amounting to Robbery

Under section 390 IPC theft is robbery if, in committing the theft or in carrying away the property, the offender voluntarily causes or attempts to cause wrongful restraint or fear of instant hurt to a person [BNS s.309]. Here the owner was threatened with a gun and tied up to enable the taking. No property was delivered by the victim under fear, so it is not extortion, and one offender alone cannot commit dacoity.

144. A peon clandestinely takes an office file from the office of Chief Engineer of the Public Works Department, and gives it to a private party. He puts it back in its place the next day. Has the person committed the offence of theft?

(1) No offence is committed as he returns the book to its original place within a day.
(2) No offence is committed as there was no dishonest intention in the act committed.
(3) The offence of theft is committed as the file was taken with dishonest intent without consent.
(4) No offence is committed as the book was returned and no loss has been caused to the owner of the book.

Answer: (3) The offence of theft is committed as the file was taken with dishonest intent without consent.

Theft under section 378 IPC needs the dishonest moving of movable property out of another's possession without his consent. Dishonesty means intending wrongful gain or wrongful loss, and a temporary wrongful retention of the file, such as handing it over to a private party, can amount to wrongful gain or loss. Returning the file the next day does not undo the offence already complete [BNS s.303].

145. Creating a false document amounts to Forgery only when:

(1) There is an intent to cause injury to the public.
(2) There is an intent to commit fraud on a person.
(3) There is an intent to cause a person to enter into an implied agreement.
(4) All of the above

Answer: (4) All of the above

Section 463 IPC makes whoever makes a false document or part of one liable for forgery if he intends to cause damage or injury to the public or any person, or to support a claim or title, or to make a person part with property or enter into an express or implied contract, or to commit fraud or that fraud may be committed [BNS s.336]. All the intents listed qualify.

146. A person enters another's house without seeking permission. He has committed house trespass if -

(1) He entered with an intention to commit an offence.
(2) He entered with an intention to annoy or insult the residents.
(3) He entered with an intention to intimidate the residents.
(4) All of the above

Answer: (4) All of the above

Under section 441 IPC, criminal trespass is entering on property in another's possession with intent to commit an offence, or to intimidate, insult or annoy the person in possession. When the property is a building used as a human dwelling, it is house-trespass under section 442 [BNS s.329]. Each of the three intentions makes the entry criminal, so all are correct.

147. A married woman gives birth to an illegitimate child. To escape from societal shame, she leaves the child outside the gates of an orphanage. Has the mother committed an offence?

(1) She has committed the offence of abandonment of child.
(2) Abandonment of child is not a punishable offence in India.
(3) Abandonment of child a punishable offence only for legitimate children.
(4) Abandonment of child is not a punishable offence if the mother is in a destitute state.

Answer: (1) She has committed the offence of abandonment of child.

Section 317 IPC punishes a parent or person having care of a child under twelve who exposes or leaves the child in any place with the intention of wholly abandoning it, with imprisonment up to seven years, or fine, or both [BNS s.93]. The section makes no distinction between legitimate and illegitimate children, and no exception for shame or poverty is stated. The mother has committed the offence.

148. Which of the following is considered to be a 'Body Corporate' under the Limited Liability Partnership Act, 2008?

(1) A corporation sole.
(2) A company incorporated outside India.
(3) A co-operative society registered under any law for the time being in force.
(4) All of the above

Answer: (2) A company incorporated outside India.

Section 2(1)(d) of the LLP Act defines body corporate as a company within the Companies Act, and includes an LLP registered under the Act, an LLP incorporated outside India, and a company incorporated outside India. It excludes a corporation sole, a co-operative society registered under any law, and any other body notified by the Central Government. Only the foreign company is therefore covered.

149. What are the consequences in a case wherein the number of partners in a limited liability partnership falls below two partners and one partner still carries on business for more than six months, while having the knowledge of such a situation?

(1) The person who knows he alone is the remaining partner and still carries on the business becomes personally liable for the obligations of the limited liability partnership incurred during that period.
(2) The person who is the remaining partner and still carries on the business continues to stay jointly liable with the other partner for any liabilities or obligations of the limited liability partnership during that period.
(3) The person who is the remaining partner and still carries on the business is not liable for any liabilities or obligations of the limited liability partnership during that period.
(4) None of the above

Answer: (1) The person who knows he alone is the remaining partner and still carries on the business becomes personally liable for the obligations of the limited liability partnership incurred during that period.

Section 6 of the LLP Act requires every LLP to have at least two partners. If the number falls below two and it carries on business for more than six months, the sole remaining partner who knows he is carrying on business alone becomes personally liable for the obligations of the LLP incurred after those six months. Joint liability with another partner is impossible, since there is none left.

150. Under what circumstances can a Limited Liability Partnership be wound up by the Tribunal?

(1) If, for a period of more than 6 months, the number of partners of the limited liability partnership is reduced below two.
(2) If the limited liability partnership has acted against the interests of the sovereignty and integrity of India, the security of the State or public order.
(3) If the Tribunal is of the opinion that it is just and equitable that the limited liability partnership be wound up.
(4) All of the above

Answer: (4) All of the above

Section 64 of the LLP Act allows the Tribunal to order winding up on several grounds. These include a reduction of the number of partners below two for more than six months, acting against the sovereignty and integrity of India, the security of the State or public order, and the Tribunal's opinion that winding up is just and equitable. All three grounds given are on that list.

151. For purposes of Limitation Act, 1963:

(1) Hundi is not a Bill of Exchange
(2) Cheque is not a Bill of Exchange
(3) Both (1) and (2) are incorrect
(4) Both (1) and (2) are correct

Answer: (3) Both (1) and (2) are incorrect

Section 2(c) of the Limitation Act says that for the purposes of the Act, bill of exchange includes a hundi and a cheque. Hence a hundi is a bill of exchange, and so is a cheque, which makes both statements, which say they are not, incorrect. The result is that suits on hundis and cheques follow the limitation period for bills of exchange.

