

DISTRICT JUDGE (ENTRY LEVEL), DIRECT FROM BAR EXAM-2019

Theory Paper-II

Time Allowed : Three Hours

Total Marks : 100

Question paper specific instructions :

(Please read each of the following instructions carefully before attempting questions)

The number of marks carried by a part is indicated against it.

Any page or portion of the page left blank in the Answer Booklet must be clearly struck off.

Part-A (The Constitution of India)

Answer any two questions out of three questions. Each question carries 6 (six) marks.

1. Doctrine of equality under the Constitution cannot be applied to legitimise an illegal act. Can equality be invoked to justify another wrong? Critically examine with reference to cases.
2. The dignity of the individual, which is spoken of in the preamble to the Constitution of India, is a facet of Article 21 of the Constitution. A statutory provision belonging to the hoary past which demeans or degrades the status of a woman obviously false foul of modern constitutional doctrine and must be struck down. Discuss the constitutional pledge of equality of status.
3. Article 226 of the Constitution of India is couched in comprehensive phraseology and it ex facie confers a wide power on the High Courts to reach injustice wherever it is found. Discuss.

Part-B (The Code of Civil Procedure, 1908)

Answer any two questions out of three questions. Each question carries 9 (Nine) marks.

4. All suits of civil nature are triable by a civil court. Discuss the scope of Section 9 of the Code of Civil Procedure and the exclusion of jurisdiction on account of

finality clause.

5. What do you mean by pleading? Discuss the essentials of a pleading.
6. Discuss the ambit and scope of Order 41 Rule 27 of the Code of Civil Procedure.

Part-C (The Code of Criminal Procedure, 1973)

Answer any two questions out of three questions. Each question carries 8 (eight) marks.

7. What is the nature of satisfaction required to invoke the power under Section 319 Cr.P.C. to arraign an accused? Whether the power under Section 319 Cr.P.C can be exercised only if the court is satisfied that the accused summoned in all likelihood be convicted? Explain in the light of 5 Judge Bench decision of the Supreme Court in Hardeep Singh Versus State of Punjab [(2014)3 SCC 92].
8. Who is a 'wife' for the purposes of Section 125 of the Cr.P.C? Explain discussing the decisions in this regard.
9. Whether an order for further investigation under Section 173(8) Cr.P.C. can be passed by the Magistrate suo motu? Whether such power can be exercised after cognizance of the offence has been taken by the court? Explain with the help of decided cases.

Part-D (The Transfer of Property Act, 1882)

Answer any two questions out of three questions. Each question carries 5 (five) marks.

10. Explain the meaning and essentials of a gift as given in Section 122 of the Transfer of Property Act. Can a gift be suspended or revoked?
11. Explain the meaning and essentials of lease. Who can grant lease? Distinguish between lease and licence.
12. Explain the following :-
(a) Clog on perpetuity [3 marks]

(b) Once a mortgage always a mortgage.

[2 marks]

Part-E (The Arbitration and Conciliation Act, 1996)

Answer any two questions out of three questions. Each question carries 5 (five) marks.

13. Discuss the law pertaining to referral of a dispute for arbitration in the event of absence of an arbitration agreement under Section 8 of the Arbitration and Conciliation Act, 1996 vis-à-vis Section 89 of the Code of Civil Procedure, 1908.
14. Discuss the grounds for challenge to an arbitral award with the relevant case laws.
15. What are the roles of the court in an arbitration proceeding. Discuss with relevant provisions and case laws, if any.

Part-F- Personal Laws (Hindu, Muslim and Christian)

Answer any two questions out of three questions. Each question carries 6 (six) marks.

16. One of the parties to a petition under Section 13-B of the Hindu Marriage Act, 1955 after the second hearing of the motion but before pronouncement of the order and preparation of the decree files a petition appended with an affidavit withdrawing consent for mutual divorce and seeks to contest the divorce petition. What would be the procedure?
17. Discuss various forms of *talaq* under the Muslim law.
18. Discuss the requirements of a valid Christian marriage.

Part-G (The Family Courts Act, 1984)

Answer any one question out of two questions. Question carries 6 (six) marks.

19. What are the factors to be taken into consideration by the family court while dealing with a petition under Section 127 of the Code of Criminal Procedure, 1973?
20. During pendency of a petition for divorce on the grounds of cruelty the petitioner seeks to add adultery as a ground for divorce. What would be the procedure? Discuss with relevant provisions and case laws, if any.

Part-H (The Indian Partnership Act, 1932)

Answer any two questions out of three questions. Each question carries 5 (five) marks.

21. Explain the difference between dissolution of partnership and dissolution of firm. [2 marks]
- 21(a) 'A' and 'B' were partners under an agreement which provided that the partnership should be terminated by mutual agreement only. Can 'A' terminate the partnership by giving notice to 'B'? [1½ marks]
- 21(b) 'A', an Indian and 'B', a Chinese subject, are partners in trade. War breaks out between India and China. What is the position of the partnership? [1½ marks]
22. What are essentials of Partnership? [2 marks]
- 22(a) 'A' and 'B' were partners, and 'A' was convicted of travelling on the railway without ticket and with intent to defraud. Will the court order dissolution of the firm? [1½ marks]
- 22(b) 'A' and 'B' carried on business as partners. After some time the relation between them became so strained that neither would speak to the other. Communications having to be conveyed between them through the accounts clerk. The firm had made and continued to make large profits. Can the court order its dissolution? [1½ marks]
23. Explain the advantages of partnership over a company. [2 marks]
- 23(a) 'A' and 'B' carried on business in partnership. On B's death, the partnership

was dissolved but 'A' carried the business for a further period of one year. How should the profits earned since B's death be divided? [1½ marks]

- 23(b) 'B', 'C' and 'J' carried on business as J and Co. 'J' retired and 'B' and 'C' carried on business under a new name with the addition of "Late J and Co." 'J' found a new firm carrying on same kind of business in premises adjoining the old firm's premises in the name of J and Co, and sent circulars about his business to the customers of the old firms. What are J's rights and those of 'B' and 'C'. [1½ marks]

Part-I (The Motor Vehicles Act, 1988)

Answer any one question out of two questions. Question carries 6 (six) marks.

24. Whether in a claim proceeding under Section 163A of the Motor Vehicles Act, it is open for the insurer to raise the plea of negligence? Explain citing decisions.
25. Discuss briefly salient features of the 5 Judge Bench decision of the Supreme Court in case of National Insurance Company Limited Versus Pranay Sethi [AIR 2017 SC 5157].

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