

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

**Main Written Examination for direct recruitment to the post of Mizoram Judicial
Service, Grade I in Mizoram, 2024**

Date: 22.11.2024 (Friday)

Time: 1 P.M. to 4 P.M.

Total Marks: 100

Duration: 3 Hours

PAPER- II

(Question No. 3, 8, 21, 52, 59, 72, 76, 79 and 80 are 2 marks each. All other questions are 1 mark each.)

Choose the correct option:

Code of Civil Procedure, 1908

1. An ex-parte decree passed by Court 'A' was transferred to Court 'B' for execution and execution proceedings are pending in Court 'B'. Court 'A' sets aside the ex parte decree and on re-hearing, a fresh decree was passed on the same terms.

(a) Since the new decree was passed on the same terms, as the decree which is set aside, the execution proceedings will continue.

(b) Court 'B' can continue to execute the exparte decree since the order of transfer has not been re- called.

(c) The Decree Holder can seek amendment to the execution proceedings.

(d) The execution proceedings in Court 'B' come to an end and a fresh execution petition would have to be filed for the new decree.

2. In a suit to obtain an urgent or immediate relief against Government or public officer for act done in his official capacity, if the court is satisfied after hearing the parties that no urgent or immediate relief need to be granted in suit, the court shall

(a) Impose penalty upon plaintiff

(b) reject the plaint

(c) pass a decree in favour of that government or public officer

(d) return the plaint for presentation after complying with requirements

3. Point out the wrong statement:

2

(a) Where the defendant appears and the plaintiff does not appear, when the suit is called for hearing, the court shall dismiss the suit and the plaintiff shall be barred from filing a fresh suit on the same cause of action.

(b) No appeal may lie from an original decree passed ex parte.

(c) The plaintiff may apply to the court which passed an ex parte decree against him, for an order to set it aside.

(d) No court shall set aside a decree passed ex parte merely on the ground that there has been an irregularity in the service of summon upon the defendant.

4. A' is dispossessed in a suit for possession filed by 'B'. In appeal, the decree of possession is set aside. The defendant may claim:

(a) restitution of possession and damages by filing a separate suit.

(b) restitution of possession by moving an application before the court which passed the decree in first instance.

(c) restitution of possession by moving an application before the appellate court which set aside the decree.

(d) Interest, damages, cost and mesne profits by moving an application before the appellate court which set aside the decree.

5. A civil suit for infringement of trademark with applications under Order XXXIX of CPC and Order XXVI Rule 9 CPC was filed by the plaintiff, during the subsistence of a Caveat filed by the defendant under Section 148A of CPC. The Court, however, without issuing notice to the defendant granted ex-parte ad-interim orders in favour of the plaintiff. Whether the Court was correct in doing so?

(a) Yes, the Court was correct since the reliefs sought are urgent and any prior intimation to the defendant would have led to mischief.

(b) No, since purpose of lodging a caveat is to grant an opportunity to defendant to show cause why any order(s) adverse to the defendant should not be passed.

(c) No, as the Court has no power to grant an interim order without hearing the defendant.

(d) Yes, as the Court has discretion to grant interim order ex-parte without hearing the defendant, where delay would defeat the interests of the plaintiff.

6. Which of the following tests are to be applied in cases where the plea of bar of suit under Order II Rule 2 is raised?

- (a) Where the cause of action in the previous suit and that in the subsequent suit are identical
- (b) Whether the relief claimed in the subsequent suit could have been given in the previous suit on the basis of the pleadings filed in that suit
- (c) Whether the plaintiff omitted to sue for a particular relief on the cause of action which had been disclosed in the previous suit
- (d) All of the above

7. Where the person summoned cannot, by the exercise of due diligence, be found, the summons may be served-

- (a) By affixing the same on the notice board of the Municipal Council of Gram Panchayat as the case may be
- (b) By leaving one of the duplicates of the same for him with some adult male member of his family residing with him, and the person with whom the summons is so left shall, if so required by the summoning officer, sign a receipt therefore on the back of the other duplicate
- (c) By affixing the same on the conspicuous place of his house
- (d) By serving the same on the servant of the person summoned and obtain from him the acknowledgement thereof on the back of the duplicate

8. Mark the incorrect statement:

2

- (a) The court must be competent to try the suit at the time of filing of the suit. Subsequent change in value does not affect the jurisdiction.
- (b) It is the plaintiff's valuation in the plaint that determines the jurisdiction of the court and not the amount for which ultimately the decree may be passed by the court.
- (c) If the pecuniary jurisdiction of the court is Rs. 10,000 and the plaintiff files a suit for accounts and finally the court finds on taking the account that Rs. 15,000 are due, the court is not deprived of its jurisdiction to pass a decree for that amount.

(d) If the plaintiff undervalues or overvalues the claim for the purpose of choosing the forum, it is not the duty of the court to return it to be filed in the proper court.

9. A Private Limited Company filed a suit for recovery of rupees fifty thousand, but court fees paid on the plaint is deficient. The court shall:-

(a) require the District Collector to pay the court fee.

