

**THE GAUHATI HIGH COURT AT GUWAHATI**  
**(The High Court of Assam, Nagaland, Mizoram & Arunachal Pradesh)**

**LIMITED DEPARTMENTAL COMPETITIVE EXAMINATION FOR PROMOTION TO  
GRADE I, OF MIZORAM JUDICIAL SERVICE, 2023**

**Date : 22.07.2023 (Saturday)**

**Time: 1 P.M. -4 P.M.**

**Total marks: 100**

**Duration : 3 Hrs.**

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**PAPER II**

**TRANSFER OF PROPERTY ACT, 1882**

1. (i) What is transfer by ostensible owner?  
(a) Transfer by actual owner.  
(b) Transfer by legal heir of deceased owner.  
(c) Transfer by Company.  
(d) Transfer made with permission of the person interested in immovable property, express or implied, by transferor.  
  
(ii) Which section of statutory law can be referred to for such transfer.  

1+1 mark.
2. 'B' a lady is entitled to maintenance from the rent receivable from a certain property. 'C' the owner of property sells the said property to 'D'. What is the legal remedy available to 'B'?  
(a) B can enforce her right against D.  
(b) B can sue C and D for cancellation of sale deed.  
(c) B can enforce her right only against C.  
(d) All the above.  

1 mark.
3. 'A' a Hindu who has separated from his father 'B' sells to 'C' three fields, X, Y and Z, representing that 'A' is authorised to transfer the same. Of these fields Z does not belong to 'A', it having been retained by 'B' on the partition; but on 'B' dying 'A' as heir obtains Z. 'C' not having rescinded the sale, may require 'A' to deliver Z to him. Which of the following would be correct?  
(a) Legal representatives of 'B' can only sell Z to 'C'.  
(b) 'C' may require 'A' to deliver Z to him.  
(c) Transaction made by 'A' is void *ab initio*. Therefore, 'A' can be prosecuted for fraud and for refund of sale consideration after annulling the sale deed.  
(d) None of the above.  

1 mark.
4. 'B' has entered into an agreement for sale of a plot of land with 'C', the owner of land. In due course, a sale deed in respect of the land has been executed. 'B' claims that the agreed sale consideration was not paid to him. What are the remedy available to 'B'?  
(a) B can have the sale annulled after lodging an FIR, alleging fraud.  
(b) B can file objection against mutation of name of C.

(c) *B* can only sue *C* for recovery of unpaid sale consideration.  
(d) On the ground that sale consideration was not paid, the sale deed can be declared void *ab initio*. 1 mark.

5. (i) Which would be appropriate example for the doctrine of *election*? 1 + 1 marks.  
(a) The farm of Diphu is the property of *C* and worth Rs. 800.00. *A* by an instrument of gift professes to transfer it to *B*, giving by the same instrument Rs.1,000.00 to *C*. *C* elects to retain the farm. He forfeits the gift of Rs. 1,000.

In the same case, *A* dies before the election. His representative must out of the Rs.1,000.00 pay Rs.800.00 to *B*.

(b) There is no doctrine of election in Transfer of Property Act, 1882, but the said doctrine emanates from The Representation of the People Act, 1951.

(c) '*A*' has three plots of land *X*, *Y* and *Z*, all of equal value. He sells plot *X* to '*B*'. After sale deed is executed, '*B*' can elect to own plot *Y* or *Z*.

(d) All the above.

(ii) Cite the section of relevant law on the doctrine of *election*, if applicable, under the Transfer of Property Act, 1882. You may write '*no*' if there is no provision for doctrine of *election* under the Transfer of Property Act.

6. Under which provisions of the Transfer of Property Act, 1882, it is envisaged that a 'living person' can convey property 'in future' to himself? 1 mark.

(a) Section 4.

(b) Section 5.

(c) Section 22.

(d) None of the above.

7. In which section of the Transfer of Property Act, 1882, one would find the following words – 1 mark.

*"a person is said to have notice"*.

(a) Section 2.

(b) Section 3.

(c) Section 54.

(d) None of the above

8. The provision of Section 103 of the Transfer or Property Act, 1882 relates to:

(a) notice, etc., to or by persons incompetent to contract.

(b) transfer by person incompetent to contract.

(c) gift by persons of unsound mind.

(d) None of the above. 1 mark.

