DELHI JUDICIAL SERVICE EXAMINATION (WRITTEN), 2022
GENERAL LEGAL KNOWLEDGE AND LANGUAGE

Important Instructions

(i) Please read the questions carefully and answer them as directed.

(ii) All questions are compulsory, unless specified.

(iii) You are allowed 15 minutes time before the examination begins, during which you should read the question paper and, if you wish, highlight and/or make notes on the question paper. However, you are not allowed, under any circumstances, to open the answer sheet and start writing during this time.

(iv) The answer to each question should begin on a fresh page.

(v) This paper is to test the candidate's awareness of general legal knowledge and English language. Credit will be given for substance, cohesive and concise presentation, articulation of views and ideas, and employment of appropriate vocabulary and expression.

SECTION – I
GENERAL LEGAL KNOWLEDGE

1. Write in about 200 words on any six of the following:

(i) The administration of GST and its benefits to the Central Government.

(ii) The highlights of the recent Karnataka High Court's Hijab verdict.

(iii) The refugees problem and the provisions of international law.

(iv) The petition filed by Shah Bano and the significance of the verdict and orders given by the Hon'ble Supreme Court in 1985.

(v) The Armed Forces (Special Powers) Act, 1958.

(vi) The Weapons of Mass Destruction (Amendment) Bill, 2022.

(vii) The split verdict of the Delhi High Court on 11th May 2022 on Marital Rape and the two differing viewpoints of the Judges.

(viii) The New Liquor Policy of the Delhi Government; and major changes and what they mean for the vendors and consumers.

(6 × 10marks = 60marks)

2. Specify whether the following statements are True or False.

(i) The Kothari Commission was set up to make recommendations for the safety and protection of children.

(ii) Two of the major recommendations of the Justice Verma Committee were - Police Reforms and Bill of Rights for Women.

(iii) The first woman Advocate of India was Anna Chandy.

(iv) In August 2020, Advocate Prashant Bhushan was fined Re 1 /- by the Supreme Court for criticizing the Supreme Court and the Judiciary.

(v) The FIR Aapke Dwar Yojana' has been launched by the Delhi Police. (vi) Part III of the Constitution is described as the Magna Carta of India.

(vii) Article 21A prohibits religious instructions or any worship in educational institutions maintained by the State.

(viii) Quorum is the maximum number of members of a Legislature that must be present to make the proceedings valid.

(ix) Soli J. Sorabjee had been appointed as Attorney General of India, thrice.

(x) The first Federal Court of India was set up in Delhi in 1937.

(10 × 2 marks = 20 marks)

3. **Answer the following questions very briefly (in few words or in a sentence).**

(i) What is the issue dealt with in the Roe v. Wade judgment?

(ii) What was the Delhi Municipal Corporation Bill, passed by the Lok Sabha in April 2022?

(iii) In May 2022, what was the Supreme Court's verdict regarding the Covid-19 Vaccination and which Article did it quote as the basis for its ruling?

(iv) Name the two judges who were elevated to the Hon'ble Supreme Court in May 2022.

(v) Where are the headquarters of the International Criminal Court located?

(vi) Which two judges were responsible for introducing PIL in the judicial system of India?

(vii) What was the Supreme Court's order regarding the Sedition Law, as pronounced on 11th May 2022?

(viii) Who has authored the book, 'We, The People'? (ix) Who has authored the book, 'My Tryst with Justice"?

(x) When is the National Law Day or Constitution Day observed in India?

(10 × 2 marks = 20 marks)

SECTION–II
LANGUAGE

4. **Write an essay in 500 words each on any two of the given topics:**

(i) An education system divided by internet inequity during the Covid 19 Pandemic and its long-term impact on India's youth and economy.

(ii) Nothing is impossible if there is a political will.

(iii) The social media is making us asocial.

(iv) There is no better test of excellence of a government than the efficacy of its judicial system.

(v) In 2021, India slipped 28 places to rank 140th among 156 countries in the World Economic Forum's Gender Gap Report 2021. What does this mean for India and how can this gap be bridged?

(2 × 25marks = 50marks)

5. **Write a precis of the following passage in about 150 words with a suitable title:**

One of the issues that Ambedkar paid close attention to was that of power and governance. He thought that governance must reflect sociological reality as closely as possible, lest those wielding power to their advantage suppress the excluded groups. Ambedkar spent a great deal of his time and energy in advancing proposals for the purpose of stressing the need to respect justice and equity.

His commitment to democracy as the mode of governance was unwavering but he argued that democracy needed to become a way of life. He developed some interesting arguments on why parliamentary democracy was the most suitable form of government for India and advocated feasible modes of representation and franchise. His writings dwell extensively on such monumental issues as the presidential versus parliamentary form of government, the relationship between the executive and legislature, the role of the judiciary and judicial review, constitutional bodies such as the Election Commission, the federal division of powers, states in a federation, the role of the Governor, the Constitution and the legislature, constitutional amendments, political parties and public opinion.

