

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 the following. (Answer to each part must not exceed 150 words.) Support your answer with the help of legal provisions and decided cases:

12×5=60

- (a) “Culpable homicide is the genus and murder is species, and that all murders are culpable homicide but not vice versa.” Discuss in the light of legal provisions and some decided cases.
- (b) “The recent Criminal Law (Amendment) Bill, 2011 seeks to replace ‘rape’ by the term ‘sexual assault’ in the IPC and intends to make rape a gender-neutral offence in the country.” Examine whether this is appropriate.
- (c) “The expression ‘good faith’ has a definite identity in the Indian Penal Code.” Discuss.
- (d) The defendant had been carrying cargo in a lorry for the plaintiff. On the way there was heavy rainfall. The cargo was damaged by seepage due to rainwater rising from below, while it had been securely protected by the defendant by tarpaulin from above. The flash flood on the highway had stranded hundreds of lorries including that of the defendant, and the water level on the highway rose above tyres and up to the level of the platform which resulted in the seepage. However, the plaintiff claimed heavy damages from the defendant on the ground of negligence or want of due care. Discuss whether the defendant can have any defence in this case.
- (e) “The principle of ‘res ipsa loquitur’ is an exception to the rule that it is for the plaintiff to prove negligence of the defendant.” Discuss with reference to some cases.

2. (a) Explain the essentials of malicious prosecution. What are the grounds on which plaintiff can claim damages?

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- (b) Mr. X himself was driving a car and when he was passing through a railway level crossing, his car was hit by a mail train. The car was smashed and Mr. X was seriously injured, and died in hospital. In an action by the widow against the Union of India, as owner of the Railway, it was contended that the level crossing was unmanned and the gates were open. This constituted negligence on the part of the Railway. Further it was contended that there was no contributory negligence on the part of Mr. X, the deceased, as he could not have a look at the railway line from a distance as his view was obstructed by some trees, etc., nor could he hear the sound of the coming mail train while he was in the car with the engine running and the windscreen closed. Decide the case giving your reasons.

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3. (a) "It is possible to support an action for nuisance as well as of negligence on the same set of facts, however, there are certain points of distinction between the two." Discuss. **20**
- (b) The accused (appellant) was separated from his wife. She was living with her father. The accused was keeping their youngest child with someone else. During the noon of a day, his wife took away the child from that someone. The accused, on hearing this, reached his father-in-law's place and quarrelled. Later in the evening of the same day, the accused and his father-in-law happened to meet at a marketplace. They again quarrelled, grappled with each other. Both fell down. In the heat of passion thus generated, the accused stabbed his father-in-law and he died. Discuss in the light of legal provisions whether the accused would have any lawful defence in this case. **20**
- (c) The plaintiff was insured with the defendant against loss by theft. The plaintiff advertised a watch and a ring for sale and in response, he received a telephone call from someone who expressed interest. He called, agreed to pay the asked price and made payment by a building society cheque and took delivery of the items. The cheque was dishonoured. For the articles so lost, a claim was presented to the insurer under the theft policy. The insurer refused to pay anything. Explain the rights, if any, available to the plaintiff under the circumstances. **20**
4. (a) "There may be an element of abetment in a conspiracy but conspiracy is something more than an abetment." Discuss with illustrations. **20**
- (b) The accused, one of the two joint owners of a shop, put her lock on the shop which was let out by another joint owner without her consent. The tenant charged the accused with the offence of wrongful restraint in that he was prevented by the lock from entering into the shop. Discuss in the light of legal provisions whether the accused has committed the offence of wrongful restraint. **20**
- (c) A contractor was given cement for construction work by the Minor Irrigation Department of a State Government under a specific agreement that he would return unused cement but instead of doing so, he sold the cement to outsiders. Mentioning relevant legal provision, discuss what offence, if any, is committed by the contractor. **20**

SECTION 'B'

5. Answer the following. (Answer to each part must not exceed 150 words.) Support your answer with legal provisions and decided cases:

12×5=60

- (a) "Undue influence is said to be a subtle species of fraud whereby mastery is obtained over the mind of the victim by insidious approaches and seductive artifices." Explain.
- (b) "Quasi-contract consists of the contractual obligation which is entered upon not because the parties have consented to it, but because law does not allow a person to have unjustified benefit at the cost of other party." Explain the real basis of quasi-contracts with legal provisions and illustrations.
- (c) Explain with illustrations when may a principal unilaterally cancel an agency relation without incurring liability for breach of contract.
- (d) Discuss the law regarding dishonour of cheque for insufficiency, etc., of funds in the account.
- (e) What are the advantages and disadvantages of Alternative Dispute Resolution System?
6. (a) "An irrational distrust of all standard form contracts would be as dangerous as a facile acceptance and enforcement of these contracts." Discuss. **30**
- (b) Briefly explain the meaning, scope and applicability of the doctrine of frustration under the law of contract. **30**

7. (a) Under what circumstances 'breach of condition' may be treated as 'breach of warranty' under the Sale of Goods Act? Discuss. 30
- (b) "Public interest litigation is not in the nature of adversary litigation but it is a challenge and opportunity to the Government and its officers to make basic human rights meaningful to the deprived and vulnerable sections of community to assure them social and economic justice which is the signature tune of our Constitution." Discuss. 30
8. (a) "During high publicity court cases, the media are often accused of provoking an atmosphere of public hysteria akin to a lynch mob which not only makes a fair trial nearly impossible but means that regardless of the result of the trial the accused will not be able to live the rest of his life without intense public scrutiny." How would you reconcile the "freedom of the press" and the "individual's right to privacy and right to a fair trial"? Do you think that trial by media amounts to "contempt of court" and needs to be punished? 20
- (b) A television was displayed on a Web site owned by XYZ Distributors for sale at a price of ₹ 79.99. Hundreds of customers ordered the television but the retailer refused to fill the orders on the ground that they had been incorrectly priced by mistake. The correct price was ₹ 7,999. Explain the liability, if any, arising out of the above-mentioned communications. Give reasons. 20
- (c) In a contract between A and B, security deposit was taken by A from B to ensure due performance of the contract. B committed default in performance though no actual loss had arisen. A forfeited the deposit for fault of B. B claimed that forfeiture of deposit is not valid in law. How would you decide? Give reasons. 20