152. A suit for recovery of money based on pro note is filed one day after expiry of period of limitation. There is neither any prayer by the plaintiff for condonation of delay nor any objection taken in written statement by the defendant. Which of the following statements is correct?

(1) The suit is liable to be dismissed.
(2) The suit cannot be dismissed on the ground of bar of limitation because there is no issue raised.
(3) The delay of one day is insignificant and can be ignored by the Court.
(4) None of the above

Answer: (1) The suit is liable to be dismissed.

Section 3 of the Limitation Act directs that every suit instituted after the prescribed period shall be dismissed, although limitation has not been set up as a defence. The court must examine limitation on its own. Section 5 does not apply to suits, so no condonation is available even for one day, and the court has no power to treat a short delay as insignificant.

153. Mark the correct statement with reference to period of limitation.

(1) Where the plaintiff claims to be a pauper, the suit is deemed to be instituted when his application for leave to sue as a pauper is allowed.
(2) A counterclaim is deemed to be instituted on the same date as the suit in which the counterclaim is made.
(3) Both (1) and (2) are correct
(4) Both (1) and (2) are incorrect

Answer: (4) Both (1) and (2) are incorrect

Under section 3(2) of the Limitation Act, a suit by a pauper is deemed instituted when his application for leave to sue as a pauper is made, not when it is allowed. A counterclaim is treated as a separate suit, instituted on the date on which it is made in court, not on the date of the original suit. Both statements are therefore incorrect.

154. Following usual practice, New Delhi Courts located at Patiala House Courts complex were closed post lunch on 25th January 2023 since security agencies cordoned off the area around Kartavya Path (previously known as Rajpath) and on 26th January, 2023 for Republic Day parade. On 27th January, 2023, 'A' filed a suit against 'B' for recovery of money, wherein the period of limitation had ended on 25th January, 2023, referring to above facts.

(1) The suit is not barred by limitation.
(2) The suit is barred by limitation and must be rejected.
(3) The suit is barred by limitation but delay may be condoned upon sufficient cause being shown.
(4) All of the above are correct.

Answer: (1) The suit is not barred by limitation.

Section 4 of the Limitation Act says that where the court is closed on the day when the prescribed period expires, the suit may be instituted on the day the court reopens. The court was closed for part of the last day and then for the next day, and the suit was filed when it reopened on 27 January. The suit is within time and no condonation is needed.

155. A. "Where one of several persons jointly entitled to institute a suit or make an application for the execution of a decree is under any legal disability, and a discharge can be given without the concurrence of such person, time will run against them all."
B. "Where no such discharge can be given, time will run as against such of them as do not suffer from any such disability."

(1) Statement 'A' is correct and Statement 'B' is incorrect.
(2) Statement 'A' is incorrect and Statement 'B' is correct.
(3) Both Statement 'A' and Statement 'B' are incorrect.
(4) Both Statement 'A' and Statement 'B' are correct.

Answer: (1) Statement 'A' is correct and Statement 'B' is incorrect.

Section 7 of the Limitation Act deals with joint claimants, one of whom is under a disability. If a valid discharge can be given without that person's concurrence, time runs against all of them. If no such discharge can be given, time does not run against any of them until one becomes capable of giving the discharge or the disability ceases. So the first statement is right and the second wrong.

156. Mark the correct statement.

(1) In computing the period of limitation for any suit, appeal or application, the day from which such period is to be reckoned, shall be excluded.

(2) In computing the period of limitation for an application for review of a judgment, the day on which the judgment complained of was passed, if pronounced in open court in the presence of the party, cannot be excluded.

(3) Both (1) and (2) are correct.

(4) Both (1) and (2) are incorrect.

Answer: (1) In computing the period of limitation for any suit, appeal or application, the day from which such period is to be reckoned, shall be excluded.

Section 12(1) of the Limitation Act excludes the day from which the period is to be reckoned. Section 12(2) further says that in computing the period for an appeal, revision, or review application, the day on which the judgment complained of was pronounced is excluded, along with the time needed to obtain a copy. The second statement contradicts this, so only the first is correct.

157. In computing the period of limitation for any suit, the time during which the plaintiff had been prosecuting another civil proceeding against the defendant, in a court which, from defect of jurisdiction or other cause of a like nature, was unable to entertain it, shall be excluded, but -

(1) it is necessary that the other case was prosecuted with due diligence and in good faith.

(2) it is not necessary that the other suit related to same matter in issue.

(3) it is necessary that the defect only related to territorial jurisdiction.

(4) All are correct.

Answer: (1) it is necessary that the other case was prosecuted with due diligence and in good faith.

Section 14 of the Limitation Act excludes the time spent in a bona fide proceeding, which failed because of defect of jurisdiction or a like cause, only if the plaintiff prosecuted it with due diligence and in good faith. The matter in issue must be the same, and the defect need not be territorial, because other causes of a like nature are included. Hence only the first statement is right.

158. Where the suit is based upon fraud of the defendant, the period of limitation shall

(1) not begin to run until the plaintiff has discovered the fraud or could, with reasonable diligence, have discovered it.

(2) Be deemed to be twelve years from the date of transaction.

(3) Both (1) and (2) are correct.

(4) Both (1) and (2) are incorrect.

Answer: (1) not begin to run until the plaintiff has discovered the fraud or could, with reasonable diligence, have discovered it.

Section 17(1) of the Limitation Act provides that where the suit is based on the fraud of the defendant or his agent, the period of limitation does not begin to run until the plaintiff has discovered the fraud, or could with reasonable diligence have discovered it. The Act contains no fixed twelve years from the transaction for such suits, so the second statement is incorrect.