9. *B*, a Hindu lady is residing with *C*, an already married man. On death of *C*, *B* gifts *C*'s land to *Z*.
- The gift is valid because there is judicial interpretation that when a lady cohabits with a man for a long time, presumption of marriage can be taken and therefore *B* becomes entitled to inherit the property of *C*.
  - The gift is void *ab initio* because *B* cannot inherit the property of *C*.
  - The gift is valid because the first wife never objected to the relationship between *B* and *C*.
  - The gift would be lawful *if B* can mutate the property of *C* in her exclusive name.
- 1 mark.
10. The forfeiture under section 111(g) of the Transfer of Property Act, 1882 can\_\_\_\_\_.
- Not be waived off, except by express declaration of the same
  - Can be waived off by acceptance of rent becoming due after forfeiture, after the suit to eject lessee has been initiated
  - Can be waived off by accepting of rent becoming due after forfeiture, in case lessor is not aware that forfeiture has incurred
  - Can be waived off by accepting of rent becoming due after forfeiture, as long as lessor knows that forfeiture has incurred
- 1 mark.
11. A transfers property to B for life and after his death to C and D, equally to be divided between them or to the survivors of them. C dies during life of B. D survives B. At B's death the property:
- shall pass to D
  - shall pass to any person
  - shall pass to person who is specifically named in transfer
  - none of the above.
- 1 mark.
12. A transfer a garden to B for her life, with a proviso that, in case B cuts down a certain wood, the transfer shall cease to have any effect. B cuts down the wood. Decide the case in the light of Transfer of Property Act, 1882:
- B loses his life interest in the firm
  - B does not lose his life interest in the firm
  - no such provision is made under the Transfer of Property Act, 1882
  - none of the above.
- 1 mark.
13. Possession of a manager cannot be treated as ostensible ownership with the consent of the real owner. This was held in case of:
- Seshumulla M. Shah v. Sayed Abdul Rashid, AIR 1991 Kant 273
  - Ved Kumar v. Union of India, AIR 1989 NOC 136
  - Motimul Sowvar v. Vijalakshi Ammal, AIR 1965 Mad 432
  - B. Sitaram Rao v. Bibhushana, AIR 1978 Ori 222.
- 1 mark.

14. Inaccuracy in the recitals describing the property:

- (a) cannot whittle down the effect of clear recitals in the documents about the property to be sold thereby
  - (b) can whittle down the effect of clear recitals in the document about the property to be sold thereby
  - (c) cannot depend upon the inaccuracy or accuracy of recital describing property
  - (d) none of the above.
- 1 mark.

15. Which of the following statements will hold true regarding exchange under the Transfer of Property Act, 1882?

- (a) All the liabilities and responsibilities under normal sale apply to exchange
  - (b) All the liabilities and responsibilities under normal sale apply to exchange, subject to provisions of section 119 and 121 of the Act
  - (c) No liability and responsibility under normal sale will apply to exchange unless specifically stated
  - (d) Liabilities and responsibilities under normal sale will not apply to exchange under any circumstances
- 1 mark.

### **CIVIL PROCEDURE CODE**

#### **(Q. Nos. 16 to 35-Each Question carries 1 mark)**

16. X, residing in Dibrugarh, publishes in Guwahati, statements defamatory of Z. Where can X file a suit for compensation against Z.
- (a) Dibrugarh.
  - (b) Guwahati.
  - (c) Either in Dibrugarh or in Guwahati.
  - (d) In any place even other than Dibrugarh or Guwahati, wherever any person has read the defamatory statement.
17. In order to bring a suit within Explanation VI to Section 11 CPC, the following conditions must be satisfied.
- (a) that there must be a right claimed by one or more persons in common for themselves and others not expressly named in the suit.
  - (b) that the parties not named in the suit must be interested in such right.
  - (c) that the litigation must have been conducted *bona fide* on behalf of all parties interested.
  - (d) All the above.
18. *Mesne profit* as defined under Section 2(12) CPC means:-
- (a) Those profits which the person in wrongful possession of property actually received or might have received together with interest.

