Civil Services (Main) Examination, 1997

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 there is no right of private defence in which there is time to have recourse to the protection of public authorities." Examine.

(b) "The abetment of the illegal omission of an act may amount to an offence although the abettor may not himself be bound to do that act." Examine.

(c) "In tort the plaintiff wins his case only when he proves as to what particular tort the defendant has committed against him." Examine.

(d) The mere fact that a process or business is useful to persons generally, in spite of its annoyance to the plaintiff, is no defence to an action for the tort of nuisance. Examine.

2. (a) "It is now a settled law in India that death sentence can be imposed only in the rarest to the rare cases." Examine the above statement with the help of important decided cases clearly identifying as to what are rarest of rare cases. **30**

(b) X group, consisting of seven persons, waylaid Y group of persons. In the fighting that ensued between the two groups A, a person belonging to the X group, was injured. Because of the injury A had to withdraw to one side and he took no further part in the fight that continued between the two groups. Sometime later a person belonging to the Y group was killed in the fighting. A along with other persons of the X group are prosecuted for the murder. Decide. **30**

3. (a) "In the tort of malicious prosecution the plaintiff must prove, among other things, that the defendant was the person who was actively instrumental in putting the law in force." Examine. **30**

(b) The defendant newspaper company publishes the photographs of Mr. A and Mr. B along with the caption that they were getting married on that day. They published this only Mr. A himself had confirmed to their correspondent that the news was true. The fact, however, was that Mr. A was already married but his wife was residing in another city because their relations were strained. The wife Mrs. A files a defamation suit against the defendant. Decide. **30**

4. (a) "The thrust of the Protection of Civil Rights Act, 1955 is to liberate the society from blind ritualistic adherence and traditional beliefs which have lost all legal and moral base." Examine. **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) In the light of the relevant provisions in the Prevention of Food Adulteration Act, 1954 and the judicial pronouncements discuss as to whether a company enjoys immunity from prosecution in respect of those offences where the minimum punishment prescribed is imprisonment. **30**

SECTION 'B'

5. Answer any three of the following (each answer should be in about 200 words):

20×3=60

(a) "Under the law of contract the intention of the parties must be manifested clearly so that their obligations may be demarcated with certainty." Examine.

(b) "The cost, insurance and freight (C.I.F.) contract is not a contract of sale of goods but a contract of sale of documents relating to goods." Examine.

(c) "An agent cannot personally enforce a contract entered into by him on behalf of the principal, nor is he personally bound by them." Examine.

(d) "A cheque is a bill of exchange drawn on a specific banker and is not expressed to be payable otherwise than on demand." Examine.

6. (a) "In India the impossibility of performance covers both the agreement to do impossible act as well as the contract to do act afterwards becoming impossible or unlawful." Examine. **30**

(b) The plaintiff bank made payment of certain crossed cheques to the defendant bank. The latter informed their customer-payee of the cheques that the payment had been received for the cheques. It then turned out that the cheques were forged. The plaintiff sued the defendant bank and his customer to recover back the amount contending that the payment had been made under the mistaken belief that the cheques were genuine. Decide. **30**

7. (a) Discuss the law relating to contribution and indemnity between partners. Also discuss as to what happens in case one of the partners is unable to contribute. **30**

(b) A government building contract is allotted through tenders. It falls to the share of a Karnataka based contractor who transports his mobile workshop from there to the work site at Jammu. He had done only a part of the work when the government unjustifiably repudiates the contract. The contractor sues for the loss of profits. Decide. **30**

8. (a) Examine the mechanism envisaged by the Monopolies and Restrictive Trade Practices Act, 1969 to have surveillance over restrictive trade practices. **30**

(b) Examine the nature and scope of the remedies under the Consumer Protection Act, 1986. **30**

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