Uttarakhand Civil Judge (Mains) 2019

Law II (Evidence and Procedure) · compulsory paper

Time allowed: Three Hours · Maximum Marks: 200

Note: Candidates should attempt Question No. 1 as compulsory and four more. At least one question must be attempted from each group. In all five questions are to be answered. Marks carried by each question are indicated against the question. However, all questions carry equal marks. The parts of same question must be answered together.

Compulsory Question

1(a) [25 marks]

On 16th September, 2014, Rajesh Singhania instituted a criminal complaint against Ravindra Agarwal, who was an industrialist. Consequently Ravindra Agarwal had to go to jail and his business was adversely affected. After trial on 16 November, 2017 Ravindra Agarwal was acquitted by the Criminal Court on the ground of false and baseless allegations levelled by Rajesh Singhania. Now, Ravindra Agarwal wants to sue Rajesh Singhania on the grounds of malicious prosecution.
Write a plaint for Ravindra Agarwal, in the light of the facts stated above.

1(b) [15 marks]

Prepare draft of a written statement for the defendant Rajesh Singhania on the basis of facts in Question No. 1(a).

1 (OR) [40 marks]

'A' with the intention of causing 'B' to be convicted of a criminal conspiracy writes a letter imitating 'B's handwriting, purporting to be addressed to an accomplice in such criminal conspiracy and puts the letter at a place which is likely to be searched by the police officer.
On the basis of the facts stated above frame a charge and write a Judgement of Conviction.

Group A

2(a) [20 marks]

"Court shall have Jurisdiction to try all suits of Civil nature excepting suits of which cognizance is barred." In the context of this statement, interpret the nature of all Civil Cases.

2(b) [10 marks]

Discuss the law relating to settlement of Civil disputes outside the court.

2(c) [10 marks]

How a summon is served to the prisoner in Jail under O-5 R-24 of the Civil Procedure Code, 1908?

3(a) [10 marks]

What is representative suit? Discuss also the essential conditions of representative suit.

3(b) [10 marks]

What is interpleader suit? When and by whom can it be instituted?

3(c) [10 marks]

Under what circumstances can the property of defendant be attached before Judgement?

3(d) [10 marks]

Explain the rules with respect to discovery by interrogatories under Code of Civil Procedure.

4(a) [20 marks]

Explain the procedure for filing suit for and against an unsound person as laid down under the Civil Procedure Code, 1908. Point out the conditions which can be imposed on next friend and defendant ad-litem.

4(b) [10 marks]

What properties of a Judgement debtor cannot be attached and sold in execution of a decree?

4(c) [10 marks]

What is "Caveat"? Discuss the law relating to Caveat under the Civil Procedure Code, 1908.

5(a) [20 marks]

Define pleading and underline its object, importance and basic rules.

5(b) [10 marks]

What do you understand by the inherent powers of the Civil Court?

5(c) [10 marks]

Discuss the powers of Appellate Court as given under Civil Procedure Code, 1908.

Group B

6(a) [20 marks]

Who is an 'expert'? When are the opinions of third person relevant? What is the probative value of such evidence? What is the difference between an expert and ordinary witness?

6(b) [10 marks]

Who is an accomplice? Discuss the relevancy and admissibility of the evidence given by an accomplice as provided under the law of evidence.

6(c) [10 marks]

What is meaning of dying declaration? Is such a declaration admissible in evidence? If so, under what circumstances?

7(a) [20 marks]

"Whatever relevant is not necessarily admissible but all whatever admissible is relevant." Explain.

7(b) [10 marks]

Explain the rules relating to hearsay evidence with exceptions, if any.

7(c) [10 marks]

Write exhaustive notes on "Privileged Communication".

8(a) [20 marks]

What are leading questions? When can they be asked and when cannot be asked? Explain.

8(b) [10 marks]

'A' is charged with travelling on the railway without a ticket. On whom the burden of proof that he had a ticket shall lie?

8(c) [10 marks]

'A' is wife of 'B'. Before marriage 'B' said about some facts to 'A'. Can 'A' be compelled to disclose those facts after marriage? Give reasons.

9(a) [20 marks]

Discuss the circumstances in which the court may require a person to execute a "bond" on the following:

(i) For keeping peace [10 marks]

(ii) For keeping good behaviour [10 marks]

9(b) [10 marks]

"For every distinct offence of which any person is accused, there shall be a separate charge and every such charge shall be tried separately." Explain and illustrate this rule.

9(c) [10 marks]

What are the conditions when a Magistrate may take cognizance of any offence?

10(a) [20 marks]

What is plea bargaining? Briefly describe its procedure. Whether these provision apply in respect of all types of offences and all types of victims?

10(b) [10 marks]

Discuss the powers of the District Magistrate under Section 144 of the Code of Criminal Procedure, 1973.

10(c) [10 marks]

Whether a Magistrate can ask any accused to give specimen signature or handwriting? Discuss with exception, if any.