Maharashtra Civil Judge (Prelims) 2015

Maharashtra Public Service Commission · Civil Judge (Junior Division) & JMFC Preliminary Examination 2015, held 31.05.2015 · 100 questions

Preliminary Examination

1. When did the Code of Criminal Procedure, 1973 come into force ?

(A) 26th January 1973
(B) 1st April 1974
(C) 1st April 1973
(D) 30th June 1976

2. How can an arrest be made by a police officer?
a. By handcuffing the person to be arrested
b. By touching the body or giving oral intimation of arrest in the case of a woman
c. By confining the person to be arrested
d. By all the above methods

(A) Only a
(B) Only b
(C) Both b and c
(D) Only d

3. The Chief Judicial Magistrate is empowered to impose a sentence of imprisonment

(A) not exceeding ten years
(B) not exceeding five years
(C) not exceeding seven years
(D) None of the above

4. Right of the accused to be produced before a magistrate within 24 hours is a

(A) Fundamental Right
(B) Civil Right
(C) Statutory Right
(D) Human Right

5. When information relating to the commission of cognisable offence is received by the officer in charge of a Police Station

(A) he can make enquiry and then decide whether to register an FIR or not
(B) he has to register an FIR as a rule
(C) he can refuse to register an FIR
(D) he can direct the informant to seek direction from the Magistrate

6. Which of the following is a correct statement ?

(A) Court of session can take cognizance of any case triable by it.
(B) Court of session can take cognizance when complaint is filed before it.
(C) Court of session can take cognizance when the High Court directs.
(D) Court of session cannot take cognizance unless the case has been committed to it by the Magistrate.

7. Statement of the accused under Section 313 of the Criminal Procedure Code is

(A) a mere statement of the accused to be used to know his defence
(B) of no use for the prosecution in the trial
(C) also part of the evidence in the trial
(D) not an evidence but can be considered by the court as a matter before it

8. 'In camera' proceeding means

(A) a proceeding recorded by video camera
(B) a proceeding held in private place/premises
(C) a proceeding during which the public in general or particular is not allowed to watch
(D) a proceeding conducted in a closed room secretly

9. A Judicial Magistrate First Class can order payment as compensation to the person who sustained loss or injury by reason of the act for which the accused has been convicted :

(A) Any reasonable amount to recompense the loss
(B) Any amount not more than ₹ 5,000
(C) Any amount when fine is not a part of the sentence
(D) Any amount that the accused offers in order to get soft sentence

10. The jurisdiction and powers of Judicial Magistrate

(A) extend throughout the Taluka wherein he is posted
(B) extend throughout the District where he is posted
(C) is co-extensive with the area of the Police Station within his local jurisdiction
(D) extend to the area, as the District Judge may define by special order

11. From an order of an acquittal by the Magistrate in a complaint case, appeal lies with the

(A) Court of Session
(B) Chief Judicial Magistrate
(C) High Court
(D) District Magistrate

12. Period of limitation for taking cognizance, if an offence is punishable with a fine only, is

(A) one year
(B) six months
(C) three years
(D) no limitation

13. In a bailable offence, the accused can claim his release on bail

(A) not as a right, since the court can refuse his release for special reasons.
(B) after hearing the complaint of the public prosecutor.
(C) as a matter of right.
(D) but it is the judicial discretion of the court to grant or not to grant bail.

14. 'Legal Representative' means

(A) Sons and daughters of the deceased person
(B) Authorised agent or the representative of the deceased
(C) Class I heirs of the deceased
(D) Any person who in law represents the estate of the deceased

15. First date of hearing of the suit is

(A) the date for framing of issues
(B) the date on which the defendant is summoned to appear
(C) the date fixed for filing written statement
(D) the date on which argument on merit is to be heard

16. 'Precept' is an order issued by the court which passed the decree and addressed to

(A) the collector to effect partition of property
(B) another court to arrest the judgement debtor residing in the jurisdiction of that court
(C) the other court to attach the property of the judgement debtor, specified in the precept, which is in the jurisdiction of that court
(D) the revenue court to sell the property attached by the court

17. Defendant can be arrested before judgement in a suit for

(A) partition
(B) possession of immovable property
(C) recovery of money, compensation
(D) specific performance of contract to sell of immovable property

18. Executing Court has to decide under Section 47 of the Civil Procedure Code

(A) all the questions raised between the parties to the suit
(B) all the questions between the parties to the suit relating to execution, discharge and satisfaction of the decree
(C) all the questions between the parties to suit and the third party
(D) all the questions between the parties except those relating to delivery of property to the auction purchaser