One of the domains that Ambedkar was engaged in very closely was civil society, in terms of its operative dimension. He basically saw it as the conscience keeper of the political sphere, determining the course of governance in the long run. Civil society is the domain in which one has to struggle for human values. He viewed religion as an important institution of civil society, which included other institutions such as political parties, the press, educational institutions, unions and associations. It is a contentious terrain of agreement and disputations resulting in relatively stable zones of agreement. Religion can play a major role in deciding the nature and stability of such agreement. Ambedkar's loathing for violence as a mode of constituting governmental authority or to settle issues in civil society was to have far-reaching implicatins for constitutional democracy in India. However, he emphasized the value of transformative

interventions, and it is in his own organization of associations and movements and educational institutions, his writing on the need for social transformation, and eventually his conversion to Buddhism, that Ambedkar's role can be seen.

(20 Marks)

6. Translate the given extract into Hindi:

Many laws seem to be created for the purpose of protecting people from themselves. Some examples are age limits for off-road vehicles, seatbelt requirements for cars, and wearing a helmet when riding a motorcycle. Opponents of these laws feel that their rights are being restricted. If it doesn't hurt anyone else, why should there be a law? But if they are harmed, it can cause them a lot of pain and loss.

In another context, consider employees putting aside money for their retirement in the Employees' Provident Fund. The Employees' Provident Fund Organization (EPFO) can invest only up to 15% of investment in equity as per the pattern of investment notified by the central government. This is to protect the life's savings of employees although some may think otherwise.

It isn't easy to find the proper balance between individual rights and the common goods. Some people will think that the new law goes too far. Others may complain that it doesn't go far enough. If it is too much, we can stand up and fight it. Although we may not agree with every law, some minor inconveniences, are part of living in our society.

(30 Marks)

7. Translate the given extract into English:

नारी सशक्तिकरण के नारे के साथ एक प्रश्न उठता है कि "क्या महिलाएं सचमुच में मजबूत बनी है"? और "क्या उनका लम्बे समय का संघर्ष खत्म हो चूका है"? राष्ट्र के विकास में महिलाओं की सच्ची महत्ता और अधिकार के गए बारे में समाज में जागरूकता लाने के लिए मातृदिवस अंतर्राष्ट्रीय महिला दिवस आदि जैसे कई सारे कार्यक्रम सरकार द्वारा चलाये जा रहे और लागू किये है। महिलाओं को कई क्षेत्र में विकास की जरुरत है। 'सशक्तिकरण' का तात्पर्य किसी व्यक्ति की उस क्षमता से है जिससे उसमे ये योग्यता आ जाती है कि वो अपने जीवन से जुड़े सभी निर्णय स्वयं ले सके। महिला सशक्तिकरण में भी हम उसी क्षमता की बात कर रहे हैं जहां महिलायें परिवार और समाज के सभी बंधनों से मुक्त होकर अपने निर्णयों की निर्माता खुद हो।

अपनी निजी स्वतंत्रता और स्वयं के निर्णय लेने के लिए महिलाओं को अधिकार देना ही महिला सशक्तिकरण है। वे देश और परिवार की आर्थिक स्थिति का प्रबंधन करने में पूरी तरह सक्षम है। अत: महिलाओं के सशक्त होने से पूरा समाज अपने आप सशक्त हो जाएगा। भारत में महिलाओं को सशक्त बनाने के लिए सबसे पहले समाज में उनके अधिकारों और मूल्यों को मारने वाले उन सभी राक्षसी सोच को मारना जरुरी है जैसे दहेज प्रथा, अशिक्षा, यौनहिंसा, असमानता, भ्रुणहत्या, महिलाओ के प्रति घरेलु हिंसा और मानव तस्करी।

(30 Marks)

8. Fill in the blanks in the following passages / sentences, choosing the most appropriate word / words from the given choices –

Shridhar often _____ (1) **recants / reminisces / remanence** about the time he spent at the Santiniketan University sitting _____ (2) **at / under / in** the shade of a huge banyan tree, drinking tea _____ (3) **with / in / from** his favourite cup, while musing about the interesting lectures delivered by his brilliant professors.

The judge could easily _____ (4) **look through / see through see into** the culprit's sinister motives but the evidence put forth by the police was insufficient to (5) **exonerate / exculpate / indict him.**

The journalist's description of the crime scene remained _____ (6) **esoteric / convincing / dispassionate** devoid of any bias or emotion.

I wanted to complete the assignment, but _____ (7) **am not having / haven't had / hadn't** time to do it today.

The Assistant Registrar did not. _____ **(8) brought / bring / bought** the files to the office.

Reluctance to get vaccinated has been one of the _____ (9) **reason / reasons** for the rise of Covid 19 cases in the world.

Neither of the two applicants _____ (10) **were / was** suitable for the job.

(10 x 2 marks = 20 marks)

DRISHTI JUDICIARY

CIVIL LAW–I

Important Instructions

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(iii) The answer to each question should begin on a fresh page.

