Odisha Judicial Service (Prelims) 2018

Odisha Public Service Commission · Series A · 13 January 2019 · 100 questions

Preliminary Examination

1. In which of the following cases, Supreme Court held that Preamble can be amended without altering its basic features ?

(A) Golaknath Case
(B) Maneka Gandhi Case
(C) S. R. Bommai v. Union of India
(D) Kesavananda Bharati Case

2. When there is a conflict between an Act made by the Parliament and a State legislature on the same subject, which of the following doctrines shall be applicable ?

(A) Doctrine of colourable, legislation
(B) Doctrine of pith and substance
(C) Doctrine of repugnancy
(D) None of these

3. "Capital Punishment is not violative of Article 21 of the Constitution of India." It has been held in the case of:

(A) Muthu v. State
(B) Bachan Singh v. State of Punjab
(C) Bhikaji v. State of M. P.
(D) Smt. Gian Kaur v. State of Punjab

4. When there is a conflict between Fundamental Rights as declared by Part-II and the Directive Principles of State Policy (Part-IV), which will prevail:

(A) Directive Principles
(B) Fundamental Rights
(C) Both (A) and (B)
(D) Neither (A) nor (B)

5. _____of the Indian Constitution lays down that Union of India and the States are juristic persons and can sue and be sued.

(A) Article 225
(B) Article 285
(C) Article 300
(D) Article 348

6. In which of the following Cases the Supreme Court held that capitation fee is unconstitutional ?

(A) St Stephen's College v. State
(B) Indra Sawhney v. Union of India
(C) Mohini Jain v. State
(D) None of these

7. In which of the following Cases the Supreme Court held that right to shelter is a part of fundamental right guaranteed under Article 21 of the Constitution of India?

(A) Olga Tellis Case
(B) Sheela Barse Case
(C) Sarala Mudgal Case
(D) None of these

8. When a writ is issued to an inferior court or tribunal on ground of exceeding the jurisdiction or acting contrary to the rules of natural justice, it is called a writ of :

(A) Certiorari
(B) Mandamus
(C) Quo Warranto
(D) Habeas corpus

9. We borrowed the Concept of Fundamental Duties from the:

(A) American Constitution
(B) Irish Constitution
(C) Canadian Constitution
(D) USSR Constitution

10. Which of the following Articles of the Constitution of India guarantees Right of minorities to establish and administer educational institutions ?

(A) Article 28
(B) Article 29
(C) Article 27
(D) Article 30

11. An ex parte decree can be set aside on the ground that:

(A) Summons Were not duly served
(B) Non-appearance of defendant as copies of documents filed with plaint were not provided to defendant
(C) Defendant refused to receive the summons and thereafter no fresh summons were issued to him
(D) An ex parte decree cannot be set aside under any circumstance

12. In which of the following cases, the Code of Civil Procedure, 1908 provides for passing a preliminary decree ?

(A) Suits for dissolution of partnership
(B) Suit for accounts between principal and agent
(C) Suits partition and separate possession
(D) All of these

13. In deciding the question of jurisdiction one must always have regard to the:

(A) Form of the suit
(B) Substance of the matter
(C) Status of parties
(D) None of these

14. In a suit where doctrine of res judicata is applicable, the suit is liable to be:

(A) Dismissed
(B) Rejected
(C) Stayed
(D) None of these

15. X residing in Delhi, publishes statements defamatory of Y in Calcutta, Y can sue X at:

(A) Delhi
(B) Calcutta
(C) Either in Delhi or in Calcutta
(D) At any court, at the option of the plaintiff

16. Which of the following Sections of the Code of Civil Procedure, 1908 deals with the place of suing regarding movable property ?