(b) exempt the plaintiff from paying the court fee.

(c) direct the plaintiff to pay the deficient court fee and if the same is not paid, reject the plaint.

(d) straightaway dismiss the suit

10. In a commercial suit, the time limit of 120 days for filing of written statement-

(a) Can be extended, if the Defendant shows adequate reasons for non-filing.

(b) Can be extended at the discretion of the Court.

(c) Cannot be extended under any circumstances.

(d) Direct personal appearance of the Defendant.

11. Where the plaintiff appears and the defendant does not appear when the suit is called on for hearing when summons were served but not in due time and if it is proved that the summons was served on the defendant, but not in sufficient time to enable him to appear and answer on the day fixed in the summons-

(a) The suit be heard ex parte

(b) Direct a second summons to be issued and served on the defendant

(c) The court shall postpone the hearing of the suit to future date to be fixed by the court, and shall direct notice of such day to be given to the defendant

(d) None of the above

12. In which of the following cases, the doctrine of constructive resjudicata is not applicable:

(a) A sues B on a contract and obtains a decree. B afterwards sues for rescission of the contract on the ground that it did not fully represent the agreement between the parties,

(b) A sues B for possession of certain property alleging that it has come to his share on partition of Joint Family Property. B's contention that the partition has not taken place is upheld and the suit is dismissed. A subsequent suit was filed by A against B for partition of Joint Family Property.

(c) A files a suit against B to recover money on a pro-note. B contends that the promissory note was obtained from him by undue influence. The objection is overruled and the suit is decreed. B challenges the promissory note on the ground of coercion and fraud in a subsequent suit.

(d) All of the above.

13. With respect to abatement of suits under the Code of Civil Procedure, 1908, which of the following is incorrect?

(a) No abatement by party's death if the right to sue survives.

(b) In case of more than one plaintiff or defendant is there, the death of one plaintiff or defendant will not result in abatement of the suit if the right to sue survives.

(c) In case of death of the sole defendant, where the right to sue survives, the court shall allow a legal representative of said defendant to become party to the suit.

(d) The legal representative of the deceased defendant will not be allowed to file an additional written statement or statement of objections even though such statement/objections could have been raised by the deceased defendant.

14. Under Order XXI Rule 37 CPC, before arrest and detention, it is-

(a) mandatory to issue show cause notice.

(b) in the absolute discretion of the court whether to issue show cause notice or not.

(c) no show cause notice is required to be issued under any circumstance.

(d) mandatory for the executing court to issue show cause notice only if the execution is applied after two years of the decree.

15. Where an interim injunction has been granted without notice to the opposite party and the Plaintiff fails to comply with the provisions of Order XXXIX, Rule 3, CPC:

(a) The ex parte injunction lapses on the expiry of the time for compliance.

- (b) The ex parte injunction would necessarily be liable to be vacated.
- (c) The Court can extend the time for compliance of Order XXXIX, Rule 3, CPC even after the Defendant has appeared and filed written statement.
- (d) The ex parte injunction would be vacated if the non-compliance is prejudicial to the defendant.

16. The court may by order appoint a receiver of any property before decree:

- (a) Where it appears to the court to be just and convenient
- (b) Where the suit property is in danger of being wrongfully sold in execution of a decree
- (c) Where the defendant is about to dispose of the whole or any part of his property
- (d) Where the defendant has absconded the local limits of the jurisdiction of the court

17. What is the meaning of principle of quia timet in the context of law of injunction?

- (a) Some future probable injury to the right or interests of a person
- (b) Some past injury to the right or interest of a person
- (c) Some injury incapable of being estimated in money
- (d) Some injury capable of being estimated in money

18. Where a mortgagee obtains a decree for payment of money in satisfaction of claim arising under the mortgage:

- (a) He is entitled to bring the mortgaged property to sale without instituting a suit for sale in enforcement of the mortgage under Order XXXIV under Rule 14 of the Civil Procedure Code 1908
- (b) He is entitled to bring the mortgaged property to sale only by instituting a suit for sale in enforcement of the mortgage under Order XXXIV under Rule 14 of the Civil Procedure Code 1908
- (c) He is entitled to bring the mortgaged property to sale in execution proceedings
- (d) He is entitled as in (a) or (c)

19. In case of breach of any of the terms on which temporary injunction was granted, the court may order-

(a) the person in breach to be detained in civil prison for indefinite period but not after the breach has ceased.

(b) attachment of the property of the person in breach and, if the breach continues for more than one year, sell the attached property and award the entire sale proceeds to the injured party as compensation

(c) Both (a) and (b) are incorrect.

(d) Both (a) and (b) are correct.

20. In which of the following situations, after the framing of issues, does the defendant have a right to begin evidence prior to the plaintiff in a civil suit in view of the provisions of Order XVIII Rule 1 of CPC?

(a) Where the facts set out in the plaint are admitted by the defendant but the plaintiff's entitlement to relief is contested in law or on the basis of additional facts asserted by the defendant.

