Kerala Munsiff-Magistrate Prelims 2022

High Court of Kerala · Held 8 May 2022 · 100 questions · 150 minutes · 200 marks · 1 mark deducted for each wrong answer

Preliminary Examination

Part A

1. Under Section 146 of the Contract Act, the co-sureties are liable to contribute.....

(A) Equally
(B) Unequally
(C) According to capacity
(D) Neither (A), (B) or (C)

2. Under the Specific Relief Act, a suit for recovery can be filed

(A) Only in respect of movable property
(B) In respect of both movable and immovable property
(C) Only in respect of immovable property
(D) Neither the movable or immovable property

3. Section 53A of the Transfer of Property Act deals with

(A) Doctrine of election
(B) Specific performance
(C) Part performance of contract
(D) Fraudulent transfer

4. A cheque is a .....drawn upon a specified banker and payable on demand.

(A) Bill of exchange
(B) Hundi
(C) Promissory note
(D) None of the above

5. Section 25 of the Limitation Act deals with

(A) Acquisition of easement by prescription
(B) Special exception
(C) Effect of acknowledgment in writing
(D) Continuing breaches and torts

6. Which Section of the Kerala (Buildings Lease and Rent Control) Act, interdicts the tenant from contesting the application or preferring an appeal under Section 18?

(A) Section 11(2)
(B) Section 5
(C) Section 12(1)
(D) None of the above

7. Section 14 of the Limitation Act deals with

(A) Effect of fraud or mistake
(B) Extension of prescribed time in certain cases
(C) Exclusion of time taken for proceeding bona fide before a court without jurisdiction
(D) All of the above

8. 'Pari passu' distribution mean?

(A) Equal distribution
(B) Rateable distribution
(C) Partition by metes and bounds
(D) None of the above

9. Which is not correct about the promissory note ?

(A) It contains a conditional undertaking
(B) It contains the amount mentioned on it
(C) It is an instrument in writing
(D) It is signed by the maker

10. As per Order 13 Rule 9, the person entitled to receive back a document produced in a suit is

(A) Only a party to the suit
(B) Plaintiff
(C) Defendant
(D) Person who produced the document, whether a party or not.

11. Which among the following acts can be done by an outgoing partner conducting business, competing with the firm?

(A) Use of firm's name
(B) Advertise such business
(C) Represent himself as carrying on the business of the firm
(D) Solicit business from customers who were dealing with the firm before he ceased to be a partner

12. Under Section 6(2)(a) of the Specific Relief Act, no suit shall be brought after the expiry of a period of ..... from the date of dispossession.

(A) 6 months
(B) 1 year
(C) 2 years
(D) 3 years

13. A suit posted for hearing can be adjourned by the court only a maximum of ..... at the instance of a party.

(A) Once
(B) Two times
(C) Three times
(D) Hearing cannot be adjourned

14. What is the remedy provided against an order passed at the execution stage in a rent control petition?

(A) Appeal
(B) Revision
(C) Writ petition
(D) None of the above

15. A suit for possession under Section 5 of the Specific Relief Act can be filed within

(A) Three years
(B) Twelve years
(C) Five years
(D) Nine years

16. A and B are partners in a stationery business. Z orders on the firm's letterhead to supply two bags of wheat at his residence. What will be the liability of the firm under the Indian Partnership Act, 1932?

(A) The firm is not liable to pay the debt
(B) The firm is liable to pay the debt
(C) The firm is liable only for half of the debt
(D) None of the above

17. An inchoate instrument is

(A) An incomplete instrument
(B) An instrument presented beyond time
(C) An illegible instrument
(D) None of the above

18. The period of limitation for filing a suit based on promissory note is ..... from the date of execution.

(A) One year
(B) Two years
(C) Three years
(D) 12 Years

19. The rule against perpetuity is contained in

(A) Section 32 of the Partnership Act
(B) Section 62 of the Contract Act
(C) Section 14 of the Transfer of Property Act
(D) Section 6 of the Specific Relief Act

20. Section 114 and Order 47 Rule 1 of the Code of Civil Procedure pertain to the filing of

(A) Appeal
(B) Revision
(C) Review
(D) None of the above

21. Which of the following tests are to be applied in cases where the plea of bar of suit under Order 2 Rule 2 is raised?