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

17. In order to claim set-off, which of the following conditions must be satisfied ?

(A) Suit must be for recovery of money and the sum must be ascertained
(B) Sum must not exceed the pecuniary jurisdiction of the court
(C) Sum must be legally recoverable by defendant from plaintiff
(D) All of these

18. The court passes an ex parte decree against A. A files another suit alleging that the decree is obtained by the plaintiff by fraud. The suit is:

(A) Maintainable
(B) Not maintainable
(C) Depends
(D) None of these

19. A second appeal under Section 100 of the Code of Civil Procedure lies:

(A) On question of facts
(B) On substantial question in law
(C) On mixed questions of law and fact
(D) All of these

20. A suit for the partition of immovable property, shall be instituted in the court within the local limits of whose jurisdiction the:

(A) Property is situated
(B) Plaintiff resided
(C) Defendant resided
(D) Any of these

21. The procedure for serving the summons is provided in _____ of the Code of Criminal Procedure, 1973.

(A) Section 59
(B) Section 60
(C) Section 61
(D) Section 62

22. X a married man had illicit relations with Y and a child was born from that relationship. Later X deserted Y. Y filed an application for maintenance to her and her child from X ? Decide:

(A) Y and her child are entitled to maintenance from X
(B) Y and her child are not entitled to maintenance from X
(C) Y is not entitled but her child is entitled to maintenance from X
(D) None of these

23. An order under Section 144 of the Code of Criminal Procedure, 1973:

(A) May be passed ex-parte
(B) Cannot be passed ex-parte
(C) Can be passed only after an inquiry
(D) None of these

24. The Supreme Court upheld the constitutional validity of Section 151 of the Code of Criminal Procedure, 1973 in:

(A) Joginder Kumar v. State of Uttar Pradesh
(B) M. C. Abraham v. State of Maharashtra
(C) D. K. Basu v. State of West Bengal
(D) Ahmed Noormohammed v. State

25. Which of the following powers Is not available to a Police Officer who receives an order from the magistrate to investigate a non-cognizable offence ?

(A) Power to search
(B) Power to seize
(C) Power to arrest
(D) None of these

26. Which of the following Sections of the Code of Criminal Procedure, 1973 deals with the 'examination of witnesses by police' ?

(A) Section 159
(B) Section 160
(C) Section 161
(D) Section 165

27. Which of the following Sections of the Code of Criminal Procedure, 1973 deals with medical examination of the victim of rape ?

(A) Section 163A
(B) Section 164A
(C) Section 165A
(D) Section 166A

28. Who among the following may file an application for plea bargaining ?

(A) Accused
(B) Complainant
(C) Prosecutor
(D) None of these

29. Which of the following Sections of the Code of Criminal Procedure deals with 'set-off ?

(A) Section 428
(B) Section 429
(C) Section 430
(D) Section 431

30. In which of the following cases, the Supreme Court held that mere rejection of anticipatory bail applications cannot be a ground for arrest ?

(A) M. C. Abraham v. State
(B) State v. Ramakrishna
(C) Nirmal Jeet v. State
(D) None of these

31. Under Section 3 of the Indian Evidence Act, fact in issue means:

(A) Fact, existence or non-existence of which is not disputed by the parties
(B) Fact, existence or non-existence of which is disputed by the parties
(C) Fact, existence or non-existence of which is admitted' by the parties
(D) All of these

32. A court can treat a presumption as tantamount to proof when the presumption is:

(A) Rebutted
(B) Dispelled
(C) Not rebutted
(D) None of these

33. In a trial for the murder of B, by A, which of these facts is not relevant ?

(A) A was absconding immediately after the murder of B
(B) A and B were seen together before murder
(C) A had borrowed Rs. 50,000 from B
(D) A was in Bombay on that day, while the murder of B was committed in Chennai

34. When the court has to form an opinion as to the digital signature of any person, the opinion of the certifying authority which has issued a digital signature certificate is:

(A) Relevant
(B) Irrelevant
(C) Inadmissible
(D) None of these

35. Res Gestae is an exception to the:

(A) Relevancy Rule
(B) Hearsay Rule
(C) Circumstantial evidence
(D) None of these

36. A statement made by an accused to the police is:
(A) Not at all admissible whether it is a confession or an admission
(B) Admissible if it is not a confession and it is not during the course of investigation
(C) Admissible if it is a voluntary confession
(D) None of these

37. Presumption as to genuineness of certified copies is contained in _____ of the Indian Evidence Act.
(A) Section 78
(B) Section 79
(C) Section 80
(D) Section 81

38. A, accused of murder, alleges that, by reason of unsoundness of mind, he did not know the nature of the act. The burden of proof is on:
(A) The prosecution
(B) The accused A
(C) The Police
(D) None of these

