UP PCS-J (Mains) 2013

Law Paper I: Substantive Law · compulsory paper

Candidates attempt Question Nos. 1 and 2 and not more than four of the remaining ones; six questions in all.

1. (a) What do you understand by Judicial Review? What is the effect of Article 13 on Pre-constitutional laws and Post-constitutional laws? Explain your answer with the help of decided cases. 15 Marks

1. (b) "Subject to the other provisions of this part, trade, commerce and intercourse throughout the territory of India shall be free." (Article 301 - Constitution of India) Discuss with the help of relevant case laws. 15 Marks

1. (c) The State Government passed an order of compulsory retirement stating that the employee is not fit for work. Does the order amount to punishment or not? Give reasons for your answer with the help of decided cases. 10 Marks

1. (d) The Governor of a State dismissed Council of Ministers enjoying confidence of the House. 'A' challenges the action of the Governor on the ground that his action is unconstitutional. Will 'A' succeed? Give reasons for your answer with the help of suitable examples. 10 Marks

2. (a) "Fundamental changes in the law relating to marriage has been brought about by the Hindu Marriage Act, 1955." Comment on the above statement and evaluate that how far the Act affected the sacramental character of Hindu Marriage? 10 Marks

2. (b) (i) State the consequences (legal effects) that follow from the divorce under Muslim Law. [05 Marks]
(ii) 'A' marries with a Hanafi woman. After sometime, in a fit of anger, 'A' pronounces Talak three times and sends the wife to her parent's home. The next day 'A' repents and wants his wife to come back. The wife refuses and maintains that she has been divorced irrevocably. 'A' brings a suit for restitution of conjugal rights and declares that he believes in pure and simple Islam and does not believe in any sects. The wife also sues for her deferred dower. Discuss the rights of the parties. [05 Marks]

2. (c) What do you understand by Quasi Contract? Explain the distinctive features of Quasi Contract? What is juridical basis of responsibility occur under Quasi Contract? Explain. 10 Marks

3. (a) Discuss the rule against 'Double possibilities'. Explain whether valid transfer can be made in favour of an unborn person? If so, state the conditions with suitable illustrations. 15 Marks

3. (b) Does the Transfer of Property Act make an exception to the general rule that a person cannot confer a better title to the property than he himself has in it? If so, how do you justify the exceptions? 15 Marks

4. (a) What are the rights of partner in the management and conduct of the business of a firm? Can a partner be restrained from carrying on any business other than that of the partnership while he is partner? 15 Marks

4. (b) (i) Can a minor be admitted to the benefits of Partnership? If so, what are his rights and disabilities? Refer to relevant case laws. [10 Marks]
(ii) 'A' a partner in a firm of solicitors draw a Bill of exchange in the name of the firm without authority. Decide the liability of the firm in their respect. [05 Marks]

5. (a) Define malicious prosecution. What are its essential ingredients? What must a plaintiff prove for getting success in case of a suit for malicious prosecution? Can a suit of malicious prosecution is filed against corporation also if yes, in which circumstances? [10 + 5 = 15 Marks]

5. (b) What is the law relating to the 'Vicarious liability of the State for the wrongful acts of its employees? Is the State liable for the criminal acts of its employees? Discuss with the help of relevant case laws. 15 Marks

6. (a) Describe the disabilities of a trustee as given under the Indian Trust Act. 10 Marks

6. (b) What do you understand from "Breach of Trust"? Describe the remedies available to the beneficiary in case of breach of trust. 10 Marks

6. (c) Explain the following maxims with illustrations:
(i) Equity follows the law. [05 Marks]
(ii) Equity imputes an intention to fulfil. [05 Marks] 10 Marks

7. (a) When will a licence be deemed to be revoked under the Indian Easement Act? What are licencee's rights on revocation? Discuss. 15 Marks

7. (b) Write the contracts which cannot be specifically enforced under the Specific Relief Act, 1963. Support your answer with suitable illustrations. 15 Marks

8. (a) "A contract cannot be enforced by a person who is not a party to it even though it is made for his benefit." Point out also the exceptions to this rule. Discuss and refer to decided cases. 15 Marks

8. (b) (i) Do you agree with a view that the Hindu Law of Adoption had undergone a complete change? If yes, then state the changes brought about by the Hindu Adoptions and Maintenance Act, 1956 in the law of adoption. [10 Marks]
(ii) 'X' wants to adopt a daughter on the ground that his only daughter had left the house without his permission and had joined the Film industry in Bombay. Discuss the legality of adoption. [05 Marks]

9. (a) (i) What are the essential conditions of a valid gift under Muslim Law? How far has the law of Mohammedan gift been affected by the Transfer of Property Act, 1882? Discuss. [10 Marks]
(ii) When and how can a gift be revoked by a donor under Muslim law? In what cases the power to revoke comes to an end? Discuss. [10 Marks]

9. (b) 'A's wife 'W' deserted him for a long time and ignored all his attempts to resume co-habitation. So much so that she did not reply to even a single letter of his. Ultimately 'A' obtained a decree of judicial separation against her. Thereafter because he had no son, he adopted a son without further reference to 'W'. Is this adoption is valid under the Hindu Adoption and Maintenance Act, 1956? 10 Marks

10. Solve any three problems with reference to relevant laws (10 marks each):
(a) 'A' points an unloaded pistol at 'B', who sues him for an assault. 'A' in his defence pleads that the pistol was unloaded. How will you decide this case. Give reasons to support your answer.
(b) 'A' teaches his parrot to recite an offer and then sends the parrot to 'B'. The parrot repeats the recitation. Is this a valid offer? Will it make any difference to your answer, if 'A' ties a message containing an offer for 'B' on the body of the parrot who carries the message to 'B'.
(c) A, B and C are partners in a firm XCo. C retires from the partnership and all the assets and liabilities are taken over by the two partners A & B who carry on the firm after the retirement of C. A creditor of the firm after the retirement of C, files a suit against A, B and C for the recovery of the debt.

Is C liable? Give reasons for your answer.

(d) After the death of her husband 'A' a Mohammedan widow got her name entered in the Government records as owner of her husband's property and was mortgaging and selling portions of it, one of the heirs of her husband sued her alienee for his share. Can he succeed? Give reasons for your answer.

30 Marks

De Facto IAS