BJS Prelims Examination 2020
SET - 1

Detailed Analysis with Explanations

Part 1 / 16

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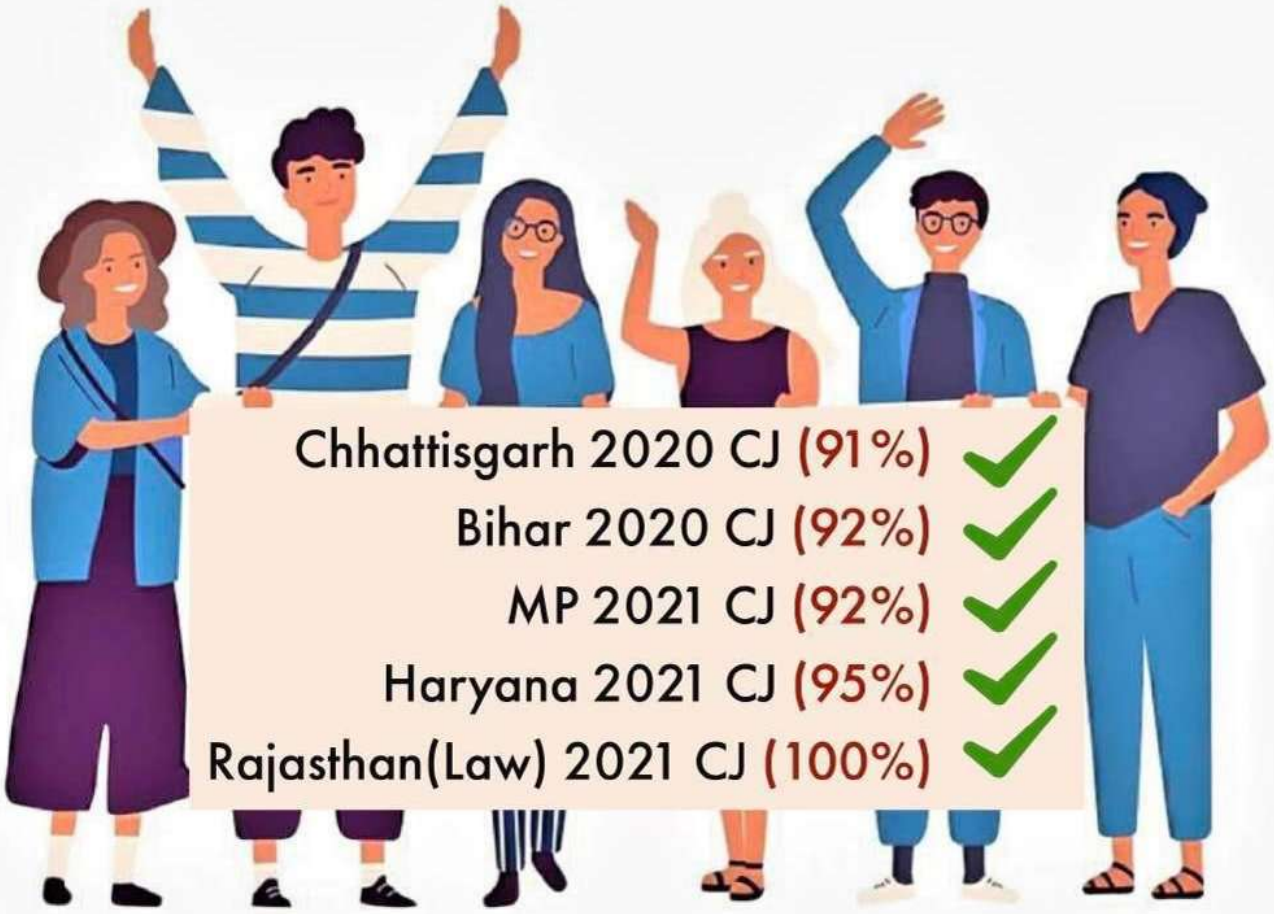

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Section - 1
Contract

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1. Contract without consideration will be

a) Voidable

b) Void

c) Illegal

d) None of the above

Ans: B

Source: Edzorb Law QBank-Indian Contract Act- Unit III – Q 14

14.

MCQ, Single Correct Question

Contract without consideration is

a Illegal

b Void

c Voidable

d Enforceable

Explanation

B

Section 2(d)

Consideration

- At the desire of the promisor (person who makes the promise),
- The promisee (to whom promise is made).
- Does or abstains (or promises to do or abstain).
- Such act or abstinence or promise is called a consideration for the promise.

- Here, Mr. Sehgal (**promisor**), promised to pay Rs. 100 to Bittu (**promisee**).
- **To do:** Mowing of the lawn.

Section 25

An agreement made without consideration is void.

Currie Vs Misa
(1875) LR 10 Ex 153

A **valuable consideration**, in the sense of the law, may consist either of some **right, interest, profit or benefit** accruing to the one party, or some **forbearance, detriment loss or responsibility**, given, suffered or undertaken by the other.

Reference: Law of Contract and Specific Relief Dr. Avtar Singh 12th Ed.,2020, Page No. 104

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2. The age of majority for contract is

a) 18 years

b) 21 years

c) 16 years

d) 18 years for girls and 21 years for boys

Ans: A

Source: Edzorb Law QBank-Indian Contract Act- Unit IX – Q 3
Edzorb Law QBank-Indian Contract Act- Unit IX – Q 11

3.

MCQ, Single Correct Question

As per Indian law a person attains majority:

a When he has completed 21 years

b When he has completed 18 years

c When he has completed 19 years

d When he has completed 25 years

Explanation

(B)

Section 11 of the ICA states, a Minor is not a Competent party, thus an agreement with a minor is void.

Provisions regarding Minor

- cannot ratify the agreement on attaining majority as the **original agreement is void ab initio**.
- Liability of Minor for necessities under **Section 68** of ICA
- The minor is not liable whereas **his property is liable** for the necessaries supplied.

Gadigeppa Bhimappa Mets Vs Balangowda Bhimagowda (1931) 33 BOMLR 1313

Even if an infant misrepresents fraudulently to another to enter into a contract with him, and in case an action arises, the infant is not estopped from using the defence of infancy.

Reference: Contract & Special Relief by Avtar Singh; 10th Ed; 2008; Page No. 155

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11.

MCQ, Single Correct Question

Age for competancy to contract is provided under

a Section 13

b Section 2(d)

c Section 12

d Section 11

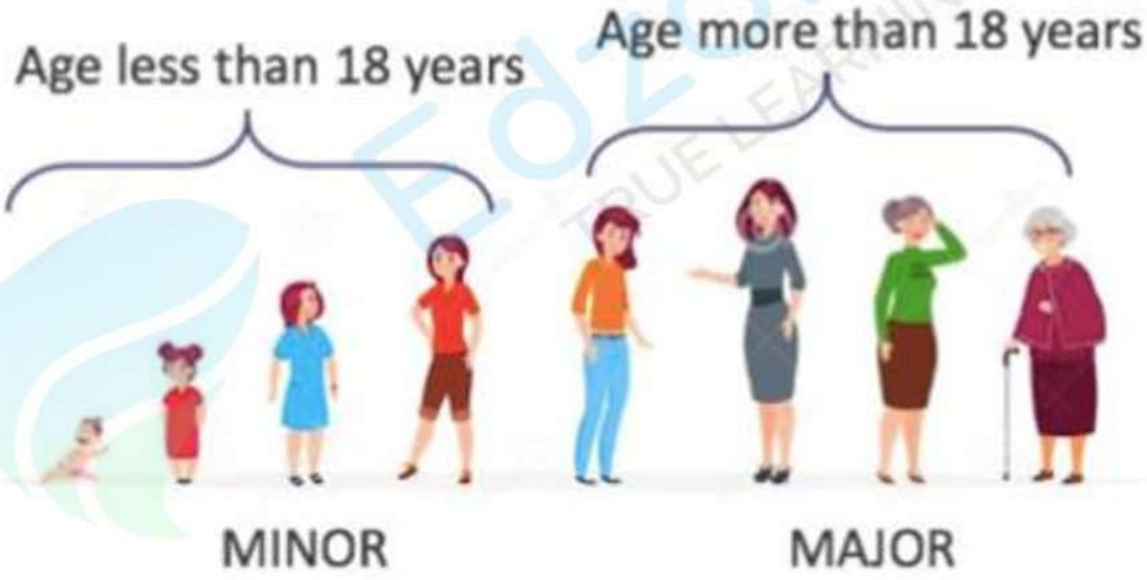
Explanation

D

Section 11

Competency to contract:

- Age of **majority.**
- Sound **mind.**
- **Not disqualified by law** to enter into contract.



Mohori Bibee Vs Dharmodas Ghose
ILR (1903) 30 Cal. 539 (PC)

- Any contract with a minor or an infant is neither valid nor voidable .
- It **is void ab-initio (void from beginning).**

Under, the Indian Penal Code, **Section 82** provides for a general defence for anything done by a child.

Did you Know?

Age of majority is mentioned in the Section 3 of Indian Majority Act, 1875

Reference: Law of Contract and Specific Relief Dr. Avtar Singh 12th Ed.,2020, Page No. 154

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3. A gives an offer to give Rs 1,000 to whoever finds his lost dog. This is

a) A specific offer

b) A general offer

c) Not certain

d) An amount to acceptance

Ans: B

Source: Edzorb Law QBank-Indian Contract Act- Unit XI- Q 11

11.

MCQ, Single Correct Question

Carlill Vs Carbollic Smoke Co. discussed about

a Counter Offer

b General Offer

c Cross Offer

d None of the abve

Explanation

B

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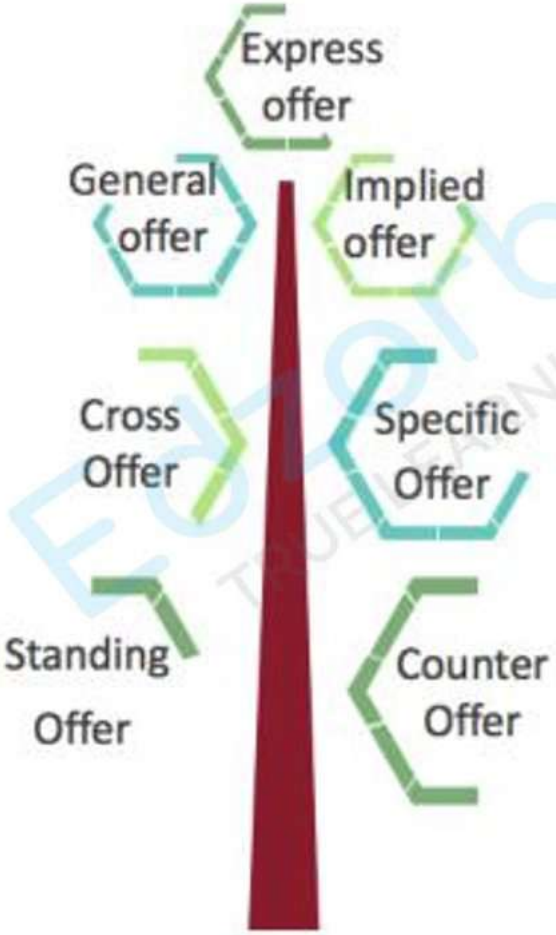
Carlill Vs Carbolic Smoke Ball Company
[1892] EWCA Civ 1

- This is a unilateral offer which doesn't require acceptance as it is made to the world at large.
- Offer made to **world at large** does not make it necessary on the part of the acceptor to communicate the acceptance.

Various types of offer:



Reference: Law of Contract and Specific Relief Dr. Avtar Singh 12th Ed.,2020, Page No. 18

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4. When the damages cannot be assessed, the party may be awarded by the court

a) actual damages

b) liquidated damages

c) exemplary damages

d) nominal damages

Ans: D

Source: Edzorb Law QBank-Indian Contract Act- Unit XIX – Q 32

32.

MCQ, Single Correct Question

When damages are fixed and calculated by both the parties

a Exemplary Damages

b Unliquidated Damages

c Nominal Damages

d Liquidated Damages

Explanation

D

Section 73

Types of Damages:

Reference: The Indian Contract Act, 1872 s73

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5. 'Non est factum' means

a) document executed in ignorance

b) document executed under coercion

c) document executed under undue influence

d) document executed outside India

Ans: A

Source:

Edzorb Law QBank-Indian Contract Act- Unit XVII- Q 15
Edzorb Law QBank-Indian Contract Act- Unit XVII- Q 16
Edzorb Law - The Legal Maxim Tree- Leaf 4
Edzorb Law QBank-Indian Contract Act- Unit XVII- Q 18

15.

MCQ, Single Correct Question

Where the consent of both the parties is given by mistake, the contract is

a Void

b Valid

c Voidable

d Illegal

Explanation

(A)

Section 20 of ICA: Agreement void where both parties are under mistake as to matter of fact.

- The mistake must be mutual.
- The mistake must be regarding some fact.
- It must relate to a fact which is essential to the contract.

The mistake must be mutual.

The mistake must be regarding some fact.

It must relate to a fact which is essential to the contract.

Dularia Devi Vs Janardan Singh

1990 SCR (1) 799

This was a unilateral mistake on the part of the illiterate woman yet since the consent for the said agreement was gained by fraud, the contract was held void by the courts.

Reference: Contract & Specific Relief by Avtar Singh, 10th Edn., 2008, Page No. 84

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16.

MCQ, Single Correct Question

Which may render any agreement void:

a Coercion causing consent

b Undue influence causing consent

c Fraud causing consent

d Mistake causing consent

Explanation

(D)

Section 20 of ICA: Agreement void where both parties are under mistake as to matter of fact.

Galloway Vs Galloway

(1914)

It was held that the separation agreement was void as it had been entered into on the basis of the common assumption that the parties were married to each other.

Reference: Contract & Specific Relief by Avtar Singh, 10th Edn., 2008, Page No. 84

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Non-est Factum

It is not his/her deed.
Contract signed through mistake.

Dularia Devi Vs Janardan Singh
1990 SCR (1) 799

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18.

MCQ, Single Correct Question

An agreement is void on the basis of mistake when:

a. Mistake is of law
b. Mistake is of fact
c. Only one party is under mistake
d. None of the above

Explanation

(B)

Section 20 of ICA-

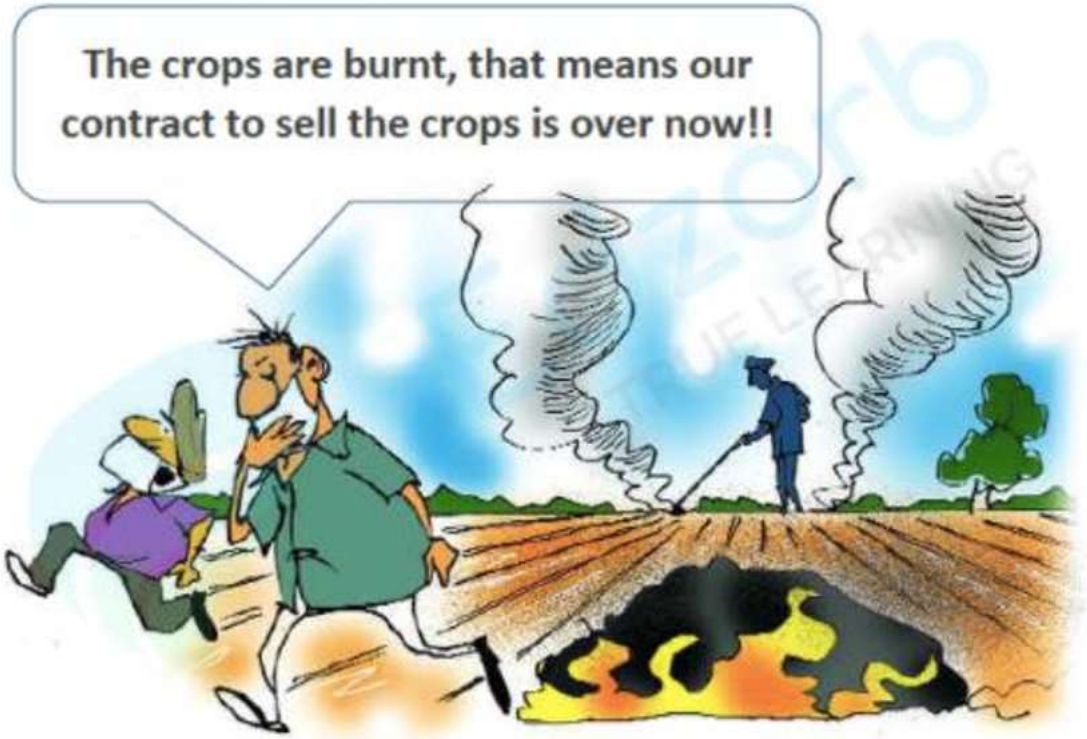
A mistake described in this section operates to invalidate a contract, because the true intention of the parties to make their agreement conditional on some state of facts turns out not to have existed at the date of the agreement.

Where both the parties to an agreement are under a **mistake** as to a matter of **fact essential** to the agreement, the agreement is **void.**

A agrees to buy from B a certain horse. It turns out that the horse was dead at the time of the bargain, though neither party was aware of the fact. The agreement is void.

Types of Mistakes

- Unilateral, where one party only to the contract; or
- Bilateral, where both parties are under a mistake.



Reference: Contract & Specific Relief by Avtar Singh, 10th Edn. , 2008, Page No. 84

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6. A contract is not frustrated by

a) commercial impossibility

b) imposition of government restrictions

c) destruction of subject matter of contract

d) All of the above

Ans: A

Source: Edzorb Law QBank-Indian Contract Act- Unit III Q 10
Edzorb Law QBank-Indian Contract Act- Unit IV – Q 14
Edzorb Law QBank-Indian Contract Act- Unit VI – Q 8

10.

MCQ, Single Correct Question

A pays Rs.10,000 to B for manufacturing a machine. When it is partly manufactured, the contract is discharged b available to parties?

a A can recover Rs. 10,000 from B

b A need not pay any further amount to B

c B can retain Rs. 10,000

d B is entitled only to expenses incurred before the time of discharge

Explanation

(D)

Section 56 of the Indian Contract Act is based on **Doctrine of Frustration**, it means-

- a set of circumstances that arise after the contract has been concluded,
- the occurrence of which is not due to a party's fault, and
- which makes it physically and commercially impossible for one or more parties to execute the contract rendering it void.

Sushila Devi Vs Hari Singh
1971 AIR 1756

If the performance of a contract becomes impracticable or useless in view of the object and purpose of the parties, it must be held that the performance of the contract has become impossible.

Reference: Contract & Special Relief by Avtar Singh; 10th Ed; 2008; Page No. 390.
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14.

MCQ, Single Correct Question

Which case discussed Frustration o fcontract

a Hadley Vs Baxendale

b Mohiri Bibi Vs Dharmodas Ghose

c Harvey Vs Facey

d Krell Vs Henry

Explanation

D

History of Doctrine of Frustration

1

Doctrine of absolute contract:
Parties cannot be excuses in any circumstances

2

In Krell Vs Henry [1903] K.B. 740, first time that doctrine of frustration was induced

3

Present in India through Section 56 Agreement to do impossible act is void.

Taylor Vs Cardwell
1863) 3 B.& S. 826

- An opera house was rented for holding concerts.
- It was destroyed by fire.
- The contract was frustrated.
- Doctrine of frustration will apply when the very things on which the contract depended on ceased to exist.

Did you Know?

Section 32 of the Indian Contract Act charters what is known as **internal frustration**.

Reference: Law of Contract and Specific Relief Dr. Avtar Singh 12th Ed.,2020, Page No. 392

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8.

MCQ, Single Correct Question

Doctrine of Frustration is discussed under

a Section 63

b Section 57

c Section 56

d Section 58

Explanation

C

Section 56

Doctrine of Frustration

- An agreement to do an act impossible in itself is void.

Indian law	English Law
If the language of the contract makes for a Condition which renders the contract frustrated, this will be covered under Section 32.	The doctrine of frustration depends also on the language of the contract aka on doctrine of construction.

Satyabrata Ghose Vs Mugneeram Bangur
1954 AIR 44

- Act must result in an impossibility of performance.
- Or that act becomes impracticable and useless from the point of view of the object and purpose

Did you Know?

Frustration of Contract During COVID Pandemic:

Ministry of Finance has recently issued a clarification that **coronavirus will be considered as a case of natural calamity and as such covered under the force majeure** clause available to be invoked wherever necessary and applicable.

Reference: Law of Contract and Specific Relief Dr. Avtar Singh 12th Ed.,2020, Page No. 390

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7. An agreement, which is enforceable by law at the option of one or more of the parties thereto, but not at the option of the other thereto

a) is a void contract

b) is an illegal contract

c) is a voidable contract

d) is an unenforceable agreement

Ans: C

Source: Edzorb Law QBank-Indian Contract Act- Unit XI- Q 22
Edzorb Law QBank-Indian Contract Act- Unit XII- Q 20

22.

MCQ, Single Correct Question

A contract, which is formed without the free consent of the parties, is:

a void ab initio

b void

c illegal

d voidable at the instance of the party whose consent was not free

Explanation

D

Voidable contract:

- This is an agreement which is enforce able by law at the option of one of the parties thereto but not at the option of the other.
- Voidable contract is a valid contract until it is set aside by the court.
- The person who has the right to rescind must do so within a reasonable time.
- Any agreement made under undue influence, coercion, fraud, misrepresentation is voidable. Hence, when the court sets aside the contract the contract becomes void.

Reference Contract & Specific Relief by Avtar Singh, 10th Edn. ,2008, Page No.3

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20.

MCQ, Single Correct Question

An agreement made without free consent is:

a always void

b voidable

c unlawful

d either void or voidable

Explanation

(B)

Section 2(i) of ICA: Voidable contract.

- At least one of the parties has to be **bound** to the terms of the contract.
- When a contract is entered into **without the free consent**.

Reasons that can make a contract Voidable include the following:

- **Fraud**
- **Undue influence**
- **Mistake of facts**
- **Misrepresentation**

Someshwar Dutt Vs Tribhawan Dutt

AIR 1934 PC 130 87

Undue influence is said to be subtle species of fraud due to which a party controls the mind of the victim by his clever skills and with gradual proceedings but with very harmful effects. That acts of undue influence range themselves under the heads of coercion or fraud.

VALID CONTRACT	VOID CONTRACT	VOIDABLE CONTRACT
An agreement which satisfies all the requirements prescribed by law	A contract Which ceases to be enforceable by law Becomes void when it ceases to be enforceable.	It is enforceable by law at the option of one or more of the parties thereto, - It is not enforceable by law at the option of the other or others.

Reference Contract & Specific Relief by Avtar Singh, 10th Edn. ,2008, Page No.2

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8. Which one of the following is a case on promissory estoppel?

a) Kedarnath Vs. Gorie Mohammad

b) Delhi Cloth and General Mills Ltd. vs. Union of India

c) Both (A) and (B)

d) None of the above

Ans: C

Source: Edzorb Law QBank-Indian Contract Act- Unit XVI- Q 10

10.

MCQ, Single Correct Question

Promissory estoppel is a rule of

a Equity

b International Law

c Criminal law

d None of the above

Explanation

A

Promissory Estoppel is the rule of equity.

- When one party expressed intention to enter into a legal relationship with other.
- The other party does ay act in pursuance.
- The promise becomes binding.

So, I will ensure that the shipment reaches at 10:00AM.

Okay I will initiate the transaction.

Promissory estoppel against Government:

M.P. Sugar Mills Vs State of U.P.
AIR 1979 SC 621

Doctrine of promissory estoppel:

- Words or conduct to convey intentions to create legal relations.
- The other party intends to act upon the said intention.
- The promise id binding upon the party making the contract.

Delhi Cloth and General Mills Vs Union of India
(1988) 1 SCC 86

- The only requirement: that **complainant must have relied upon the assurances** made by the other person.
- There should be **alteration of position**.
- Not necessary to prove any further damage.

Reference: Indian Contract Act, 1872

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9. Which one of the following statements is correct?

The communication of an acceptance is complete as against the acceptor

a) when it comes to the knowledge of the acceptor

b) when it comes to the knowledge of the proposer

c) when it comes to the knowledge of acceptor and proposer both

d) when it comes to the knowledge of the third party

Ans: B

Source: Edzorb Law QBank-Indian Contract Act- Unit XV – Q 21

21.

MCQ, Single Correct Question

Communication of acceptance is complete as against the proposer

a When put in the course of transaction

b When put in the course of transaction and out of the power of acceptor

c When signified directly by the acceptor to proposer

d When reverted to immediately

Explanation

B

Section 4

Communication when complete

- Of **proposal:**
  - When it comes to the knowledge of the person to whom it is made.
- Of **acceptance:**
  - **Against proposer-** When put in a course of transmission to be out of the power of the acceptor
  - **Against acceptor-** when it comes to the knowledge of the proposer
- Of **revocation**
  - **Against the person who revokes it-** when put into a course of transmission to be out of the power of that person.
  - As **against the person to whom it is made,** when it comes to his knowledge.

- Word of acceptance was spoken at Khamgaon.
- The contract is made at Khamgaon and not Ahmedabad.

Bhagwandas Goverdhandas Kedia Vs Girdharilal Parshottamdas

1966 AIR 543

- Ordinary rule of contract applies to contracts by telephone
- The contract is complete when acceptance is intimated to the purchaser.

Reference: Law of Contract and Specific Relief Dr. Avtar Singh 12th Ed.,2020, Page No. 24

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10. Which one of the following is not correctly matched?

a) Coercion—Chikkam Ammi-raju vs. Chikkam Seshamma

b) Liquidated Damages -Dunlop Pneumatic Tyre Co. Ltd. vs. New Garage & Motor Co. Ltd.

c) Impossibility of Performance—Alopi Parshad & Sons Ltd. vs. Union of India

d) Public Policy—Hadley vs. Baxendale

Ans: D

Source: Edzorb Law QBank-Indian Contract Act- Unit X – Q 8

8.

MCQ, Single Correct Question

'A' contracts to sell and deliver 500 bales of cotton to 'B' on a fixed day A knows nothing of B's mode of conc and 'B' having no cotton is obliged to close his mill is 'A' responsible for the loss caused to 'B' by The closing o

a Yes

b No

c To the extent of the agreed price of cotton

d None of the above

Explanation

(B)

Section 73 of ICA provides for Compensation for loss or damage caused by breach of contract.

- Rick contracts to sell and deliver 500 bales of cotton to Minni on a fixed day.
- Rick **knows nothing of Minni's mode of conducting** his business. Rick **breaks his promise,** and Minni, having no cotton, is obliged to close his mill.
- **Rick is not responsible to Minni** for the loss caused to Minni by closing of the mill.

Hadley Vs Baxendale
(1915) ILR 38 Mad 178

- Compensation is not given for indirect or remote loss or damage; or
- Such damage must have been reasonably contemplated by both the parties at the time of making the Contract, as a result of breach.

Reference: Contract & Special Relief by Avtar Singh; 10th Ed; 2008; Page No. 471.
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11. The Indian Contract (Amendment) Act, 1997 has amended

a) Section 26 of the Indian Contract Act

b) Section 27 of the Indian Contract Act

c) Section 28 of the Indian Contract Act

d) Section 75 of the Indian Contract Act

Ans: C

Source: Edzorb Law QBank-Indian Contract Act- Unit XIX – Q 21

21.

MCQ, Single Correct Question

Assertion(A): All illegal agreements are void, but all void agreements are not illegal Reason(R): On consideration is unlawful, are known as illegal agreements Select the correct answer using the codes giv

a Both A and B are True and R is the correct explanation of A

b Both A and R are True, But R is not the Correct explanation of A

c A is true, but R is false

d A is false, but R is true

Explanation

A

Section 2(g)

An agreement not enforceable by law is said to be void.