(iv) Support each of your answers with reasons, relevant legal provisions and principles and also relevant case laws.

(v) Even if you do not know the answer, it is advisable to attempt as much, as the test is not only of the knowledge of law but also of analytical reasoning.

PART I

Write short notes on any four out of the following six questions:

1. Whether a bequest of a property under a will would amount to transfer of property under Section 5 of the Transfer of Property Act, 1882? Explain.
2. "Property in the goods and risk in respect of them go together". Are there any exception to the principle? Explain with the help of case law.
3. What are the rights of an unpaid seller? Distinguish between the unpaid seller's right of lien and right of stoppage in transit. Support your answer with the help of examples.
4. What is heritable property under Muslim Law? Compare the same with Hindu Law in reference to ancestral property of Joint Hindu Family.
5. An Owner of a plot of land is building a four storeyed house within the jurisdiction of South Delhi Municipal Corporation (SDMC). During the course of construction, the building is sealed in pursuance of the Orders passed by the Commissioner, SDMC. The owner disputes it and states that the construction is in accordance with the Building Bye-Laws and the building plans sanctioned by SDMC. What are the remedies available to the Owner?
6. What are the different modes of Talaq under the Muslim Law? Which is considered to be the best or a good Talaq?

(4 x 10 marks = 40marks)

PART II

Attempt any two out of the following three questions:

7. Proof of loss is a sine qua non for claiming "liquidated damages". On proof of damages, the person complaining of breach is entitled, whether or not actual loss is proved only reasonable compensation not exceeding the amount so named in the contract as liquidated damages or penalty. Explain with the help of relevant case laws. Whether proof of actual loss is necessary in case of public utility projects like construction of a road or a project related to environmental protection? Discuss.
8. What are the broad principles governing grant of "anti-suit injunction"? Explain with the help of relevant case laws.
9. Whether a property can be equitably mortgaged by depositing of documents which may not be title deeds or registered documents of title but the documents of allotment of land by a cooperative society or a local government authority? Support your answer with the help of relevant provisions of law and case laws.

(2 × 20 marks = 40 marks)

DRISHTI JUDICIARY

PART III

Attempt any four out of the following six questions:

10. There is a double-storey shop in an up-market in Delhi which is let out by the landlord 'L' to the tenant 'T' sometime in the year 1955 on a monthly rent of INR 500/-. An eviction petition under Section 14(1)(b) of the Delhi Rent Control Act, 1958 is filed by the landlord against the tenant on the ground that the tenant has sub-let the property and/or parted with possession of part of the premises by sub-letting a part of the first floor by letting out three small cabins to three Medical Practitioners (MPs). The landlord alleged that the three MPs had a separate MTNL connection in their cabins. Each of the three cabins had a door which could be locked. A local commissioner was appointed at the request of the landlord who stated in his report that at the time of inspection the cabins were not having any doors but there was a possibility of the doors having been fixed on the cabins. Landlord has established the existence of separate MTNL connections in the name of three MPs in the cabin.

    During evidence, it is established by the tenant that the keys of the main door/shutter always remained with him. It was he (the tenant) who used to open the main shutter of the shop in the morning and close the same in the evening. It was pleaded and established by the tenant that he was running a chemist shop in the tenancy premises. The tenant alleged that the MPs have been permitted to use the premises with his permission in order to promote the tenant's business of sale of medicines. The landlord has set up case that parting with possession of part of the premises on proved facts is established. The tenant has submitted that since he has established his control over the premises and the MPs could use the premises only with his permission after he had opened the shop, there cannot be any question of parting with possession.

    The Rent Controller dismissed the eviction petition holding that the MPs were/not in exclusive possession and the payment of rent by the alleged sub-tenants was not established by the landlord.

    The landlord has filed an appeal before the Rent Control Tribunal with the averments that once presence of third persons was established, it was for the tenant to prove that there was no monetary consideration. Decide the appeal with the help of relevant case laws.

11. H marries W in the year 1996. Out of the wedlock a daughter D is born in the year 1997. In the year 2014, W leaves matrimonial home along with D on the ground that the husband has been treating her with cruelty. W is employed a teacher in a public school getting a salary of INR 50,000/- per month. Since the time W left the matrimonial home, she is staying with her parents in a DDA flat. In the year 2016, W files a petition under Section 18 read with Section 20(3) of the Hindu Adoption & Maintenance Act, 1956 to claim maintenance at the rate of INR 5,00,000/- per month for herself and daughter D of the parties. D has studied engineering and during the pendency of the maintenance petition, in the year 2020 she is engaged to a doctor working a reputed government hospital. An application is moved by W to claim expenses for the marriage of the daughter amounting to INR 1.25 crores.

    W has established that H who is 80% shareholder of a private limited hospitality company (Bloom) is owning a resort with 5-star facilities and having 52 cottages at Manali. Rest 20% shares in the company are held by close family members of H. W has also established that H owns two high valued cars including a BMW. The company Bloom also owns four luxury cars. Bloom had a net profit of over INR 2 crores during the last 3 years and over INR 1.5 crores during two previous years before that.

