Uttarakhand Civil Judge (Mains) 2011

Law II (Evidence and Procedure) · compulsory paper

Time allowed: Three Hours · Maximum Marks: 200

Note: (i) Candidate should attempt Question No. one and four more. At least one question must be attempted from each section. In all five questions are to be answered. (ii) Marks carried by each question have been indicated against the question. However, all questions carry equal marks.

1(a) [30 marks]

A got married to B in Roorkee as per Hindu law. A was a widower at the time of marriage but he did not disclose this fact to B. Now B wants to file a petition under Section 12(1)(c) of the Hindu Marriage Act. Draft a petition along with affidavits.

1(b) [10 marks]

Draft a written statement in reply to the above petition.

OR

1 (OR) [40 marks]

Write a judgment convicting the accused under Section 376 (Rape) of Indian Penal Code after framing appropriate charge for the offence.

Section A

2. Attempt any four of the following. [40 marks]

2(a)

Grounds for rejection of a plaint.

2(b)

Distinguish between Res Judicata and Res Subjudice.

2(c)

When foreign judgment is not binding?

2(d)

Distinguish between set off and counter claim.

2(e)

Explain the scope and limitations on inherent powers of the court.

3(a) [20 marks]

What are the considerations that the civil courts keep in mind while granting or rejecting an application for amendment of pleadings?

3(b) [20 marks]

“Power to grant injunction under O 39 is extraordinary in nature and it must be exercised in accordance with sound judicial principles.” Explain the principles involved.

4(a) [20 marks]

Explain the conditions necessary for a civil court to exercise jurisdiction.

4(b) [20 marks]

‘A’ advances loan of ₹60,000 to ‘B’. To bring the suit within the jurisdiction of court ‘X’, ‘A’ sues ‘B’ for

₹50,000 only and obtains a decree. Later on 'A' files a second suit for the balance of ₹10,000 in court 'X'. 'B' raises an objection. Decide in the light of relevant provision of C. P. Code.

5(a) [20 marks]

Differentiate between an ordinary suit and a summary suit. Explain the grounds on which leave to defend will be granted by the court in a summary suit.

5(b) [20 marks]

Explain the significance of Alternative Dispute Resolution (ADR) under S.89 of CPC in disposing of civil cases.

Section B

6(a) [10 marks]

What is First Information Report (FIR) and what is its evidentiary value?

6(b) [10 marks]

What are the broad guidelines that the courts consider while granting bail in non-bailable cases?

6(c) [10 marks]

What are the rights of an arrested person?

6(d) [10 marks]

Explain the concept of 'Plea Bargaining' as incorporated in the Code of Criminal Procedure 1973.

7(a) [15 marks]

When can inquiry and trial be held in the absence of the accused? Explain.

7(b) [15 marks]

Elaborate the procedure for investigation in a case relating to cognizable offence.

7(c) [10 marks]

Critically analyze the power of the Supreme Court to transfer cases and appeals.

8(a) [10 marks]

Relevancy of an Expert Opinion.

8(b) [10 marks]

Explain 'proved', 'disproved', 'not proved'.

8(c) [10 marks]

Cases in which secondary evidence relating to documents may be given.

8(d) [10 marks]

Define admission.

9(a) [20 marks]

Who is an Accomplice? What is the credibility of approver's testimony? Does it require any corroboration? Discuss with the help of decided cases.

9(b) [20 marks]

When is a witness said to have turned hostile? Whether the evidence given by such a witness is considered relevant and admissible?

10(a) [20 marks]

Whether the sole testimony of the dying declaration can be made the basis of conviction or not?

10(b) [20 marks]

Who may testify? Whether a dumb person can be considered a competent witness?

De Facto IAS