- (b) Those profits which the person in wrongful possession of property actually received including profits due to improvements made by such person.
- (c) Those profits which the person in wrongful possession of such property actually received or might have received but without any interest on such profits.
- (d) Those profits which the person in wrongful possession of such property actually received.
19. *Dhulabhai etc. v. State of Madhya Pradesh and another*, AIR 1969 SC 78, lays down certain principles regarding the exclusion of jurisdiction of civil courts. Which of the following is not a principle laid down:
- (a) where a statute gives a finality to the orders of the special tribunals, the civil courts jurisdiction must be held to be excluded if there is adequate remedy to do what the civil court would normally do in a suit
- (b) where there is an express bar of jurisdiction of the court, an examination of the scheme of the particular Act to find out the adequacy or sufficiency of the remedies provided may be relevant but is not decisive to sustain the jurisdiction of the civil court
- (c) questions as to the correctness of the assessment apart from its constitutionality are the decisions of the authorities and a civil suit lies even if the orders of the authorities are declared to be final
- (d) none of the above.
20. Section 15 of CPC lays down
- (a) a rule of procedure
- (b) a rule of jurisdiction
- (c) a rule of evidence
- (d) all the above.
21. The court under section 89(1) of CPC can refer the dispute for-
- (a) arbitration or conciliation
- (b) conciliation or mediation
- (c) mediation or Lok Adalat
- (d) arbitration or conciliation or Lok Adalat or mediation.
22. On rejection of a suit under Order VII, Rule 11 of CPC, a fresh suit on the same cause of action under Order VII, Rule 13 of CPC-
- (a) is barred under all circumstances
- (b) is not barred at all
- (c) can be filed with the leave of the court
- (d) either (b) or (c).
23. Ordinarily, the judgment shall be pronounced as provided under Order XX, Rule 1 of CPC, within -
- (a) 15 to 30 days of hearing
- (b) 5 to 15 days of hearing
- (c) 30 to 60 days of hearing

- (d) 30 to 45 days of hearing.
24. Documents which are meant for cross- examining a witness of the other party or meant for refreshing the memory of the witness, may be produced-
- (a) at or before the settlement of issues
  - (b) after the settlement of issues
  - (c) at the time when they are required
  - (d) none of the above.
25. A party filing affidavit in reply interrogatories-
- (a) can be cross-examined upon it
  - (b) the other party can adduce evidence to contradict it
  - (c) can neither cross-examine nor adduce any evidence to contradict it, as it is a conclusive proof
  - (d) can be cross-examined and adduce evidence to contradict it as it is a not proved fact.
26. Where a party wishes to appear as a witness, as a general rule-
- (a) the party shall appear as a witness after all other witnesses are examined
  - (b) the party shall appear first before any witness on his behalf has been examined
  - (c) the party has the discretion to appear either before or after examination of other witnesses
  - (d) as directed by the court.
27. Security for payment of cost can be required to be furnished-
- (a) under Order XXA.
  - (b) under Order XXV.
  - (c) under Order XXIV.
  - (d) under Order XXVI.
28. Law does not require issuance of notice of the application for execution of a decree, to the judgment- debtor, where the execution is applied:
- (a) within four years of the decree.
  - (b) within two years of the decree.
  - (c) within three years of the decree.
  - (d) within five years of the decree.
29. Section 47 of CPC is:
- (a) mandatory and bars a suit.
  - (b) mandatory and bars a defence.
  - (c) mandatory and bars a suit as well as a defence.
  - (d) directory.
30. Arrest and detention of a person in civil imprisonment in execution of a decree:
- (a) absolves him from the liability under the decree but can be re-arrested.

- (b) does not absolve him from the liability under the decree but the person cannot be re-arrested.  
(c) does not absolve him from the liability and the person can be re-arrested.  
(d) absolves him from the liability altogether and cannot be re-arrested.
31. A "garnishee" is:  
(a) the judgment debtor.  
(b) judgment debtor's debtor.  
(c) judgment debtor's creditor.  
(d) the banker of the judgment debtor.
32. Commission to make local investigation cannot be issued for the purpose of:  
(a) collecting evidence on a fact.  
(b) elucidating any matter in dispute.  
(c) ascertaining market value of the property.  
(d) ascertaining the amount of *mesne profit*.
33. Interpleader suit has been defined under which section of CPC:  
(a) under section 87.  
(b) under section 88.  
(c) under section 90.  
(d) under section 91.
34. Under section 26 CPC, in every plaint, facts should be proved by:  
(a) oral evidence.  
(b) affidavit.  
(c) document.  
(d) examination of plaintiff.
35. Does the trial Court have 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 suit has to be filed for restitution when section 144(1) CPC applies.  
(c) Trial court of first instance that had passed the decree has no power of restitution.  
(d) There is no power of restitution.

