Jharkhand Civil Judge (Mains) 2014 (held July 2014)

Paper I · compulsory paper

Law Paper I · Full Marks: 100 · Time: 3 Hours. The paper is divided into five Sections. Each Section has two questions of 20 marks each; the candidate must answer one question from each Section, compulsorily.

Section A

1. (a) Define court which passed a decree and explain the provisions for transfer of decree for execution. 10 Marks

(b) What is doctrine of Res Judicata? Under this doctrine when trial of the suit can be stayed by a court? 10 Marks

2. While narrating the suitable provisions of the law, discuss the effect of the following: (5×4=20)

(a) Where a necessary person is not made a party to the suit?

(b) Where plaint is not presented in a proper court?

(c) Where on the date of hearing, the defendant only appears before the court?

(d) Where all the reliefs have not been claimed in one suit?

Section B

3. (a) "For every distinct offence of which any person is accused, there shall be a separate charge and every such charge shall be tried separately." Explain and illustrate this rule. 10 Marks

(b) "Is a defective charge necessarily fatal to conviction?" Discuss. 5 Marks

(c) 'A' states on oath before the Magistrate that he saw 'B' hit 'C' with a club. Before the Session Court 'A' states on oath that 'B' never hit 'C'. May 'A' be charged and convicted accordingly for intentionally giving false evidence? Decide and refer to relevant provisions of the Code. 5 Marks

4. (a) What are the conditions when a Magistrate may take cognizance of any offence? State also the cases where no court shall take cognizance unless some conditions are fulfilled. 15 Marks

(b) "No appeal would lie unless provided by law." Discuss the statement and refer to relevant provisions of the Code of Criminal Procedure, 1973. 5 Marks

Section C

5. (a) "Mens-rea is an essential element in every crime." Explain this rule and state to what extent it is applicable to the offences under the Indian Penal Code, 1860. 10 Marks

(b) 'A' and 'B' are brothers who were found quarrelling and abusing each other on a public road in a town and a large crowd gathered and the traffic was temporarily suspended. Discuss the criminal liability of 'A' and 'B' and support your answer with provisions of I.P.C. 5 Marks

(c) 'A' puts jewels into box belonging to 'Z', with intention that they may be found in the box and that this circumstance may cause 'Z' to be convicted of theft. Has 'A' committed any offence? If so, discuss the criminal liability of 'A'. 5 Marks

6. (a) Critically examine the impact of the offences amended and inserted into the Indian Penal Code, 1860 by the Criminal Law (Amendment) Act, 2013 to protect women against: (a) Sexual Harassment and (b) Rape. 10 Marks

(b) "All murders are culpable homicide but all culpable homicides are not murder." Explain and illustrate. Refer to decided case law. 10 Marks

Section D

7. (a) "Oral evidence is excluded by documentary evidence." Explain this rule and state the exceptions, if any, to this rule. 10 Marks

(b) Can evidence be given to contradict a witness in the following cases? (5+5)

(i) A witness is asked whether he was dismissed for dishonesty from service? He denies.

(ii) A witness is asked whether his family had blood-feud with the family of 'B' against whom he was giving evidence? He denies.

8. (a) "When a witness is asked and answers any question which is relevant only to shake his credit, then as a general rule no evidence can be given to contradict him". Comment and describe, the exceptions, if any, to this general rule. 10 Marks

(b) Which of the following statements are relevant as 'Admission'? (5+5)

(i) 'A' undertakes to collect rents for 'B'. 'B' sues 'A' for not collecting rent due from 'C' to 'B'. 'A' denies that rent was due from 'C' to 'B'.

(ii) 'A' sells a horse to 'B'. 'B' asks whether horse is sound? 'A' says to 'B' - "Go and ask 'C', 'C' knows all about it". 'C' tells about soundness about horse.

Section E

9. (a) What are the circumstances under which certain period of time is excluded while computing the limitation period? Explain. 10 Marks

(b) Advice 'A' in the following cases: (5+5)

(i) 'B' the debtor of 'A', promises to pay his debt in writing and signed by him on the last day of limitation period.

(ii) 'B', the judgement debtor of 'A' prevents 'A' by fraud or force from executing the decree within the limitation period.

10. (a) "Limitation bars the remedy, but does not destroy the right." Discuss the statement. 10 Marks

(b) Advice 'A' in the following cases: (5+5)

(i) 'A's limitation period expires on a day on which the court is closed.

(ii) 'A' fails to file the appeal within the period of limitation due to illness.