



 **Previous Year Paper**

U.P. Judicial Service Civil Judge Main Examination, 1991
PAPER - I {LANGUAGE}

Translate into simple language spoken in courts in Devnagari script:

The plea of jurisdiction should be raised in the written statement, and in case it involves an objection to territorial or pecuniary jurisdiction of the court, it should not be heard in appeal or revision unless it has been taken in the trial court: at or before, the statement of issues. But if it is once taken, the fact that it was not repeated in the first appellate court does not debar the defendant from pressing the plea again in second appeal. The objection to the place of suing can only be entertained by appellate or revisional court if it was taken in the trial court at or before settlement of issues and only if further, there has been a subsequent failure of course be entertained at any stage of the suit, provided they are patent on the face of the proceeding.

Ordinarily, the decree in a suit should accord with the rights of the parties as they stand at the date of its institution. But where it is shown that the original relief claimed has, by reason of subsequent change of circumstance, become inappropriate, or that it is necessary to have the decision of the court on the altered circumstances (including a change either in fact or in law) in order to shorten litigation or to do complete justice between the parties, it is incumbent upon the court of justice to take notice of events which have happened since the institution of the suit to mould its decree according to the circumstances as they stand at the time the decree is made. Leave to amend the pleadings may be granted for this purpose. Court often take notice of such events and even of events occurring during the pendency of appeal and permit pleadings to be amended for including a prayer for relief on the basis of such events.





U.P. Judicial Service Civil Judge Main Examination, 1991
PAPER – II {GENERAL KNOWLEDGE}

Notes:

- Candidates must attempt all 5 questions.
- Marks carried by each question are indicated at its end.

1.

- (a) Write to preamble of the Constitution of India. What amendment has been made by the 42nd Constitution Amendment Act 1976? 15
- (b) Write the Directive Principles of State Policy given in the Constitution of India. 15

2.

- (a) Distinguish giving examples between ratio decidendi and obiter dicta. 15
- (b) Can a Constitutional Bench of the Supreme Court overrule the decisions of another Constitutional Bench of the same court? 15

3.

- (a) What is the principle of social justice? Is this principle identical with the demand for equal treatment for all men? 15
- (b) Do you agree with Marx the law, morality outlook on our life act, are the demand for equal treatment for all men? 15

4.

- (a) Examine the view that the adoption of the Charter of the U.N.O. on June 26, 1945, finally marked the end of neutrality. 15
- (b) How far the collapse of communalism in Russia and Eastern Europe affected the cold war ? 15

5.

- (a) Write a critical note on the public interest litigation in India with the help of leading cases. How far has it affected the principle of locus standi? 15
- (b) How far has the Supreme Court humanised the expression: 'personal liberty' and 'life' under Article 21 after Maneka Gandhi's Case? 15





U.P. Judicial Service Civil Judge Main Examination, 1991
LAW PAPER – I {SUBSTANTIVE LAW}

NOTES:

- Candidates should attempt all question, No. 1 and 5 and not more than 4 of the remaining questions.
- Marks carried by each question are indicated at its end.

1.

(a) Explain the concept of 'desertion' under the matrimonial law of Hindu and refer to decided cases. Can a husband compel his wife to resign her job and stay with him? Does her refusal to do so amount to desertion? 20

(b) With the help of decided cases discuss the concept of cruelty and impotence. What remedies can a Hindu wife under Hindu Marriage Act, 1956 and Muslim wife under Dissolution of Muslim Marriages Act, 1939 Claim against the husband on the above grounds? 20

2.

(a) Under Mitakshara school there is recognised with mode of devolution of property by survivorship and inheritance while under the Dayabhaga school one mode of devolution of properties is recognised. Discuss what is the position of the joint family properties is recognised. Discuss what is the position of the joint family property in the hands of a sole surviving coparcener? 20

(b) "Partition is made only once...." Manu. Discuss. 15

3.

(a) What are the principal disabilities of a trustee? How much is he subject to the Principle of delegatus non potest delegare? Discuss. 15

(b) What are the right of a beneficiary? What remedies are available to him in the event of a breach of trust? 15

4.

