Odisha Judicial Service (Prelims) 2013

Odisha Public Service Commission · CJ-06/13 · Series A · 29 May 2013 · 100 questions

Preliminary Examination

1. Which one of the following doctrines is not related to Article 13 of the Constitution?
   (A) Doctrine of Eclipse
   (B) Doctrine of colourable legislation
   (C) Doctrine of waiver
   (D) Doctrine of severability

2. Which one of the following is not a state under Article 12 of the Constitution?
   (A) Berhampur University Student Union
   (B) C. S. I. R.
   (C) Municipal Corporation, Bhubaneshwar
   (D) Union Public Service Commission

3. Which Fundamental Right is available to citizens only?
   (A) Right to equality
   (B) Protection against arrest and detention
   (C) Freedom of speech and expression
   (D) Protection of life and personal liberty

4. Which Fundamental Right is available to all persons?
   (A) Right to form Union
   (B) Protection of life and personal liberty
   (C) Right to assemble peaceably
   (D) Right to move freely throughout the territory of India

5. Which Article of the Indian Constitution is related to Doctrine of self incrimination?
   (A) Article 20(1)
   (B) Article 22
   (C) Article 20(3)
   (D) Article 20(2)

6. Which one of the following is a Directive Principle of State Policy?
   (A) Right to Education
   (B) Right to Die
   (C) Right to move Supreme Court
   (D) To organise Village Panchayats

7. Which one of the following is not a Directive Principle of State Policy?
   (A) Uniform Civil Code
   (B) Organisation of Village Panchayats
   (C) Right to Education
   (D) Free Legal Aid

8. Which one of the following is not a fundamental duty?
   (A) To protect Sovereignty
   (B) To defend the Country
   (C) To respect National Anthem
   (D) To promote Indian Culture

9. In which case the doctrine of prospective overruling was evolved by the Supreme Court?
   (A) Shankari Prasad vs. Union of India
   (B) I. C. Golak Nath vs. State of Punjab
   (C) Sajjan Singh vs. State of Rajasthan
   (D) Keshava Nand Bharti vs. State of Kerala

10. Which case is related to constitutionality of 'right to die'?
   (A) Maneka Gandhi vs. Union of India
   (B) Gian Kaur vs. State of Punjab
   (C) A. K. Gopalan vs. Union of India
   (D) Kharak Singh vs. State of U. P.

11. Preliminary decree can be passed in a suit:
   (A) For partition
   (B) Of partnership
   (C) For possession and Mesne profit
   (D) All of the above

12. Pecuniary jurisdiction of the court has been dealt with in:
   (A) Section 2 of CPC
   (B) Section 6 of CPC
   (C) Section 9 of CPC
   (D) Section 15 of CPC

13. Set-off can be:
   (A) Legal set-off
   (B) Equitable set-off
   (C) Both (a) and (b)
   (D) Either (a) or (b)

14. Remedies available against an ex-parte decree include:

(A) Appeal
(B) Review
(C) Application for setting aside ex-parte decree
(D) Application

15. Nemo debet bis vexari pro una et eadem causa means:

(A) It is in the interest of state that there should be an end to litigation
(B) A judicial decision must be accepted as correct
(C) No one shall be vexed twice for one and the same cause of action
(D) Where there is a right there is a remedy

16. In execution of decree for the maintenance, salary of a person can be attached to the extent of:

(A) One fourth
(B) One third
(C) Two third
(D) One half

17. Under section 100 CPC, a second appeal lies to the:

(A) Supreme Court
(B) High Court
(C) Tribunal
(D) Court of District Judge

18. Section 89 CPC provides for:

(A) Settlement of dispute by High Court only
(B) Settlement of dispute by Supreme Court or High Court
(C) Settlement of dispute through Village Panchayat
(D) Settlement of dispute outside the Court

19. Section 115 CPC applies only when:

(A) There is error of law
(B) There is error of fact
(C) There is jurisdictional error
(D) There is erroneous decision

20. If an indigent person's suit abates on the death of the plaintiff, under Order XXXIII; Rule 11A of CPC, the fee payable on plaint shall be recoverable from:

(A) The estate of deceased plaintiff
(B) The defendant
(C) The State Government
(D) Either (a) or (b) or (c)

21. Warrant case means a case:

(A) In which a police officer cannot arrest without warrant
(B) In which the court in first instance, shall issue a warrant of arrest against the accused
(C) Relating to an offence punishable with imprisonment for a term not exceeding 2 years
(D) Relating to an offence punishable with death, for life or for a term exceeding two years

22. The Court of Magistrate First Class may pass a sentence for maximum term of imprisonment awardable in a summary trial is:

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

23. The Section under Cr. P. C. for 'Order for maintenance of wives, children and parents' is:

(A) Section 135
(B) Section 125
(C) Section 145
(D) Section 124

24. Section 304 of Cr. P. C. deals with:

(A) Protection to accused against double prosecution for the same offence
(B) Withdraw from prosecution
(C) Legal aid to the accused at State expenses
(D) Order to release on probation of good conduct

25. Which Section of the Cr. P. C. provides that a person once convicted or acquitted cannot be tried again for the same offence?