(A) Whether the cause of action in the previous suit and that in the subsequent suit are identical
(B) Whether the relief claimed in the subsequent suit could have been given in the previous suit, on the basis of the pleading filed in that suit
(C) Whether the plaintiff omitted to sue for a particular relief on the cause of action disclosed in the previous suit
(D) All of the above

22. Where a promissory note is payable by instalments and two or more instalments have become due and the holder of the note sues only for one of the instalments and omits to sue for the other instalment?

(A) He can sue for the other instalments later
(B) He cannot sue for the other instalments
(C) Either A or B
(D) None of the above

23. Which provision in the Code of Civil Procedure deals with the transfer of a decree?

(A) Section 52
(B) Section 39
(C) Section 41
(D) Section 151

24. To calculate the maturity drawing date of a negotiable instrument, the drawing date be.....

(A) Included
(B) Considered
(C) Excluded
(D) None of the above

25. According to the provisions of the Transfer of Property Act, the easements.....

(A) Can be transferred
(B) Cannot be transferred
(C) Cannot be transferred apart from the dominant heritage
(D) none of the above

26. The Doctrine of Lis pendens is applicable to

(A) Movable and immovable properties
(B) Partial and absolute transfers
(C) Specified and unspecified properties
(D) All of these

27. Novation means

(A) Substitution of one agreement with another
(B) Cancellation of an agreement
(C) Withdrawal from an agreement
(D) Expiry of an agreement

28. The limitation prescribed for filing application to implead the legal representatives of a deceased defendant or respondent is

(A) 30 days from the death of the defendant/respondent
(B) 45 days from the death of the defendant/respondent
(C) 60 days from the death of the defendant/respondent
(D) 90 days from the death of the defendant/respondent

29. Under Section 89 of CPC the court shall formulate the terms of settlement and give them to the parties for their observation and after receiving the observation of the parties the court may reformulate the terms of probable settlement and send them for

(A) Arbitration
(B) Mediation
(C) Settlement before Lok Adalat
(D) All of the above

30. Babu entered into a sale agreement with Thomas, for purchase of 5 cents of land belonging to Thomas, situated in Ernakulam District. The agreement was executed and the advance sale consideration paid at Thiruvananthapuram, where Babu is residing. Thomas having failed to execute the sale deed, in spite of Babu being ready and willing to pay the balance sale consideration, Babu can institute a suit for specific performance of the agreement at

(A) Thiruvananthapuram
(B) Ernakulam
(C) Where Thomas is residing
(D) All of the above

31. Rajan had let out his shop room to Venu on rent. Venu clandestinely sublet a portion of the room to Gopi. On coming to know about this, Rajan caused a lawyer notice to Venu under Section 11(4) of the Building Lease and Rent Control Act, but omitted to mention Gopi's name. Will the omission be fatal when Rajan files a rent control petition for evicting Venu alleging sub-lease?

(A) Fatal
(B) Not fatal
(C) Curable
(D) None of the above

32. Constructive res judicata is contained in

(A) Explanation III to Section 11
(B) Explanation IV to Section 11
(C) Explanation VI to Section 11
(D) Explanation VII to Section 11

33. Which among the following is not essential in relation to transfer of property to an infirm person, under the Transfer of Property Act ?