    On facts, it is established before the Court that W was justified in leaving the matrimonial home on account of physical abuse and cruelty meted out to her by H. What are the relevant factors for determining the admissibility and extent of maintenance to the wife and unmarried daughter? Whether the wife is also entitled to any amount towards the marriage expenses of daughter D? If so, how much? Decide with the help of relevant case laws.

12. An owner of a land executed an agreement to sell with X for a total sales consideration of INR 56,000/- in the year 1986. X paid INR 25,000/- as part of sales consideration at the time of execution of the agreement to sell. The Sale Deed was agreed to be executed within 2 years. Meanwhile, at the instance of the owner, the period of two years was extended twice. Last such extension was granted in the year 1991. A further sum of INR 15,000/- was paid by X towards sales consideration at the time of second extension. At that time, balance sale consideration of INR 16,000/- was also agreed to be paid at the time of execution of the Sale Deed. However, in the year 1994,

the owner sold the land to P and also executed the Sale Deed despite receiving INR 40,000/- from X towards sales consideration. P is closely related to X and is aware of the agreement to sell between the owner and X. X files a suit for specific performance against the owner as well as P. Both the trial Court as well as the first Appellate Court decreed the suit in favour of X, however, the Second Appellate Court reversed the concurrent finding of the Courts below on the ground that there was no specific averment in the plaint as required under Section 16(c) of the Specific Relief Act, 1963 and that the relief of specific performance is discretionary in nature. X approaches the Apex Court seating that his readiness and willingness to perform his part of the contract was writ large from the payment of the substantial part of the sale consideration and his conduct. Decide, taking into consideration the relevant provisions of the Specific Relief Act, 1963 and the case laws.

13. Sohanlal owns a parking space adjacent to a 5-star hotel where Rohan parks his car for a nominal fee. Rohan is issued a parking slip with an "owner's risk" clause. Rohan's car is stolen from the parking space. Since the car is insured, the insurance company settles Rohan's claim and in turn Rohan executes a Power-of-Attorney (POA) and a letter of subrogation in favour of the Insurance Company. They both file a suit against Sohanlal seeking payment of the value of the car and compensation during the period Rohan remained without a car. Discuss the liability of Sohanlal.

    Would it make any difference if Rohan had given his car for valet parking to the hotel staff who had ultimately parked it in the parking space owned by Sohanlal. While handing over the car for valet parking, Rohan was handed over a parking slip stating that the parking would be at the 'guest's own risk'. The suit for recovery of value of the car and compensation is jointly filed by the Insurance Company and Rohan against the Hotel. What would be the liability, if any, of the hotel? Refer to the relevant case laws.

14. L an owner of agricultural land passed away in the year 1951. As the only son of L, G inherited his entire property. G had three sons. In the year 1964, G effected a partition by way of court decree and divided his property equally amongst his three sons. G passed away on 15-07-1970. One of G's son, being D, had only one son viz., A, who was born in the year 1985 through his first wife. D purportedly sold his entire share of property to H vide 2 registered Sale Deeds dated 01-09-1999 for an ostensible sale consideration of INR 4,87,500/-. On 21-9-1999, two Sale Deeds were sent by the Sub-Registrar to the Collector for action under Section 47A of the Stamp Act, 1999 as the Sale Deeds were undervalued. Before the collector, both D and H admitted that no sale consideration was exchanged for the Sale Deeds and the amount was mentioned only for the purpose of registration. D got married to H in 1999 and subsequently in the year 2000, the Collector held that the two Sale Deeds were executed without any monetary transaction.

    On becoming major, in the year 2004, A filed a suit against his father, D and H for declaration that the suit property was coparcenary property and hence the two Sale Deeds executed by his father D in favour of H were illegal, null and void. A also prayed for a permanent injunction restraining H from further alienating, transferring or creating a charge over the property. During the pendency of the suit, H sold the suit property to P vide a Sale Deed dated 30-10-2007. In the year 2011, the suit was decreed in favour of A. It was held that the suit property was ancestral coparcenary property of D. H failed to prove that D had sold the property for either legal necessity of the family or for the benefit of the estate. Consequently, the Sale Deeds executed by D in favour of H were declared illegal, null and avoid. Now, H along with P has challenged this decision stating that A has no locus to institute the suit, since the coparcenary property ceased to exist after G partitioned the property between his three sons in 1964. A convention has also been raised that A had no right to challenge the Sale Deeds executed in 1999 on the ground that the sale consideration had not been paid, since only the executant, i.e., D could have made such a challenge. Decide, whether the suit property was coparcenary property or self-acquired property of D? What is the validity of the Sale Deeds executed by D in favour of H in the year 1999 and the subsequent Sale Deed executed by H in the year 2007 in favour of P? Refer to the relevant provisions and the case laws.

