Uttarakhand Civil Judge (Mains) 2019

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]

Discuss the gradual legislative changes in the classical concept of Mitakshara joint family and coparcenary. Can a woman act as the Karta of the Mitakshara Hindu joint family?

1(b) [15 marks]

Discuss the "Rule against Perpetuity". How a property could be transferred in favour of an unborn person?

1(c) [10 marks]

Write a short note on "Remoteness of Damages". Discuss the case law, if any.

2(a) [15 marks]

What is meant by "frustration of contract"? What are the prerequisites for excusing parties from performing the contract on the ground of frustration?

2(b) [15 marks]

Examine the validity of the following Hindu Marriages:
(i) Marriage of a 20 years old boy to an eighteen years old girl.
(ii) Marriage of a man to the widow of his elder brother.
(iii) Marriage of A and B solemnized in Roorkee by exchange of garland.

2(c) [10 marks]

A falsely leads B to believe that a land belongs to A and thereby induces B to purchase it. B purchases it. The land actually belonged to A's father, F. F died. A being the son of F, inherited the land. B sues A for possession of that land. A pleads that B is not entitled to the land as at the time of sale, A was having only spes successionis. Decide referring to decided cases, if any.

3(a) [10 marks]

A, a male Hindu dies intestate leaving behind his separate property. He is survived by his father F, mother M, widow W, a son S_1, and a daughter D_1. He is also survived by the widow, son and daughter of his predeceased son S_2 and widower, son and daughter of his predeceased daughter D_2. At the time of A's death, S_1 was in prison as he was convicted for the offence of rape. Decide who would inherit A's property and what would be their shares.

3(b) [10 marks]

"Protection of the interest of beneficiary is the prime concern of the law of trust." Discuss the remedies available to a beneficiary in case of breach of trust.

3(c) [10 marks]

In what circumstances an association of persons can be called a partnership firm? Discuss the duties of partners inter se and towards third persons.

4(a) [10 marks]

Discuss whether or not the Hindu woman would acquire absolute right in the following property:
(i) Given to her by her father-in-law in lieu of maintenance.
(ii) Inherited by her from her husband.
(iii) Acquired by a will clearly reciting her limited ownership.

4(b) [10 marks]

Discuss the maxim "Volenti non fit injuria".
There was a collision between a bus of Uttarakhand State Road Transport Corporation and a truck. It was found that the accident happened because of the negligent driving of bus by the bus driver. Hearing the news of the accident, residents of the nearby village came for helping the police in providing rescue operations. One of them suffered serious head injuries due to the falling of an iron rod from the bus damaged in accident. He claimed compensation for his injuries from the State Road Transport Corporation. Will he succeed? Decide.

4(c) [10 marks]

A offered a reward of ₹ 2500/- to anyone who would restore to him his lost gold watch bearing his name. B, without knowledge of reward, finds it and returns it to A. Decide whether B can claim the reward money from A.

5(a) [10 marks]

Habibullah is suffering from cancer. When he comes to know that cancer is at advance stage, he makes gift of all his property in favour of his wife, Rahima. Two months later he dies. Is the gift valid?

5(b) [10 marks]

A gifted his land in favour of B, C and D with a condition that they shall not divide the property for 10 years. Examine the validity of condition as well as the gift.

5(c) [10 marks]

"An easement is a right to the limited use of land without possession". Explain.

6(a) [10 marks]

Explain the salient features of the Muslim Women (Protection of Rights on Marriage) Ordinance 2019 passed to give effect to the direction of the Supreme Court in Shayara Bano Case.

6(b) [10 marks]

Are the following trusts valid:
(i) Trust for the benefit of orphans.
(ii) Trust for the maintenance of a graveyard.
(iii) Trust for the benefit of animals.

6(c) [10 marks]

A, B and C are partners in a trading firm. A borrows one lac Rupees from D and executes a promissory note in the name of the firm. He misappropriates the money and utilizes it for his personal purposes. Can D make the firm liable on the note?

7(a) [10 marks]

A, a Muslim male who is married to W1, married W2 who is the younger sister of W1. Discuss the validity of A's marriage to W2 under Sunni and Shia law.

7(b) [10 marks]

Explain the doctrine of lis pendens. A, B, C and D are four brothers. They jointly owned two houses, X and Y. A filed a suit for partition of these houses. While the suit for partition was pending in the court, B gifted half of house X to his daughter. Decide the validity of this gift.

7(c) [10 marks]

Distinguish between 'easement' and 'licence'.

8(a) [10 marks]

Rohit married to Rashmi in 2015 in Delhi. Since both of them were employed in Delhi, they setup their matrimonial home in Delhi. In 2016, Rohit got a job in a multi-national company in Mumbai. He shifted to Mumbai. In 2019 Rashmi filed a petition for divorce on the ground of desertion under the Hindu Marriage Act 1955. Will she succeed? Decide giving statutory provision and decided cases, if any.

8(b) [10 marks]

Distinguish between 'Damnum sine injuria' and 'Injuria sine damno'.

8(c) [10 marks]

A, a merchant who is in Calcutta, makes an offer on telephone to sell his house to B who is in Bombay. B, hearing the offer on telephone, gives his acceptance instantaneously. Decide:
(i) Where and when the contract is concluded?
(ii) What would happen if the parties had negotiated by post?

9(a) [10 marks]

Discuss the capacity and right of a Hindu Wife to adopt a son under the Hindu Adoption and Maintenance Act, 1956.

9(b) [10 marks]

What do you mean by "dissolution of the firm"? What are the various ways of dissolution of the firm?

9(c) [10 marks]

Discuss the concept of undue influence.
Ram's son is ill and he needs money immediately for his treatment. He sells his house worth Ten lac rupees for five lac rupees to Shyam. After one month of the sale of the house, Ram applies for the cancellation of the sale deed on ground of undue influence. Would he succeed?

10(a) [10 marks]

What do you understand by the term "natural guardian" of a minor and who can be the natural guardian under the Hindu Minority and Guardianship Act, 1956?

10(b) [10 marks]

What is 'mortgage' and how is it different from a 'charge'?

10(c) [10 marks]

A, an enterprise is engaged in manufacturing fertilizers. It stored a large amount of poisonous gases and other chemicals used in manufacturing fertilizers. One day, the poisonous gas leaked from the storage tank and caused death of two persons, X and Y, living in the nearby locality. Reason for leakage of the gas is not known. The legal representatives of X and Y claimed compensation for the death of X and Y from the enterprise. Will they succeed? Decide.