Odisha Civil Judge (Main) Examination, 2018-19

PAPER – I : General English

Time Allowed: 2.5 Hours **Maximum Marks: 150**

The figures in the right-hand margin indicate marks.
Answer all questions

1. Translate the following into English : [25]

ମାନବିକତା ହେଉଛି ମନୁଷ୍ୟୋଚିତ ଦିବ୍ୟଗୁଣ । ମଣିଷ ଯେଉଁ କର୍ମ କଲେ ସମାଜରେ ଜଣେ ମଣିଷ ପରି ମଣିଷ ଭାବେ ପରିଗଣ୍ୟ ହୋଇଥାଏ ତା'ର ସେହି କର୍ମକୁ ହିଁ ମାନବିକତା କୁହାଯାଏ । ଔଚିତ୍ୟ ମାନବିକତାର ଶ୍ରେଷ୍ଠ ଗୁଣ । ବହୁ ଦିବ୍ୟ ଗୁଣ ଭିତରେ ମାନବିକତା ଶ୍ରେଷ୍ଠ । ନୈତିକତା ତଥା ଆଧ୍ୟାତ୍ମିକତା ଏହାର ପ୍ରାଣ ! ମଣିଷ ଯେଉଁସବୁ କାର୍ଯ୍ୟ କରେ ସବୁଥିରେ ସେ ସଫଳତା ହାସଲ କରିପାରେ ନାହିଁ । ଫଳରେ ଲକ୍ଷ୍ୟ ବା ଆଶା ପୂରଣ ପାଇଁ ନାନା ପନ୍ଥାର ଆଶ୍ରୟ ନିଏ । ପାଶ୍ଚାତ୍ୟ ଶିକ୍ଷାରୁ ବହୁ କୁପନ୍ଥାର ଆଶ୍ରୟ ମଧ୍ୟ ମିଳିଥାଏ ! କିନ୍ତୁ ମାନବିକତା ଏପରି ଏକ ଗୁଣ ଯାହା ମାନବର ଅନ୍ୟାନ୍ୟ ଯାବତୀୟ ଶକ୍ତି ଓ କର୍ମକୁ ନିୟନ୍ତ୍ରିତ କରି ତାହାକୁ ଦେବୋପମ କରିଦିଏ । ଯଦି ମଣିଷ ହୋଇ ସେ ମାନବିକତା ଶୂନ୍ୟ ହୋଇପଡ଼େ,

ତେବେ ସେ ଇତର ପ୍ରାଣୀଠାରୁ ମଧ୍ୟ ହୀନ ବୋଲି ପରିଗଣିତ ହୁଏ । ଆଧୁନିକ ଜଡ଼ିବାଦୀ ସଭ୍ୟତାର ବ୍ୟକ୍ତିମାନେ ଧନକୁ ହିଁ ମାନବିକତାର ପ୍ରକୃତ ମାନଦଣ୍ଡ ଭାବେ ଗ୍ରହଣ କରିଥାନ୍ତି । କିନ୍ତୁ ଏହା ଭୌତିକ ଭୋଗବିଳାସର ସାମଗ୍ରୀ । ଧନ ଅବଶ୍ୟ ମାନବର ଉତ୍କର୍ଷ ସାଧନାରେ ସହାୟକ । ତେବେ ତାହା ମାନବିକତା ପରି ଦିବ୍ୟଗୁଣ କହିବା ଅସତ୍ୟ । ବଂର ଧନର ଅପବ୍ୟବହାରରେ ମାନବିକତା ମଳିନ ହୁଏ, ହ୍ରାସ ଘଟେ । ଧନ ଗର୍ବରେ ମଣିଷ ଅନ୍ଧ ହୋଇ ଧରାକୁ ସରା ଜ୍ଞାନ କରେ ।