159. Which of the following is not an essential requisite of a valid acknowledgment under Section 18 of the Limitation Act, 1963?

(1) It must be made before the expiration of limitation period.

(2) It must be signed by the person making the acknowledgment or by his duly authorized agent.

(3) It must be made by the party against whom any property or right is claimed or by some person through whom he derives title or liability.

(4) It must bear a date in writing.

Answer: (4) It must bear a date in writing.

Section 18 requires an acknowledgment of liability in writing, signed by the party against whom the right is claimed, or by his authorised agent, and made before the limitation period for the suit expires. It also may be made by a person through whom he derives title or liability. A date on the writing is not a requirement; the date can be proved by oral evidence.

160. 'A' had advanced a loan of Rupees One lakh to 'B' on 01.01.2009 which was to be repaid on 31.12.2009. On 31.10.2012, a legal notice was issued by an advocate on behalf of 'A' and served on 'B' demanding immediate repayment of the debt. 'B', through an advocate engaged by him, sent a reply to the advocate for 'A' on 30.11.2012 refusing to pay for want of resources. Citing this as acknowledgement of the debt, 'A' filed a suit for recovery on 01.02.2013. 'B' takes the plea of bar of limitation on grounds that:
A. No subsequent event stops the time of three years once it had begun to run on 01.01.2010.
B. Refusal to pay does not amount to acknowledgement.
C. There is no acknowledgement in writing by 'B' since the reply was signed only by the advocate.
D. There is no acknowledgement in writing by 'B' since the reply was not addressed to 'A'.

(1) All grounds are correct.

(2) All grounds are incorrect.

(3) Grounds 'A' and 'B' are correct but Grounds 'C' and 'D' are incorrect.

(4) Grounds 'A' and 'B' are incorrect but Grounds 'C' and 'D' are correct.

Answer: (2) All grounds are incorrect.

Time began on 1 January 2010 and would end on 31 December 2012. A fresh period starts under section 18 if,

before expiry, the debtor acknowledges liability in writing. An acknowledgment may be signed by an authorised agent, such as an advocate, and need not be addressed to the creditor. A reply admitting the debt while pleading inability to pay is an acknowledgment, so all four grounds fail and the suit is in time.

161. 'A' with sexual intent touches the breast of 'X', a boy aged 12 years. Under the Protection of Children from Sexual Offences Act, 2012, 'A' has committed the offence of -

(1) Sexual Assault
(2) Aggravated Sexual Assault
(3) Sexual Harassment
(4) No offence

Answer: (1) Sexual Assault

Section 7 of the POCSO Act defines sexual assault as touching the vagina, penis, anus or breast of a child with sexual intent, without penetration. The Act applies to boys and girls alike. The child is twelve, so the victim is not under twelve as required by section 9(m) for aggravated assault, and no other aggravating feature is stated. A is liable under section 8 for sexual assault.

162. Which of the following is not a requirement for the medical examination of a child under Section 27 of the Protection of Children from Sexual Offences Act, 2012?

(1) In case the victim is a girl child, the medical examination shall be conducted by a woman doctor in the presence of the woman investigating officer.
(2) The medical examination shall be conducted in the presence of the parent of the child or any person in whom the child reposes trust or confidence.
(3) In case the victim is a girl child, the medical examination shall be conducted by a woman doctor.
(4) The medical examination shall be conducted in accordance with Section 164A Cr.PC.

Answer: (1) In case the victim is a girl child, the medical examination shall be conducted by a woman doctor in the presence of the woman investigating officer.

Section 27 of the POCSO Act requires the examination to follow section 164A CrPC, in the presence of the child's parent or another person trusted by the child, and, for a girl child, by a woman doctor [BNSS s.184]. It does not require the presence of a woman investigating officer, so the first option adds a condition the section does not contain.

163. Under the Protection of Children from Sexual Offences Act, 2012 the Special Court shall complete the trial, as far as possible, within a period of -

(1) 4 months from the date of taking cognizance of the offence.
(2) 6 months from the date of taking cognizance of the offence.
(3) 9 months from the date of taking cognizance of the offence.
(4) 1 year from the date of taking cognizance of the offence.

Answer: (4) 1 year from the date of taking cognizance of the offence.

Section 35(2) of the POCSO Act says the Special Court shall complete the trial, as far as possible, within one year from the date of taking cognizance of the offence. The evidence of the child is to be recorded within thirty days of cognizance under section 35(1). Four, six and nine months are not the statutory period.

164. Under Section 24 of the Protection of Children from Sexual Offences Act, 2012, the statement of a child victim shall, as far as practicable, be recorded by a -

(1) Woman police officer not below the rank of an Inspector.
(2) Police officer not below the rank of an Inspector.
(3) Woman police officer not below the rank of a Sub-Inspector.
(4) Woman officer not below the rank of Deputy Commissioner of Police.

Answer: (3) Woman police officer not below the rank of a Sub-Inspector.

Section 24(1) of the POCSO Act provides that the statement of the child shall be recorded at the child's residence or a place of his choice, as far as practicable by a woman police officer not below the rank of Sub-Inspector. The officer must not be in uniform. It is the rank of Sub-Inspector, not Inspector, and the officer must be a woman.

165. Under Section 6 of the Protection of Children from Sexual Offences Act, 2012, whoever commits Aggravated Penetrative Sexual Assault shall be punished with -

(1) Rigorous imprisonment for a term which shall not be less than 10 years but which may extend to imprisonment for life, which shall mean imprisonment for the remainder of natural life of that person, and shall also be liable to fine, or with death.

