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FOR CS EXECUTIVE EXAM PREPARATION

CS Executive 2023 Question Paper · Jurisprudence, Interpretation and General Laws

EXAM	YEAR	TYPE
CS Executive	2023	Question Paper

SUBJECT	DATE
Jurisprudence, Interpretation and General Laws	December 2023

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 : 8***

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

1. The Principal of a convent school, Agartala, Sister Mary Fernandez, filed a case against two persons named, Ali Kehtan and John Augustine alleging that they had made defamatory remarks in the complaint which they had submitted to the Deputy Commissioner, Agartala. The accused stated in the complaint *"that the building of the aforesaid school is quite unsafe and it may bring about any disaster upon the students of this school at any time; that it as a money minting institution; that the indiscipline among the students is to an unlimited extent and this has created a great problem for the nearby residents. That it appears that this school has become a meeting place for the both sexes and the principal, Sister Mary Fernandez is turning a deaf ear towards the character of the students; that if these are not checked in time, they may become a great problem for the city".*

In an enquiry before the Sub Divisional Magistrate (SDM), the allegations of the accused were found to be false and their complaint was dismissed.

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Consequently, Sister Mary Fernandez approaches police station to file criminal defamation case against the accused persons. Police registers a case of defamation, a bailable offence against Ali Kehtan and John Augustine, who later files an application in Court asking for anticipatory bail.

Sister Mary Fernandez also files civil suits seeking compensation for defamation. In the reference of above facts answer the following questions :

(*a*) What is criminal defamation in Indian law ?

(*4 marks*)

(*b*) Is the application for 'anticipatory bail' by accused Ali Kehtan and John Augustine maintainable ? Explain.

(*4 marks*)

(*c*) Whether the compalaint filed by the Ali Kehtan and John Augustine against Sister Mary Fernandez leads to Libel defamation or Slander defamation ? Explain.

(*3 marks*)

(*d*) What is the jurisdiction of the Court to try civil suit 'where wrong done to the person' ?

(*3 marks*)

(*e*) What is 'publication of defamatory words' ?

(*3 marks*)

(*f*) What is the time period of limitation for compensation in defamation ?

(*3 marks*)

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2. (*a*) The modern Indian law as administered in courts is derived from various sources and these sources fall under two heads i.e. Primary Sources and Secondary Sources. Judicial precedents are considered as primary source of Indian laws. What do you mean by Judicial Precedents ?

Read the following statements. Determine and explain what kind of precedent it is :

(*i*) 'Vishaka guidelines' were stipulated by the Supreme Court of India, in Vishaka and others v. State of Rajasthan case in 1997, regarding prevention of sexual harassment at workplace. They acted as precedent for many cases during 1997-2013 until Protection of Women from Sexual Harassment Act, 2013 was enacted.

(*ii*) The decision of one High Court may not be binding on other High Court. But the decisions can give a principle which may be helpful for the other High Court. The other High Court may or may not follow the principle of the decision.

(*5 marks*)

(*b*) Ramjilal, the donor made two gifts to his nephew Gajendra, the donee. The first gift was his one immovable property situated in Delhi. The second gift were three movable properties. He did not get the gift deed registered for both movable and immovable properties and died. Decide whether Gajendra entitled to both the gifts or not ? Discuss.

(*4 marks*)

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(*c*) A, the son of B sold the property of B presuming that he will get the property of B after the death of B. Is it valid ? Explain.

(*3 marks*)

(*d*) Raiz draws a cheque of ₹ 50,000 on his own account payable to Faiz but has only ₹ 49,000 in his account. Faiz presents the same to the bank but the cheque bounces due to insufficient funds in Raiz's account. Whether the above matter can be referred for amicable settlement through mediation. Explain.

(*3 marks*)

3. (*a*) A sells two tons of oil to B, and sends one ton of oil by road and remaining one ton of oil by ship. Mr. B receives delivery of the one ton of oil sent by road on August 11, 2022, but before he receives the delivery sent by ship, he becomes insolvent in September, 2022. A, still being unpaid, stops the goods in transit. The official Receiver in B's insolvency claims the goods.

(*i*) Decide whether Official Receiver will succeed. Explain.

(*ii*) Also discuss, can A resell the undelivered one ton of oil ?

(*5 marks*)

(*b*) The Government has notified an order under an appropriate Statue in the month of September, 2022 that no one shall buy or sell a particular explosive chemical except under license obtained by the specified authority. Tarun applied in October 2022 and has obtained a license to buy it and was keenly looking for person who had license to sell it. Brju who has no license to sell, represents to Tarun that he has license to sell and induces Tarun to enter into a contract for the sale of a certain quantity

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of explosive chemical. On January 12, 2023 Tarun pays Brju ₹ 50,000 as earnest money. After few days Tarun learns through one of friend that Brju has no license to sell. Tarun gives a call to Brju to find the truth, Brju convinces Tarun that he shall obtain the license within reasonable time i.e. before due date of delivery but he failed to obtain it. Can Tarun recover advance payment paid to Brju ? Answer with reasons and legal provisions.