2. Translate the following into Odia : [25]

Though the whole history of mankind is dotted, with the deeds of injustice and cruelty, the events of famine and plagues, and the furies of war, the good deeds of daring spirits are so numerous and overwhelming that they shine out distinctly from the pages of history. The great dreamers, doers and builders have let the world from darkness to light and from destruction to construction. The tales of the heroic deeds have come down from generation to generation and inspired people to work for human progress. The lesson of history is that truth and love always win and tyrants and murderers howsoever strong are always defeated. All great spiritualists have called upon people to give up the ways of war for the path of peace and love. Responsibility demands that we pay our own way and leave something behind for those who will follow. Leaving a heritage of having lived an ethical, moral and productive life is something all of us can do. Teaching a functional illiterate how to read would enrich that person's life and enable him or her to make a bigger and better contribution to society. Acts such as giving a word of encouragement and setting an example of gentle kindness and thoughtful consideration for others are much- needed in our society today and would leave your impact on future generations.

3. Write a short essay in about 150 (one hundred and fifty) words on any one of the following: [50]

(a) Human activity destroys wildlife habitats.
(b) Gender bias in an office environment.
(c) Violence in media causes violence in children.
(d) If I could change one thing about me.
(e) Education of children with special needs.

4. Make a précis of the following passage in about 100 (one hundred) words: [25]

Where thee is labour, there is sweetness. Nothing tastes so sweet as that which is earned by labour. What is got by labour always proves a blessing. 'By the sweat of thy brow thou shalt earn thy bread' - such was the divine decree. When Heaven wants us to labour why should not the fruits of labour be sweeter, more delicious, more enjoyable than the gifts of fortunes? Everybody is attracted more by strenuous living than indolent ease. There is in a fight, a joy, an enthusiasm, an exhilaration of spirit, which is genial to man's tastes and inclinations. It is no wonder, therefore, if a man should cherish more the results of labour than the gifts of fortune, which bring their own punishment. He alone who has sweated for money knows the right use of it. He will never waste it on righteous

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feasting and merry-making, but will indulge only in innocent pleasures that fill his life with joy. No one ever squanders the fruits of labour. But a man who is born with a silver spoon in his mouth will spend prodigally and afterwards will have to eat the bread of sorrow because of his carelessness and extravagance. Again, there is dignity of labour which calls into play our latent faculties, energy and brain. It is, therefore, sweeter and holier and appeals more to our higher nature than the gifts that come unasked from the hands of fortune. Fortune is a fickle goddess; her wheel is always revolving. If today it raises a man to the top, tomorrow it hurls him crashing to the bottom.
Therefore, the gifts of fortune last but for a short time, but the fruits of labour endure with us forever and remain sweet and enjoyable. Their flabour is ; never lost. Who does not like to have the fruits from his own garden, especially when the tree has been planted, reared and pruned by his own hands- fruits which are more delicious than those which come from the market? Let us, therefore, all endeavour to get what we want by the labour of our own hands, for 'honest labour bears a lovely face'; CS

5. Read the following passage and answer the questions that follow:

[5x5 = 25]