15. W, a Muslim purchased 2 plots of land in the year 1960 and constructed a house on it. In the year 1967, the house (suit property) was mortgaged by W in favour of J for a sum of INR 11,000/-. After 3 years of execution of mortgage, not being able to pay to J, W executed a registered Sale Deed dated 21.12.1970 in favour of J for a consideration of INR 30,000/-. In the year 1978, S, son of W, filed a suit against J for declaration that the mortgage deed dated 21.11.1967 and the Sale Deed dated 21.12.1970 in favour of J is void and consequently sought cancellation of Sale Deed. In the alternative, S also claimed for redemption of the mortgage, in case, the mortgage is held to be valid. It is the case of S

that the suit property was gifted to him by W through an Oral Gift Deed dated 30.09.1970 and he was put in possession. On the very same day, a Will was also executed by W in favour of N (step-mother of S) in respect of certain other properties which clearly mentions about the oral gift. S also averred that the Sale Deed was executed by W under undue influence and the consideration was also inadequate.

During evidence, it is established by J that W had sold the suit property for consideration of INR 30,000 and executed the Sale Deed, post which, she had continually exercised her ownership. In fact, based on the registered Sale Deed, J had been filing eviction petitions against various tenants. One such eviction suit was filed by J against S and N also, which was decreed in her favour and against S and N. The appeal filed by S and N against eviction order was also dismissed.

J also averred that the suit for declaration was barred by limitation. The suit property was mutated in the name of J after 4 years of execution of Sale Deed. During evidence, S had admitted the fact regarding eviction order and mutation of J's name in the municipal records. The Trial Court, thus, dismissed suit for declaration holding that the mortgage deed was legal and valid. It was also held that the Sale Deed was executed on payment of due consideration and cannot be assailed on the ground of undue influence or inadequate consideration. The suit for declaration was also found to be barred by limitation. In regard to Will, the Trial Court held that Will cannot be accepted since it does not bear the signature of the scribe and was not registered.

The decision of the Trial Court was appealed by S. The First Appellate Court rejected the findings and overturned the decision of the Trial Court. It was held that there was no necessity for W to mortgage or sell the suit property for such inadequate consideration and J had failed to discharge the burden cast on her of proving that the Sale Deed was validly executed. It was further held that the Oral Gift and the Will have been duly proved. The High Court affirmed the findings of the First Appellate Court. The High Court also held that S is entitled to redeem the mortgage and directed him to pay INR 11,000/- for redemption of mortgage, and also ordered delivery of possession. Decide:

(a) Whether the High Court and the First Appellate Court were right in accepting the case of S that W orally gifted the suit property to him and also executed the Will on 30.09.1970 in favour of N and rejected the Sale Deed dated 21.12.1970?

(b) Whether the High Court was right in granting the alternative relief of redemption of mortgage deed?

CIVIL LAW-II

Important Instructions

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(iv) Support each of your answers with reasons, relevant legal provisions and principles and also relevant case laws.

(v) Even if you do not know the answer, it is advisable to attempt as much, as the test is not only of the knowledge of law but also of analytical reasoning.

PART I

Write short notes on any four out of the following six questions:

1. Distinction between the action of infringement of trademark and action for passing off.
2. The concept of Res judicata and estoppel.
3. What is the effect of non-registration of a document which requires compulsory registration under the Registration Act, 1908? Its effect and implication on the continuity of proceedings before courts and tribunals.

4. Section 52 of the Copyright Act, 1957 provides for certain exceptions to infringements of copyright and the said provision allows limited use of copyrighted works without the permission of the copyright holder.

What are the acts which are not to be treated as infringement of copyright?

5. Discuss the principle and scope of Primary and Secondary evidence. Give two examples of each.
6. Registration of trademarks subject to disclaimer and its effect. Explain whether any remedy for injunction would still be available as per law.

(4 × 10 marks = 40 Marks)

PART II

Attempt any two out of the following three questions:

7. Explain when foreign judgments are not conclusive and under which circumstances there could be a presumption as to a foreign judgment. Quote relevant provision of law and give two examples
8. Is the object of Section 9(1)(ii)(b) and Section 17(1)(ii)(b) of Arbitration and Conciliation Act, 1996 similar to the object of Order XXXVIII Rule 5 of the Code of Civil Procedure, 1908?

   Please explain when and under what circumstances and situations, the court or Arbitral Tribunal can exercise its powers to pass orders in order to secure the amount in dispute? Give two examples.
9. Explain the following:-

   "Principles on which Section 91 and Section 92 of the Indian Evidence Act, 1872 are based and the difference between them. Please explain by giving four illustrations."

PART III

Attempt any four out of the following six questions:

10. The plaintiff filed a suit for recovery of amount against defendant in the year 2016 in Delhi Court. In his written statement, the defendant has taken the objection about territorial jurisdiction. Despite the objection, the plaintiff continued the suit. Issues were duly framed, including the issue of territorial jurisdiction, evidence led and the suit was finally decreed in the year 2020. At the first date of hearing of appeal, the plaintiff withdraws the suit to file a fresh suit in the court having territorial jurisdiction in Mumbai. An objection was raised by the defendant that the suit was now time barred. The period spent by the plaintiff in the earlier suit cannot be excluded under Section 14 of the Limitation Act, 1963 as it was not prosecuted with due diligence and in good faith.

