



HARYANA CIVIL SERVICE JUDICIAL EXAMINATION, 2006

Paper I Civil Law

Time: 3 hrs.

Max. Marks: 200

Note: Attempt any five questions. All questions carry equal marks. It is compulsory to attempt at least one question from each part.

Part – A

Q. 1. (a) Explain if the rule of conclusiveness of foreign judgement is different in its operation from the rule of res judicata.

(b) Can a court in India consider whether conclusions reached in a foreign judgement are supported by the evidence or are otherwise correct?

(c) When and how a decree of any foreign court can be executed in India.

Q. 2. (a) Explain if and when: (i) interest prior to the date of the suit, (ii) interest pendente lite and (iii) future interest can be totally declined or granted at 6% p.a. or at the contractual rate by the Court.

(b) Can the court award interest.

(i) on the aggregate amount which includes the principal sum and the amount of interest;

(ii) at a rate higher than what was contracted between the parties;

(iii) in a suit which is not simpliciter for money;

(iv) by way of damages;

(v) while executing a decree;

(vi) in an appeal.

Q. 3. (a) Explain the rules governing denials by the defendant in a written statement.

(b) What are the conditions that must exist for making an application for the execution of cross-decrees?

(c) What is the procedure for attaching agricultural produce in the execution of a decree?

Part – B

Q. 4. (a) Mention the circumstances in which a contract by a minor is: (i) void, (ii) voidable or (iii) valid.

(b) A promissory note was signed by a minor in consideration of money received by him. On attaining majority, he ratifies that promissory note. Can the creditor enforce it?

Q. 5. (a) Explain, with illustrations, the difference between illegal and void contracts.

(b) When is consideration or object of an agreement said to be opposed to public policy? Mention case law.

Q. 6. (a) When is a carrier presumed to be the buyer's agent to take delivery of goods from the seller?

(b) The defendant contracted to purchase 300 liters of apple juice from the plaintiff who crushed the apples and kept the juice ready for delivery. The defendant did not take the delivery in time and delayed taking delivery. The juice went putrid and had to be thrown away by the plaintiff, though he was in a position to sell the goods elsewhere. But the plaintiff had not done so. Was the defendant liable to pay the price?

(c) Under a contract of sale of 100 barrels of rum made from molasses, 50 barrels were delivered. The buyer pressed for delivery of the remainder but the seller delayed. In the meantime, distillation of spirits from molasses was prohibited by an Act of Parliament and all contracts for the sale of such spirits stood annulled. Is the seller liable in damages as having failed to deliver the remaining 50 barrels of rum?

Part – C

Q. 7. (a) When can a person, who being not the owner is dispossessed of immovable property recover possession thereof?

(b) Can a person recover possession of immovable property if he was dispossessed:—

- (i) being a tenant holding over after the expiry of the term;
- (ii) being a trespasser;



(iii) by a person having good title;

(iv) only partially;

(v) by the Government.

Q. 8. (a) Discuss the principles and the restrictions regarding the grant of: (i) temporary injunction, (ii) perpetual injunction and (iii) mandatory injunction?

(b) Can a mandatory injunction be granted on an interlocutory application in a suit?

(c) Can the court grant temporary injunction in exercise of its inherent powers in a case?

Part – D

Q. 9. (a) Explain the difference between primary and secondary evidence.

(b) Two wills in identical language were prepared by the process of typing in which the second copy was obtained by carbon impression. Both were executed and attested. The testator inserted a remark "true copy" on one of them. Can both the wills be treated to be original and as primary evidence?

(c) A sale-deed is duly registered and an entry made by the Registrar in the register book. Can the registered sale-deed and the aforesaid entry be treated as public documents?

Q. 10. (a) Explain the difference between:—

(i) a private limited company and partnership;

(ii) co-ownership and partnership;

(iii) joint Hindu family business and partnership.

(b) Explain the following statement:—

"The law of partnership is but an extension of the law of principal and agent".

Paper II Civil Law

Time: 3 hrs.

Max. Marks: 200

Note: All the eight questions are to be attempted. All questions carry equal marks. Answers should be precise and to the point.

Q. 1. (a) Critically examine the concept of irretrievable breakdown of marriage. Can the courts invoke this concept for granting divorce under the provisions of the Hindu Marriage Act, 1955?

(b) Although cruelty is clearly a ground for divorce under Section 13 of the Hindu Marriage Act, 1955, and yet the legislature in its wisdom has not defined it in the Act. In the application of this statutory ground, however, the apex court has developed a functional concept of cruelty. Bring out the salient features of that concept in the light of case law.

Q. 2. (a) A marriage of a Hindu girl, aged 11 years, was solemnized with a Hindu boy of 25 years of age. She sought to repudiate the marriage after attaining the age of 13 years through her brother (although her father being alive). Decide if she could succeed in repudiating the marriage under the relevant provisions of the Act of 1955.