I will take four characteristics which seem to me jointly to form the basis of an ideal character: vitality, courage, sensitiveness and intelligence. I do not suggest that this list is complete, but I think it carries us a good way. Moreover, I firmly believe that, by proper physical, emotional and intellectual care of the young, these qualities could all be made very common. Now, one of the great defects of traditional morality has been the low estimate placed upon intelligence. The Greeks did not err in this respect, but the Church led men to think that nothing matters except virtue, and virtue, consists in abstinence from a certain list of actions arbitrarily labelled 'sin'. So long as this attitude persists, it is impossible to make men realize that intelligence does more good than an artificial conventional 'virtue'. When I speak of intelligence, l'include both actual knowledge and receptivity to knowledge. The two are, in fact, closely connected. Ignorant adults are unteachable: on such matters as hygiene of diet, for example, they are totally incapable of believing what science has to say. The more man has learnt, the easier it is for him to learn still more - always assuming that he has not been taught in a spirit of dogmatism. Ignorant people have never been compelled to change their mental habit and stiffened into an unchangeable attitude. It is not only that they are credulous where they should be sceptical; 'it is just as much that they are incredulous where they should be receptive. No doubt, the word 'intelligence' properly signifies rather than an aptitude for acquiring knowledge already acquired; but I do not think this aptitude is acquired except by exercise, any more than the aptitude of a pianist or an acrobat. It is, of course, possible to impart information in ways that do not train intelligence; it is not only possible but easy and frequently done. But I do not believe that it is possible to train intelligence without imparting information or at any rate causing knowledge to be acquired. And without intelligence our complex modern world cannot subsist; still less can it make progress. I regard the cultivation of intelligence, therefore, as one of the major purposes of education. This might seem common place, but in fact it is not. The desire to instill what are regarded as correct beliefs has made educationist too often indifferent to the training of intelligence. To make this clear, it is necessary to define intelligence a little more closely, so as to discover the mental habits which it requires. For this purpose I shall consider only that aptitude for acquiring knowledge, not the store of actual knowledge which might legitimately be included in the definition of intelligence.

The instinctive foundation of the intellectual life is curiosity which is found among animals in its elementary forms. Intelligence demands an alert curiosity, but it must be of a certain kind. The sort that leads village neighbours to try to peer through curtains after dark has no very high value. The wide -spread interest in gossip is inspired, not by a love of knowledege but by malice: no one gossips about other people's secret virtues, dar but only about their secret vices. Our neighbours' now.sins, like the consolations of religions, are so agreeable that we do not stop to scrutinize the be evidence.closely. Curiosity properly so called, on the other hand, is inspired by a genuine love of knowledge. You may see this impulse, in a moderately pure form at work in a cat which has been brought to a strange room and proceeds to smell every corner and every piece of furniture. You will see it also in children, who are passionately interested when a drawer or cupboard, usually closed, is open for their inspection. Animals, machines, thunderstorms and all forms of manual work arouse the curiosity of children, whose thirst for knowledge puts the most intelligent adult to shame. This impulse grows weaker with advancing year until at last what is unfamiliar inspires only disgust, with no desire for a closer acquaintance. This is the stage at which people announce that the country is going to the dogs and that 'things are not what they were in my young days'. The thing which is not the same as it was in that far-off time is the speaker's curiosity. And with the death of curiosity we may reckon that active intelligence, also, has died.
Questions:

(a) Why does the author consider 'intelligence' to be more beneficial than 'virtue' ?
(b) What, according to the author, does intelligence consist in?
(c) Who are the ignorant people and what is their habitual attitude?
(d) Why does the author regard the cultivation of intelligence as a major purpose of education?
(e) What happens to curiosity with the advance of age and what is the grievous consequence of the loss of curiosity?

PAPER – II : Jurisprudence & Constitution of India

Time Allowed: 3 Hours **Maximum Marks: 150**

The questions are of equal value.
Candidates should attempt six questions, selecting three from Section - A and three from Section - B.

Section - A

1. Explain the concept of "State" under Part-III of the Constitution and its relevance for the enforcement of fundamental rights.
2. "The fundamental rights conferred by Part-III of the Constitution are not mutually exclusive and laws that lay down the a procedure to deprive a person of his life and personal liberty must satisfy the requirements of Articles 14, 19 and 31." Discuss the above in the light of decided cases.
3. Discuss, in brief, jurisdictions of the Supreme Court of India.
4. Discuss the grounds for proclamation of emergency under Article 352 and its various effects.
5. "Parliament has limited powers to amend the Constitution." Discuss with the help of decided cases.
6. "Whether the Constitution of India is Federal?" Discuss.

Section - B

7. "Law is the command of a sovereign, containing a common rule of life for his subjects and obliging them to obedience." Discuss.
8. Write an essay on the authority of precedents as a source of Law.
9. Explain Kelson's Theory of Pure Law.
10. What do you mean by Ownership? Elaborate its essential elements. How is it acquired?
11. Discuss the importance of 'Precedent' as a source of law. Comment upon the applicability of doctrine of precedent in India. Is Supreme Court bound by its own decisions?
12. Discuss theories of Punishment.