(b) The defendant seeks permission to lead evidence first due to the old age of his/her witnesses.

(c) Either party can elect to begin first and thereafter it is the discretion of the Trial Court.

(d) Both (a) and (b)

21. During the pendency of an appeal by the four defendants in the suit, one of the appellants (defendants) dies and no steps for substitution of his legal representatives are taken and the appeal in so far as it relates to the said appellant abates. The five respondents (plaintiffs) apply for dismissal of the entire appeal as abated. Answer whether: **2**

(a) The entire appeal abates and has to be dismissed.

(b) The entire appeal abates only if the cause of action against all the defendants was one and allowing the appeal of the other defendants would lead to inconsistent decrees.

(c) The appeal only of the deceased appellant abates and as far as the other defendants (appellants) are concerned has to continue.

(d) the proceedings in the appeal have to be stayed and a second appeal is required to be filed for determination of this question.

Transfer of Property

22. If the owner of the property elects to dissent from transfer under section 35 of the Transfer of Property Act, the disappointed transferee is entitled to be compensated when-

- (a) the transfer is gratuitous and the transferor dies before the election
- (b) the transfer is gratuitous and the transferor becomes incapable of making of fresh transfer before the election
- (c) the transfer is for consideration
- (d) All of the above

23. Section 43 of the Transfer of Property Act, 1882 enables a transferee to whom a transferor has made a fraudulent or erroneous representation to lay hold, at his option, of any interest:-

- (a) Which the transferor may subsequently acquire in property, provided it does not adversely affect the right of any subsequent purchaser for value without notice
- (b) Which the transferee may rescind the proceeding
- (c) Which both transferor and transferee rescind
- (d) None of the above

24. Which of the following fact is incorrect about the onus of proof in a suit under Section 53 of the Transfer of Property Act, 1882, to set aside a sale?

- (a) The onus to prove that the transfer is made with intent to defeat or delay the creditor is on the "Creditor".
- (b) The onus to prove that the transfer is made with intent to defeat or delay the creditor is on the "Transferee."
- (c) If the intent to defeat or delay the creditor is proved, the onus to prove that the transfer is in good faith and for consideration is on the "Transferee."
- (d) All options are correct.

25. The mortgagee on service of notice of deposit, along with the petition presented by him before court shall-

- (a) Express his willingness to deposit the mortgage deed
- (b) Simultaneously hand over the mortgage deed for verifications
- (c) Shall fix time and place to hand over the deeds to the mortgagor
- (d) Deposit the mortgage deed in the same court

26. Ashok lets a house to Bharat for five years. Bharat underlets the house to Kishore at a monthly rent of Rs. 2,000/-. Five years expire, but Kishore continues in possession of the house and pays the rent to Ashok. What is the status of Kishore?

- (a) Tenant holding over
- (b) Trespasser.
- (c) Possession is unauthorised
- (d) None of the above

27. A mortgagor who has executed two or more mortgages in favour of the same mortgagee, in absence of a contract to the contrary-

- (a) Is bound to redeem all such mortgages together
- (b) Is not entitled to redeem any one such mortgage separately
- (c) Is bound to redeem at least two such mortgages together
- (d) Be entitled to redeem any one such mortgage separately, or any two or more of such mortgages together

28. Which one of the following statement is not correct?

- (a) 'A' transfers a farm to 'B' for her life and if she does not desert her husband to 'C'. 'B' is entitled to the farm during her life as if no condition had been insisted.
- (b) 'A' transfer Rs. 50,000 to 'B' on condition that he shall marry with the consent of 'C', 'D' and 'E'. 'B' marries without the consent of 'C', 'D' and 'E' but obtains their consent after marriage. The condition shall be deemed to be fulfilled as it has been substantially complied with.

(c) A living person can transfer the property to himself in present or in future.

(d) A vested interest is not defeated by the death of the transferee before he obtains possession.

29. Read the following propositions. Find out which is incorrect?

(a) In a sale, there is an absolute transfer of all rights in the property sold and no rights are left in the transferor

(b) In a lease, there is a partial transfer or demise and the right left in the transferor is called reversion

(c) A gift comprising both existing and future property is void as to the latter

(d) Acceptance is not the pivotal requirement to constitute a valid gift

30. X mortgaged his agricultural land to Y for a sum of Rs. 50 lakhs and got the mortgage deed registered. According to the terms of mortgage deed, the period of mortgage was for 90 years and also that the mortgagee was entitled to get the mortgage money at any time of his choice. Such mortgage is-

(a) not a clog on the equity of redemption

(b) English mortgage

(c) mortgage as a sale

(d) clog on the equity of redemption

31. Mortgagor's right of redemption is co-extensive with

(a) mortgagor's right to inspection and production of documents

(b) mortgagee's right of foreclosure or sale

(c) mortgagor's right to redeem separately or simultaneously

(d) All of these

Code of Criminal Procedure

32. A' is accused of an act which may amount to theft or receiving stolen property or criminal breach of trust. 'A' is only charged with 'theft'. It appears that he committed the offence of criminal breach of trust.

