Maharashtra Civil Judge (Prelims) 2017

Maharashtra Public Service Commission · Civil Judge (Junior Division) & JMFC Preliminary Examination 2017, held 21.05.2017 · 100 questions

Preliminary Examination

1. Remedy of rectification is available under Section 26 of the Specific Relief Act relates to

(A) Mistake in expression of contract only
(B) The contract itself i.e. the formation of contract
(C) Addition of the terms in the agreement which was not considered
(D) Matters which were overlooked by the parties

2. Relief of recession is granted in cases

(A) When the contract is void
(B) When the contract is voidable
(C) Both void and voidable contract
(D) Neither void nor voidable contract

3. Section 12 of the Specific Relief Act permits grant of specific performance of part of contract

(A) Where the part left unperformed bears only small portion of the whole in value and admits of compensation in money
(B) Where the part left is the substantial portion of the whole in value and admits of compensation in money
(C) Where the part left unperformed is a small portion of the whole in subject matter and does not admit of compensation in money
(D) None of the above

4. Court is not bound to grant specific performance of the contract, merely because it is lawful to do so and can properly exercise discretion not to grant decree for specific performance of contract if

(A) Contract though not voidable gives plaintiff unfair advantage over the defendant
(B) Where performance of contract would involve more hardship on the defendant which he did not foresee, than the hardship to the plaintiff
(C) Both (A) and (B) are correct
(D) Both (A) and (B) are not correct

5. Where premises are let out for residential purpose and tenant dies who amongst the following can be termed as tenant under Section 7(15) of the Maharashtra Rent Control Act 1999?

(A) Members of tenant's family whether or not residing with him
(B) Member of the tenant's family residing with him
(C) (A) and (B) above
(D) None of the above

6. Choose the correct option.
I) The Maharashtra Rent Control Act 1999 shall not apply to any premises belonging to Government or Local Authority.
II) The Maharashtra Rent Control Act 1999 shall not apply to the Public Limited Company having paidup share capital of less than one crore rupees.

(A) First is correct second is incorrect
(B) First is incorrect second is correct
(C) Both are correct
(D) Both are incorrect

7. In a contract of guarantee

(A) There is a promise to the principal debtor to indemnify the surety
(B) There is an implied promise by the principal debtor to indemnify surety
(C) There is promise by the surety to indemnify the creditor
(D) None of the above

8. Where a contract to give time to the principal debtor is made by the creditor with the third person and not with the principal debtor the

(A) Surety is discharged
(B) Surety is not discharged
(C) Surety is discharged at the option of principal debtor
(D) None of the above

9. A and B agree that A shall pay Rs. 1,000 to B for which B shall afterwards deliver to A either rice or smuggled opium.

(A) This is void contract
(B) The contract is voidable at the option of A
(C) This is valid contract to deliver rice and a void agreement as to the opium
(D) The contract is voidable at the instance of B

10. Which one of the following is not correct?

(A) Agreement in restraint of marriage is void
(B) If the consideration and object of the agreement is unlawful in part, agreement is void
(C) Agreement in restraint of trade is not void
(D) Agreement in restraint of legal proceedings is void

11. Decree shall be deemed to include the rejection of plaint and the determination of any question within the meaning of Sec. 144 of The Civil Procedure Code.

(A) Wrong
(B) Right
(C) It includes rejection of plaint but does not include the determination of any question within the meaning of Section 144 of Civil Procedure Code
(D) It includes determination of any question within the meaning of Section 144 of Civil Procedure Code but shall not include the rejection of the plaint

12. Whether an issue heard and finally decided by a competent court of limited jurisdiction, shall operate as Res-Judicata in a subsequent suit not withstanding that such court of limited jurisdiction was not competent to try such suit ?

(A) No
(B) Yes
(C) Answer would depend upon the nature of the suit
(D) None of the above

13. The provisions of Res-Judicata also apply to the execution proceedings of a decree.

(A) True
(B) False
(C) Res-Judicata only applies to suits
(D) Do not apply if objection is not raised by J. Dr.

14. Under which provision of Civil Procedure Code is a suit to set aside decree on the ground of lack of territorial jurisdiction barred ?