(2) Rigorous imprisonment for a term which shall not be less than 20 years but which may extend to imprisonment for life, which shall mean imprisonment for the remainder of natural life of that person, and shall also be liable to fine.

(3) Rigorous imprisonment for a term which shall not be less than 12 years but which may extend to imprisonment for life, or with death.

(4) Rigorous imprisonment for a term which shall not be less than 20 years but which may extend to imprisonment for life, which shall mean imprisonment for the remainder of natural life of that person, and shall also be liable to fine, or with death.

Answer: (4) Rigorous imprisonment for a term which shall not be less than 20 years but which may extend to imprisonment for life, which shall mean imprisonment for the remainder of natural life of that person, and shall also be liable to fine, or with death.

Section 6(1) of the POCSO Act, as amended in 2019, punishes aggravated penetrative sexual assault with rigorous imprisonment for not less than twenty years, which may extend to imprisonment for life, meaning the remainder of the person's natural life, together with fine, or with death. Only the fourth option includes all of these elements; the others give a lower minimum or omit the death sentence or fine.

166. Which of the following contracts cannot be specifically enforced?

(1) A contract made by a trustee in excess of his powers or in breach of trust.

(2) When the act agreed to be done is in the performance wholly or partly of a trust.

(3) Neither (1) nor (2)

(4) Both (1) and (2)

Answer: (1) A contract made by a trustee in excess of his powers or in breach of trust.

Section 11(2) of the Specific Relief Act says a contract made by a trustee in excess of his powers or in breach of trust cannot be specifically enforced. Section 11(1), in contrast, permits the court to enforce specifically a contract where the act agreed to be done is in the performance, wholly or partly, of a trust. Only the first description is a contract that cannot be enforced.

167. A suit for recovery of possession of an immovable property under Section 6 of the Specific Relief Act, 1963 is decreed on findings that the defendant was a trespasser who had dispossessed the plaintiff by forcibly breaking open the locks of the latter during his absence, five months before filing of the suit. Subsequently, a review petition is filed on the ground that the plaintiff was not the owner but only a tenant.

(1) Review cannot succeed because it does not lie against decree in such proceedings.

(2) The review can be entertained because ownership is a factor in such proceedings.

(3) The review can succeed if it is pleaded that the evidence having a bearing on ownership has been discovered subsequently.

(4) Review can succeed because six months had expired from dispossession on the date of the decree.

Answer: (1) Review cannot succeed because it does not lie against decree in such proceedings.

A suit under section 6 of the Specific Relief Act must be filed within six months of dispossession, and it turns on prior possession, not title. Section 6(3) bars both an appeal and a review of any order or decree passed in such a suit. Hence the review petition cannot succeed. The remedy is a regular title suit under section 6(4), where ownership may be decided.

168. Specific performance of a contract for payment of money cannot be enforced in favour of a person -

(1) who fails to aver that he has performed or has always been ready and willing to perform the essential terms of the contract which are to be performed by him.

(2) where the plaintiff has not tendered the money to the defendant or deposited the same in court while filing the suit.

(3) Both (1) and (2) are incorrect.

(4) Both (1) and (2) are correct.

Answer: Question deleted by the High Court

Section 16(c) of the Specific Relief Act bars relief to a plaintiff who fails to aver and prove that he has performed or has always been ready and willing to perform the essential terms. The explanation to that clause says that where a contract involves payment of money, the plaintiff need not tender or deposit the money unless the court directs. So the first statement is correct and the second is not; no option fits this split.

169. 'A' had awarded contract to 'B' for regular maintenance of electrical fittings, fixtures, cables etc. of the premises of his industrial unit, for a period of two years, against consideration for the services payable in the agreed sum of money on monthly basis. 'B' abandoned the work after giving satisfactory services for eighteen months, citing the reasons of lack of manpower. 'A' files a suit to recover money equivalent to monthly consideration for remaining six months, pleading that this was the cost of substituted performance through a third party. In such suit, the plaintiff -

(1) Must show having given a notice in writing, of not less than thirty days, to 'B' calling upon him to perform the contract within time specified in the notice, and refusal or failure to do so on his part.

(2) Must have got the contract performed through a third party.

(3) May also claim compensation for breach of contract.

(4) All of the above.

Answer: (4) All of the above.

Section 20 of the Specific Relief Act, as amended in 2018, lets the party who suffers from breach opt for substituted performance. He must first give the defaulter a written notice of at least thirty days to perform, and if the defaulter fails, may get the contract performed through a third party or his own agency and recover the expenses and costs. He may also claim compensation for the breach. All three statements are correct.

170. 'A' has been awarded a contract by an electricity distribution company to lay underground cables and junction boxes at appropriate places to replace the existing apparatus in a residential locality. 'B', a local resident protests against the work involving enlarging of the capacity of the junction box located near his property saying this would entail laying of connecting cables for more houses than before, requiring digging of the entire footpath facing his house and frequent visits by technicians for occasional repairs, disturbing his privacy, become a safety hazard and a nuisance. As work goes on, his complaints going unheeded, he files a suit against 'A' and the electricity distribution company for injunction against continuance of the work.

(1) The injunction cannot be granted because the plaintiff ought to have also prayed for compensation in the alternative.

(2) The injunction cannot be granted because the plaintiff is also to be beneficiary of the work undertaken.

(3) The injunction cannot be granted because the suit is defective on account of misjoinder of the contractor.

(4) The injunction cannot be granted because it would cause delay in completion of infrastructure product.

Answer: (4) The injunction cannot be granted because it would cause delay in completion of infrastructure product.

Section 20A(1) of the Specific Relief Act says no injunction shall be granted by a court in a suit involving a contract relating to an infrastructure project, where it would impede or delay the project's progress or completion. Section 41(ha) adds the same bar to perpetual injunctions. Laying electricity distribution cables is such work. The other three reasons find no support in the Act.