- (a) He may be convicted of criminal breach of trust, though he was not charged with such offence.
- (b) He may not be convicted of criminal breach of trust because he was not charged with such offence.
- (c) He may neither be convicted of theft nor of criminal breach of trust.
- (d) He may only be convicted of theft because he was charged with theft.

33. The period of limitation, in relation to an offence, where the commission of the offence was not known to the person aggrieved by the offence, shall commence:

- (a) from the date of actual commission of the offence
- (b) from the first day of that month in which month such offence comes to the knowledge of such person
- (c) from the first day on which such offence comes to the knowledge of such person
- (d) from the date of lodging an FIR by aggrieved person for the offence

34. A person is arrested and remanded to judicial custody for the offence of theft. He is in such custody for the last three and half years and his trial has not yet been commenced. Which of the following suggestions is correct in this case?

- (a) He shall be released unconditionally
- (b) He shall not be released unless a bail petition is moved on his behalf
- (c) He shall be released on bail only when he remained in custody for half of the maximum period of sentence provided for the offence
- (d) None of the above

35. Which of the following is not correct regarding provisions of bail in case of non-bailable offences?

(a) Bail may be granted, if the court concerned comes to the conclusion that prosecution has failed to establish a prima-facie case

(b) Bail may be granted, if the court is satisfied that in spite of existence of a prima-facie case there is need to release such person on bail in view of facts and circumstances of case

(c) Bail cannot be granted to an accused who may be required for being identified by witness during investigation

(d) If the offence is punishable with death, imprisonment for life or imprisonment for 7 years or more, no person can be released on bail without giving an opportunity of hearing to the public prosecutor

36. The liability of a surety under the surety bond is:

(a) Mutually exclusive of the liability of the accused under his personal bond.

(b) Contingent on the liability of the accused under his personal bond.

(c) Limited to the amount of the surety bond.

(d) Both (a) and (c).

37. Sections 451 and 452 of Cr.P.C. essentially deal with disposal of property by the Criminal Court. The basic difference between the two is-

(a) Both the provisions deal with release of property produced before the Court

(b) Section 451 is attracted during inquiry or trial and Section 452 is attracted after conclusion of the Criminal Trial

(c) There is no difference between the two provisions

(d) None of the above

38. In a case an application for bail is filed by the accused who is alleged to have committed an offence under section 376 AB of the Indian Penal Code, in such a case it is-

(a) mandatory to give a notice of such bail application, before granting bail, to the public prosecutor within a period of fifteen days from the date of receipt of notice of such application.

(b) mandatory to give a notice of such bail application, before granting bail, to the public prosecutor within a period of seven days from the date of receipt of notice of such application.

(c) not mandatory to give notice to the public prosecutor if the complainant/ informant is represented through a private counsel.

(d) not mandatory to give notice to the public prosecutor if the court considers that it is not practicable to give such notice.

39. Which of the following point must be considered by a Court of Session while granting bail to an applicant apprehending arrest in a case where he is accused of committing rape of a woman below the age of twelve years?

(a) The possibility of the applicant to flee from justice.

(b) The possibility of the accusation being made with an object of injuring or humiliating the applicant by having him so arrested.

(c) The presence of the applicant seeking anticipatory bail shall be obligatory at the time of the final hearing of the application and passing of final order by the Court.

(d) None of the above.

40. While deciding an application for grant of bail, the court has to-

(a) Conduct a mini-trial to ascertain whether there is prima facie case against the accused.

(b) Opine as to whether there is prima facie case against the accused.

(c) Examine all witnesses to understand the possibility of the accused obstructing the course of justice.

(d) Conduct a preliminary inquiry without taking cognizance of the offence.

41. Expression 'any person accused of offence and in custody' used in section 439 of the Code of Criminal Procedure means-

(a) A person who has been arrested and remanded to police custody.

(b) A person who has been arrested and remanded to judicial custody.

(c) A person who is accused of bailable offence and surrenders before the Sessions court for the purposes of bail.

(d) All of these.

42. In which of the following cases can an appeal not be preferred before a Court of Session?

(a) An order made after an inquiry against a person requiring him to give security for keeping peace or for good behaviour

(b) An order of conviction made by a Chief Judicial Magistrate after a case was forwarded to him by a Judicial Magistrate of the second class owing to not being empowered to pass a sufficiently severe sentence

(c) An order of acquittal passed by a Chief Judicial Magistrate in respect of a cognizable and bailable offence

(d) An order passed by Judicial Magistrate of the first class to release a person on probation of good conduct.

43. A criminal Court after convicting on charge of assault, proceeds to award the punishment to the accused, a thirty-year old man, with no previous criminal record, refusing to hear the defence on plea of release on probation of good conduct.

(a) The approach cannot be questioned since the matter of consequences after conviction is in discretion of the trial court.

(b) The approach cannot be questioned since assault is a grave offence.