(*5 marks*)

(*c*) John who had his account in a private bank went to bank to deposit the cash. While he was entering into the bank alongside cash box of the bank was also being carried inside, the security guard in a haste ended up firing John thereby killing him. Mrs. Maria, wife of Mr. John claims that bank is vicariously accountable for the incidence, but the bank argues that it had not given the permission to employee to fire. Is the argument of bank correct ? Decide.

(*5 marks*)

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

4. (*a*) Under Limitation Act, 1963 the limitation period for filling a particular suit is 3 years. When the limitation period commenced Akash was minor of age 13 years. Due to his legal disability he couldn't institute the suit. Decide with reasons whether Akash can file suit on cessation of the minority ?

(*5 marks*)

(*b*) Does Section 79 of Information Technology Act, 2000 as originally enacted deal with effect of other laws or not ? Answer in light of recent decision by Supreme Court of India in the case of Google India Private Ltd. vs. Vishaka Industries and Ors. (2019).

(*5 marks*)

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(c) In the latest decision, Supreme Court of India in the case Satender Kumar Anil vs. Central Bureau of Investigation and Ors (2022) took note of the continuous seeking bail after filing final report on a wrong interpretation of Section 170 of the Code of Criminal Procedure (Cr.P.C.) and thus made an endeavor to categorize the types of offenses to be used as guidelines for the future. It issued directions for the investigating agencies and also for the courts, however it cleared that these directions may be subject to State amendments. Is right to bail is on touchstone of Article 21 of Indian Constitution ? State the direction issued under this case.

(*5 marks*)

OR (Alternate question to Q. No. 4)

4A. (*i*) Explain the grounds for setting aside of an Arbitral Award under the Arbitration and Conciliation Act, 1996.

(*ii*) Explain the concept and verification of e-stamping.

(*iii*) Information Technology Act, 2000 provides legal framework for electronic governance by giving recognition to electronic records and digital signature. Often digital signature is considered as synonym of electronic signature under the Act. Is it correct to consider both as same ? Discuss.

(*5 marks each*)

5. (*a*) Right to Information Act, 2005 specifies the manner in which requests may be made by a citizen to the authority for obtaining the information. Discuss.

(*b*) What is the procedure for the commencement of conciliation proceedings under the Arbitration and Conciliation Act, 1996 ? How many conciliators can be there in these proceedings ?

(*c*) Referring to Civil Procedure Code, 1908, answer the following :

(*i*) Can a case triable by Special Judge as provided under Criminal Law Amendment Act, 1952 be transferred to High Court ? Discuss.

(*ii*) Discuss the jurisdiction of Courts depending upon their powers.

(*5 marks each*)

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

6. (*a*) Abhinav contracts with Manoj that he will paint his house located in Azad Nagar within a month and during that time he will not take any other painting job in other premises. But Abhinav breaches the contract. Manoj files suit seeking decree for specific performance against Abhinav. Will Manoj succeed ? Answer marking the difference between injunction and specific performance.

(*5 marks*)

(*b*) Discuss with reasons the following given cases under the Indian Evidence Act, 1872 :

(*i*) A sells his horse to B. B asks 'Is horse sound ?', A says to B ''Go and ask C, C knows all about it''. C says 'Horse is sound', Statement by C is confession or admission ?

(*ii*) A commits a murder of his colleague in spur of heated argument. A, on reaching home confesses the offence before his wife. The wife was summoned by the Court to testify against her busband, who was on trial for allegedly committing murder. Can A's wife act as witness ?

(*5 marks*)

(*c*) A promissory note is executed by Raja and Suraj and a stamp is afterwards affixed and cancelled by Raja by again signing it, the stamping has taken place subsequent to the execution. In this case, are the provisions of Indian Stamp Act, 1899 complied ?

(*5 marks*)

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(*d*) Arun, a husband enters into a registered agreement with his wife Radha, to pay his earnings to her. Is it a valid contract ? Will the answer be different if the husband by a registered document, after referring to quarrels and disagreement between himself and his wife, promises to pay his wife a sum of money for her maintenance and separate residence.

(*5 marks*)

OR (Alternate question to Q. No. 6)

6A. (*i*) What principle of statutory interpretation shall be applied by the Courts when there is conflict between General provision and Special provision ?

(*ii*) 'No law can clothe administrative action with a complete finality even if the law says so, for the courts always examine the ambit and even the mode of its exercise to check its conformity with fundamental rights.' In the light of the statement discuss the judicial review at the stage of exercise of administrative discretion.

(*iii*) 'A custom will be valid and will have binding force only if it fulfills certain essential conditions.' Elucidate.

(*iv*) 'In civil suits sometimes Court allows the defendants claims to set-off against the plaintiff demand any ascertained sum of money legally recoverable by him from plaintiff.' In light of the statement discuss whether in India disinction between Legal and Equitable set-off is recognized ?

(*5 marks each*)

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