19. Which of the following cannot be attached in execution of decree ?

(A) Government securities or bonds
(B) Undivided interest or share in the immovable property
(C) Whole of the salary
(D) Mortgaged property

20. Service of the summons/notice by advertisement in a newspaper is

(A) an alternate mode of service
(B) permissible when defendant resides at a distant place
(C) permissible when plaintiff is not aware of the address of the defendant
(D) a substituted service, when the court is satisfied that the defendant is avoiding service or he cannot be served in the ordinary way

21. Inherent powers of the Civil Court are

(A) complementary to the powers specifically conferred, to be used when required to render justice
(B) the powers conferred by the statutes
(C) the powers which are not limited by statutory provisions
(D) plenary powers of the courts

22. Temporary injunction under Rule 2 Order XXXIX of the Criminal Procedure Code can be granted

(A) pending suit for injunction
(B) after institution of suit, either before or even after judgement
(C) in any suit till it is decided
(D) before institution of the suit when special case is made out

23. Suit is liable to be dismissed when there is

(A) mis-joinder of parties
(B) non-joinder of proper party
(C) non-joinder of necessary party
(D) mis-joinder of causes of action

24. Defendant can set up counter-claim against the claim of plaintiff

(A) when defendant has a cause of action accrued before filing of the suit
(B) when defendant has a cause of action accruing against the plaintiff either before or after filing of the suit
(C) when defendant has a cause of action accrued against the plaintiff during trial
(D) in all the circumstances mentioned above

25. 'Actio personalis moritur cum persona, means

(A) Personal action does not die with the person
(B) Personal action varies from person to person
(C) Trivial actions should not be carried to the courts
(D) Personal action dies with the person

26. 'Audi alteram partem,' means

(A) Alternate remedy is available
(B) Hear the other side
(C) Tender of pardon
(D) Not to part with possession

27. 'Ubi jus ibi remedium,' means

(A) Every right is attached with obligation
(B) Right without remedy is otiose
(C) Where there is a right, there is a remedy
(D) None of the above

28. Which of the following statements of the witness is 'not admissible'?

(A) 'Girl told me that she was sexually assaulted.'
(B) 'Girl was crying and complained that she was assaulted.'
(C) 'Girl was depressed and did not say anything'
(D) None of the above

29. The terms of the written contract can be proved by

(A) oral evidence of a witness who witnessed the execution of contract
(B) oral evidence of a witness who drafted it
(C) producing that written contract itself or by secondary evidence when permissible
(D) expert evidence

30. The expression 'Res gestae' means

(A) The things done in the course of transaction
(B) A thing belonging to the guest
(C) Demeanor of the witness under examination in the court
(D) A thing belonging to nobody

31. The expression, 'Dying declaration' means

(A) Statement made by the person at the time of his death
(B) Declaration of a person in contemplation of death
(C) Statement of the deceased person as to his cause of death
(D) Declaration of a person on the death-bed about disposition of his property

32. 'Confession' means

(A) Any admission of the accused
(B) Admission of the facts constituting an offence
(C) Exculpatory statement of the accused
(D) Self serving statement of the accused

33. 'Judgement in rem' is

(A) Binding on the parties to the proceeding
(B) Binding on the parties and any person claiming through such parties
(C) A judgement that binds the world
(D) None of the above

34. Which of the following is not an 'evidence' within the meaning of Section 3 of the Evidence Act ?

(A) Depositions of witnesses recorded at the trial
(B) Documents produced for inspection of the court
(C) Electronic record produced in the proceeding
(D) Report as to local investigation submitted by the Commissioner appointed by Court U/S 9 Order XXVI of C.P. Code

35. Opinion of the elderly persons in the society is

(A) inadmissible in evidence being hearsay
(B) admissible to prove general conduct and character of the parties
(C) admissible to prove general custom or right
(D) inadmissible as their opinion is irrelevant

36. Print-out of a photo taken with digital camera is

(A) the original document
(B) secondary evidence
(C) primary evidence
(D) neither primary nor secondary evidence

37. What is the object of 'contradicting the witness' with his previous inconsistent statement?

(A) To challenge his veracity
(B) To challenge his knowledge
(C) To show he is interested witness
(D) To fortify his veracity

38. Which of the following is an accurate proposition?

(A) Lunatic is a competent witness
(B) Lunatic is not a competent witness
(C) Lunatic is a competent witness when he is able to understand the questions and give rational answers
(D) None of the above