(A) Section 304
(B) Section 300
(C) Section 321
(D) Section 302

26. Under Section 39 of Cr. P. C. every person has to give information to Magistrate or Police Officer about the commission of an offence punishable under:

(A) Sections 121 to 126 of IPC
(B) Sections 489A to 489E of IPC
(C) Sections 302 and 304 of IPC
(D) All of the above

27. Who is given protection from arrest under Section 45 of Cr. PC.?

(A) Members of Armed Forces
(B) Judicial Officers
(C) President of India
(D) Members of Parliament

28. Under Section 416 of Cr. P. C., the High Court can postpone capital sentence on:

(A) Unsound person
(B) Old person
(C) Pregnant woman
(D) Politician

29. Under Section 366 of Cr. P. C., the sentence of death to be submitted by Court of Session for confirmation by:

(A) High Court
(B) Governor
(C) Supreme Court
(D) President

30. Under Section 354 of Cr. P. C. the language and content of the judgement:

(A) Shall be written in the language of the Court
(B) Shall contain the point or points for determination, the decision thereon and the reasons for the decision
(C) Shall specify the offence of which and the Section of the IPC or other law under which the accused is convicted
(D) All of the above

31. According to Section 141 of the Indian Evidence Act, 1872, any question suggesting the answer which the person putting it wishes or expects to receive, is called:

(A) Answerable Questions
(B) Convenient Questions
(C) Suggestive Questions
(D) Leading Questions

32. Section 115 of the Indian Evidence Act, 1872 deals with:

(A) Doctrine of Estoppel
(B) Presumption as to the Commission of a Crime
(C) Presumption as to Dowry Death
(D) Presumption as to Abetment of Suicide by a Married Woman

33. Section 125 of the Indian Evidence Act, f 1872 deals with:

(A) Information as to Commission of Offences
(B) Confidential Communications
(C) Official Communications
(D) Professional Communications

34. A witness who is unable to speak is called as:

(A) Dumb Witness
(B) Deaf Witness
(C) Unreliable Witness
(D) Hostile Witness

35. Section 75 of the Indian Evidence Act, 1872 deals with:

(A) Public Documents
(B) Certified Copies of Public Documents
(C) Proof of Other Official Documents
(D) Private Documents

36. Under the provisions of the Indian Evidence Act, 1872, when an accused says that he did not make confession, it is called:

(A) Extra-Judicial Confession
(B) Judicial Confession
(C) Retracted Confession
(D) Retracted Extra-Judicial Confession

37. Opinion of an expert under Section 45 of the Indian Evidence Act, 1872:

(A) Is sometimes a conclusive proof and sometimes an inconclusive proof
(B) Is corroborative in nature
(C) Is supportive in nature
(D) Is corroborative as well as supportive in nature

38. Section 8 of the Indian Evidence Act, 1872 deals with:

(A) Conduct
(B) Motive
(C) Preparation
(D) All of the above

39. Section 47Aof the Indian Evidence Act, 1872 deals with:

(A) Relevance of Opinion Relating to Electronic Signatures
(B) Relevance of Opinion Relating to Existence of Right or Custom
(C) Relevance of Opinion Relating to Usages and Tenets
(D) Relevance of Opinion Relating to Relationship

40. The term 'Admission' is defined in the Indian Evidence Act, 1872 in:

(A) Section 20
(B) Section 19
(C) Section 18
(D) Section 17

41. According to_____ "a crime is a violation of public rights and duties due to the whole community".

(A) Sir William Blackstone
(B) Prof. Glanville Williams
(C) Sir Kenny
(D) Sir Russell

42. Crime which do not require intention, recklessness or even negligence as to one or more elements in the actus reus are known as:

(A) Vicarious liability
(B) Strict liability
(C) Act of God
(D) Force majeure

43. Section 304B in Chapter XVI of IPC deals with:

(A) Rape
(B) Cruelty
(C) Dowry death
(D) Insult to modesty of woman

44. The Honbl'e Supreme Court of India in one of the following cases held that the general principles of criminal jurisdiction is that, jurisdiction is determined by the locality of the offence irrespective of the nationality or any other similar attributes of the offender:

