



## Previous Year Paper

### HARYANA CIVIL SERVICE JUDICIAL MAINS EXAM 2009

#### PAPER I CIVIL LAW

- Q.1 (a) State the circumstances when a plaint can be rejected?  
(b) In a civil suit, issues were framed and evidence was being recorded. However, on a certain date, defendant's counsel pointed out that prima facie the suit was barred by limitation. The Court rejected the plaint without going into the full text of the plaint, and without hearing the plaintiff's counsel. Whether the said rejection order is legally correct? Give reasons for your answer.  
(c) What do you understand by "indigent person"?  
(d) How is an application for permission to sue as an indigent person filed?
- Q.2 (a) Does a fresh suit lie in respect of the same cause of action in the following cases:  
(i) Where plaintiff has failed to sue for the entire claim in the previous suit.  
(ii) Whether a suit is dismissed for non-appearance of plaintiff on a date when defendant is present in the Court.  
(iii) When a suit abates on account of death of defendant where legal representatives have not been brought on record.  
(b) There is an apprehension that there may not be a fair trial in the jurisdictional Court where the cause of action has arisen? Can the place of sitting of the Court be transferred beyond the jurisdictional Court under the provisions of Punjab Courts Act, 1918?  
(c) Can the following contract be specifically enforced?  
(i) A Contract to execute mortgage.  
(ii) A Contract to lend money.  
(iii) A Contract to construct a building.  
(iv) A Contract to translate a book into other language.  
(v) Arun, the owner of a hotel, contracts with Balwant, to give him accommodation therein for the sale of his hosiery products and to furnish the accommodation with necessary furniture. Arun refuses to perform the contract.





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- Q. 3** (a) "A quasi-contract has no affinity with contract but rests on the equitable principle that a person shall not be allowed to enrich himself at the expense of another". Explain by giving suitable illustrations.
- (b) A company agreed to supply one thousand blankets to X by a particular date. Rs. 10,000 were paid as an advance to the company by X. Before the due date of performance of the contract, the company informed X that it would not supply blankets on due date and that he should treat the contract as repudiated. X did not accept the repudiation, and kept on demanding the supply till the last date/due date of performance of the contract. In the meantime, war between India and China broke out, and all the stocks of the company were requisitioned by Government for military purposes. X files a suit against the company for damages for breach of contract. Will he succeed? Decide by referring to the provisions of the Indian Contract Act and decided cases.
- Q.4** (a) A and B carry on motor repair business in partnership. Under the deed of partnership, A has not power of borrowing money. C a creditor, knowing nothing about restrictions on the power of A for borrowing money, lends A money for the use of the firm. Is the firm liable to C for repayment of the money lent by him to A. Refer to statutory provisions and decided cases.
- (b) A and B are carrying on the business of grain merchants, in partnership. It is provided in the partnership deed that disputes relating to the affairs of the business would be referred to arbitration. A dispute arose and the same was referred to arbitration. Arbitrators decided in favour of A. B refuses to abide by the award. A sues for enforcement of the award. Incidentally the firm is not registered under the Indian Partnership Act. Decide while referring to the provisions of the Indian Partnership Act and decided cases on the point.
- (c) B purchases motor car from A which he uses for some months. It turns out that the car sold by A to B was a stolen one and has to be restored to the rightful owner. B brings an action against A for the return of the price. Will he succeed. Decide giving reasons.
- (d) The plaintiff, a butcher bought a carcass of a goat from the defendant, who was a meat shopkeeper in a meat market. The plaintiff in ignorance of the fact that it was exposed to the tuberculosis, offered it for sale. It was seized by a Food Inspector, who adjudged the same as unfit for consumption, and condemned it to be destroyed. The plaintiff was also fined. Thereafter, the plaintiff filed a suit against the defendant to recover the amount of fine and damages for breach of warranty under the Sale of Goods Act. The defendant pleaded that by usage of trade such an implied warranty was excluded. Decide by referring to the provisions of the Sale of Goods Act and decided case.



