HIGH COURT OF SIKKIM

(Questions for Recruitment to the post in the cadre of Sikkim Judicial Service, 2018)

PAPER – II SUBSTANTIVE LAW

INSTRUCTIONS FOR THE CANDIDATES

1. Candidates are required to answer ten questions in all with at least one question from each group. Each question carries 20 marks. Answers mentioning statutory provisions and case laws will be graded better.

2. No candidate shall be allowed to enter the examination hall beyond 30 minutes from the time of commencement of the examination. Any candidate joining the examination late will not be allowed any extra time.

3. No candidate shall be allowed to leave the examination hall before the expiry of one hour of commencement of the examination.

4. Candidate is not required to state his name or indicate any sign anywhere in the answer sheet which may be conceived as a mark of his identification. Candidate using additional answer sheets will not indicate their roll number, name or any other mark on such additional sheets.

5. No candidate is permitted to carry with him/her mobile phone, any electronic equipment capable of being used as means of communication, any book, slip or writing in any form capable of being used in examination.

6. Violation of these instructions will entail the cancellation of examination / expulsion of the candidate.

Total Marks : 200 **Duration to Time : 3 Hours**

GROUP - A

1. Answer the following:

I. Which one of the following statement is correct-

(a) India shall be an association of States
(b) India shall be combination of States
(c) India shall be federation of States
(d) India shall be union of States

II. Under Article 16 of the Constitution of India, clause (4B) was inserted by the-

(a) Eighty fifth Amendment
(b) Eighty sixty Amendment
(c) Eighty first Amendment
(d) Eighty fourth Amendment

III. "Article 14 of the Constitution of India allows classification but prohibits class-legislation". The statement is –

(a) wrong
(b) half wrong half correct
(c) correct
(d) neither of the above

IV. Parliament may amend, vary, or repeal any provision of the Constitution under Article 368 while exercising it's –

(a) ordinary power
(b) constituent power
(c) legislative power
(d) neither of the above

V. The power of the President to grant pardon is provided under Indian Constitution in –

(a) Article 62
(b) Article 172
(c) Article 272
(d) Article 72

VI. 'A', a man enfeebled by disease of age, is induced by 'B' influence over him as his medical attendant, to agree to pay two lacs of rupees, an unreasonable sum for his professional services. Here, 'A' has committed–

(a) fraud
(b) coercion
(c) undue influence
(d) misrepresentation

VII. 'A' promises 'B' to drop a prosecution which he has instituted against 'B' for robbery and 'B' promises to restore the value of the things taken. Here the agreement is –

(a) valid
(b) voidable
(c) void
(d) neither of the above

VIII. The principle of frustration of Contract has been provided under the Indian Contract Act, 1872 in –

(a) Section 26
(b) Section 36
(c) Section 46
(d) Section 56

IX. 'A', a tradesman, leaves goods at B's house by mistake. 'B' treats the goods as his own. He is bound to pay 'A' for them under which Section of the Indian Contract Act, 1872, namely –

(a) under Section 68
(b) under Section 69
(c) under Section 72
(d) under Section 70

X. The punishment of death for an accused person may be awarded under Indian Penal Code, 1860 for the offence under –

(a) Section 376
(b) Section 376 E
(c) Section 376 B
(d) Section 376 C

XI. 'A' intentionally cause 'Z's death, partially by illegally omitting to give 'Z' food and partially by beating 'Z'. Here 'A' has committed the offence of –

(a) culpable homicide
(b) murder
(c) attempt to murder
(d) attempt to culpable homicide

XII. Under Indian Penal Code 1860, attempt to commit an offence is punishable with the same punishment as that of the main offence under–

(a) Section 289
(b) Section 489
(c) Section 389
(d) Section 189

XIII. Voluntarily causing grievous hurt by use of acid etc is punishable under Indian Penal Code 1860 under –

(a) Section 319
(b) Section 320
(c) Section 325
(d) Section 326 A

XIV. Application for the payment of expenses of the proceedings and such monthly sum during the proceeding, under Hindu Marriage Act, 1955 be disposed as far as possible within –

(a) 30 days from the date of service of notice to husband or wife
(b) 40 days from the date of service of notice to husband or wife
(c) 60 days from the date of service of notice to husband or wife
(d) 90 days from the date of service of notice to husband or wife

XV. Every appeal under Section 28 of Hindu Marriage Act, 1955 shall be preferred from the date of decree or order within –

