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FOR CS EXECUTIVE EXAM PREPARATION

CS Executive 2024 Question Paper · Jurisprudence, Interpretation and General Laws

EXAM	YEAR	TYPE
CS Executive	2024	Question Paper

SUBJECT	DATE
Jurisprudence, Interpretation and General Laws	December 2024

NEW SYLLABUS

521

Roll No. .....

Time allowed : 3 hours ***Maximum marks : 100***

Total number of questions : 6 ***Total number of printed pages : 12***

NOTE : *Answer* ***ALL*** *Questions.*

1. (*a*) Consideration is one of the essential elements of a valid contract. The requirement of consideration stems from the policy of extending the arm of the law to the enforcement of mutual promises of parties. A mere promise is not enforceable at law. For example, if A promises to make a gift of ₹ 500 to B, and subsequently changes his mind, B cannot succeed against A for breach of promise, as B has not given anything in return. It is only when a promise is made for something in return from the promisee, that such promise can be enforced by law against the promisor. This something in return is the consideration for the promise.

The fundamental principle is that consideration is essential in every contract. The rules governing consideration may be summed up as follows :

(*a*) Every simple contact must be supported by valuable consideration, otherwise it is formally void subject to some exceptions.

(*b*) Consideration may be an act of abstinence or promise.

(*c*) There must be mutuality i.e., each party must do or agree to do something. A gratuitous promise is not enforceable.

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521

(*d*) Consideration must be real, and not vague, indefinite, or illusory, e.g., a son's promise to ''stop being a nuisance" to his father, being vague, is no consideration.

(*e*) Although consideration must have some value, it need not be adequate i.e., a full return for the promise.

(*f*) Consideration must be lawful, e.g., it must not be some illegal act such as paying someone to commit a crime. If the consideration is unlawful, the agreement is void.

(*g*) Consideration must be something more than the promisee is already bound to do for the promisor. Thus, an agreement to perform an existing obligation made with the person to whom the obligation is already owed, is not made for consideration.

In view of the above details, answer the following questions with reasons :

(*i*) Ram by a deed of gift made over certain property to her daughter Mira, directing her to pay an annuity to Ram's brother Raj, as had been done by Ram himself before he gifted his property to Mira. On the same day, Mira executed in writing in favour of the donor's brother agreeing to pay the annuity. Six months later Mira stops the payment and Raj files a civil suit. Mira claimed that because no consideration has moved from Raj to her, there is no binding contract between them. Discuss.

(*2 marks*)

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521

(*ii*) The general rule is that an agreement made without consideration is void. But Section 25 of the Indian Contract Act, 1872, lays down certain exceptions which makes a promise without consideration valid and binding. Discuss.

(*2 marks*)

(*iii*) Alex promises to donate ₹ 10,000 to a local animal shelter for their new facility. However, when the shelter requests the donation, Alex refuses to pay. Can the management of animal shelter take legal action against Alex to enforce his promise ? What would be your answer, if the management of the shelter home had initiated some work on the basis of such promise made.

(*2 marks*)

(*iv*) D supplied tyres to a wholesaler X, on a condition that any retailer to whom X re-supplied the tyres, the retailer should promise X not to sell them to the public below Ds price list. X supplied tyres to F upon this condition only, but nevertheless F sold the tyres below Ds price list. Discuss the legality of the case, if D claims any damages from F.

(*2 marks*)

(*v*) The Indian Law recognizes three kinds of consideration but the English law recognizes only two. Discuss.

(*2 marks*)

(*b*) Chapter XVII of the Negotiable Instruments Act, 1881, provides for penalties in case of dishonour of certain cheques for insufficiencies of funds in the accounts. Sections 138 to 147 deal with these aspects.

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521

Chapter XVII has been amended by the Negotiable Instruments (Amendment and Miscellaneous Provisions) Act, 2002. The amendments have provided the drawer with more time to send notice, made the punishment for the offence more stringent, given power to court for condonation of delay in filing of complaint, excluded liability of government nominated directors, made provision for summary trial of cases under the Chapter and time bound disposal of cases, have relaxed the rules of evidence, and made the offences under the Act compoundable.

Further Chapter XVII amended by the Negotiable Instruments (Amendment) Act, 2015, focused on clarifying the jurisdiction related issues for filing cases for offence committed under section 138 of the Negotiable Instruments Act, 1881. The Negotiable Instruments (Amendment) Act, 2015, provides for retrospective validation for the new scheme of determining the jurisdiction of a court to try a case under Section 138 of the Negotiable Instruments Act, 1881. The Negotiable Instruments (Amendment) Act, 2015 also mandates centralisation of cases against the same drawer.