(a) What is the meaning of right of redemption ? Who can exercise the right? Can the right be curtailed by a agreement between the parties? Discuss. 15

(b) Though the Transfer of Property Act deals with transfer interiors yet an interest may be created in favour of an unborn person. Discuss. 15



- 5.**
- (a) What principles have been incorporated in the Indian Contract-Act for determining the amount of damages to be awarded in the event of breach of contract. Discuss in the light of decided cases. 20
- (b) Explain the doctrine of remoteness of damage in the law of torts. In this context discuss the test of reasonable foresight and directness and state as to which principle is more practical and just? 20
- 6.** Explain the meaning of equitable and legal interests and also bring out the distinction between these types of interests. In this context discuss the maxim the where equities are equal, the law shall prevail. Illustrate your answer with the help of the provision of the Transfer of Property Act. 30
- 7.**
- (a) Explain the concept of 'Hiba in Muslim Law'. What are its essential conditions? In which circumstances can the requirement of transfer of possession be dispensed with? 15
- (b) What is limited estate? Does Muslim law recognise the transfer of limited estate? Refer to decided cases. 15
- 8.**
- (a) Discuss the rule of liability for dangerous chattels as laid down in Donoghue v/s Stevenson 932 AC 562. How has this rule been developed in subsequent cases? 20
- (b) A and B are neighbours in a town. B's father C lives in the village along with his second son D. A runs a small manufacturing business in a portion of his compound. This creates noise. Since B had become accustomed to it, he never objected. C fell and came to the town for treatment. He stayed with his son B he found the noise unberable and brought a suit against A. Decide giving reasons. 10
- 9.**
- (a) 'A contract is a private relationship between the parties who make it, and no other person can acquire rights of incur liabilities under it'? Explain. 20
- (b) On April 10, 1990 A offered to B to sell his car for Sixty thousand rupees. B was asked to signify his acceptance by April 18, 1990. On April 12, 1990 A sold his car to C for Seventy thousand rupees. This he did without revoking his offer to B. However, B came to know of this fact through other sources on April 14, 1990. Still he signified his acceptance of the offer on April 16, 1990. Has this Resulted into a binding agreement between A and B? 10





10. Write short notes on any three of the following:-

(a) Doctrine of promissory estoppel,

10.

(b) Doctrine of fundamental breach,

10.

(c) Implied authority of a partner,

10.

(d) Rights and liabilities of minor admitted to the benefits of a partnership,

10.

(e) Prescriptive easement,

10.

(f) Distinction between an easement and a licence.

10.

10.





U.P. Judicial Service Civil Judge Main Examination, 1991
LAW PAPER – II {PROCEDURE & EVIDENCE}

Note:

- Attempt five questions only. Question number 1 is compulsory. Candidates should attempt four more questions from Groups A, B and C of which at least one question should be attempted from each group.
- Marks carried by each question or part thereof are indicated.

1.

(a) 'B' agreed with 'A' to sell his house for Rs. 40,000/-. In Pursuance of agreement, which was registered also, 'A' gave Rs. 35,000/- to B towards price and promised to pay the balance of 5,000/- at the time of registration sale-deed. 'B' gave possession of the house to 'A' and assured him that he would execute the sale deed on one pretext or the other. On the above facts, draft a plaint on behalf of 'A' claiming specific performance of contract. Draft a written statement on behalf of 'B' in reply to the plaint in question no. 1(a) and 1(b) above.

20

(b) On the pleadings in question no. 1 (a) and (b) above frame issues.

16

Or

1.

(a) 'A' is prosecuted for having stolen a cycle from the house of 'B'. Frame charge of theft against 'A'.

10

(b) In the above case in question 1(a) the cycle was subsequently recovered by the police from the possession of 'A' and was identified by 'B' and one of his colleagues. 'A' alleges that he is being falsely implicated due to enmity with the police and the cycle recovered was his own. No further evidence was pronounced in defence. On the above facts, Write a judgement deciding the case.

40

PART-A

2.

(a) Whether an admission can be used by the maker of the admission in his own favour? If so, in what circumstances? Explain and illustrate.

15

(b) 'A' lodged First Information Report alleging that in morning he had backed his aunt to death with an axe and the dead body was lying at his house. The dead body and blood-body was laying at his house. The dead body and blood-stained axe were recovered therefrom by the police.