39. A Preliminary examination before the chief examination is suggested in the case of:
(A) Defence witnesses
(B) Expert witnesses
(C) Child witnesses
(D) None of these

40. A leading question, without the permission of the court, may be asked during:
(A) Examination-in-chief
(B) At any time
(C) Cross examination
(D) None of these

41. The principle of criminal liability 'Actus non facit reum nisi mens sit rea' means:
(A) The act alone does not amount to guilt ; it must be accompanied by a guilty mind
(B) Mens rea alone is punishable unless followed by actus reus
(C) Actus reus without mens rea is punishable
(D) None of these

42. A intending to kill B, shoots at B but only wounds him very slightly. On his being taken to the hospital the ambulance collided with a bus and B was killed. Here:
(A) A is liable for murder since he intended so
(B) A is not liable for murder since the result is too remote and accidental in its occurrence
(C) This covers the general exceptions
(D) None of these

43. Which of the following offence is punishable with death ?
(A) Section 305
(B) Section 364A
(C) Section 396
(D) All of these

44. For which of the following offence, common object is not an essential ingredient ?
(A) Rioting
(B) Affray
(C) Unlawful Assembly
(D) None of these

45. Mr. A, a candidate for Andhra Pradesh Assembly Elections, distributes mobile phones to some voters and requesting their vote in return. Mr. A has committed offence under which of the following Section ?
(A) Section 171A
(B) Section 171B
(C) Section 172A
(D) Section 172B

46. A doctor registered as a medical practitioner and entitled to practice in Homoeopathy only, prescribed an allopathic medicine to the patient. The patient died. The doctor is guilty of:
(A) Death by rash and negligent act
(B) Murder
(C) Culpable homicide not amounting to murder
(D) None of these

47. Attempt to commit suicide is;
(A) Not an offence
(B) Punishable under Section 309 of Indian Penal Code
(C) Punishable under Section 306 of Indian Penal Code
(D) None of these

48. A, a police officer, tortures Z in order to induce Z to confess that he committed a crime. A is guilty of an offence under the provisions of Section _____ of the Indian Penal Code.

(A) 331
(B) 332
(C) 330
(D) 333

49. Whoever does any act so rashly or negligently as to endanger human life or the personal safety of others, shall be punished under _____ of the Indian Penal Code.

(A) Section 336
(B) Section 337
(C) Section 338
(D) Section 339

50. Under IPC exhibition of an object with intent to insult the modesty of the woman is an offence under Section:

(A) 353
(B) 294
(C) 509
(D) 293

51. Which of the following Sections of the Limitation Act, 1963 deals with the effect of death on or before the accrual of the right to sue ?

(A) Section 13
(B) Section 14
(C) Section 15
(D) Section 16

52. Which of the following Sections of the Limitation Act, 1963 deals with acquisition of easement by prescription?

(A) Section 25
(B) Section 26
(C) Section 27
(D) Section 28

53. Section 27 of the Limitation Act, 1963 provides that on the expiry of the period of limitation for filing a suit for possession:

(A) The right itself gets extinguished
(B) Remedy is barred
(C) Expiry of period
(D) None of these

54. The period of limitation for a suit for an account and a share of the profits of dissolved partnership is:

(A) One year
(B) Two years
(C) Three years
(D) Four years

55. The period of limitation for. a suit by a mortgagor to redeem or recover, possession of immovable property mortgaged is:

(A) Thirty years
(B) Two years
(C) Three years
(D) Twelve years

56. The period of limitation for filing an application to the Supreme Court for special leave to appeal, in a case where leave to appeal was refused by the High Court is:

(A) 30 days
(B) 60 days
(C) 90 days
(D) One year

57. Which of the following Sections of the Limitation Act, 1963 mandates that every suit instituted, appeal preferred, and application made after the prescribed period shall be dismissed although limitation has not been set up as defence ?

(A) Section 2
(B) Section 3
(C) Section 4
(D) Section 5

58. What is the period of limitation for a suit on a promissory note or bond payable by instalment ?

(A) Three years
(B) Five years
(C) Ten years
(D) Six months

59. The notice of dishonour of cheque is served on the drawer on 29.05.1995. The period of 15 days expired on 14.06.1995. Complaint is filed on 15.11.1995.