(A) A life interest in favour of one or more living people.
(B) The unborn person should come into existence before the expiry of prior life interest.
(C) The remaining right after creation of life interest should be transferred to unborn persons.
(D) The unborn person should be a descendant of the original transferor

34. Which among the following is not a new provision introduced in the Specific Relief Act by 2018 amendment?

(A) Time limit for disposal of cases under the Act.
(B) Special Court for trial of suits under the Specific Relief Act.
(C) Provision for substituted performance
(D) None of the above

35. In which among the following mortgages, a personal undertaking by the mortgagor is essential ?

(A) Usufructuary mortgage
(B) English mortgage
(C) Mortgage by conditional sale
(D) None of the above

36. Which among the following is the procedure for transfer of an Actionable claim?

(A) Delivery of possession
(B) By a formal declaration
(C) By an instrument in writing signed by the transferor or agent
(D) By an instrument in writing signed by both the transferor and the transferee and attested by two witnesses

37. Agreement in restraint of trade is

(A) Voidable
(B) Void
(C) Illegal
(D) None of the above

38. How is the gift of immovable property affected?

(A) By delivery of possession
(B) By a registered instrument, if value is more than Rs. 100 and otherwise by transfer of possession
(C) By a registered document attested by two witnesses
(D) By an oral transfer

39. Feeding the Grant by Transfer of Property Act. Estoppel is incorporated in .... of the

(A) Section 43
(B) Section 41
(C) Section 35
(D) Section 21

40. Which among the following sections of the Transfer of Property Act govern the transfer of property to an unborn person ?

(A) Sections 12 and 13
(B) Section 13
(C) Sections 13 and 14
(D) Section 9. 10, 13

Part B

41. Where a Magistrate has imposed a substantive sentence on the accused, the sentence of imprisonment in default of fine shall not exceed the term of sentence, which Magistrate is competent to impose as punishment ?

(A) One half
(B) One third
(C) One fourth
(D) None of the above

42. Which among the following sections incorporates the principle of vicarious liability in criminal jurisprudence?

(A) S.120B IPC
(B) S.120A IPC
(C) S.149 IPC
(D) S.34 IPC

43. In the trial of a criminal case, a question touching the relevant matter in issue is put to the witness, he refuses to answer, contending that the answer will incriminate him. He was compelled to give evidence. If so, under which provision of Law?

(A) Sec. 129 of the Indian Evidence Act.
(B) Sec.132 read with S.147 of the Indian Evidence Act.
(C) S.142 of the Indian Evidence Act.
(D) None of the above

44. After the trial was over, charge was altered invoking S.216 Cr.P.C, from one under S.306 to S.302 I PC. Thereafter, on request of the prosecutor, a surgeon who was not examined earlier, was permitted by the court, to be summoned. Is the court legally competent to do so?

(A) Yes, under S.218(1) Cr.P.C
(B) No, under S.217 (a) Cr.P.C
(C) Yes, Under S.217 (b) Cr.P.C
(D) No, under 3.218 (2) Cr.P.C

45. A bond is executed by the accused for the appearance in court. The accused failed to appear, in spite of specific directions. What should be the next step taken by the court under 3.446 Cr.P.C?

(A) Issue show cause as to why bail bond shall not be forfeited

(B) Record satisfaction regarding forfeiture and call upon the person to pay a penalty or to show cause why it shall not be paid.

(C) Cancel the bail bond, impose penalty on the sureties for such amount not exceeding the bond amount.

(D) None of the above.

46. In which among the following, oral admission as to the contents of documents is relevant?

(A) If the party proposing is able to show that he is entitled to give secondary evidence under the rules.

(B) If the genuineness of the document in question is admitted.

(C) If the document in question is an electronic document.

(D) None of the above.

47. Which among the following is not correct under S.34 IPC?

(A) Prior meeting of mind is essential.

(B) Commission of a Criminal act by one or more persons among the group in furtherance of criminal intention of all.

(C) Each of the persons need not commit any individual overt act.

(D) Each of the above persons accused of common intention should be present at the time of commission of offence.

48. In which among the following instances, sanction under S.197 Cr.P.C is essential?

(A) Where the accused is a public servant and the offence was done by him, while he was a public servant.

(B) Where the accused is or was a Judge or Magistrate or a public servant not removable from office, save without sanction of Government, is alleged to have committed offence, while acting or purporting to act in discharge of his official duty

(C) Where the accused is or was a public servant and is alleged to have committed an offence while in service.

(D) None of the above.

