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UPSC law optional question papers - 2012

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Paper-I

Section – A

1. Answer the following (answer to each part must not exceed 125 words). Support your answer with the help of legal provisions and decided cases: $10 \times 5 = 50$

(a) "The word 'Voluntary' as used in the Indian Penal Code is very significant and it does not mean willingly but knowingly or intentionally." Explain. (10 MARKS)

(b) "Fake police encounters are nothing but murders and police officers committing it without any protection of law to them deserve death penalty as the cases fall into rarer of the rarest category." Comment. (10 MARKS)

(c) "Nuisance as a tort means an unlawful interference with a person's use or enjoyment of land or some right over or in connection with it." Comment (10 MARKS)

(d) "Involuntary drunkenness is a defence." Critically examine the law relating to intoxication as defence. (10 MARKS)

(e) "The definition given under the Consumer Protection Act, 1986 gives altogether a new legal colour and scope to the term 'Consumer'." In the light of this statement, explain the term 'Consumer'. (10 MARKS)

2. (a) X, the producer of a film showing life of 'homosexuals', is prosecuted under Section 292 of the Indian Penal Code, alleging that the film was obscene and indecent. The film was certified by the Censor Board of Film of India for public shows. X intends to claim protection against his charge under Section 79 of the Indian Penal Code. Can he do so? Justify your answer. (25 MARKS)

(b) The natural calamity in Uttarakhand left hundreds dead. Some people were seen removing gold ornaments, watches and other valuables from these dead bodies. Few days later, police apprehended them and wanted to prosecute them. Under which provision of the Indian Penal Code can they be prosecuted? Discuss (25 MARKS)

3. (a) "Assault is an act of the defendant which causes to the plaintiff reasonable apprehension of the infliction of a battery on him by the defendant." Comment and distinguish between assault and battery. (20 MARKS)

(b) X sends an e-mail to Y containing defamatory matters against him. The e-mail is received by Y who deletes it after reading. Is X liable for publication? Refer to relevant case law. (15 MARKS)

(c) X, while driving car, suddenly became unconscious and fell back in his seat. The car became uncontrolled, it hit and killed Y. discuss the liability of X. (15 MARKS)



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4. (a) "Plea bargaining, which was considered unconstitutional, illegal and tending to encourage complaint, collusion and pollution of the pure punt of justice, is now a part of sentencing under the Indian Criminal Law." Comment (25 MARKS)

(b) Q refused to marry her boyfriend P, resulting into P's depression. Mr. R, a friend of P, suggested him to take revenge with an intention that P will come out of shock. R provided with a bottle of liquid believing it as acid. P mistook X to be Q in darkens and threw it on her (X) causing rashes on the face of X, which later resulted into serious injuries. The investigations revealed that it was not acid but was a concentrate of fungicide. Decide the liability of P and R in the case, keeping in mind that defence which may be available to P and R. (25 MARKS)

Section B

5. Answer the following (answer to each part must not exceed 125 words). Support your answer with legal provisions and decided cases: $10 \times 5 = 50$

(a) "Indemnity" has relation to the conduct either of the indemnifier himself or of a third party. A 'Guarantee' is always related to the conduct of a third party." Elucidate (10 MARKS)

(b) "Privity of contract is no longer a rule but only an exception." Explain in the context of modern transactions. (10 MARKS)

(c) "The copyright exists in expression but not in idea." Discuss with the help of the provisions of Copyright Act and case law. (10 MARKS)

(d) "The principle of 'holding out' is based on the principle of estoppels." Elucidate. (10 MARKS)

(e) "Once an instrument passes through the hands of a holder in due course, it is purged of all defects, it is true like a current coin." Explain (10 MARKS)

6. (a) "It has been a common statement of the law that while relief is available for certain kinds of mutual mistake, it is unavailable for unilateral mistake unless the other party knew or had reason to know of the mistake." Critically examine the statement with leading case law. (25 MARKS)

(b) Critically analyse the term 'inventive steps' as incorporated under the Patent (Amendment) Act, 2005. Do you agree with the present definition? Refer to recent case law. (25 MARKS)

7. (a) "An attempt by all political parties to bring amendments to the RTI Act, 2005 is to sabotage the steps towards transparency of governance in this country." Critically evaluate the statement. (25 MARKS)

(b) In matters such as enforcement of social, economic, cultural or political rights or civil liberties or gender concerns, courts in India have been inclined to apply relaxed rules of standing or litigational competence rather than strict rules of locus. Discuss. (25 MARKS)

8. (a) Competition Law in India has not achieved the result as was expected. Discuss the bottlenecks with which it suffers and suggest the remedies necessary to make it fruitful. (25 MARKS)

(b) Corporate causing havoc to the wildlife existing on seashores is an extreme type of environmental crime and laws are almost non-existent to deal with them directly. Discuss. (25 MARKS)



Paper- II

Section A

1. Answer the following. (Answer to each part must not exceed 150 words.) Support your answer with the help of legal provisions and decided cases: $12 \times 5 = 60$

- (a) "Culpable homicide is the genus and murder is species, and that all murders are culpable homicide but not vice versa." Discuss in the light of legal provisions and some decided cases. (12 MARKS)
- (b) "The recent Criminal Law (Amendment Bill, 2011 seeks to replace 'rape' by the term 'sexual assault' in the IPC and intends to made rape a gender-neutral offence in the country." Examine whether this is appropriate. (12 MARKS)
- (c) "The expression 'good faith' has a definite identity in the Indian Penal Code." Discuss. (12 MARKS)
- (d) The defendant had been carrying cargo in a lorry for the plaintiff: On the way there was heavy rainfall. The cargo was damaged by seepage due to rainwater rising from below, while it had been securely protected by the defendant by tarpaulin from above. The flash flood on the highway had stranded hundreds of lorries including that of the defendant, and the water level on the highway rose above tyres and up to the level of the platform which resulted in the see page. However, the plaintiff claimed heavy damages from the defendant on the ground of negligence or want of due care. Discuss whether the defendant can have any defence in this case. (12 MARKS)
- (e) "The principle of 'res ipsa loquitur' is an exception to the rule that it is for the plaintiff to prove negligence of the defendant. Discuss with reference to some cases. (12 MARKS)