PAPER – III : Law of Crime and Law of Torts

Time Allowed: 3 Hours **Maximum Marks: 150**

Section-A

The figures in the right-hand margin indicate marks.
Answer six questions, selecting three from Section-A and three from Section - B.

Section - A

1. Discuss unsoundness of mind, infancy and intoxication as general exceptions to criminal liability. [25]
2. Discuss the stages of a crime with particular reference to the law relating to attempt under the Indian Penal Code. [25]
3. While there is no specific chapter on crimes against women in the Indian Penal Code, the provisions relating to the same are spread in various parts of the IPC. Elucidate. [25]
4. Distinguish between murder and culpable homicide, as enumerated in the Indian Penal Code, 1860. [25]
5. What is Theft' under the IPC? Distinguish it with 'Robbery'. [25]
6. Write illustrative notes on the following: [25]

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(a) The doctrine of 'transferred malice'.
(b) 'Murder' by a life convict.
(c) Wrongful restraint and wrongful confinement.
(d) Grave and sadden provocation.
(e) Criminal misappropriation and criminal breach of trust.

Section - B

7. Discuss 'strict liability' in the light of leading cases and distinguish it from the concept of 'absolute liability'. [25]

8. Explain the law relating to manufacturer's liability in tort with the help of decided cases. [25]

9. 'Ubijus ibi remedium' - elucidate with the help of appropriate illustrations. [25]

10. Discuss 'damnum sine injuria' and 'injuria sine damno' with the help of decided cases. [25]

11. Examine the exceptions to tortuous liability. [25]

12. Write illustrative notes on the following: [25]

(a) Res ipsa loquitor.
(b) Nervous shock as a tort.
(c) Liquidated and unliquidated damages.
(d) The principle of 'vicarious liability'.
(e) Libel and slander.

PAPER – IV : Law of Contract

Time Allowed: 3 Hours **Maximum Marks: 150**

The figures in the right-hand margin indicate marks.
Answer six questions selecting two questions each from any two Sections and one each from remaining two Sections.

Section - A

1. "The law of contract is not the whole law of agreement nor is the whole law of obligation." Discuss. [25]

2. Explain the legal status of Minor Under Contract Act. X a minor, aged 14 years sold an immovable property to Y. On attainment of majority X wanted to cancel the sale and get back the property. Can X do it? Give reasons. [25]

3. Explain the following: [25]

(a) Vagueness of contract
(b) Quantum Meruit
(c) Mere silence is no fraud
(d) These cannot be a contract to make a contract
(e) Privity of consideration.

Section - B

4. Explain what is meant by an Unpaid Seller's right of stoppage in transit and state how stoppage can be effected. [25]

5.
(a) Critically examine: [10]

(i) Rights of the Surety
(ii) Discharge of Suretyship

(b) "A seller cannot convey a better title to the buyer than he himself has." Discuss and indicate the exceptions, if any. [15]

6.
(a) What rights and liabilities flew in cases of part delivery and wrong delivery goods? [15]

(b) Nemo dat quod non habet. Comment. [10]

Section - C

7.
(a) Discuss that the Partnership arises out of contract and not status. [15]

(b) Can a Minor be a Farmer? Give reasons for your answer. [10]

8.
(a) What are the rights of a Partner who rescinds the contracts of Partnership as the ground of fraud? [15]

(b) What are the rights and liabilities of outgoing Partners? [10]

9.
(a) Explain the necessity for the registration of firms in India. What are the effects of non- registration firms? [15]

(b) Write notes on the following: [10]

(i) Implied authority of a partner
(ii) Mode of determining the existence of partnership.