(c) The approach is impermissible since it is incumbent to consider such plea and, if not allowed, special reasons must be recorded.

(d) None of the above.

44. Section 311 of the Code of Criminal Procedure, 1973 imposes Court to a duty on the court to:

(a) Determine the truth after discovering all relevant facts and obtaining proper proof of such facts.

(b) Render a just decision after discovering all relevant facts and obtaining proper proof of such facts.

(c) Discover all relevant facts and obtain proper proof of such facts.

(d) Simultaneously determine the truth and render a just decision.

45. When a court summons any person as a witness upon allowing an application made by the accused under section 311 of the Code of Criminal Procedure, 1973, which of the following statements is correct?

- (a) An opportunity of rebuttal must not be given to the prosecution.
- (b) An opportunity of rebuttal must be given to the prosecution.
- (c) There is no question of rebuttal as the witness has been summoned by the court.
- (d) Whether opportunity of rebuttal is given to the prosecution or not is matter of discretion of the court.

46. Application for withdrawal from prosecution by the prosecutor under Section 321 of the Code of Criminal Procedure 1973, can be made only after a:

- (a) decision is taken by the concerned government and conveyed to the court by the prosecutor to this effect
- (b) decision has been made in good faith in the interest of public policy by the prosecutor independently on overall consideration of the material before him to this effect
- (c) joint decision is taken by the prosecutor and the concerned government in good faith to this effect
- (d) joint decision to be taken by the prosecutor and the court in good faith to this effect

47. Which one of the following cases is, related to defective investigation?

- (a) D.K. Basu v. State of West Bengal
- (b) Zahira Habibullah Sheikh v. State of Gujarat
- (c) Sakshi v. Union of India
- (d) Dipesh Chandak v. Union of India

48. Whenever there is alteration or addition in the charge after commencement of trial, the accused shall be allowed to recall or re-examine the witnesses or call further witnesses. How is this interpreted as?

- (a) A right of the accused
- (b) Not a right of the accused
- (c) A duty of the court

(d) In the discretion of the court

Indian Penal Code

49. A' for the sake of 'B', his insane son gives consent for an open heart surgery (which the surgeon informs is essential to save 'B's life), knowing that the operation will likely cause the death of 'B' but not intending so. 'A' falls within the general exception provided in:

(a) Section 86 IPC

(b) Section 87 IPC

(c) Section 88 IPC

(d) Section 89 IPC

50. A, under the influence of madness, attempts to kill Z, but Z in defending himself from A's attempt to kill him, inflicts grievous injury to A. What offence, if any, has been committed by A and Z?

(a) A is not guilty but Z is guilty of causing grievous hurt

(b) A and Z both are not guilty of any offence

(c) A and Z both are guilty of causing grievous hurt

(d) A is guilty of attempt to murder and Z of causing grievous hurt

51. Qui peccatebrius, luatsobris deals with

(a) Intoxication

(b) Insanity

(c) Consent

(d) Immaturity.

52. What is the basic difference between an offence of abetment by conspiracy and the offence of criminal conspiracy? **2**

(a) In case of conspiracy, mere agreement is enough whereas in case of abetment by conspiracy an act should have taken place in pursuance of conspiracy .

(b) There is no difference at all.

(c) In case of conspiracy, an act should also have taken place, but in case of abetment by conspiracy, no act needs to have taken place.

(d) In case of abetment by conspiracy, there need not be an agreement whereas in case of criminal conspiracy, agreement is essential.

53. X is charge for murder of Y. About a month before the murder Y had attempted to rape the wife of X, X has an altercation with Y immediately before murder, X is:

(a) entitled to the benefit of right of private defence as the deceased had attempt to rape his wife

(b) not entitled to right of private defence as the right of private defence was available to defence his own body alone

(c) not entitled to right of private defence since there was an interval of one month between attempted rape and the murder

(d) entitled to the right of private defence since he was provoked on seeing the deceased.

54. 'A' instigates 'B' to burn 'Z's house. 'B' sets fire to the house and at the same time commits theft of property there. In such a case 'A' would be-

(a) guilty of abetting the theft only

(b) guilty of abetting burning of the house but not guilty of abetting the theft

(c) guilty of abetting burning of the house and of abetting the theft.

(d) not guilty of any offence as he himself did not commit any act.

55. Under which one of the following cases, first time, the Supreme Court of India, has reaffirmed the distinction between culpable homicide and murder while adopting the view suggested in Reg v. Govinda case:

(a) Inder Singh v. State of PEPSU

(b) State of A.P. v. R.R. Punnayya

(c) K.M. Nanawati v. State of Maharashtra

(d) Madhavan v. State of Kerala

56. 'R' takes a loan from 'M' on the security of his bike. But when 'M' was away, 'R' took away the vehicle. The loan was not repaid. 'R' is guilty of:

(a) no offence as the bike belonged to him

(b) no offence as what he owes is some money that could be repaid

(c) Theft as he takes away the vehicle from the possession of 'M' with dishonest intention

(d) Dishonest misappropriation of property as he had no right to appropriate the property

57. A' commits theft of property in B's possession and while committing this theft he has a loaded pistol under the garment kept for the purpose of hurting 'B' in case 'B' should resist. The offence committed by 'A' is defined under which section of IPC, 1860?

a) Section 382

(b) Section 379

(c) Section 390

(d) Section 381

58. Five named accused persons A, B, C, D and E are prosecuted for committing dacoity. The prosecution proves beyond reasonable doubt the participation of A, B and C in the crime but fails to do the same about D and E: A, B and C are convicted while D and E are acquitted. Which one of the following is correct?