Void agreement

- **20** Mistake of essential facts
- **24** Unlawful consideration
- **26** In restraint of marriage
- **27** In restrain of trade
- **28** In restraint of legal proceedings **(1997 Amendement)**
- **29** Uncertain contract
- **30** Wagering Contract

Reference: Law of Contract and Specific Relief Dr. Avtar Singh 12th Ed.,2020, Page No. 257

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12. The change of the nature of the obligation in a contract is known as

a) rescission

b) novation

c) renovation

d) alteration

Ans: B

Source: Edzorb Law QBank-Indian Contract Act- Unit- XII- Q 4

4.

MCQ, Single Correct Question

Match List-I with List-II and select the correct answer using the code given below the Lists:

List I	List II
A. Novation	1. Section 70 I.C. A.
B. Unjust enrichment	2. Section 62 I.C.A
C. Party Competent to contract	3. Section 15 I.C.A.
D. Dispossession of property induced by threat to cause death	4. Section 11 I.C.A.

Code:

A B C D

a 2 1 4 3

b 1 2 4 3

c 2 3 4 1

d 3 1 2 4

Explanation

(A)

Explanation

(A)

Section 62- Novation

If the parties to the contract agree to substitute a new contract for it or to rescind it or alter it, the original contract need not to be performed.

Section 70 - Unjust enrichment Founded not upon any contract or tort but upon a third category of law, namely quasi contract or restitution.

Section 11 Who are competent to contract

Every person is competent to contract who is of the age of majority and who is of sound mind and is not disqualified from contracting by any law.

Section 15 Coercion

Committing, or threatening to commit, any act forbidden by the IPC or the unlawful detaining, or threatening to detain, any property, to the prejudice of any person whatever, with the intention of causing any person to enter into an agreement.

Reference Contract & Specific Relief by Avtar Singh, 10th Edn. ,2008, Page No.53, 64

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13. Under Section 68 of the Indian Contract Act

a) the minor is personally liable

b) only minor's property is liable.

c) minor personally and his property both are liable

d) None of the above

Ans: B

Source: Edzorb Law QBank- Indian Contract Act - Unit XI - Q 9

Edzorb Law QBank- Indian Contract Act - Unit XII - Q 8

9.

MCQ, Single Correct Question

Claim for necessaries of life supplied to a lunatic under section 68

a can be enforced against the lunatic's property or estate

b can be enforced against the lunatic personally when he ceases to be lunatic

c cannot be enforced against the lunatic or his estate

d can be enforced against the guardian of the lunatic

Explanation

(A)

Section 68 of ICA - Claim for necessaries supplied to person

'A person is incapable of entering into a contract' or 'anyone he is legally bound to support'.

Is supplied with necessaries suitable to his condition in life.

The person making such supplies is entitled for reimbursement.

Reimbursement is made from property of incapable person

Chappel Vs Cooper
(1844) 13 M&W 252

Things necessary are those without which an individual cannot reasonably exist.

Reference: Contract & Special Relief by Avtar Singh; 10th Ed; 2008; Page No. 170.

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8.

MCQ, Single Correct Question

Mohori Bibee v. Dharmodas Ghose is related to:

a. Minor's contract
b. Frustration of contract
c. Quasi-contract
d. Recession of contract

Explanation

(A)

Mohori Bibee Vs Dharmodas Ghose

(1903) 30 Cal. 539

- A minor is not competent to contract.
- However, prior to the enactment of the Act, the Courts held contracts by minors to be voidable according to English authorities.
- In this case, the Privy Council held that any contracts made by a minor would be **void ab initio.**

As per **Section 68**, a minor is liable for necessities supplied to –

- ✓ Him; or
- ✓ Any other person who is dependent on the minor.

Reference Contract & Specific Relief by Avtar Singh, 10th Edn. ,2008, Page No.53

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14. 'Continuing Guarantee' has been defined under

a) Section 124 of the Indian Contract Act

b) Section 129 of the Indian Contract Act

c) Section 146 of the Indian Contract Act

d) Section 148 of the Indian Contract Act

Ans: B

Source: Edzorb Law QBank-Indian Contract Act- Unit V- Q 5

Edzorb Law QBank-Indian Contract Act- Unit V- Q 13

5.

MCQ, Single Correct Question

A continuing guarantee may be revoked for further transaction

a after a year

b after 6 months

c after 3 months

d at any time

Explanation

(D)

Section 129 of the Indian Contract Act defines continuing guarantee as a type of guarantee which extends to a series of transactions.

It can be revoked anytime by surety for future transactions by giving notice to the creditors under Section 130

Reference: Contract & Special Relief by Avtar Singh; 10th Ed; 2008; Page No. 611, 628

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13.

MCQ, Single Correct Question

Section 129 deals with

a Revocation of continuing guarantee by surety's death

b Continuing Guarantee

c Revocation of continuing guarantee

d Surety's liability

Explanation

B

Section 129

Continuing guarantee

- Extending to a series of transactions
- Intends to cover a number of transactions over a period of time

Bank Guarantee:

- Solely dependent upon the demand from the guarantee holder.
- Independent of the transaction.

We are professional guarantors.

Specific guarantee	Continuing Guarantee
Applicable to specific transactions	Applicable to a number of transactions.
Chorley Vs Tucker (1962) • Secures specific advance or for advances up to a fixed sum. • Ceases to be effective on its repayment	• Covers a fluctuating account. E.g.: An ordinary current account at a bank • Secures the balance owing **at any time** within the limits of the guarantee
Example: • Supplying 5 sac of floor **Kay Vs Groves (1829) 6 Bing 276)**	Example: • Guarantee of conduct of a servant to collect rents **Durga Priya Chowdhury Vs Durga Pada Roy (AIR 1928 Cal 204)**

Reference: Law of Contract and Specific Relief Dr. Avtar Singh 12th Ed.,2020, Page No. 624

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15. An agreement of wager is

a) Voidable

b) Unlawful

c) void

d) Void and unlawful

Ans: C

Source: Edzorb Law QBank-Indian Contract Act- Unit IV- Q 8

8.

MCQ, Single Correct Question

In Indian Law, a wagering contract is

a treated as voidable

b treated as void

c treated against public policy

d treated as valid

Explanation

(B)

Section 30 of the Indian Contract Act provides that, agreements by way of wager is void.

What is Wager?

Sir William Anson defines **'wager'** as a promise to give **money or money's worth** upon the determination or ascertainment of an uncertain event. The word 'wager' means 'a bet' something stated to be lost or won on the result of an uncertain issue, and, hence, wagering agreements are ordinary betting agreements.

What is Wager?

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State of Andhra Pradesh Vs Satyanarayana
1968 SCR (2) 387

Differentiates games based on chance (Lottery), from games based on skill (Rummy)

Reference: Contract & Special Relief by Avtar Singh; 10th Ed; 2008; Page No. 334

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41. The doctrine of indoor management has occupied vital place in a company's functioning, but a number of decisions have made it subject to several exceptions. Point out which of the following is **not** an exception to the doctrine.

a) The party affected by the irregularity had actual notice of it

b) The circumstances surrounding the contract are such suspicious which require inquiry

c) Where authority has claimed of delegated power beyond the Articles of Association

d) Where there is forgery in the dealing

Ans: C

Source: Edzorb Law QBank-Contract law - Unit Company law – Q 6

6.

MCQ, Single Correct Question

Purpose of doctrine of indoor management is

a To create an implied authority

b To protect the thrid person from acts of company

c To check if forgery has taken place

d To check if suspicious acivities have taken place

Explanation

B

Doctrine of Indoor Management:

- A stranger would **assume the apparent or ostensible authority** of the agent to be genuine one
- A stranger wouldn't know what happens within closed doors of company.

<u>Indoor Management under Companies Act, 2013</u>

Section 176:

- Acts done by director shall be deemed to be valid.

- Even though it was noticed subsequently that the appointment was invalid.

Royal British Bank Vs Turquand

[2](1856) 119 E.R 886

Facts:

- The directors of the company borrowed some money from the plaintiff.
- The article of company provides that a resolution must be passed in general meeting for borrowing money,
- Shareholders claims that as there was no such resolution passed.
- Therefore, company is not bound to pay the money.

Held:

- Company is bound to pay back the loan.
- Plaintiff would **proceed on the assumption that the resolution must have been passed.**

Exceptions to Rule of Indoor Management:

- The person affected **knows about the irregularity**.
  Notice can be either constructive or active.
- If the person dealing has a **suspicion about the contract**.
- If the transaction **involves forgery**, then it is void ab initio.

Reference: The Companies Act, 2013 s 176

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42. Which of the following is a correct statement giving true relationship between Articles of Association and Memorandum of Association of a company?

a) Articles of Association, being the byelaws for the general administration of the company, are superior to Memorandum of Association and in case of any inconsistency, they prevail.

b) The Articles of Association are subordinate to the Memorandum of Association and in case of any inconsistency, the Articles must give way to the Memorandum.

c) There can be no comparison between Articles of Association and Memorandum of Association. Both are on equal footing.

d) All of the above statements are irrelevant as they are detrimental to the growth of the company and no such inconsistency happens between them.

Ans: B

Source: Edzorb Law QBank-Contract law - Unit Company law – Q 7

7.

MCQ, Single Correct Question

Which of the following statement is correct regarding Memorandam of Association and Article

a Article of association are superior to Memoramdam of Associations

b Article of Association and Memoramdum of Association stand on the same footing

c Article of Association and Memoramdum of Association are unrelated concepts

d Memoramdam of association are superior to Article of Association

Explanation

D

Difference between MOA and AOA:

Memorandum of Association	Articles of Association
Contains fundamental information for the incorporation of company. • Prevails in case of conflict	Contains all the rules and regulations that governs the company. • Subordinate to MOA
Section 2 (56)	**Section 2 (5)**
A memorandum must contain six clauses.	The articles can be drafted as per the choice of the company.
Obligatory for all companies.	A public company limited by shares can adopt Table A in place of articles.
Compulsory filing at the time of Registration	Compulsory filing not required at all.
• Alteration can be done, after passing Special Resolution at Annual general meeting. • Prior approval of central government	Alteration by passing Special Resolution at Annual General Meeting

Reference: The Companies Act, 2013 s 2(5)

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43. When a company gets involved in an ultra vires transaction, there are several remedies available against It Point out which one of the following is **not** a correct statement.

a) Any director can get an injunction to restrain the company from proceeding with it.

b) The directors will be personally liable to redress the company.

c) The director in default will be personally liable to the third party for his loss.

d) An ultra vires contract cannot become intra vires contract by reason of estoppel or ratification.

Ans: A

Source: Edzorb Law QBank-Contract law - Unit Company law – Q 8

8.

MCQ, Single Correct Question

Doctrine of Ultra Vires have been provided under

a Section 25

b Section 24

c Section 23

d Section 26

Explanation

B

Doctrine of Ultra Vires under company law:

To **go beyond the object** clause of a memorandum of association.

Section 245(1)(a)[4]

Restrain the company from committing an act which is ultra vires the articles or memorandum of the company.

Following remedies are available for ultra vires transaction:

- **Injunction** to restrain the company Against the companies ultra vires act
- Directors are the agents of the company. It is the duty of the agent to see and **redress the ultra vires act.**

Jehangir R. Modi Vs Shamji Ladha 1866) 4 Bom HCR

- Shareholders can maintain an action against directors without implicating the company.
- directors can be compelled to restore to the company the funds that are employed in ultra vires transaction

- Contract **made by director** ultra vires and the company suffers a loss, then **the director will be personally liable** for the loss
- Ultra vires contract are void ab initio.

Ashbury railway Carriage & Iron Co. Vs Richie (1875) LR 7 HL 653

- **Ultra Vires cannot become intra vires** by reason of estoppel lapse of time ratification axqiedcence or delay

Reference: The Companies Act, 2013 s 245

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44. The Companies Act, 2013 has provided limits on minimum or maximum number of directors. Which one of the following statements is not correct?

a) A one-person company can have single director. A private company must have a minimum of two directors.

b) The public company must have a minimum of three directors.

c) The cap on maximum number of directors is placed at fifteen in private as well as in public Companies.

d) The number of directors can, be increased beyond this limit by a special resolution of the company with prior approval of the government.

Ans: D

Source: Edzorb Law QBank-Contract law - Unit Company law – Q 9

9.

MCQ, Single Correct Question

Maximum limit for Board of Directors is provided under

a Section 158

b Section 159

c Section 148

d Section 149

Explanation

D

Section 149

Board of Directors:

Minimum Directors

01	02	03
One person company	Private company	Public company

Maximum directors = 15

Can there be more than 15 directors?

Proviso: After passing a special resolution

Proviso: At least one woman director:

- **Clause 49** of the SEBI Listing Agreement
- **Rule 3** of The Companies (Appointment and Qualification of Directors) Rules, 2014

Every Listed Company	Public company with paid up share capital of 100 crore rupees	Public company with turnover of 300 crore rupees

Did you Know?

As on March 8 2015, **around 180 out of 1456 National Stock Exchange Companies had not appointed a woman director on board**.

According to the 2014 Catalyst census, women's share of board seats in India was a meagre 9.5% for BSE 200 companies.

Reference: The Companies Act, 2013 s 244

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45. In case of Oppression and mismanagement in a company, an application may be made to the National Company Law Tribunal under the Companies Act, 2013. Point out which one of the statements below is **not** Correct in case of a company having share capital.

a) 100 members or 1/10 of total number of its members whichever is less may make application.
b) Any single member holding not less than 1/15 of the issued share capital of the company may make application.
c) Any single member holding not less than 1/10 of the issued share capital of the company may make application.
d) Any group of members holding at least 1 /10 of the issued share Capital of the company May make application.

Ans: B

Source: Edzorb Law QBank-Contract law - Unit Company law – Q 10

10.

MCQ, Single Correct Question

Under section 244, for company without a share capital, Application can be filed by

a 1/10 of the members

b 1/5 of the members

c 1/15 of the members

d Members hold 1/10th of share capital

Explanation
B

Section 244 (1)

(a) When the affairs of the company are conducted in a manner **prejudicial to public interest** or **oppressive to members,**

Application to Company Law Board

When company has a share capital

No less than **100 members** of company

Not less than **1/10th members** of company

A member holding 1/10th of issued share capital

Proviso: These members should have paid all calls and other sums due on their shares

Section 244 (b)

No Share Capital → 1/5th of total members

Reference: The Companies Act, 2013 s 244

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46. Find out the correct answer from the following statements for partnership.

a) In overall analysis, it appears that every agency is based on mutual partnership.

b) On comparing the functions, every partner happens to be sleeping Partner.

c) There must be an agreement entered into by all the persons forming partnership.

d) The agreement must necessarily provide for sharing of profit as well as loss of the business.

Ans: D

Source: Edzorb Law QBank-Indian Contract Act- Unit I – Q 2

2.

MCQ, Single Correct Question

Which of the following is not an essential ingredient to constitute Partnership?

a Association of two or more person

b Mutual agency

c Sharing of profit

d Capital contribution

Explanation

Answer: D

Partnership is defined in **Section 4** of the Indian Partnership Act, 1932. The following are the essentials of Partnership: good will, customers etc.

Essential	Meaning
Association of two or more Persons	In ***Companies Act 2013*** a partnership can only have a maximum of *10 partners in banking firm* & *20 partners in other kinds of firms* .
Agreement	***Section 5*** of the ***Indian Partnership Act***, states that *relation of partnership from the contract must be a result of a valid agreement* which is mutually agreed by all the partners.
Carrying of business	The business will include any trade, profession or occupation which is lawful in India.
Sharing of profit	Partnership means to part and which means division. The division of profits between two or

Cox Vs Hickman
(1860) 8 H.L.C. 268

A was not a partner in the firm of Smith & Son, so he was not liable. Though the **creditors** had a **share in the profits** of the firm and were managing the affairs of the firm through their trustees, the nature of relationship between them never changed. *The trustees were managing the business to recover money* of the creditors and not as partners of the firm helping it survive. *The intention of being partners was absent.*

Capital contribution is not a necessary element of partnership, as the partners can contribute only their **services or intangible assets** like IPR, Goodwill, customers etc.

- Sole Proprietorship business, the capital is called - Owner's Equity or Owner's Capital;
- In Partnerships, capital is called - Partners' equity or Partners' Capital;
- In Corporations - Shareholders' Equity.

Reference: Mulla on The Indian Partnership Act; 10th Ed., 2012, Page No. 15

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66. The arbitrator in case of international commercial arbitration is appointed by the

a) parties themselves

b) Attorney and General of India

c) Chief Justice of India

d) Both (A) and (C)

Ans: D

Source: Edzorb Law QBank- Contract Act – Unit I – Q 4

4.

MCQ, Single Correct Question

Who makes appointment in International Commercial Arbitration:

a Chief Justice of India.

b Attorney General of India

c President of India

d None of the above

Explanation

Answer: A

Section 11 of The Arbitration and Conciliation Act, 1996 provides for **Appointment of arbitrators.**

Section 11(9) states, *appointment of sole or third arbitrator in an international commercial arbitration, the* ***Chief Justice of India*** *or the person or institution designated by him may appoint an arbitrator of a nationality other than the nationalities of the parties where the parties belong to different nationalities.*

Did you Know?

International commercial arbitration is an **alternative method of resolving disputes** between private parties arising out of commercial transactions conducted across national boundaries to **avoid litigation in national courts**.

The Arbitration and Conciliation (Amendment) Act, 2019

- *Empowers the Supreme Court*, to designate ***arbitral institutions*** for ***appointment of arbitrators***, in case of an international commercial arbitration;
- Institutions shall be graded by the ***Arbitration Council of India*** and in their absence, the ***Chief Justice*** of the concerned High Court may maintain a panel of arbitrators to discharge the functions institution.

Vodafone and International Commercial Arbitration:
https://www.thehindubusinessline.com/info-tech/international-arbitration-panel-to-hear-vodafone-challenge-to-rs-22100-cr-tax-demand-in-feb-2019/article23942241.ece

Reference: Arbitration & Conciliation by Avtar Singh; 10th Ed, 2013; Page No: 123

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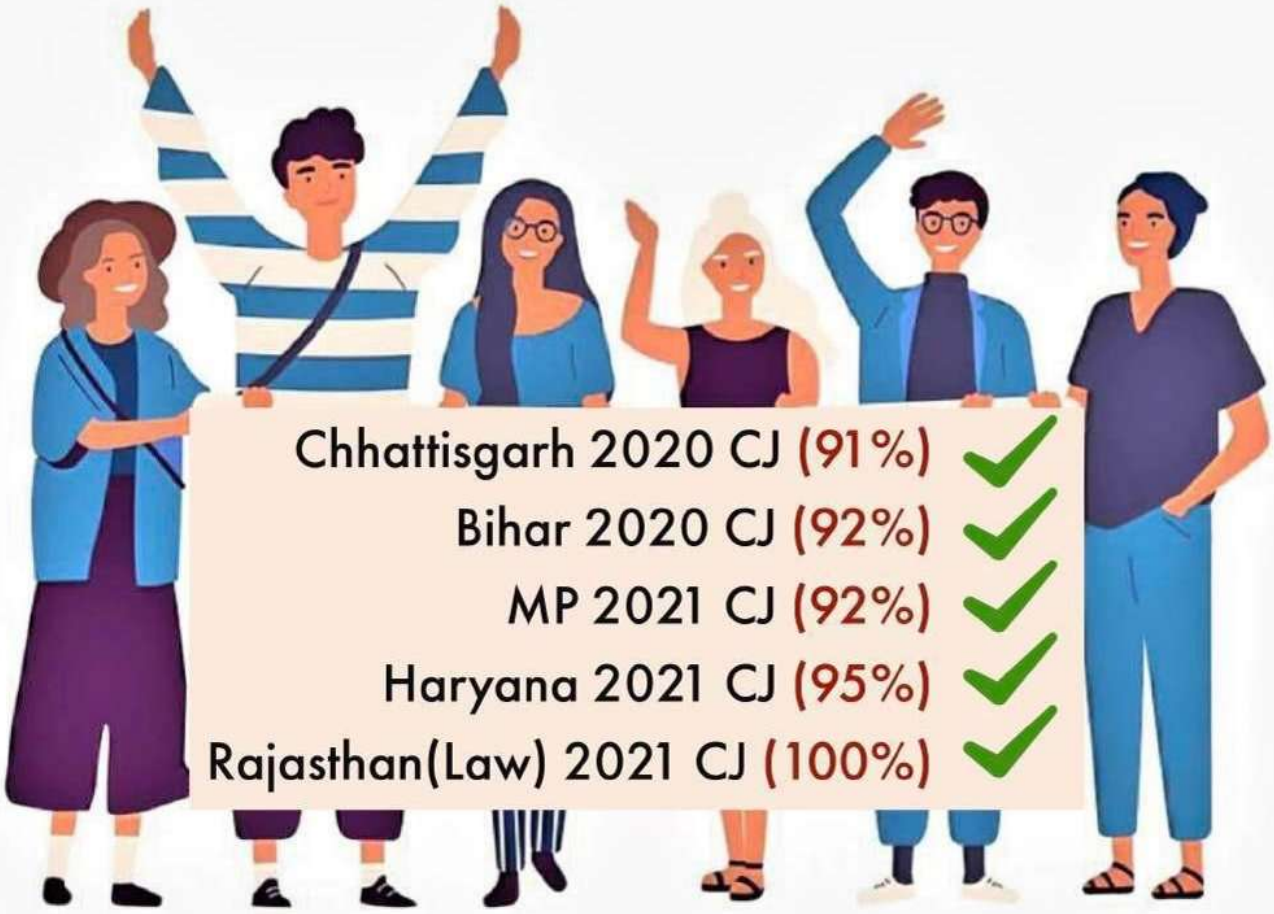

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Section - 2
Torts

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16. The propounder of 'Pigeonhole Theory of Tort' is

a) Winfield

b) Salmond

c) Austin

d) Clark

Ans: B

Source: Edzorb Law QBank-Torts Law- Unit I – Q 28

28.

MCQ, Single Correct Question

Who said it is law of Tort instead of law of Torts

a Winfield

b Salmond

c Blackburn, J

d Dr. Jenks

Explanation

A

Law of **Tort**

Winfield

- **No well-defined number** of wrongs
- Liability arises when the act does not have the lawful justification.
- Supported by Pollock.
- Courts of **law creating new tort** from time to time
- E.g.: Tort of liability arose from **Ryland Vs Fletcher [1868] UKHL 1**

Law of **Torts**

Salmond

- Specific **well-defined wrongs.**
- Liability arises when the offence establishes specified injury.
- **Net set of pigeonholes**; each hole consists of a labelled tort such as assault, battery, etc.

Pigeonhole Theory

17. ‘Res ipsa loquitur’ is related to

a) rule of evidence

b) weapon of offence

c) defence of some factor which was beyond control of the person who caused injury

d) a dangerous weapon

Ans: A

Source: Edzorb Law QBank-Torts Law- Unit I – Q 29

29.

MCQ, Single Correct Question

The maxim 'Res Ispa loquitur' means

a Where there is harm there is remedy

b Breach of duty

c Things dont speak for themselves

d Things speak for themselves

Explanation

(D)

Duty to care

Breach of duty

Damages

- Ram owes a duty to not enter Vikas' property.
- While on a walk, he enters his garden.
- His negligent behaviour has resulted in the **tort of trespass.**

Scott Vs London & St. Katherin Docks

(1865) 3 H & C 596

***Res Ispa Loquitur:* Things speak for itself.**

- **Presumption of negligence:** When the accident explains only one thing, that is the accident could not ordinarily occur unless the defendant had been negligent.
- In such a case it is sufficient for the plaintiff to prove accident and nothing more.

Reference: Law of Torts by Dr. R.K.Bangia 23rd Ed., 2013, Page No. 243

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18. The rule of 'Strict Liability' was propounded by

a) Justice Blackburn

b) Lord Devlin

c) Lord Atkin

d) Justice Hold

Ans: A

Source: Edzorb Law QBank-Torts Law- Unit I – Q 26

(D)

Evolution of Doctrine of Strict Liability in England:

Reylands Vs Fletcher
[1868] UKHL 1

- **Doctrine of Absolute/Strict Liability**: A person who for his own purposes collects and keeps on his land anything likely to do mischief if it escapes must keep it at his peril and, if he fails to do so, is prima facie liable for the damages which is the natural consequence of its escape.

- **Non-applicability of Doctrine**:
  - Things naturally on the land.
  - Where the escape is due to an act of God.
  - Escape was due to an act of a stranger or the default of the person injured.
  - Where the thing which escapes is present by the consent of the person injured or in certain cases where there is statutory authority.

- Leading judgment given by Justice Blackburn.
- This general rule is based on the principal that seems just.

Applicability of Doctrine in India:

M.C. Mehta and another Vs Union of India and others 1987 AIR 1086

- An enterprise, engaged in **dangerous industry** owes an absolute and nondelegable duty to the community to ensure that no harm results to anyone on account of dangerous nature of the activity which it has undertaken.
- The enterprise is under an obligation to provide that dangerous activity must be conducted with the highest standards of safety and if any harm results, the enterprise must be absolutely liable to compensate for such harm.

Hence, in the present case, the company is liable on the basis of this doctrine.

Reference: Law of Torts by R.K. Bangia, 23rd Ed., 2016, Page No. 320

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19. 'Qui facit per alium facit per se' means

a) liability under the law of negligence

b) liability for unauthorized act

c) vicarious liability

d) strict liability

Ans: C

Source: Edzorb Law QBank-Torts Law- Unit I – Q 30

30.

MCQ, Single Correct Question

The legal maxim, 'Qui facit per alium facit per se' means

a Strict Liability

b Liability for unauthorised act

c Liability under nuisance

d Vicarious Liability

Explanation

(D)

Vicarious liability:

Responsibility of the superior for the acts of their subordinate.

- Some **relationship** between the person who committed a wrong and the other person.
- Joint activity.
- The **wrongful act** must be related to their relationship.
- The wrong should be done within the **course of employment.**

Types of Vicarious Relationships:

Principal and Agent	Master and Servant
Servant and Independent Contractor	Vicarious Liability of State

Qui facit per alium facit per se:

He who acts through another does the act himself.

Peninsular and Oriental Steam Navigation Company Case

(1861) 5 Bombay HCR

The courts for the first time identified the sovereign and non-sovereign functions of the state.

Reference: Law of Torts by Dr. R.K.Bangia 23rd Ed., 2013, Page No. 114

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20. Who divided wrongs as private wrongs and public wrongs?

a) Fraser

b) Sir F. Pollock

c) Justice Blackburn

d) Blackstone

Ans: D

Source: Edzorb Law QBank-Torts Law- Unit I – Q 31

31.

MCQ, Single Correct Question

Blackstonian Theory gave the following categorisation

a Strict Liability and Absolute Liabity

b Doctrine of Promissory Estoppel

c Private Wrong and Public Wrong

d Acts of negligence

Explanation

(C)

TORT

Private Law — Civil or Private Right Infringement

Wrong — Damages in compensation

- **Municipal Law** prescribes what is right and what is wrong
- **Rights** are those which are **commanded**.
- **Wrongs** are those which are **forbidden**.
- The distinction between private and public wrongs is that between civil and criminal law

- Arun assaulted Piku.
- Arun has breached **Piku's right** of body to not be assaulted.
- This is Tort.

Reference: Law of Torts by Dr. R.K.Bangia 23rd Ed., 2013, Page No. 6

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21. Which one of the following is not a valid defence in tort?

a) Volenti non fit injuria

b) Vis major

c) Scienti non fit injuria

d) Consent

Ans: C

Source: Edzorb Law QBank-Torts Law- Unit I- Q 4

Edzorb Law QBank-Torts Law- Unit I- Q 36

4.

MCQ, Single Correct Question

The maxim volenti non fit injuria means

a voluntarily suffered injury is not fit for action

b no breach of a legal right is committed against one who is a willing party

c harm suffered voluntarily does not constitute an injury and is not actionable

d all the above.

Explanation

(D)

Volenti non fit injuria:

- The term ***Volenti Non Fit Injuria*** is a Latin maxim which refers *to a willing person, an injury is not done*.

- It means voluntarily gives consent for any harm to suffer would not be liable to claim any damages.
- The person who himself voluntarily waived or abandoned his legal right cannot have any claim over it.