49. If a written complaint is submitted to a Magistrate who is not competent to take cognizance of that offence, he shall

(A) Direct the complainant to the proper court

(B) Return it for presentation to the proper court with an endorsement.

(C) Forward the complaint to the proper court, through the concerned SHO and direct the complainant to that court.

(D) Return it for presentation before the proper court and to refer the party to the proper court.

50. To attract the principle of estoppel, which among the following conditions must be fulfilled?

(A) Representation by a person to another

(B) The other shall have acted upon the said representation.

(C) The act should have been detrimental to the interest of the person who has acted.

(D) All the above.

51. Dying declaration to be admissible

(A) Must be made before a Magistrate

(B) Must be made before the Police Officer or a doctor

(C) May be made before any private person.

(D) All of above

52. Which among the following is not an essential ingredient of criminal conspiracy under S.120 B of IPC?

(A) An object to be accomplished

(B) A plan or scheme embodying means to accomplish that object.

(C) An agreement or understanding between two or more persons to cooperate for accomplishment of the object.

(D) commission of an overt act.

53. Which among the following conditions is to be satisfied to enable a court to order appointment of commission to examine a witness?

(A) Whenever the court feels so

(B) Whenever the presence of a witness cannot be easily procured, without an amount of delay, expense or inconvenience.

(C) Whenever the court feels that the summoning of the witness may cause delay.

(D) None of the above

54. In which among the following, the court can order costs to be paid by the accused of the complainant?

(A) Under S.359 Cr.P.C, when a person is convicted on a complaint of a non-cognizable offence, filed by the complainant.
(B) Under S.358 Cr.P.C, when a person is groundlessly arrested
(C) When compensation is ordered under S.357 Cr.P.C
(D) None of the above.

55. In which among the following circumstances, can the court permit indecent and scandalous questions to be put to witnesses?

(A) If it relates to the character of the witnesses
(B) If it relates to fact in issue.
(C) If it relates to previous conduct of the witnesses.
(D) Court cannot permit indecent and scandalous questions.

56. Which among the following cannot be a method of impeaching the credit of witnesses?

(A) Through the oral evidence of any other witness
(B) Through the evidence of persons who know that the witness is not credit worthy
(C) By proof that the witness has been bribed.
(D) By producing previous contradicting statements of witnesses.

57. S.34 IPC is?

(A) a rule of evidence
(B) a substantive offence
(C) an inchoate offence
(D) None of the above

58. Under Indian Penal Code “illegal" signifies?

(A) everything which is an offence
(B) everything prohibited by law
(C) Everything which furnishes ground for civil action.
(D) All the above.

59. Which among the following is true for dying declaration?

(A) dying declaration cannot be used as the sole basis of conviction.
(B) dying declaration, unless corroborated, cannot be read as sole basis for conviction.
(C) dying declaration which is cryptic must be discarded
(D) when witnesses affirm that deceased was not in a fit state to make declaration, medical opinion cannot prevail

60. If an offender is sentenced to imprisonment for a term not exceeding six months, solitary confinement shall not exceed.....?

(A) 15 days
(B) one month
(C) two months
(D) 45 days.

61. Section 76 and Section 79 of IPC provide the general exception of..... ?

(A) mistake of law
(B) mistake of fact
(C) both mistake of fact and law
(D) either mistake of law or of fact

62. In a criminal trial relating to causing injury on the body of the victim, sole eye witness deposed in accordance with the prosecution case that accused inflicted a puncture wound, with a sharp weapon. Post mortem surgeon gave evidence that the wound on the body was caused by a gunshot. On the basis of this evidence, which among the following will be the most probable outcome?

(A) The Court can convict the accused based on direct evidence of an eye witness.
(B) Court should discard opinion evidence, and rely on direct evidence
(C) Court should rely only on evidence of expert surgeon
(D) Accused should be acquitted, granting benefit of doubt, based on contradictory versions of prosecution witness.