### **CODE OF CRIMINAL PROCEDURE**

#### **(Q. Nos. 36 to 51-Each Question carries 1 mark)**

36. In the prosecution for an offence punishable under Section 175 IPC for non-compliance/disobedience of the summon/issued under section 91 of CrPC:
- The accused cannot take the defence that the document(s)/thing ordered to be produced is not necessary or desirable for the investigation, inquiry or trial.
  - The accused can take the defence that the document(s)/thing ordered to be produced is not necessary or desirable for the investigation, inquiry or trial.

- c. The accused cannot question the necessity or desirability of the document(s)/thing, ordered to be produced, for the investigation, inquiry or trial
- d. The accused cannot be permitted to take the defence that the document(s)/thing ordered to be produced is not necessary or desirable for the investigation, inquiry or trial, as the necessity or desirability already stands adjudged before the issuance of summon to produce the document(s)/thing.

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

- 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 the accused 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 the accused was remanded, even if different, cannot be excluded.

38. Continuation of investigation, in a summons case triable by a Magistrate, beyond the period of six months, from the date of arrest of the accused, without the previous permission of the Magistrate:

- a. Shall render the entire investigation vitiated bad and the accused is liable to be discharged.
- b. Shall not render the entire investigation bad but the accused is liable to be discharged.
- c. Shall not render the entire investigation bad, but the prosecution cannot rely on the investigation so carried out and the evidence so collected shall not be admissible.
- d. Either (a) or (b)

39. In a joint trial where several accused persons are being tried, one accused examines himself as a witness, now:

- a. All the other co-accused, if there are more than one co-accused other than the accused, examining himself as a witness, have a right to cross-examine that accused, as a matter of right
- b. All the other co-accused have a right to cross-examine that accused if the accused examining himself deposing something against one of the co-accused
- c. Only that co-accused has a right to cross-examine the accused examining himself as witness, against whom such an accused has deposed something
- d. The co-accused do not have any right at all to cross-examine, the accused examining himself as a witness under any circumstances.

40. While passing an order for disposal of property:

- a. The Magistrate has to decide the question of title.
- b. The Magistrate has to decide the question of entitlement of possession without deciding the title.
- c. The Magistrate has to decide the question of title as well as the question of entitlement of possession.
- d. The Magistrate has to decide the question of entitlement of possession on the basis of decision as to the question of title.



41. An accused having made a request in writing to examine himself and having been called to examine himself:

- a. Must necessarily examine himself.
- b. Has the liberty not to give evidence without giving rise to any presumption against him.
- c. Has the liberty not to give evidence, but in such a case a presumption against him arises.
- d. Has the liberty not to give evidence but in such a case a presumption arises against him & other co-accused tried alongwith him jointly.

42. If one is accused of an act which may amount to theft, or receiving stolen property or cheating and is charged for theft only and from evidence it appears that he has committed cheating, he can be convicted for cheating though no charge for cheating has been formally framed, by virtue of:

- a. Section 214 of CrPC
- b. Section 221 of CrPC
- c. Section 223 of CrPC
- d. Section 224 of CrPC

43. 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.

44. Which of the following statements hold true for plea of guilty under the provisions of the Code of Criminal Procedure, 1973:

- a. The plea of "not guilty" is not recognised by CrPC.
- b. Pleader can make plea of guilty on behalf of the accused.
- c. The admission made by the accused is binding on him.
- d. Plea of Guilty to a capital charge is inadmissible.

45. 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.

46. An illegitimate child has no other right than the right to claim maintenance u/s. 125 CrPC. She alleged that the respondent was her father. The claim was supported by the evidence of the mother and several other villagers. The birth register showed name similar to the respondent's name as her father. Column pertaining to father's name in the school admission form kept blank as could be expected from an unwed mother. The Court allowed the claim in which of the following cases:

- a. Alok Banerjee v Atoshi Banerjee, AIR 2008 NOC 1574 (All)
- b. Babita Gangwar v. Ram Pal Gangwar AIR 2009 NOC 2944 (All)
- c. Dimple Gupta v. Rajiv Gupta AIR 2008 SC 239: (2007) 10 SCC 30
- d. Meenatchi Ammal v. Karuppana Pillai (1924) 48 Mad 503

47. Recognizance is:

- a. an obligation or acknowledgment of a debt in a court of law with a condition that the debt shall be hold valid on the performance of a stipulated undertaking
- b. an obligation or acknowledgment of a credit in a court of law with a condition that the credit shall be void on the performance of a stipulated undertaking
- c. an obligation or acknowledgment of a debt in a court of law with a condition that the debt shall be void on the performance of a stipulated undertaking
- d. none of them

48. Each material circumstances appearing in evidence against the accused must be put to the accused specifically, distinctly and separately. In this context propositions are:

I. Failure to put the material evidence to the accused always vitiates the trial.

II. Failure to put the material evidence amounts to a serious irregularity which cannot be cured & vitiates the trial, if it has prejudiced the accused.

