Uttarakhand Civil Judge (Mains) 2018

Law II (Evidence and Procedure) · compulsory paper

Time allowed: Three Hours · Maximum Marks: 200

Compulsory Question

1 (A) Komal and Rama were studying in Zen University, Dehradoon and pursuing their M.B.A. Course and staying at their respective hostel in the University. Both after completing their studies joined in Boom Bank as officer. In the mean time they planned to marry on 20th April, 2010 with the permission of parents. Their parents agree to it and ceremonies of Hindu marriage were performed and they start living happy married life. Komal and Rama were happy and remained in Dehradoon upto 2014. During this period Rama gave birth to baby Girl (Rani) in 2013. In 2015 Rama transferred to Delhi. After this Komal start ignoring her which hurts Rama. When she asked Komal for such behaviour he disclosed that he was expecting a baby boy where she delivered a baby girl (Rani). Rama consider this attitude of Komal as cruelty and planned to file a case for divorce and maintenance for Rani & her. (A) On the basis of facts abovementioned file a divorce petition and maintenance application on behalf of Rama in appropriate court in Dehradoon [20 marks]

1 (B) Also, write a judgement on the basis of facts as narrated above. [20 marks]

OR

1 (alternative) Ram gave a loan of ₹ 10 Lakhs to Robert vide a promissory note dated 1.1.17. Robert agreed to pay back the loan on demand and also agreed to pay an interest at 18% p.a. However Robert has not paid back the loan and hence Ram issued a legal notice dated 1.10.18. Till date Robert has made no reply. Ram files a suit for recovery. Draft a plaint on behalf of Ram by framing proper issues by assuming and presuming necessary and incidental facts and circumstances. [40 marks]

Group A

2(a) What are pleadings and amendment of pleadings ? Explain rules relating to pleadings. [20 marks]

2(b) Discuss law relating to place of suing in Civil Cases. [10 marks]

2(c) What is Rateable distribution of assets'? [10 marks]

3(a) Explain Res-judicata', 'constructive Res-judicata' and 'Res-sub-judice'. [20 marks]

3(b) Explain the mode of service of summons in a Civil Case. [10 marks]

3(c) Explain rules relating to appearance of parties and consequences of non appearance of parties in a suit. [10 marks]

4(a) What property can be attached by the court to satisfy the decree ? Discuss the law. [20 marks]

4(b) Discuss the law relating to grant of temporary injunction in a Civil Suit. [10 marks]

4(c) What is Reference by a court' ? Explain objects and scope of such reference. [10 marks]

5(a) What are the mandatory requirements enshrined under Code of Civil Procedure. 1908 before filing a Civil Suit against the Government ? What is the effect of non-compliance with these provisions ? [20 marks]

5(b) Who may be joined as Plaintiff and Defendant in a suit ? [10 marks]

5(c) Discuss the provisions relating to arrest and detention of a judgement-debtor under CPC, 1908. [10 marks]

Group B

6(a) Explain and discuss the credibility of a related witness, interested witness and hostile witness.

6(b) Is conduct' a piece of evidence to hold a party guilty of committing an offence? [10 marks][20 marks]

6(c) 'A'. a client, says to 'B', an attorney - "I have committed forgery and I wish you to defend me". Will such communication be protected from being disclosed or not? [10 marks]

7(a) Distinguish admission from confession. Can an 'admission be treated as substantive evidence ?

7(b) Elaborate the law on "relevancy of character under Indian Evidence Act, 1872. [10 marks][20 marks]

7(c) 'A sues B for a house in possession of 'B', and which, as 'A' asserts, was left to Aby will of C. B's father. Discuss the burden of proof in the light of the statement. [10 marks]

8(a) Discuss the evidentiary value of judicial and extra judicial confessions. [10 marks]

8(b) Explain conditions under which oral evidence shall / may be excluded by documentary evidence.

8(c) Does the expectancy of death affect the relevancy of dying declaration ? [20 marks][10 marks]

9(a) Discuss the law relating to arrest of persons' under Code of Criminal Procedure, 1973. [20 marks]

9(b) Explain Form of charges and Joinder of charges. [10 marks]

9(c) No appeal lies unless provided." Discuss the law relating to appeals. [10 marks]

10(a) When and for whom the order of maintenance be passed by the Magistrate under Code of Criminal Procedure, 1973 ? Cite relevant case-laws. [20 marks]

10(b) Explain the law relating to Bail and Anticipatory Bail. [10 marks]

10(c) Who has the power to suspend or remit or commute the sentences ? Discuss the law citing relevant case-laws. [10 marks]