63. Accident as an exception has been dealt with in which among the following provisions of IPC ?

(A) S.77
(B) S.78
(C) S.80
(D) 5.82

64. Which among the following statements is true in relation to examination in chief of a witness?

(A) Leading question can be asked
(B) It must only relate to relevant facts
(C) It must relate to facts in question
(D) All the above

65. The presumption that all judicial and official acts have been regularly performed can be drawn from which provision of Indian Evidence Act?

(A) S.123
(B) S.114
(C) S.121
(D) S.112

66. A disputed signature or handwriting of a person can be proved under S.67 of the Indian Evidence Act by which among the following methods?

(A) By invoking S.73 of the Indian Evidence Act.
(B) By direct oral evidence of a person who is conversant into the handwriting or signature of that person.
(C) By adducing the evidence of an expert.
(D) All of the above.

67. To form an opinion under S.50 of Indian Evidence Act relating to relationship of one person with another, opinion of which among the following person is admissible?

(A) Any member of the family.
(B) Any person who has some knowledge about the relationship
(C) Any member of family or otherwise, who has special means of knowledge on the subject.
(D) All of the above.

68. Under the provisions of Code of Criminal Procedure, 1973 Cognizance is taken of

(A) Offence
(B) Accused
(C) Final report
(D) None of the above

69. Regarding presumption about a document under S.90 of the Indian Evidence Act, which among the following is true?

(A) It should come from proper custody
(B) It should be more than 30 years old
(C) If conditions under 3.90 are attracted, the court can draw presumptions regarding signature and handwriting.
(D) All of the above

70. Under S.202 Cr.RC, the Magistrate is not authorised to

(A) Conduct enquiry himself
(B) Ask police officer to conduct an investigation
(C) Ask a person who is not a police officer to conduct an investigation
(D) Issue process to the accused.

71. Laying of trap is a part of

(A) Inquiry
(B) Enquiry
(C) trial
(D) Investigation

72. Test Identification Parade is conducted as a part of

(A) Trial
(B) Enquiry
(C) Inquiry
(D) None of the above

73. A' without any cause fires a loaded pistol into a crowd. One person died of bullet injury on the spot. What, if any, is the offence committed by 'A'?

(A) Murder
(B) Culpable homicide not amounting to murder
(C) No offence, since he had no intention
(D) Rash and negligent act endangering or safety of others

74. To escape from criminal liability, when a defence of intoxication is set up, the intoxication should be

(A) Self administered
(B) Administered against his will or knowledge
(C) Should not be self administered
(D) All of the above

75. The right of private defence is based on which among the following

(A) Self preservation
(B) Self respect
(C) Self sufficiency
(D) Self reliance

76. Which one among the following is correct in relation to distinction under S.34 and S.149 of IPC?

(A) Section 34 creates a specific offence, whereas Section 149 does not
(B) Section 34 as well as Section 149 create specific offence
(C) Section 149 creates a specific offence whereas Section 34 does not
(D) Section 34 as well as Section 149 do not create specific offence

77. Cruelty under S.498 A IPC does not include which among the following?

(A) Harassment of the woman
(B) Physical cruelty
(C) Mental cruelty
(D) All of the above cumulatively

78. Doctrine of volenti non fit injuria is incorporated in?

(A) S.88 of IPC
(B) S.87 of IPC
(C) S.89 of IPC
(D) All the above

79. Under Indian Law of crimes, right of private defence is available with respect to

(A) Harm to body
(B) Harm to movable property
(C) Harm to immovable property
(D) All the above

80. In preparing the questions put to the accused under Section 313 Cr.P.C., the Court can take assistance of whom among the following ?

