# Uttarakhand Civil Judge (Mains) 2016

## Law I (Substantive Law) · compulsory paper

Time allowed : Three Hours · Maximum Marks : 200

Note: Candidates should attempt question Nos. 1 and 2 as compulsory and not more than four of the remaining ones. Total six questions are to be attempted. Marks carried by each question are indicated at its end. The parts of same question must be answered together.

**1(a)** [15 marks]

The principle of law as to contractual competency of a minor established in Mohari Bibee Vs. Dharmodas Ghose has been partially modified in a recent case Mathai Mathai Vs. Mary Joseph AIR 2014 SC 2277. Do you agree with this? Explain.

**1(b)** [15 marks]

Define charge. Explain the essential ingredients of a charge. Point out difference between a charge and a mortgage.

**1(c)** [10 marks]

Define composite negligence. Distinguish it with contributory negligence.

**2(a)** [15 marks]

What is sub-partnership? How and when it arises? Explain the rights of a sub-partner.

**2(b)** [15 marks]

"A bailment arises by contract. It cannot arise independent of contract." Explain this statement with reference to judicial decisions.

**2(c)** [10 marks]

What is rule against accumulation? State exceptions of this rule.

**3(a)** [10 marks]

"Law of partnership is an extension of law of agency." Referring to statutory provisions, explain it.

**3(b)** [10 marks]

Explain the nature of Marriage under Hindu law. How far it has been affected by the Hindu Marriage Act, 1955?

**3(c)** [10 marks]

Restitution of conjugal rights of husband is not an absolute right under Muslim Law. Discuss.

**4(a)** [10 marks]

What do you mean by easement of necessity? Point out difference between easement of necessity and quasi-easement.

**4(b)** [10 marks]

Distinguish between 'Coercion' and 'Undue influence'.

**4(c)** [10 marks]

Define 'transfer of property'. Which property can be transferred? Can the right of recovery of mesne profit be transferred? Explain.

**5(a)** [10 marks]

'A', a singer enters into a contract with 'B' the manager of a theatre, to sing at his theatre, two nights in every week during the next two months, and 'B' engages to pay her 100 rupees for each night's performance. On the sixth night 'A' willfully absents herself from the theatre. Can 'B' put an end to the contract? Decide giving statutory provisions.

**5(b)** [10 marks]

Muslim Women (Protection of Rights on Divorce) Act, 1986 protects the rights of Muslim Women who have been divorced. Does this Act debars a Muslim Women to seek maintenance under Section 125 of the Cr. P. C? Explain referring to decided cases.

**5(c)** [10 marks]

Explain the law relating to the Joint tort-feasors. Whether a joint tort-feasor can claim contribution from other joint tort-feasors? Refer to decided cases and distinguish between English law and Indian Law on this point.

**6(a)** [10 marks]

Discuss the principle of law laid down in Donoghue Vs. Stevension and state the applicability of this principle in present scenario.

**6(b)** [10 marks]

Can a transfer be made in favour of an unborn person? Explain referring to statutory provisions and decided cases.

**6(c)** [10 marks]

Define 'Coparcenary'. Discuss its notable ingredients.

**7(a)** [10 marks]

"Relation of partnership does not arise by status." Explain it with examples. Refer to decided cases.

**7(b)** [10 marks]

How a person who has been deprived of possession of his immovable property, can recover his possession by suit? Explain.

**7(c)** [10 marks]

"The adopted child shall not divest any person of any estate which vested in him before the adoption." Explain it in relation to "relation back theory". Refer to decided cases.

**8(a)** [10 marks]

Explain 'Khula'. How does it differ from Mubara'at?

**8(b)** [10 marks]

Describe the persons who are entitled for specific performance of contract.

**8(c)** [10 marks]

Distinguish between easement and licence.

**9(a)** [10 marks]

A laundry receipt contained a condition that the customer would be entitled to claim only 15% of the market price or value of the article in case of loss. The plantiff's new sari was lost. Decide the liability of the laundry owner.

**9(b)** [10 marks]

"The doctrine of Cy-press cannot validate an invalid Wakf but it saves Wakf becoming void for uncertainty." Explain this statement with example.

**9(c)** [10 marks]

Explain the followings:
(i) Ubi jus ibi remedium
(ii) Actio personalis non aritur actio.

**10(a)** [10 marks]

What do you understand by constructive trust? Under what circumstances such trust is created? Explain by referring to statutory provisions.

**10(b)** [10 marks]

Point out the natural guardian of Hindu minor in respect of his life and property. Who appoints testamentary guardians?

**10(c)** [10 marks]

Explain the provisions as to devolution of property of a male Hindu dying intestate.