

THE GAUHATI HIGH COURT AT GUWAHATI

(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Main Written Examination for direct recruitment to Grade-I of Assam Judicial Service, 2023

Date : 09-12-2023 (Saturday)

Time : 01:00 pm to 04:00 pm

Duration : 3 hours

Total Marks : 100

PAPER-II

TRANSFER OF PROPERTY ACT

1. Under the provisions of Section 18 of the Transfer of Property Act, 1882, the provisions of some sections shall not apply in case of a transfer of property for the benefit of the public in the advancement of religion, knowledge, commerce, health, safety or any other object beneficial to mankind. These sections are:
 - a) 13, 14, 15 and 16
 - b) 14, 16 and 17
 - c) 14, 16, 17 and 18
 - d) 14, 15 and 20
2. Section 37 of the Transfer of Property Act, 1882 refers to apportionment by estate. In this light, before the Transfer of Property Act, 1882, when a transfer was severed by the sale of shares in the version the tenant was still obliged to pay the rent to all shares jointly:
 - a) Unless an apportionment had been agreed to by all the parties
 - b) Any party is agreed by all the parties
 - c) Any two parties are agreed
 - d) None of the above
3. In case of a transfer hit by the doctrine of *lis pendens*, the question of good faith which is essential to be established before a equitable relief can be granted in favour of a subsequent vendee under sections 41 or 51 of the Transfer of Property Act, 1882 is:
 - a) Relevant
 - b) Partly relevant
 - c) Totally irrelevant
 - d) Partly irrelevant
4. Under the provisions of Section 60A of the Transfer of Property Act, 1882, where a mortgagor is entitled to redemption, he may require the mortgagee, instead of re-transferring the property, to assign the mortgage debt and transfer the mortgaged property to such third person as the mortgagor may direct then the mortgagor:
 - a) Is not bound to assign and transfer accordingly
 - b) Is bound to assign and transfer accordingly
 - c) Is bound if the mortgagor assents
 - d) None of the above
5. Where two properties belong to same owner, one property is mortgaged to secure one debt and both properties are mortgaged to secure another debt and the former debt is paid out of the former property, each property is:
 - a) Liable to contribute rateably to the latter after deducting the amount of former debt from the value of property out of which it has been paid

- b) Not liable to contribute rateably to the latter after deducting amount of former debt
 - c) Debt liable to be deducted amount only
 - d) None of the above
- 6. The expression "holding over" under the Transfer of Property Act, 1882 is used in the sense of retaining possession. A distinction is made between a tenant continuing in possession after the determination of the lease without the consent of the landlord, and a tenant doing so with the landlord's consent:
 - a) The former is called a "tenant by sufferance" and the latter class of tenants is called "tenant holding over a tenant at will"
 - b) The former is called "tenant holding over a tenant at will" and the latter is called "tenant by sufferance"
 - c) Former is called sub-tenant latter is called forfeiture lessor
 - d) None of the above
- 7. A property may be transferred to or for the benefit of a women (not being a Hindu, Muhammadan or Buddhist), so that:
 - a) She shall have power during her marriage to transfer or charge the same or her beneficial interest therein.
 - b) She shall not have power before her marriage to transfer or charge the same or her beneficial interest therein.
 - c) She shall have power after her marriage to transfer or charge the same or her beneficial interest therein.
 - d) She shall not have power during her marriage to transfer or charge the same or her beneficial interest therein.
- 8. Every assignee by endorsement or other writing, of, in whom the property in the subject insured shall be absolutely vested at the date of assignment, shall have transferred and vested in him all rights of suit as if the contract contained in the policy has been made with himself:
 - a) a policy of insurance against fire
 - b) a policy of insurance against livestock
 - c) a policy of insurance against theft
 - d) a policy of insurance against life
- 9. Where the transferor of a debt warrants the solvency of the debtor, the warranty, in the absence of a contract to the contrary, applies only to his , and is limited, where the transfer is made for consideration, to the amount or value of such consideration:
 - a) solvency at the time of the sanctioning of the debt
 - b) solvency at the time of the liquidation
 - c) solvency at the time of the disbursement of debt
 - d) solvency at the time of the transfer
- 10. When the mortgaged property is a renewable lease-hold, for the renewal of the lease, and may, in the absence of a contract to the contrary, add such money to the principal money, at the rate of interest payable on the principal, and, where no such rate is fixed:
 - a) at the rate of eight percent per annum
 - b) at the rate of nine percent per annum
 - c) at the rate of six percent per annum
 - d) at the rate of seven percent per annum