Section - D

10. What do you mean by the term indorsement of a negotiable instrument ? Enummerate different kinds of indorsement. [25]

11.
(a) Write about the legal consequences of bouncing of cheque, moni sul [10]

(b) Define Bill of Exchange. State the policy on which it is used. [15]

12.
(a) Write notes on the following: [15]

(i) Dishonour of cheque
(ii) Bearer instrument
(iii) e-banking

(b) What are the Privileges of holder-in-due course under the Negotiable Instrument Act. [10]

PAPER – V : Law of Property

Time Allowed: 3 Hours **Maximum Marks: 150**

The figures in the right-hand margin indicate marks.
Candidates should attempt six questions, selecting two from Section - A, two from Section-B and two from Section - C.

Section - A

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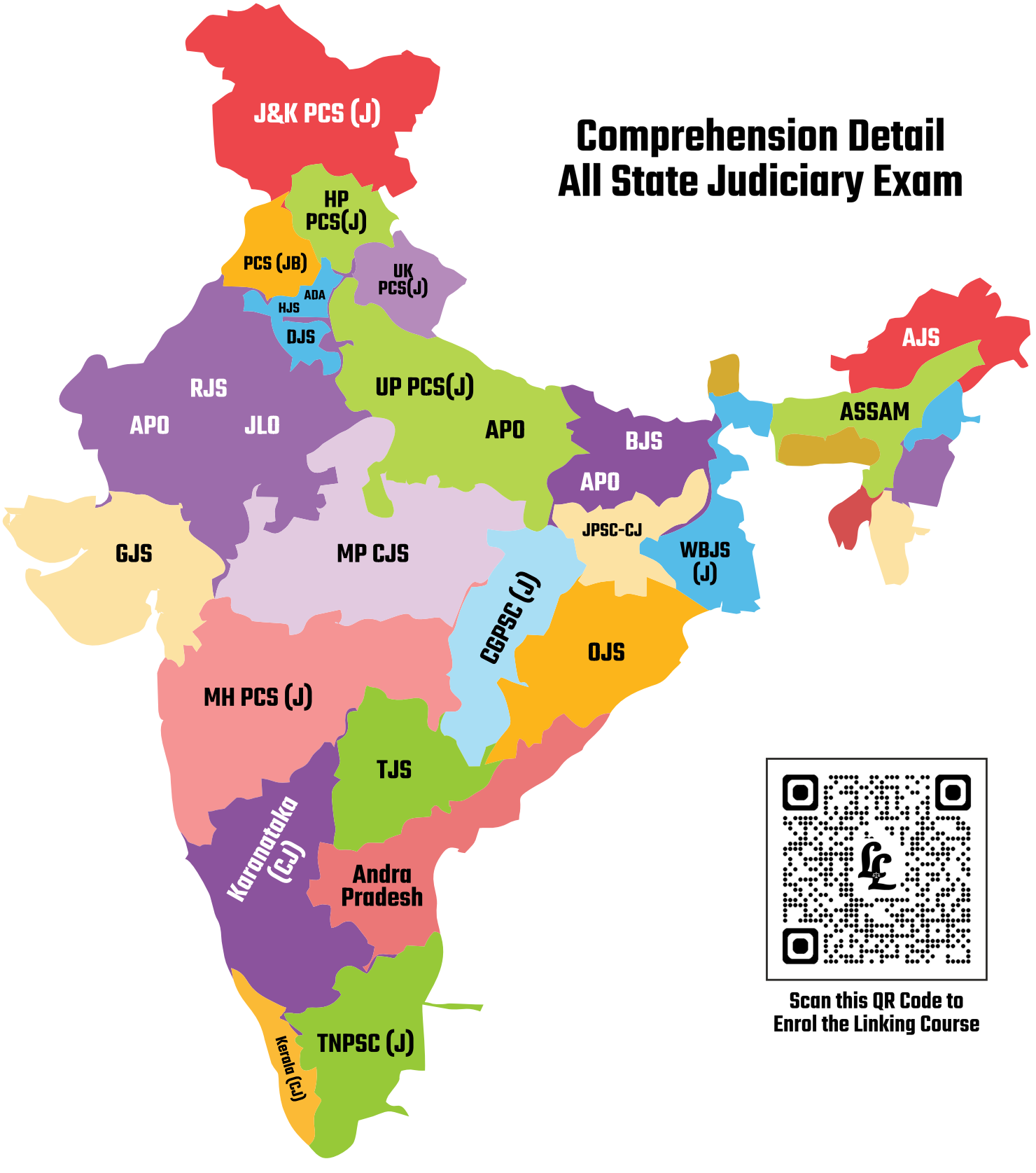