2. (a) Explain the essentials of malicious prosecution. What are the grounds on which plaintiff can claim damages? (30 MARKS)

(b) Mr. X himself was driving a car and when he was hit by a mail train. The car was smashed and Mr. X was seriously injured, and died in hospital. In an action by the widow against the Union of India, as owner of the Railway, it was contended that the level crossing was unmanned and the gates were open. This constituted negligence on the part of the railway. Further it was contended that there was no contributory negligence on the part of Mr. X, the deceased, as he could not have a look at the railway line from a distance as his view was obstructed by some trees, etc., nor could he hear the sound of the coming mail train while he was in the car with the engine running and the windscreen closed. Decide the case giving your reasons. (30 MARKS)

3. (a) "It is possible to support an action for nuisance as well as of negligence on the same set of facts, however, there are certain points of distinction between the two." Discuss (20 MARKS)

(b) The accused (appellant) was separated from his wife. She was living with her father. The accused was keeping their youngest child with someone else. During the noon of a day, his wife took away the child from that someone. The accused, on hearing this, reached his father-in-law's place and quarreled. Later in the evening of the same day, the accused stabbed his father-in-law and he died. Discuss in the light of legal provisions whether the accused would have any lawful defence in this case. (20 MARKS)



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(c) The plaintiff was insured with the defendant against loss by theft. The plaintiff advertised a watch and a ring for sale and in response, he received a telephone call from someone who expressed interest. He called, agreed to pay the asked price and made payment by a building society cheque and took delivery of the items. The cheque was dishonoured. For the articles so lost, a claim was presented to the insurer under the theft policy. The insurer refused to pay anything. Explain the rights, if any, available to the plaintiff under the circumstances. (20 MARKS)

4. (a) "There may be an element of abetment in a conspiracy but conspiracy is something more than an abetment." Discuss with illustrations. (20 MARKS)

(b) The accused, one of the two joint owners of a shop, put her lock on the shop which was let out by another joint owner without the consent. The tenant charged the accused with the offence of wrongful restraint in that he was prevented by the lock from entering into the shop. Discuss in the light of legal provisions whether the accused has committed the offence of wrongful restraint. (20 MARKS)

(c) A contractor was given contract for construction work by the Minor Irrigation Department of a State Government under a specific agreement that he would return unused cement but instead of doing so, he sold the cement to outsiders. Mentioning relevant legal provision, discuss what offence, if any, is committed by the contractor. (20 MARKS)

Section B

5. Answer the following. (Answer to each part must not exceed 150 words.) Support your answer with legal provisions and decided cases. $12 \times 5 = 60$

(a) "Undue influence is said to be a subtle species of fraud whereby mastery is obtained over the mind of the victim by insidious approaches and seductive artifices." Explain. (12 MARKS)

(b) "Quasi-contract consists of the contractual obligation which is entered upon not because the parties have consented to it, but because law does not allow a person to have unjustified benefit at the cost of other party." Explain the real basis of quasi-contracts with legal provisions and illustrations. (12 MARKS)

(c) Explain with illustration when may a principal unilaterally cancel an agency relation without incurring liability for breach of contract. (12 MARKS)

(d) Discuss the law regarding dishonour of cheque for insufficiency, etc., of funds in the account. (12 MARKS)

(e) What are the advantages and disadvantages of Alternative Dispute Resolution System? (12 MARKS)

6. (a) "An irrational distrust of all standard form contract would be as dangerous as a facile acceptance and enforcement of these contracts." Discuss. (30 MARKS)

(b) Briefly explain the meaning, scope and applicability of the doctrine of frustration under the law of contract. (30 MARKS)



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7. (a) Under what circumstance 'breach of condition' may be treated as 'breach of warranty' under the Sale of Goods Act? Discuss. (30 MARKS)

(b) "Public interest litigation is not in the nature of adversary litigation but it is a challenge and its officers to make basic human rights meaningful to the deprived and vulnerable sections of community to assure them social and economic justice which is the signature tune of our Constitution." Discuss (30 MARKS)

8. (a) "During high publicity court cases, the media are often accused of provoking an atmosphere of public hysteria akin to a lynch mob which not only makes a fair trial nearly impossible but means that regardless of the result of the trial the accused will not be able to live the rest of his life without intense public scrutiny." How would you reconcile the 'freedom of the press' and the "individual's right to privacy and right to a fair trial"? Do you think that trial by media amounts to "contempt of court" and needs to be punished? (20 MARKS)

(b) A television was displayed on a Web site owned by XYZ Distributors for sale at a price of Rs. 79.99. Hundreds of customers ordered the television but the retailer refused to fill the orders on the ground that they had been incorrectly priced by mistake. The correct price was Rs. 7,999. Explain the liability, if any, arising out of the above-mentioned communications. Give reasons. (20 MARKS)

(c) In a contract between A and B, security deposit was taken by A from B to ensure due performance of the contract. B committed default in performance though no actual loss had arisen. A forfeited the deposit for fault of B. B claimed that forfeiture of deposit is not valid in law. How would you decide? Give reasons. (20 MARKS)

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