(A) Amicus curiae
(B) The accused
(C) The prosecutor
(D) The prosecutor and the defence counsel

Part C

81. The principle of actus curiae neminem gravabit is incorporated in which provisions of the Code of Civil Procedure ?

(A) S.151
(B) S.152
(C) S.144
(D) S.10

82. Concept of letter rogatory is found in which among the following?

(A) Indian Penal Code
(B) Code of Criminal Procedure
(C) Law of Property
(D) Specific Relief Act

83. Legality of Narco Analysis Test was considered by the Supreme Court in which among the following cases?

(A) Selvi V. State of Karnataka
(B) Kathi Kalu Oghad V. State of Bombay
(C) Aruna Shanbaug V. Union of India
(D) Indira Jai Singh V. Union of India

84. Who among the following was the first woman Chief Justice of a State ?

(A) Smt.Anna Chandy
(B) Smt.Leila Seth
(C) Smt.Fatima Beevi
(D) Smt.K.K.Usha

85. Find out the odd pair?

(A) Indian Penal Code and Lord Macaulay
(B) Fundamental Duties and Fundamental Rights
(C) Doctrine of substituted Security and substituted performance
(D) Murder and culpable homicide

86. Principle of rarest of rare case was laid down by Supreme Court in?

(A) Mithu V. State of Punjab
(B) P.Kottaya V. King Emperor
(C) Selvi V. Union of India
(D) Kathi Kalu Oghad V. State of Bombay

87. In a trial relating to murder of 'A', one witness deposed that a few days prior to the death of 'A', the witness saw 'A' and accused sitting in a Bar and consuming liquor. He had not seen them thereafter. Which is the most reasonable and rational conclusion which the court can draw?

(A) Last seen theory can be applied.
(B) A and the accused were friends and hence the accused could not have committed murder of 'A'.
(C) No inference can be drawn from the version of witness
(D) A and accused were in good terms at least till few days prior to death of A'

88. Fiduciary relationship is a relation between two person based on

(A) Trust
(B) Contract
(C) Blood relation
(D) Money

89. A witness makes a statement in court, knowing it to be false. He commits the offence of

(A) Perjury
(B) Contempt of court
(C) Forgery
(D) None of the above

90. Who is an eo Nomine party?

(A) A nominee of a party
(B) A party, by or under that name
(C) Not a nominee of a party
(D) A party who is brought on record by orders of court.

91. A statute states that “sale of car, van, jeep and such other vehicles require licence". Question arises whether for sale of two wheelers, licence is required. Which Rule of interpretation is to be employed?

(A) Literal interpretation
(B) Golden rule of interpretation
(C) Reddendo singula singulis
(D) None of the above

92. Court of record means

(A) A court which preserves the records forever
(B) A court whose judicial proceedings are covered by records.
(C) A court which can punish for contempt
(D) None of the above

93. Who was the first Chief Justice of India?

(A) Patanjali Sastri
(B) Harilal J. Kania
(C) M.C.Mahajan
(D) B.K.Mukherjee

94. If both offices of President and Vice President happen to be vacant simultaneously, who will discharge the duties of President?

(A) Prime Minister
(B) Speaker of Lok Sabha
(C) Chairman of Rajya Sabha
(D) Chief Justice of India

95. Fundamental duty is referred to in which part of the Constitution of India?

(A) Part IV A
(B) Part III
(C) Part IV
(D) Part V

96. In which case, the Supreme Court allowed passive euthanasia in exceptional circumstances?

(A) Geeta Chopra V Union of India
(B) Aruna Shanbaug V Union of India
(C) Seema V Aswin Kumar
(D) Minerva Mills V Union of India

97. What is the meaning of “in Pari Delicto"?

(A) Both parties in dispute are at fault
(B) When parties dispute each other
(C) Both sides are not at fault
(D) None of the above

98. In which case, the Supreme Court of India directed compulsory registration of all marriages?

(A) Seema Shetty V. Union of India
(B) Selvi V. State of Karnataka
(C) Minerva Mills V. Union of India
(D) Seema V. Aswinkumar

99. In which case the Supreme Court, for the first time, laid down that Fundamental Rights have primacy over the Directive principles of the state policy?

(A) Sanjay Singh V. State of Punjab
(B) ADM Jabalpur V. Union of India
(C) Minerva Mills V. Union of India
(D) Maneka Gandhi V. Union of India

100. What is meant by a holographic will?

(A) Will in the hand writing of the testator
(B) Will kept in a mechanical device
(C) Will in a printed form
(D) None of the above