    Please discuss the law and give reasons as to whether the period spent in the earlier suit can be excluded under Section 14(3) of the Limitation Act, 1963 or is it the discretion of the Court to exclude or not to exclude the said period?
11. The plaintiff filed a suit for passing off of its trademark and for infringement of the copyright. The defendant filed the written statement claiming four years continuous use of the same mark and copyright within the knowledge of the plaintiff. The defendant pleaded long delay, acquiescence and estoppel in view of positive knowledge of such use by the plaintiff. Admittedly, the defendant was working with the plaintiff. The defendant was also unable to explain the reason why he had adopted a similar mark and copyright.

    Please discuss the law and decide the application for injunction giving reasons as to whether the plaintiff is entitled for injunction or not?
12. 'A', who is the owner of property at Lajpat Nagar, New Delhi executed agreement to sell on 25th January, 2017 with 'B' for a sale consideration for sum of Rupees five crores. 'B' paid ten percent as advance of sale consideration to 'A'. The agreement to sell was neither stamped nor it was registered under the Registration Act, 1908. The possession was never transferred by the 'A' to 'B' at the time of execution of documents. After expiry of two

months, 'A' refused to sell the property to 'B' in view of better offer received from 'C'. 'B' had no option but to file the suit for Specific Performance against 'A' along with prayer for injunction and for damages. The suit was strongly contested before Court by 'A' who also filed an application under Order VII, Rule 11(d) for rejection of plaint on the ground that the suit was barred by law.

Please discuss the law and decide the application filed by 'A' for rejection of suit as to whether suit is barred by law or not by giving reasons?

13. The plaintiff filed a suit for infringement of trademark and copyright against the defendant in the City Civil Court, Hyderabad being suit No. 238/88. The Court dismissed the suit mainly on the ground that there was no infringement. Thereafter, second suit No. 123 of 1992 including a fresh prayer for the relief of passing off action was filed. It was alleged in the second suit that the same was being filed on the basis of fresh and recurring cause of action. The defendant has denied any passing off and also alleged that second suit is not maintainable and is barred by Order II, Rule 2(3) of Code of Civil Procedure, 1908. The plaintiff denied all averments of the defendant and stated that it is not barred under Order II, Rule 2 of CPC.

    Please discuss the law and decide whether the second suit is barred under Order II, Rule 2(3) of Code of Civil Procedure, 1908 or not.. Also discuss as to whether it was a fresh and recurring cause of action and whether the second suit is maintainable or not? Give reasons.

14. The claimant filed an application under Section 31(6) of Arbitration and Conciliation Act, 1996 for passing an interim award on the basis of admission about the completion of work at the site made by the respondent in the statement of defense. The prayer is opposed by the respondent stating that there is no specific admission in the statement of defense. Now, the said application has to be decided. Admittedly, as per the scheme of Section 31(6) of Arbitration and Conciliation Act, 1996, the courts and Arbitral Tribunal are empowered to pass interim awards on the basis of the facts and admission made by the respondent. On the other hand, the provisions of Order XII, Rule 6 of the Code of Civil Procedure, 1908 require an "unequivocal", "unconditional" and "unqualified" admission by the concerned party.

    In view of above facts, decide the application and explain the distinction between. The scope of Section 31(6) of Arbitration and Conciliation Act, 1996 and Order XII, Rule 6 of the Code of Civil Procedure, 1908.

15. 'A' is a well known author who had written a Hindi novel. 'B' is a director of Hindi movies. 'A' assigned all rights pertaining to copyright in its novel in favour of 'B', who intends to make a Hindi movie of the theme of the novel. After completion of movie and before its release in theaters, 'A' filed a suit for injunction and compensation against 'B'. The complaint of 'A' was in respect of mutilation and distortion of the theme of novel. Such details were provided to the Court. 'B' denied all allegations. His defence was that there were merely cosmetic changes in the theme of the novel as per usual practice in the film industry. The controversy before the Court was the question of demarcating the boundaries of the rights of the author 'A' despite assignment of copy right and that of a director of the film 'B' who had spent huge sum for making the movie.

    In view of the above facts, decide the application for injunction as to whether : 'B' has violated the moral right within the meaning of Section 57 of the Copyright Act, 195' and whether 'A' is entitled for injunction or not?

(4 × 30 marks = 120 marks)

CRIMINAL LAW

Important Instructions

(i) Please read the questions carefully and answer them as directed.

(ii) You are allowed 15 minutes time before the examination begins, during which you should read the question paper and, if you wish, highlight and/or make notes on the question paper. However, you are not allowed, under any circumstances, to open the answer sheet and start writing during this time.

(iii) The answer to each question should begin on a fresh page.

(iv) Support each of your answers with reasons, relevant legal provisions and principles and also relevant case laws.