Essentials of Non-Volenti Fit Injuria:

- The plaintiff has the knowledge of the risk.
- The plaintiff with the knowledge of risk has voluntarily agreed to suffer the harm.

Knowledge and consent:

- Mere knowledge about the risk is not enough for the application of this defence, it is known as ***Scienti non fit injuria,*** which means that mere knowledge does mean consent to the risk.

- The person must give free consent to suffer the harm.

Padmavati Vs Dugganaika
[1975 ACJ 222]

The defendants were not liable because by sitting in the jeep the plaintiffs had assumed the risk of being injured in an accident.

Limitations on the application:

- **Rescue case**: Where a person puts his life in danger to save others cannot be said to give consent to the harm.

A fire is caused by A to burn B but c jumps in to save B and dies. Here A cannot take the defence of volenti non fit injuria.

- **Illegal Acts**: A person cannot give free consent for any act which is prohibited by law. For instance: Sati.

- **Negligence of the Defendant**: The defence of volenti non fit injuria is not applicable in a case where the defendant has been negligent. For instance: negligence by doctors while performing operation.

Reference: Law of Torts by R.K. Bangia, 23rd Ed., 2016, Page No. 28

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36.

MCQ, Single Correct Question

Which is not a valid defence in tort

a Vis major

b Scienti non fit injuria

c Inevitable Accident

d Consent

Explanation

B

Scienti non fit injuria → Mere knowledge does not mean a consent to the risk.

- **Only knowledge of the risk is not enough** to claim defence.
- There had to be consent and mere knowledge is not sufficient.

- Ram was drunk driving.
- He insisted Shyam to give him company.
- Shyam had the knowledge that Ram was drunk.
- However, Ram **coerced Shyam** to go with him.
- There was an accident.
- Ram **can't claim defence of volenti non fit injuria** because Shyam even though had the knowledge **did not consent.**

When consent pictures in, the maxim becomes **Volenti non fit injuria** which signifies **consent**.

- By Roman jurist **Ulpian**.

Dan Vs Hamilton

[1939] 1 All ER 59

- The defendant was drunk.
- The plaintiff knowingly chose to travel in Defendant's car.
- The car crashed, causing injuries to defendant.
- The **defence of 'volenti non-fit injuria' is applied** when there is "complete knowledge of the danger" and proof of the person consenting to it.

Reference: Law of Torts.

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7.

MCQ, Single Correct Question

The maxim 'damnum sine injuria' means

a damage with infringement of legal right

b damage without infringement of Legal right

c infringement of legal right without damage

d infringement of legal right with damage.

Explanation

(B)

Reference: Law of Torts by R.K. Bangia, 23rd Ed., 2016, Page No. 19

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23. The duty under the law of tort is

a) towards general individuals only

b) towards the world at large

c) towards a specific individual only

d) None of the above

Ans: B

Source: Edzorb Law QBank-Torts Law- Unit I – Q 35

Edzorb Law QBank-AIRPT-II- Q 29

35.

MCQ, Single Correct Question

Donoghue Vs Stevenson is a case of tort related to

a Nuisance

b Medical Negligence

c Negligence

d Joint Tortfeasors

Explanation

(C)

- Ram owes a duty to not enter Vikas' property.
- While on a walk, he enters his garden.
- His negligent behaviour has resulted in the **tort of trespass.**

Donoghue Vs Stevenson

[1932] A.C. 562

Doctrine of negligence:

Must **take reasonable care** to avoid acts or omissions which you can reasonably foresee would be likely to injure your neighbour.

Rights in Rem	Rights in Personam
Available against word at large.	Available only against a determinate person or persons.
They are negative rights.	These are positive rights.

What is **duty to care?**

Reference: Law of Torts by Dr. R.K. Bangia 23rd Ed., 2013, Page No. 224

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Q. 29. A 'Sale of Goods' under the Sale of Goods Act, 1930 creates

A. a jus in rem
B. jus in personam
C. either (a) or (b)
D. both (a) or (b) depending on the facts and circumstances of the case.

Answer: A

JUS AD REM	JUS IN PERSONAM
Latin term meaning ***right to a thing*** under civil law.	Latin term meaning ***right against a person.***
Personal right to possession of property that usually arises from a contractual obligation such as a lease.	The right to enforce a particular person's obligation by instituting an action against such person.
E.g.- Right to free from Slander.	E.g.- Right to receive compensation of breach of contract.

For example – The rights under **Law of Torts are rights in rem** whereas the rights under Contracts law are right in personam.

Reference: Mulla on The Sale of Goods Act; 10th Ed., 2012, Page No. 3-13

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24. The principle of 'ubi jus ibi remedium' was recognized in

a) Ashby vs. White
b) Rylands vs. Fletcher
c) Pasley vs. Freeman
d) Lumley vs. Gye

Ans: A

Source: Edzorb Law QBank-Torts Law- Unit I- Q 6

6.

MCQ, Single Correct Question

The maxim 'injuria sine damno' means

a violation of a legal right without damage
b violation of a legal right with damage
c damage without violation of legal right
d none of the above.

Explanation

(A)

Injuria Sine Damnum:

- Injuria sine damnum means is based on where there is right, there is remedy. (***Ubi jus ibi remedium***).
- It means where there is right and it has been violated, even if it did not cause any damage, still the person has a right to approach court for the infringement of right and can claim an remedy for the same.
- The plaintiff need not prove the actual damages.

Ashby Vs White
(1703) 2 LR 938

- Where the plaintiff was a qualified voter at a parliamentary election, while the defendant who was a returning officer in election wrongfully refused to take a vote of the plaintiff.
- Although the plaintiff didn't suffer any loss by such wrongful act.
- **Held:** The legal rights of the plaintiff were infringed and therefore the defendant was held liable.

Reference: Law of Torts by R.K. Bangia, 23rd Ed., 2016, Page No. 17

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25. The liability of independent tortfeasors is

a) joint only

b) several only

c) both joint and several

d) neither joint nor several

Ans: B

Source: Edzorb Law QBank-Torts Law- Unit I- Q 23

23.

MCQ, Single Correct Question

The liability of joint tort-feasers is

a only joint

b only several

c joint and several

d neither joint nor several.

Explanation

(C)

Joint tortfeasors:

When two or more persons unite to cause damage to another person, then they will be liable as **joint tortfeasors.**

Liability of Joint tortfeasors in Common Law:

The **liability of joint tortfeasors** under Land Reforms Act and Civil Liability Act is mentioned as follows:

- An action may be brought against one or all the join tortfeasors,
- If one person pays more than his liability, he can claim it from other tortfeasors.

Liability of Joint tortfeasors in Indian Law:

Kushro S. Gandhi Vs N.A. Gajdar
1970 AIR 1468

In the **case of joint tortfeasors**, in order to release all joint tortfeasors, the plaintiff must receive full satisfaction or which the law must consider as such from a tortfeasor before other joint tortfeasors can rely on **accord and satisfaction.**

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Liability arises in following case:

- **Agency:** When a tort is committed by an agency then both principal and agent are considered as joint tortfeasors.
- **Vicarious Liability:** When a servant commits a tort in the course of employment, the master can be made liable along with the servant as a joint-tortfeasors.

Defences:

- If the act was done with another under **compulsion.**
- **Contributory Negligence**: The plaintiff himself contributed to the illegality of the act.
- **Illegality:** Where at the time of the injury, the complainant committed an illegal act for which he was seeking compensation, the defendant's liability may be reduced, or entirely eliminated.

Reference: Law of Torts by R.K. Bangia, 23rd Ed., 2016, Page No. 61

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26. The rule of 'Absolute Liability' implies

a) strict liability only

b) State liability only

c) stricter than strict liability

d) None of the above

Ans: C

Source: Edzorb Law QBank-Torts Law- Unit II – Q 11

11.

MCQ, Single Correct Question

Rule of Strict Liability in India has been evolved as

a Vicarious Liabiity

b Negligence

c Absolute Liability

d No-fault laibility

Explanation

(C)

No-fault liability:

Principle that individual is held **liable without** him being at **fault**.

Ryland Vs Fletcher (1868) UKHL 1 → Principle of Strict Liability

The rule:

- Person who keeps anything likely to do mischief must take responsibility if it escapes.

- Mr. Shukla was growing a poisonous tree in his garden.
- The leaves of the tree fell outside his backyard into Mr. Singh's yard.
- His dog tasted them and died.
- Mr. Shukla **was growing a dangerous tree at his own risk.**
- **He is strictly liable**

MC Mehta vs Union of India

AIR 1987 S.C 1086

The Supreme Court developed the rule of **Absolute Liability.**

The scope of the rule of absolute liability is very wide and does not have any exception.

Reference: Law of Torts by Dr. R.K.Bangia 23rd Ed., 2013, Page No. 320

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27. To succeed in an action for the tort of negligence, what is required to be proved?

a) Damages sustained

b) Breach of duty owned to someone to

c) Breach of duty owned to the plaintiff

d) None of the above

Ans: C

Source: Edzorb Law QBank-Torts Law- Unit I- Q 20

20.

MCQ, Single Correct Question

To succeed in an action for the tort of negligence, what is required to be proved is

a damages sustained

b breach of duty owed to the plaintiff

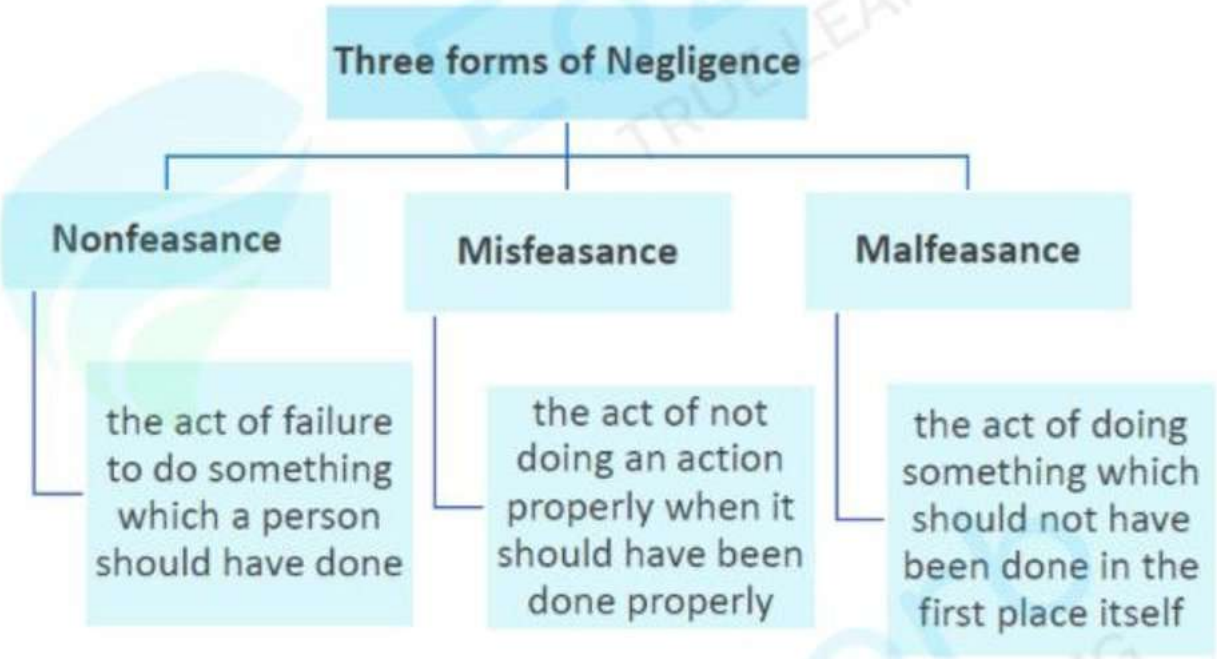
c breach of duty owed to some one

d all the above.

Explanation

(B)

The **Tort of Negligence** is a legal wrong that is suffered by someone at the hands of another who fails to take proper care to avoid a foreseeable risk.



Three main elements of tort of Negligence:

- **Duty of Care**: Depends on relation between the parties. Every person has some duty towards the others, even strangers.
- **Standard of Care and Breach of duty**: Once a duty of care has been found, the law will seek to impose a standard of care. The key to ascertain is the standard expected is of foresight of a reasonable and prudent man.
- **Damages and Causation**: For a person to be able to sue in negligence, harm as a consequence of the other person's actions must be shown. It can be physical or mental.

[1932] UKHL 100

Defendants to the **standard** of the reasonable man. If a defendant has **acted reasonably**, then they will not have breached the duty of care. **Manufacturers have a legal duty of care towards the consumers.**

Reference: Law of Torts by R.K. Bangia, 23rd Ed., 2016, Page No. 220

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28. No action lies for defamation if defamatory matter is written

a) in a telegram

b) on a notice board

c) in a postcard

d) in a letter but not posted and kept in own custody

Ans: D

Source: Edzorb Law QBank-Torts Law- Unit I- Q 21
Edzorb Law QBank-Torts Law- Unit II- Q 6
Edzorb Law QBank-Torts Law- Unit II- Q 12

21.

MCQ, Single Correct Question

Which one of the following is not a Libel

a A defamatory matter in printing or writing

b Talking cinematograph film

c Sounds or gestures

d both (b) and (c).

Explanation

(C)

Defamation under torts:

- Defamation is injury to the reputation of a person.
- Any intentional false communication to harms a person's reputation is called defamation.

Essentials of defamation:

- **Publication:** The defamatory statement must be published i.e. it must be statement to society to lower the reputation of the person.
- **Reference to plaintiff**: The person who reads a statement that the same was made in reference to the specific person or a specific class of persons.

Types of Defamation under Torts:

- **Libel:** Libel is an untrue defamatory statement that is made in writing.
- **Slander:** Slander is an untrue defamatory statement that is spoken orally.

However, the only difference between two is that of medium and in case of liability, there is no difference.

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However, the only difference between two is that of medium and in case of liability, there is no difference.

Defamation under Indian Penal Code:

- **Section 499:** When a person **publishes or makes** any imputation with intention to defame, he is liable for defamation.

Reference: Law of Torts by R.K. Bangia, 23rd Ed., 2016, Page No. 146

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6.

MCQ, Single Correct Question

Which of the following is correct

a communication of defamatory material is essential

b communication of defamatory matter to defamed person alone is not sufficient

c since defamation is an injury to the reputation and reputation consists of estimation of one by oth least one person other than the defamed person is necessary

d all of the above.

Explanation

(D)

Defamation under torts:

- Defamation is injury to the reputation of a person.
- Any intentional false communication to harms a person's reputation is called defamation.

Essentials of defamation:

- **Publication:** The defamatory statement must be published i.e. it must be statement to society to lower the reputation of the person.

DEFAMATION SUIT AGAINST KEJRIWAL

Called Jaitley a crook on client's instructions, says Jethmalani

MANISH RAJ
NEW DELHI, MAY 17

THE COURT of the joint registrar (judicial) in the Delhi High Court witnessed tense scenes as the cross-questioning of Union Finance Minister Arun Jaitley by senior advocate Ram Jethmalani continued on Wednesday. This was the fourth time Jaitley was examined in the civil defamation suit, filed by him against Chief Minister Arvind Kejriwal and five AAP leaders seeking Rs 10 crore in damages.

At one stage, the court noted that Jethmalani had called Jaitley a "crook". Raising "serious objections", Jaitley and his counsels, senior advocates Rajiv Nayar and Sandeep Sethi, called for a "definite statement" on whether the word "crook" was used by Jethmalani in his personal capacity or on instructions of his client, Kejriwal.

(PTI adds: "If this is so, I would aggravate the charges against the defendant (Kejriwal)," Jaitley said, adding that there was a limit to personal malice.)

Jethmalani said he used the word on instructions of his client. But the instructing counsel for Kejriwal denied this, following which Jethmalani said he had received the instructions during his meetings with his client, in the absence of the counsel.

Earlier, starting the cross-examination, Jethmalani said that in the last proceedings on May 15, Jaitley had made a statement saying that though he did not read the weekly newspaper, Sunday Guardian, he might be able to find if any article had been published against him. "I read some prominent newspapers and economic newspapers regularly. What is published in hundreds of other newspapers about me is not necessarily brought to my notice," said Jaitley.

When Jaitley said he read *The Indian Express*, Jethmalani showed him a document (a half-page advertisement from April, 2015) published in the newspaper. "Now this article in *The Indian Express* had been written and sent to *Sunday Guardian* on a Friday, intended to be published on Sunday. What do you have to say?" The court disallowed the question, saying it was already observed as irrelevant in the last proceedings.

Jethmalani then suggested that before the article was to be published, Jaitley had "arranged with the staff not to publish it". The court again disallowed the question on the same premise. Jethmalani again said that though the article was going to be published on April 26, 2015 on a specific page, it was not published. Disallowing the question, the court said the senior lawyer was seeking "specific inquiries" in a case, which was not an issue in the present matter.

Jethmalani then asked when Jaitley read the article (ad) for the first time. Disallowing the question again, the court noted that during the questioning, Jethmalani had referred Jaitley as being "guilty of crimes and crookery", to which, Jaitley and his counsel had raised objections.

The matter has now been listed for July 28 and July 31.

Ram Jethmalani and Arun Jaitley

D EDUCATION CELEBRATIONS, EVENTS

CSR (AMITY): In order to provide an apt platform for showcasing the talents and mess...

The Indian EXPRESS Thu, 18 May 2017
epaper.indianexpress.com//c/19128067

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- **Reference to plaintiff**: The person who reads a statement that the same was made in reference to the specific person or a specific class of persons.

Defamation under Indian Penal Code:

Section 499: When a person **publishes or makes** any imputation with intention to defame, he is liable for defamation.

Did you Know?

Under **Criminal Law**, there must be an intention to defame and under **torts**, no such intention is required.

Reference: Law of Torts by R.K. Bangia, 23rd Ed., 2016, Page No. 146

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12.

MCQ, Single Correct Question

Defamation must inlclude
a.Publication
b. Monetary Damage
c. Lowering the Reputation
d. Lowering the reputation in front of reasonable minded people.

a A, B, C and D

b A and B

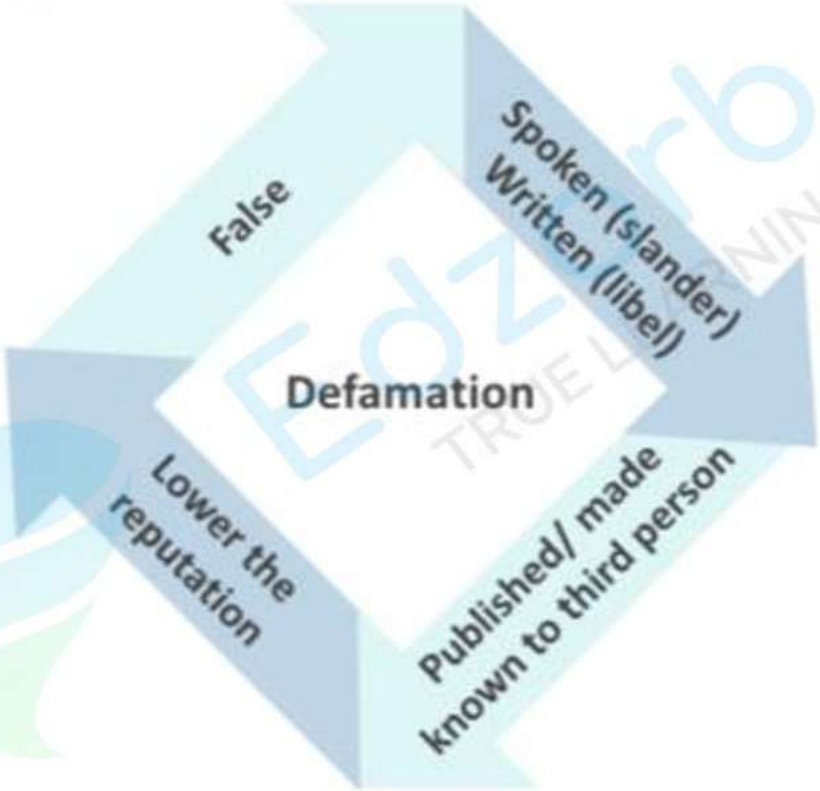
c A and C

d A and D

Explanation

(D)

Defamation:



Cassidy Vs Daily Mirror Newspapers

[1929] 2 KB 331

That the publication made the **reasonably minded person** believe that the claimant's **moral character was questionable**.

Wilson Vs Bauer Media

[2017] VSC 521

Australian-born actress Rebel Wilson brought an action against Bauer Media, claiming the magazine lied about her personal information.

The court awarded Wilson $650,000 general damages and $3,917,472 special damages for substantial loss of business.

Reference: Law of Torts by Dr. R.K.Bangia 23rd Ed., 2013, Page No. 155

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29. Which of the following is a defence to the tort of nuisance?

a) Prescription

b) Statutory authority

c) Both (A) and (B)

d) None of the above

Ans: C

Source: Edzorb Law QBank-Torts Law- Unit I – Q 30

32.

MCQ, Single Correct Question

Sic uteri tu et alienum non laedas

a Use of personal property without interference

b Personal right of action dies with a person

c From a dishonourable cause, an action does not arise

d Something not explicitly stated, but has the secondary defamatory meaning

Explanation

(A)

Unlawful interference with a person's use or enjoyment of rights.

- A man is playing loud music and doing karaoke at midnight.
- There is continuous annoyance at the to his neighbour who is unable to sleep.
- This is **Nuisance.**

Maxim: *Sic utere tu et alienum non laedas*	**Meaning**: Use your property so as not to interfere with that of others.
Nuisance	
Provision: Indian Penal Code **Section 268:** Public Nuisance	**Case law** **Christie Vs davey (1893) 1 ch 316**

Reference: Law of Torts by Dr. R.K.Bangia 23rd Ed., 2013, Page No. 183

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Nuisance:

Defence for Nuisance

- **Prescriptive** rights
  E.g.: Continuous use of another's land for 20 years
- **Statutory** Authority
  Vaughan Vs Taff Vale Rly (1860) 5 H.N. 679

No Defence for Nuisance

- If the plaintiff comes to nuisance.
- Reasonable Care
- Public Good

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30. The rule ‘de minimis non curat lex’ means that

a) trivial discrepancies must not be overlooked

b) trivial discrepancies must be overlooked

c) significant discrepancies must be overlooked

d) significant discrepancies must not be overlooked

Ans: B

Source: Edzorb Law QBank-Torts Law- Unit I – Q 33

33.

MCQ, Single Correct Question

The legal maxim 'De minimus non curat lex' is used to signify

a Absolute Liability

b Liability of Joint Tortfeasor

c Trival harm

d Moanetary loss

Explanation

(c)

Battery:

- Shizzu has as a matter of prank pulled Ishan's chair.
- As a result, he falls.
- Everyone has a good laugh.

For battery people usually **do not go to the court**.

Reason:

***De minimis non-curet lex* = Law does not take account of trifles.**

Reference: Law of Torts by Dr. R.K.Bangia 23rd Ed., 2013, Page No. 136

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109.The application of doctrine of vicarious - liability in crimes seems to have been actuated by a necessity rather than desirability. The justification is based on which of the following?

a) Public policy
b) Failure to supervise
c) Treated as unauthorized
d) Strict liability

Ans: A

Source: Edzorb Law QBank- Torts- Unit I- Q 34

34.

MCQ, Single Correct Question

Doctrine of vicarious liability is based on

a Principle of necessity
b Strict Liability
c Public Policy
d None of the above

Explanation

C

Concept of Vicarious Liability:

- It is when one person is held responsible for the wrong committed by the other.
- **Based on public policy**.

Master's Vicarious Liability:

- Any person who employees the person to act on his behalf is vicariously liable for the act done by the person. Hence, **master is vicariously liable** for any act done by his servant in **course of employment**.
- **Liability**: The liability of the master and the servant is **joint and several**, i.e., the person can sue both of them or either of them.

Act is in **'Course of Employment/ Agency'** when:

(1) Act done is a wrongful act authorized by M/P (**Authorized Act**).

(2) Act done is lawful but is done using a **wrongful and unauthorized mode**

Short Vs J & W Ltd.
(1945) 79 Ll.L.Rep. 271

To make the master vicariously liable:

- The master should have the power to select his servant.
- Further, the master controlled the way his servant worked.
- The master also had the right to dismiss or suspend the services of the servant.

Reference: Administrative Law by I.P. Massey; 9th Edn., 2017, Page no. 39

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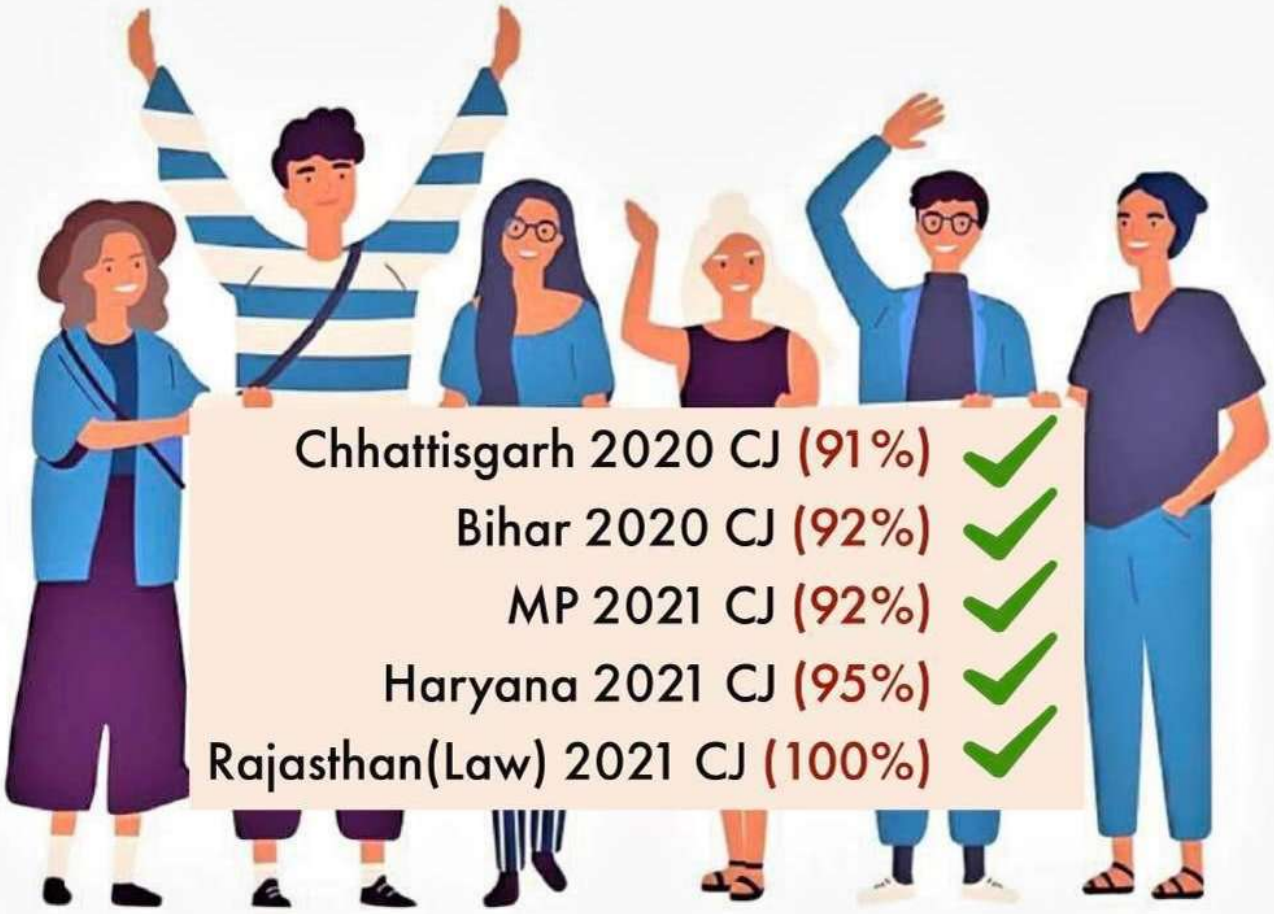

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Section - 3
SoGA

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31. What does the term 'future goods' mean under Section 2(6) of the Sale of Goods Act, 1930?

a) Uncontained goods

b) Ascertained goods

c) Specific goods under delivery

d) Goods which are not in existence

Ans: D

Source: Edzorb Law QBank- Sale of Goods Act – Unit II – Q 6
Edzorb Law QBank- Sale of Goods Act – Unit II – Q 7

6.