'A' is prosecuted for murder. There is no eye witness or any other evidence against him. Prosecution seeks 'A' conviction for murder on the basis of his version contained in the First Information Report.



Examine the validity of this contention and admissibility of the First Information Report as substantive piece of evidence, decide. 20

3.

- (a) 'A' was severely beaten. His dying declaration was recorded by a Magistrate, in which he implicated 'X' and 'Y'. 'A' survived due to medical treatment. 'X' and 'y' were prosecuted for attempt to commit murder of 'A'. During the trial, the aforesaid dying declaration was sought to be given in evidence by the prosecution in support of its case.

The defence opposed on the ground that the declarant was not dead and the alleged dying declaration did not a point towards any cause for assault or the declarant therefore it was irrelevant. Decide. 10

- (b) 'A' is prosecuted for murder of 'B'.

'C' says that 'B' immediately before death declared that 'A' had inflicted 'B' the wounds of which he died.

On behalf of defence evidence is offered to show that on a previous occasion 'C' said that the wound was not given by 'A' or in his presence.

Discuss whether the proposed evidence is admissible. 18

4.

- (a) Explain the principle of estoppel with the aid of decided cases. 20

- (b) 'B' had taken the house on rent from 'A' and since then he is regularly paying rent to 'A'. 'A' applied for eviction of 'B' from the house on the ground of his personal need. 'B' contends that since the house is joint property of 'A' and his brothers, and his brothers did not joined the proceedings. 'A's application is liable to be dismissed. It is argued on behalf of 'A' that 'B' was estopped from challenging the right of 'A' to sue. Decide. 16

PART-B

5.

- (a) Distinguish between decree and Order. 16

- (b) Plaintiff could not reach the court on the date fixed, so his suit was dismissed for default. Advise the plaintiff as to the steps he should take. 10

- (c) 'B' filed a suit for declaration of partnership and accounts against A. In order to deprive, 'B' of the benefits. 'A' began to shift the goods and assets of the business establishment in hurry. Advise 'B' as to what should he do in the circumstances. 10

6.

- (a) State the circumstances in which a party to a suit be refused to amend his pleading. 20

- (b) There was a suit between 'A' and 'B' regarding house. 'A' won the suit and also obtained possession of the house. However. 'B' won in appeal 'A' however did not return possession of the house of 'B'.

Advise 'B' suggesting remedy how to get back the house. 16



- 7.**
- (a) What do you understand by a 'Foreign Judgment'? In what manner may decree of a Foreign Court be executed in India. 10
- (b) Determine the place of suing in the following cases:
- (i) A, a resident of Delhi. 'B' resident of Bangalore and 'C' of Calcutta met at Kumbh Mela in Allahabad. There 'B' and 'C' borrowed Rs. 10,000/- from 'A' and jointly executed a promissory note and handed it over to 'A'. All of them went back to their respective places but the money was not returned, 'A' wants to file a suit for recovery of his money. 10
- (ii) Father of 'A' and 'B' had a bungalow at Nainital, one house at Lucknow and Delhi each and two big mango-groves in the district of Sitapur. After the death of the father. 'A' took over the management of the entire property and began appropriating the income. 'B' want to sue for partition of the property. 10

PART-C

- 8.**
- (a) Describe the procedure of trial of Warrant cases instituted on police report. 10
- (b) A first-class Judicial Magistrate convicts an accused and fines ten rupees only. Accused wants to go in appeal. Advise. 16
- 9.**
- (a) In a complaint case, the complainant of a date fixed is absent. Counsel for the accused urged that the complaint be dismissed and the accused acquitted, Counsel for the complainant contends however that there was nothing to be done as summons for the doctor, for whose evidence, the date was fixed, had not been issued by the office of the court despite deposit of process-fee by complainant and therefore the case be adjourned to some other date. Decide. 16
- (b) An accused was acquitted due to lack of evidence. He was given prosecuted for the same offence, additional evidence was supplied and he was convicted by the Magistrate. Examine the legality of the order. 13
- (c) The Chief Judicial Magistrate of Allahabad granted anticipatory bail to an M.L.A. as he was apprehending arrest in murder case and necessary directions. Examine the validity of the order. 10
- 10.** Distinguish between:
- (i) Inquiry and Investigation 12
- (ii) Acquittal and discharge 12
- (iii) Complaint and First Information Report. 12





U.P. Judicial Service Civil Judge Main Examination, 1991
LAW PAPER – III {REVENUE & CRIMINAL}

Note:

- Note: Candidates should answer six questions in all. Question No. 1 and 6 are compulsory and three questions must be selected from each group A and B. All questions carry equal marks.
- In Group 'A', Act means U.P. Zamindari Abolition and Land Reforms Act.