(v) Even if you do not know the answer, it is advisable to attempt as much, as the test is not only of the knowledge of law but also of analytical reasoning.

DRISHTI JUDICIARY

PART I

Write short notes on any four out of the following six questions:

1. In a case involving two or more accused, is it permissible for the Court to record their joint statement under clause (b) of sub-section (1) of Section 313 of the Code of Criminal Procedure, 1973 to save its time?
2. When can the power under sub-section (1) of Section 319 of the Code of Criminal Procedure, 1973 to add and summon an accused can be exercised by the court?
3. Will the medical evidence in sexual offences favouring the accused have any impact on the ocular testimony of the prosecutrix or other material witness or evidence of a person to whom the prosecutrix immediately after the incident narrated the facts?
4. Is there any presumption of correctness attached to the confessional statement recorded under section 164 of the Code of Criminal Procedure, 1973 by the Magistrate?
5. Consideration for awarding sentence to a convict.
6. The legitimate expectations of a victim of crime from the State.

(4 ×10 marks = 40 Marks)

PART II

Attempt any two out of the following three questions:

7. Can an accused be convicted on the sole uncorroborated testimony of an accomplice. Explain.
8. Defence of alibi and the burden of proof. Explain.
9. Is there any requirement of issuing notice to an accused before arrest in commission of cognizable offences. Elaborate.

(2 × 20 marks = 40 marks)

PART III

Attempt any four out of the following six questions:

10. The marriage of 'A' & 'B' was solemnised on 02.11.2016. The accused was their immediate neighbour and wanted to marry 'A' and threatened to kill her if she refuses. On 15.11.2016 at about 04.30 pm. when 'A' was sleeping, the accused entered her bed room with petrol in a Can and threw petrol on her and set her on fire before running away.

    'A' came out of her room crying engulfed in flames and upon hearing her cries, her husband 'B' (PW1), who was on the terrace, came down and extinguished the fire and took her to the LNJP Hospital. The Medical Officer (PW15) opined that she had suffered 100% burn injuries. The I.O. recorded here statement in the presence of PW15. Later on, PW15 declared the deceased fit to make statement when SDM (PW19) also recorded her statement. Next day she succumbed to her injuries.

    The accused was arrested on the same day. On his disclosure to the I.O. the accused got recovered the plastic Can and a photo of the deceased from his home. On medical examination of the accused, he was also found to have suffered fresh burn injuries on his both hands.

    The accused contended that if the deceased had suffered 100% burn injuries, she could not have put her left thumb impression on both the dying declarations and in case of a female, only the right-hand thumb impression is taken.

In his cross-examination, the I.O. explained that the right thumb and left hand of the deceased were burnt but the left thumb was safe.

Discuss the criminality of the accused.

11. 'A' filed a criminal complaint under Section 138 of the Negotiable Instrument Act, 1881 against 'B' and her proprietary firm for dishonour of a cheque dated 28.10.2016 of Rs. 1,92,000/- on "stop payment instructions". The complainant alleged that he used to supply wooden material to 'B' and the said cheque was given to him by 'B' for wooden material purchased vide Invoice No. 344 dated 28.10.2016. 'A' filed a copy of invoice bearing some cutting thereon.

    'B' placed on record a copy of a letter dated 01.10.2016 addressed to her banker to the effect that she lost her blank signed cheque in Kasturba Market where she had gone to buy some goods and for stop payment. She also filed a copy of the complaint lodged with the Police after 23 days of having lost her cheque in Kasturba Market and having given stop payment instructions to her banker.

    At the time of framing notice under Section 251, CrPC, 'B' replied that the cheque was stolen by 'A' and she had no liability as she had already filed a complaint to the police.

    The accused also filed an application before the MM under Section 145(2) of the NI Act that in September 2016, the complainant in her absence used to come to her office for business purposes as they had good business relations, and 'A' came to her office and stole the cheque.

    'B' appeared as a witness and testified that the cheque in question and other cheques meant for payment to the suppliers by her family members used to be kept at her residence-cum-office as she used to be in the field most of the time. She admitted in her cross-examination that she was having a running account with the complainant and had put the date on the cheque in question.

    Decide the criminal liability of the accused.

12. The marriage of 'A' and 'B' was performed on 05.10.2019. 'B' made a telephonic call on 26.09.2021 at about 01.00 am. to his father-in-law (PWI) and informed him that his wife 'A' had fallen sick and had to be taken to hospital. PW1 and his daughter-in-law (PWS) reached the home of 'B' where they found 'A' in unconscious condition. They took her to a nearby hospital where she was declared 'brought dead". PWI refused to give any statement to the I.O. as his son had gone abroad.

    M.O. (PW15) who conducted the post-mortem found that the deceased suffered fracture nasal bone and injuries on her right temporal region apart from nail marks and abrasions on her cheeks and lower part of the back. He observed that the injuries were ante-mortem in nature.