11. Mr. A mortgages the properties named as X and Y to Mr. B and then mortgages Y alone to Mr. C. If Mr. B seeks to realise his mortgage out Y, Mr C can compel Mr. B to proceed first against X and realise the debt from it. In case Mr B is unable to realize the whole amount due to him from X, he is entitled to recover the balance from Y. This situation is called as:
- a) Absolute Assignment
 - b) Marshalling of securities
 - c) Anomalous Mortgage
 - d) Clog on Redemption
12. Where property subject to a mortgage belongs to two or more persons having distinct and separate rights of ownership therein, the different shares in or parts of such property owned by such persons are, in the absence of a contract to the contrary, liable to contribute rateably to the debt secured by the mortgage, and, for the purpose of determining the rate at which each such share or part shall contribute, the value thereof shall be deemed to be its after deduction of the amount of any other mortgage or charge to which it may have been subject on that date:
- a) Value at the date of the liquidation of the debt
 - b) Value at the date of the loan
 - c) Value at the date of the part payment of the debt
 - d) Value at the date of the mortgage
13. Where a gift consists of the donor's whole property, the donee is personally liable for all the debts due by and liabilities of the donor at the time of the gift to the extent of the property comprised therein:
- a) This is the provision under section 128 of the Transfer of Property Act, 1882
 - b) This is the provision under section 129 of the Transfer of Property Act, 1882
 - c) This is the provision under section 130 of the Transfer of Property Act, 1882
 - d) This is the provision under section 131 of the Transfer of Property Act, 1882
14. In case of gift of movable property the transfer may be affected either by a registered instrument signed or by delivery and such delivery may be made in the same way as goods sold may be delivered:
- a) This is the part of provision under the section 123 of the Transfer of Property Act, 1882
 - b) This is the part of provision under the section 122 of the Transfer of Property Act, 1882
 - c) This is the part of provision under the section 120 of the Transfer of Property Act, 1882
 - d) This is the part of provision under the section 119 of the Transfer of Property Act, 1882
15. Under the provisions of section 53 of the Transfer of Property Act, 1882, the relinquishment by one coparcener in favour of another cannot be said to be a transfer unless:
- a) It is found to be a device to evade debtors
 - b) It is found to be a device to evade creditors
 - c) It is to be a device to evade the government policy
 - d) None of the above
16. If the mortgagee buys a share in the equity of redemption but not a share in the property itself he has paid a higher price and the liability to discharge that share of the mortgage debt is on the mortgagor and not on him then:
- a) He cannot enforce the whole of the mortgaged debt against the rest of the property
 - b) He can enforce the whole of the mortgaged debt against the rest of the property

- c) He can enforce only a part of mortgage debt
- d) None of the above

CIVIL PROCEDURE CODE

17. Where an application for leave to deliver interrogatories has been moved along with the interrogatories proposed to be delivered that application shall be decided as provided under Order XI, Rule 2 of CPC within:
 - a) 15 days from the date of submission of application
 - b) 10 days from the date of submission of application
 - c) 7 days from the date of submission of application
 - d) No time prescribed for the purpose
18. The power under Order XXXVII, Rule 4 of CPC is:
 - a) Confined to setting aside the ex-parte decree
 - b) Not confined to setting aside the ex-parte decree, and extends to staying or setting aside the exemption and giving leave to appear and defend the suit
 - c) Not confined to setting aside the ex-parte decree and extends to staying or setting aside the execution but not to giving leave to appear and defend the suit
 - d) Confined to staying or setting aside the exemption
19. The maximum pecuniary jurisdiction of the Court of Civil Judge is of Rupees Three Lakhs. 'A' files a plaint in the Court of Civil Judge for recovery of Rupees Three Lakhs together with interest @18% per annum from the date of institution of the suit till realization:
 - a) The Civil Judge is required to immediately return the plaint for filing in the Court of appropriate pecuniary jurisdiction
 - b) The Civil Judge is required to try the suit and return the plaint only if after trial and hearing finds A entitled to any amount in excess of Rupees Three Lakhs
 - c) The Civil Judge is required to decide the suit and if finds 'A' entitled to the decree, pass a decree for recovery of Rupees Three Lakhs and give liberty to 'A' to approach the Court of appropriate jurisdiction by a separate proceeding for recovery of the balance amount to which he has been found entitled.
 - d) The Civil Judge is empowered to try and decide the suit
20. A citizen institutes a suit for injunction restraining several Radio Channels from playing music without permission of and paying royalty etc. to the persons holding Intellectual Property Rights in the said music, alleging such action of the Radio companies to be in violation of laws. It is specified in the plaint itself that the plaintiff himself does not hold any copyright and is not personally interested in the matter but has filed the suit merely for enforcing the laws which the authorities had failed to enforce:
 - a) The plaint in such a suit is liable to be rejected at the threshold as barred by law
 - b) The suit is entitled to proceed to trial and to be decided only thereafter
 - c) The suit is entitled to be decreed forthwith since the Radio companies have been unable to show any authorization for the holders of rights in the said music
 - d) The Civil Judge is required to convert the suit into a Public Interest Litigation
21. Does the Civil Court (Trial Court) have the power of restitution on variation of a decree or order in appeal?
 - a) Trial Court of first instance that had passed the decree has the power of restitution
 - b) A separate civil suit has to be filed for restitution when section 144(1) of the Code of Civil Procedure, 1908 applies
 - c) Trial Court of first instance that had passed the decree has no power of restitution