171. In a case where the offender is not traced or identified, but the victim is identified and where no trial take place, the victim or his dependents cannot make an application to the State or the District Legal Services Authority for award of compensation.

(1) Statement is correct. Compensation could only be claimed out of the assets/properties belonging the accused.

(2) The statement is correct since Section 2 (wa) of the Cr.P.C. recognizes a victim only when the accused is charged for an offence.

(3) The statement is not correct since Section 357 A (4) of the Cr.P.C. enables the victim to seek compensation in such situations.

(4) The victim can seek ex-gratia payment from the State by filing a writ petition.

Answer: (3) The statement is not correct since Section 357 A (4) of the Cr.P.C. enables the victim to seek

compensation in such situations.

Section 357A(4) CrPC covers the case where the offender is not traced or identified, but the victim is identified and no trial takes place. The victim or his dependants may then apply to the State or District Legal Services Authority for compensation under the victim compensation scheme [BNSS s.396]. The statement in the question is therefore wrong, and there is no need to go to the High Court by writ petition.

172. A victim of sexual assault committed in a neighbouring State, escapes to Delhi and reports the matter to the police. The local police refuses to register the FIR. An application is moved before the Metropolitan Magistrate for a direction to the police to register the FIR.

(1) The Magistrate can direct the local police to register zero FIR under Section 156(3) Cr.P.C., investigate and file final report under Section 173 (2) Cr.P.C

(2) The Metropolitan Magistrate cannot pass any direction as all crimes are local as per Section 177 and 178 of the Cr.P.C.

(3) The Magistrate in Delhi can direct the local police of the neighbouring State where the offence is alleged to have been committed to register the FIR, investigate and file a report before him.

(4) The Metropolitan Magistrate can direct the police to register a zero FIR in the local Police Station, but the police thereafter has to forward the FIR to the Superintendent of Police concerned of the neighbouring State for further investigation as per the law.

Answer: (4) The Metropolitan Magistrate can direct the police to register a zero FIR in the local Police Station, but the police thereafter has to forward the FIR to the Superintendent of Police concerned of the neighbouring State for further investigation as per the law.

A police station cannot refuse to register an FIR on information of a cognizable offence merely because the offence occurred outside its area; it must register a zero FIR and transfer it to the competent station. Under section 156(3) CrPC the Magistrate may direct registration [BNSS s.175(3)]. The Delhi police cannot investigate an offence of another State, and a Delhi Magistrate cannot command that State's police; the FIR is forwarded for investigation there.

173. Section 162 of Cr.P.C. provides that -

(1) the statement made by a person to a police officer during investigation and reduced to writing, shall be signed by the person making the statement.

(2) the statement made by a person to a police officer during investigation and reduced to writing, may not be signed by the person making the statement.

(3) no statement made by a person to a police officer during investigation and reduced to writing shall be signed by the person making the statement.

(4) statement made by a person to a police officer during investigation and reduced to writing shall be signed by the person making the statement only if the police officer has obtained prior permission of the court to obtain signature thereon.

Answer: (3) no statement made by a person to a police officer during investigation and reduced to writing shall be signed by the person making the statement.

Section 162(1) CrPC provides that no statement made by any person to a police officer in the course of an investigation, if reduced to writing, shall be signed by the person making it. The prohibition is absolute and needs no permission of any court to be applied. It protects the witness from being bound by an incorrect record, and limits use of such statements at trial [BNSS s.181].

174. Where the police submits a final closure report under section 173 of Cr.P.C., to a Magistrate, that no incriminating material could be unearthed during the investigation against the accused, the Magistrate is -

(1) bound by the conclusion drawn by the police and cannot order re-investigation or de novo investigation.

(2) not bound by the conclusion drawn by the police and may direct further investigation without hearing the accused or the complainant.

(3) bound by the conclusions drawn by the police and may refuse to issue process without hearing the complainant.

(4) Not bound by the conclusions drawn, but may issue notice to the accused to show cause why he should be tried as per the procedure prescribed by law.

Answer: (2) not bound by the conclusion drawn by the police and may direct further investigation without hearing the accused or the complainant.

A police report under section 173 is only the investigating officer's opinion. On a closure report the Magistrate may accept it, take cognizance on the material in spite of it under section 190(1)(b), or direct further investigation, and he is not bound by the police conclusion [BNSS s.193]. The accused has no right of hearing at that stage. The other options wrongly treat the report as binding or invent a show-cause notice.

175. Which of the following Sections deals with evidence of prosecution?

(1) Section 242 Cr.P.C.
(2) Section 243 Cr.P.C.
(3) Section 248 Cr.P.C.
(4) Section 249 Cr.P.C.

Answer: (1) Section 242 Cr.P.C.

Section 242 CrPC, in the trial of warrant cases instituted on a police report, requires that when the accused appears or is brought, charges are framed and he pleads not guilty, the Magistrate fixes a date for examination of witnesses and takes all such evidence as is produced in support of the prosecution [BNSS s.265]. Section 243 deals with the defence evidence and section 248 with acquittal or conviction.

176. An individual is facing charges under Section 376 IPC and Section 302 IPC. He avoided police arrest. Later, he surrendered to a Magistrate before whom neither report under Section 157(1) Cr.P.C., nor copies of entries in the police diary were filed, who remanded him to judicial custody. Can such person claim default bail after 90 days if no police report is filed?

(1) Yes
(2) No
(3) Yes, but after 60 days if no police report is filed
(4) None of the above

Answer: (1) Yes

Under the proviso to section 167(2) CrPC, an accused detained during investigation must be released on bail if the investigation is not completed within ninety days where the offence is punishable with death, life or at least ten years. Murder and rape fall within that class. The ninety days run from the date of first remand, whether he was arrested or surrendered, so the right to default bail accrues [BNSS s.187].