III. Failure to put the material evidence is not considered to be serious and is curable if in fact no failure of justice has occasioned to the accused.

Now which of the following is correct:

- a. I & II are correct

- b. I & III are correct
- c. I, II & III are correct
- d. II & III are correct

49. Recording of the statement of the accused:

- a. Can never be dispensed with
- b. May be dispensed with in a summons trial case generally
- c. May be dispensed with in a summons trial case where the personal attendance of the accused has been dispensed with
- d. May be dispensed with in a warrant trial case where the personal attendance of the accused has been dispensed with.

50. Propositions as regards the liability of the surety under the surety bond are:

I. the liability of the surety is mutually exclusive of the liability of the accused under his personal bond.

II. the liability of the surety is contingent on the liability of the accused under his personal bond and the liability of the surety.

III. is limited to the amount of the surety bond.

Now which of the following is correct:

- a. I & III are correct
- b. I & II are correct
- c. II & III are correct
- d. I, II & III all are correct

51. Stoppage of proceedings under Section 258 of CrPC has the effect of:

- a. Acquittal under all circumstances
- b. Acquittal where the evidence of the principal witness has been recorded
- c. Discharge in all other cases where the evidence of the principal witness has not been recorded
- d. Only (b) & (c)

### **EVIDENCE ACT, 1872**

#### **(Q. Nos. 52 to 66-Each Question carries 1 mark)**

52. When the liability of a person who is one of the parties to the suit depends upon the liability of a stranger to the suit, then an admission by the stranger in respect of his liability shall be an admission on the part of that person who is a party to the suit. It has been so provided:

- a. Under section 21 of the Evidence Act

- b. Under section 20 of the Evidence Act
  - c. Under section 19 of the Evidence Act
  - d. Under section 17 of the Evidence Act
53. The question is whether the murder of X was committed by Y. The fact that Y produces an admission slip of hospital indicating dislocation of his hip bone during the period of alleged murder. Which one among the following is the correct provision of the Indian Evidence Act under which it is relevant?
- a. Section 6
  - b. Section 9
  - c. Section 10
  - d. Section 11
54. Circumstantial evidence is considered weaker evidence as compared to direct evidence:
- a. Because it has two errors of fallability (i) of the fact from which inference is drawn being proved and (ii) of the inference to be drawn from the fact proved
  - b. Because the inference in circumstantial evidence is based upon a presumption
  - c. Because circumstances sometimes may tell a lie
  - d. Because circumstantial evidence is based upon the process of deductive logic
55. 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
56. 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) all the four (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.

57. Maxim 'omnia proesumuntur rite esse acta' means:

- (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.

58. 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

59. Which of the following is the way to assess damage under Section 12, Indian Evidence Act?

- I. The damage suffered should be near as possible to the sum which will put the injured party in the same position as he would have been if he had not sustained the wrong for which he was awarded damages or compensation
- II. Damages are usually assessed on the basis of actual loss suffered and are called general or ordinary damages
- III. Where the plaintiff has not suffered any real damages by reason of breach of contract, normally, nominal damages are awarded
- IV. Special damages can be awarded for personal inconveniences or physical discomfort caused by the other party

Which is true of the aforesaid propositions:

- A. I, III and IV
- B. II, III and IV
- C. I, II and IV

D. I,II,III and IV

60. 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

61. Which class of persons does Section 18, Indian Evidence Act lies down who can make admissions?

I. Party to the proceeding

II. Agent authorised by a party

III. Party suing or sued in a representative character, making admissions while holding such character

IV. Persons who has any proprietary or pecuniary interest in the subject-matter of the proceedings, during the continuance of such interest

V. Persons from whom the parties to the suit have derived their interest in the subject-matter of the suit, during the continuance of such interest