- d) There is no power of restitution
22. A sues B for the specific performance of a contract. In the plaint, A seeks the relief of specific performance. He does not seek any relief in the alternative. The Court determines that it cannot order the specific performance of the contract. Can the Court award compensation instead?
- a) Yes, as Specific Relief Act directs that compensation must be awarded
 - b) Compensation can be awarded since Order VII, Rule 7 of the Code of Civil Procedure provides that any other relief can be awarded and the same does not have to be specifically pleaded
 - c) Compensation can be awarded only after the Court allows the plaint to be amended for including a claim of compensation
 - d) No, damages cannot be awarded since the relief of specific performance and of compensation are inconsistent pleadings, and therefore no amendment can be brought to this effect.
23. Whether a suit can be compromised without filing an application under Order XXIII, Rule 3 of the Code of Civil Procedure, 1908, in Court?
- a) No, as a written application under Order XXIII, Rule 3, CPC signed by both parties is mandatory
 - b) Yes, but only when both parties file affidavits before the Court accepting the compromise and settlement
 - c) Yes, but only if whole of the subject-matter of the suit and not part thereof has been adjusted and compromised.
 - d) Yes, if the compromise is in writing and signed by the parties
24. Garnishee proceedings under the Code of Civil Procedure can be instituted to enable:
- a) Attachment of debt, shares and other property not in possession of the judgment debtor
 - b) Attachment of property of which the owner is not known
 - c) Only for attachment of property which cannot be estimated in terms of money
 - d) Only for attachment of a share in joint family property
25. Under which one of the following provisions of the Civil Procedure Code, 1908, consequences of disobedience or breach of injunction has been described?
- a) Order XXXII, Rule 2A
 - b) Order XXXIII, Rule 1A
 - c) Order XXXIX, Rule 2A
 - d) Order XLI, Rule 3A
26. In which of the following case it was held that "the second appeal is permissible only if finding is perverse"?
- a) Dinesh Kumar v. Yusuf Ali, AIR 2010 SC 2679
 - b) State v. M.L. Keshari, AIR 2010 SC 2587
 - c) Bimlesh v. New India Assurance Co. Ltd., AIR 2010 SC 2591
 - d) Dasrath v. State of Madhya Pradesh, AIR 2010 SC 2592
27. Where an order for compensation against the plaintiff is passed under section 95 of CPC, section 95(2) of CPC provides that:
- a) A suit for compensation in respect of such arrest, attachment or injunction lies
 - b) A suit for compensation in respect of such arrest, attachment or injunction is barred

- c) The amount of compensation awarded shall be adjusted in the amount of compensation awarded in a suit for compensation in respect of such arrest, attachment or injunction
 - d) The amount of compensation awarded shall be of no consequences and the court can award compensation independently in a suit for compensation in respect of such arrest, attachment or injunction
28. Rejection of an application for permission to sue as a pauper:
- a) Bars a fresh application on the same cause of action
 - b) Does not bar a fresh application as the same cause of action if moved along with amended schedule of property
 - c) Does not bar a fresh application on the same cause of action with the leave of the court
 - d) Does not bar a fresh application at all
29. During the period of conclusion of hearing and the pronouncing of the judgment, if either party dies, under Order XXII, Rule 6 of CPC:
- a) The proceedings shall abate
 - b) The proceedings shall not abate irrespective of whether the cause of action survives or not
 - c) It is the discretion of the court to order abatement or non-abatement of the suit
 - d) Either (a) or (c)
30. Any documentary evidence, in possession of the party not filed under Order XIII, Rule 1 of the CPC, the party is:
- a) Excluded from filing the same at a subsequent stage of the proceeding
 - b) Not excluded from filing the same at a subsequent stage of proceedings, but can file the same only with the leave of the court
 - c) Not excluded from filing the same at a subsequent stage of proceedings without any leave of the court
 - d) Either (a) or (c)
31. The court to amend a decree is the court that passed it. Where an appeal is preferred from a decree of a court of first instance the Appellate Court may:
- a) Dismiss the appeal under O. 41, r 11(1), without issuing any notice to the respondents
 - b) Confirm, reverse or vary the decree of the court of first instance (O. 41, r 32)
 - c) Either (a) or (b)
 - d) None of these
32. X sues A and B on a promissory note executed by A, B is A's nephew, and he is joined as a defendant on the ground that A and B are member of a joint Hindu family, and that the note was for a debt binding on the family. None of the defendant appears at the hearing and an ex parte decree is passed against both the defendants.
- The decree against A proceeds on the ground that the note was passed by him and against B on the ground that the debt was incurred for a family purpose. B applies for an order to set aside the decree, alleging that the summons was not served upon him and that the debt in respect of which the note was passed by A was not incurred for a family purpose. It is not disputed that the amount was actually advanced to A.

- a) The decree against A must be set aside
 - b) The decree against B must be set aside
 - c) Both (a) and (b)
 - d) None of these
33. A sues B for rent; B pleads abatement of rent on the ground that the area is less than that entered in the lease. The court finds that the area is greater than that shown in the lease:
- a) The finding as to the excess area is not res judicata for it is only ancillary to the direct and substantial issue whether the area is equal to that shown in the lease; or less
 - b) The finding as to the excess area is res judicata for it is ancillary to the direct and substantial issue whether the area is equal to that shown in the lease; or less
 - c) The finding as to the excess area is not res judicata for it is ancillary to the direct and substantial issue whether the area is equal to that shown in the lease; or less
 - d) None of these
34. Second appeal shall not lie from any decree, as provided under section 102 of CPC when the subject matter of the original suit is for recovery of money not exceeding:
- a) Rs.10,000
 - b) Rs.25,000
 - c) Rs.50,000
 - d) Rs.1,00,000.
35. A private transfer or delivery of the property attached under section 64(2) shall not be void if:
- a) made in pursuance of any contract for such transfer or delivery entered into and registered before the attachment
 - b) made in pursuance of any contract for such transfer or delivery entered into and registered after the attachment
 - c) made in pursuance of any contract for such transfer or delivery entered into before the attachment but registered after the attachment
 - d) either (a) or (b) or (c).