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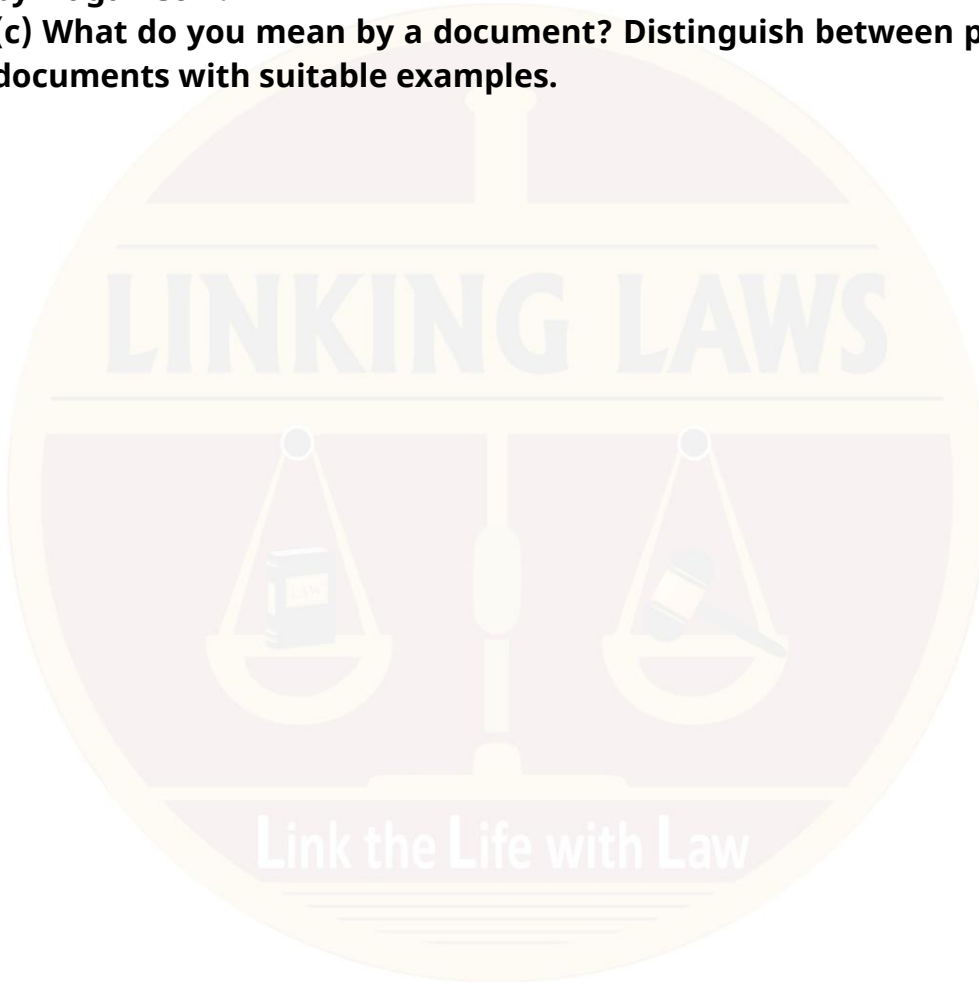


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- Q5. (a) Comment on the Doctrine of Promissory Estoppel with the help of suitable examples.
- (b) A raised a loan by pledging a Railway Receipt of goods in transit, as security, with a money lender X. A got the Railway Receipt back from X in order to get the goods released from the Railways. Instead, A pledged the same Railway Receipt with another lender Y, to raise another loan. In a suit for recovery filed by X, Y pleads estoppels against X for not endorsing the Receipt "Under Lien Pledge" and thus, representing that the said receipt is free from lien, which facilitated A to raise a second loan against the receipt. Decide if estoppel is rightly invoked by Y against X?
- (c) What do you mean by a document? Distinguish between public and private documents with suitable examples.



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## PAPER II CIVIL LAW

- Q.1. (a) On what grounds a Court can grant a decree of nullity of marriage? Critically examine the amendments made in the grounds of nullity by the Amendment Act 68 of 1976.
- (b) X a Hindu male, married Y a female in the year 2009, with the written consent of his first wife P. Is X's marriage with Y valid?
- (c) Discuss the law relating to natural guardian of a Hindu minor. Does the law discriminate on the basis of sex?
- (d) (i) M a Hindu mother, sells a 10 marla plot of her son aged 16 years, for donation to a Medical College, for getting him admitted to M.B.B.S. course. Is the sale valid?
- (ii) F a Hindu father, in his Will appointed B, his brother, as a guardian of his son aged 10 years, ignoring the mother of the child. Whether the father's Will would be effective?
- Q2. (a) Critically evaluate the consequences of the amendments made in the Hindu Succession Act, 1956, in 2005 in relation to the concept of coparcenary and dwelling house.
- (b) A male Hindu died intestate, leaving behind an adopted son, a legitimate son, a married daughter and a mother. Who and how much share, each will get in A's property?
- (c) ".....clear proof of usage will outweigh the written text of law? Discuss bringing out the importance of custom as a source of Hindu Law.
- Q3. (a) Mention the circumstances which led to the enactment of the Muslim Women (Protection of Rights on Divorce) Act, 1986. Whether the objectives of passing this Act have been achieved? Discuss.
- (b) Draw distinction between the following:
- (i) Ahasan Talak and Hasan Talak.
- (ii) Hiba and Hiba-bil-Iwaz.
- (iii) Istridhan and dower.
- (c) What is the difference between "Kareva" form of marriage and "Chaderandazi" form of marriage? How are these marriages solemnized?
- Q4. (a) Discuss the circumstances in which registration of a document can be refused by the Registering Authority. What is the remedy against an unjustified refusal?