Which of the following is correct:

A. I and III

B. II, III and V

C. IV and V

D. I, II, III, IV, V

62. Under section 41 of Evidence Act the presumption is with respect to:

- a. Judgement in rem when they are inter parte
- b. Judgement in rem whether such judgments are inter parte or not
- c. Judgments in personam
- d. All the above

63. In criminal trials, it is bound to presume:

- a. That the case of the accused falls in any of the general or special exceptions
- b. That the case of the accused falls in proviso to the provision under which he is charged
- c. The absence of the case of the accused falling in any general or special exceptions or the proviso to the provision under which the accused is charged
- d. Both (a) and (b) and not (c)

64. Which of the following is true as to the standard of proof in criminal and civil proceedings:
- a. In criminal proceedings the standard is beyond reasonable doubt and also in civil proceedings
  - b. In criminal proceedings the stand is beyond reasonable doubt while in civil proceedings it is "upon the balance of probabilities"
  - c. In criminal and civil proceedings both it is "upon the balance of probabilities"
  - d. In criminal proceedings it is "upon the balance of probabilities" while in civil "beyond reasonable doubt"
65. Under proviso 2 to section 92 of Evidence Act oral evidence is admissible:
- a. Where the instrument provides for the matter sought to be proved and the agreement sought to be proved is consistent with the terms of the document
  - b. Where the instrument is silent on the matter sought to be proved and the agreement to be proved is consistent with the terms of the document
  - c. Where the instrument is silent on the matter sought to be proved and the agreement to be proved is inconsistent with the terms of the document
  - d. All the above
66. According to Indian Evidence Act, the burden of proof in a suit or proceeding lies on the person:
- a. Who instituted the suit or proceeding
  - b. Against whom the suit or proceeding is instituted
  - c. Who would fail if no evidence at all were given on either side
  - d. Whom the court may call upon

**INDIAN PENAL CODE**

**(Q. Nos. 67 to 82-Each Question carries 1 mark)**

67. Y, a small boy was guarding the field. Z and M outsiders trespassed and started harvesting, on protest by Y they beat him up and hearing his cries, X and P, uncles of Y who were working in different directions, rushed in, one of them X, fired at the trespassers killing one of them and ran away. P was arrested and charged under Section 302 of the IPC for murder read with Section 34. Which of the following statements is correct?
- a. He is liable for murder because of the similar intention of both the brothers
  - b. He is liable for murder because of the same intention of both the brothers
  - c. He is liable for murder because he was present when his brother forced at the trespassers
  - d. He is not liable because there was no common intention to kill

68. P gives grave and sudden provocation to M. M on this provocation, fires a pistol at P, neither intending nor knowing himself to be likely to kill Q, who is near him but out of the sight, M kills Q.

Taking the view of the above illustrations, give the correct answer.

- a. It is a murder
- b. It is not a murder but culpable homicide
- c. It is neither a murder nor a culpable homicide
- d. None of the above

69. A boy over 11 years but below 12 years of age picked up knife and proceeding towards with a threatening gesture saying that he would cut him into pieces actually stabs him to death:

- a. The boy will not be guilty, as a child under 12 years of age cannot be guilty of an offence
- b. The boy will be guilty because he had attained maturity of understanding to judge the nature and consequence of his conduct of mind and the act concurred in this case
- c. The boy will not be guilty of murder
- d. The boy will not be guilty of murder as he had not attained sufficient maturity of understanding to judge the nature and consequence of his conduct.

70. Perjury resulting in the conviction of a person for an offence punishable with death attracts the maximum penalty of:

- a. Death
- b. Imprisonment for life
- c. RI for 10 years
- d. RI for 10 years and fine

71. A puts jewels into a box belonging to B with the intention that they may be found in that box, with the result that B may be convicted for the offence of theft. A has committed the offence under:

- a. Section 191 of IPC
- b. Section 192 of IPC
- c. Section 193 of IPC
- d. Section 194 of IPC

72. The accused driver of a truck while driving on the left side i.e. his side of the road, sees a cyclist coming from the opposite direction, but on the wrong side of the road i.e., in the lane on which the truck was being driven; the road being narrow and the truck driver sensing that the cyclist was peddling negligently, maneuvers his truck on the opposite lane and simultaneously the cyclist suddenly moves to his lane and as a result the truck over runs the cyclist, causing the death of the cyclist. The truck driver is not guilty of the offence of causing death by rash and negligent act because:

- a. He did not have the necessary mens rea
- b. He acted bona fide
- c. The truck driver upon seeing the risk tried to avoid the risk
- d. Was justified in driving the truck on to the opposite lane.