CRIMINAL PROCEDURE CODE

36. Under section 95 of CrPC certain publications can be forfeited and search warrant can be issued for the same. In this context, the propositions are:
- A. A newspaper cannot be forfeited & search warrant cannot be issued for the same as it would be violative of the fundamental right of speech & expression and involves the fourth estate.
 - B. A book can be forfeited & search warrant can be issued for the same.
 - C. A document can be forfeited & search warrant can be issued for the same.
- Which of the following is correct:
- a) A & B are correct
 - b) A & C are correct

- c) B & C are correct
- d) A, B & C all are correct.

37. A has in his possession several seals, knowing them to be counterfeit and intending to use them for the purpose of committing several forgeries punishable u/s. 466 of the Indian Penal Code (45 of 1860). Applying Section 220 Cr.PC.:

- a) A may be separately charged with, and convicted of, the possession of each seal u/s. 470 of Indian Penal Code (45 of 1860)
- b) A may be separately charged with, and convicted of, the possession of each seal u/s. 471 of Indian Penal Code (45 of 1860)
- c) A may be separately charged with, and convicted of, the possession of each seal u/s. 472 of Indian Penal Code (45 of 1860)
- d) A may be separately charged with, and convicted of, the possession of each seal u/s. 473 of Indian Penal Code (45 of 1860)

38. Which of the following deals with the summary procedure for punishment for non-attendance by a witness in obedience to summons?

- a) Section 339 Cr.P.C.
- b) Section 287 Cr.P.C.
- c) Section 388 Cr.P.C.
- d) Section 350 Cr.P.C.

39. The propositions are:

I. Delay in despatch of the FIR is not a circumstance which can throw out the prosecution case in its entirety.

II. Delay in despatch of the FIR is a circumstance which can throw out the prosecution case in its entirety.

III. The extra-ordinary delay in sending the FIR is a circumstance which provides a legitimate basis for suspecting that the FIR was recorded much later than the stated date and hour, affording sufficient time to the prosecution to introduce improvements.

Which of the following is correct in respect of the aforesaid proposition:

- a) I is true, II & III are false
- b) I & III are true, II is false
- c) II & III are true, I is false
- d) III is true, I & II are false.

40. A, with six others, commits the defences of rioting, grievous hurt and assaulting a public servant endeavouring in the discharge of his duty as such to suppress the riot. Applying Section 220 Cr. P.C.:

- a) A may be separately charged with and convicted of, offences u/ss. 147, 322 and 149 of the Indian Penal Code (45 of 1860)
- b) A may be separately charged with and convicted of, offences u/ss. 147, 323 and 150 of the Indian Penal Code (45 of 1860)
- c) A may be separately charged with and convicted of, offences u/ss. 147, 324 and 151 of the Indian Penal Code (45 of 1860)
- d) A may be separately charged with and convicted of, offences u/ss. 147, 325 and 152 of the Indian Penal Code (45 of 1860)

41. Which of the following is true Section 82 Cr. PC.?

- a. mention of lesser period than that required under the section will make the proclamation ineffective and the defect is not under curable under Section 455 Cr. P.C.
- b. mention of lesser period than that required under the section will make the proclamation ineffective and the defect is not under curable under Section 465 Cr. PC.
- c. mention of lesser period than that required under the section will make the proclamation ineffective and the defect is not under curable under Section 475 Cr. P.C.
- d. mention of lesser period than that required under the section will make the proclamation ineffective and the defect is not under curable under Section 485 Cr. PC.

42. Discharge of offender on submission of apology is covered under:

- a. Section 339 Cr.P.C.
- b. Section 348 Cr.P.C.
- c. Section 388 Cr.P.C.
- d. Section 458 Cr.P.C.

43. Joining of two or more independent and respectable inhabitants of the locality in which the place is to be searched is the mandate under:

- a) section 100(1) of CrPC.
- b) section 100(2) of CrPC
- c) section 100(3) of CrPC
- d) section 100(4) of CrPC.

44. Under the provisions of the Code of Criminal Procedure, 1973 normally a person cannot be discharged unless the prosecution evidence has been taken and the Magistrate considers for the

reasons to be recorded that no case is made out against the accused. Which of the following section contains exception to this rule?

- a. 239
- b. 245
- c. 248
- d. 203

45. In which of the following cases will the provisions of section 197 of the Code of Criminal Procedure, 1973 apply?

- a. A Magistrate writing a letter to the District Judge that an advocate is "rowdy", "a big gambler", "a mischievous element".
- b. Block Development Officer lodging a FIR against the Sarpanch and Secretary of a Gram Panchayat under section 409 and 34 of the IPC
- c. A complaint against the personnel at the BSF alleging that illegal gratification of Rs 10,000 was demanded from the complainant and, on his refusal to pay, his shop was ransacked and goods taken away
- d. A Judge charged with using defamatory language to a witness during a trial of a suit

46. Which of the following statements is not true under the provisions of section 167 of the Code of Criminal Procedure, 1973?

- a. The provision for release is mandatory in the sense that the accused shall have to be released on bail
- b. Magistrate has the power to remand accused (terrorists) to army custody for investigation
- c. The order under this section is a judicial order
- d. On the expiry of sixty days from the date of the arrest of the accused, the further detention does not ipso facto become illegal

47. Which of the following statements does not hold true for the confessions made to the Magistrate under the provisions of the Code of Criminal Procedure, 1973?