(A) Section 21 of C.P.C.
(B) Section 21A of C.P.C.
(C) Section 22 of C.P.C
(D) Section 37 of C.P.C.

15. A person detained in civil prison in execution of a decree can be released before the expiration of period of detention order

(A) On payment of entire amount for which warrant is issued or on decree being otherwise fully satisfied
(B) On request of decree holder on whose request warrant of arrest is issued
(C) For non payment of subsistence allowance by the decree holder
(D) All the above

16. In a civil suit where a decree is silent as regards future interest, future interest shall be deemed to have been refused and a separate suit shall not lie.

(A) True
(B) False
(C) Partly true
(D) None of the above

17. Where defendant is confined in prison, the suit summons shall be served upon him

(A) By affixing out side prison
(B) By sending process server in the prison
(C) By delivery of the summons to the officer in charge of the prison for service on the defendant
(D) By issuing production warrant through court

18. An aggrieved informant on refusal on the part of officer incharge of a Police Station to record information regarding cognizable offence may

(A) Make complaint to Judicial Magistrate First Class
(B) Make complaint to Chief Judicial Magistrate
(C) Make complaint to The District Judge
(D) Send in writing substance of the information by post to the Superintendent of Police

19. For offence, punishable with fine only the period of limitation for taking cognizance is

(A) One year
(B) Six months
(C) Two years
(D) Three years

20. As per Sec. 357 of Criminal Procedure Code 1973, order to pay compensation can be passed

(A) When sentence of fine only is imposed
(B) When sentence, including a sentence of death, of which fine forms a part is imposed
(C) When sentence, of which fine does not form part, is imposed
(D) All of the above

21. Under the Code of Criminal Procedure, service of summons can be made on any person other than a witness

(A) By registered post
(B) By courier
(C) By affixing a copy on the house
(D) None of the above

22. The compounding of offence under Section 320 of Criminal Procedure Code before framing of charge shall have the affect of

(A) Discharge
(B) Withdrawal of case
(C) Permission of court
(D) An acquittal

23. For the purpose of period of limitation u/sec. 468 of Criminal Procedure Code the period of limitation in relation to the offences which are tried together shall be determined with relevance to

(A) The offence which is punishable with the more severe punishment
(B) The offence which has the most severe punishment
(C) (A) and (B) both
(D) None of the above

24. Sec. 129 of The Indian Evidence Act 1872 states that no one shall be compelled to disclose to the court any confidential communication which has taken place between

(A) Husband and wife
(B) Company and its clients
(C) Legal professioner/advisor and his clients
(D) Doctor and patient

25. Under Section 114 of The Indian Evidence Act 1872 court may presume the existence of any fact which it thinks likely to have happened, regard being had to the common course of

(A) Natural events
(B) Human conduct
(C) Public and private business
(D) All the above

26. The period of 30 years as contemplated u/sec. 90 of The Indian Evidence Act 1872 to be computed from the date of execution of the document upto the time

(A) When the suit is filed
(B) When the document is produced in the proceedings
(C) When the document is tendered in evidence in any proceedings
(D) When objection to its tender in evidence is raised

27. The Doctrine "Falsus in uno, falsus in omnibus"

(A) Is a rule of evidence
(B) Is neither a sound rule of law nor a rule of practice
(C) Is a rule of prudence
(D) Is a rule of equity

28. Hostile witness is one who

(A) Does not tell the truth
(B) Gives statement against the opposite party
(C) Gives statement against the party who call him as a witness
(D) Is not desirous to tell the truth and gives statement against the party who call him as a witness

29. Which of the following is an exception to the hearsay evidence ?

(A) Confession (Judicial)
(B) Dying declaration
(C) Extra Judicial Confession
(D) None of the above

30. Which of the following is not secondary evidence of the original?

(A) Copies compared with original
(B) Oral account of the content of a copy by a person who has seen only copy
(C) Oral account of the contents of the original given by the person who himself has seen it
(D) A photograph of an original

31. Smoking in public place is violation of Fundamental Right under

(A) Art. 14
(B) Art. 20
(C) Art. 21
(D) Art. 25

32. Section 5 of Limitation Act applies to

(A) Suits
(B) Appeals and applications
(C) Execution applications
(D) All the above