(A) State of Bombay vs. L. Apte
(B) State of Bombay vs. Kathikala Oghad
(C) State of Maharashtra vs. M. H, George
(D) Mubarak Ali vs. State of Bombay

45. According to the Honbl'e Supreme Court, if a particular offence carries mandatory sentence of imprisonment, a company:

(A) Cannot be prosecuted for such offence
(B) Can be convicted, however can't be imprisoned
(C) Can be convicted and can be fined
(D) Can be convicted and directors can be imprisoned

46. "They also serve who only stand and wait." This observation formed part of the judgement of the Honbl'e Supreme Court in one of the following cases:

(A) Nanda Rasool vs. State of Bihar
(B) Ramnath vs. State of Madhya Pradesh
(C) Ramashish Yadav vs. State of Bihar
(D) Pandurang vs. State of Hyderabad

47. Section 377 of IPC provides for:

(A) Robbery
(B) Public nuisance
(C) Theft
(D) Unnatural offences

48. 'Qui facit per alium per se' is the essence of one of the following principles of criminal liability:

(A) Joint Criminal Liability
(B) Vicarious liability
(C) Corporate criminal liability
(D) Strict liability

49. In which case the Honbl'e Supreme Court of India has struck down mandatory death penalty under Section 303 of I. P. C. as unconstitutional?

(A) Machhi Singh vs. State of Punjab
(B) Bachan Singh vs. State of Punjab
(C) Santa Singh vs. State of Punjab
(D) Mithu vs. State of Punjab

50. The two-judge bench of Honbl'e Supreme Court in one of the following cases held that long delay by the President of India or Governor of State in disposing mercy petitions from the convicted person under Anti-Terrorism laws or similar status can't be ground for commutation of death penalty into life imprisonment:

(A) Sher singh vs. State of Punjab (1983)
(B) People Union for Democratic Rights vs. Union of India (2013)
(C) Trivenibin vs. State of Punjab (1989)
(D) Jagmohan Singh vs. State of Uttar Pradesh (1973)

51. The intention of Law of Limitation is:

(A) Not to give a right where there is none
(B) To interpose a bar after a certain period to a suit to enforce an existing right
(C) Both (a) and (b)
(D) None of the above

52. For an account and a share of profits of a dissolved partnership, the period of limitation is_____ from the date of dissolution.

(A) 2 years
(B) 3 years
(C) 12 years
(D) 30 years

53. The extension of a prescribed period in certain cases on sufficient cause of being shown for the delay under Section 5 of the Limitation Act is known as:

(A) Doctrine of extension
(B) Doctrine of condonation
(C) Doctrine of sufficient cause
(D) All of the above

54. Subject of limitation is dealt within_____ of the Constitution.

(A) Entry 12, List II
(B) Entry 12, List III
(C) Entry 13, List II
(D) Entry 13, List III

55. Under Section 25 of the Limitation Act, 1963, the right to access and use of light or air, way, watercourse, use of water, or any other easement which have been peaceably enjoyed without interruption for_____ years if the property belongs to government, shall be absolute and indefeasible:

(A) 20 years
(B) 30 years
(C) 12 years
(D) 3 years

56. Choose the right answer: (i) The Law of Limitation bars the remedy in a court of law only when period of limitation has expired. (ii) The Law of Limitation does not extinguish the right that it cannot be enforced by judicial process (iii) If a claim is satisfied outside the court of law after the expiry of period of limitation, that is not illegal. (iv) If a claim is satisfied outside the court of law after the expiry of period of limitation, that is illegal.

(A) (i), (ii), (iii)
(B) (ii) and (iv)
(C) (ii), (iii), (iv)
(D) None of the above

57. Under the Code of Civil Procedure, 1908 the period of limitation to file an appeal to a High Court from decree or order is_____ from the date of decree or order.

(A) 30 days
(B) 60 days
(C) 90 days
(D) 3 years

58. The Limitation Act, 1963 came into force on:

(A) 1st January, 1964
(B) 5th October, 1963
(C) 1st January, 1963
(D) 1st October, 1963

59. The specific performance of a contract shall be sought within_____ from the date fixed for the performance, or, if no such date is fixed, when the plaintiff has noticed that performance is refused.

