Civil Services (Main) Examination, 2003

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) "Whenever an illegal omission of an act is abetted, the same may amount to an offence although the abettor may not be bound to do that act." Discuss.

(b) "An act which is done by one against his will is not his act." Discuss.

(c) "It is the task of the law of tort to determine when the law will and will not grant redress for damage suffered." Discuss.

(d) "When a plaintiff acts as a reasonable and prudent man, he is entitled to damages even though he selects the more dangerous alternative when confronted by the defendant's negligence." Discuss.

2. (a) "The question as how is a court to determine as to whether a bodily injury intentionally inflicted by an accused is likely to cause death or not depends on many factors." Discuss. **30**

(b) A boatman gets hold of gold ornaments from the body of a person who had drowned. A police constable takes away the same after slapping the boatman. The constable does not enter the same in the records and dishonestly keeps them with himself. Discuss the criminal liability of the constable. **30**

3. (a) "Absence of knowledge that a matter is defamatory or absence of intention to injure the plaintiff is, by itself, no excuse for the defendant in tort." Discuss. **30**

(b) A car diver in the course of his employment leaves the ignition keys in the car and leaves the car on a crowded road. During his absence a trespasser gets into the car and drives it causing an accident resulting into injuries to the plaintiff. The plaintiff sues the car owner in tort. Decide. **30**

4. (a) "In murder cases sentence of imprisonment for life is the rule and death sentence an exception". Discuss. **30**

(b) Discuss in detail the meanings of 'complaint' and 'unfair trade practice' under the Consumer Protection Act, 1986. Are these definitions satisfactory and in consonance with the spirit of this Act? **30**

SECTION 'B'

5. Answer any THREE of the following (answer to each question must not exceed 200 words): **20×3=60**

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

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(a) "Jurisdiction of a court to decide disputes arising out of contractual relations cannot be ousted by an agreement between the parties." Discuss.

(b) "A deceit which does not deceive is no fraud." Discuss.

(c) "A cheque marked 'not negotiable' is nevertheless negotiable." Discuss.

(d) "The right of stoppage of goods in transit is the rule of natural justice and is recognised in sale of goods". Discuss.

6. (a) Discuss in detail the principle of promissory estoppel and its application in respect of contractual obligations. Explain the position of this principle as against the Government and its agencies. **30**

(b) 'A' makes an offer to purchase goods in possession of 'B' who is the agent of 'C' but who has no authority to make any contract of sale. The offer is accepted by 'B' on behalf of 'C'. 'B' writes to 'C' for ratification of the contract. Before the ratification 'A' withdraws the offer, 'C' ratifies the contract made by 'B'. Has the contract come into existence in this case? If 'B' repudiates the contract before 'C' comes to know of it, and subsequently 'C' ratifies the contract and sues to enforce it, what will be the consequences? **30**

7. (a) Examine the reasons which make it necessary that there should be a concept like "holder in due course" in the law of negotiable instruments. State the characteristics of a "holder in due course" and his privileges and protections under the Negotiable Instruments Act, 1881. **30**

(b) 'A' offers to sell his machinery to 'B' for a fixed price. 'B' agrees to buy the same subject to the condition that 'A' should get it repaired in order to put it into its running condition. 'A' replies that 'B' should himself get the machinery repaired and pay him the agreed price less the actual cost of repairs. While being repaired, the machinery is destroyed without any fault of the mechanic. 'A' sues 'B' for the price of the machinery. Will he succeed? **30**

8. (a) What is meant by "Reconstitution of a firm"? In what circumstances can a partnership firm be reconstituted? Refer to the relevant statutory provisions and the decided cases in your answer. **30**

(b) How is an Arbitral Tribunal constituted? On what grounds and under what procedure can an appointment of an arbitrator be challenged? **30**

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