33. An application for bringing legal representative of a party has to be filed

(A) 30 days of death
(B) 75 days of death
(C) 90 days of death
(D) 90 days of the knowledge of the death

34. In a case where an application for leave to sue or appeal as a pauper has been bonafidely filed and rejected by the court, the period of limitation for the suit or appeal shall be computed from the date

(A) When the application to sue as a pauper was filed
(B) When such an application is rejected by the court
(C) When the notice to sue as a pauper was served on the defendant
(D) When the application to sue as a pauper was rejected but after payment of court fee for the suit

35. Period of limitation means

(A) Period of limitation prescribed for any suit, appeal or application in the schedule of the Limitation Act
(B) Period of limitation computed as per provisions of the Limitation Act
(C) Both (A) and (B) are correct
(D) Both (A) and (B) are not correct

36. A hangman who hangs a prisoner pursuant to the order of a court is exempted from criminal liability under Indian Penal Code under

(A) Section 76
(B) Section 77
(C) Section 78
(D) Section 79

37. No transfer of property can operate to create an interest which is to take effect after the life time of one or more person living at the date of such transfer and minority of some person who shall be living at the expiration of that period. It is

(A) Rule against retrospective transfer
(B) Rule of frustration
(C) Rule against perpetuity
(D) None of the above

38. Under the Transfer of Property Act 1882 the term "attested" means

(A) Attested by two or more persons
(B) Attested by one witness only
(C) Attested by only two persons
(D) No condition prevails

39. Fill in the blank by appropriate option. Every transfer of immovable property made with intent to defeat or delay the creditors of the transferor shall be _____ at the option of any creditor so defeated or delayed.

(A) Inoperative
(B) Void
(C) Voidable
(D) Ineffective

40. A gift of a thing to two or more donees, of whom one does not accept it, is

(A) Void in entirety
(B) Voidable at the instance of person who accepted it
(C) Void as to the interest, of a person who did not accept it, which he would have taken, had he accepted it
(D) Valid gift

41. Which of the following is not required for a valid acknowledgement?

(A) In writing
(B) Made before the expiration of period of limitation
(C) Signed by the person concerned
(D) In the handwriting of the person concerned

42. Dacoity is committed when

(A) Five or more persons commit or attempt to commit theft
(B) Five or more persons commit or attempt to commit robbery
(C) Robbery is committed with fire arms or lethal weapons
(D) Two or more persons are engaged in extortion with arms

43. Which of the following is not a correct statement?

(A) A collector exercising jurisdiction in a suit under Act 10 of 1859, is a Judge
(B) A Magistrate having jurisdiction in respect of charge for which he can award sentence of fine or imprisonment, is a Judge
(C) A member of panchayat which has power under Regulation XII, 1816, of Madras Code to try and determine the suit, is a Judge
(D) A Magistrate exercising jurisdiction in respect of a charge on which he has power only to commit for trial to another court is a Judge

44. Within the meaning of Indian Penal Code public means

(A) Any class or the public
(B) Any community
(C) (A) and (B) both
(D) None of the above

45. Whoever does anything with intension of causing wrongful gain to one person or wrongful loss to another person is said to do that thing

(A) Illegally
(B) Dishonestly
(C) Fraudulently
(D) Malafidely

46. Specific relief can be granted

(A) Only for enforcing individual civil rights
(B) Enforcing both civil rights and penal laws
(C) Neither civil rights nor penal laws
(D) For specific performance of contract only

47. Under the Specific Relief Act a suit for recovery of possession can be filed

(A) Only in respect of movable property
(B) Only in respect of immovable property
(C) In respect of both movable and immovable property
(D) Neither movable nor immovable property

48. To maintain a suit under Section 6 of the Specific Relief Act the possession must be

(A) Symbolic possession
(B) Constructive possession
(C) Actual physical possession
(D) Either symbolic or constructive or actual physical possession

49. An order or decree under Section 6 of the Specific Relief Act is

(A) Neither appealable nor reviewable
(B) Appealable
(C) Reviewable
(D) Both appealable and reviewable