MCQ, Single Correct Question

'Future goods' has been defined, in the Sale of Goods Act, 1930, under

a Section 2(7)

b Section 2(5)

c Section 2(8)

d Section 2(6)

Explanation

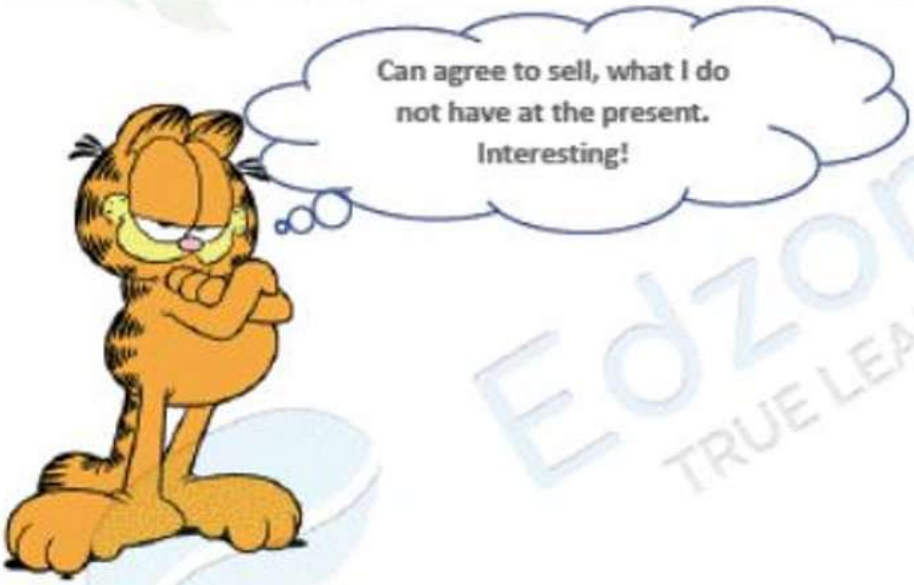
(D)

Section 2(6) of SGA states Future Goods- the goods that will either be manufactured or produced or acquired by the seller at the time the contract of sale is made.

Contract for the sale of future goods **will never have the actual sale in it, it will always be an agreement to sell.**

HR & S Sainsbury Ltd Vs Street
[1972] 3 All ER 1127

The seller agreed to sell to the buyers a crop of 275 tons of **barley to be grown by him** on his farm; Future goods are goods yet to be acquired or manufactured or grown by the seller.



Reference: Mulla on The Sale of Goods Act; 10th Ed., 2012, Page No. 3-13.

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7.

MCQ, Single Correct Question

'Future goods' as defined in the Sale of Goods Act, 1930 means

a Goods to be manufactured or produced after the making of the contra

b Goods to be acquired by the seller after the making of the contract of

c Both (a) and (b)

d None of the above

Explanation

(C)

Section 2(6) of SGA states **Future Goods**- the goods that will either be manufactured or produced or acquired by the seller at the time the contract of sale is made.

Contract for the sale of future goods **will never have the actual sale in it, it will always be an agreement to sell.**

HR & S Sainsbury Ltd Vs Street
[1972] 3 All ER 1127

The seller agreed to sell to the buyers a crop of 275 tons of **barley to be grown by him** on his farm; Future goods are goods yet to be acquired or manufactured or grown by the seller.

Reference: Mulla on The Sale of Goods Act; 10th Ed., 2012, Page No. 3-13.

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32. Answer as to which point of the following is not correct in making distinction between sale and agreement to sell.

a) A sale affects a transfer of the general property in the goods to the buyer but the agreement to sell gives to either party a remedy for any default in fulfilling this part of agreement.

b) A sale creates a jus in personam, whereas an agreement to sell creates a jus in rem.

c) In sale, if the buyer fails to pay for the goods, the seller may sue for the price but in agreement to sell, the seller can sue only for damages if the buyer fails to accept and pay for the goods.

d) In sale, if goods are destroyed, the loss (unless otherwise agreed) falls on the buyer. However, in agreement to sell, if goods are, destroyed, the loss (Unless otherwise agreed) falls upon seller.

Ans: B

Source: Edzorb Law QBank- Sale of Goods Act – Unit I – Q 16

16.

MCQ, Single Correct Question

A contract of sale under Section 4 of the Sale of Goods Act, 1930 may be

a Absolute

b Conditional

c Either (a) or (b)

d Both (a) and (b)

Explanation

(C)

Section 4 provides for Sale and agreement to sell.

(C)

Section 4 provides for **Sale and agreement to sell.**

SALE	AGREEMENT TO SELL
Property is **immediately** transferred from seller to buyer	Transfer of property in goods from seller to buyer takes place **in future.**
Defined as **transfer of ownership** in the goods by the seller to buyer in exchange of price paid or promised or partly paid and partly promised. • Ram sold 10 bags of Wheat to Shyam for Rs. 3,000	The seller **agrees to transfer the title** of ownership on a future date upon satisfying certain condition. • Ram agrees to sell 10 bags of wheat to Shyam for Rs. 3,000 after getting the stock
Executed contract.	**Executory** contract.
Creates **right in rem.**	Creates **rights in personam.**
The seller can **sue the buyer for case of breach of contract.**	The seller can **sue the buyer only for damages but not for the price.**

Reference: Mulla on The Sale of Goods Act; 10th Ed., 2012, Page No. 15.

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33. The term ‘caveat emptor’ means that

a) the goods should be free from defect

b) the ownership of the goods passes after sale

c) let the buyer be aware

d) the seller should disclose everything to the buyer

Ans: C

Source: Edzorb Law QBank- Sale of Goods Act – Unit I – Q 35

35.

MCQ, Single Correct Question

The maxim ' caveat venditor' mean

a Let the buyer beware

b All goods must have an express warranty

c Let the seller beware

d Goods must be free from defects

Explanation

C

The buyer of goods must be cautious as to the goods themselves.

Section 16

There is no implied warranty as to the quality of goods supplied for particular purpose.

Exceptions:

16 (1)
When the buyer states the purpose of buying

16 (2)
Where goods are purchased under patent or brand name

16 (3)
Where warranty is annexed with the goods

16 (4)
Express warranty does not negative the implied warranty

Caveat Emptor

Caveat Venditor

Amendments to the Consumer Protection Act 2019:

- E-commerce activities: **Consumer Protection (e-Commerce) Rules, 2019** makes the online purchase of the goods to be more transparent.
- **Rule 4:**

  4.1: **Restriction** not to influence the price of the goods and services.

  To maintain a level playing field.

  4.2: **Display** the contract

  Ensure advertisements for marketing the goods.

  Safety and healthcare information.

  Information regarding the various payment methods and security thereof.

  Refund of payment within 14 days.
- **Rule 6:**
  - Publication regarding the Grievance officer.
  - The officer shall redress the issue within one month.

Reference: Sale of Goods Act, 1930 s 16

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34. In the following statements, which one is incorrect when the sale is made by an auctioneer of goods and the issue is to pass a good title to the buyer?

(A) He is in possession of goods with the consent of the owner.

(B) The sale is made by him when acting in the ordinary course as an owner of the goods.

(C) The buyer acts in good faith.

(D) The buyer has no notice at the time of the contract that seller has no authority to sell.

Ans: B

Source: Edzorb Law QBank- Sale of Goods Act – Unit II Q 14

14.

MCQ, Single Correct Question

In a sale of goods by auction

a A bid can be withdrawn/recalled but the seller cannot withdraw the g

b A bid cannot be recalled but the seller can withdraw the goods from t

c Neither a bid can be recalled nor the seller can withdraw the goods fr

d A bid can be recalled and it is open to the seller to withdraw the goods

Explanation

(D)

Section 64(2):

The State of Gujarat Vs Bombay Metal Alloys & Mfg. Co (1983) 54 STC 45 Guj

"Contract of sale comes into existence" with the fall of the bidding hammer or by any other customary method.

After placing the bid

Before fall of the hammer

The bid so placed can be retracted.

Food for Thought!

The withdrawal of the bid before it is accepted is called **locus poenitentiae (opportunity to withdraw).**

Section 64(4)

- **When sale is not notified**, auctioneer cannot take any bid from seller.
- Such a bid can be treated fraudulent bid by buyer.

- Mr. Singh has come to an auction
- The famous ***1962 Ferrari*** is at auction

- Mr. Singh places a bid for $48 million.
- However, he immediately realized that he does not have that much money.
- Before the hammer could fall, Mr. Singh retracts his bid.
- The sale did not complete.

Reference: Mulla on The Sale of Goods Act; 10th Ed., 2012, Page No. 140

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35. A seller delivers to the buyer a larger quantity of goods than what was ordered. Which of the following is incorrect?

a) The buyer has right to reject the whole goods.

b) The buyer has right to accept the whole goods.

c) The buyer has right to accept only the goods ordered and reject the rest.

d) The buyer can retain the whole goods but make payment only for the goods ordered.

Ans: D

Source: Edzorb Law QBank- Sale of Goods Act-Unit IV – Q 26

26.

MCQ, Single Correct Question

When seller delivers more goods than what was was ordered

a Buyer shall reject all

b Buyer has to accept all

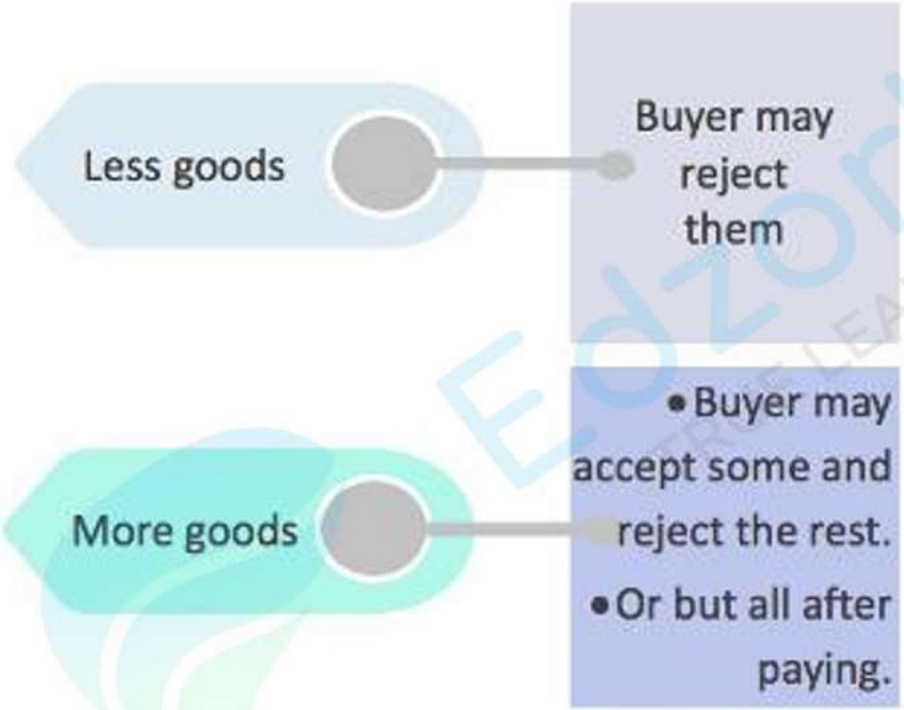
c Buyer can reject excess goods but if decides to keep all, seller has to pay accordi

d Buyer will get the excess goods free of cost

Explanation

C

Section 37



- Different goods along with purchased goods: Buyer may accept the purchased goods and reject the rest or may reject the whole.
- **Subject to any usage of trade** or special agreement or course of dealing.

Reference: Sale of Goods Act, 1930 s 37

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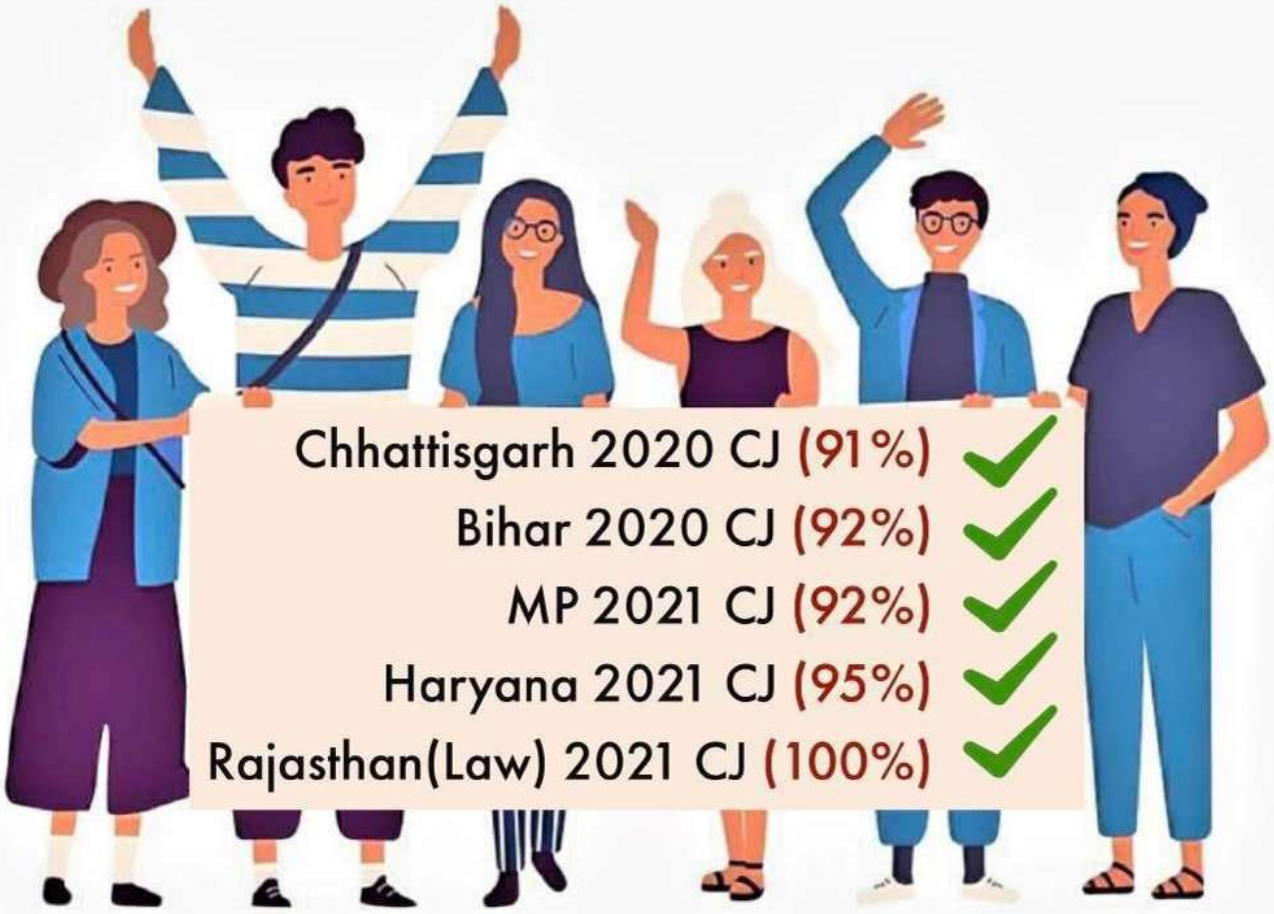

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Section - 4
NIA

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36. Which one of the following statements is not correct for promissory note?

a. A promissory note is an instrument in writing.

b. It contains a conditional undertaking signed by the maker.

c. It is for the payment of certain sum of money only.

d. The payment is to a certain person' or to bearer of instrument.

Ans: B

Source: Edzorb Law QBank- NI Act-Unit I - Q 3

Edzorb Law QBank- NI Act-Unit I - Q 5

3.

MCQ, Single Correct Question

The terms 'Negotiable Instrument' defined under is

a Section 11

b Section 12

c Section 13

d Section 13A

Explanation

(C)

Section 13 of NI Act:

NI means a a Promissory Note, Bills of Exchange or Cheque payable either to order or to bearer.

A **promissory note** refers to a written promise to its holder by an entity or an individual to pay a certain sum of money by a pre-decided date.

Bills of exchange refer to a legally binding, written document which instructs a party to pay a predetermined sum of money to the second(another) party.

A **cheque** refers to an instrument in writing which contains an unconditional order, addressed to a banker and is signed by a person who has deposited his money with the banker.

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Category	Bill of Exchange	Promissory Note
Meaning	• A bill of exchange is an unconditional written order made by the drawer on drawee to receive the specified sum within the mentioned period.	• A promissory note is a written promise made by the borrower or drawer to repay the amount on a specific date or order of the payee.
Drafted By	• It is drafted by the creditor or lender who is liable to receive the amount.	• It is made by the borrower or the debtor who is liable to pay the sum.
Parties to it	• Three parties associated with a bill of exchange, i.e. a drawer, a payee and a drawee.	• A promissory note strictly involves a drawer and a payee.

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Nature	• It is an order directing the payment	• It is a promise assuring the payment.
Endorsement	• It can be endorsed, and the payee is the one who holds the bill on maturity.	• It is strictly payable to the payee mentioned initially in the note.
Liability	• It holds a secondary and conditional liability on the drawee.	• It has a primary and absolute liability on the drawer.
Legal obligation	• It holds a legal obligation and can be protested in the case of dishonour.	• The same is not possible in the fact of a promissory note.

Reference: The Negotiable Instruments Act, 1882, Section 4, 5, 6, 13

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5.

MCQ, Single Correct Question

'Promissory Note' is defined under

a Section 2 of NI Act

b Section 3 of NI Act

c Section 4 of NI Act

d Section 5 of NI Act

Explanation

(C)

Section 4 of the NIA

A promissory Note is an instrument, in writing with an undertaking to pay, a **certain sum of money unconditionally**, to the payee or his order or the bearer of the instrument.

Promissory Note Template

Promissory Note

Amount: _____ **Date:** _____

Place: _____

I Mr. ABC, make commitment to pay XYZ Company, the Sum of $ _____. Repayment is to be made in the form of 200 equal payments at the interest rate of 7.2% of $ _____ payable on the 1oth of each month, beginning 10/01/2011 until the total amount of debt is paid.

IN WITNESS WHEREOF, I set my hand under seal this ____ [the day] of _____ [month], 20___ and I acknowledge receipt of a completed copy of this instrument.

_____

Sign: *[Signature of borrower]*

Notary Public - SEAL

My Commission Expire

_____/_____/_____

_____

Name & Address: *[Party name]*

Reference: The Negotiable Instruments Act, 1882, Section 4

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37. Though a cheque resembles a bill of exchange in many respects, but it is also a different instrument in other respects. Point out which one of the following statements regarding difference between cheque and bill of exchange is incorrect.

a) A cheque does not require acceptance, but a bill of exchange requires it.

b) A cheque is not intended for circulation, but a bill of exchange is intended.

c) A cheque is not entitled to some days of grace, but it is in case of bill of exchange.

d) A cheque is dishonored by non-acceptance, but this is not so in case of bill of exchange.

Ans: D

Source: Edzorb Law QBank- NI Act-Unit I- Q 16

16.

MCQ, Single Correct Question

'Cheque' is defined under

a Section 2 of NI Act

b Section 4 of NI Act

c Section 5 of NI Act

d Section 6 of NI Act

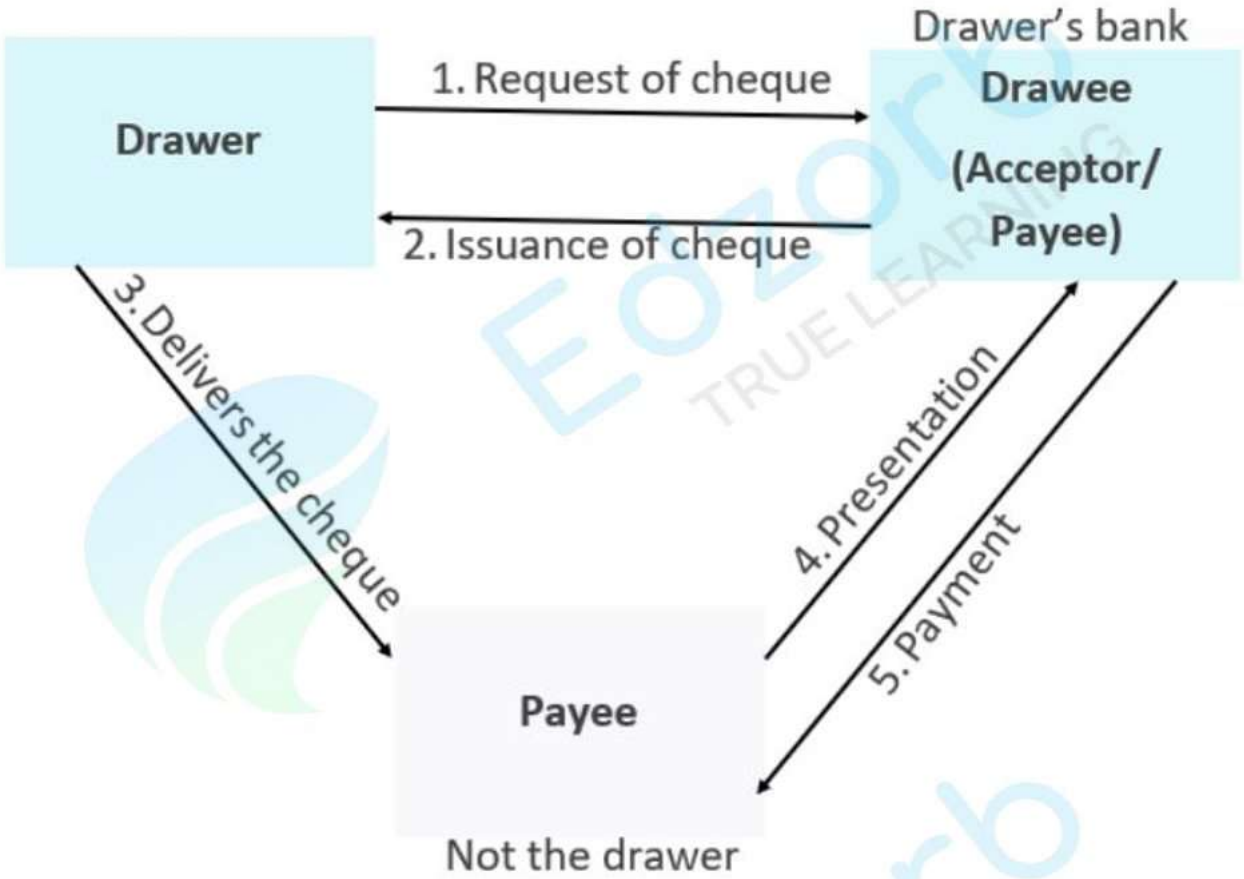
Explanation

(D)

Section 6: Cheque

According to this provision, a cheque is basically **a bill of exchange drawn on a specific banker**. Furthermore, it is not payable otherwise than on demand.

Parties to cheque



Category	Bill of Exchange	Cheque
Drawn on	• A bill may be drawn on any person.	• A cheque is always drawn only on a banker
Payment	• Bills may be payable on demand or upon a specific date.	• Cheques are payable only on demand
Grace period for repayment	• Bills generally carry a grace period of three days for repayment of money.	• Cheques, however, do not provide for any grace period.
Notice on dishonour	• Dishonour of a bill requires the production of a notice.	• No such notice is important for cheques.
Relation	• All Bills of Exchange are not cheques.	• All cheques are bills of exchange.

Reference: The Negotiable Instruments Act, 1882, Section 5, 6

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38. Which one of the following conditions is not compatible with essential elements of 'holder in due course'?

a) The holder must have taken the instrument for value.

b) He must have obtained the instrument on the date of its maturity positively.

c) The instrument must be complete and regular on its face.

d) He must have taken the instrument in good faith and without notice on any defect in the instrument.

Ans: B

Source: Edzorb Law QBank- NI Act- Unit I-Q 25

Edzorb Law QBank- NI Act- Unit I-Q 26

25.

MCQ, Single Correct Question

Section 9 of the Negotiable Instruments Act, defines

a Holder

b Holder in due course

c Negotiation

d Indorsement

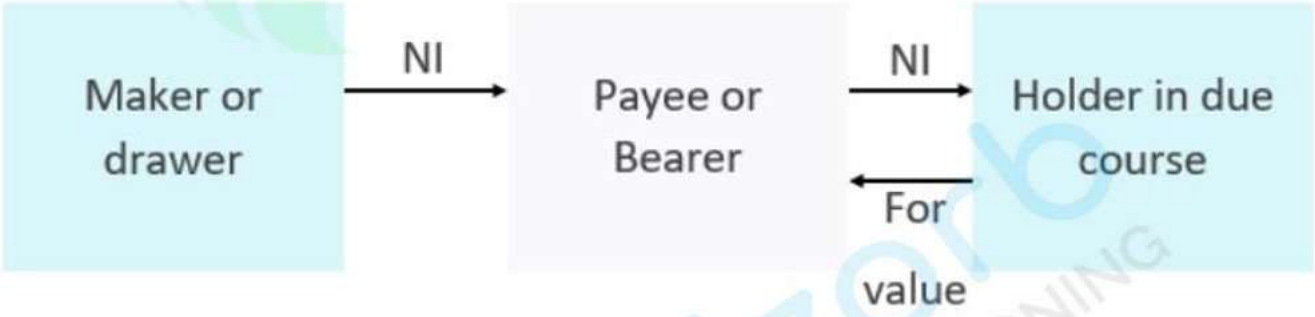
Explanation

B

Section 9: Holder in due course means:

- Any person who for **consideration became the possessor** of a promissory note, bill of exchange or cheque, and
- Without having sufficient cause to believe that **any defect existed in the title of the person** from whom he derived his title.

Ingredients for becoming holder in due course	The person must hold the instrument for valuable consideration.
	The person becomes the holder before it gets matured.
	The instrument must be complete in all forms and requisites.
	The holder must have received the instrument in good faith and is not aware of defect of title from instrument is dervied.



Jagdish Chander Vs Kapoor Jewel Mines (P) Ltd.

2019 SCC OnLine Del 8292

- **Facts**: The petitioner sought quashing of the complaint by recourse to **Section 142(1)(a)** as subject cheques were issued in the name of Raj Pal Kapoor, but the complaint was filed by Kapoor Jewel mines (P) Ltd.
- **Argument**: There were no averments in the complaint as to how Kapoor Jewel Mines became a holder in due course of the subject cheques.
- **Held**: **Section 9** of the Negotiable Instruments Act, 1881 defines the 'holder in due course' and its import cannot be pre-judged. Unless the contrary is proved, the presumption shall be made that the holder of a negotiable instrument is the holder in due course.

Reference: The Negotiable Instruments Act, 1882, Section 9

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26.

MCQ, Single Correct Question

To become a 'holder in due course' which of the following conditions must be satisfied by a person

a. That he is a holder for valuable and lawful consideration
b. That he obtained it before maturity of the instrument
c. That he becomes holder in good faith
d. All of the above

Explanation

(D)

Section 9: Holder in due course means:

- Any person who for **consideration became the possessor** of a promissory note, bill of exchange or cheque, and
- Without having sufficient cause to believe that **any defect existed in the title of the person** from whom he derived his title.

Category	Holder	Holder in due Course
Entitlement	• Holder is a person who is entitled for the possession of an instrument in his own name. Hence, he shall receive or recover the amount due thereon.	• Holder-in-due-course is a person who has obtained the instrument for consideration and in good faith and before maturity.

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Consideration	• Consideration is not necessary to become a holder. The instrument may also be given by way of a donation or gift	• **Consideration is a must** to become a holder-in-due-course.
Acquiring the instrument	• A holder may acquire the instrument even after its maturity.	• A holder-in-due-course must acquire the instrument before its maturity.
Title	• A holder does not acquire a better title than that of transferor.	• A holder-in-due-course derives a good title freed from all defects.