39. Adverse inference may be drawn against the party when

(A) he did not examine himself as witness
(B) he did not participate in the proceeding
(C) he failed to prove material document though produced
(D) material evidence, oral or documentary, not produced though available

40. When legal provision provides that court shall presume a fact, it is

(A) irrebuttable presumption
(B) permissive or discretionary presumption
(C) rebuttable presumption
(D) conclusive proof of the fact

41. Which of the following words is not related to the principle of 'mens rea'?

(A) Dishonestly
(B) Voluntarily
(C) Fraudulently
(D) Cautiously, in good faith

42. Nothing is an offence when it is done by a child under

(A) Five years of age
(B) Seven years of age
(C) Twelve years of age
(D) Fourteen years of age

43. The accused stabbed a man who was sexually assaulting her and she caused his death. She is

(A) guilty of culpable homicide not amounting to murder
(B) guilty of murder
(C) guilty of no offence
(D) guilty of causing death by rash act

44. Making or publishing any imputation on someone who is dead

(A) is no offence
(B) amounts to an offence of defamation
(C) amounts to defamation of his family members
(D) is a civil wrong

45. Causing death by rash and negligent act is

(A) accidental death
(B) culpable homicide not amounting to murder
(C) neither culpable homicide nor murder nor accidental death
(D) None of the above

46. Dislodging a tooth by a blow of fist is

(A) an offence U/S 325 IPC
(B) an offence U/S 323 IPC
(C) an offence U/S 324 IPC
(D) an offence U/S 326 IPC

47. Theft is said to have been committed when the accused

(A) moved away the property of someone else
(B) took away the property without the consent of the owner
(C) dishonestly took away the movable property without the consent of the person in possession
(D) dishonestly induced a person, putting him in fear of injury, to deliver the property to him

48. A man allowed his cart to proceed unattended along the road. It ran over a boy causing fracture of his leg. He has committed an offence

(A) voluntarily causing grievous hurt
(B) causing grievous hurt by rash and negligent act
(C) voluntarily causing hurt
(D) No offence at all

49. A soldier fired on a mob under the orders of his superior officer and caused death of a person. He has committed

(A) an offence of culpable homicide not amounting to murder
(B) no offence
(C) murder
(D) an offence U/S 304 A of the IPC

50. In case of an offence punishable with fine only, 'imprisonment' in default of payment of fine

(A) shall be rigorous
(B) shall be simple
(C) may be rigorous
(D) may be simple

51. The maxim, 'Ignorantia juris non excusat', means

(A) Ignorance of fact is no excuse
(B) Ignorance of fact is good excuse
(C) Ignorance of law may be good excuse
(D) Ignorance of law is no excuse

52. Robbery is an aggravated form of

(A) theft
(B) extortion
(C) theft and extortion
(D) None of the above

53. Right to move the Supreme Court for enforcement of rights conferred by Part III of the Constitution is a

(A) Natural right
(B) Civil right
(C) Statutory right
(D) Fundamental right

54. Which of the following is not a right under Article 19(1) of the Constitution?

(A) To form association or union
(B) To go on strike
(C) To carry on any occupation
(D) To assemble peaceably

55. Judiciary in India is

(A) under Ministry of Law
(B) under the Office of the Prime Minister
(C) under Parliament of India
(D) independent

56. Supreme Court issues prerogative writs under Article

(A) 32 of the Constitution
(B) 141 of the Constitution
(C) 142 of the Constitution
(D) 98 of the Constitution

57. What are the qualifications for appointment as a Judge of a High Court ?

(A) He must be a citizen of India
(B) He must have held a judicial office in India for at least 10 years
(C) He must have been an advocate of a High Court for at least 10 years
(D) All of the above

58. Which provision of the Constitution recognises the right of the accused to remain silent as a Fundamental Right?

(A) Article 19
(B) Article 21
(C) Article 20
(D) Article 14

59. 'Habeas corpus' means

(A) Inquest of the dead body
(B) Production of the corpse for investigation
(C) Direction to produce the person before the court
(D) Direction to produce the dead body

60. Fundamental Rights are found in

(A) Part III of the Constitution of India
(B) Part II of the Constitution of India
(C) Human Rights Act
(D) Part IV of the Constitution of India

61. Chief Justice of India and other Judges of the Supreme Court continue to hold office until they attain the age of

(A) 62 years
(B) 60 years
(C) 65 years
(D) 58 years

62. Which of the following territories are under the jurisdiction of the High Court of Bombay?

(A) Maharashtra
(B) Goa, Daman and Diu
(C) Dadra and Nagar Haveli
(D) All of the above

