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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	June 2024

NEW SYLLABUS

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Roll No. .....

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

Total number of questions : 6 ***Total number of printed pages : 10***

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

1. (*a*) Indian Constitution is considered as federal Constitution. There is distribution of powers between Union and States regarding enactment of Laws. Both authorities are independent of each other.

Indian Constitution covers the legislative relationship between the Union and State. The Union legislature, i.e., Parliament has the power to make laws for the whole of the territory of India or any part thereof, and the state legislature have the power to make laws for the whole or any part of the territory of the respective State. In distributing the subject on which legislation can be made, the Indian Constitution draws three long lists of all the conceivable legislative subjects. These lists are contained in the 7th schedule to the Constitution. List I is named as the Union List. List II as the State List and III as the Concurrent list. Each list contains a number of entries in which the subjects of legislation have been separately and distinctly mentioned. Legislative function is done by the parliament or state legislature for their respective subjects through passing the bills. Legislature is empowered to make laws but it shall

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not make any law which takes away or abridges the fundamental rights. It shall be void to the extent to which it curtails any such right. Laws which were in force before the commencement of the Constitution are void to the extent to which they are inconsistent with the fundamental right. In reference to the above statements answer the following questions :

(*i*) Rajasthan Government passed an Act restricting the use of sound amplifiers. The Act is challenged on the ground that it dealt with a matter which fell in entry of list I (Union list) which rcads ‘‘post and telegraphs, telephones, wireless broadcasting and other like forms of communication’’ therefore state cannot make law. Decide with applicable rule.

(*2 marks*)

(*ii*) Explain the term ‘‘judicial review’’

(*2 marks*)

(*iii*) What do you understand by bill ?

(*2 marks*)

(*iv*) Procedurewise, what are the types of bills.

(*2 marks*)

(*v*) What does the word ‘law’ include according to Article 13 of the Indian Constitution ?

(*2 marks*)

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(*b*) The liability of the Government can either be contractual or tortious. The Constitution of India allows the central and the state government to enter into contracts under Article 299 of the Constitution of India.

Article 299 (2) of the Constitution makes it clear that neither the President nor the Governor shall be personally liable in respect of any contract or assurance made or executed for the purposes of the Constitution or for the purposes of any enactment relating to the Government of India. Subject to the provision of Article 299(1), the other provisions of the general law of contract apply even to the Government contract. According to Section 70 of the Indian Contract Act, 1872, where a person lawfully does anything for another person or delivers anything to him such other person enjoys the benefit thereof, the latter is bound to make compensation to the former in respect of or to restore, the thing so done or delivered.

It may happen that a public servant may be negligent in exercise of his government duty. It may be difficult to recover compensation from him. From the point of the aggrieved person, compensation is more important than punishment.

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

(*i*) A contract with the Government of Union or State will be valid and binding only if certain conditions are followed. Explain.

(*3 marks*)

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(*ii*) State the effects of a valid contract with Government.

(*2 marks*)

(*iii*) Will Government be liable to pay compensation, if the requirement of Section 70 of the Indian Contract Act, 1872 are fulfilled ? Explain.

(*2 marks*)

(*iv*) Is the state vicariously liable for the wrongful acts of its servants ? Explain.

(*3 marks*)

2. (*a*) Water supply to A's mill was disrupted due to B's digging of his well. This resulted in the cutting of the water supply to the A's mill, due to which it was shut down. A filed a suit for damages against B in a court of law. Decide and give reasons for your conclusions.

(*5 marks*)

(*b*) X filed a suit to recover possession of a movable property against Y. During the hearing, X alleged that Y may dispose of the property to his benefit. If you are a presiding officer of a court how you will decide the case ? Give reasons for your conclusions.

(*5 marks*)

(*c*) There were two contracts–one between the principal and contractor and another between contractor and sub-contractor. On completition of work, the sub-contractor demanded money for the completion of work and on non-payment filed a criminal complaint alleging that the contractor having received the payment from the principal had misappropriated the money. What kind of offense has been committed by the contractor ? Also, define and elucidate the essential ingredients of criminal misappropriation of property.

(*5 marks*)

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3. (*a*) X pledges his bike to Y for 1 lakh rupees. Y unlawfully sold the bike to Z before the lapse of the loan period. X sues Z for possession of his bike, without paying the loan amount even after expiring the time fixed for repayment of the loan. Decide and give reasons. Also, enumerate the provisions related to the recovery of specific movable property.

(*b*) L, a singer, agreed to sing at M's theatre for a certain period and not to sing anywhere else during that period. Afterward, L entered into a contract to sing at another theatre and refused to perform the contract with M. M sued for specific performance of the contract and prohibitory injunction from singing in another theatre. Will M succeed ? Decide and give your reasons to the conclusions.