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Right to recover amount	• A holder has a right to recover the amount due on the instrument from the transferor only from whom he has obtained the instrument.	• He can recover the amount due on the instrument from any of the prior parties till the instrument is duly discharged.
Notice of defect in the Title	• No such condition in case of holder.	• A holder in due course must not be aware or had believe of defect of title.

Reference: The Negotiable Instruments Act, 1882, Section 9

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39. Point out which one of the following statements is not correct regarding the 'assignment' and 'negotiation' of the instrument.

a) In assignment, there is transfer of the right to receive the payment of debt, but it is not in case of negotiation.

b) The assignee is not liable for any defect in the title of his assignor but a holder in due course of a negotiable instrument is liable for the defects in the title of the previous transferors.

c) An assignment does not bind the debtor unless a notice of the assignment has been given to him but no information of the transfer of a negotiable instrument is to be given to the debtor.

d) In assignment, there is no presumption in favor of assignee that he was given consideration. However, in case of holder in due course of negotiable instrument, he is presumed to have given consideration for the instrument.

Ans: B

Source: Edzorb Law QBank-Torts Law- Unit VI- Q 10

10.

MCQ, Single Correct Question

The term negotiation is defined in section

a 13

b 14

c 15

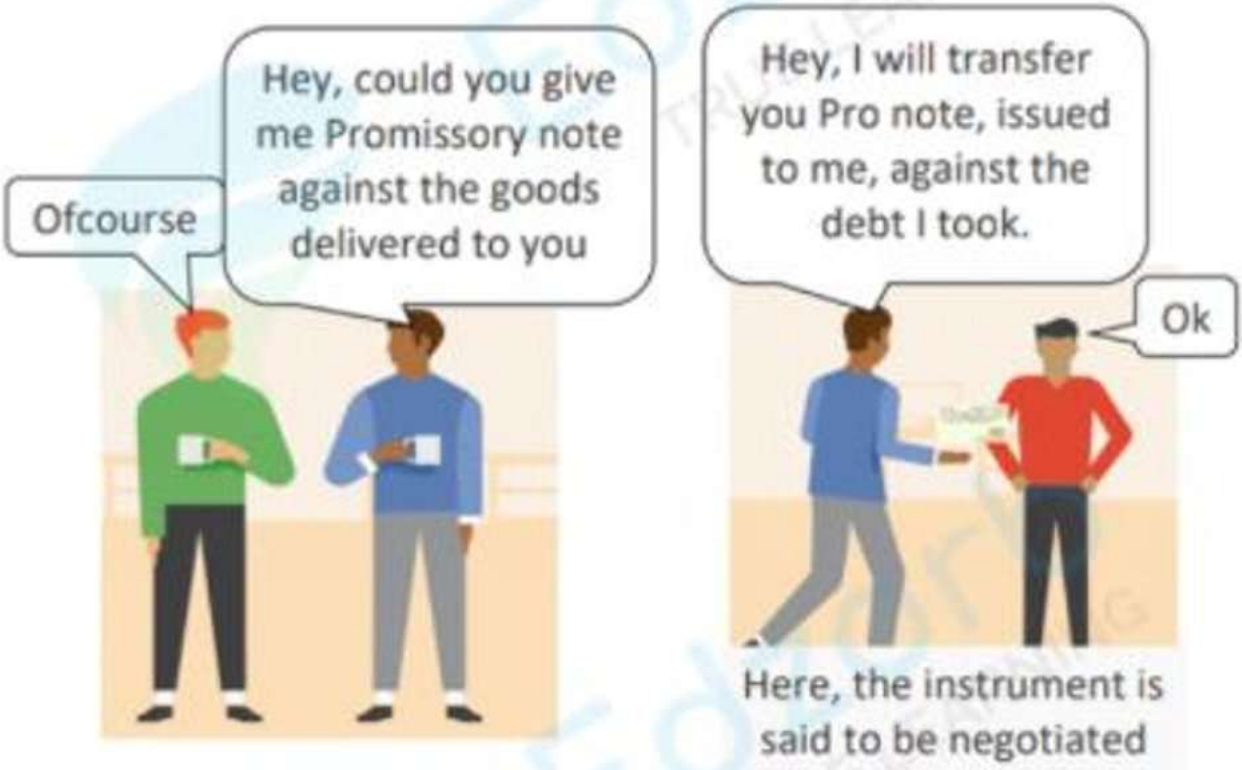
d 16

Explanation

(B)

Section 14: Negotiation:

When a promissory note, bill of exchange or cheque is **transferred to any person**, so as to constitute the person the holder thereof, **the instrument is said to be negotiated**.



Negotiation requires **two conditions to be fulfilled**, namely:

- There must be a **transfer of the instrument** to another person; and
- The transfer must be made in such a manner as to constitute **the transferee the holder of the instrument.**

Negation Vs Assignment

Category	Negation	Assignment
Definition	Negotiation requires delivery only to constitute a transfer	Assignment requires a written document signed by the transferor.
Consideration	Consideration is always presumed in the case of transfer by negotiation.	Consideration must be proved.
Notice of transfer	Notice of transfer is not necessary.	Notice of the transfer must be given by the assignee to the debtor.
Defect in title	A holder in due course is not affected by any defect in the title of the transferor.	The assignee takes the instrument subject to all the defects in the title of the transferor.
Suit by the transferee	A transferee can sue the third party in his own name.	An assignee cannot do so.

Reference: The Negotiable Instruments Act, 1882, Section 14

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40. Point out in which of the following circumstances, a banker is not justified in refusing the payment of a cheque.

a) The date of the cheque falls after the date of presentment.

b) The balance in the customer's account is not sufficient to meet the cheque's amount.

c) The customer has counter-manded the payment.

d) The customer has become insolvent, yet the bank has not received notice of it.

Ans: D

Source: Edzorb Law QBank- Negotiable Instrument Act- Unit IV – Q 22

Disclaimer: All attempts have been made to ensure accuracy and reliability of all information provided, However, this in no way provides final guarantee on the acceptability of the answers published by the examination authorities and must not be considered the absolute right.

22.

MCQ, Single Correct Question

Whether a bank is justified in refusing the payment of cheque in case of countermanding:

a) Yes, always

b) No, always

c) No, only when the account does not have sufficient funds

d) None of the above

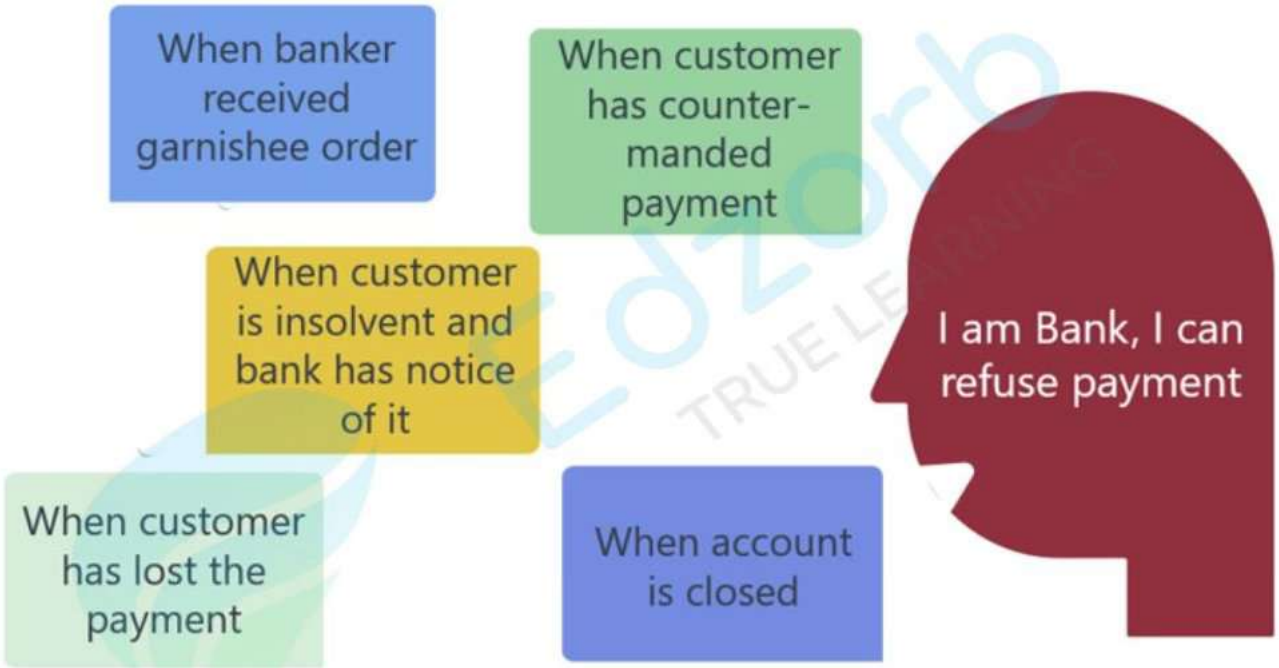
Explanation

(A)

Countermanding a cheque: A countermand is generally the **revocation of the banker's authority to pay a cheque**. A bank's duty to pay is terminated by countermand of payment by the customer.

In the following case, the banker can refuse the payment to the cheque:

In the following case, the banker can refuse the payment to the cheque:



Reference: The Negotiable Instruments Act, 1882

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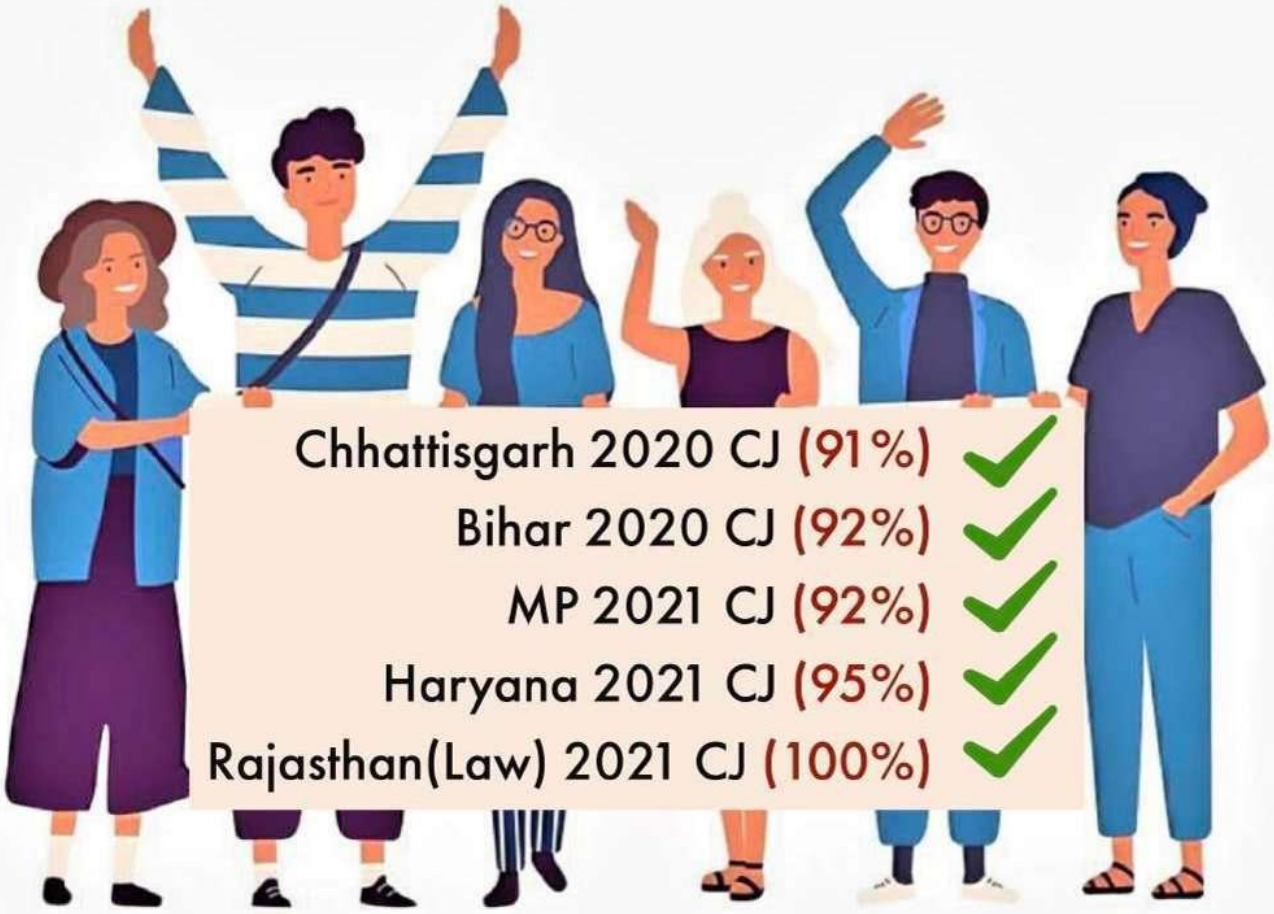

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Section - 5
Partnership

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47. Which one of the following Statements is **not** correct for a dormant partner?

a) A dormant partner is not interested in the business of the firm.

b) A dormant partner is not liable for the firm's liability to outsiders.

c) A dormant partner is entitled to share the profits of the firm.

d) A dormant partner is neither active nor known to outsider

Ans: B

Source: Edzorb Law QBank-Indian Partnership Act- Unit I – Q 19

19.

MCQ, Single Correct Question

A, an active partner, knowing that the goods were stolen ones, purchased and sold them without the knowledge sleeping partner.

a) Both A and B are liable for the tort of conversion to the owner of the goods.

b) Only A is liable because he is an active partner.

c) B is not liable because he is a dormant partner.

d) Both (b) and (c).

Explanation

(A)

Section 25: Liability of Partner:

The partners are jointly and severally liable for the act of each other done in the ordinary course of business.

Where the act of the partner is in the course of business and a partner **willfully does a tort** then **all the partners will be liable** (including sleeping partner) for the same. In this case **both A & B will be liable for the tort of conversion.**

Active partner	Dormant/Sleeping Partner
He takes *active participation* in the firm and the running of the business.	He *does not participate in the daily functioning* of the partnership firm, i.e. he does not take an active part.
He *carries on the daily business* on behalf of all the partners.	He is *however bound by the action* of all the other partners.
When an active partner wishes to retire from the firm, he *must give a public notice* about the same.	When dormant partner retires, he *need not give a public notice* of the same.

Did you Know?

Conversion also known as **trover** consists in **willfully** and **without** any **justification** dealing in goods in such a manner that another person, who is entitled to immediate use and possession of the same is deprived of that.

Reference: Mulla on The Indian Partnership Act; 10th Ed; 2012; Page No. 191

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48. Out of the following statements, point out which one is **not** correct regarding implied authority of the partner to act as agent of the firm.

a) He has right to sell the goods or chattels of the firm.

b) He has right to receive payment of debts due to the firm.

c) He has right to make an equitable mortgage by depositing the title deeds belonging to the firm.

d) He has right to acquire immovable property on behalf of the firm.

Ans: A

Source: Edzorb Law QBank-Indian Partnership Act- Unit I – Q 4
Edzorb Law QBank-Indian Partnership Act- Unit I – Q 6

4.

MCQ, Single Correct Question

B and M were carrying on the business of cinematographic theatre proprietors. B was a sleeping partn partnership deed provided that no partner should contract any debt on account of the partnership without in the usual and regular course of business. M borrowed money from C stating that the money was to be us misappropriated it. C sued B.

a) B is not liable on the ground that the business o f the firm was not a trading one and therefore the firm wa

b) B is liable in view of the implied authority of another partner.

c) B is liable in view o f the joint liability of the partners.

d) B is no t liable for the fraud of M.

Explanation

(A)

Section 19 of IPA: Implied Authority of a partner.

Explanation

(A)

Section 19 of IPA: **Implied Authority** of a partner.

- Each partner in a business has the implied authority to act in the name of the company.
- Such acts are binding on the other partners, so long as they fall within the ordinary course of the company's normal business.
- Such acts of implied authority may include: Buying or selling goods on behalf of the company

Higgins V Bean Camp
(1914-15) All ER 937

Party was not liable to pay the money as there was no actual authority to borrow the money, it was observed that there was no Implied Authority to borrow money because it was a non-trading business.

Raman who bears a name tag or a business card with a company logo. He has implied authority. Potential clients or customers are going to assume that employee has the authority to act on behalf of the company, and they do.

Reference: Mulla on The Indian Partnership Act; 10th Ed; 2012; Page No. 184

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6.

MCQ, Single Correct Question

Mark the incorrect statement in relation to implied authority of a partner under Sec. 19:

a. A partner can always enter into partnership on behalf of the firm.

b. A partner can acquire immovable property on firm's behalf or transfer immovable property (e.g. sale, mortga firm.

c. A partner can admit any liability in a suit or proceeding against the firm.

d. All are incorrect.

Explanation

(D)

Section 19 of IPA: **Implied Authority** of a partner. It means an **agent** has the **jurisdiction** to perform acts that are reasonably necessary to accomplish the purpose of an **organization**.

Instances where partner's authority as agent is restricted:

Submit a dispute relating to the business of the firm to arbitration

Open a banking account on behalf of the firm in his own name

Compromise or relinquish any claim or portion of a claim by the firm

Acquire immovable property on behalf of the firm

Admit any liability in a suit or proceeding against the firm

To withdraw a suit or proceedings led on behalf of the firm

Transfer immovable property belonging to the firm

Enter into partnership on behalf of the firm

Reference: Mulla on The Indian Partnership Act; 10th Ed; 2012; Page No. 184

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49. Which one of the following statements is correct for a minor who has been to the benefits of the partnership?

a) A creditor of the firm sues against the minor's share in the firm for his credit.

b) Such minor sues the partners for access to accounts of the firm.

c) Such minor sues the partners for share of the profits of the firm.

d) On finding some foulness in the business, he files a case of dissolution of the firm.

Ans: A

Source: Edzorb Law QBank-Indian Partnership Act- Unit I – Q 21

21.

MCQ, Single Correct Question

Minor's rights to be included in a partnership has been provided under

a Section 40

b Section 30

c Section 31

d Section 32

Explanation

B

Section 30

- Minors cannot be partners.
- Can be admitted in partnership firm for benefits.

Right:

Share of the property and profits

Inspect and copy any account of the firm

Minor's shares are liable for the acts of the firm

- Minor is not personally liable for acts of firm
- Minor **cannot sue** for accounts or shares.
- Minor can sue only when minor's partnership is being severed.

- Failure to give notice will automatically make minor the partner after attaining age of majority.
- When minor elects not to become partner:
  - Right and liabilities will exist till public notice
  - No liability after notice
  - Entitled to sue for shares

Reference: The Indian Partnership Act, 1932 s 30

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50. A partner wants to dissolve the partnership firm before the agreed time. Select which one of the following is **not** a perfect ground for dissolution of the firm for such partner.

a) That one of the partners has become permanently incapable of performing his duties as a partner

b) That other partner has transferred the whole of his interest in the firm to a third party

c) That the business of the firm cannot be carried on except loss

d) That the partner suing is in adulterous relationship with the wife of another partner which is apprehensive to affect the business of the firm

Ans: D

Source: Edzorb Law QBank-Indian Partnership Act – Unit I – Q 51

51.

MCQ, Single Correct Question

Disslution by notice is provided under

a Section 41

b Section 42

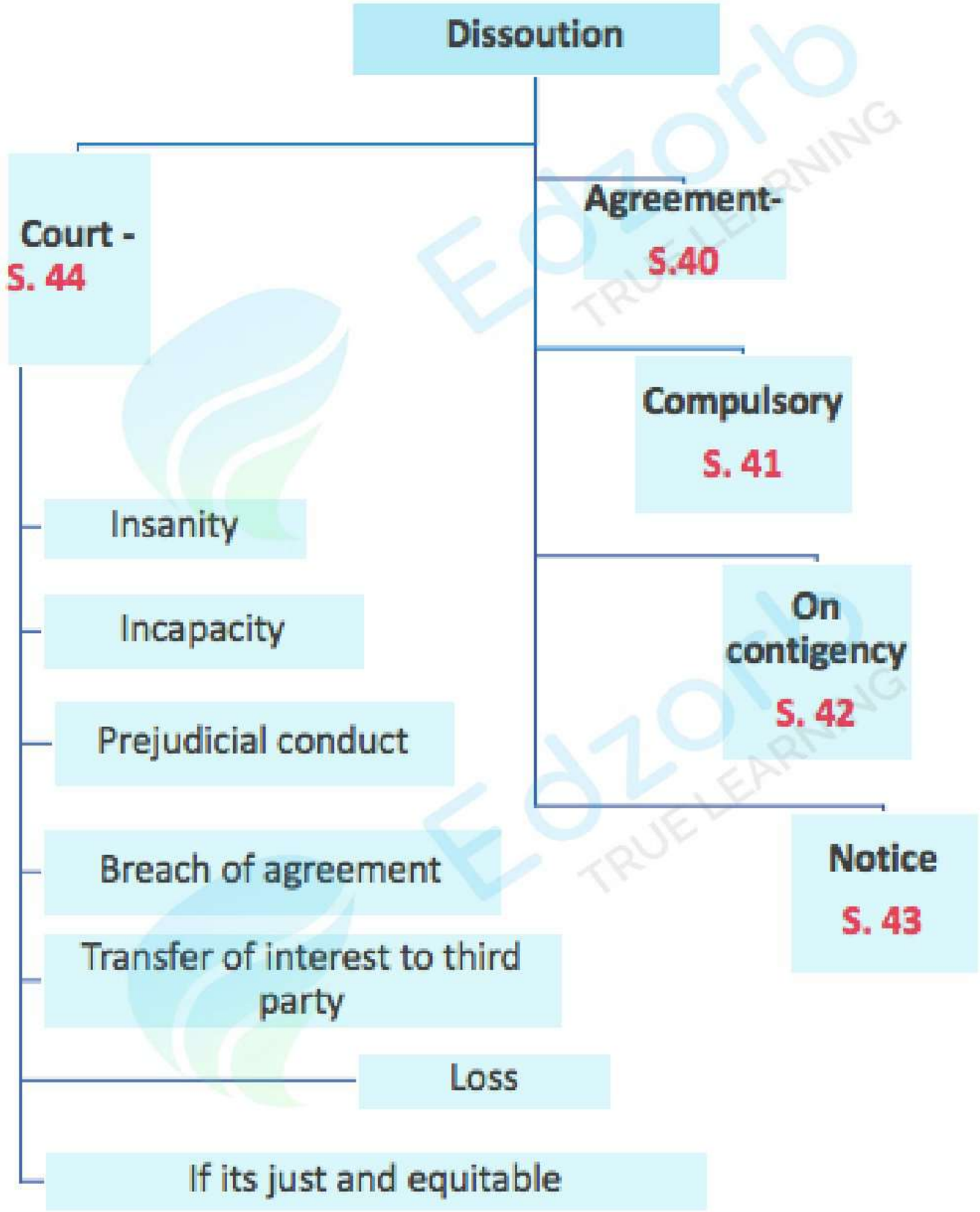
c Section 43

d Section 44

Explanation

D

Ways of dissolution of a firm:



Reference: The Indian Partnership Act, 1932 s 40

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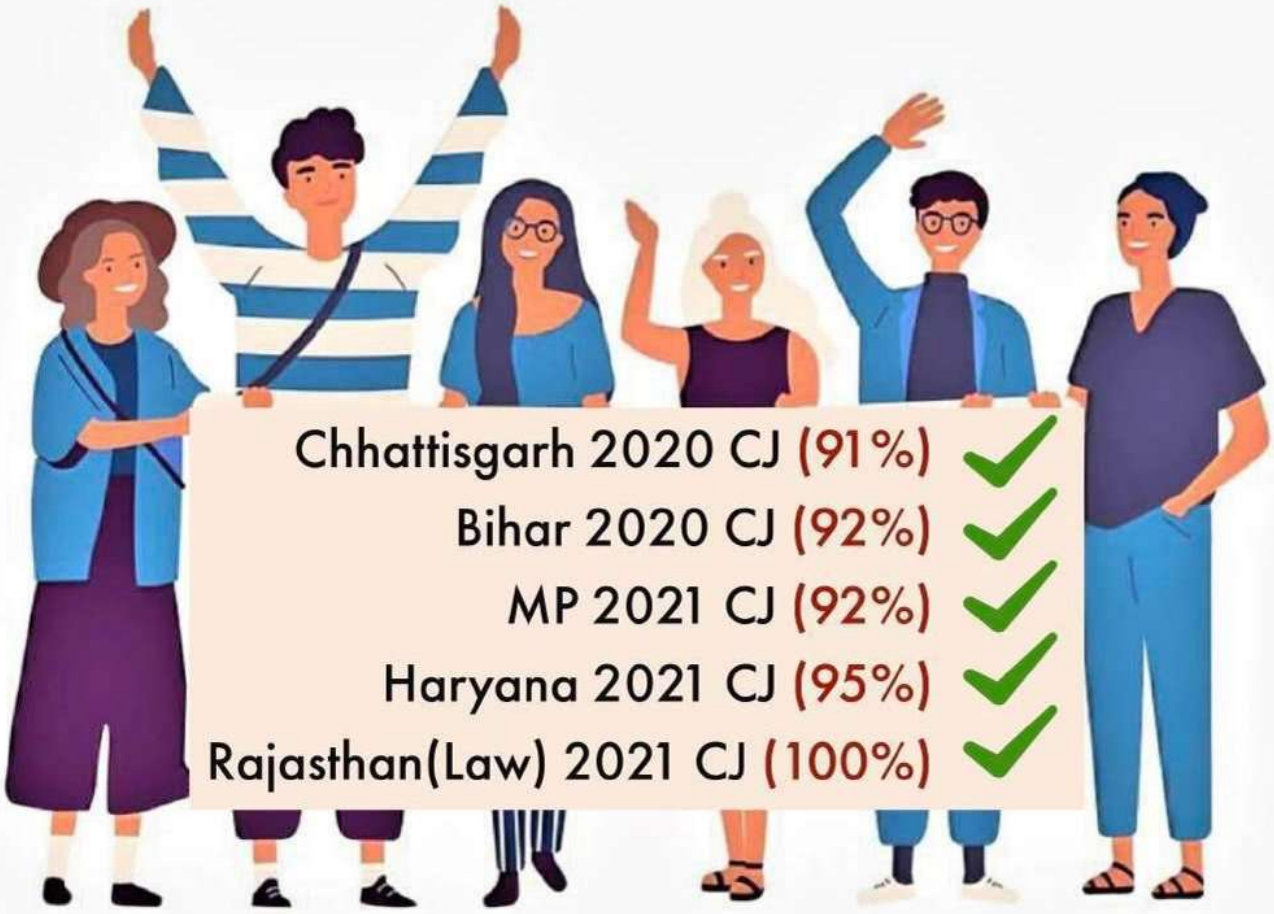

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Section - 6
IEA

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51. The mode of proof of a custom is contained in

a) Section 32(4) of the Indian Evidence Act

b) Section 32(7) of the Indian Evidence Act

c) Section 48 of the Indian Evidence Act

d) All of the above

Ans: D

Source: Edzorb Law QBank-Indian Evidence Act- Unit IV – Q 18

18.

MCQ, Single Correct Question

Opinions as to customs is provided under

a Section 46

b Section 44

c Section 48

d Section 51

Explanation

C

Section 48

Opinion as to customs:

- In order to form an opinion as to existence of any general custom,
- **Opinions of persons who would know** of the existence of that custom is relevant.

Custom:

In the Angami tribe a marriage custom is followed. Here, the girl to a marriage can reject the suitor if she dreams of anything inauspicious within a prescribed period of time, while the negotiation is still going on.