50. As per Sec. 16(c) of the Specific Relief Act specific performance of contract cannot be enforced in favour of a person who fail to aver and prove that he performed or has been ready and willing to perform the essential terms of contract of his part. For the purpose of this section where the contract involves the payment of money

(A) It is not necessary for the plaintiff to actually tender to the defendant or to deposit the money in the court
(B) It is essential for the plaintiff to actually tender to the defendant or deposit the money in the court
(C) It is not essential for the plaintiff to actually tender to the defendant or deposit in the court money except when so directed by the court
(D) It is not essential for the plaintiff to actually tender to the defendant or deposit any money in the court except when otherwise directed by the court

51. Decree for eviction on the ground of bonafide requirement may not be passed even after the bonafide requirement is proved by the landlord if

(A) It is proved that greater hardship would cause to the tenant by grant of the decree, than that would be caused to the landlord if it is refused
(B) Landlord is a rich person
(C) Landlord has several premises
(D) It is shown that greater hardship would be caused to the family of the tenant than to the landiord's family members

52. Any agreement for letting of any premises entered into between landlord and tenant as required under Section 55 of the Maharashtra Rent Control Act 1999 be

(A) Oral or written
(B) Shall be in writing may or may not be registered
(C) Shall be in writing and shall be registered under the Registration Act 1908
(D) Shall be in writing and notarized before notary

53. A landlord shall not be entitle to recovery of possession so long as the tenant

(A) Does not get other premises
(B) Keeps the premises good
(C) Is ready and willing to pay rent
(D) Pays rent and permitted increases and observes terms and conditions of tenancy

54. A tenant cannot be evicted even if he erects a permanent structure if

(A) Landlord does not raise any objection
(B) Tenant obtains permission of corporation
(C) Such construction was necessary for safety of the building
(D) Landlord consents to it in writing

55. Essential supply or services as contemplated u/sec. 24 of the Maharashtra Rent Control Act includes

(A) Supply of water and electricity
(B) Lights in passages and on staircases
(C) Lifts and conservancy and sanitary services
(D) All the above

56. Liability of a partner for acts of the partnership firm is

(A) Joint with all the other partners
(B) Only to the extent of his share in the property of the firm
(C) Only to the extent of his share in the capital of the firm
(D) Jointly with all other partners and also severally

57. As per Section 69 of the Indian Partnership Act there is no bar for a firm in respect of

(A) Civil proceedings
(B) Criminal proceedings
(C) Neither Civil nor Criminal proceedings
(D) Both Civil and Criminal proceedings

58. When no provision is made by contract between the partners, for the duration of their partnership, the partnership is

(A) Particular partnership
(B) Partnership at will
(C) Uncertain partnership
(D) None of the above

59. A warranty is a stipulation collateral to the main purpose of the contract

(A) Which gives right to reject the goods on breach
(B) The breach of which gives rise to claim for damages
(C) The breach of which gives rise to treat the contract as repudiated
(D) None of the above

60. According to the provisions of Sale of Goods Act not withstanding that the goods may have passed to the buyer, the unpaid seller of the goods has

(A) A lien on the goods, for the price while he is in possession
(B) In case of insolvency of the buyer a right of stopping the goods in transit after he has parted with the possession of them
(C) A right of resale as limited by the Act
(D) All the above

61. In execution of decree for payment of maintenance amount salary can be attached to the extent of

(A) Entire salary
(B) 1/3rd salary
(C) 2/3rd salary
(D) Salary beyond 2/3rd or first 1,000 Rs.

62. A suit to obtain an urgent relief against Government or any Public Office may be instituted in respect of an act purporting to be done by said Public Officer in his official capacity (1) Without serving any notice under Sec. 80

(A) of Civil Procedure Code
(B) After due service of notice under Sec. 80(A) of Code of Civil Procedure
(C) With the leave of the court without serving notice u/sec. 80(A) of the Civil Procedure Code
(D) None of the above

63. Caveat shall not remain in force after expiry of

(A) Ninety days
(B) Sixty days
(C) Thirty days
(D) Fifteen days

64. Where a plaint has been rejected plaintiff on same cause of action

(A) May file new suit
(B) Can't file new suit
(C) May file new suit with the leave of the court
(D) None of the above

65. Attachment before judgment, in a suit dismissed for default or non-prosecution, revives automatically on restoration of the suit.