(b) Critically examine the concept of matrimonial bars and bring out their relevance in deciding the matrimonial disputes.

Q. 3. (a) Discuss customary appointment of an heir. Is it different from adoption under Hindu Law?

(b) What is the doctrine of Acknowledgment of Legitimacy under Muslim law? How is it different from "Legitimation"?

(c) Marriage amongst Muslims is a contract, but it is also a 'sacred covenant'—Fyzee. Comment.

(d) Applicability of Section 125 of Cr.P.C. to Muslims after the enactment of Muslim Women (Protection of Rights on Divorce) Act, 1986.

(e) A mother gives her only son in adoption though father of the boy is alive at the time of adoption. Discuss if the adoption is valid under any circumstances in the light of the relevant provisions of the Hindu Adoptions and Maintenance Act, 1956.

Q. 4. (a) The consideration governing the custody of children is the 'welfare of the children' and not the rights of the parents. But the expression 'welfare of the children' admits 'no straight jacket yardstick.' How do the custody courts resolve this predicament? Illustrate your answer through some judicially decided cases.

(b) A young woman after the death of her husband was forced to leave her four-year old child with her in-laws at Ambala. Thereafter she started living with her parents at Hoshiarpur. She filed a petition for custody of the child at Hoshiarpur. Decide, if the civil court at Hoshiarpur has territorial jurisdiction to decide the case under the relevant provisions of the Guardian and Wards Act, 1890, read with the relevant provisions of Hindu Minority and Guardianship Act of 1956.

Q. 5. (a) Comment upon the statement: 'He who alleges custom must plead and prove.' Also bring out the relevance of custom with legislation becoming the major source of law.

(b) Critically examine the doctrine of Antecedent Debt under Hindu law. Is this doctrine affected in any way by the Hindu Succession (Amendment) Act 2005?

Q. 6. (a) What is the concept of Mitakshara Coparcenary? Critically examine if the surviving coparcener obtain the share of the deceased coparcener as his legal representative.

(b) How, in what manner, and to what extent the concept of Mitakshara Coparcenary has been affected/modified by the Hindu Succession (Amendment) Act, 2005.

Q. 7. (a) What is 'bequeathable property'? How is it different from 'heritable property'?

(b) A Muslim, who died leaving behind his widow, made a will of his entire property in favour of his friend 'F'. What is the maximum share to which 'F' is entitled to under Muslim law?

(c) A Muslim made a will of his properties in favour of his two friends 'Y' and 'Z', by stipulating that the former would get $\frac{1}{2}$ and the latter $\frac{1}{4}$ of his property. His heirs did not approve of the will. Determine the respective shares to which each would be entitled under the Sunni law and Shia law.

(d) A maternal grand father made a gift in favour of his newly born grand child. The mother of the child accepted the gift on behalf of the minor. Is this gift valid under Muslim law?

(e) A Muslim died leaving behind 5 grand children, three children G1, G2, G3 of his predeceased son Fazal, and two children G4 and G5

of his predeceased son Abdul. What is the quantum of share of each under the Sunni law and Shia law?

Q. 8. (a). Comment upon the following statements:—

(i) Law of limitation simply bars judicial remedy: it neither affects extra judicial remedies nor the substantive right itself.

(ii) Statute of Limitation is “a statute of repose, peace and justice.” (b) ‘L, a landlord succeeded in getting an eviction decree against his tenant T, it which was confirmed by granting time till 31.12.2002 to vacate the premises. On 1.1.2003, a fresh lease deed was executed for a period of one year with effect from 1.1.2003. Thereafter, on 1.3.2003 ‘T’ came up with an application raising the plea that eviction decree had become non-executable in view of the fresh lease deed, dated 1.1.2003. Decide if the said application would amount to adjustment or satisfaction of the eviction decree in view of the relevant provisions of the Limitation Act 1963.

Paper III Civil Law

Time: 3 hrs.

Max. Marks: 200

Note: (i) Answer any eight questions. (ii) Figures to the right indicate marks. (iii) Answers should be precise. (iv) Reference of Sections and important decisions wherever relevant should be given.

Part – A

Q. 1. (a) “The distinction between ‘Murder’ and ‘Culpable homicide’ not amounting to murder is very fine but real”. Discuss.

(b) A terminally ill patient, who is eighty years old, requests his doctor to give him a lethal injection, so that he may die peacefully. The doctor administers the injection which results in death of the patient. Is doctor guilty of some offence under the Indian Penal Code?

Q. 2. (a) Distinguish “common intention” from “common object” as the expressions have been used in the Indian Penal Code.