Proof: To form opinion about this custom the **court will take evidence from the person of Angami Tribe.**

Reference: Indian Evidence Act, 1879 s 48

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32(4): Statement gives opinion as to public right or custom, or matters of general interest:

When the statement gives the **opinion of any person**, as to the existence of:

Any public right or custom

Matter of public or general interest

Of the existence of which, if it existed, he would have been **likely to be aware**, and when such statement was made **before any controversy as to such right**, custom or matter had arisen.

The statement of person is relevant when controversy arises whether road is public road.

32(7): Statement in document relating to transaction mentioned in section 13, clause (a):

When the statement is contained in any deed, will or other document which **relates to any such transaction** as is mentioned in **Section 13, clause (a)**.

When an issue arises about a custom or right in a particular area, the statement of X who was present when such right or custom was created is relevant.

Reference: Indian Evidence Act, 1872, Section 32

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52. The case of Pakala Narayana Swami Vs. Emperor pertains to

a) estoppel

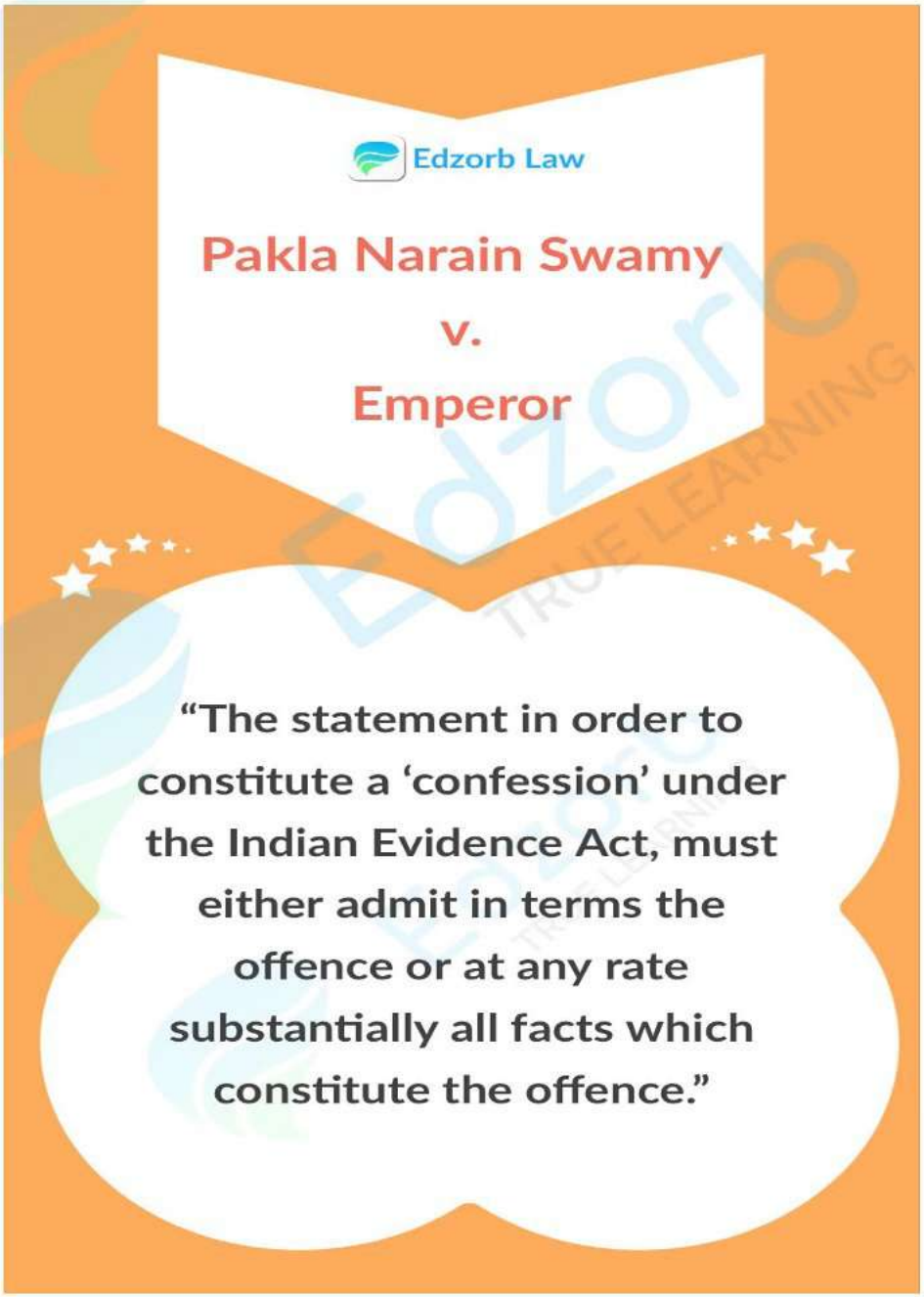
b) dying declaration

c) hostile witness

d) accomplice evidence

Ans: B

Source: Edzorb Case Law Flashcards-Indian Evidence Act- Card 9
Edzorb Law QBank-Indian Evidence Act- Unit III – Q 14
Edzorb Law QBank-Indian Evidence Act- Unit VI – Q 30



14.

MCQ, Single Correct Question

The case of Pakala Narayan Swami Vs Emperor is regarding

a Doctrine of Promissory estoppel

b Hostile Witness

c Confessions

d Dying Declaration

Explanation

(D)

Pakala Narayan Swami Vs Emperor

(1939) 41 BOMLR 428

Facts of the case:

- While leaving the house, the deceased had told his wife that he was going to Pakala Narayana Swamy's house in Berhampur to demand him the amount.
- Later on, his dead body was found in a trunk and his body had been cut into pieces.

Question:

Whether such a statement made by the deceased to his wife would really come within the purview of dying declaration?

Held:

- The statement made by the deceased to his wife just prior to leaving his house to go to Berhampur was a statement and one of the circumstances of the transaction which resulted in the death of the man.
- Hence, it is within the purview of Dying declaration and is admissible.

Reference: Pakala Narayan Swami Vs Emperor

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30.

MCQ, Single Correct Question

Which provision makes the statement made by the person as to cause of death?

a Section 31

b Section 33

c Section 32

d Section 45

Explanation

C

Section 32

Dying declaration: statements of relevant fact by person who is dead or cannot be found

Nemo mariturus presumuntur mentri → A man will not meet his maker with lie on his mouth

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Statement is relevant:

- When statement relates to cause of death
- Made in the course of business
- Made against the interest of the person who is making it.
- Gives opinion as to public rights or custom or matter
- Relates to the existence of a relationship
- Made in will or deed relating to family
- Relating to transactions mentioned under **Section 13(a)**
- Made by several person and expresses feelings relvant to matter in question

Pakala Narayan Swamy vs Emperor
(1939) 41 BOMLR 428

- The statement was given by the deceased that he was invited by wife of accused to come to Berhampur to collect loan.
- This statement **explained the transaction which resulted in death.**
- It is **not mandatory that statement must be made only on the expectation of death.**
- Hence, admissible as dying declaration.

Reference: Indian Evidence Act, 1872 s32

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53. The doctrine of estoppel is a

a) substantive law

b) rule of equity

c) rule of evidence

d) law of pleadings

Ans: B

Edzorb Law QBank-Indian Evidence Act- Unit I - Q 17

Edzorb Law QBank-Indian Contract Act- Unit XVI- Q 10

17.

MCQ, Single Correct Question

A local development authority announced a housing scheme and accepted applications under it, subsequently finding that the scheme was in violation of the master plan cancelled it:

a) It is free to do so without any shackles of promissory estoppel

b) It is not free to do so due to promissory estoppel

c) It is free to do so without any shackles of promissory estoppel as there cannot be any estoppel against the government in the exercise of its sovereign, legislative and executive functions.

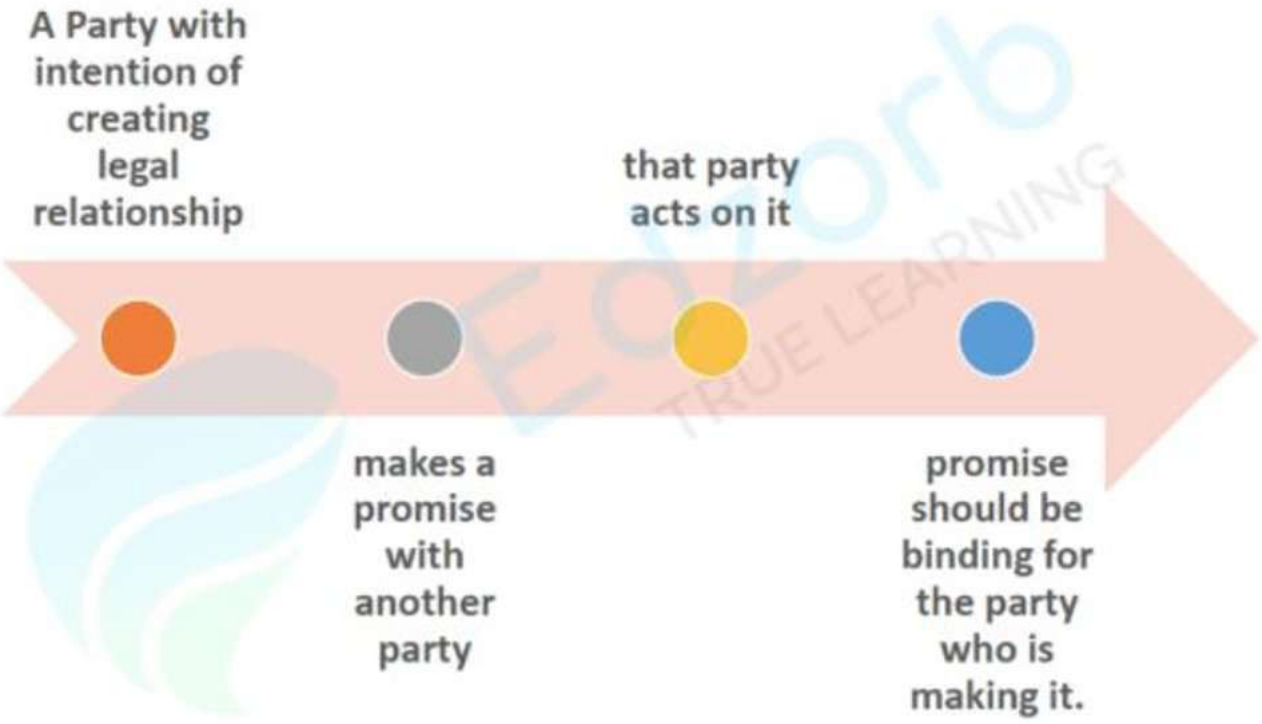
d) None of the above

Explanation

Answer: C

Sections 115 defines **Promissory Estoppels.**

The doctrine of is based on the Principles of justice, equity, and good conscience.



Ashok Kumar Maheshwari Vs State of U.P.
1998 2 SCC 502

In certain scenarios, the Government is spared from the doctrine of Promissory Estoppels. Estoppel **cannot be stretched to the extent of restricting the State** from exercising its sovereign and legislative powers.

Reference: Law of Evidence by M. Monir; 9th Ed., 2013, Page No. 389.

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10.

MCQ, Single Correct Question

Promissory estoppel is a rule of

a Equity

b International Law

c Criminal law

d None of the above

Explanation

A

Promissory Estoppel is the rule of equity.

- When one party expressed intention to enter into a legal relationship with other.
- The other party does ay act in pursuance.
- The promise becomes binding.

So, I will ensure that the shipment reaches at 10:00AM.

Okay I will initiate the transaction.

Promissory estoppel against Government:

M.P. Sugar Mills Vs State of U.P.
AIR 1979 SC 621

Doctrine of promissory estoppel:

- Words or conduct to convey intentions to create legal relations.
- The other party intends to act upon the said intention.
- The promise id binding upon the party making the contract.

Delhi Cloth and General Mills Vs Union of India (1988) 1 SCC 86

- The only requirement: that **complainant must have relied upon the assurances** made by the other person.
- There should be **alteration of position**.
- Not necessary to prove any further damage.

Reference: Indian Contract Act, 1872

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54. Presumption as to abetment of suicide by a married woman has been provided in

a) Section 111A of the Indian Evidence Act
b) Section 113A of the Indian Evidence Act
c) Section 113B of the Indian Evidence Act
d) Section 113 of the Indian Evidence Act

Ans: B

Edzorb Law QBank-Indian Evidence Act- Unit XIII – Q 15
Edzorb Law QBank-Indian Evidence Act- Unit XIII – Q 26
Edzorb Law QBank-Indian Evidence Act- Unit XIV – Q 2

15.

MCQ, Single Correct Question

Presumptions under section 113A are applicable to offences under section...

a Sections 121, 121A, 122 or 123
b Section 304B
c Section 306
d Section 498A

Explanation

Section 113A
Presumption of abetment of suicide by her husband or by such relative of her husband:
- Suicide by a woman.
- Within 7 years of marriage.
- Subjected her to cruelty

Section 498-A was introduced in the year **1983** to **protect married women from** being subjected to **cruelty** by the husband or his relatives.

3 years – Cognizable (arrest without warrant).

Arun Vyas Vs Anita Vyas
(1999) 4 SCC 690.

- The essence of the offence in Section 498-A is **cruelty**.
- It is a **continuing offence** and on each occasion on which the woman was subjected to cruelty, she would have a new starting point of limitation,

Say no to the system of dowry.

Reference: The Law of Evidence by Chief Justice M. Monir, 9th Ed., 2013, Page No. 370

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26.

MCQ, Single Correct Question

Presumption as to abetment of suicide by a married woman is contained in

a Section 113

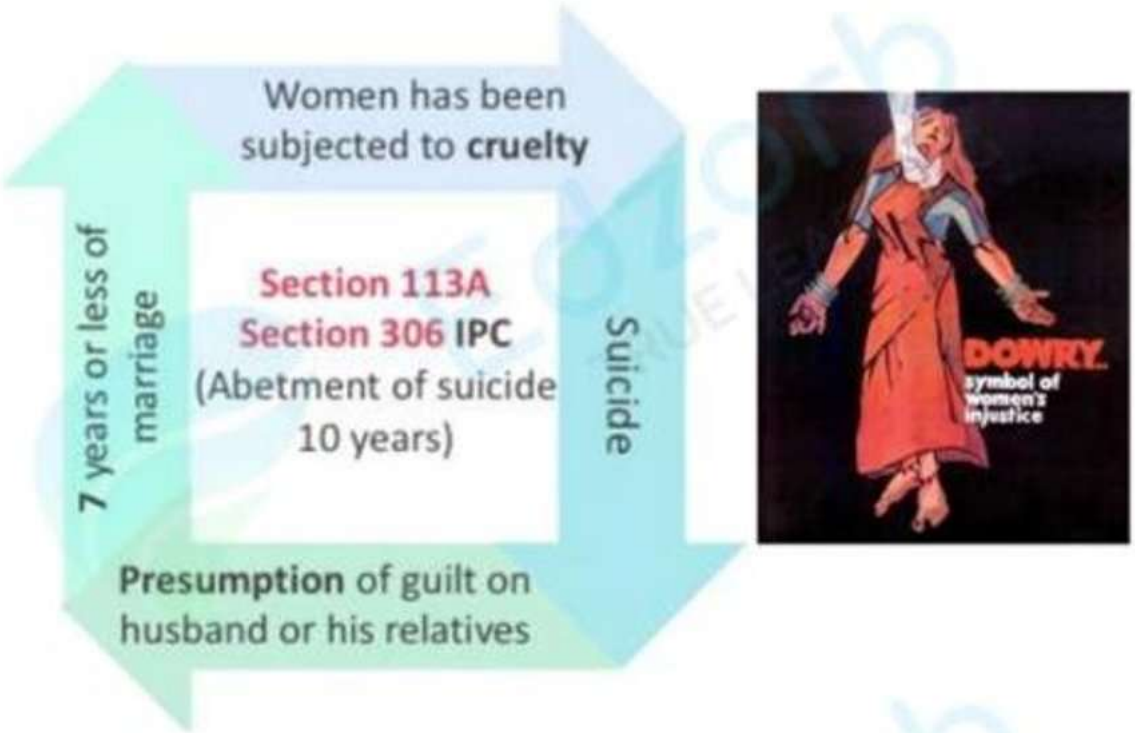
b Section 113B

c Section 113A

d Section 112A

Explanation

(C)



Gurbachan Singh Vs Satpal Singh
990 AIR 209

- There must **not be any reasonable doubt** of the guilt of the accused in respect of the particular offence charged.
- Abetment is a separate and distinct offence provided the thing abetted is an offence. Abetment does not involve the actual commission of the crime abetted; it is a crime apart.

Reference: The Law of Evidence by Chief Justice M. Monir, 9th Ed., 2013, Page No. 371

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2.

MCQ, Single Correct Question

The requirement of proof beyond reasonable doubt stands altered after the introduction of section 113A for an offence under S.498A of IPC. The statement is

a True

b False

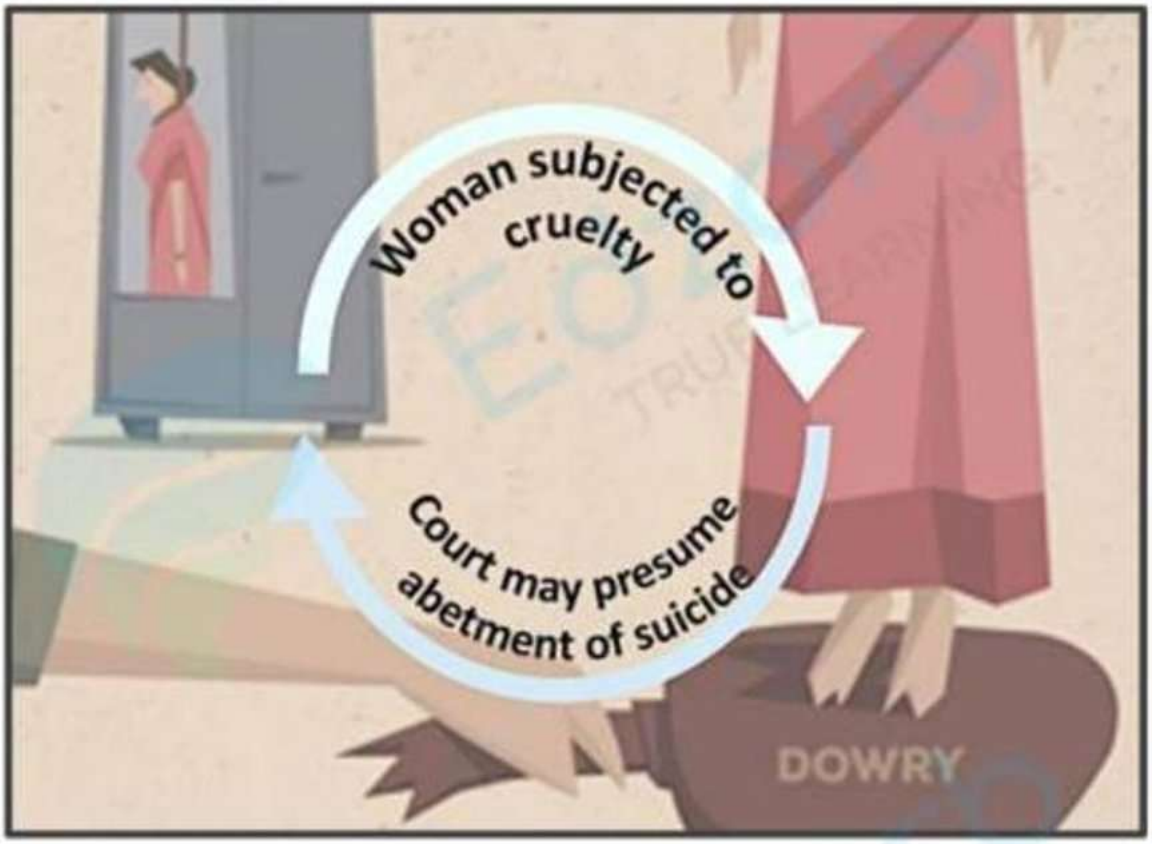
c Partly Correct

d None of the above

Explanation

(B)

Section 113-A:



In Criminal law, **burden of proof** of an offence:

- Upon the prosecution
- To prove all the facts **beyond reasonable doubt.**

Reference: The Law of Evidence by Batuk Lal 22nd Ed., 2018, Page No. 544

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55. Zahira Sheikh was the prime witness in

a) Best Bakery case (2004)

b) Best Bakery Retrial case (2006)

c) Sukh Ram Disproportionate Assets case (2005)

d) Gujjar Killings case (2003)

Ans: B

Source: Edzorb Law Case Law Flash Card – Indian Evidence Act

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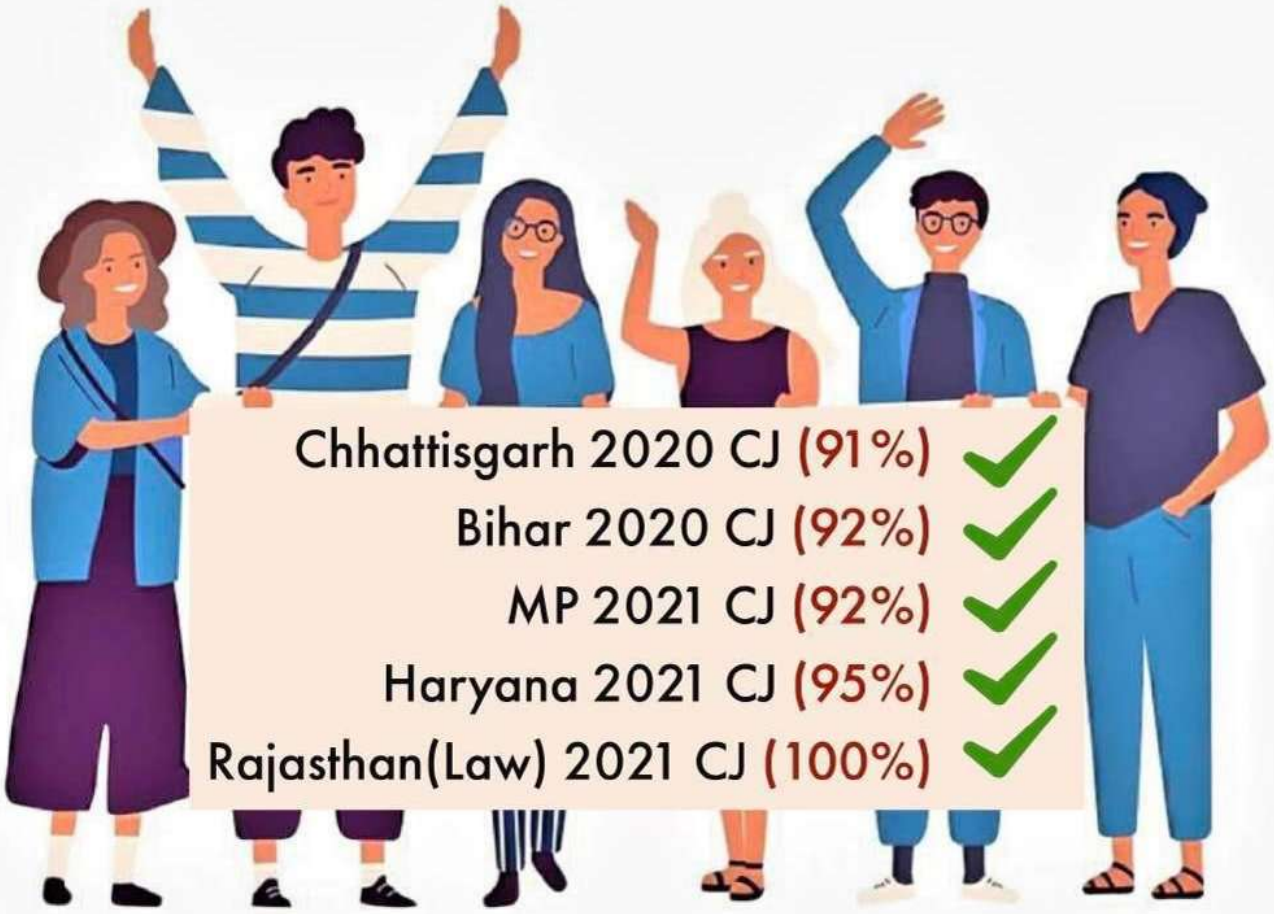

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Section - 7
CPC

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56. Sweeping change introduced by the Civil Procedure Code (Amendment) Act, 2002 is with the object to

a) give more power to Civil Courts

b) reduce the power of Civil Courts

c) cut short delay in disposal of suit

d) make provisions stringent

Ans: C

Source: Edzorb Law QBank-CPC- Unit I – Q 1

1.

MCQ, Single Correct Question

In which of the following cases the supreme court has upheld the constitutionality of the Code of Civil Procedure (Amendment) Acts of 1999 and 2002?

a) Salem advocate bar association, Tamil Nadu v. Union of India

b) Delhi High court bar association v. Union of India

c) Allahabad high court bar association v. Union of India

d) Punjab and Haryana high court bar association v. Union of India

Explanation

Answer: A

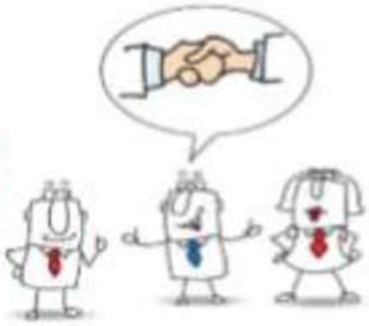
Salem Advocate Bar Association Vs Union of India (UOI)
AIR 2003 SC 189

In an issue whether, the amendments made in the Code of Civil Procedure (CPC), 1908 by the **Amendment Act of 1999 and 2000** were held **Constitutional**.

Notable amendments under the Acts of 1999 and 2002

- In matters, such as issuing of summons, filing of written statement, amendment of pleading, examination of witnesses, pronouncement of judgements, etc., **a time limit is prescribed**

- A new provision for settlement of disputes **outside the court** has been introduced
- Number of **adjournments** have been restricted
- A provision for recording for evidence by the court **Commissioner** has been made



- Instituting of appeal against the judgement is allowed where the decree is not drawn up
- Scope of first Appeal, second appeal, letters patent appeal and revision has been curtailed

Reference: Civil Procedure by C. K. Takwani; 8th Ed., 2013, Page No. 4-6

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57. The 'Rule of Damdupat' is

a) a rule relating to costs

b) a rule relating to interest

c) a rule of res judicata

d) a rule of evidence

Ans: B

Source: Edzorb Law QBank-CPC- Unit XI – Q 9

9.

MCQ, Single Correct Question

Which of the following sections of the Code of Civil Procedure 1908, deals with interest?

a Section 14

b Section 24

c Section 34

d Section 44

Explanation

C

Section 34

Interest

- The court can award interest along with the payment of money.
- Such interest must be reasonable.
- Interests are paid on the principal sum adjudged.

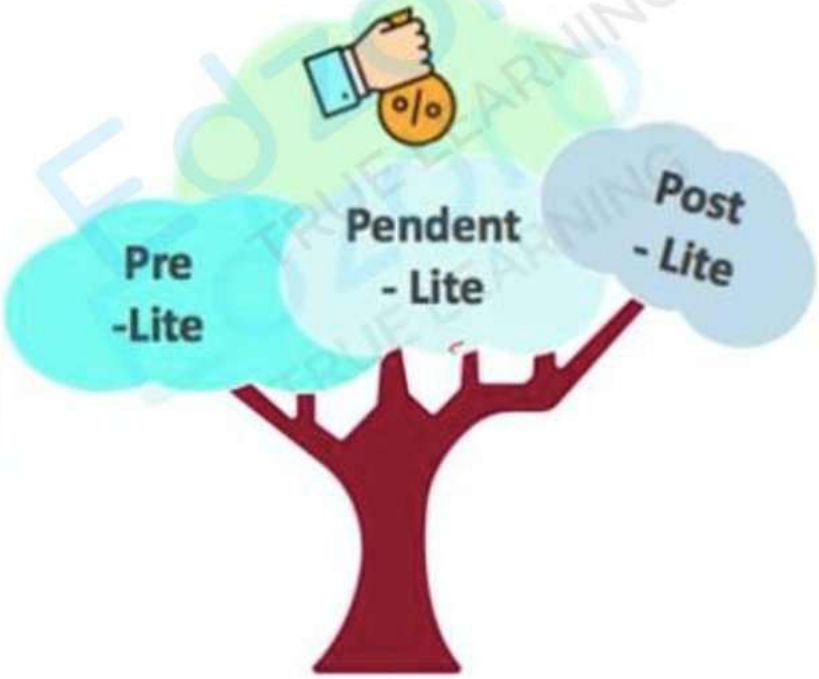
Did you Know?