GROUP-A

- 1.**
- (a) State briefly the objects for which the Zamindari Abolition and Land Reforms Act was passed and discuss whether it has achieved the purpose for which it was enacted. 25
- (b) Write a note on different classes of tenures under the Act. 15
- 2.**
- (a) Write notes on the following:
- (i) Date of vesting 5
- (ii) Gaon Shabha 5
- (iii) Mines Tribunal 5
- (iv) Board of Revenue 5
- (b) Bring out clearly the distinction between Compensation and the Rehabilitation grant. 10
- 3.**
- (a) All Bhumidhars in any holding shall be jointly and severally responsible for the payment of the land revenue. Discuss. 15
- (b) Describe the procedure for the recovery of land revenue as indicated in Section 279 of the Act. 15
- 4.**
- (a) 'A' a male Bhumidhar dies intestate in 1988. 'A' leaves behind him his widow 'W', a son 'X', a widow of his predeceased son 'Y' and a step son 'Z'. Decide the share of 'W', 'X', 'Y' and 'Z'. 15
- (b) Can a Bhumidhar let his land ? If so, in what conditions ? 15
- 5.**
- (a) Bequest by a Bhumidhar with a non-transferable right. 10



- (b) Condition of exchange of land by Bhumidhars. 10
- (c) Restrictions on mortgaging of land by a Bhumidhar. 10

PART-B

- 6.**
- (a) Explain the essential ingredients of any two of the following offences:
- (i) Kidnapping from lawful guardianship 15
 - (ii) Forgery 15
 - (iii) Criminal force 15
 - (iv) Theft 15
- (b) 'P', 'Q' and 'R' decide amongst themselves to persuade 'B' to steal jewellery from the house of 'M' they accordingly do so. 'B' readily agrees and sets out towards 'M's house in order to steal jewellery. What offence or offences if any, have 'P', and 'R' committed? Has 'B' also committed any offence? 10
- 7.**
- (a) 'A' mistake of fact is a good defence but a mistake of law is not. Discuss. 20
- (b) 'A' places men with fire-arms at the outlets of a house and warns 'B' that they will fire at 'B' if 'B' attempts to leave the house. What offence has 'A' committed? 10
- 8.**
- (a) Explain the right of private defence of body. Under what circumstances does it extend to cause death? 10
- (b) Discuss the liability of 'A' in the following cases:
- (i) 'B' while bleeding profusely goes to 'A' a surgeon and there loses consciousness. There upon 'A' immediately performs an operation upon him thinking that it will bring him back to consciousness. But dies immediately after the operation. 10
 - (ii) 'A' wants to kill 'B' with arsenic position and with that purpose administers sugar to him in food, believing the sugar to be arsenic. 10
- 9.**
- (a) Explain with reasons, what offence, if any and by whom has been committed in the following cases:



- (i) 'A' personated as 'B' at the examination passed the examination and obtained the certificate in 'B' thereupon applied to have his own name entered in the list of candidates for Government service. 10
- (ii) 'A' is a minor wife of 'B' 'C' takes her forcibly and without the consent of 'B' and keeps her in his house for two months. These she develops intimacy with 'X' a neighbour of 'C' and run away with 'X' to Agra where both of them are arrested on the report of 'B'. What difference will it make if 'A' was a major when 'C' took her? 10
- (b) What difference will it make if 'A' was a major when 'C' took her. 10
- 10.**
- (a) Who is an 'abettor'? Explain in detail when does he become liable for the offence committed or even not committed. 10
- (b) What is the difference between 'rash act' and Intelligent act? When do they become offence? Give one Illustration of each. 10
- (c) What is "house-breaking"? Explain and Illustrate it. 10