With a view to address the issue of undue delay in final resolution of cheque dishonour cases, so as to provide relief to payees of dishonoured cheques and to discourage frivolous and unnecessary litigation, Parliament enacted the Negotiable Instruments (Amendment) Act, 2018 and notified by the Central Government on 1st September, 2018. The Amendment Act strengthened the credibility of cheques and help trade and commerce in general by allowing lending institutions, including banks, to continue to extend financing to the productive sectors of the economy. The Negotiable Instruments (Amendment) Act, 2018 inserted two new sections i.e. Section 143A dealing with

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Power to direct interim compensation and Section 148 dealing with Power of Appellate Court to order payment pending appeal against conviction.

In reference to the above statements, answer the following questions :

(*i*) Mahesh draws a cheque of ₹ 25,000 on his own account, payable to Mukesh but only has ₹ 20,000 in his account. Mukesh presents the same to the bank after six months from the date on which it is drawn. The cheque bounced due to insufficient funds in Mahesh's account.

Explain the legality of this, with reference to Section 138 of the Negotiable Instruments Act, 1881.

(*3 marks*)

(*ii*) S who was director of R & D Company, issued a cheque in favour of G Associates for the discharge of its debt. The cheque was returned by the bank unpaid because of the amount of money standing to the credit of that account was insufficient to honour the cheque. State, whether S is liable, considering the provisions of Section 141 of the Act ?

(*3 marks*)

(*iii*) Discuss the provisions related to the mode of service of summons by the Court under Section 144 of the Act.

(*2 marks*)

(*iv*) Discuss the provisions under Section 143A(4) with regards to repayment of the amount of interim compensation where the drawer of the cheque is acquitted.

(*2 marks*)

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521

2. (*a*) Discussing the case of Rylands *Vs*. Fletcher, state the rule of strict or absolute liability. Reyansh owns a large, well-maintained dog, which is kept in a secure kennel in Reyansh's backyard. The kennel has a gate which is generally locked and a high fence to ensure that the dog does not escape. One day, Vedant, a neighbour, climbs over the fence and opens the kennel gate, allowing the dog to run free. The dog then bites Kartik, another neighbour, who was walking by. Kartik files a suit for damages against Reyansh under the law of torts. Is Reyansh liable for damages under the rule of strict liability ?

(*5 marks*)

(*b*) Mahendra is an accused in a high-profile murder case. The investigating authorities want to conduct a narco-analysis test without his consent to obtain evidence. Mahendra's advocate argues that the use of this test violates his fundamental rights. With reference to Selvi v. State of Karnataka, AIR 2010 SC 1974, discuss as to whether the use of narco-analysis test on Mahendra, without his consent, constitutes a violation of his fundamental rights. Is this right available to all persons ?

(*5 marks*)

(*c*) A filed a suit against B in 2019, claiming that B had wrongfully evicted him from a property. The court in its judgment in 2021, ruled in favor of B, stating that the eviction was lawful and dismissed A's claim. In 2023, A files a new suit against B on the same grounds, seeking to reopen the case. B argues that the new suit is barred under the Civil Procedure Code, 1908. Discuss. What are the requirements necessary for the applicability of the principles of res judicata ?

(*5 marks*)

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521

3. (*a*) A is the owner of a field. He decides to sell it to B. There is a right of way from the field that only A has knowledge of, but he conceals it from B. Discuss whether the contract can be rescinded by B. What are the conditions where the court may refuse to rescind the contract ?

(*b*) Aman and Manish have a dispute regarding the possession of an immovable property. The dispute arose when Aman was 8 years old. Aman wants to file a civil suit for the recovery of possession of the immovable property against Manish. The Limitation Act specifies a limitation period of 12 years for the recovery of possession in such disputes, However, since Aman was a minor when the limitation period commenced, how much time does he have to file a suit after the cessation of his minority under the Limitation Act, 1963. Explain.

What happens when there is a joint entitlement of filing a suit or application ?

(*c*) A public authority received an RTI application demanding information about strategically placed troops and related information when the country was at war with one of its neighbouring countries. The authority denied its disclosure as it belonged to a category which was exempted under the Right to Information Act, 2005. Discuss whether the authority could deny such information with reference to the relevant provisions of the Act ?

(*5 marks each*)

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521

Attempt all parts of either Q. No. 4 or Q. No. 4A

4. (*a*) The Municipal Corporation of Indore has a legal obligation to provide clean drinking water to its residents as per the Madhya Pradesh Municipal Corporation Act, 1956. However, for the past six months, the residents of Ward 12 have been complaining about the lack of clean drinking water supply. Despite repeated complaints to the municipal authorities, no action has been taken to rectify the situation.

Patel, a resident of Ward 12, decides to take legal action. He wants to file a writ petition in the Madhya Pradesh High Court to compel the Municipal Corporation to fulfill its statutory duty of providing clean drinking water to the residents of Ward 12. What type of writ Patel can file with the High Court in this case ? Discuss and give reasons for your conclusions.