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1.
(a) Define "Actionable Claim" and state the principles governing the transfer of an "actionable claim".
[10]

(b) Explain the "Rule against Perpetuity" with the help of illustrations and leading cases.
[15]

2.
(a) Distinguish 'Vested Interest" from "Contingent interest".
[8]

(b) Examine the 'Doctrine of Part Performance" pointing out the differences between Indian and English Laws. if any.
[12+5 = 17]

3.
(a) What is meant by "CLOG ON REDUMPTION"? When is it valid?
[6+7= 13]

(b) What are the rights of seller and buyer of immovable property?
[6+6=12]

4.
(a) How can a lease be determined?
[10]

(b)
(i) Define 'Exchange'.
(ii) Gift under Mohammedan Law.
(iii) Modern Concept of 'Property'.
[5x3=15]

Section - B

5.
(a) When does a Court grant the relief of "specific performance of contract"?
[15]

(b) Examine the scope of Court's discretion as to decreasing specific performance.
[10]

6.
(a) Explain the meaning of "Possessing Remedies."
[10]

(b) Explain the scope of the remedy of recovering possession of property.
[15]

7.
(a) Define "Injunction" and explain the different kinds of injunctions granted by Courts.
[10]

(b) State when the remedy of injunction will be refused by Courts.
[8]

(c) Examine whether injunction will be granted to perform a negative agreement.
[7]

8.
(a) Explain the conditions to be fulfilled for getting the relief of 'Rectification of Instruments'.
[12]

(b) State when the Courts will refuse "Recission of Contract"?
[13]

Section - C

9.
(a) "VIGILANTIBUS NON DORMIENTIBUS- JURA SUBVENIUNT"..... Explain.
[15]

(b) "INTEREST REPUBLICAE UT SIT FINIS LITIUM". Explain.
[10]

10.

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(a) "Period of Limitation once commences, never stops" ... Analyse.

[13]

(b) State when the commencement of period of limitation stands postponed?

[12]

11. State the period of limitation in the following referring to the provisions of Limitation Act:

[5x5 = 25]

(a) Suits relating to contracts
(b) Suits relating to Accounts
(c) Suits relating to Mortgage
(d) Suits relating to Trust
(e) Suits relating to Declaration

12.
(a) Explain the principles governing exclusion of time in computing the period of limitation.

[13]

(b) Examine the effect of Death before the accrual of the right to sue.

[12]

PAPER – VI : Personal Law

Time Allowed: 3 Hours **Maximum Marks: 150**

The figures in the right-hand margin indicate marks.
Answer six questions, selecting three from Section-A and three from Section - B.

Section - A

1. According to Manu there are four sources of Dharma. Discuss the main sources of Hindu Law in detail.

[25]

2. Under the textual Hindu Law, three conditions were required for a valid marriage i. e. identify the caste, prohibited degrees of relationship and ceremonies of marriage. What are the essential conditions for marriage under the Hindu Marriage Act, 1955? Explain.

[25]

3. Mere severance of all connections with wife because of his ill health and allowing her to remarry cannot amount to divorce within the meaning of Section 13 of the Hindu Marriage Act, 1955, because a decree of divorce which result in the dissolution of a solemnized marriage has to be obtained by one of the two parties on presentation of a petition from a competent court. Discuss the grounds on which divorce can be available to husband and wife both. Do you agree that certain additional grounds are available to wife only? Explain.