    PW1 and PW5 gave their respective statements to the I.O. two days after the incident. An FIR under Section 498A/304B/302, IPC was registered against the accused. As per the FSL report, the cause of death was 'due to coma caused by cranio cerebral injury (head injury) by means of hard blunt and forceful impact upon head'.

    The defence of the accused is that (i) PW1 and PW2 gave their statement to the I.O. two days after the incident (ii) there was no evidence of demand of dowry and causing cruelty to the deceased by him (iii) no weapon of offence was recovered from his home (iv) no motive was imputed to him (v) casualty card of the Hospital did not mention any injury on the body of the deceased (vi) no guard was deputed in the mortuary to protect the body prior to the post-mortem which was conducted after two days.

    In his statement under Section 313, CrPC, he stated that his wife was sick being anaemic and fell down from the bed and suffered injuries. He admitted that he and the deceased were alone in the home on the night intervening 26/27.09.2021.

    Discuss the criminality of the accused.

13. An accident took place between a motorcycle and a Maruti car at about 10 am. on 18.03.2021. The motorcyclist (PWI) became unconscious and a guard posted at a nearby Farm House brought him on the side of the road and informed the police.

    The motorcyclist was taken to a nearby Hospital in a PCR van. He was found to have suffered fracture in his right leg and both the wrists of his hands apart from other injuries all over the body. An FIR was registered under Section 279/337 / 338 IPC against the Car driver.

The motorcyclist (PW1) deposed that he was driving the motorcycle on left side of the road and when he reached near the VM Farm, he found that accused was driving his car at very high speed and loud music was being played inside the car which was audible outside and his car collided with his motorcycle. He lost his consciousness and when he regained his consciousness after five minutes, he noticed that he was lying down on one side of the road after being brought by the guard of a Farm House.

In his cross-examination, PWI stated that the accused was driving the car on the wrong side of the road, however, he admitted the site plan prepared by the I.O. (PW3) on his instructions to be correct.

The I.O. testified that when he visited the site after receiving information of the accident, he found the motorcycle parked on one side of the road and car on the other side of the road and accordingly he prepared the Site Plan. The I.O. also got conducted the mechanical inspection of both the vehicles. The mechanical engineer found both the vehicles were damaged from front side. Discuss the criminal liability of the accused.

14. On 10.06.2019 at about 2 am., the complainant (PW2), aged about 14 years heard the loud screaming of her mother and came down to the room of her mother from the first floor. She found that the accused had caught hold of her mother and was pouring kerosene oil from a plastic bottle on her. Suddenly he set her on fire with a match stick. PW2 started crying loudly upon which her uncle PW3 came there from his nearby house. In the meantime, the deceased told PW2 that the accused wanted her to sleep with him to have physical relations with her which she refused. The accused fled away by jumping the wall. The deceased was taken to the LNJP Hospital where the Medical Officer (PWS) found that the deceased suffered 100% burn injuries but was fit to make her statement. The deceased made similar statement to PW5 that the accused wanted her to sleep with him to establish physical relations and on her refusal, he poured kerosene oil on her and set her on fire with the match stick. The deceased succumbed to her injuries two days thereafter. PW2 and PW3 supported the case of the prosecution.

    The defence argued (i) the FSL report ruled out smell of kerosene oil (ii) finger prints did not match with the accused (iii) PW2 did not state to the I.O. that the fire was extinguished by PW3 by putting a blanket (iv) it was a case of suicide.

    The accused did not explain in his statement under Section 313, CrPC as to how he suffered burn injuries on his person as his MLC recorded fresh burn injuries.

    Discuss the criminality of the accused.

15. The complainant : underline 'A' and the accused : B entered into a Loan Agreement on 01.05.2017 whereby the complainant 'A' advanced a loan of Rs. 2 lacs to the accused : B . The loan was to be repaid by ‘B’ on or before 31.12.2018. The complainant 'A' demanded the return of the loan amount in the third week of December 2018 and to discharge his liability, the accused : 'B' handed over a cheque of Rs. 2 Lacs dated 26.12.2018 to ‘A’. The said cheque was dishonoured for insufficient funds.

    After giving notice to ‘B’, the complainant ‘A’ filed the complaint under Section 138 of Negotiable Instruments Act, 1881.

    The defence of the accused were: (i) ‘A’ had in fact advanced him loan of Rs. 1,76,000/- only and at the same time, he gave a blank signed cheque to ‘A’ (ii) there was no subsisting liability against him (iii) he had given the cheque to ‘A’ as security.

    The recital of the Loan Agreement mentioned that ‘A’ had agreed to give a loan of Rs. 2 lacs to ‘B’ on interest @ 2% per month. As per the terms of the Loan Agreement, Rs. 2 lacs included interest @ 2% per month.

    ‘A’ admitted in his cross-examination that he had provided a loan to ‘B’ by a cheque of Rs. 1,76,000/- and ‘A’ further voluntarily stated that he had also paid cash amount of Rs. 24,000/- to the accused at that time.

    Decide the complaint.

(4 × 30 marks = 120 marks)