63. Executive Powers of the Union of India vest in the

(A) President of India
(B) Prime Minister of India
(C) Council of Ministers
(D) Parliament

64. 'Amicus Curiae', means

(A) Legal aid counsel
(B) Advocate of the indigent person
(C) Advocate of any party
(D) Friend of the court (Advocate) appointed to assist it

65. The expression, 'Escheat', means

(A) Amassing property by cheating
(B) Causing wrongful loss to others by cheating
(C) Lapsing of property to the State on the death of owner leaving behind no will or heirs
(D) None of the above

66. Agreement in restraint of marriage of anybody is

(A) Voidable at the option of the promisor
(B) Void
(C) Valid
(D) Voidable at the option of the promisee

67. A contract of insurance is a

(A) Contract of guarantee
(B) Contract of agency
(C) Contract of indemnity
(D) None of the above

68. Voidable contract is

(A) not enforceable by law
(B) enforceable by law at the option of one or more of the parties
(C) enforceable at the instance of any party but at the discretion of the court
(D) enforceable even by the third party if the court considers it equitable

69. The expression 'liquidated damages' means

(A) Penalty to be paid by the party who commits breach of contract
(B) Earnest money paid
(C) An amount stipulated in the contract as damages which can be recovered by one party if the other party breaches it
(D) Damages ascertained by the court payable by a party who commits breach

70. B offers A for his car ₹ 2,00,000/- and the car is to be delivered on the next day by A's driver. B gave a post-dated cheque of next month. A accepted the offer and the cheque. When would that car become a property of B ?

(A) On the next day when B would get delivery of the car
(B) On encashment of the post-dated cheque
(C) On the date of cheque
(D) As soon as the offer is accepted by A i.e. on the same day

71. Which of the following agreements is not a contract for unlawful consideration or object ?
a. A promises to maintain B's child and B promises to pay ₹ 5000/- per month to A.
b. A promises B to drop a prosecution he has instituted for robbery and B promises to pay restoration value of the things robbed.
c. A promises to pay ₹ 50,000 to B, if he procures an employment in the public service.
d. A agreed to let his house for monthly rent of ₹ 5000/- to B, wherein the latter would run a gambling business.

(A) Just b
(B) a and b
(C) b and c
(D) b, c and d

72. Oral contract is a

(A) Valid contract
(B) Invalid contract
(C) Voidable contract
(D) Not enforceable for uncertainty

73. Finder of the goods becomes
(A) a bailor
(B) a bailee
(C) an owner
(D) a trustee

74. Who amongst the following is not competent to contract?
(A) Convict undergoing imprisonment
(B) Illiterate
(C) A person who is on the death-bed
(D) Minor

75. In a suit for possession of immovable property, when the plaintiff is alleged to have dispossessed without due process of law, the court has to decide whether the
(A) Plaintiff is the owner
(B) Plaintiff was in settled possession
(C) Defendant is the owner
(D) Plaintiff is dispossessed without his consent, within six months

76. In a suit for specific performance of contract, the court may award compensation
(A) if the court decides that specific performance ought not be granted but there is a breach of contract by the defendant, even if not claimed
(B) if the court finds that the contract is voidable at the option of the defendant
(C) if the contract is void
(D) if the court decides that specific performance ought not be granted but there is a breach of contract and plaintiff claimed compensation in his plaint

77. Which of the following propositions is wrong ? Injunction should not be granted
(A) to restrain a person from instituting criminal proceeding
(B) to prevent breach in which plaintiff acquiesced
(C) when plaintiff has no personal interest
(D) when invasion on right is such that compensation would be an adequate relief

78. Who amongst the following cannot sue for specific performance of a contract ?
(A) Parties to contract
(B) Representative in the interest of any party
(C) A person to whom the right to sue is assigned by the party to contract
(D) Reversioner in possession where contract was entered into by a predecessor in title

79. Jurisdiction of the court to enforce specific performance of contract is
(A) discretionary
(B) absolute
(C) plenary
(D) general

80. Temporary Mandatory injunction can be granted
(A) when prima-facie case is made out
(B) in rare cases to restore status-quo ante
(C) when serious injury would be caused to the plaintiff
(D) when prohibitory injunction would not be a proper remedy

81. Which of the following cannot be transferred ?
a. A chance of succession after the death of kinsman
b. An easement apart from the dominant heritage
c. Actionable claim
d. Goodwill of the business
(A) Only a
(B) Only b
(C) Both a and c
(D) Both a and b

82. Which of the following documents requires attestation by two witnesses ?
(A) Lease deed
(B) Sale deed
(C) Gift deed
(D) Release deed

