Civil Services (Main) Examination, 1995

LAW
(Paper II)

Time Allowed : Three Hours **Maximum Marks : 300**

QUESTION PAPER SPECIFIC INSTRUCTIONS

(Please read each of the following instructions carefully before attempting questions)

There are EIGHT questions divided in two Sections.
Candidate has to attempt FIVE questions in all.
Question Nos. 1 and 5 are compulsory and out of the remaining, any THREE are to be attempted choosing at least ONE question from each Section.
The number of marks carried by a question/part is indicated against it.
Wherever any assumptions are made for answering a question, they must be clearly indicated.
Word limit in questions, wherever specified, should be adhered to.

SECTION 'A'

1. Answer any three of the following (each answer should be in about 200 words): **20×3=60**

(a) "Under the Indian Penal Code an act which is done by one against his will is not his act." Examine.

(b) "An abetment of an offence being a complete offence by itself, an attempt of abetment of an offence is also an offence." Examine.

(c) Under the tort of nuisance a person cannot increase the liabilities of his neighbour by applying his own property to special uses, whether for business or pleasure. Examine.

(d) "Law of tort is based upon a fundamental general principle that it is wrongful to cause harm to other persons in the absence of some specific ground of justification or excuse." Examine.

2. (a) "To hold an accused guilty of murder under Clause (3) of Section 300 of the Indian Penal Code the prosecution must prove that there was an intention to inflict that particular injury; that is to say that the injury was not accidental or unintentional or that some other kind of injury was intended, and that particular injury was sufficient in the ordinary course of nature to cause death." Examine. **30**

(b) A, in association with B, relieved C of his watch in a running train, and when A and B tried to get down from the train C raised an alarm whereupon B slapped him. Discuss the liability of A and B. **30**

3. (a) "The purpose of a combination and the means employed to achieve that purpose are the two most important considerations in the tort of conspiracy." Examine. **30**

(b) Study very carefully the following two situations: Situation A: The defendant, a deeply religious man and owner of a house in the heart of a city, set it apart free of rent for those who wished to use the same for religious purposes. As a result the house remained occupied most of the time. The music played through the loudspeakers during religious ceremonies caused constant noise and inconvenience to the neighbours. Situation B: The defendant established a flour mill in a residential area in the heart of a city adjacent to the plaintiff's house. Continuous running of the mill for long hours everyday caused unpleasant noise as well as continuous vibrations in the house of the plaintiff. Compare the tortious liability of the defendants in the above mentioned situations. Give reasons and Cite case-law. **30**

4. (a) Discuss the concept of 'dowry' as stated under the Dowry Prohibition Act, 1961. Also suggest necessary changes which are needed in your opinion to be made in the definition of 'dowry'. **30**

English version compiled from published transcriptions and cross-checked across sources; not a facsimile of the official UPSC question paper.

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(b) Explain adulterated and misbranded food under the Prevention of Food Adulteration Act, 1954 and differentiate between the two. **30**

SECTION 'B'

5. Answer any three of the following (each answer should be in about 200 words): **20×3=60**

(a) "A contract shall not be enforced if the agreement is opposed to public policy." Examine.

(b) "An agency coupled with interest cannot, in the absence of an express contract, be terminated." Examine.

(c) "Any change in the relations of the partners will result in the reconstitution of the firm." Examine.

(d) Examine the concepts of 'consumer' and 'consumer dispute' under the Consumer Protection Act, 1986.

6. (a) With the help of decided cases discuss in detail the market rate theory of assessment of damages in cases of breach of contract. **30**

(b) The plaintiff booked a hotel for his son's wedding reception in which two hundred guests were invited. The contract included provision for a dinner in a big hall by the hotel management who would also provide a band to play music. The hotel management cancelled the contract just a day before the wedding. As a result the plaintiff was forced to organise only a simple function at a small place with a simple dinner. The plaintiff sues the hotel management and claims general damages for inconvenience and mental torture and special damages for cancellation of the band music and telephone expenses to inform the guests about the change of venue. Decide. **30**

7. (a) Explain the effect of 'mistake of fact' on agreements with illustrations and decided cases. **30**

(b) What is the nature of an unfair trade practice under the Monopolies and Restrictive Trade Practices Act, 1969? How does the Act protect a consumer? **30**

8. (a) Examine the correctness of the following statements: (i) "In the absence of express agreement the seller of goods is bound to answer for his title." (ii) "A person cannot make a contract to purchase his own goods." **30**

(b) A draws a cheque payable to bearer and hands it over to B. B crosses it and endorses it in favour of C and delivers it to him. D steals the cheque from C and presents it for payment before the bank which makes the payment over the counter. C sues the bank. Decide. **30**

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