Uttarakhand Civil Judge (Mains) 2008

Law I (Substantive Law) · compulsory paper

Time allowed : Three Hours · Maximum Marks : 200

Note: Candidates should attempt Question Nos. 1 and 2, and not more than four of the remaining ones. Attempt six questions in all. Marks carried by each question are indicated at its end.

1(a) [20 marks]

"People must guard against reasonable probabilities but they are not bound to guard against fantastic possibilities." (Lord Dunedin) Comment and discuss the circumstances in which the defence of 'inevitable accident' is available to the defendant.

1(b). Consider the following

1(b)(i) [10 marks]

'A' a boy of six years of age was taken by his father to see an ice hockey match in the defendant's arena. Shortly after the match had began, the rubber disk was knocked out of the ice and struck the boy over the left eye, causing injury. Determine the liability of the defendant.

1(b)(ii) [10 marks]

The defendant entrusted his car to 'A' for plying the same as a taxi. 'A' was in entire charge of the taxi. 'A' had appointed 'C' as cleaner for the taxi. 'A' trained 'C' to drive the car. Later 'C' went to transport authorities for obtaining a driving licence, and during the test 'C', without giving the signal, took a turn and injured the plaintiff. Determine the liability of the defendant.

2(a) [20 marks]

What is meant by 'impossibility of performance of contract'? What is the effect of impossibility on the rights and obligations of the parties to the contract? Explain fully.

There is a divorce proceeding pending between 'A' and his wife 'X'. Believing that the case would be decided in his favour, 'A' promises to marry another women 'Y'. But he looses the case, so that his marriage tie with 'X' is not annulled. 'Y' sues 'A' for breach of promise. What would you decide? Answer giving reasons.

2(b) [20 marks]

What do you understand by 'fraud'? How does it differ from misrepresentation? Explain fully.

3. Write short notes on any three of the following

3(a) [10 marks]

Effect of non-registration of Firm

3(b) [10 marks]

Compulsory dissolution of Firm

3(c) [10 marks]

Wagering agreements

3(d) [10 marks]

General offer

4(a) [15 marks]

Define constructive trust. Enumerate the duties of a constructive trustee.

4(b) [15 marks]

Discuss the duties, liabilities and disabilities of obligators and distinguish between personal advantage gained by trustee and advantage gained by qualified owner.

5. Write critical notes on the following

5(a) [10 marks]

Equity looks to the intent rather than to the form.

5(b) [10 marks]

Equity looks on that as done which ought to have been done.

5(c) [10 marks]

Equity acts in personam.

6(a) [15 marks]

Discuss the doctrine of "Lis Pendens" and give its basis. Does the doctrine apply to an execution proceeding? Describe.

6(b) [15 marks]

Define lease. Explain in detail the distinction between a lease and licence.
X, a licencee makes a permanent construction on open land agreeing to vacate the land in favour of the owner when ever asked to do so. Can he succeed in his plea that he cannot be evicted under any provision of Transfer of Property Act?

7(a) [10 marks]

What are the provisions relating to efforts for reconciliation under the Hindu Law and the Muslim Law before divorce? Why are such efforts accepted necessary?

7(b) [10 marks]

A Hindu, without having divorced his wife, marries a Muslim female after apostasy to Islam. Discuss the legality of the second marriage.

7(c) [10 marks]

What are the provisions under the Hindu Marriage Act regarding the transfer of a petition from one court to another? What is the reason for making such provisions?

8(a) [10 marks]

Explain the requirements of a valid will under Muslim Law. What are the limitations on the will? Discuss the validity of the following wills:
(x) Will in favour of an institutions.
(y) Will in favour of a non-Muslim.

8(b) [10 marks]

What do you understand by a valid gift under Hindu Law? Explain. Discuss the validity of the following gifts:
(x) Gift to an unborn person.
(y) Gift with a condition.

8(c) [10 marks]

Explain the doctrine of increase and return in Muslim law.

9(a) [10 marks]

"Every guarantee contract is an indemnity contract but every indemnity contract is not a guarantee contract." Explain the above statement.

9(b) [20 marks]

What is a pledge? Distinguish it from a bailment. 'A' hires a carriage of 'B'. The carriage is unsafe though 'B' is not aware of it and 'A' is injured. Is 'B' responsible to 'A' for the injury? Answer giving reasons.

10(a) [10 marks]

What is specific performance of contracts? Discuss the conditions in which a contract is specifically enforceable.

10(b) [10 marks]

What is preventive relief? Describe the provisions relating to preventive relief as provided in the Specific Relief Act, 1963.

10(c) [10 marks]

What do you mean by an injunction? Distinguish a temporary injunction from a perpetual injunction. When can a court refuse to issue an injunction?