83. 'Tenant holding over', is
(A) a trespasser in the eyes of law
(B) erstwhile tenant who after termination of tenancy did not vacate premises
(C) old lessee who despite termination of lease is allowed by lessor to continue possession
(D) tenant at sufferance

84. Who, other than the mortgagor, has a right to sue for redemption of mortgage ?
(A) A person interested in the mortgagor
(B) Surety for the payment of mortgage debt
(C) Unsecured creditor
(D) None of the above

85. When claim made in a suit is barred by law of limitation
(A) Plaint is to be rejected
(B) Plaint is to be returned
(C) Suit is to be dismissed
(D) Suit can be tried if not objected

86. Suit for recovery of price of the goods sold on credit is to be filed

(A) within three years from the date of sale
(B) within three years after the period of credit
(C) within three years from the date of demand in writing
(D) within three years after service of legal notice

87. Application for execution of decree other than the injunction is to be made within

(A) Six years from the date of decree
(B) Three years from the date of decree
(C) Twelve years from the date of decree
(D) No limitation

88. What is the effect of acknowledgement of debt after the period of limitation ?

(A) It is of no use to bring the claim within limitation
(B) It will give fresh cause of action to file suit
(C) It will extend the period of limitation
(D) None of the above is correct

89. For bringing on record Legal Representatives of the deceased party, application is to be made within

(A) Thirty days from the date of death of such a party
(B) Ninety days from the date of death of such a party
(C) Ninety days from the knowledge of the death of such a party
(D) Sixty days from the date of death of such a party

90. Suit for specific performance of contract is to be filed within

(A) Three years from the date the contract is sought to be enforced
(B) Three years from the date fixed for the performance, if no such date is fixed from the date of refusal by the defendant
(C) Twelve years from the date of contract
(D) Six years from the date of refusal of the defendant to perform the contract

91. Partnership is

(A) a joint venture of two or more persons who agreed to share profits of a business
(B) a legal entity independent of its partner
(C) a business done by two or more persons who agreed to share the loss
(D) None of the above

92. When is partnership called a 'partnership at will' ?

(A) When it is to be dissolved on happening of some event
(B) Where there is no provision in the contract about duration or determination of partnership
(C) Where there is no provision in the contract as regards duration and it is to be continued till the work, that the partners have undertaken is completed
(D) None of the above

93. 'Caveat emptor,' means

(A) Let the buyer beware
(B) Vendor to disclose the defect
(C) There is warranty as to quality and fitness of the goods sold
(D) None of the above

94. Seller has right of stoppage of goods in transit when

(A) Cheque given by the buyer bounces
(B) Buyer despite promise fails to pay the price of goods
(C) Buyer becomes insolvent
(D) In none of the above situations

95. Maharashtra Rent Control Act is not applicable to the premises let to

(A) Public Sector Undertakings or Statutory Corporations
(B) any Private Limited Company
(C) any Co-operative Society
(D) any Charitable Trust

96. Who would be the tenant of residential premises after the death of the tenant ?

(A) Wife of the deceased tenant
(B) Elder son of the deceased tenant
(C) All the members of the family of deceased tenant
(D) Any member of the deceased tenant's family who was residing with the tenant at the time of his death

97. The 'Court' under Section 33 of the Maharashtra Rent Control Act is

(A) Court of small causes where it is established under any law, if not, then Court of Civil Judge Junior Division
(B) Court of Civil Judge Senior Division and if there is no court of such Civil Judge, the Court of Civil Judge Junior Division
(C) Court of Chief Judicial Magistrate
(D) Court of District Judge

98. Under the provisions of the Maharashtra Rent Control Act transfer of tenanted premises is

(A) absolutely prohibited
(B) not wholly barred, it can be bequeathed
(C) permissible when contract provides that premises can be sub-let or given on leave and licence
(D) partially prohibited, without creating interest, premises can be given on leave and licence

99. No suit for eviction, on the ground of arrears of rent, can be filed

(A) unless tenant is in arrears of rent of more than six months
(B) until the expiration of ninety days next after notice of demand of rent is served on the tenant
(C) unless tenant is in arrears of rent of the period more than three months
(D) unless tenant is a habitual defaulter

100. Is an agreement of tenancy on leave and licence compulsorily required to be registered ?

(A) Such an agreement is required to be registered
(B) Only tenancy agreement is required to be registered
(C) Only tenancy agreement for a term of one year or more needs to be registered
(D) Agreement of leave and licence for any period or term need not be registered