(A) Complaint is within time
(B) Complaint is barred by limitation
(C) Notice of dishonour not valid
(D) None of these

60. Dismissal of a civil appeal as time barred is:
(A) A decree
(B) Not a decree
(C) Summons
(D) None of these

61. Accumulation of income can be directed under Section 17 for a period not longer than:
(A) The life time of transferor
(B) A period of 12 years
(C) A period of 20 years
(D) The life time of transferor or a period of 18 years from the date of transfer

62. Feeding the grant by estoppel comes into operation when the transfer is made:
(A) Fraudulently or erroneously
(B) Under the coercion
(C) Under The mistaken impression that the transferor is authorised
(D) After the transferee acted in good faith

63. The condition restraining absolute alienation is not void when it is:
(A) For the benefit of the lessor
(B) For the benefit of the legal heir
(C) For the benefit of the lessee
(D) None of these

64. Lis pendens is not applicable to suit or proceedings which is:
(A) Ex-parte
(B) Collusive
(C) Pending service of notice
(D) In execution

65. Where the mortgagor ostensibly sells the mortgaged property, the transaction is called:
(A) Anomalous mortgage
(B) Mortgage by deposit of the title deeds
(C) English mortgage
(D) None of these

66. The right of a mortgagee to institute a suit for foreclosure is not available when:
(A) The mortgaged property is under lease
(B) The mortgaged property is alienated
(C) A decree has been made for the redemption of the mortgaged property
(D) All of these

67. Mortgaged property can be sold without the intervention of court only in the case of:
(A) Simple mortgage
(B) Anomalous mortgage
(C) English mortgage
(D) Mortgage by deposit of title deeds

68. Where the tenant continues to remain in possession even after the expiry of notice to quit, he is treated as:
(A) A trespasser
(B) Tenant at will
(C) Tenant at sufferance
(D) None of these

69. The following among is not an actionable claim:
(A) Claim for arrears of rent
(B) Share in a partnership
(C) Claim for unpaid dower of a Muslim woman
(D) A decree of a Civil Court

70. 'Donatio mortis causa' means:
(A) Gift made by a person on his death
(B) Gift to a dying person
(C) Gifts which are made in contemplation of death
(D) None of these

71. A person who is not a party to a contract but has some interest in the consideration of that contract:
(A) Can enforce that contract subject to certain exceptions
(B) Can enforce that contract
(C) Cannot enforce that contract
(D) None of these

72. Forbearance to sue the promisor in return for a promise made by the promisor:
(A) Always serves 'as good consideration
(B) Does not serve as good consideration at all
(C) Serves as good consideration if it is induced by coercion
(D) Serves as good consideration only when it is induced by the request of the promisor

73. The communication of acceptance is complete as against the proposer:
(A) When it is put in the course of transmission so as to be out of the power of the acceptor
(B) When it comes to the knowledge of the proposer
(C) When the acceptance is communicated
(D) None of these

74. 'Threatening to commit certain acts forbidden by Indian Penal Code' is associated with which one of the following?

(A) Misrepresentation
(B) Fraud
(C) Coercion
(D) Mistake

75. When one party's consent has been caused as a result of mistake of law, the contract is:

(A) Voidable
(B) Valid
(C) Unenforceable
(D) Unlawful

76. A 'contingent contract' is a contract:

(A) To do something, if some event, collateral to such contract does happen
(B) To do something, if some event, does happen
(C) To do or not to do something, if some event, collateral to such contract, does or does not happen
(D) Not to do something, if some event, collateral to such contract, does or does not happen

77. A, B and C jointly promise to pay Rs. 6,000 to X. X files a suit against A to recover the amount:

(A) X can sue for the recovery of Rs. 2,000 only
(B) X must sue B for Rs. 2,000
(C) X can recover the amount from anyone of them
(D) None of these

78. A owes B Rs. 3,000, C pays to B Rs. 2,000 and B accepts it in satisfaction of his claim against A. This payment:

(A) Is not a discharge of the whole claim
(B) Is a discharge of the entire claim
(C) Can be a discharge only when the balance is paid
(D) Will be a discharge only if the amount is paid by A

79. For the acts of sub-agent, lawfully appointed:

(A) The sub-agent is not responsible to the principal
(B) The sub-agent is responsible to the principal directly
(C) The agent is responsible to the principal
(D) The agent is not responsible to the principal