177. Magistrate under Section 239 Cr.P.C. can -

(1) Frame charge against the accused person.
(2) Discharge accused if charges are groundless.
(3) Open trial for evidence.
(4) Convict the accused if the accused pleads guilty.

Answer: (2) Discharge accused if charges are groundless.

Section 239 CrPC applies to warrant cases on a police report. After considering the report and documents sent under section 173, and hearing both sides after an examination if he thinks fit, the Magistrate shall discharge the accused if he considers the charge groundless, recording his reasons [BNSS s.262]. Framing the charge happens under section 240 only if there is ground, and conviction on plea is under section 241.

178. Section 91 of the Cr.P.C enables the Court or the Officer Incharge of a Police Station to summon such document or other thing necessary or desirable for the purposes of any investigation, inquiry, trial or other proceedings. This provision also enables the accused to move an application for production or preservation of documents so as to assist him in his defence at the time of consideration of charge against him or recording of statement under section 313 Cr.P.C.

(1) Statement is wrong since section 91 does not confer any locus standi or legal right upon the accused to move any application.
(2) Statement is correct if the Court is satisfied that the material available with the investigator, not made part of the chargesheet, has a crucial bearing on the issue of framing of charge.
(3) Statement is correct. The Court cannot pass orders to preserve certain records, even if the same would be destroyed in the ordinary course of business.
(4) Statement is correct since in the absence of specific powers, the Court does not have any inherent powers to do pass orders ex debito justitiae.

Answer: (2) Statement is correct if the Court is satisfied that the material available with the investigator, not made part of the chargesheet, has a crucial bearing on the issue of framing of charge.

Section 91 CrPC is a power of the court that is exercised for the purpose of any trial or inquiry, and the accused can invoke it too. At the stage of charge, if the court is satisfied that material held by the investigator, though left out of the charge sheet, has a crucial bearing on framing of charge, it may call for it [BNSS s.94]. The first option wrongly denies the accused any such right.

179. As per section 299 of the Cr.P.C, witnesses for the prosecution can be examined by the Court in the absence of the accused where -

(1) The accused intimidates or threatens the witnesses for the prosecution in any manner.
(2) The accused is held guilty of committing criminal contempt of Court.
(3) The accused seeks exemption from appearance in the matter and consents to recording of evidence of prosecution witnesses in his absence as well as absence of his counsel.
(4) Where the accused has absconded, and there is no immediate prospect of arresting him.

Answer: (4) Where the accused has absconded, and there is no immediate prospect of arresting him.

Section 299 CrPC allows the evidence of prosecution witnesses to be recorded, in the accused's absence, before a Magistrate when it is proved that he has absconded and there is no immediate prospect of arresting him. That deposition may later be used against him if the witness is dead, incapable, or cannot be found, in an inquiry or trial

for the offence [BNSS s.335]. The other three situations are not grounds under this section.

180. The Witness Protection Scheme, 2018 approved by the Supreme Court of India in the case of Mahender Chawla vs Union of India, 2018 SCC Online SC 2679 is a scheme -

(1) providing for assessment of threat perception to the life of a witness or his family members, during investigation/trial or thereafter.
(2) providing for threat perceptions to be assessed by the Investigation Officer which is binding on the Court.
(3) providing for protection of a witness in a trial punishable with imprisonment for a term not less than 10 years, which may extend to imprisonment for life or death.
(4) does not provide for change of identity as also relocation of witness due to law and order being a State legislative subject.

Answer: (1) providing for assessment of threat perception to the life of a witness or his family members, during investigation/trial or thereafter.

The Witness Protection Scheme, 2018, approved in Mahender Chawla v. Union of India, provides for a threat analysis report by the head of police in the district, which is placed before a competent authority headed by the District and Sessions Judge. It covers the witness and family members during investigation, trial and afterwards, and permits measures like change of identity and relocation. The threat assessment is not binding on the court. Only the first option states it correctly.

181. Before proceeding to record the statement of an adult victim of sexual assault, the Magistrate is duty bound to ascertain from the Investigating Officer (IO) as to the nature of allegations and its truthfulness in the opinion of the IO.

(1) Statement is not correct since the Magistrate should hear the PP/APP as well as Support Person or legal aid counsel before proceeding to record the statement of the victim.
(2) Statement is not correct since the Magistrate is under a legal duty to ascertain the version of the incident in the words of the victim of crime and record her statement after satisfying that she has not been tutored, or under any kind of threat, undue influence or coercion from anyone.
(3) Statement is correct and the Magistrate may refuse to record the statement of the victim of crime if she is an educated lady and has submitted written complaint.
(4) Statement is correct and shall only be recorded if the report of the medical examination of the victim has been conducted corroborating sexual assault.

Answer: (2) Statement is not correct since the Magistrate is under a legal duty to ascertain the version of the incident in the words of the victim of crime and record her statement after satisfying that she has not been tutored, or under any kind of threat, undue influence or coercion from anyone.

A statement of a victim under section 164 CrPC is recorded by the Magistrate after he has satisfied himself that it is voluntary, and that she has not been tutored, threatened or coerced [BNSS s.183]. The Magistrate needs no opinion from the investigating officer on the truth of the allegations, and cannot decline recording because the victim is educated or because a written complaint exists. A medical report is not a precondition either.

182. When the Magistrate/Court of Session takes cognizance under sections 190/193 CrPC, it takes cognizance of -

(1) the offence
(2) the offender
(3) Both (1) and (2)
(4) None of the above

Answer: (1) the offence

Cognizance under sections 190 and 193 CrPC is taken of the offence, not of the offender. When the Magistrate applies his mind to the facts disclosed, he becomes seized of the offence; he may then proceed against persons who appear to be involved, including those not named in the report, at the stage of issuing process [BNSS ss.210, 213]. So the offence alone is the subject of cognizance.