- a. It is the duty of the Magistrate to exclude the presence of the police officer from the place where the confession is recorded
- b. It is obligatory for the Magistrate to warn the accused, before recording his confession that he is not bound to make it and that if he does so, it may be used as evidence against him
- c. The accused should be sent back to police custody as soon as the confession is recorded
- d. It is necessary for the confession to be signed by the accused

48. Under the provisions of Code of Criminal Procedure, 1973 for taking cognizance of an offence-
- Judicial application of mind by the Magistrate is not needed
 - It is not open to the court to analyse the evidence produced
 - Is an area exclusively within the domain of the Magistrate and the Officer-in-charge of the case
 - The offence must be committed within the territorial jurisdiction of a first class judicial Magistrate
49. Which of the following confessions is admissible under the provisions of the Code of Criminal Procedure, 1973?
- Magistrate while recording a confession did not specifically tell the accused that he was a Magistrate
 - Magistrate recorded the confession of the accused but did not get it signed by the accused
 - Investigating officer took the accused from the jail to the Magistrate, set with him while the confession was being made and brought the accused back to the jail
 - The Magistrate recorded the confession of the accused, but forgot to certify that the confession was taken voluntarily
50. Which of the following statements hold true for the Magistrate's power to send an accused to remand under section 167 of the Code of Criminal Procedure, 1973?
- If the investigation is not completed within 60 days he has to be released on bail
 - The maximum period of remand in police custody cannot exceed 15 days, after that only sending to judicial custody is possible
 - The maximum period of remand in judicial custody cannot exceed 15 days, after that only sending to police custody is possible
 - If the investigation is not completed within maximum period of 90 days the accused have to be released
51. In which of the following cases was it held that the defect resulting from non-compliance of section 275 of the Code of Criminal Procedure, 1973 in the absence of actual or possible failure of justice is curable under section 464 and 465 of the CrPC?
- Nain Singh v. Nain Singh
 - Ram Dyal v. Municipal Corporation of Delhi
 - Abdul Rahaman v. Emperor
 - Ranjeet Singh v. State of UP
52. When can a trial court release an accused on bail under section 389(3) of Cr.PC after conviction?

- a) When accused is on bail and imprisonment is not exceeding 3 years
- b) When accused is on bail and imprisonment is not exceeding 5 years
- c) When accused is on bail and imprisonment is not exceeding 7 years
- d) When offence is exclusively bailable whether accused is on bail or not.

53. For the purposes of computation of period of 90 days or 60 days as the case may be, under Section 167(2):

- a) The day of arrest of the accused has to be excluded
- b) The day on which the accused was remanded is to be excluded
- c) The day of arrest of the accused and the day on which he was remanded, if different, both have to be excluded
- d) The day of arrest of the accused only has to be excluded and the day on which he was remanded, even if different, cannot be excluded

INDIAN EVIDENCE ACT

54. B, an accused wants to submit carbon copy of the suicide note as secondary evidence. The original is with the opposite party and he has failed to produce the same. The suicide was not within the knowledge of the accused prior to the receipt of carbon copy. Which of the following statements will hold true for the case?

- a. The evidence cannot be admitted due to applicability of section 30 of the Indian Evidence Act
- b. The evidence cannot be admitted because it fails to satisfy the requirements of section 64 of the Indian Evidence Act, 1872
- c. The evidence cannot be admitted because it fails to satisfy the requirements of section 65 of the Indian Evidence Act, 1872
- d. The evidence can be admitted as it satisfies the requirements of both section 64 and section 65 of the Indian Evidence Act, 1872

55. During the cross examination of the witness as to previous statements made before the police almost all contradictions or omissions were brought on record, which were portions from the statements made before the police that were not deposed before the court. Which of the following statements will apply to the case?

- a. The credibility of the witness has been impeached under section 148 of the Indian Evidence Act, 1872
- b. The credibility of the witness has been impeached under section 145 of the Indian Evidence Act, 1872

- c. The credibility of the witness has not been impeached because the contradictions were not as contemplated under section 145 of the Indian Evidence Act, 1872
- d. The credibility of the witness has not been impeached because the protection under section 154 of the Indian Evidence Act, 1872 will apply

56. A intentionally and falsely leads B to believe that certain land belongs to A, and thereby induces B to buy and pay for it. The land afterwards becomes the property of A, and A seeks to set aside the sale on the ground that, at the time of the sale, he had no title. Applying Section 115, Indian Evidence Act:

- a. He must be allowed to prove his want of title
- b. He may be allowed to prove his want of title
- c. He must not be allowed to prove his want of title
- d. none of them

57. In which of the following cases did the court held that a party who produces witnesses in court produces them as witnesses of truth; and simply because portions of their statements are not favourable to the party producing them, they cannot be condemned as biased witnesses?

- a. Gyasuddin Khan v. State of Bihar, AIR 2004 SC 201, para 12 : 2004 CrLJ 395
- b. Lekhraj v. State of Gujarat, AIR 1998 SC 242 : 1998 CrLJ 396.
- c. Gulabchand Ganbhiramal v. Kudilal Govindram, AIR 1959 MP 151 : 1961 CrLJ 55 (FB).
- d. Siddiqua v. Narcotics Control Bureau, 2007 CrLJ 1471, 1480 (para 17) (Del).