(A) 1 year
(B) 3 years
(C) 12 years
(D) 20 years

60. Continuous running of time refers to:

(A) Where once time has begun to run, no subsequent disability or inability to institute a suit or make application stops it
(B) Where once time has begun to run, subsequent disability or inability to institute a suit or make application stops it
(C) Where once time has begun to run, subsequent disability or inability to institute a suit or make application stops it, provided the court grant leave
(D) Where once time has begun to run, subsequent disability or inability to institute a suit or make application stops it, provided there is bonafide cause in view of the court

61. 'Nemo dat quod non habet' means:

(A) One can transfer what he doesn't possess
(B) Possession is nine points in law
(C) Transfer without consideration is invalid
(D) One cannot transfer what he doesn't possess

62. 'A' transferred a land to 'B' with a condition that if B sold it, he must sell it to 'C' and nobody else. The condition is:

(A) Void
(B) Voidable
(C) Legal
(D) Voidable at the option of 'C'

63. Section 52 of the Transfer of Property Act contains the doctrine of:

(A) Lis Pendens
(B) Part performance
(C) Feeding the grant by estoppel
(D) Notice

64. A suit to obtain a decree that a mortgagor shall be absolutely debarred of his right to redeem the mortagaged property is called a suit for:

(A) Part performance
(B) Election
(C) Foreclosure
(D) Estoppel

65. For the purpose of making a gift of immovable property, the transfer must be effected by:

(A) Delivery of possession
(B) A registered instrument signed by or on the behalf of the donor and duly attested
(C) By simple instrument
(D) By simple instrument accompanied by delivery of possession

66. A mortgage by deposit of title deed is called:

(A) Anomalous mortgage
(B) English mortgage
(C) Equitable mortgage
(D) Usufructuary mortgage

67. A lease of immovable property from year to year, can be made by:

(A) Oral agreement
(B) Oral agreement accompanied by delivery of possession
(C) Simple instrument
(D) Only by a registered instrument

68. Which one of the following statement is not correct in the context of transfer of property?

(A) It means an act by which a living person conveys property
(B) He conveys property in present or in future
(C) He conveys to one or more other living person
(D) He cannot transfer property to himself and one or more other living persons

69. Which of the following is not an actionable claim?

(A) A claim to mesne profits
(B) A claim for arrears of rent
(C) A claim for return of earnest money
(D) A claim to money under insurance policy

70. Which of the following is not an essential requirement for a gift made by a Mohammedan?

(A) Declaration of the gift by the donor
(B) Acceptance of the gift by the donee
(C) Delivery of possession to the donee
(D) The gift must be effected through a registered instrument

71. An offer made to the public at large is called:

(A) Valid offer
(B) Specific offer
(C) General offer
(D) None of the above

72. "Past consideration is no consideration." This statement is:

(A) Correct under Indian Law of Contract
(B) Correct under English Law of Contract
(C) Correct both under Indian and English Law of Contract
(D) Not correct under both, Indian and English Law of Contract

73. The display of articles in a show-room indicating their prices amounts to:

(A) Offer
(B) Counteroffer
(C) Invitation to an offer
(D) Mere advertisement

74. Which one of the following does not render a contract void after it has been made?

(A) Commercial impossibility
(B) Physical impossibility
(C) Legal impossibility
(D) Practical impossibility

75. Hadley V. Baxendale is related to:

(A) Quasi-contract
(B) Contingent Contract
(C) Damages for Breach of Contract
(D) None of the above

76. M. C. Chako vs. State Bank of Travancore, AIR 1970 SC 504 case is related to:

(A) Breach of Contract
(B) Privity of Contract in India
(C) Restitution
(D) None of the above

77. Under the Indian Contract Act, 1872, a contract of 'Indemnity' is defined in Section:

(A) 126
(B) 127
(C) 128
(D) 124

78. 'A' saves 'B' from drowning in a river. 'B' promises to pay 'A' Rs. 10,000 for this kind of act. The contract is:

(A) Void for want of consideration
(B) Voidable
(C) Unenforceable because it is immoral
(D) Enforceable as it covered by exceptions to consideration

79. The Commissioner of Wealth Tax, Mysore vs. Vijayaba Dowger Maharani Saheb, Bhavnagar and Others, AIR 1970 SC case is related to:

(A) General damages
(B) Special damages
(C) Wagering agreement
(D) Contingent Contract

80. A continuing guarantee may be revoked:

(A) By notice to the creditor
(B) By surety's death
(C) By both (a) and (b)
(D) None of the above

81. On which date the Hindu Succession Act, 1956 came into force?

(A) 17th May
(B) 17th June
(C) 17th July
(D) 17th April

82. A dies intestate and is survived by a son of predeceased half-blood brother, S and a daughter of a full blood predeceased sister D. How S and D will succeed the property?