(*c*) A buys land for ₹ 2.50 Crore from B in Delhi. A and B executed the sale deed but didn't register it from the Sub-Registrar. After entering into the sale deed, it came into knowledge of A that some dispute was pending pertaining to the land. Can A file a suit before the court of law ? Give reasons.

(*5 marks each*)

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

4. (*a*) Express mention of one thing implies the exclusion of another. Discuss under the interpretation of statutes.

(*5 marks*)

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(*b*) When the date was not fixed by the parties for the performance of a specific act, then how the court will compute the limitation period ? When does the limitation period start for filing a suit ? Decide with the help of the case laws.

(*5 marks*)

(*c*) The appellant entered into an agreement with the respondent for the sale of 40,000 WMT (Wet Metric Tonne) of Iron Ore Pellets. Dispute arose between the parties regarding the price and payment terms and the appellant did not deliver the goods to the respondent. The respondent claimed for damages and the appellant denied any liability. Clause 18 of the agreement between the parties contains an arbitration clause. The respondent invoked the arbitration clause and the appellant did not agree for the appointment of the arbitrator. Hence, the respondent filed a petition under Section 11(6) of the Arbitration and Conciliation Act, 1996 before the Madras High Court. The Madras High Court vide impugned order appointed a former judge of the Madras High Court as the sole arbitrator. The appellant preferred the appeal to the Supreme Court. Decide whether the Madras High Court has justified in appointing the arbitrator. Give your reasons.

(*5 marks*)

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

4A. (*i*) Jeremy Bentham claimed that nature has placed the man under the command of two sovereigns. He also stated that every law may be considered in eight different respects. Elucidate the statements.

(*ii*) In India a statute or law is valid because it derives its legal authority from being duly passed by the Parliament and receiving the accent of the President, the Parliament and the President, derive their authority from a norm i.e., the Constitution. From where does the Constitution derive its validity ? Explain. Which theory of law is based on a pyramidical structure of hierarchy of norms that derive their validity from the basic norm ? Elucidate.

(*iii*) ''The Law of limitation bars the remedy in a Court of law only when the period of limitation has expired, but it does not extinguish the right.'' Elucidate the statement. Whether court can *Suo moto* take note of the question of limitation ?

(*5 marks each*)

5. (*a*) Enumerate the distinction between the Cheque and the Bill of Exchange.

(*5 marks*)

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(*b*) Define digital signature and electronic signature certificate. Elucidate the procedure for obtaining the electronic signature certificate.

(*5 marks*)

(*c*) In the case *Reliance Petrochemicals Limited V. Indian Express Newspapers, 1989 AIR 90* the Supreme Court observed that Article 21 includes the right to know. The Supreme Court held that the right to know is a necessary ingredient of participatory democracy. Elucidate the statement and explain the objectives of the Right to Information Act, 2005.

(*5 marks*)

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

6. (*a*) A and B are litigating in a Court of law over property X and during the pendency of the suit, A transfers the property X to C. The suit ends in B's favour. Decide whether C can claim property from B. Give reasons for your answer.

(*5 marks*)

(*b*) A bill is endorsed, ''Pay A or order''. A endorses it in blank, and it comes into the hands of B, who simply delivers it to C, C forges B's endorsement and transfers it to D. Whether D can claim payment ? Decide while giving reasons for your answer.

(*5 marks*)

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(*c*) A undertook to sell a plot of land to B but before the plot could be developed, war broke out and the land was temporarily requisitioned by the Government. A offered to return earnest money to B in cancellation of the contract. B did not accept and sued A for specific performance. A pleaded discharge by frustration. Decide and provide for your conclusions.

(*5 marks*)

(*d*) A goes to B's shop and purchases silk saree thinking that it is made of Banarsi silk. The shopkeeper knows that A's thinking is wrong. He however does not correct A's impression. Later on, when A discovers that the saree is not made of Banarsi silk he wants to avoid the contract. Would A succeed ? Give reasons.

(*5 marks*)

OR (Alternate question to Q. No. 6)

6A. (*i*) Elaborate the provisions of Section 32 of Arbitration and Conciliation Act, 1996 regarding termination of arbitration proceeding.

(*5 marks*)

(*ii*) What is the extent of liability of instruments to stamp duty where several instruments are executed in a single transaction ? Explain.

(*5 marks*)

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(*iii*) What are various types of mediation and enumerate the distinction between Arbitration and Mediation.

(*5 marks*)

(*iv*) What do you understand by admission as per the Indian Evidence Act, 1872 ? Distinguish it from confession.

(*5 marks*)

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