Civil Services (Main) Examination, 2009

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 (answer to each question must not exceed 200 words). Support your answer with the help of legal provisions and decided cases. **20×3=60**

(a) 'Although the requirements of mens rea is general throughout the criminal law, there are numerous exceptions to it'. Explain with illustrations.

(b) 'Necessity knows no law'. Comment giving illustrations.

(c) 'Volenti non fit injuria is a defence for liability in tort'. Illustrate your answer with decided cases.

(d) Explain the ingredients of "Innuendo". What is a plaintiff required to prove in order to sustain the plea of Innuendo?

2. (a) Explain the ingredients of the offence of criminal misappropriation of property and distinguish this from criminal breach of trust. A sees Z drop his purse with money in it. A picks up the purse with the intention of returning it to Z, but afterwards appropriates it for his own use. Has A committed any offence? Discuss. **30**

(b) Distinguish between culpable homicide and causing death by rash or negligent act. A, a woman with a view to poisoning her husband, administered to him a substance which she believed to be poison, but which in fact was harmless. What offence if any she has committed in this case? **30**

3. (a) 'A statement made in performance of duty is privileged'. In the light of this statement critically examine the tort of defamation. X the famous writer and art critic while criticising the paintings of Y the famous painter, wrote in the newspaper as follows: 'Mr. Y's paintings are pots of paint hurled in the eyes of the public'. He afterwards wrote to Y saying that whatever he had written had been said by him in the course of his duty and hoped that he would not allow this to interfere with their friendship. Y replied and said 'Next time I meet you, I shall punch your nose damn hard. I hope you will not allow this to interfere with our friendship'. What torts, if any, have they committed and what defences are available to them? **30**

(b) 'A master is not responsible for a wrongful act unless it is done in the course of employment'. Comment and explain the circumstances when wrongful acts are deemed to be done "in the course of employment". Refer to decided cases. **30**

4. (a) "The enforcement of any disability arising out of untouchability is to be an offence punishable in accordance with law". Comment upon this statement and discuss in this **20**

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context the scope of protection of Civil Rights Act, 1955.

(b) "Damnum sine injuria and injuria sine damnum are two different principles of law". Comment briefly. **20**

(c) List briefly the procedure to be followed by a District Forum on receipt of a complaint regarding defective goods under the Consumer Protection Act, 1986. **20**

SECTION 'B'

5. Answer any three of the following (answer to each question must not exceed 200 words). Support your answer with legal provisions and decided cases.

20×3=60

(a) 'An invitation to treat is not an offer'. Explain.

(b) 'An attempt at deceit which does not deceive is not fraud'. Do you agree?

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

(d) 'A quantum meruit, although a quasi contract, arises out of a contract'. Comment.

6. (a) 'Information Technology – brought about by Computers, Internet and Cyberspace – has posed new problems in jurisprudence'. In the context of this statement, critically examine how far our existing laws are deficient in meeting these challenges. **30**

(b) 'The essential characteristic of an agent is that he is invested with a legal power to alter his principal's legal relations with third parties; the principal is under a co-relative liability to have his legal relations altered'. Discuss. A enters into a contract with B to sell him 500 bales of cotton and afterwards discovers that B was acting as agent for C. Who is liable to A for the price of the cotton? **30**

7. (a) 'As an agreement is an essential ingredient in a Partnership, it follows that a minor cannot enter into an agreement of Partnership'. Critically examine this statement and discuss the circumstances under which the Indian Partnership Act permits a minor to participate in the benefit of partnership. **30**

(b) Explain the concept of 'Holder' and 'Holder in due course' as envisaged in the Negotiable Instruments Act and also examine the privileges and protections to which they are entitled under the Act. Illustrate your answer with decided cases. **30**

8. Distinguish between the following, citing relevant provisions/case laws. Limit your answers to about 200 words each.

20×3=60

(a) 'Contract of indemnity' and 'Contract of guarantee'.

(b) 'Specific offer' and 'General offer'.

(c) 'Sale' and 'hire purchase' agreement.

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