(A) True
(B) Partly true
(C) False
(D) None of the above

66. If the accused is, by reason of a previous conviction liable, either to enhanced punishment of a different kind, such offence

(A) Can not be compounded
(B) Can be compounded
(C) Can be compounded with the permission of the court
(D) Can be compounded only by the person who is aggrieved by the said offence

67. Wife shall not be entitled to receive maintenance amount from the husband under Section 125 of Criminal Procedure Code if

(A) She is living in adultery
(B) She refuses to live with the husband without sufficient reason
(C) If they are living separately by consent
(D) All the above

68. In a case of allegations of defamation of a person, who is under the age of 18 years or a lunatic or is from sickness or infirmity, unable to make a complaint or a woman who as per local custom ought not to be compelled to appear in public, a complaint can be filed by

(A) The guardian of such person appointed by the court
(B) Some other person with the leave of the court
(C) By social worker
(D) By neighbour

69. An application for maintenance u/sec. 125 of Criminal Procedure Code by father against his son has to be filed in the District

(A) Where the son resides
(B) Where both the son and the father last resided together
(C) Where father resides
(D) Either A or B or C

70. Court can take cognizance of the offence under Section 498 A of Indian Penal Code even if the complaint is made by

(A) The brother of aggrieved person
(B) Neighbour of aggrieved person
(C) Police Patil of the village
(D) Woman Welfare Committee in the area

71. Statement of a witness recorded under Section 164 of Criminal Procedure Code can be used

(A) For contradiction only
(B) For corroboration only
(C) Both for contradiction and corroboration
(D) Neither for contradiction nor for corroboration

72. Fill in the blank: Where any electronic record purporting or proved to be of _____ years old is produced from proper custody, the court may presume that the electronic signature purported to be of a particular person was so affixed by him or any person authorised by him in his behalf.

(A) Ten
(B) Five
(C) Twenty
(D) Thirty

73. Confession of one accused is admissible against co-accused

(A) If they are tried jointly for the same offence
(B) If they are tried separately for different offences
(C) If they are tried jointly but not for same offence
(D) If they are tried for different offences but not jointly

74. Cognizable offence means

(A) A serious offence
(B) Offence in which police officer may arrest without warrant
(C) Session triable offences
(D) None of the above

75. Presumption u/sec. 90 of The Indian Evidence Act as to due execution and attestation of the document is attached to

(A) Registered document only
(B) Any thirty years old document produced from proper custody
(C) Any 12 years old document produced from proper custody
(D) Any document produced from court

76. Which of the following is false?

(A) A person can be Governor of two or more States
(B) Governor holds office during the pleasure of Chief Minister of State
(C) Governor can grant pardon, suspend, remit or commute sentence in certain cases
(D) Governor appoints Advocate General of State

77. On April 2008 Supreme Court of India in which of the following cases upheld the O.B.C. quota in Central Educational Institutions clearing the way for reservations of 27% for Backward Classes ?

(A) Ashok Kumar Thakur Vs. Union of India
(B) T. M. Pai Institution Vs. State of Kerala
(C) Balaji Vs. State of Mysore
(D) Union of India Vs. Krishna

78. Art. 21 of The Constitution of India deal with which subject ?

(A) Protection of rights regarding freedom of speech
(B) Protection against arrest and detention in certain offences
(C) Protection of life and liberty
(D) Protection in respect of conviction of offences

79. In which of the following cases it was held that telephone tapping is invasion of right of privacy ?

(A) Peoples Union for Civil Liberties Vs. Union of India
(B) State of Maharashtra Vs. Murli Deora
(C) Govind Vs. State of M.P.
(D) Mr. X Vs. Hospital Z

80. Which of the following is not a Fundamental Right?

(A) Right Against Exploitation
(B) Right of Constitutional Remedies
(C) Right to Properties
(D) Cultural and Educational Rights

81. In the Preamble of Indian Constitution, provision of liberty consists of

(A) Faith and worship
(B) Belief and thought
(C) Thought and worship
(D) Thought, expression, faith, belief and worship