(a) Conviction of A, B and C is good in law as there were five participants in all in the crime

(b) Conviction of A, B and C is bad in law as for dacoity a minimum of five persons are required

(c) Conviction of A, B and C is good in law, because conviction of at least five persons for dacoity is not the legal requirement

(d) Conviction of A, B and C is bad in law as in case of named accused less than five persons cannot be convicted for dacoity

59. In which of the following case(s) a dishonest misappropriation has not been committed? **2**

1. 'A' takes a book from his friend 'B's library for reading it overnight. 'B' was not present when 'A' took the book. The next day while coming to return the book 'A' was tempted to see a cinema but had no money, so he pawned the book to pay for the cinema ticket

2. 'A' and 'B' were joint owners of a horse. 'A' took the horse to another station for his exclusive use, without informing 'B'. Later in spite of demand from 'B', 'A' did not return the horse and when it grew old. 'A' sold it and pocketed the money

3. 'A' found a purse on the road, he picked it up and kept it in his pocket. Immediately, he was arrested and the purse was recovered

Codes:

(a) 1 and 2

(b) 2 and 3

(c) 3 alone

(d) 1, 2 and 3

60. 'Actus non facit reum nisi mens sit rea' means-

(a) the act itself does not make a man guilty unless his intentions were so

(b) the intent and the act both must concur to constitute crime

(c) none of the above

Indian Evidence Act

61. Confession can be the result of self talk and communication of confession to another person is not necessary was held in the case of:

(a) Sahoo v. State of Uttar Pradesh

(b) Nishikant v. State of Uttar Pradesh

(c) Aghnoo v. State of Bihar

(d) Daryao Singh v. State of Uttar Pradesh

62. Which Section of the Indian Evidence Act deals with "Doctrine of confirmation by subsequent facts"?

(a) Section 27

(b) Section 115

(c) Section 102

(d) Section 165

63. The admissibility of a dying declaration is based on the maxim-

- (a) dormiunt leges aliquando nunquam moriuntur
- (b) doti lex favet; praemium pudoris est; ideo parcatur
- (c) nemo moriturus praesumitur mentire
- (d) None of the above

64. A Will can be proved by at least one attesting witness being examined. Therefore where both the attesting witnesses have died, the Will cannot be proved. Is this statement correct?

- (a) Yes, as this is the only way to prove the Will.
- (b) No, both the attesting witnesses must depose.
- (c) No, it is not necessary to produce attesting witnesses when the Will is registered.
- (d) No, the signatures of the attesting witnesses and the executants can be identified by the person acquainted with signatures of the attesting witnesses and the executants.

65. 'A' is accused of waging war against the Government of India by taking part in an armed insurrection in which property is destroyed, troops are attacked and goals are broken open. 'A' is not present at all of them yet the occurrence of these facts is relevant because-

- (a) They constitute a motive for relevant fact
- (b) They show preparation for relevant facts
- (c) They are effect of relevant facts
- (d) They form part of the general transaction

66. 'B' has been robbed and murdered. Soon after, the stolen goods are found with 'A'. In these circumstances, what may/may not be presumed?

- (a) The court may presume that 'A' committed the robbery of 'B', but not his murder.
- (b) The court may presume that 'A' committed murder of 'B', but not robbery.
- (c) The court may presume that 'A' committed both robbery and murder of 'B'.

(d) Mere recovery of the stolen articles from 'A' would not justify the court in presuming that 'A' committed either the robbery or the murder of 'B'.

67. 'A' is tried for the murder of 'B'. The fact that marks on the ground produced by a struggle at or near the place where the murder was committed are relevant facts. It is an illustration of:-

- (a) Facts forming part of same transaction
- (b) Facts necessary to explain or induce relevant facts
- (c) Facts showing existence of state of mind or of body or bodily feeling
- (d) Facts as the occasion, cause or effect of facts in issue

68. The conduct of any party for the purpose of Section 8 of the Indian Evidence Act does not include statements:

- (a) by that party previous to the happening of fact in issue.
- (b) unless they accompany and explain acts other than statements.
- (c) unless they accompany and explain acts involved in those statements.
- (d) by the party subsequent to the happening of the fact in issue.

69. A' is accused of receiving stolen goods knowing them to be stolen. He offers to prove that he refused to sell them below their value. Which of the following is correct?

