West Bengal Judicial Service (Mains) 2018

Indian Law relating to Companies and Insurance · optional paper

Time: 3 hours · Full marks: 100

Group A: answer Question No. 1 and any two from the rest

1. "An incorporated company is created by Act only and extinguished by the Act also." Discuss with reference to the incorporation of the company and its dissolution. (20)

2. (a) A private company is registered with a share capital of Rs. 5,00,000 divided into 5000 shares of Rs. 100 each. Of these shares 4998 are held by 'K' and two by his brother. Discuss the form and characteristics of the company in the light of the Companies Act, 2013.
(b) Baron Steel Manufacturing Ltd., in the course of its business, entered into a contract with another company to supply jute bags worth Rs. 50 lakhs within six months from the date of contract. The materials were supplied within time according to the terms and conditions of the contract. Subsequently it was found that the nature of business was not within the object clause of the company, and the shareholders subsequently ratified the contract. The Board of Directors took the decision not to pay the amount. Shareholders initiated the process of removal of all the Directors. Advise the Directors.
(c) The Board of Directors of the company borrowed Rs. 50 lakhs from a financial institution for the company, of which the shareholders were aware. Subsequently it was found that although the company had the power to borrow the money, the directors did not have the power. Discuss the legality of the transaction. Can the irregularity, if any, be cured by obtaining the consent of the shareholders by a resolution? (10+5+5)

3. (a) "Every outsider dealing with the company is deemed to have notice of the contents of the Memorandum and Articles of Association." Discuss with reference to the doctrine of constructive notice.
(b) "The Directors of the company issued a bond to X. They had the power under the Articles of Association to issue such bond provided they were authorised by a resolution passed by the shareholders at the general meeting of the company. No such required resolution was passed by the company." Is X entitled to recover the amount from the company? Give your answer with reference to limitations on constructive notice and the Turquand Rule with its exceptions. (10+10)

4. Write short notes on any four of the following:
(a) Holding company and subsidiary company;
(b) Certificate of commencement of business;
(c) Dormant company;
(d) Red herring prospectus;
(e) Circumstances prohibiting buy back of shares;
(f) Winding up of company and its modes. (5×4)

Group B: answer any two questions

5. (a) The Life Insurance Corporation floated a "Salary Savings Scheme" under which X, an employee of the Y company, took an insurance policy for an amount of Rs. 1 lakh with the Life Insurance Corporation. The amount of the premium used to be deducted by the Y company from the salary of X and remitted by it to the Life Insurance Corporation. The scheme of collection and remittance to the

LIC was made known to the employees by the company by a circular. During the subsistence of the policy, premium for some months was deducted by the Y company from the salary of X but was not remitted to the Life Insurance Corporation. In the meantime X died and his wife informed the Life Insurance Corporation of the death of her husband and requested payment of the amount due under the policy. The Life Insurance Corporation disclaimed any liability for payment under the policy as the instalments of premium after June 1992 were not received by it, and therefore repudiated the claim of the widow of the deceased. Was LIC legally justified in repudiating the claim? Explain in the background of relevant principles of law.

(b) A Life Insurance is not a contract of Indemnity. Discuss. (10+10)

6. (a) Discuss critically the legal importance of Utmost Good Faith and Non-Disclosure in the contract of insurance.

(b) "Subrogation is substitution of one person for another." Discuss the role of the principle in the contract of insurance. (10+10)

7. (a) "In the contract of marine insurance, the risk of adventure of the assured is insured but not the property which is exposed to risk or peril." Discuss.

(b) What are the essential conditions of a contract of Marine Insurance?

(c) Define the term 'perils of the sea' with illustration. (10+5+5)

8. Write short notes on any four of the following:

(a) Double insurance and reinsurance;

(b) Essentials of contract of insurance;

(c) Proximate cause;

(d) Effect of renewal of a fake driving licence;

(e) 'Seaworthiness' of the ship under Marine Insurance. (5×4)