58. The question is, whether A poisoned B. Applying Section 6, Indian Evidence Act which of the following facts can be relevant?

- a. marks on the ground produced by a struggle at or near the place where the murder was committed
- b. the state of B's health before the symptoms ascribed to poison, and habits of B, known to A, which afforded an opportunity for the administration of poison
- c. the facts that shortly before the poisoning, B went to a fair with money in possession, and that he showed it or mentioned the fact that he had it, to third persons
- d. none of them

59. When the court has to ascertain the relationship between one person and another, the opinion of any person having special means of knowledge and expressed by conduct is admissible:

- a) under section 51 of Evidence Act
- b) under section 50 of Evidence Act
- c) under section 52 of Evidence Act

d) under section 49 of Evidence Act.

60. Maxim 'omnia proesumuntur rite esse acta' means: (2 marks)

- a) all acts are presumed to be rightly done
- b) all acts are presumed to be not rightly done
- c) all acts are presumed to be wrongly done
- d) all acts are presumed to be not wrongly done.

And the principle of 'omnia proesumuntur rite esse acta' contained in which Section:

- (a) section 78 of Evidence Act
- (b) section 79 of Evidence Act
- (c) section 80 of Evidence Act
- (d) section 81 of Evidence Act.

61. In an appeal from a decision by the trial court, the appellate court finds that certain necessary evidence was not taken by the trial court. The appellate court:

- a) can only remand the matter to the trial court for taking additional evidence
- b) shall decide the matter only on the basis of the evidence before it
- c) shall presume that the missing evidence would have adversely impacted the case of the party who should have brought that evidence
- d) may take additional evidence itself

62. 'B' is found dead having suffered injuries with a sharp weapon. 'A' while in police custody confessed to killing 'B' with the motive of stealing his motorcycle and after following from his office and having concealed the weapon of offence i.e., a knife on his roof top. 'A' gets the knife recovered before the police. In this case, under Section 27 Indian Evidence Act, the following would be admissible:

- a) entire statement including motive of stealing the motorcycle and manner in which the murder was committed, i.e., following victim 'B' from his office, except the confession.
- b) the place from which the knife was produced and the knowledge of 'A' leading to recovery of knife
- c) the fact that 'A' had murdered 'B' with the knife
- d) nothing is admissible as the statement was made to a police officer after 'A' was arrested

63. Which of the following is true concerning retracted confession?

- a. It is the law that once a confession is retracted, the Court should presume that it was tainted and be thrown overboard
- b. The retracted confession of co-accused is very weak and if retracted, the same is admissible against the maker of it
- c. The Court is bound to take the factum of retraction of confession
- d. Retracted confession must be looked upon with lesser concern

64. Under Section 145 of Evidence Act, a witness may be contradicted as to previous statement in writing:

- a) Without proving the same and without showing the same to the witness
- b) Without proving the same but only after showing the same to the witness
- c) After proving the same may be before showing the same to the witness
- d) After proving the same and showing the same to the witness

65. A communication made to the spouse during marriage, under Section 122 of Evidence Act:

- a) Does not remain privileged after the dissolution of marriage by divorce and death
- b) Does not remain privileged after the dissolution of marriage by divorce, but remains privileged even after death
- c) Remains privileged after the dissolution of marriage by divorce but not so on after death
- d) Remains privileged communication after the dissolution of marriage by divorce or death

66. Extrinsic evidence to show the meaning or supply the defects in an instrument is prohibited under Section 93, in respect of:

- a) Ambiguitas patens
- b) Ambiguitas latens
- c) Both (a) and (b)
- d) None of the above

67. Propositions under Evidence Act are:

I. In civil cases, character evidence is inadmissible unless the character of a party is a fact in issue.

II. In criminal cases, the evidence of good character is admissible generally.

III. In criminal proceedings, evidence of bad character is inadmissible unless the same is a fact in issue.

IV. In criminal proceedings evidence of bad character is admissible when evidence of good character has been given.

In relation to the above propositions which of the following is correct statement:

- (a) I, II, III & IV are correct
- (b) I, II & III are correct but IV is incorrect
- (c) I & II are correct but III & IV are incorrect
- (d) I & III are correct but II & IV are incorrect
- (e) I, II & IV are correct but III is incorrect
- (f) II, III & IV are correct but I is incorrect.

68. Question of mode of proof is:

- a) A question of law which can be raised at any time
- b) A question of procedure but has to be raised at the first opportunity and stands waived if not raised at the first opportunity

- c) A question of procedure and can be raised at any time
- d) A mixed question of law and fact

INDIAN PENAL CODE

69. Causing of the death of child in the mother's womb is not homicide as provided under:

- a. Explanation V to Section 300
- b. Explanation I to Section 299
- c. Explanation II to Section 299
- d. Explanation III to Section 299

70. A, B and C plan to enter into a jewellery shop and commit theft at the shop. They collect the implements of house breaking and go to the jewellery shop to execute their plan. On reaching there, they find a police patrol van stationed outside the shop and hence return. Their act amounts to:

- a. Attempt to commit housebreaking
- b. Criminal conspiracy
- c. Attempt to commit theft
- d. Both (a) and (c)

71. Whoever, being a public servant and having the custody of any State prisoner or prisoner of war, negligently suffers such prisoner to escape from any place of confinement in which such prisoner is confined, shall be punished under which section of Indian Penal Code?