(b) Mitha Mal dispossessed Ram Lal from his land thirty years back and is in settled possession since then. He gets the information that Ram Lal is coming to that place with armed men to get back



possession of the land and would reach the site within half an hour. On getting this information Mitha Mal gathers seven of his friends immediately who are armed and prepared to resist Ram Lal forcibly. Does this assembly of Mitha Mal’s friends amount to unlawful Assembly? Decide.

Q. 3. (a) Reeta believed herself to be pregnant and asks ‘X’ to help her to undergo abortion. ‘X’ administers her some obnoxious substance sufficient to cause miscarriage but later on it was found that Reeta was not pregnant at that time. Reeta and ‘X’ are charged for attempt to cause miscarriage. Discuss the liability of the accused.

(b) ‘X’ enters house of ‘Y’ to commit theft. He is caught by ‘Y’ who starts beating him mercilessly. ‘X’ apprehending death or grievous hurt at the hands of ‘Y’ pulls out a knife and stabs ‘Y’ who is injured seriously. Can ‘X’ put up plea of right of private defence for causing injuries to ‘Y’? Explain with reasons.

Q. 4. Discuss points of distinction between the following:—

- ‘Outraging the modesty of a woman’ and ‘insulting the modesty of a woman’
- ‘Rioting’ and ‘Affray’
- Theft’ and ‘Extortion’
- ‘Criminal force’ and ‘Assault’
- ‘Kidnapping’ and ‘Abduction.’

Q. 5. (a) What are the ingredients of an F.I.R. Is it necessary that F.I.R. should contain all details of manner of occurrence?

(b) What is the effect of delay in filing F.I.R.?

(c) Can a person being examined by a Police Officer investigating a case refused to answer questions relating to such case put to him by such officer?

Q. 6. (a) Explain the circumstances in which a wife is entitled to claim maintenance from her husband under the Code of Criminal Procedure.

(b) Can a daughter be asked to maintain her ‘father? If so, under what circumstances.

(c) Can an illegitimate son be asked to maintain his father?

Q. 7. (a) Discuss 'joinder of charges' under the Code of Criminal Procedure.

(b) Can a person be convicted of an offence not specified in the charge?

(c) Is it mandatory for court to direct a new trial or adjourn the trial for some period in case of alteration of charge.

Q. 8. (a) Examine the circumstances in which a person accused of the commission of any non-bailable offence can be released on bail.

(b) Discuss the situations in which Anticipatory bail can be granted?

Q. 9. (a) What conditions must be satisfied by a person before he can raise the plea of "Estoppel"?

(b) Explain as to how the credit of a witness be impeached by the adverse party?

(c) Can improper admission or rejection of evidence be a basis for a new trial or reversal of any decision in any case?

(d) Explain "What is in writing shall only be proved by the writing"

(e) Are "Professional communications" protected from disclosure?

Q. 10. (a) Distinguish between the following:

(i) 'Admission' and 'confession'.

(ii) 'Patent ambiguity' and 'Latent ambiguity'.

(iii) 'Facts in issue' and 'Relevant facts'.

(b) What presumption is drawn by the courts as to-

(i) Power-of-attorney.

(ii) Electronic messages.

(c) "Oral evidence as to content of a document is not relevant". Comment.

Q. 11. (a) What norms of 'burden of proof in a criminal case are applicable when the accused defends himself on the ground of any general or special exceptions in the Indian Penal Code?

(b) Can a Judge compel any witness to answer any question or produce any document or dispense with primary evidence of any document?

(c). An accused, while in police custody, gives information to the Investigating Officer that he purchased the murder weapon from a

particular dealer, and then takes the Investigating Officer and the Panches to the place of the dealer and points him out. Whether the information given by the accused, and the evidence of the Investigating Officer and the Panches are admissible?

(d) "The rules of evidence are in general the same in civil and criminal proceedings" Give the exceptions, if any.

(e) Can a witness be excused from answering a question on ground that answer will incriminate?

Q. 12. (a) Discuss the evidentiary value of:—

(i) 'Dying Declaration'

(ii) Retracted Extra-judicial confession.

(iii) Testimony of an 'Accomplice',

(iv) Opinion of an 'Handwriting Expert'.

(b) (i) Is it necessary to call an attesting witness in proof of the execution of a document required by law to be attested?

(ii) "Witness not excused from answering on ground that answer will incriminate" Do you agree?

English Composition

Time: 3 hrs.

Max. Marks: 200

1. Write an essay on any one of the following topics:—

(a) Resurgence of the Indian Nation through Spirituality.

