

THE GAUHATI HIGH COURT

(The High Court of Assam, Nagaland, Arunachal Pradesh & Mizoram)

Main Written Examination for Direct Recruitment to Grade-I of Assam Judicial Service (2014)

Total Marks: 100 (One Hundred)

Time: 3 (Three) hours.

The candidates are expected to refer to the relevant decisions of the Apex Court and the High Courts while writing answers.

PAPER – II

Group-A

(2x12=24)

1. Answer all questions in one sentence-

- a) When does motive play an important role in criminal case?
- b) When is bad character relevant in a criminal case?
- c) Who can file an inter pleader suit?
- d) What are the main considerations for staying the execution of a money decree?
- e) When can a conviction be based on the sole testimony of a witness?
- f) When departmental enquiry against a delinquent employee is said to have been commenced?
- g) Which type of identification of an accused supplies a substantive piece of evidence? Identification parade or dock identification or both?
- h) What standard of proof is required when an accused intends to prove the defence that his case falls under general exception?
- i) 'A', who was appointed to be a guardian of the person and property of minor 'B' by the Court, claims that he has acquired some property (of minor), alleged to have been orally gifted to him by 'B' after attaining majority and in lieu of his services as guardian. Whether the claim of 'A' is tenable, if so; why?

- j) In which case Supreme Court interpreted Section 89 CPC by observing that it is not necessary for the court, before referring the parties to the ADR process to formulate or reformulate the terms of a possible settlements?
- k) Give essential ingredients of offence punishable u/s. 306 I.P.C.
- l) In the case of Jurnel Sing, Supreme Court has given directions on the mode of determination of age of a victim. What is that?

Group-B

2. Distinguish between

(2x10=20)

- a) Court and Tribunal
- b) Void and voidable contract
- c) Guarantee and Indemnity
- d) Inquiry and Investigation
- e) Mortgage by conditional sale & Sale with a condition to repurchase
- f) Sale and exchange
- g) Res judicata and res subjudice
- h) Fundamental duties and fundamental rights
- i) Former statement and previous statement
- j) Presumption of fact and presumption of law

Group-C

3. Answer in 'Yes' or 'No' with appropriate reference of law.

(2x12=24)

- a) In a departmental inquiry the department has to prove the charges/allegations beyond reasonable doubt?
- b) At the time of accident driver was holding a license to drive a light motor vehicle but having obtained no endorsement to drive commercial vehicle in the driving license. Whether the insurer, in case the vehicle in question is Mahindra Maxi Cab, can avoid its liability to pay compensation on this ground?
- c) An accused is obliged to prove his defence version beyond reasonable doubt.

- d)** Whether the compliance of Section 5A of Land Acquisition Act is necessary for making valid declaration under Section 6 (1) of the Land Acquisition Act?
- e)** Whether the tribunal, in a case for motor accident Claim filed under section 166 or 168 of Motor vehicle Act, can award compensation in excess of what is claimed?
- f)** 'A' has been ordered to be tried at the stage of last prosecution witness u/s 319 Cr.P.C. Now the court wishes to hold independent trial of newly added accused 'A'. Whether it is permissible? Give reasons.
- g)** During the proceeding of execution of a decree, if a question arises as to whether any person is or is not the representative of a party, such question shall be determined by the court which passed the decree.
- h)** Is an application relating to supply of water for irrigation belonging to the Government, is exempted from the Court fees as per the provisions of the Court Fees Act? Explain.
- i)** Is the lease of immovable property from year to year is to be registered compulsorily.
- j)** Where any amount is due from any person under an award, the Motor Accident Claims Tribunal may, on an application made to it by the person entitled to the amount, issue a certificate for recovery of amount to the Sub-divisional Magistrate.
- k)** After having received the charge sheet the Magistrate finds that a person whose name is mentioned in F.I.R. has not been named in charge sheet. Upon independent application of mind to material on record the Magistrate wishes to take cognizance against that person. Can he do so before recording evidence and if so under what provision?
- l)** Whether a second FIR for de-novo investigation of the same incident is permissible?

Group- D

4. Answer briefly-[Any 16 questions]

(2x16=32)

- i. Give various modes of proving the identity of hand writing purported to be of accused?
- ii. 'A' and 'B' who are husband and wife file a divorce petition on the basis of mutual consent u/s 13 B of Hindu Marriage Act. The wife does not turn up after six months. Husband applies for a decree of divorce on previous consent and contends that the wife has shown no reason to withdraw the consent. What is the option with court?
- iii. Who can file a representative suit?
- iv. While interpreting O 17 R 1(2) of C.P.C. the supreme Court in case of Shree Vardhman Rice and General Mills vs. Amar Singh Chawalwala (2009) 10 SCC 257 has given some guidelines regarding disposal of intellectual property cases. What are the guide lines?
- v. Plaintiff is seeking execution of an unregistered rectification agreement, against his sister, the defendant. Defendant is denying on the ground of it being obtained by undue influence. Whose burden shall it be to prove?
- vi. When can a rectification of an instrument be made applicable. Explain.
- vii. In which case a statement of a witness recorded U/S 164 Cr. P. C. can be treated as Examination-in-Chief ?
- viii. A witness dies after recording examination-in-chief and before cross-examination commences. What will the court do in such a situation?
- ix. When can pre-summoning of witness for recording evidence may be dispensed with under Section 200 Cr. P.C.?

- x.** Under section 144, Code of criminal procedure 1973, under what circumstances an Executive Magistrate may act ex-parte, if immediate prevention or speedy remedy is desirable?
- xi.** Whether the statement of a witness recorded u/s. 161 Cr. P.C. can be used for the purpose of deciding the issue of disposal of property involved in a criminal case? If yes, in what manner?
- xii.** Whether additional amount under section 23 (1-A) is payable on the solatium under S. 23 (2) of Land acquisition Act?
- xiii.** In a suit, court held that the suit has not been properly stamped. The plaintiff, after availing one opportunity, wishes to get another opportunity. What the plaintiff will show in order to convince the Court?
- xiv.** The Court finds that some of the documents filed by plaintiff are not admissible. What order the Court will give regarding these documents?
- xv.** Being an advocate of unsuccessful party in trial court, you have to file an appeal, but the limitation of appeal has expired. What is required to be done by you and the party?
- xvi.** In "State of Haryana vs. Mukesh Kumar, AIR 2012 S.C. 559" what has been observed by the Supreme Court regarding adverse possession? Discuss.
- xvii.** When can an offence be considered as cognizable by the Sessions Court? Can the Magistrate probe into the matter and discharge the accused?