73. Which of the following is correct:

- a. The burden of proof that the accused was not insane at the time of commission of offence is on the prosecution
- b. The burden of proving that the accused was insane at the time of commission of offence is on the accused
- c. There is a rebuttable presumption of fact that accused was insane at the time of commission of the offence
- d. It is a matter of inference to be drawn by the court on the facts proved by the prosecution

74. A person who causes bodily injury to another who is labouring under a disorder, disease or bodily infirmity and thereby accelerates the death of that other, shall be deemed to have caused his death, by virtue of:

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

75. One Mrs. Komal bought a car on the name of her daughter, Kiran, who is a minor, and got the insurance policy transferred on her name (Mrs. Komal). The car met with an accident on two counts and she file for a claim on both the counts, from the insurance agency. She acknowledged the receipt of the money as Kiran. The insurance company her prosecuted under Section 467 of the IPC alleging fraud on the appellant's part?

- A. Mrs. Komal is guilty of forgery because she made the insurance company believed that she is Kiran
- B. Mrs. Komal is not guilty of forgery because the said deceit did not secure her any advantage as the entire transaction was that of Mrs. Komal
- C. Mrs. Komal is guilty of forgery because she signed all the papers in the name of Kiran
- D. Both (A) and (C)

76. In a case P, a married lady was found in a pool of blood and lying on the ground. On the way to hospital in ambulance she breathed her last. It transpired in the evidence that when P was seated outside her jhuggi, her brother came near her and challenged as to why she made a complaint against her own brother R to the police, Her other brother R and Sharma too came. There was an altercation wherein Sharma stabbed her to death. Which of the following is true regarding this particular case?

- a. As to the vicarious liability of R & C, that the accused Sharma was not carrying an open knife in his hand and there was no evidence to show that this fact was in the knowledge of the other accused.
- b. Sharma had not given any call to his brothers that P should be stabbed to death. Otherwise all the accused had not come together and for that reason it is difficult to assume that all had a prior meeting of mind to cause the death of their sister.

- c. The words used by C were to teach P a lesson for making false accusations. Keeping in view the close relationship, it is difficult to assume that all of them had shared the common intention to kill P. Under these circumstances, there is no reason to rope C and R by aid of Section 34, IPC and they were acquitted.
- d. All of them

77. A attacks Z under such circumstances of grave provocation that his killing of Z would be only culpable homicide not amounting to murder. B, having ill-will towards Z, and intending to kill him and not having been subject to the provocation, assists A in killing Z. Which of the following judgment under Section 38 of IPC applies to A and B?

- A. A is guilty of culpable homicide and B is guilty of murder
- B. B is guilty of culpable homicide and A is guilty of murder
- C. Both A and B are guilty of culpable homicide
- D. Both A and B are guilty of murder

78. 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. On January 17, 1966, 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 the (C)

79. The people of the village S having assembled proceeded to cut the bandh. People of the village K resisted but were turned back. Meanwhile a large crowd collected on both sides, armed with lathis, spears and garases. People of K seeing that the people of S were not likely to

listen to their remonstrance, proceeded in a body to prevent the cutting of the bandh to drive them away. There was one man from village S who received fatal injuries and died.

- A. the action is well within the bounds of the right to private defence of person and property
- B. the conviction of the accused under Section 302 of the IPC, cannot be sustained
- C. neither (A) nor (B)
- D. both (A) and (B)

80. In a case the accused who was a widower led a homely life with his 12-year-old son, nephew and unmarried daughter. The accused suffered from no insanity. One day the accused accompanied by his son went with an axe in his hand to woods to gather siadi leaves. Sometimes after his nephew who had been working in the field discovered the accused sleeping under a tree with the blood stained axe beside him. There was no trace of the son of the accused. Later his son was found hacked to death. It transpired in evidence that the accused for the time being was seized of a state of mind in which he visualised that a tiger was going to pounce on him and as such mistaking his son as the tiger he cut him into pieces.