80. B owes to C a debt guaranteed by A. The debt becomes payable. C does not sue 'B' for a year after the debt has become payable:

(A) A is discharged from suretyship
(B) A is not discharged from suretyship
(C) C cannot recover from B
(D) None of these

81. A male member of a joint family and his sons, grandsons and great grandsons constitute a:

(A) Cognate
(B) Coparcenary
(C) Agnate
(D) None of these

82. A male Hindu dies leaving behind his father, mother, one adopted son, three daughters and two natural born sons. He has left behind him a self acquired property. The distribution of the property among the heirs will be between the:

(A) Father, mother, adopted son, three daughters and two natural born sons
(B) Mother, adopted son, three daughters and two natural born sons
(C) Father, adopted son, three daughters and two natural born sons
(D) Mother, three daughters and two natural born sons

83. Who among the following is not a Class-1 heir?

(A) Brother
(B) Daughter of a predeceased daughter
(C) Daughter of a predeceased son
(D) Son of a predeceased son

84. Which of the following Sections of the Hindu Succession Act, 1956 mandates that property of a female Hindu is to be her absolute property ?

(A) Section 14
(B) Section 15
(C) Section 16
(D) Section 17

85. Under the Hindu Succession Act, the property of a male Hindu dying intestate shall devolve according to the provisions of:

(A) Section 8
(B) Section 9
(C) Section 14
(D) Section 6

86. Which Section of the following of the Indian Succession Act, 1925 treats agnates and cognates and male and female heirs equally ?

(A) Section 26
(B) Section 27
(C) Section 32
(D) Section 33A

87. A Holograph Will is a will written by the:

(A) Coparcener
(B) Advocate
(C) Testator
(D) Successor

88. A legacy is bequeathed to A and in case of his death to B. If A survives the testator, the legacy to B:

(A) Becomes vested
(B) Does not take effect
(C) Takes effect
(D) Representatives of A takes

89. A copy of the will certified under the seal of the court with a grant of administration to the estate of the testator is known as:

(A) Letter of Administration
(B) Executor
(C) Probate
(D) Privileged will

90. In which Section of the following of the Indian Succession Act, 1925 it is provided that where a bequest is made to a person by a particular description, and there is no person in existence at the testator's death who answers the description, the bequest is void under:

(A) Section 111
(B) Section 112
(C) Section 114
(D) Section 116

91. A suit for possession of an immovable property, under Section 6 of the Specific Relief Act can be filed within _____ of dispossession.

(A) 12 years
(B) 3 years
(C) 1 year
(D) 6 months

92. Which of the following Sections of the Specific Relief Act deals with recovery of specific movable property ?

(A) Section 7
(B) Section 8
(C) Section 9
(D) Section 10

93. An authoritative pronouncement by the court in respect of a person's right to property or his status is called:

(A) Rescission
(B) Rectification
(C) Declaration
(D) None of these

94. Section 34 of the Specific Relief Act deals with:

(A) Mere declaration of rights of the parties
(B) Declaration of rights of the parties with or without an award of compensation
(C) Specific performance with declaration of rights of the parties
(D) None of these

95. An order of the court to a party to the proceedings to do or not to do a specified act is called : '

(A) Declaration
(B) Rescission
(C) Injunction
(D) None of these

96. Which of the following injunctions is always without any time limits ?

(A) Temporary injunction
(B) Mandatory injunction
(C) Perpetual injunction
(D) None of these

97. The principle of qua timet means:

(A) Some past injury to the rights or interests of a person
(B) Some future probable injury to the rights or interests of a person
(C) Some past injury to the rights or interests of a person
(D) Some small injury capable of being estimated in money

98. Can the court award compensation in a case where specific performance is impossible ?

(A) Yes
(B) No
(C) Impossible
(D) None of these

99. Which of the following can be rectified ?

(A) A mistake in the transaction itself
(B) A mistake in the way in which that transaction has been expressed in writing
(C) When there is breach
(D) None of these

100. Under Section 12(2) of the Specific Relief Act, 1963, part performance of a contract can be enforced by:

(A) The promisee
(B) The promisor
(C) Either the promisee or the promisor
(D) Only the promisee and not the promisor

De Facto IAS