[25]

4. Discuss the requisites of a valid adoption under the Hindu Adoption and Maintenance Act, 1956. A, a Hindu male of 25 years of age adopted a daughter of 14 years of age. Discuss the validity of such adoption. Is it makes any difference if the adopted child is a son of 14 years of age. Explain.

[25]

5. Who are the heirs of a Hindu Female? Discuss the provisions relating to rules of succession of the property of a Hindu female dying intestate under the Hindu Succession Act, 1956.

[25]

6. Explain any four of the following:

[4×5 = 25]

(a) Distinction between Void and Voidable Marriage.
(b) Distinction between Alimony and Maintenance pendente lite.
(c) Distinction between Joint Hindu Family and Coparcenary.
(d) Difference between the Mitakshara and Dayabhaga Schools.
(e) Difference between the powers of a Natural guardian and Testamentary guardian.
(f) Difference between Perstripes and Per capita distribution.

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Section - B

7. Sunni Muslims of India belong either to Hanafi or Shafei school of Muslim law but there are other schools of Muslim law too. Discuss the schools of Sunnie Muslim Law in detail.

[25]

8. The two basic requirements in Muslim Law for legal competence to freely contract a marriage are sanity and puberty. While discussing the nature of muslim marriage also discuss the. classification of marriages under Sunnie and Shia law.

[25]

9. The fact is that Maher(dower) is neither consideration nor dowry. It has a unique position of its own. What is dower? Discuss the nature, amount, claim of Maher and Maher when payable.

[25]

10. The dissolution of Muslim Marriage Act, 1939 was enacted in the erstwhile British India at the end of a long prowomen reform movement led by Muslim religious leaders. Explain the various grounds on which the court can dissolve a marriage at the instance of the wife.

[25]

11. With the help of the decided cases discuss the provisions of Muslim Women (Protection of Rights, on Divorce) Act, 1986.

[25]

12. Write explantory notes on any two of the following:
    (a) Triple Talaq
    (b) Essentials of Hiba
    (c) Doctrine of Aul and Rudd
    (d) Bequeathable third

PAPER – VII : Procedural Law

Time Allowed: 3 Hours **Maximum Marks: 150**

The figures in the right-hand margin indicate marks.
Candidates should attempt six questions, selecting two from Section - A, two from Section-B and two from Section - C.

Section - A

1.

(a) "Bail is the rule whereas jail is an exception." Please justify this statement with the help of some of the prominent decided cases.

[8]

(b) An order for release by a Magistrate was returned by a Sub-Inspector on the ground that it should be communicated through the Superintendent of Police. Analyse the validity of such an act.

[8]

(c) Whether a bail should be granted to a re- arrested accused that had jumped bail and had absconded and has applied for the bail on his re-arrest?

[9]

2.

(a) What do you mean by the term "First Information Report (F. I. R.)"? Explain its importance in the Indian Criminal Jurisprudence.

[8]

(b) Discuss the evidentiary value of a Second F. I. R. in respect of some cognizable offence.

[8]

(c) An informer, while furnishing false information to the Police defamed another person. Discuss the liability of such an informer.

[9]

3.

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(a) "It would be prudent for a police officer in the interest of protection of the constitutional rights of a citizen and perhaps in his own interest that no arrest should be made without reasonable satisfaction reached after some investigation as to the genuineness and bona-fides of a complaint and a reasonable belief both as to the person's complicity and even as to the need to effect arrest." In the light of the above statement, discuss the rights of a citizen who is subject to arrest and the various checks available under the Code of Criminal Procedure on the police personnel going to arrest such a person.

[12]

(b) A Chief Judicial Magistrate who had been policing the Police by his judicial powers was assaulted, arrested and handcuffed with an object to work vengeance and humiliation. What are the remedies available to such Chief Judicial Magistrate after the event?