82. Which is the Fundamental Duty as provided in Art. 51. A of the Constitution of India ?

(A) To develop scientific humanism and spirit of inquiry and reform
(B) To provide opportunities for education
(C) To eliminate corruption
(D) To take care of old and infirm parents

83. Uniform Civil Code for citizens is provided in Indian Constitution as per

(A) Art. 46
(B) Art. 44
(C) Art. 40
(D) Art. 49

84. Part IVA regarding Fundamental Duties was added in the Constitution of India by

(A) 45th Amendment
(B) 42nd Amendment
(C) 48th Amendment
(D) 38th Amendment

85. Which is not a necessary qualification to be a President of India ?

(A) Must be a citizen of India
(B) Must be above 35 years old
(C) Must be qualified for Rajya Sabha
(D) Must be qualified for Lok Sabha

86. Any claim by way of set-off shall be treated as a separate suit and be deemed to have been instituted on the date as the suit in which the set-off is pleaded.

(A) True
(B) False
(C) Partly true
(D) None of the above

87. A suit is decreed on 1.4.15 and decree was prepared by the court on 16.4.15. Application for copy of decree was filed on 5.5.15. Whether the period taken by the court for preparing decree can be excluded while computing the period of limitation for appeal?

(A) Yes
(B) No
(C) Yes with the leave of court
(D) Yes if the court has not prepared the decree in time

88. In a suit or application based on fraud or mistake the period of limitation shall not begin to run until

(A) The plaintiff or applicant has discovered the fraud or mistake
(B) The plaintiff or applicant could with reasonable diligence have discovered it
(C) (A) and (B) both are incorrect
(D) Both (A) and (B) are correct

89. A fresh period of limitation begins to run every moment of the time during which it continues, in case of

(A) Continuing breach of contract
(B) Continuing breach of trust
(C) Both (A) and (B) are incorrect
(D) Both (A) and (B) are correct

90. At the determination of the period limited by Limitation Act to any person for institution of a suit for possession of any property

(A) His right to such property shall be extinguished
(B) His right to such property shall not be extinguished
(C) His remedy to claim such property shall be extinguished
(D) None of the above

91. Which of the following is not a general exception?

(A) Act by a person by mistake of fact believing himself to be bound by law
(B) Act done pursuant to the judgment of the court
(C) Act of a person incapable of judgment by reason of voluntary intoxication
(D) Act likely to cause harm but done without criminal intent and to prevent further harm

92. Which of the following is true?

(A) In all theft there is robbery
(B) In all robbery there is theft
(C) In all extortion there is either theft or robbery
(D) In all robbery there is either theft or extortion

93. Culpable homicide is defined in Section

(A) 300 I.P.C.
(B) 301 I.P.C.
(C) 299 I.P.C.
(D) 302 I.P.C.

94. Which one of the following statement is correct?

(A) Every culpable homicide is murder
(B) Death caused by negligent act is murder
(C) Every murder is culpable homicide
(D) Death caused in a sudden fight is murder

95. Whoever by force compels any person to go from any place is said to

(A) Kidnap that person
(B) Have wrongfully restrained that person
(C) Used criminal force to that person
(D) Abduct that person

96. Which of the following is right under the provisions of the Transfer of Property Act 1882?

(A) a mere right to sue can be transferred
(B) a mere right to sue cannot be transferred
(C) a right to future maintenance can be transferred
(D) an easement apart from dominant heritage can be transferred

97. A lease of immovable property for agricultural or manufacturing purposes shall be terminable on the part of either lessor or lessee by notice of

(A) 90 days - 3 months
(B) 120 days - 6 months
(C) 30 days - one month
(D) 15 days

98. Under Section 105 of the Transfer of Property Act "Rent" means

(A) Money
(B) Share
(C) Service
(D) All the above

99. According to the Transfer of Property Act "Instrument" means

(A) A non-testamentary instrument
(B) All documents
(C) Testamentary instrument
(D) None of the above

100. Where an immovable property is transferred, in which a third person has a right to maintenance or a provision for advancement or marriage from the profit of said property of which transferee has a notice

(A) Such right may be enforced against such transferee
(B) Such a right cannot be enforced against such transferee
(C) Such right can be enforced against transferor
(D) A or C at the option of the third person