- (a) 'A' may prove the statements, though in the nature of admission, because they are explanatory of conduct influenced by facts in issue.
- (b) 'A' may not prove the statements because they are self-serving admissions.
- (c) 'A' may not prove the statements because as accused he cannot be a witness in his own defence.
- (d) All these are incorrect.

70. A' commits a crime and goes to Police Officer. He makes confession and gives other information. 'A' is charged with the offence. The confession-

- (a) Cannot be proved against him because of Section 25 of the Evidence Act.

- (b) Can be proved against him because of Section 27 of the evidence Act.
- (c) Can be proved against him because of Section 25 of the Evidence Act.
- (d) Cannot be proved against him because of Section 27 of the Evidence Act.

71. The term "police custody" used under Section 26 of the Indian Evidence Act, 1872 means which one of the following?

- (a) Physical presence of the police before an accused person
- (b) Indirect control by the police of an accused person
- (c) Some restrictions by the police over an accused person
- (d) Some kind of surveillance and restrictions over the accused person by the police

72. '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 after following him 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: **2**

- (a) entire statement including motive of stealing the motor cycle 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.

73. In which of the following cases it was laid down that "Section 27 of the Indian Evidence Act, 1872, is an exception of Section 24, 25 and 26 of the Act"?

- (a) Pakala Narayan Swami v. Emperor
- (b) Inayatulla v. State of Maharashtra
- (c) State of U.P. v. Deoman Upadhyaya
- (d) P. Kottayya v. Emperor

74. A is arrested by police and accused of murder of B. During investigation A voluntarily agrees to undergo narco-analysis and therein he confesses to have murdered B.

- (a) The confession is relevant and can be sole basis of conviction
- (b) The confession is irrelevant
- (c) The confession is relevant but requires corroboration
- (d) Only that much of A's statement can be used as leads to discovery of a fact.

75. 'A' is on trial for the murder of 'C'. There is evidence to show that 'C' was murdered by 'A' and 'B', and that 'B' said-'A' and I murdered 'C'. As against 'A', this evidence is

- (a) not to be taken into consideration as the evidence is hearsay.
- (b) to be taken into consideration as it is direct.
- (c) not to be taken into consideration as 'A' and 'B' are not being jointly tried.
- (d) to be taken into consideration as 'A' and 'B' are accomplices.

76. 'C' is employed as cashier by a firm to receive money at its sale counter. It is his duty to make entries in the ledger showing the amounts received by him. He is prosecuted on the charge of criminal breach of trust in respect of rupees ninety thousand on the basis of evidence showing he made an entry showing that he had received rupees ten thousand only whereas he had actually received rupees one lakh. 'C' has taken the plea that the wrong entry was accidental and unintentional. The fact that other entries made in the same ledger are false, each showing receipt of less amount by 'C' is- **2**

- (a) relevant as it has a bearing on the question of intention.
- (b) not relevant as the other entries are not basis of charge.
- (c) not relevant extraneous. as the evidence is
- (d) not relevant as other entries are not in issue.

77. The question is, whether a certain document was written by A. In this case which of the following is/are relevant?

- (a) Another document is produced which is written by A.

- (b) The opinion of experts on the question whether the two documents were written by A.
- (c) The opinion of experts on the question whether the two documents written by different persons. were
- (d) Both (b) and (c).

78. A and B were prosecuted for conspiracy for bribing a police officer. A came to the police station and offered an Inspector packet of currency notes. He told the inspector that B had sent the money as a consideration for hushing up the case against him. The offer of money and the accompanying statement made by A were relevant against-

- (a) A only
- (b) B only
- (c) Both A and B
- (d) None of the above

79. (A) The presumption under Section 113-A of the Indian Evidence Act would be attracted, if the marriage of the accused and the deceased took place more than 7 years prior to the suicide of the woman and cruelty soon before death is established by the prosecution.

(B) That because Section 113-A of the Indian Evidence Act is attracted to a case, the prosecution is not required to prove its case beyond reasonable doubt against the accused.

Which of the following statements is correct?

2

- a) Statement (A).
- (b) Statement (B).
- (c) Both Statements (A) & (B).
- (d) None of the above statements.

80. A news item in the newspaper stated that those who will open industrial units in North-east India will be exempted from Corporate Tax for 5 years. X who wanted to set up an industry, applied to Director of Industries as well as to the Chief Secretary of one of the States and both confirmed the availability of Exemption. X proceeded with his plans. However, the State Government withdrew its policy after one year. Can X bring estoppel against the State? **2**

- (a) No, because estoppel cannot be against State
- (b) No, as there was no direct promise between the State and X
- (c) Yes, X can bring a suit of estoppel as he suffered detriment on the promise made by the State
- (d) It will be at the discretion of Court

81. 'A' intentionally and falsely led 'B' to believe that a plot of land belonged to him. On that basis, he induced 'B' to buy and pay for it. Afterwards the plot of land became the property of 'A'. 'A' brought a suit to set aside the sale in favour of 'B' on the ground that, at the time of sale, he had no title. In such suit

- (a) 'A' may prove want of title at the time of sale.
- (b) 'A' cannot be allowed to prove want of his title.
- (c) It depends on the value of the property.
- (d) All these are incorrect.