In Hindu Law, the rule of **interest** on debts is covered by the name of **Rule of Damdupat.**

According to the rule, the interest at any one time cannot exceed principal amount.

3 types of interest →

- **The rate of interest** not to exceed 6%.
- For commercial transaction it can exceed 6%



Reference: Civil Procedure Justice CIC Thakker (Takwani) 6th Ed., 2018, Page No. 394

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58. A commission to make local investigation can be issued under

a) Order XXVI, Rule 1, CPC
b) Order XXVI, Rule 6, CPC
c) Order XXVI, Rule 9, CPC
d) Order XXVI, Rule 10, CPC

Ans: C

Source: Edzorb Law QBank-CPC- Unit XV – Q 32

32.

MCQ, Single Correct Question

A Commission to make local investigation is provided under

a Order XXVII Rule 9
b Order XXVI Rule 3
c Order XXVI Rule 6
d Order XXVI Rule 9

Explanation

D

Order 26 Rule 9

Court may issue **commission for local investigation** to:

- To explain any matter
- Ascertain market value of property
- Ascertain any mesne profits
- Ascertain annual net profits.
- Ascertain any damages

Reference: Code of Civil Procedure, 1908 o.26 r.9

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59. The grounds for review have been provided under

a) Order XLVI, Rule 1, CPC

b) Order XLII, Rule 1, CPC

c) Order XLIII, Rule 1, CPC

d) Order XLIV, Rule 1, CPC

Ans: A

Source: Edzorb Law QBank-CPC- Unit XV – Q 33

33.

MCQ, Single Correct Question

Grounds for review under O.47 R.1 include

a. Discovery of new evidence

b. Mistake

c. Sufficient reasons

d. Exemplary Damages

a) a, b and c

b) a, b, c, and d

c) c and d

d) a and b

Explanation

A

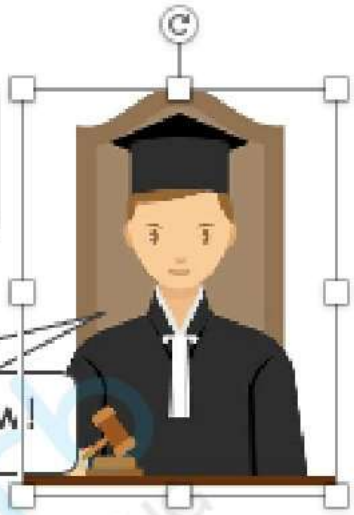
Order 47 Rule 1

Grounds for review by aggrieved:

- **New Discovery** which was not within knowledge despite due diligence.
- **Mistake** or error apparent on the face of the record.
- Other **Sufficient reasons.**

Functus officio → Expiry of the legal functioning

Your honor, I want a review of the judgment, I am not happy with it.



Not a ground for review!

Did you Know?

Review is an exception to the rule of **functus officio** as it reopens the case after the courts have decided upon it.

Reference: Code of Civil Procedure, 1908 o.47 r.2

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60. A caveat shall **not** remain in force after the expiry of

a) 30 days

b) 60 days

c) 90 days

d) 180 days

Ans: C

Source: Edzorb Law QBank-CPC- Unit VI – Q 10

10.

MCQ, Single Correct Question

A "Caveat" shall not remain inforce after the expiry of :

a 30 days of its filing

b 60 days of its filing

c 90 days of its filing

d 120 days of its filing

Explanation

(C)

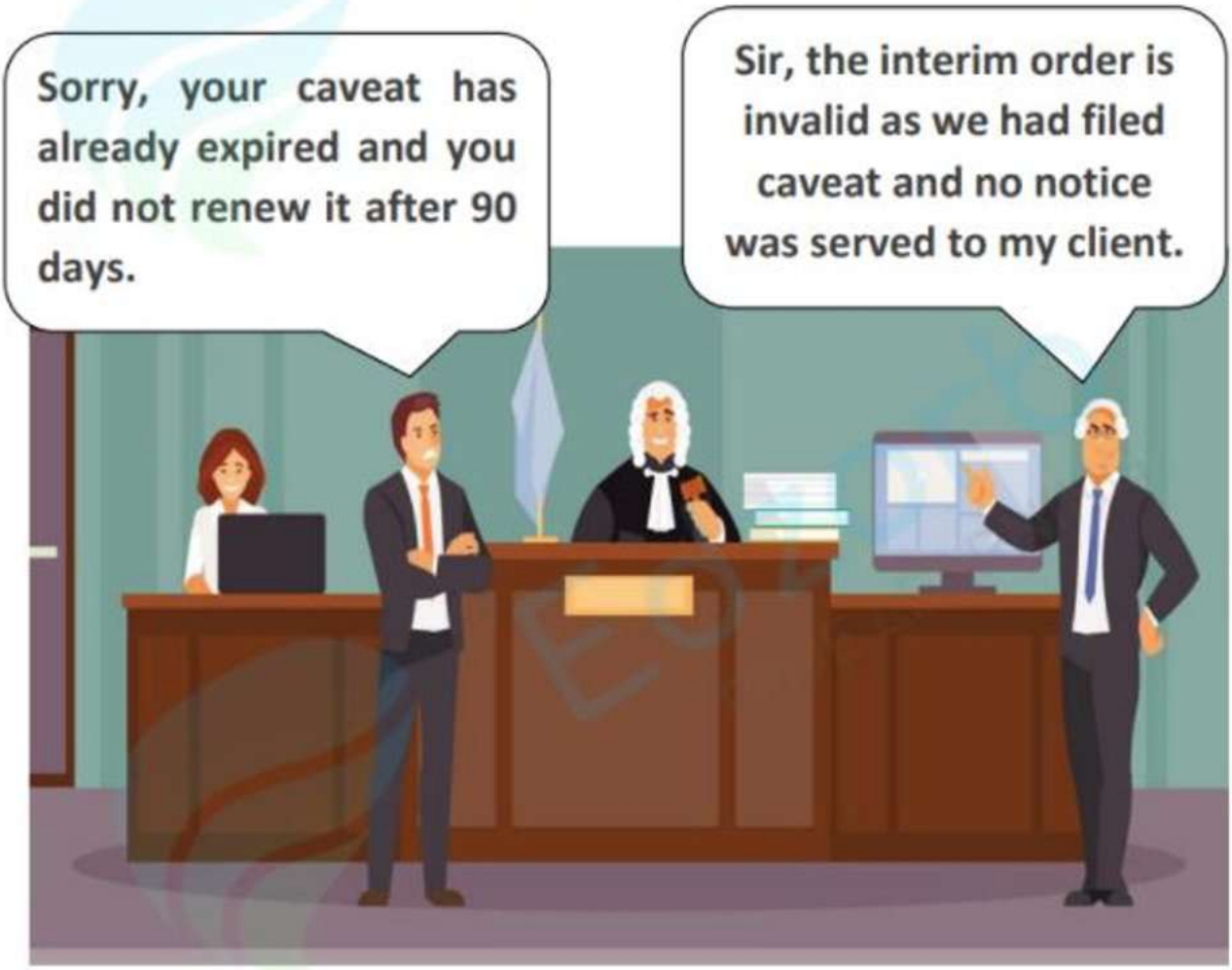
Section 148-A(5) which provides for the Right to lodge a caveat states that, where a caveat has been lodged under Section 148-A(1),

Such caveat shall not remain in force after the expiry of **90 days** from the date on which it was lodged,

unless, the application has been made before the expiry of the said period.

Such caveat shall not remain in force after the expiry of **90 days** from the date on which it was lodged,

unless, the application has been made before the expiry of the said period.



Reference: Civil Procedure by C. K. Takwani; 8th Ed., 2013, Page No. 735-740

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61. The classification of compoundable and non-compoundable offences has been provided under

a) 1st Schedule of CrPC

b) 2nd Schedule of CrPC

c) Section 320 of CrPC

d) Section 321 of CrPC

Ans: C

Source: Edzorb Law QBank-CPC- Unit I – Q 20

Edzorb Law QBank-CPC- Unit I – Q 13

20.

MCQ, Single Correct Question

Classification of 'compoundable and non-compoundable offences' has been provided under

a 1st Schedule of Cr.P.C.

b 2nd Schedule of Cr.P.C.

c Section 320 of Cr.P.C.

d Section 321 of Cr.P.C.

Explanation

(C)

Section 320 of CrPC discusses Compounding of Offences

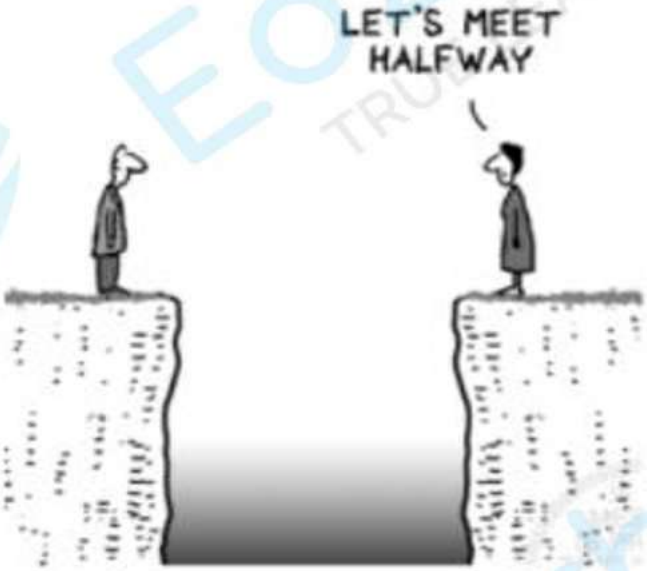
Compoundable offences:

- relatively less grave in nature
- where compromise can be made between the individual and the accused;

Non-compoundable offences:

- compromise can't be made.
- it affects society at large.

Compoundable offences are mostly non-cognizable but the vice-versa is not correct.



Reference: The R.V. Kelkar's Criminal Procedure; 5th Ed., 2013, Page No. 445

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13.

MCQ, Single Correct Question

The classification of offences has been given under the Code of Criminal Procedure, 1973, under

a. Section 320
b. I Schedule
c. II Schedule
d. Section 482

Explanation

(B)

Section 320(1) of CrPC	**Section 320** provides that if the offence be compoundable, **composition** shall have the effect of an **acquittal** – **Compounding of offences** specifies the offences punishable under IPC in the Columns 1 and 2 and the person by whom such offence is compounded is specified under Column 3 of the Table provided under this Section.

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First Schedule of CrPC	Classifies Offences under IPC as – i. Bailable or Non-Bailable; ii. Cognizable or Non-Cognizable, iii. Jurisdiction of the Court to try the said offence, iv. amount of punishment that maybe awarded for the said offence
Second Schedule of CrPC	**Forms**
Section 482 of CrPC	**Inherent powers of High Court** are discussed under this Section; **Narinder Singh v. State of Punjab (2014) 6 SCC 466** – Lays down the objectives of Section 482: i. Prevent abuse of the process of court ii. Secure the ends of justice

Reference: The R.V. Kelkar's Criminal Procedure; 5th Ed., 2013, Page No. 445, 871

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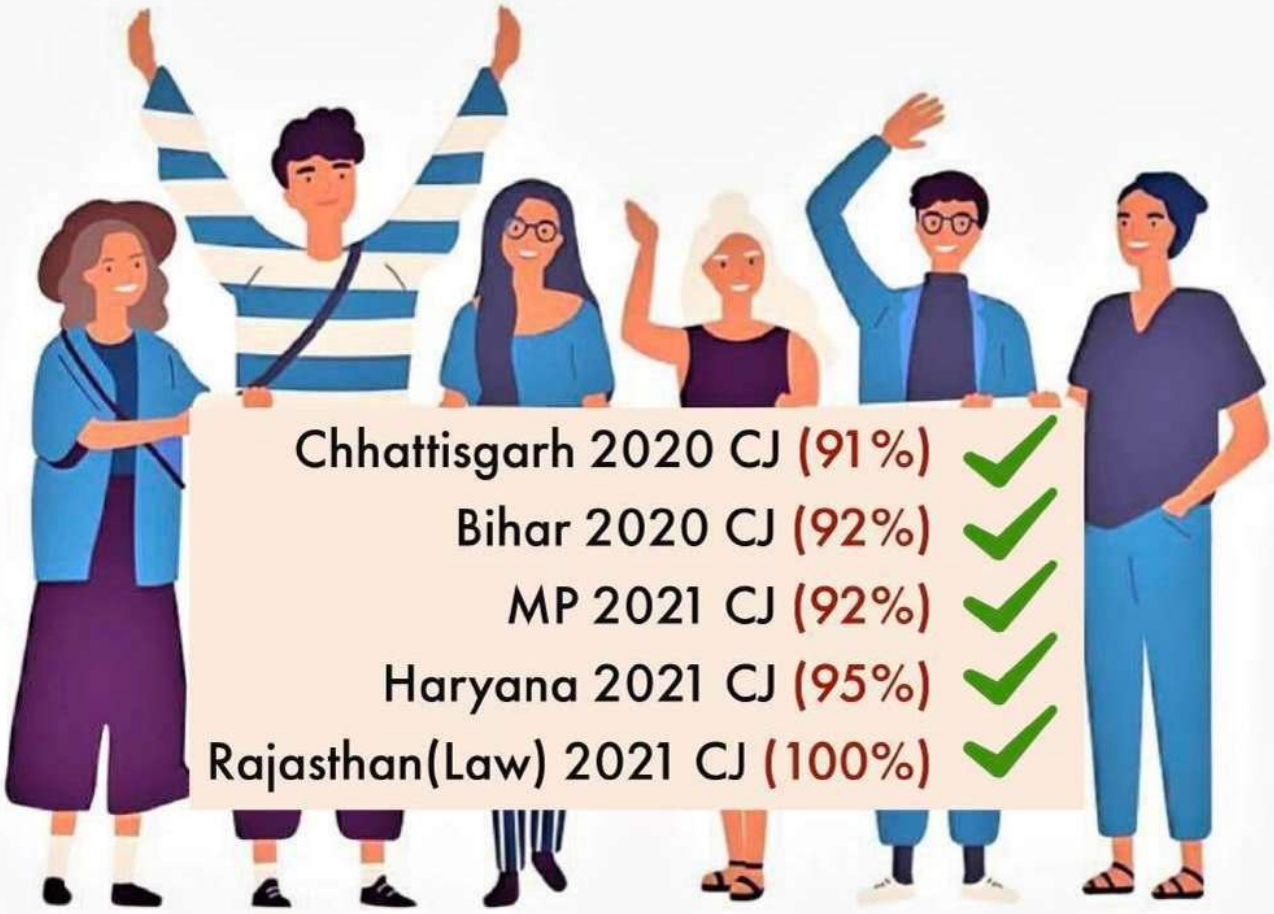

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Section - 8
CrPC

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62. A confession under Section 164 of CrPC can be recorded by the

a) Metropolitan / Judicial Magistrate

b) Executive Magistrate

c) Police Officer on whom the power of a Magistrate has been conferred

d) Either (A) or (B)

Ans: A

Source: Edzorb Law QBank-CrPC- Unit II – Q 116

116

MCQ, Single Correct Question

Which of the following is not an essential procedural requirement of Section 164 of the Code of Criminal Procedure,

a) Warning to the accused

b) Confession to be made voluntarily

c) Recording of statement in presence of advocate of the accused

d) Memorandum at the foot of confession

Section 164(1)

Recording of confessions and statements:

- Any **Metropolitan Magistrate or Judicial Magistrate**
- Whether or not they have jurisdiction in the case
- Such magistrate **may record any confession or statement** made to them
  - In the course of an investigation under this Chapter or
  - Under any other law for the time being in force, or
  - At any time afterwards before the commencement of the inquiry or trial.

Proviso:

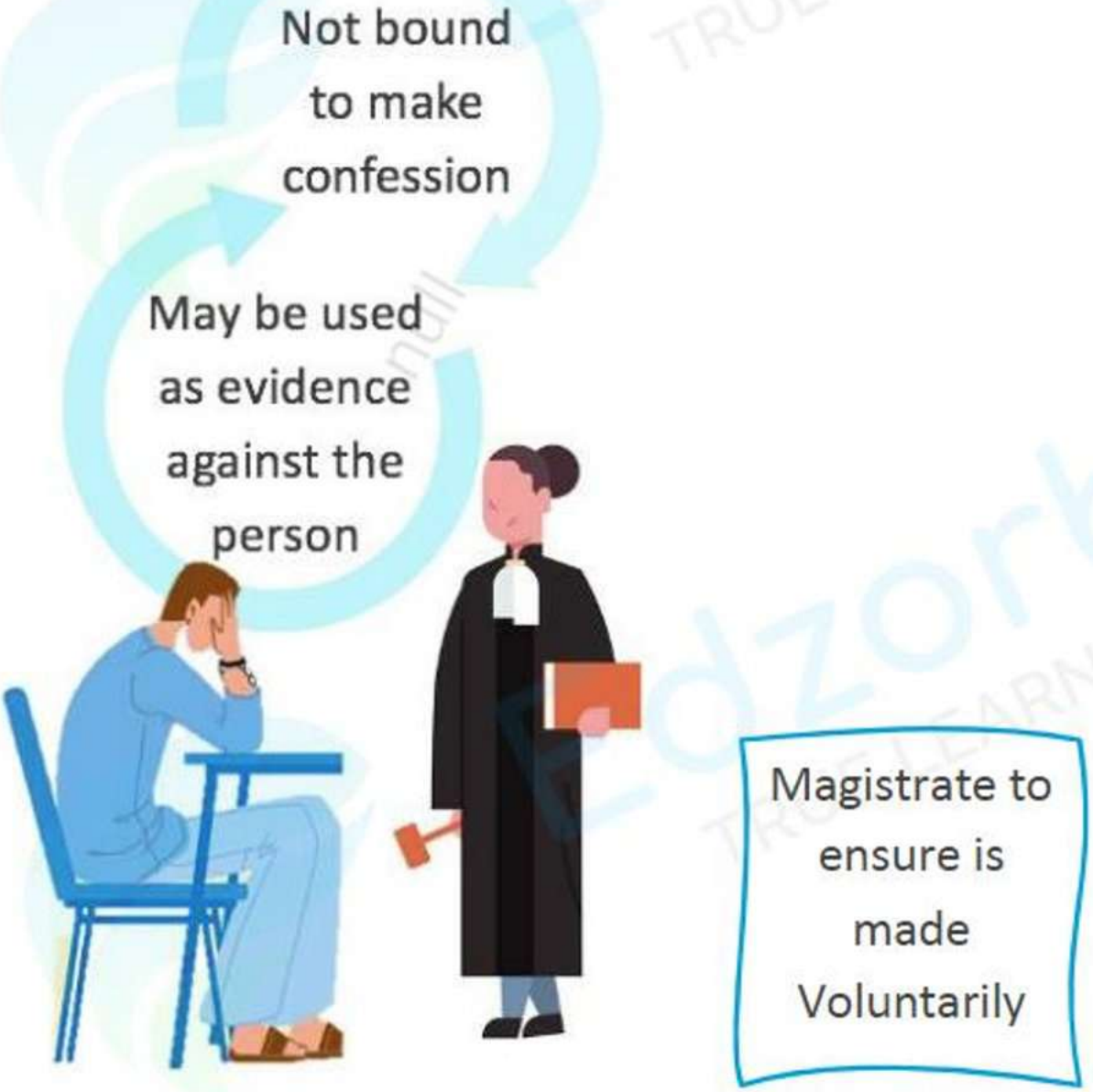
- Any **confession** or statement made under this sub-section may **also be recorded by audio-video electronic** means in the presence of the advocate of the person accused of an offence:

Proviso:

- **No confession shall be recorded by a police officer** on whom any power of a Magistrate has been conferred under any law for the time being in force.

Section 164 (2):

- Before recording any such confession
- The Magistrate **shall explain to the person making** it that:



- Magistrate shall **not record any such confession** unless upon questioning the person making it, he has reason to **believe that it is being made voluntarily.**

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Section 164(4):

- Manner of recording confession – **Section 281**
- Confession shall be **signed by the person making** it.

- Magistrate shall **make a memorandum at the foot of such record** to the following effect:

"I have explained to (name) that he is not bound to make a confession and that, if he does so, any confession he may make may be used as evidence against him and I believe that this confession was voluntarily made. It was taken in my presence and hearing, and was read over to the person making it and admitted by him to be correct, and it contains a full and true account of the statement made by him.

(Signed) A. B. Magistrate."

- **Similarities between recording of confession and statement**
  - **Who can record?** Any Metropolitan Magistrate(For Metropolitan area) or Any Judicial Magistrate(For other than Metropolitan area)
  - **Timing**
    - In the course of an investigation or
    - At any time afterwards before the commencement of the inquiry or trial.
  - **Jurisdiction**
    - Jurisdiction of Court is immaterial for recording
    - confession/Statement

- **Difference between recording of confession and statement**

Basis	Confession	Statement
Statute	Section 164 (Clauses 1,2,3,4 & 6)	Section 164 (Clauses 1,5, 5A & 6)
Sign/Oath	Sign	Oath - Section 164 (5)

Evidence	Substantive Evidence	Not Substantive Evidence.
		If he comes as a witness, his statement can be used under Sections 145 and 157 of IEA.
Duties of Magistrate	To inform the accused that he is not bound to make confession and if he makes the confession, that confession may be used against him. He will ensure that the accused is making confession voluntarily.	Here there are no such duties of Magistrate before recording statement

(a) Any reference to Magistrate of 2nd class shall, in relation to an area outside a metropolitan area, be construed as a reference to a JM of the 2nd class, & in relation to a Metropolitan area, as a reference to a MM.

(b) Any reference, without any qualifying words, to a Magistrate shall be construed, unless the context otherwise requires:

- To a JM in an area outside metropolitan area;
- To MM in metropolitan area

(c) Any reference to the CJM shall, be construed as a reference to CMM exercising jurisdiction.

(d) Any reference to a Magistrate of 1st class shall be construed:

- To MM in Metropolitan area;
- To Judicial Magistrate of 1st class in any other area.

63. Under Section 167 of CrPC for offences other than those punishable with death, imprisonment for life or imprisonment for a period not less than 10 years, the detention during investigation can be authorized for a total period of

a) 30 days
b) 45 days
c) 60 days
d) 75 days

Ans: C

Source: Edzorb Law QBank-CrPC- Unit II – Q 140

140.

MCQ, Single Correct Question

From judicial custody" an accused person, may be given to police custody up to 15 days 1973

a Section 432
b Section 167
c Section 386
d Section 309 explanation I

Explanation

(B)

(B)

Section 167 CrPC - Procedure when investigation cannot be completed in **twenty four hours.**

- **Section 167 (2)** CrPC: When an accused person is forwarded to the Magistrate, he shall authorise the detention of the accused in such custody for a term **not exceeding fifteen days** in the whole.
- If he has no jurisdiction to try the case, he may order the accused to be forwarded to a **Magistrate having** such **jurisdiction**.

Proviso:

When this period of 15 days can extend:

- If there are **adequate grounds.**

Maximum of detention in such a case:

- **90 days:** Where offence is punishable with **death, life** or up to 10 years
- **60 days:** other offences.

Note: Accused shall be released after furnishing bail on the expiry of 90 or 60 days.

Section 309 Explanation 1	If evidence raises suspicion as to committing of an offence by accused, it is a reasonable cause for a remand.
Section 386	Power of the Appellate Court.
Section 432	Power to suspend or remit sentences.

Reference: The R.V. Kelkar's Criminal Procedure; 5th Ed., 2013, Page No. 1-6

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64. Where the husband has obtained a decree of divorce against the wife on the ground of desertion, under Section 125

a) it is no bar for the wife to claim maintenance against the husband

b) it is a bar for the wife to claim maintenance against the husband

c) it may be a bar for the wife to claim maintenance against the husband

d) Either (A) or (C)

Ans: A

Source: Edzorb Law QBank-CrPC- Unit II – Q 16

16.

MCQ, Single Correct Question

An order for maintenance or interim allowance can be cancelled under the circumstances stated under:

a Section 125 (5) of Cr. P.C

b Section 127 2) of Cr. P.C.

c Section 127 3) of Cr. P.C

d None of these

Explanation

(A)

Section 125(5) CrPC : Cancellation **of an order for maintenance or an interim allowance.**

Magistrate shall cancel the order if it is proven that wife was awarded maintenance is :

- living in **adultery**, or
- **refuses to live** with her husband without any sufficient cause, or
- that they are **living separately** by mutual consent.

Section 125:

Order for maintenance of wives, children and parents–

- If any person having sufficient means neglects or refuses to maintain—
  - His **wife**, unable to maintain herself, or
  - His **legitimate or illegitimate minor child**, whether married or not, unable to maintain itself, or
  - His **legitimate or illegitimate child** (not being a married daughter) who has **attained majority**, where such child is, by reason of any **physical or mental abnormality** or injury unable to maintain itself, or
  - His **father or mother**, unable to maintain himself or herself,

Legitimate / Illegitimate Minor Child

Maintain who are Unable to Maintain themselves

Legitimate / Illegitimate Child (Major) with physical/mental abnormality

Wife

Father Or Mother

- There should be proof of **such neglect or refusal**
- A Magistrate of the first class upon such proof **may order such person to make a monthly allowance.**
- For the maintenance of his **wife** or such **child**, **father** or **mother.**
- **Monthly Rate of Allowance:** As the Magistrate **thinks fit**

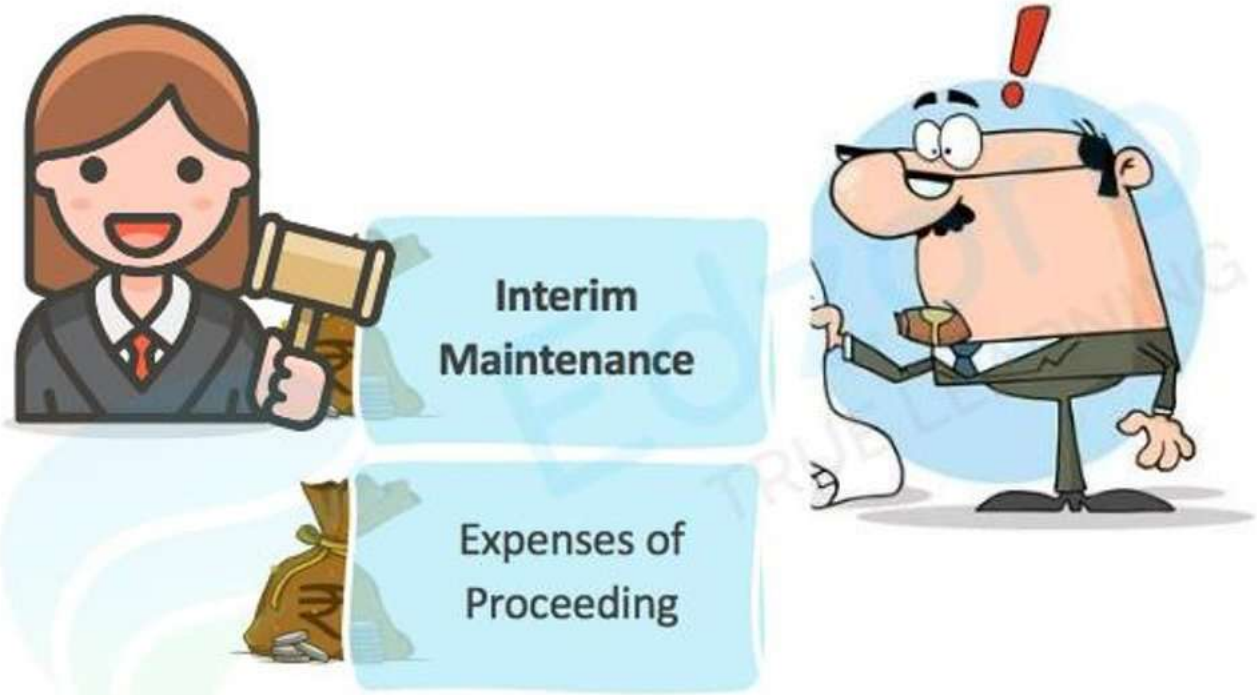
- To pay the same to such person as the Magistrate may from time to time direct

Proviso:

- In case the minor female child is married
- And the Magistrate is satisfied that the husband of such minor female child is not possessed of sufficient means.
- Magistrate may order the **father of a minor female child** referred under **S. 125 (b)**
- To make such allowance, **until she attains her majority**.