(a) 60 days
(b) 90 days
(c) 120 days
(d) 140 days

XVI. For the purpose of succession under Hindu Succession Act, 1956 right of a child in womb has been recognized under –

(a) Section 18 of the Act
(b) Section 21 of the Act
(c) Section 22 of the Act
(d) Section 20 of the Act

XVII. The principle of holding out as a partner in a partnership firm, has been provided under Indian Partnership Act, 1932 under –

(a) Section 8 of the Act
(b) Section 18 of the Act
(c) Section 28 of the Act
(d) Section 38 of the Act

XVIII. Any mistake in a document or instrument may be rectified by the court under Specific Relief Act, 1963 in –

(a) Section 6 of the Act
(b) Section 26 of the Act
(c) Section 36 of the Act
(d) Section42 of the Act

XIX. The principle of subrogation under Transfer of Property Act, 1882 has been incorporated under –

(a) Section 42 of the Act
(b) Section 62 of the Act
(c) Section 72 of the Act
(d) Section 92 of the Act

XX. Valid sale by a person who is not owner of the goods may be made under Sale of Goods Act, 1930 under –

(a) Section 6 to 16 of the Act
(b) Section 27 to 30 of the Act
(c) Section 24 to 26 of the Act
(d) In all the above.

2. "Now a days it is said that Hindu Succession (Amendment) Act 2005, has given a sword in the hands of daughter in the matter of succession of coparcenary property".

Discuss the statement.

3. Explain the essential conditions for adoption under Hindu Adoption And Maintenance Act, 1956 of a female child.

4. Explain the changing dimensions of the ground of "desertion" as a ground of divorce under Hindu Marriage Act, 1955.

GROUP - B

5. Explain the law regarding damages for breach of a contract and mention the difference between Section 73 and Section 74 of the Indian Contract Act, 1872.

6. In the matter of sale of goods under Sale of Goods Act, 1930 "now a days condition has disappeared from the market and warranty is ruling and dominating the market."

   Discuss the statement.

7. Discuss the concept of frustration of Contract as has been provided under Indian Contract Act, 1872.

   "A" agrees to send 100 bags of sugar to "B" from Jaipur to Calcutta by rail upto 20th March 2019. On 19th March 2019 there was an indefinite rail strike. "A" fails to send and claim the benefit of frustration of contract for his help. Decide.

GROUP - C

8. Dissolution of a "partnership" is dissolution of a "firm" but not vice-versa. Discuss the statement.

9. Explaining the concept of injunction, also discuss when perpetual injunction can be granted and when it may be refused.

   "A", a boy aged 21 years, was having love-affair with "B", a girl of 20 years from last two years. Now 'B's engagement has been made with "C". On 20-04-2019 her marriage date has been fixed. Now, "A" files a suit for permanently restraining her to marry "C". Decide.

GROUP - D

10. Explain the objects of Sikkim Interpretation And General Clauses Act, 1978 and also mention the rules which have been made by the High Court of Sikkim for regulating it's provisions.

11. Explain the rules against perpetuity under Transfer of Property Act, 1882 and mention it's exceptions too.

12. Explain the rights and liabilities of a mortgagor and mortgagee of an immovable property under Transfer of Property Act, 1882.

GROUP - E

13. Define culpable homicide and mention when culpable homicide is murder. 'A' with intention to cause the death of 'B' instigate 'C', a minor child of 8 years of age to give poison to 'B'. 'C' instead of giving it to 'B', gives it to 'D' and consequently 'D' dies. Decide what offence 'A' has committed.

14. Explain the offence of kidnapping and abduction and also mention the differences between the two.

    'A', a girl of 11 years of age, is having friendly relations with 'B', a boy of 23 years of age and asks him to take her from her home as she is not happy in her home. On her request 'B' takes her out of her home and keeps her with his family. What offence, if any, has been committed by 'B'. Decide.

15. Explain the fundamental right to freedom as has been provided under Article 19 and 21 of the Indian Constitution and also mention the differences between these two fundamental rights.

    'A' is having 'B', a son aged 10 years who generally run away from his home. With a view to prevent the son 'B' from frequently run way, 'A' tied his one leg with a silver chain. 'C', a relative of 'A' files a writ petition for violation of B's fundamental rights. Decide the validity of the writ petition.

16. Explain the Appellate Jurisdiction of the Supreme Court of India and also mention limitations on its jurisdiction too.

    'A', a citizen of India files a writ petition in the Supreme Court to issue a writ of prohibition against the Speaker of Lok Sabha not to call the meeting of the Lok Sabha to discuss budget for 8 months. Decide the validity of the writ petition.

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