- a. Section 127
- b. Section 128
- c. Section 129
- d. Section 130-141

72. 'A' the landlord, knowing of the commission of a murder within the limits of his estate wilfully misinforms the Magistrate of the district that the death has occurred because of an asthma attack followed with an attack of epilepsy. In such a situation 'A' is:

- a. Liable for no offence
- b. Liable for the offence punishable under Section 177 Indian Penal Code
- c. Liable for the offence punishable under Section 193 Indian Penal Code
- d. Liable for the offence punishable under Section 196 Indian Penal Code

73. A, being legally bound to appear before a District Judge, as a witness, in obedience to a summons issued by that District Judge intentionally omits to appear. A has committed the offence under:

- a. Section 174 Indian Penal Code
- b. Section 174A Indian Penal Code
- c. Section 175 Indian Penal Code
- d. Section 176 Indian Penal Code

74. Violation of condition of remission of punishment has been given under Indian Penal Code in:

- a. Section 227
- b. Section 228
- c. Section 229
- d. Section 230

75. A, knowing that B has murdered Z, assists B to hide the body with the intention of screening B from punishment. Under Indian Penal Code, A is liable to:

- a. Imprisonment for life
- b. Imprisonment of either description for seven years and to fine also
- c. Imprisonment of either description for twelve years and to fine also
- d. Imprisonment of either description for ten years and to fine also

76. X puts gold coins into a box belonging to Z, with intention that they may found in that box, and that this circumstance may cause Z to be convicted of theft. What offence X committed under Indian Penal Code, 1860?

- a) Fabricating false evidence
- b) Giving false evidence
- c) Committing abetment of theft
- d) Committing cheating

77. In a village *Vaidya* used to successfully operate wounds with shaving blade. Victim who was suffering from piles was operated with shaving blade by the *Vaidya*. Due to profound bleeding, the victim died and the *Vaidya* was prosecuted for causing death of the victim. Under which of the following sections of the Indian Penal Code *Vaidya* can be defended?

- a. Section 87
- b. Section 88
- c. Section 89
- d. None of the above

78. Under Section 64 of the Indian Penal Code, a sentence of imprisonment for non-payment of fine shall:

- a. Be concurrent of any other imprisonment
- b. Be in excess of any other imprisonment to which an offender has been sentenced
- c. Not be in excess of any other imprisonment
- d. None of the Above

79. In one of the famous cases, the Supreme Court has made the following observation: "The right of private defence is a right of defence and it is not a right of retribution"

- a. State of U.P. v. Ram Swarup
- b. State of Punjab v. Nanak Chand
- c. Deo Narain v. State of U.P.
- d. State of H.P. v. Wazir Chand

80. A personates B at a trial with B's consent, which was given to save himself from the trouble to making an appearance in person before a Magistrate.

- a. A is guilty of personation (Section 217)
- b. A is guilty of personation (Section 216)
- c. A is guilty of personation (Section 215)
- d. A is guilty of personation (Section 205)

81. Response which of the following statement is incorrect:

The imprisonment in default of payment of fine does not liberate the offender from his liability to pay the fine in full imposed on him. It imposes the following periods of limitations.

- a) A period of six years from the date of sentence within which the fine can be recovered
- b) A longer period in cases in which the offender has been sentenced to imprisonment more than six months
- c) The death of the offender will not extinguish the liability for fine and it can be recovered from any property which is liable for the payment of his debts
- d) All the above

82. Mr. V, an appellant is an owner of a house in City A. The wife of the first respondent Y, was tenant of a part of the first floor in that house. One day, one R a servant of the appellant, called the wife of the first respondent a thief and Halkat. On the following day, the first respondent slapped R on his face which was followed by heated exchange of abusive words and between the first respondent and the appellant's husband.

The first respondent was annoyed and threw at the appellant's husband a file of papers. The file did not hit the appellant's husband, but it hit the elbow of the appellant causing a scratch. The appellant lodged information to the police complaining that the first respondent had committed a house trespass in order to the committing of an offence punishable with imprisonment, had thrown a shoe at her and had slapped her servant R.

During the course of the investigation the appellant and R refused to be examined at a public hospital, claiming that a private medical practitioner had certified that the appellant had suffered from bleeding incision.

As a judge of the case you would:

- a. convict the accused under Section 95 of the IPC
- b. acquit the accused under Section 95 of the IPC
- c. fine the appellant under Section 95 of the IPC

- d. Both (a) and (c)

83. G's party was engaged in the peaceful pursuit of worship at their own takhat was busy attending to the Puja for the Nepali pilgrim. At that point of time they were not members of an unlawful assembly. It was the party of A who left their place and came to G's takhat, presumably raising a dispute over the offerings made by the Nepali pilgrim. They came armed with deadly weapons and one of them inflicted a severe blow on the S and G's side which resulted in his death and others received as many as 27 serious injuries.

- a. G's party exercise the right to self defence
- b. Both G and A's party cannot claim the right to self defence
- c. A's party had full intention of causing harm
- d. Both (a) and (c)

84. The accused without any provocation caught hold of the legs of a 7 year old child and dashed his head thrice in quick succession resulting in the death of the boy. Immediately after the occurrence the accused ran away. The accused pleaded insanity in defence.