183. Under which provision of law, the accused person is entitled to default bail on account of non-completion of investigation within the stipulated period -

(1) Section 437 CrPC
(2) Section 439 CrPC
(3) Section 167 IPC
(4) Section 167 CrPC

Answer: (4) Section 167 CrPC

The right to default bail, also called statutory or compulsive bail, arises under the proviso to section 167(2) CrPC when the investigation is not completed within ninety days, or sixty days in other cases, and the accused is ready to furnish bail [BNSS s.187]. Sections 437 and 439 are the ordinary powers to grant bail on merits, and there is no section 167 in the IPC in this context.

184. Section 437(1) CrPC puts fetters on the powers of Magistrate to grant bail to any accused person arrested in non-bailable offence when there appear reasonable grounds for believing that he has been guilty of an offence punishable with death or imprisonment for life, but the first proviso thereto carves exception and provides that such accused can be released on bail if such person is -

(1) Under the age of sixteen years
(2) A woman
(3) Sick or infirm
(4) All of the above

Answer: (4) All of the above

The first proviso to section 437(1) CrPC permits the court to release on bail, even where there are reasonable grounds to believe he is guilty of an offence punishable with death or life imprisonment, a person who is under sixteen, a woman, or sick or infirm. All three categories are mentioned in the proviso, so the answer is all of the above [BNSS s.480].

185. Any Court may alter or add to any charge at any time before -

(1) the prosecution evidence is closed.
(2) the recording of statement of the accused under section 313 CrPC.
(3) the defence evidence is closed.
(4) judgment is pronounced.

Answer: (4) judgment is pronounced.

Section 216(1) CrPC empowers a court to alter or add to any charge at any time before judgment is pronounced. If the alteration prejudices the accused, the court may order a fresh trial or adjourn it, and the accused must be informed of the changed charge and given a fair chance to defend [BNSS s.239]. The closing of prosecution or defence evidence, or the questioning under section 313, does not limit the power.

186. When a person is charged with an offence, and facts are proved which reduce it to a minor offence,

(1) he will be acquitted of both, the charged offence, as well as the minor offence.
(2) he will be tried afresh for the minor offence.
(3) he may be convicted of the minor offence.
(4) None of the above

Answer: (3) he may be convicted of the minor offence.

Section 222(2) CrPC says that when a person is charged with an offence consisting of several particulars, a combination of only some of which constitutes a complete minor offence, and that minor offence is proved but not the major, he may be convicted of the minor offence even though not charged with it [BNSS s.245]. There is no acquittal of both, and no fresh trial is required.

187. When does the trial of an offence commence?

(1) When chargesheet is filed
(2) When charges are framed
(3) When cognizance is taken
(4) None of the above

Answer: (2) When charges are framed

In a Magistrate's trial, the trial begins when the charge is framed and the accused is called on to plead; before that, the stages are only the filing of the police report, taking of cognizance and consideration of charge, which belong to the inquiry. A charge sheet and cognizance come earlier. Hence it is the framing of charges that marks the commencement of the trial.

188. A Court may impound a document under the following provision of law -

(1) Section 100 CrPC
(2) Section 101 CrPC
(3) Section 103 CrPC
(4) Section 104 CrPC

Answer: (4) Section 104 CrPC

Section 104 CrPC gives the court the power to impound any document or thing produced before it, and this is without prejudice to its power to pass orders under section 451 on disposal of property [BNSS s.109]. Section 100 relates to the search of a place closed to persons, 101 to disposal of things found in a search beyond jurisdiction, and 103 to a search of a place by a Magistrate for specific things in his presence.

189. After the police report is filed under section 173 CrPC, who can order further investigation?

(1) Officer in charge of a police station
(2) District Police Chief
(3) Magistrate concerned
(4) None of the above

Answer: (3) Magistrate concerned

Though section 173(8) CrPC allows the police to carry out further investigation after a report is filed and to send a supplementary report, the question asks who can order it. The Magistrate concerned can direct further investigation under section 156(3) read with section 173(8), without re-investigating or setting aside the existing report [BNSS s.193]. The officer in charge or district police chief may only conduct it on their own.

190. What is the effect of compounding of the offence(s) under Section 310 CrPC?

(1) The accused is discharged of the offence
(2) The accused is acquitted of the offence
(3) The accused is held guilty of the offence
(4) None of the above

Answer: (2) The accused is acquitted of the offence

Section 320(8) CrPC provides that the composition of an offence under section 320 has the effect of an acquittal of the accused with whom the offence has been compounded.

Compounding is a lawful settlement permitted for the listed offences. The accused is neither discharged nor held guilty of the offence. Section 310, quoted in the question, deals with local inspection by a Magistrate. [BNSS s.359(8)]

191. Under what provision can a person, not being an accused, be summoned to stand trial along with the accused, when during the course of any inquiry into, or trial of, an offence, it appears from the evidence that such person has committed an offence?

(1) Section 190 CrPC
(2) Section 193 CrPC
(3) Section 319 CrPC
(4) Section 317 CrPC

Answer: (3) Section 319 CrPC

Section 319 CrPC empowers the court, during an inquiry or trial, to proceed against any person not being the accused who appears from the evidence to have committed an offence for which he could be tried together with the accused [BNSS s.358]. Sections 190 and 193 deal with cognizance by Magistrates and the Court of Session, and section 317 with dispensing with the accused's personal attendance.

