Uttarakhand Civil Judge (Mains) 2021

Law — II (Evidence and Procedure) (Second Paper) · compulsory paper

EPJ · Time allowed: 3 Hours · Maximum Marks: 200

Note: Candidate should attempt Question No. 1 as compulsory and four more. At least one question must be attempted from each section. In all five questions are to be answered. Marks carried by each question are indicated against the question.

Compulsory Question

Sohan borrowed ₹ 5,00,000 (Five lakh) from his friend Arvind and also issued a cheque of ₹ 5,00,000 (Five lakh) to Arvind on the same day. Sohan agreed to pay back the money on demand and also agreed to pay an interest at 25% per annum, when Arvind deposited the cheque in the bank for the payment and it was dishonoured. Hence, Arvind had approached Sohan number of times for payment but Sohan refused to make the payment. Therefore, Arvind issued a legal notice on dated 03.03.22 for the return of money. Till today Sohan has made no reply. Arvind files a suit for recovery of money before the competent court.

1. (a) Looking to the matter as above mentioned facts, prepare a draft of plaint on behalf of Arvind, for instituting the same before the competent court of law to recover the money. 20
(Words limit : Maximum 200 Words)

1. (b) In the reply to the above plaint, also prepare a draft of the written statement for the defendant (Sohan). 20
(Words limit : Maximum 200 Words)

OR

Radha Ram was studying in Dev University, Haridwar and pursuing LL.B. course in it and staying in the hostel of the University. He was not attending classes regularly. Therefore, he was short of attendance in the LL.B. 1st year. He did not mention this fact in the examination form that his attendance is short but he was aware of this fact. He appeared. His result was not declared, because his attendance was short. He was approached to the Head of the Law Department (HOD) as well as University authorities and submitted an application for the declaration of result. No action was taken on his application. Consequently he had filed a case for the declaration of the result.

1. (a) On the basis of above facts. prepare a case by framing the issues and write the judgement with the support of legal provisions and case laws. 20
(Words limit : Maximum 200 Words)

1. (b) Critically analyse the legal provisions pertaining to pronouncement of own judgement and judgement written by his predecessor; also describe the legal manner of amendment of the judgement.
(Words limit : Maximum 200 Words) 20

Section - A

2. (a) What are the fundamental Rules of Pleadings ? What do you mean by Alternative Pleadings ? Also distinguish striking out pleadings and amendment of pleadings. 20
(Words limit : Maximum 200 Words)

2. (b) Particulars of set-off requires to be given in written statement. Consequently its effect originates. Examine. 10
(Words limit : Maximum 100 Words)

2. (c) Which principles must be kept in mind during the appointment of receiver by the court ? Critically examine. 10
(Words limit : Maximum 100 Words)

3. (a) What are various modes of settlement of disputes outside the court ? How it affects the provisions of Civil Procedure Code ? Elucidate. 20
(Words limit : Maximum 200 Words)

3. (b) Critically examine the second appeal under the Code of Civil Procedure with the help of judicial pronouncements. 10
(Words limit : Maximum 100 Words)

3. (c) Explain the powers of Supreme Court to transfer suits, etc., under the Civil Procedure Code. Support with the proper illustrations. 10
(Words limit : Maximum 100 Words)

4. (a) Where one of several plaintiffs or defendants dies, in such circumstances, examine the legal provisions of the rights for filing the suits and in support of the answer, discuss the case law. 20
(Words limit : Maximum 200 Words)

4. (b) When foreign judgement are not conclusive ? Comment legally. 10
(Words limit : Maximum 100 Words)

4. (c) Examine the powers of court to enforce Execution of Decree. 10
(Words limit : Maximum 100 Words)

5. (a) Whether on the ground that evidence has begun or trial of civil case is in progress; the plaint can be rejected ? Explain with the help of law. Elucidate also the subject-matters, which are barred from jurisdiction of the civil court. 20
(Words limit : Maximum 200 Words)

5. (b) Critically examine the powers of revision of the court under the Civil Procedure Code, 1908 with the help of judicial pronouncements. 10
(Words limit : Maximum 100 Words)

5. (c) Who are entitled to exempt from the personal appearance in court under the Civil Procedure Code, 1908 ? Examine legally. 10
(Words limit : Maximum 100 Words)

Section - B

6. (a) Explain the nature of evidence of admission and distinguish it from hearsay evidence. 20
(Words limit : Maximum 200 Words)

6. (b) Critically examine trial of the cases instituted under Section 199 (2) of the Criminal Procedure Code and distinguish the trial procedure of these cases from other cases. 10
(Words limit : Maximum 100 Words)

6. (c) A and B are jointly tried for the murder of C. It is proved that A said "B and I murdered C". Discuss the legal effect of the confession as against 'B'. Support your answer with the case law. 10
(Words limit : Maximum 100 Words)

7. (a) Supreme Court of India enforced the spirit of Section 41 A of Criminal Procedure Code in Arnesh Kumar Vs State of Bihar 2014 and Abhyanand Sharma Vs State of Bihar 2022. Critically examine these cases with reference to schedule first of Criminal Procedure Code. 20
(Words limit : Maximum 200 Words)

7. (b) State the provisions contained in Cr. P.C., 1973 relating to "offences affecting the Administration of Justice". Cite Judicial decision also. 10
(Words limit : Maximum 100 Words)

7. (c) Practically examine the procedure related to security for keeping the peace and for good behaviour under the Criminal Procedure Code. 10
(Words limit : Maximum 100 Words)

8. (a) Which questions are lawful during cross-examination ? How far provisions of Criminal Law (Amendment) Act, 2013 are relevant in this regard ? 20
(Words limit : Maximum 200 Words)

8. (b) What are Public Documents ? Whether a certified copy of annual return file by a company is a public document ? Comment in the light of latest judgements of the Supreme Court. 10
(Words limit : Maximum 100 Words)

8. (c) Critically examine the rule of estoppel in the service matter as decided by Supreme Court in the case of Krishna Rai (Dead) Vs Banaras Hindu University Civil Appeal Nos. 4578-4580 of 2022. 10
(Words limit : Maximum 100 Words)

9. (a) Critically examine the presumption as to absence of consent in certain prosecution for rape under the Criminal Law (Amendment) Act, 2013. 20
(Words limit : Maximum 200 Words)

9. (b) Describe the evidenciary power of the judges to put questions or order production and its effect in judgements to provide the real justice. 10
(Words limit : Maximum 100 Words)

9. (c) Critically examine the relevant legal provisions of plea-bargaining. 10
(Words limit : Maximum 100 Words)

10. (a) Describe those powers of Magistrate, when in course of a summary trial it appears to the Magistrate that the nature of the case is such that it is undesirable to try it summarily. 15
(Words limit : Maximum 150 Words)

10. (b) Explain the Law relating to Appeal by the State Government against sentence and interpret the decided cases. 15
(Words limit : Maximum 150 Words)

10. (c) Examine the procedure when investigation cannot be completed within twenty-four hours. 10
(Words limit : Maximum 100 Words)