- a. the offence falls under Clause (iii) of Section 300, IPC
- b. the offence falls under Clause (iv) of Section 300, IPC
- c. the offence falls under Clause (v) of Section 300, IPC
- d. the offence falls under Clause (vi) of Section 300, IPC

85. A quarrel arose between C on the one side and A and B on the other. C abused A, whereupon A struck him with a stick, and B struck him down with an axe on the head. He also received two other wounds with the axe on the other parts of the body. Any one of the three axe wounds was sufficient enough to cause death, especially the one on the head.

- a. C is guilty for voluntarily provoking the attack while B is guilty of culpable homicide
- b. A is guilty of culpable homicide, while B is guilty of voluntarily causing hurt
- c. B is guilty of culpable homicide, while A is guilty of voluntarily causing hurt
- d. Both A and B are guilty of culpable homicide

86. The basic principle which runs through Section 32 to 38 of IPC is that:

- a. in certain circumstances some part of the act is attributed to a person who may have performed only a fractional part of it.
- b. in certain circumstances an entire act is attributed to a person who may have performed only a fractional part of it.
- c. in certain circumstances an entire act is attributed to a person who may have performed the whole of it.
- d. in certain circumstances no act is attributed to a person who may have performed only a fractional part of it.

87. Which of the following does not attract Section 34 of the IPC?

- a. the accused husband killed his wife and threw her dead body into the well to the knowledge of co-accused. As yet co-accused took the false plea that on date and hour incident the deceased was present in the house.
- b. the accused was involved in looting the victims in broad daylight on the main public road. Main accused indulged in looting but co-accused was simply standing nearby.
- c. Driver and cleaner of a bus when form a common intention to kill the deceased and in pursuance of the plan kill him and take away the sale proceeds of the grain sold by him
- d. all of them except the co-accused in B.

88. When all the incriminating facts and circumstances are found to be incompatible with the innocence of the accused then:

- a) the inference of guilt can be justified
- b) the inference of guilt cannot be justified
- c) benefit of doubt should be given
- d) none of the above

LIMITATION ACT

89. In a suit filed by the plaintiff, the defendant in his written statement has taken the objection of non-impleadment of necessary party. Despite such objection the plaintiff continued the suit and the suit was finally decreed. At the first appellate stage, the plaintiff withdraws the suit with liberty to file a fresh one on the same cause of action and subsequently filed a fresh suit. The period spent by the plaintiff in the earlier suit, under Section 14 of Limitation Act is:

- a) liable to be excluded on the ground that the plaintiff was prosecuting the earlier suit with due diligence and in good faith
- b) not liable to be excluded as the plaintiff cannot be said to be prosecuting the earlier suit with due diligence and in good faith
- c) liable to be excluded under section 14(3) of Limitation Act
- d) to be excluded or not to be excluded is in the discretion of the Court

90. Under Section 13 of Limitation Act, the time is excluded:

- a) if the application for leave to sue or appeal as a pauper is allowed
- b) if the application for leave to sue or appeal as a pauper is rejected
- c) in both the cases
- d) in none of the case

91. For the purposes of Section 3, Limitation Act, 1963, limitation is checked:

- a) when the plaint is actually presented in the proper court
- b) when the plaint is presented even in a court not competent to try the suit
- c) when the plaint is presented by the part
- d) all the above

92. Under Section 3, Limitation Act, 1963 the court is required to consider the question of limitation:
- a) only when objection to limitation is raised by the defendant
 - b) only when the defendant does not confess judgment
 - c) only when the defendant does not admit his liability
 - d) *suo motu* even when the defendant has not taken any objection of limitation or has confessed judgment or has admitted this liability in the written statement
93. For a suit to recover possession of a movable property conveyed or bequeathed in trust and afterwards transferred by the trustee for a valuable consideration, under Article 93 of the Schedule, the period of limitation is:
- a) thirty years
 - b) twelve years
 - c) three years
 - d) one year
94. Period of limitation for setting aside an *ex parte* decree is:
- a) 10 days
 - b) 30 days
 - c) 60 days
 - d) 90 days
95. Whether a plaintiff could with reasonable diligence have discovered the fraud or mistake under Section 17, Limitation Act, is a:
- a) Question of fact to be decided on the basis of facts disclosed in each case
 - b) Question of law
 - c) Mixed question of fact and law
 - d) Substantial question of law
96. What is the prescribed limitation for filing a suit, by a mortgagee, for foreclosure, reckoned from the date when the money secured by the mortgage becomes due?
- a) 3 years
 - b) 12 years
 - c) 20 years
 - d) 30 years
97. What is the prescribed period of limitation for filing a civil suit, challenging the dispossession of the plaintiff on the ground that the land had been illegally acquired by the Government?
- a) One year from the date of dispossession
 - b) Three years from the date of dispossession
 - c) Twelve years from the date of dispossession
 - d) None, as the suit is not maintainable
98. For a suit to enforce a right of pre-emption, the period of limitation under Article 97 of the Schedule is:
- a) One year
 - b) Two years

- c) Three years
- d) Twelve years

99. Under Section 6 of Limitation Act, where several disabilities co-exist concurrently in the plaintiff the time does not commence to run against him:

- a) Till the first disability ceases to exist
- b) Till the two, if there are more than two, disabilities cease to exist
- c) Till all the disabilities cease to exist
- d) Either (a) or (b)

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