192. Ordinarily the duration of anticipatory bail granted to an accused under Section 438 CrPC -

(1) is to operate only till the filing of the charge sheet.
(2) is to operate till cognizance of the offence is taken.
(3) is to operate till the accused is summoned.
(4) is to operate without any restriction as to time and can also continue till the end of the trial.

Answer: (4) is to operate without any restriction as to time and can also continue till the end of the trial.

In Sushila Aggarwal v. State (NCT of Delhi), a Constitution Bench held that an order granting anticipatory bail under section 438 CrPC need not be limited in time and can continue till the end of the trial, unless the court imposes a limit on the facts of the case. Protection does not end on filing of the charge sheet, cognizance or summoning [BNSS s.482].

193. Any person, aggrieved by a refusal on the part of an officer in charge of a police station to record the FIR relating to the commission of a cognizable offence, may send the substance of such information to -

(1) The Chief Minister of the State
(2) The Chief Justice of the High Court
(3) The Public Prosecutor
(4) The concerned Superintendent of Police

Answer: (4) The concerned Superintendent of Police

Section 154(3) CrPC says that a person aggrieved by the refusal of the officer in charge of a police station to record information of a cognizable offence may send the substance of the information in writing and by post to the Superintendent of Police concerned. If satisfied, the Superintendent shall investigate or direct an investigation by a subordinate officer [BNSS s.173]. The Chief Minister, the High Court and the prosecutor have no role here.

194. As per the decision of the Supreme Court in Lalita Kumari v. Government of Uttar Pradesh, (2014) 2 SCC 1, preliminary inquiry may be made before registration of FIR, in the following category of cases -

(1) Matrimonial disputes
(2) Commercial offences
(3) Medical negligence cases
(4) All the above

Answer: (4) All the above

In Lalita Kumari the Constitution Bench held that registration of an FIR is mandatory when the information discloses a cognizable offence, but a preliminary inquiry may be made in certain categories where the information does not clearly disclose one. The Court listed matrimonial or family disputes, commercial offences, medical negligence cases, corruption cases and cases with abnormal delay, so each of the three categories is covered [BNSS s.173].

195. When the Court of Session passes a sentence of death, the sentence -

(1) can be executed only after one month.
(2) cannot be executed unless confirmed by the High Court.
(3) can be executed only after one year.
(4) cannot be executed unless confirmed by the Supreme Court.

Answer: (2) cannot be executed unless confirmed by the High Court.

Section 366 CrPC requires the Court of Session passing a sentence of death to submit the proceedings to the High Court, and the sentence cannot be executed unless it is confirmed by the High Court under section 368 [BNSS s.407]. The Supreme Court's confirmation is not required, and no fixed waiting period of one month or one year is imposed by the Code.

196. Against the order passed by the Court acquitting the accused, the following can prefer an appeal -

(1) The Public Prosecutor on the directions of the District Magistrate/State Government.
(2) The victim
(3) Both (1) and (2)
(4) None of the above

Answer: (3) Both (1) and (2)

Section 378 CrPC lets the District Magistrate direct the Public Prosecutor to appeal against an acquittal by a Magistrate in a cognizable and non-bailable case, and the State Government to direct appeal against other acquittals [BNSS s.419]. The proviso to section 372 also gives the victim the right to appeal against an order of acquittal,

conviction for a lesser offence or inadequate compensation. Both are correct.

197. Which one of the following orders can be passed after the conclusion of trial?

(1) Only an order of acquittal
(2) Only an order of conviction
(3) Order of discharge
(4) Either an order of acquittal or conviction

Answer: (4) Either an order of acquittal or conviction

At the end of a trial the court must pass judgment, which is either an order of acquittal or of conviction (sections 248, 255, 235 and 232 CrPC, according to the form of trial). Discharge is an order passed before trial begins, at the stage of framing the charge, so it cannot follow conclusion of the trial. Hence either acquittal or conviction.

198. 'X' was acquitted by the trial. However, on appeal filed by the State, the High Court reversed the order of acquittal, convicted him and sentenced him to imprisonment for a term of ten years. The remedy available to 'X' will be -

(1) Appeal to the Supreme Court.
(2) Writ Petition before the High Court.
(3) Writ Petition before the Supreme Court.
(4) Appeal before the Division Bench of the High Court.

Answer: (1) Appeal to the Supreme Court.

Section 379 CrPC gives a right of appeal to the Supreme Court where the High Court on appeal has reversed an acquittal and convicted the accused, and sentenced him to death, life imprisonment or imprisonment of ten years or more [BNSS s.420]. X was sentenced to ten years, so the appeal lies as of right to the Supreme Court. A writ petition is not the remedy, and no appeal lies to a Division Bench.

199. Proclamation for person absconding is issued under -

(1) Section 81 CrPC
(2) Section 82 CrPC
(3) Section 83 CrPC
(4) Section 84 CrPC

Answer: (2) Section 82 CrPC

Section 82 CrPC empowers the court that has issued a warrant to publish a written proclamation requiring the person to appear within thirty days, if it has reason to believe he has absconded or is concealing himself so the warrant cannot be executed [BNSS s.84]. Section 81 deals with the warrant being directed to a police officer, 83 with attachment of property, and 84 with claims against such attachment.

200. Every offence shall ordinarily be inquired and tried by a Court -

(1) Where the offence was committed.
(2) Where the accused ordinarily resides.
(3) Where the complainant or victim resides.
(4) Where the accused person is arrested.

Answer: (1) Where the offence was committed.

Section 177 CrPC lays down the ordinary place of inquiry and trial: every offence shall ordinarily be inquired into and tried by a court within whose local jurisdiction it was committed [BNSS s.197]. Sections 178 to 186 supply exceptions, for example where the offence is continuing or committed in several areas. The residence of the accused or victim, or the place of arrest, do not decide the ordinary venue.