82. Circumstantial evidence must satisfy the following test:

- (a) the circumstances from which an inference of guilt is to be drawn must be cogently and firmly established
- (b) those circumstances should be of a definite tendency unerringly pointing towards the guilt of the accused
- (c) the circumstances taken collectively should form a chain so complete that there is no escape from the conclusion that within all human probability the crime was committed by the accused
- (d) all of the above

The Limitation Act

83. During computation of the period of limitation certain facts are considered. Which of the following fact is incorrect?

- (a) In computing the period of limitation for any suit, appeal or application, the day from which such period is to be reckoned, shall be excluded.

(b) In computing the period of limitation for an appeal, the day on which the judgment complained of was pronounced and the time requisite for obtaining a copy of the decree shall be excluded.

(c) In computing the period of limitation for an application to set aside an award, the time requisite for obtaining a copy of the award shall not be excluded.

(d) None of them.

84. In computing the period of limitation for any suit, the time during which the plaintiff had been prosecuting another civil proceeding against the defendant, in a court which, from defect of jurisdiction or other cause of a like nature, was unable to entertain it, shall be excluded, but-

(a) it is necessary that the other case was prosecuted with due diligence and in good faith.

(b) it is not necessary that the other suit related to same matter in issue.

(c) it is necessary that the defect only related to territorial jurisdiction.

(d) All are correct.

85. In which of the following circumstances the plaintiff shall not get the benefit as provided under Section 14 of the Limitation Act?

(a) Where the another civil proceeding is disposed of after adjudication on merits by the competent court

(b) Where the another civil proceeding is disposed of for want of jurisdiction to the said court

(c) Where the another civil proceeding was diligently prosecuted by the plaintiff in good faith in a court having no jurisdiction to try the said matter

(d) None of the above

86. The period of limitation for a suit by a principal against his agent for moveable property received by the latter and not accounted for, is-

(a) 3 years from the date when the account, during the continuation of agency, is demanded and refused.

(b) 3 years from the date when the agency terminates, if no earlier demand is made.

(c) 3 years from the date when the movable property in question was delivered to the agent.

(d) Both (a) and (b)

87. The correct position regarding law of limitation would be-

(a) A suit would be dismissed for want of limitation only if the defendant has raised the objection as to limitation

(b) The court has the discretionary jurisdiction to frame preliminary issue of limitation and proceed with the suit if the claim of the plaintiff is otherwise good on merits

(c) The defendant can waive off his claim for dismissal of the suit on the grounds of limitation and seek adjudication of the dispute upon which the court would proceed to adjudicate upon the dispute

(d) The court would dismiss the suit if the delay is otherwise not condonable in accordance with the provisions of the Limitation Act, 1963

88. What is the period of limitations for specific performance of a contract and when does the period of limitation begin to run:

(a) 3 years, from the date for the performance or if no date is fixed when the plaintiff has noticed that performance is refused

(b) 3 years, from the date when the contract was made

(c) 3 years, from the date fixed for the performance or if no such date is fixed at the discretion of the Court

(d) 3 years, from the date fixed for the performance

89. The limitation available in law to 'A' for instituting a suit at Delhi for recovery of money against 'B' is till 1st December, 2018. 'A' dies intestate on 1st November, 2018 leaving a widow, an adult son, adult daughter and a minor son who amicably inherit the entire estate of 'A'.

(a) The widow and children or any of them can, on or before 1st December, 2018, institute the suit for recovery of money owed by 'B' to 'A'.

(b) The widow and children of 'A' or any of them can institute a suit for recovery of money owed by 'B' to 'A' within three years of 1st November, 2018,

(c) The widow and children of 'A' can institute the suit for recovery of money owed by 'B' to 'A' within three years of the date when the minor son of 'A' attains majority.

(d) The widow and children cannot institute the suit as the right to sue 'B' abates on the demise of 'A'.

90. For exclusion of time proceeding bona fide in court without jurisdiction:

a) the time during which a former civil proceeding was pending, the day on which that proceeding was instituted and the day on which it ended shall both be counted.

(b) a plaintiff or an applicant resisting an appeal shall be deemed to be prosecuting a proceeding.

(c) mis-joinder of parties or of cause of action shall be deemed to be a cause of a like nature with defect of jurisdiction.

(d) All of these

91. In the case of continuing breach of contract or in the case of a continuing tort, the Limitation Act provides as follows:

1. A fresh period of limitation begins to run every time during which the said breach or the tort continues.

2. The test is not whether the right is a continuing right but whether the wrong is a continuing wrong.

3. A continuing breach is different from successive breaches.

Choose the correct option:

(a) Only 1 and 2 are correct.

(b) Only 2 and 3 are correct.

(c) Only 1 and 3 are correct.

(d) All three are correct.