- A. the accused is lying and is guilty of culpable homicide
- B. it was mistake and the accused had no intention of causing the death of his son whom he dearly loved.
- C. the accused is not in his sound frame of mind
- D. none of them

81. In a case the accused was convicted u/s. 325 I.P.C. and was sentenced by trial Court to two months R.I. with fine of Rs. 500 for offence under S. 325 I.P.C. The trial pended for seven long years.

- A. the sentence is improper for an offence under Section 325 I.P.C
- B. the sentence is proper and appropriate
- C. the accused should be sentenced to fine and imprisonment till the rising of Court
- D. both (A) and (C)

82. 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

**LIMITATION ACT**

**(Q. Nos. 83 to 98-Each Question carries 1 mark)**

83. Section 5 of Limitation Act applies to:  
(a) suit.  
(b) appeal and application.  
(c) execution.  
(d) all the above.
84. Section 6 of Limitation Act does apply in cases of:  
(a) illness.  
(b) poverty.  
(c) insolvency.  
(d) none of the above.
85. Section 14 and section 5 of the Limitation Act are:  
(a) independent of each other.  
(b) mutually exclusive of each other.  
(c) both independent and mutually exclusive.  
(d) neither independent nor mutually exclusive.
86. Fraud contemplated by section 17 is that of:  
(a) the plaintiff.  
(b) the defendant.  
(c) a third person.  
(d) none of the above.
87. Under section 21, a suit is deemed to have been instituted against a newly added defendant:  
(a) on the date on which the newly added defendant is impleaded.  
(b) on the date on which the suit was initially instituted.  
(c) on the date on which the application for impleading a new defendant was made.  
(d) none of the above.
88. Under section 19, Limitation Act, 1963  
(a) payment by cheque which is dishonoured on presentation amounts to part payment and shall save limitation  
(b) payment by cheque which is dishonoured on presentation does not amount to part payment and will not save limitation  
(c) mere handing over the cheque which is dishonoured on presentation amounts to acknowledgment  
(d) either (a) or (c).
89. Section 21 does not apply in:  
(a) cases of devolution of interest during the pendency of the suit.  
(b) cases of assignment of interest during the pendency of the suit.

- (c) cases of transposition of a plaintiff as a defendant and *vice-versa*.
- (d) all the above.

90. A suit for possession based on the right of previous possession and not on title can be filed:
- (a) within one year of dispossession.
  - (b) within three years of dispossession.
  - (c) within twelve years of dispossession.
  - (d) within six months of dispossession.
91. Under section 18(2) oral evidence of date of acknowledgement is permissible if the acknowledgement:
- (a) is dated.
  - (b) is undated.
  - (c) date of acknowledgment is altered.
  - (d) in all above cases.
92. A judgment was pronounced on 02.01.2023. Decree was prepared on 10.01.2023. Application for certified copy was made on 05.01.2023. Copy was ready on 13.01.2023. Under section 12, the period to be excluded is:
- (a) from 02.01.2023 to 13.01.2023.
  - (b) from 02.01.2023 to 05.01.2023.
  - (c) from 05.01.2023 to 10.01.2023.
  - (d) from 05.01.2023 to 13.01.2023.
93. A *Mitakshara* coparcener can file a suit to set aside alienation of ancestral property by his father, under Article 109 of the Schedule, within a period of limitation of:
- (a) twelve years.
  - (b) one year.
  - (c) three years.
  - (d) thirty years.
94. 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 finally was 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.

95. Negotiations for settlement taking place between a claimant and a person against whom claim is made-
- (a) bars the defendant from pleading a statute of limitation where the negotiations have led to delay in bringing the action by the claimant
  - (b) does not debar the defendant from pleading a statute of limitation even though the negotiations have led to delay in bringing the action by the claimant
  - (c) may bar the defendant from pleading a statute of limitation depending on the facts and circumstances of each case
  - (d) shall bar the defendant from pleading a statute of limitation absolutely.
96. Limitation Act is:
- (a) prospective in operation.
  - (b) retrospective in operation.
  - (c) prospective as well as retrospective in operation, depending on the facts and circumstances of each case.
  - (d) prospective as well as retrospective in operation, as per the discretion of the court.
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. Plaint filed the next day after the period of limitation will not be barred by time:
- (a) if the plaintiff was outside India on the last date of limitation.
  - (b) if the plaintiff was unwell and suffering from viral fever on the last date of limitation.
  - (c) if the court was closed for half an hour on the last date of limitation.
  - (d) if the advocate of the plaintiff forgot to file the plaint on the last date of limitation.

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