[13]

4.

(a) What are the principles to be considered while exercising the inherent powers under Section 482 of the Code of Criminal Procedure by a High Court in respect of the following?

[9]

(i) Quashing of a F. 1. R.
(ii) Quashing of a Complaint
(iii) Quashing of Cognizance

(b) Whether a High Court can order holding of proceedings in camera under Section 482 of the Criminal Procedure Code?

[8]

(c) Do you agree with the statement that lower court do not have inherent powers under criminal jurisprudence? Discuss.

[8]

Section - B

5. "Whether a court has jurisdiction or not has to be decided with reference to the initial assumption of jurisdiction by that court."
What are the various factors to decide the jurisdictional issues of a civil court? Please highlight the various limitations to

[25]

6. "In a suit under Section 92, no relief such as the recovery of possession or ejectment or rendition of account can be granted against third parties such as trespassers or alienees of the trust properties and vice versa a suit for such reliefs against such third persons can be brought in the ordinary manner without following procedure under Section 92." Critically examine this statement.

[25]

7.

(a) "For the purpose of granting injunction, inherent powers are to be exercised in very exceptional circumstances for which the Code of Civil Procedure lays down no procedure." Comment.

[8]

(b) Whether an injunction can be granted in favour of a riparian owner and against the municipal corporation on the ground that the corporation has discharged insufficiently treated sewage into the river?

[8]

(c) Whether an injunction can be sought against operation of a baking oven even before it is put in actual operation and where remedy to appraoch the municipal authorities against the grant of licence is available?

[9]

8. The general rule is that all rights of action and all demands whatsover existing in favour of or against a person at the time of his death survive to or against his legal representatives. Please comment and decide whether the right to sue survives in the following case:

[25]

(a) Right to sue in personal actions.
(b) Suit by a widow entitled to a life estate for possession of property, if by an award or on a compromise, a fixed sum has been awarded in lieu of her interest.
(c) Suit in respect of torts.

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(d) Right to sue on contracts.

Section - C

9.

(a) "What is admitted by a party to be true must be presumed to be true unless contrary is shown." Considering this statement, please highlight the need and importance of admission as a piece of evidence.

[8]

(b) In a dispute between X and Y on the question as to whether X agreed to purchase land from Y on certain date, a statement in support of Y in a letter written by Y to third party was tendered in evidence against X. Decide the admissibillity of such a statement.

[8]

(c) An accused himself lodged a First Information Report (FIR) which contained both exculpatory as well as inculpatory statements. Decide the evidentiary value of such an F. I. R.

[9]

10.

(a) "If a dying declaration passes the test of scrutiny, it can be relied on as the sole basis of convictions." While discussing the evidentiary value of a dying declaration, please highlight the important points to the 'Test of Scrutiny'.

[8]

(b) An Income Tax Officer is trying to use an admission made by Mr. X regarding his undisclosed asset evading tax before Mr. X entered an operation theatre in which he died. Please advise the Income Tax Officer regarding evidentiary value of such a statement.

[8]

(c) Decide the evidentiary value of the statement made by a person who went in coma after making such a statement but who died after two weeks.

[9]

11.

(a) Please highlight the law relating to "Burden to Prove". How is it different from 'Onus to Prove'?

[8]

(b) Whether burden to prove can shift on a court to prove a fact?

[8]

(c) In a case where goods consigned to a carrier are burnt, who is under a burden to prove negligence on the part of the carrier out of the following three?

[9]

(i) The Consignor
(ii) The Consignee
(iii) The Carrier

12.

(a) Critically examine the statement "Section 137 does not define 'examine' to mean and include the three kinds of examination of a witness; it simply defines: Examination in Chief; Cross Examination; and Re-Examination.

[8]

(b) "A person who made a dying declaration is not available for cross examination but still his statement is considered to be relevant. Discuss.

[9]

(c) What do you mean by the term 'Hostile Witness'?

[8]

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