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(b) Can a registered document be re-registered? If so, under what circumstances?

(c) A document for sale of immovable property was executed by a widow, who sent her husband's brother for registration. Her Husband's brother had no power of attorney, to sell or present the said document for registration on behalf of the widow. What right is available to the vendee?

Q.5 (a) What do you understand by legal disability, as embodied under the Limitation Act?

(b)(i) Cause of action accrued to plaintiff's father in 1917 when he was a minor. The plaintiff was not even born at that time. After the death of the plaintiff's father, the plaintiff got the right to sue, but he was then a minor for several years. The plaintiff filed a suit on attaining majority. Would the suit be maintainable?

(ii) A had a right to sue in 2002 (limitation 3 years). He remained insane from 2004 to 2006. He instituted a suit in 2006. Would his suit be barred by limitation?

(c) What is the effect of acknowledgment as envisaged under the Limitation Act?

(d) Do the following amount to acknowledgment of a debt?

(i) "It is not that I won't pay you but that I cannot do so... "What I wrote was not that I saw no prospect at present of being able to repay the capital, but that I saw no prospect of being able to repay the capital at present.

(ii) "I owe the money, but I cannot tell when and how I will be able to pay".

(iii) "I owe the debt, but I will not pay it, unless I am compelled by law."

(iv) A sends a letter duly signed to his own son acknowledging liability for a debt due to B, a creditor. Can the creditor B rely on such acknowledgment for extension of time in his suit against A?

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## PAPER III CRIMINAL LAW

- Q1. (a) Discuss the law of "Attempt" under Indian Penal Code.  
(b) A intending to murder Z, mixes poison with the milk and then places the glass on Z's table. What offence did A commit?  
(c) Had A mixed sugar, mistaking it as poison, with milk and then placed the glass on Z's table, would it make any difference in the judgment?
- Q2. (a) "Even without a murderous intention, a person may be guilty of murder". Elucidate.  
(b) A student without an excuse went on firing with his revolver at the crowd of students resulting in death of one of the students. Discuss the criminal liability of A.  
(c) What should be proved by an accused to establish the defence of unsoundness of mind?  
A was commanded by God in his dream to sacrifice his only son. A took his son to a mosque and killed him. A then went into hiding and surrendered to police after two days. Can A's defence of unsoundness of mind be accepted?
- Q3. (a) "Person once convicted or acquitted, cannot be tried again on the same facts for the same offence." Elucidate.  
(b) Examine the legality of the following trials:  
(i) A is tried and convicted for causing hurt to B. He is again charged and tried for causing grievous hurt on the same facts.  
(ii) A is tried for causing grievous hurt to B and convicted. Afterwards B dies of the same wounds. He is again tried for committing culpable homicide.
- Q4. (a) What do you understand by "Plea Bargaining"? State the procedure for initiating "Plea Bargain" in Courts.  
(b) What should a Magistrate do in a case, in which "Plea Bargain" has been initiated:  
(i) but no satisfactory disposition is made out,  
(ii) a satisfactory disposition is made out.  
(c) What is the object of section 125 in Cr. PC? Can the following claim for maintenance under section 125 Cr. PC and when:  
(i) A Muslim wife from her husband.  
(ii) Mother and Father from a married daughter.
- Q5. (a) Who is an accomplice? Can a Court base the conviction of an accused solely on the basis of the testimony of an accomplice?





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- (b) A is charged with murder of C. There is some evidence to show that A and B murdered C. Is B's statement "A and I murdered C" admissible against A?
- (c) A kills his aunt and himself lodges an F.I.R. narrating the facts at the police station. He was prosecuted for murder on the basis of the F.I.R. No other evidence was given. A subsequently did not plead guilty? Comment.



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