(b) Towards a Greener World

(c) Re-thining the Institution of Marriage

(d) Rights, Privileges, and Duties

(e) Status of Women in India

Hindi

Time: 3 hrs

Max. Marks: 100

1. इस अंग्रेजी का हिन्दी में अनुवाद कीजिए:—

India needs a comprehensive national social security policy covering workers across the board, including those in the unorganised

section. The Government has attempted to find a solution by introducing pension Reform Bill. But this is not the right way to go about doing things. The Pension Fund Regulatory Development Authority supports foreign direct investment in the Pension Sector.

2. निम्नलिखित पद्यांश और गद्यांश की सरल हिन्दी में व्याख्या कीजिए:-

- (क) हमारे संचय में था दान, अतिथि थे सदा हमारे देव,
वचन में सत्य हृदय में तेज, प्रतिज्ञा में रहती थी टेव।
वही है रक्त, वही है देश, वही साहस है वैसा ज्ञान,
वही है शांति, वही है शक्ति, वही है दिव्य आर्य संतान।

अथवा

हर कदम
नए नज्जारों से परिचय करता,
हर ठोकर में
भीतर कुछ छलक-छलक पड़ता।
अटकी आशा, भटकी उसास
उस क्षण तो लगती बुरी
बाद में लगता है
समतल राहों में चलने से
क्या पाऊंगा?

(ख) साहित्य की कसौटी वह संस्कारशीलता है जो हृदय का मेल चाहती है और एकता में निष्ठा रखती है। सहृदय का चित्र मुदित करता है वह साहित्य खरा। संकुचित करता है वह खोटा। यदि अधिक सप्राण और अधिक चिरस्थायी किसी को हम कहना ही चाहें तो उस साहित्य को कहना होगा जो अपने ऊपर खतरे स्वीकार करता है और चाहे चाबुक की चोट से क्यों न हो समाज को आगे बढ़ाता है।

अथवा

संघर्षवाद बहुधा तानाशाही को आमंत्रण देता है। व्यक्ति स्वयं में आत्मवान न होकर मानो किसी बड़ी राशि का मानक अंक बनकर रह जाता है। साहित्य को जीवन का यह स्वरूप मान्य नहीं हो सकता है। संघर्ष साहित्य से परस्परता



के भाव को नष्ट न करके उसे प्रतिष्ठित करने का प्रयास करे। साहित्य को अपनी ऐक्य की निष्ठा में विचलित नहीं होना है। प्रेम की प्रेरणा में से अमित संघर्ष की शक्ति प्राप्त की जा सकती है और साहित्य को इस वरण करना होगा। 30

3. किसी एक विषय पर तीन सौ शब्दों में निबन्ध लिखिए:-

- (क) आज की नारी के बढ़ते कदम
(ख) हिन्दी का वर्तमान और भविष्य
(ग) युवा शक्ति और हिंस
(घ) न्यायिक स्वतंत्रता एवं सामाजिक न्याय का प्रश्न
(ङ) भारतीय समाज का बदलता स्वरूप
(च) विश्व मानचित्र पर भारत 25

4. निम्नलिखित में से किन्हीं पाँच के अर्थ लिखकर वाक्यों में प्रयोग कीजिए:-

- (क) आस्तीन का सांप
(ख) कमर कसना
(ग) टेढ़ी उंगली से घी निकालना
(घ) डूबते को तिनके का सहारा
(ङ) ऊंट के मुँह में जीरा
(च) दूर के ढोल सुहावने
(छ) हथेली पर सरसों नहीं जमती
(झ) सूरज को दीपक दिखाना 5

5. निम्नलिखित में से किन्हीं पांच को शुद्ध करके लिखिए:-

- (क) नेता को हमेशा जनता के हित कल्याण के विषय में सोचना चाहिए।
(ख) गाय का ताकतवर दूध होता है।
(ग) जीवन और साहित्य का घोर सम्बन्ध है।
(घ) आज की ताजी खबर क्या है?
(ङ) इस राज्य में मानसून आ गई है।

(च) छात्र ने अध्याय को प्रश्न पूछा।

(छ) उसके पास अनेकों पुस्तकें हैं।

(ज) जैसा करोगे, उतना ही भरोगे।

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6. निम्नलिखित में से किन्हीं पांच शब्दों के विपरीतार्थक शब्द लिखिए:-

1. उपकार 2. अतिदृष्टि

3. आरोह 4. क्षणिक

5. विपन्न 6. शयन

7. सक्रिय 8. मितव्यय

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7. निम्नलिखित पांच वाक्यांशों के लिए समानार्थक एक-एक शब्द लिखिए:-

(क) जो क्षमा न किया जा सके

(ख) वर्ष में एक बार होने वाला

(ग) जितना ज्ञान कम हो

(घ) उपजाऊ भूमि

(ङ) जिस पुस्तक में आठ अध्याय हों

(च) तीन लोकों का स्वामी

(छ) दूसरे के सहारे पर रहने वाला

(झ) सदा रहने वाला

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