(A) D will get entire property
(B) S will get entire property
(C) D and S both will get equal property
(D) D will get 3/4th share and S will get 1/4th share

83. The Hindu Succession Act does not have territorial jurisdiction over:

(A) Only Hindus of Jammu and Kashmir
(B) Only Hindus of Goa, Daman and Diu
(C) Only Hindus of Renocants of Pondicherry
(D) Hindus of all the above areas

84. A Hindu female W dies and is survived by her husband H, one son S, two unmarried daughters D1 and D2. How the property of W will be divided?

(A) Into four equal parts
(B) 1/2 to husband and remaining 1/2 to son and daughters
(C) 1/2 to son and remaining 1/2 to husband and daughters
(D) 1/3 to husband, 1/3 to son and remaining 1/3 to daughters

85. Which one of the following cannot be a ground for disqualification under Hindu Succession Act, 1956?

(A) Mental Infirmity
(B) Physical defects
(C) Conversion to other religion
(D) Diseases

86. The term 'Codicil' under Indian Succession Act relates to instruments made in relation to:

(A) Intestate
(B) Probate
(C) Will
(D) Gift

87. The degree of kindred are computed under Indian Succession Act in the manner set forth in the table of kindred set out in:

(A) Schedule 2
(B) Schedule 1
(C) Schedule 3
(D) Schedule 4

88. A legacy is bequeathed to A on condition that he shall marry with the consent of B, C, and D. A marries with F without consent but obtains consent afterwards. The legacy is:

(A) Valid as A has fulfilled the condition of vesting legacy
(B) Not valid as A has not fulfilled the condition of vesting legacy
(C) Both (a) and (b)
(D) The condition is void ab-initio hence no question of challenging legacy

89. A person taking no benefit directly under a will but deriving a benefit under it indirectly is not put to his election, has been provided under which section of Indian Succession Act?

(A) Section 185
(B) Section 186
(C) Section 187
(D) Section 184

90. The deceased has made a specific bequest of part of his property The executor not having assented to the bequest sells the subject of it. The sale is:

(A) Valid
(B) Void
(C) Voidable
(D) Voidable at the discretion of executor only

91. Under Section 31 of the Specific Relief Act, the essential conditions under which cancellation of an instrument may be ordered are:

(A) That the written instrument is void or voidable against the plaintiff
(B) That the plaintiff has reasonable apprehension of serious injury from the instrument is left outstanding
(C) That in view of the circumstances the court considers it as reasonable and necessary to cancel the document
(D) All of the above

92. A relief against parties and persons claiming under them by subsequent title, for specific performance of a contract may be enforced under:

(A) Section 12
(B) Section 19
(C) Section 18
(D) Section 8

93. In a simple suit for specific performance of contract for sale, a person who is not a party to the Agreement for Sale is neither a necessary, nor proper party. The exemptions available under Specific Relief Act are as follows:

(A) Cases of novatio
(B) Interest arising out of prior contracts
(C) Where it is necessary to join parties for avoiding multiplicity of proceedings
(D) All of the above

94. Where a person is in settled possession of property, even on the assumption that he had no right to remain on the property, he cannot be dispossessed by the owner. This relief is available in the Specific Relief Act under:

(A) Section 6
(B) Section 11
(C) Section 9
(D) Section 8

95. A person is entitled to possession of specific immovable property may recover it by suit filed under the provisions of the Civil Procedure Code. This relief is provided in Specific Relief Act under:

(A) Section 11
(B) Section 4
(C) Section 5
(D) Section 9

96. Any person having the possession or control over the article of movable property, of which he is not the owner, may be compelled to deliver it to the person entitled to the immediate possession in the following case:

(A) When the possession of the thing claimed has been wrongfully transferred from the plaintiff
(B) When the thing claimed is held by the defendant as the agent or trustee of the plaintiff
(C) Both (a) and (b)
(D) None of the above

97. Injunction can be granted under Specific Relief Act in the following:

(A) Protection of intellectual properties
(B) A wife can restrain her husband from contracting a second marriage
(C) Passing-off and like action
(D) All of the above

98. One of the following Sections under Specific Relief Act deals with Specific Performance with variation:

(A) Section 18
(B) Section 19
(C) Section 20
(D) Section 21

99. To obtain a mandatory injunction under Section 39 of the Specific Relief Act, the plaintiff must show that there has been a breach of obligation in the nature of:

(A) Legal obligation
(B) It is necessary to maintain status quo
(C) None of the above
(D) Both (a) and (b)

100. Where an instrument is evidence of different rights or different obligations, the Court may, in a proper case, cancel it in part and allow it to stand for the residue. This provision is provided in the Specific Relief Act under:

(A) Section 21
(B) Section 32
(C) Section 42
(D) Section 40

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