(*5 marks*)

(*b*) What do you mean by joint venture or foreign collaboration agreements ? State the factors to be kept in mind while drafting foreign collaboration agreements.

(*5 marks*)

(*c*) What is the purpose of the Digital Personal Data Protection Act, 2023. What are the key provisions under Section 3 regarding the applicability and non-applicability of the Act to the processing of digital personal data ?

X, an individual, while blogging her views, has publicly made available her personal data on social media. Do the provisions of this Act apply on her ?

(*5 marks*)

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OR (Alternate question to Q. No. 4A)

4A. (*i*) Ravi had a longstanding grudge against Govind. Out of spite, Ravi had falsely accused Govind of theft. Based on Ravi's false report, criminal proceedings were initiated against Govind. During the trial, the court found that the allegations were baseless and subsequently acquitted Govind. After the acquittal, what remedy does Govind have against Ravi under the law of tort ? Discuss in detail.

(*ii*) Define the term 'mediation' and 'mediator' under The Mediation Act, 2023. Distinguish between arbitration and mediation.

(*iii*) ''The general rule is that opinion of a witness on a question whether of fact or law, is irrelevant''. However, there are some exceptions to this general rule. Explain.

(*5 marks each*)

5. (*a*) (*i*) What are the four principal sources of administrative law ?

(*ii*) Rule of law was developed by British Jurist A.V. Dicey, which he gave in his book ''Rule of Law''. Discuss.

(*5 marks*)

(*b*) (*i*) A puts bait for dogs in his pocket and induces Z's dog to follow it. A dishonestly takes the dog out of Z's possession without Z's consent. Explain the offence committed by A under the Indian Penal Code, 1860. What is the punishment for the offence committed ?

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521

(*ii*) In another case A threatens Z that he will keep Z's child in wrongful confinement, unless Z will sign and deliver to A a promissory note binding Z to pay certain monies to A. Z signs and delivers the note. Explain the offence committed by A under the Indian Penal Code, 1860.

(*5 marks*)

(*c*) What do you mean by lease under the Transfer of Property Act, 1882 ? Discuss the duties of the lessee ?

(*5 marks*)

Attempt all parts of either Q. No. 6 or Q. No. 6A

6. (*a*) Kunal buys a refrigerator from a shopkeeper, Rohit, and the property has passed from Rohit to Kunal. Kunal does not take delivery as he has his own pick-up and does not want to pay freight. Kunal and Rohit agree on taking possession the next day. So, the refrigerator remains in Rohit's shop and the price is unpaid. Before delivery, Rohit's shop is flooded due to heavy rain and the refrigerator is destroyed. Is Rohit liable to pay the price of the refrigerator ? Explain with reference to the provisions of the Sale of Goods Act, 1930.

(*5 marks*)

(*b*) Rajan made a gift of a house to his son, Ravi, with the condition that if Ravi decides to sell the house during the lifetime of Rajan's wife, she should have the option to purchase it for ₹ 10,000, even though the market value of the house is set at

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₹ 10,00,000. Decide the validity of this transfer under the Transfer of Property Act, 1882. Would your answer be the same if Rajan, instead of the above condition, imposed a condition that Ravi will not alienate the property outside the family ? When are absolute restraints valid ?

(*5 marks*)

(*c*) Shikha is accused of committing fraud by submitting false documents to obtain a loan from a bank. Her actions constitute an offence under both the Indian Penal Code (IPC) and the Banking Regulation Act. The prosecution initiates legal proceedings against Shikha under both enactments. Explain whether Shikha can be punished twice for the same offense under the IPC and the Banking Regulation Act, with regards to the provisions of the General Clauses Act, 1897 ? What are the provisions mentioned in the Act with regards to the computation of time ?

(*5 marks*)

(*d*) Brother A executed in favour of brother B a gift of all his property. By another deed, brother B made provision for the living expenses of brother A and hypothecating in favour of brother A, a part of the property included in the above mentioned gift deed, in order to secure the payment of the living expenses. Discuss whether the two documents are part of the same transaction explaining the relevant provisions of the Indian Stamp Act, 1899 ?

(*5 marks*)

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OR (Alternate question to Q. No. 6)

6A. (*i*) Judicial precedents are an important source of law. Discuss various kinds of precedents.

(*ii*) A pharmaceutical company, Moon Pharma Ltd., filed a patent infringement lawsuit against a small Biotech startup, Deep Ltd. The case was heard by Judge M, who held significant shares in the Moon Pharma Ltd. Judge M ruled in favour of Moon Pharma Ltd. Should Judge M have abstained himself from the case on the basis of principle of Natural Justice ? Elaborate.

(*iii*) What do you understand by National Electronic Funds Transfer (NEFT) ? State the advantage of NEFT.

(*iv*) In which offences can a case be tried summarily under Section 260(1) of the Criminal Procedure Code, 1973 ?

(*5 marks each*)

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