Proviso:

- **Interim Maintenance**:
- During the pendency of the proceeding
- Magistrate may **order such person to make a monthly allowance** for
  - The **interim maintenance** of his wife or such child, father or mother
  - The expenses of such proceeding which the Magistrate considers reasonable, and to pay the same to such person as the Magistrate may from time to time direct:



Proviso:

- Time period for disposing application for the **monthly allowance** for the interim maintenance and expenses of proceeding under the **second proviso = 60 days.**
- From the date of the service of notice of the application to such person.

Explanation:

- **Minor** = Indian Majority Act, 1875
- **Wife** = **Includes** a woman
  - Divorced
  - Not remarried.

Renu Mittal Vs Anil Mittal

CRL. R.P. No. 633 of 2010

- For granting maintenance, a party can either **approach the Court of Metropolitan** Magistrate
- The Jurisdiction for granting maintenance under **Section 125** Cr. P.C. and Domestic Violence Act is parallel jurisdiction.
- The law does **not warrant that two parallel courts should adjudicate the same issue separately**.
- If Court of MM has already adjudicated the matter under Section 125 CrPC; re-adjudication of the issue of maintenance cannot be done by a Court of MM under the Domestic Violence Act.

Reference: Code of Criminal Procedure, S.125

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65. The Section dealing with the medical examination of the victim of rape as inserted by the Code of Criminal Procedure (Amendment) Act, 2005 (25 of 2005) is

a) Section 164A

b) Section 166A

c) Section 166B

d) Section 53A

Ans: A

Source: Edzorb Law QBank-CrPC Unit II – Q 130

130.

MCQ, Single Correct Question

During investigation of an offence of committing rape, medical examination of the alleged victim may be done

a only or the order of a Magistrate

b necessarily on the request of concerned investigation officer, if he deems it fit

c after the investigation officer obtains permission of his Superintendent of Police

d with the consent of such woman victim or of any person competent to give such consent on her behalf

Explanation

(D)

Section 164A (1) CrPC:

During investigation of offence of **rape** or **attempt** to **rape**, the alleged victim shall be **examined**.

Examination shall be conducted by a **Registered Medical** Practitioner of a **Government hospital**.

In his **absence**, then with the **consent** of the **alleged victim** or a **competent** person's consent on her behalf, any other Registered Medical Practitioner.

The alleged victim shall be sent to this Registered Medical Practitioner within **24 hours** from receiving the information about commission of the offence.

Reference: The R.V. Kelkar's Criminal Procedure; 5th Ed., 2013, Page No. 1-6

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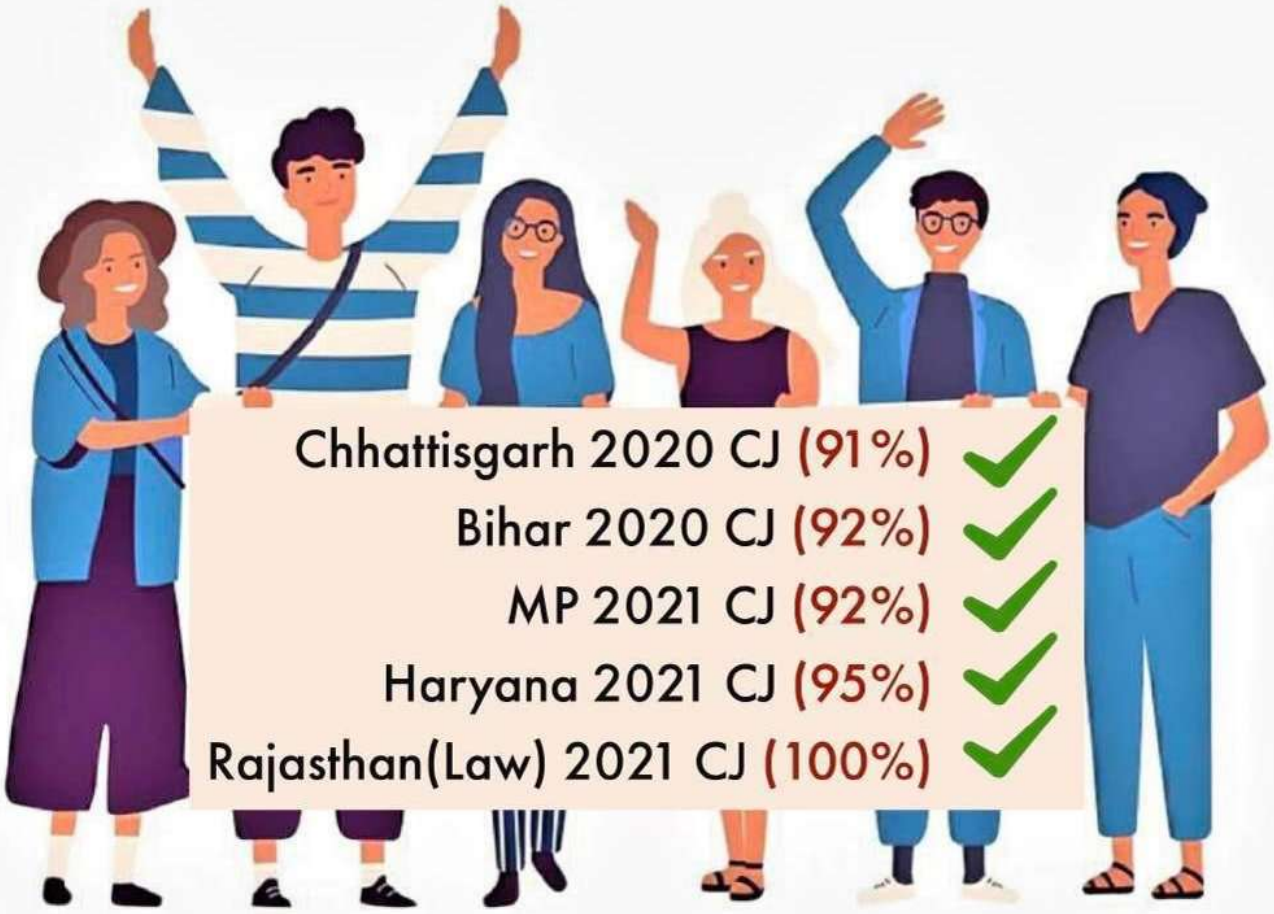

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Section - 9
ADR

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67. An application for setting aside an arbitral award must be made by the party after receiving the award within

a) three months
b) thirty days
c) ninety days
d) forty days

Ans: A

Source: Edzorb Law QBank-Arbitration and Conciliation Act – Unit III – Q 30

30.

MCQ, Single Correct Question

An application for setting aside an arbitral award may not be made after ..... have elapsed from the da application had received the arbitral award.

a One month
b Two months
c Three months
d Six months

Explanation

(C)

Section 34 (3): Time period for filing application for setting aside award

An application for setting aside of award should be made within three months

- From the date on which the party making that application had **received the arbitral award**, or,
- If under Section 33, from the date on which that request had been disposed of by the arbitral tribunal.

Simplex Infrastructure Vs Union of India (December 5, 2018)

- Section 34 excludes the **application of Section 5** of the Limitation Act, thereby barring an extension beyond the statutory three- month period and the extendable 30-day outer limit.
- Section 34 does not exclude the **application of Section 14** of the Limitation Act where time spent bonafide in courts without jurisdiction could be excluded while computing the statutory period for challenge.

Reference: Law of Arbitration & Conciliation, By Avatar Singh, 9th Edition, Page No. 378

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68. The provision for the appointment of the conciliator is laid down under

a) Section 64
b) Section 67
c) Section 62
d) Section 61

Ans: A

Source: Edzorb Law QBank-Arbitration and Conciliation Act – Unit II – Q 19

19.

MCQ, Single Correct Question

When there is a proceeding with two conciliator

a Each party may appoint one conciliator
b An impartial thrid party decides the appointment
c Only agencies notified by the Cental government can appoint two conciliators
d Two conciliators cannot be appointed

Explanation

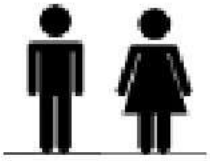
A

Appointment of Conciliator

Section 64(1)

Proceeding with **one** conciliator:

- By agreement of parties



Proceeding with **two** conciliators:

- Each party may appoint one conciliator

Proceedings with **three** conciliators:

- Each party may appoint one conciliator and the third conciliator by agreement.

Note: Third conciliator will be **presiding conciliator**.

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Section 64(2)

- **Parties can take assistance** of suitable institution for appointment of conciliators.
- The institution will take into considerations requirement of the parties.

Reference: Arbitration and Conciliation Act, 1996 s 64

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69. The Provincial Small Cause Courts Act, 1887 came into force on

a) 1st July 1887
b) 27th January 1887
c) 5th September 1887
d) 8th January 1887

Ans: A

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70. Who is authorized to abolish courts of small causes?

a) The High Court

b) The State Government

c) The District Court

d) The District Court after consultation with the High Court and the State Government

Ans: B

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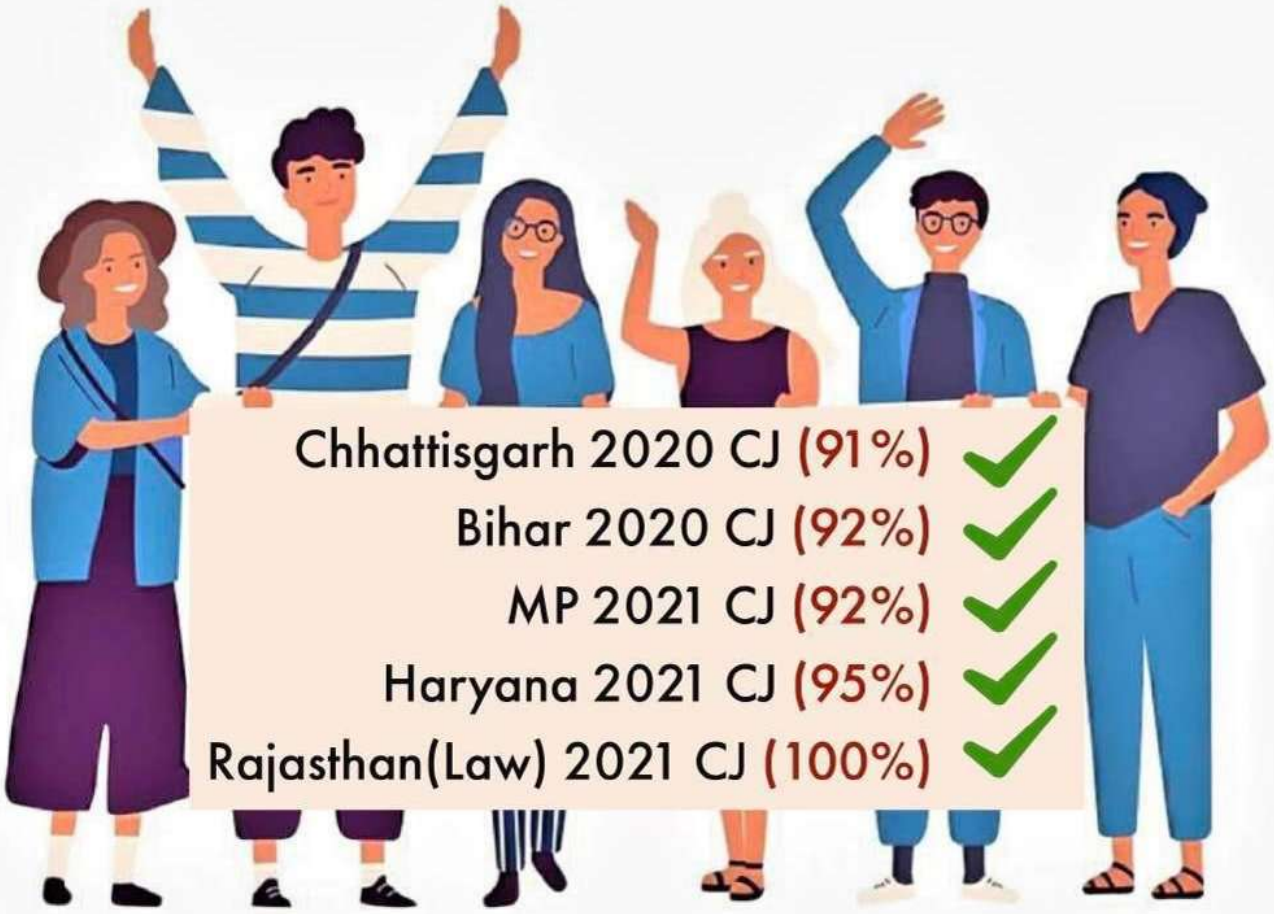

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Section - 10
Constitution

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71. Who proposed the Preamble before the Drafting Committee of the Constitution?

a) Jawaharlal Nehru

b) B. R. Ambedkar

c) B. N. Rao

d) Mahatma Gandhi

Ans: A

Source: Edzorb Law QBank-Constitution – Unit VI - Q 2
Edzorb Law QBank-Constitution – Unit VI- Q 5
Edzorb Law QBank-Constitution – Unit VI - Q 3

2.

MCQ, Single Correct Question

Which one of the following statements is correct

a Preamble of the Constitution is the part of the Constitution and can be amended under Article 368

b Preamble of the Constitution is not a part of the Constitution and cannot be amended

c Preamble is the part of the Constitution and can be amended only if no change in the basic structure is made

d Preamble can be amended by Parliament simply by an objective resolution.

Explanation

C

The Preamble of the constitution is based on the "**objectives resolution**", drafted and moved by the Pandit Nehru, and adopted by the constituent assembly on **26 November 1949**.

The preamble has been also called **Political Horoscope** of Indian Constitution (by KM Munshi), **Soul** of the Constitution (by

Kesavananda Bharati Vs State of Kerala
AIR 1973 SC 1461

While ruling that there is no implied limitation on the powers of Parliament to amend the Constitution, it held that no amendment can do violence to its basic structure (the "***Basic Structure Doctrine***").

Thakurdas Bhargav) and **identity card** of the constitution (by NA Palkhiwala).

Borrowings from the French Constitution

The Ideals of Liberty, Equality, Fraternity Come from the **French Constitution**. These words appear in the Preamble to the Constitution of India. Many other nations have also adopted the French slogan of "liberty, equality, and fraternity" as an ideal.

Did you Know?

While a pro forma **preamble** prefaces the Imperial Commonwealth of **Australia Constitution** Act 1900, the **Australian Constitution** itself does not contain a **preamble**. There have been some calls for the insertion of such a section to express the spirit and aspirations embodied in the **constitution.**

Read more about: https://dashamlav.com/preamble-of-indian-constitution-interesting-facts/

Reference: The Constitutional Law of India by M.P. Jain; 6th Ed, 2012; Page No: 12

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5.

MCQ, Single Correct Question

The Preamble to our Constitution proclaims that 'WE, the People of India have established

a) a Sovereign, Socialist, Secular, Democratic, Republic

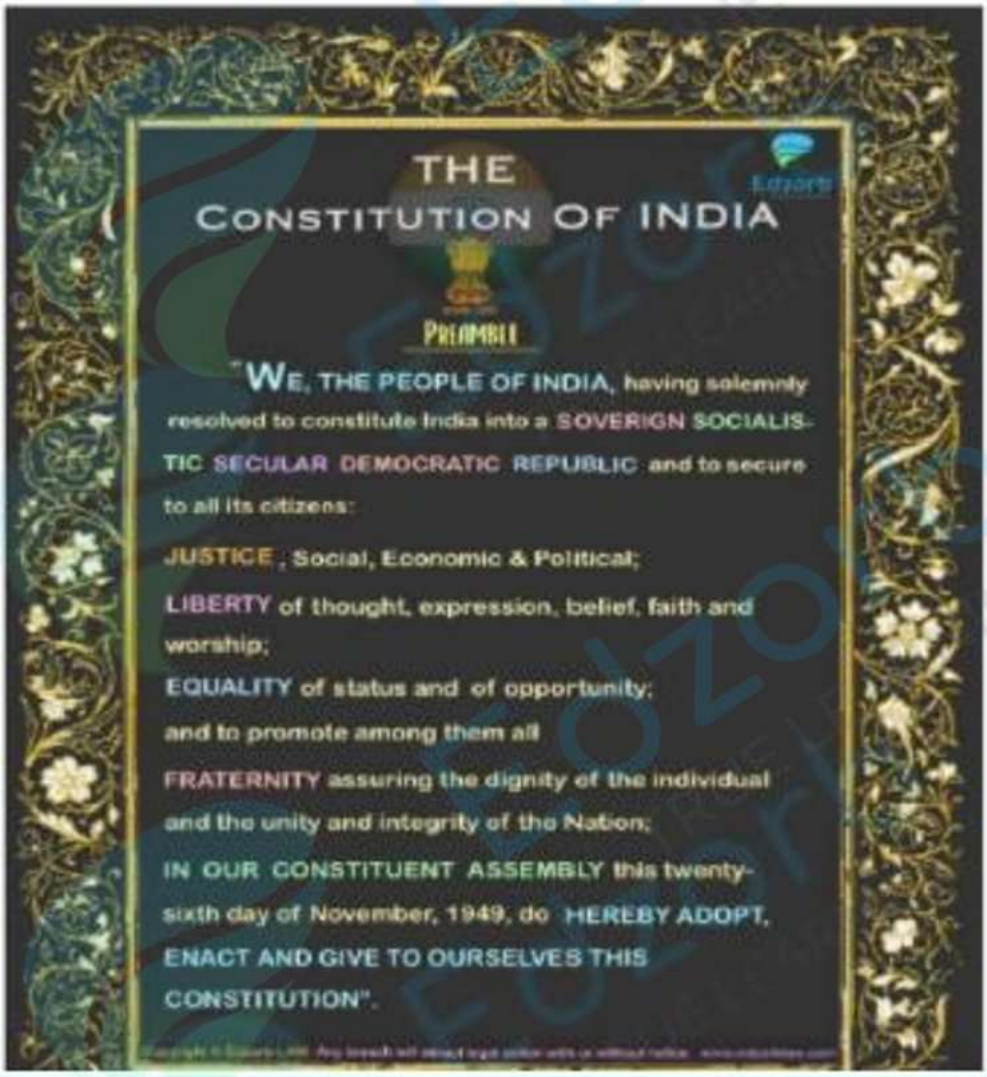
b) a Sovereign, Democratic Republic

c) a Sovereign, Secular, Democratic, Socialist, Republic.

d) a Secular, Socialist, Democratic, Sovereign, Republic

Explanation

A


THE
CONSTITUTION OF INDIA

PREAMBLE

"WE, THE PEOPLE OF INDIA, having solemnly resolved to constitute India into a SOVERIGN SOCIALISTIC SECULAR DEMOCRATIC REPUBLIC and to secure to all its citizens:

JUSTICE, Social, Economic & Political;

LIBERTY of thought, expression, belief, faith and worship;

EQUALITY of status and of opportunity;

and to promote among them all

FRATERNITY assuring the dignity of the individual and the unity and integrity of the Nation;

IN OUR CONSTITUENT ASSEMBLY this twenty-sixth day of November, 1949, do HEREBY ADOPT, ENACT AND GIVE TO OURSELVES THIS CONSTITUTION".

Sovereign	• India has its own **independent authority** and it is not a dominion of any other external power. • The **legislature has the power to make laws** which is subjected to certain limitations.
Socialist	• Added in the Preamble by **42nd Amendment**, 1976. • **Meaning** - The achievement of socialist ends through democratic means. • It holds faith in a **mixed economy** where both **private and public** sectors co-exist side by side.

Socialist	• Added in the Preamble by **42nd Amendment**, 1976. • **Meaning** - The achievement of socialist ends through democratic means. • It holds faith in a **mixed economy** where both **private and public** sectors co-exist side by side.
Secular	• Incorporated in the Preamble by **42nd Constitutional Amendment**, 1976. • All the religions in India get **equal respect, protection** and support from the state.
Democratic	• The Constitution of India has an established form of **Constitution** which gets its **authority** from the will of the **people** expressed in an **election**.
Republic	• **Head** of the **state** is elected by the **people** directly or indirectly.
	• In India, the **President** is the head of the state and he is elected indirectly by the people.

Reference: The Constitutional Law of India by M.P. Jain; 6th Ed, 2012; Page No: 12

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3.

MCQ, Single Correct Question

What is the chief source of legal authority or sovereignty in India?

a) The people.

b) The Constitution.

c) The Parliament.

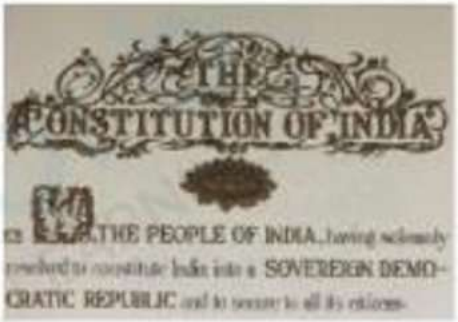
d) The Parliament and State Legislatures.

Explanation

(A)

The **Preamble** states that the constitution derives its authority from the people of India. The preamble starts as - **"We the people of India"**

Preamble of the Indian constitution is borrowed from the **US Constitution.**



India is a democratic country hence it derives its power from the people. The citizens exercise their right to vote elect the representatives.

PUCL Vs Union of India

A distinction between the **right to vote** and **freedom of voting** was made. Although the right to vote is only a **constitutional right** (**Article 326**), the freedom of voting falls under the ambit of '**expression**' under **Article 19(1)(a)** of the Constitution., while a statute can decide the modalities of voting, the act of voting is guaranteed under **Article 19(1)(a)** of the Constitution.

Read more about the case: https://indiankanoon.org/doc/15059075/
Deriving authority from the people:
https://www.thehindu.com/opinion/op-ed/deriving-authority-from-we-the-people/article30655212.ece

Reference: The Constitutional Law of India by M.P. Jain; 6th Ed, 2012; Page No: 6, 15.

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72. When was the first meeting of the Constituent Assembly held?

a) 8th December

b) 9th December

c) 10th December

d) 12th December

Ans: B

Source: Edzorb Law QBank-Constitution – Unit II – Q 7

7.

MCQ, Single Correct Question

Who of the following was the Permanent Chairman of the Constituent Assembly?

a Dr. B.R. Ambedkar.

b Dr. Rajendra Prasad.

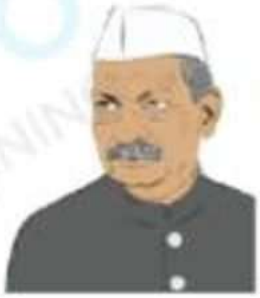
c Pandit Jawaharla Nehru.

d Sardar Patel.

Explanation

(B)

- The first meeting of the constituent assembly of India took place in **Constitutional Hall, New Delhi,** on **9th December, 1946.**
- **Dr. Sachchidanand Sinha** was the first president of the constituent assembly.



After partition, **Dr. Rajendra Prasad** was elected as the **Permanent Chairman** of the constituent assembly of Independent India.

Reference: The Constitutional Law of India by M.P. Jain; 6th Ed, 2012; Page No: 10

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73. The task of making the Constitution was over On

a) 26th November 1949

b) 26th January 1950

c) 15th August 1947

d) 25th November 1949

Ans: A

Source: Edzorb Law QBank-Constitution – Unit II Q 9

9.

MCQ, Single Correct Question

Among the following provisions, which one come into force soon after adoption of the Constitution on 26th Novem

a Provisions relating to citizenship.

b Elections.

c Provisional Parliament.

d All of the above.

Explanation

(D)

Constitution came into force on 26 January 1950. Although, the following provisions were given immediate effect from 26 November 1949

- **Citizenship**,
- **Elections and** Election Commission (**Art. 324**),
- **Provisional Parliament**,
- Oath or Affirmation by the President (**Art. 60**),
- Temporary and transitional provisions.

Previously, **Government of India Act, 1935** was in action.

Article 5 to 11 – Citizenship

Article 5 - At the commencement of the Constitution, every person who had his domicile in the territory of India and-

1. Who was born in the territory of India; or
2. Either of whose parents was born in the territory of India; or
3. Who has been ordinarily resident in the territory of India for not less than **five years** immediately preceding such commencement,

Article 313 – Transitional Provisions

All the laws in force immediately before the commencement of this Constitution shall continue in force so far as consistent with the provisions of this Constitution, **until other provision is made** in this behalf under this Constitution.

Part XV, Article 324 to 329 – Elections

Article 326 – Elections to the House of the People and to the Legislative Assemblies of States to be on the basis of adult suffrage i.e. every person who is:

- a citizen of India.
- not less than eighteen years of age.
- not otherwise disqualified under this Constitution.

Provisional Parliament

Constituent Assembly became the Provisional Parliament and exercised all the powers and performed all the duties of the two Houses of Parliament until the two Houses were duly constituted after the First General Elections held in 1952 for a period of **276 days**.

Reference: The Constitutional Law of India by M.P. Jain; 6th Ed, 2012; Page No: 860, 803

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74. The concept of fundamental rights was borrowed from the

a) British Constitution

b) US Constitution

c) Australian Constitution

d) Canadian Constitution

Ans: B

Source: Edzorb Law QBank-Constitution – Unit X – Q 3

3.

MCQ, Single Correct Question

The Directive Principles of State Policy in the Constitution of India have been taken from which of the following :

a) The Constitution of Ireland

b) The Canadian Constitution

c) The Australian Constitution

d) The U.S. Constitution

Explanation

(A)

Sources of Indian Constitution:

Source	Provisions
Constitution of the United States	• Preamble • Fundamental Rights • Federal Feature
British Constitution	• Writs • Single citizenship • Procedure established by law

Canadian Constitution	• Distribution of power between Central and State
Irish Constitution	• DPSP • Method of election of President
French Constitution	• Liberty, fraternity and equality
Australian Constitution	• Concurrent List
USSR	• Fundamental duties

Reference: The Constitutional Law of India

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75. What is the aim of DPSP in the Constitution?

a) To establish a Welfare State

b) To promote communalism

c) To establish Economic State

d) To maintain law and order

Ans: A

Source: Edzorb Law QBank-Constitution – Unit III – Q 11
Edzorb Law QBank-Constitution – Unit III – Q 16

11.

MCQ, Single Correct Question

"Directive Principles of State Policy are the conscience of the Constitution which embody the social philosophy c by:

a Granvile Austin.

b A.V. Dicey.

c Dr. B.R. Ambedkar.

d K.C. Wheare.

Explanation

(A)

Granville Austin described **Directive Principles of State Policy** (**DPSP**) as -

'Conscience of the Constitution which embody the social philosophy of the Constitution.'

The Directive Principles of State Policy are

- borrowed from the **Irish Constitution of 1937**.
- mentioned in **Part IV** of the Constitution from **Articles 36-51**.

Dr. B.R. Ambedkar – called DPSP as **'novel features'** of the Indian Constitution.

The Directive Principles along with the fundamental rights contain the **philosophy** of the Constitution and is the soul of the Constitution.

Reference: The Constitutional Law of India by M.P. Jain; 6th Ed, 2012; Page No: 1485.

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16.

MCQ, Single Correct Question

Which of the following is not a Directive Principle of State?

a. Organization of village panchayats.

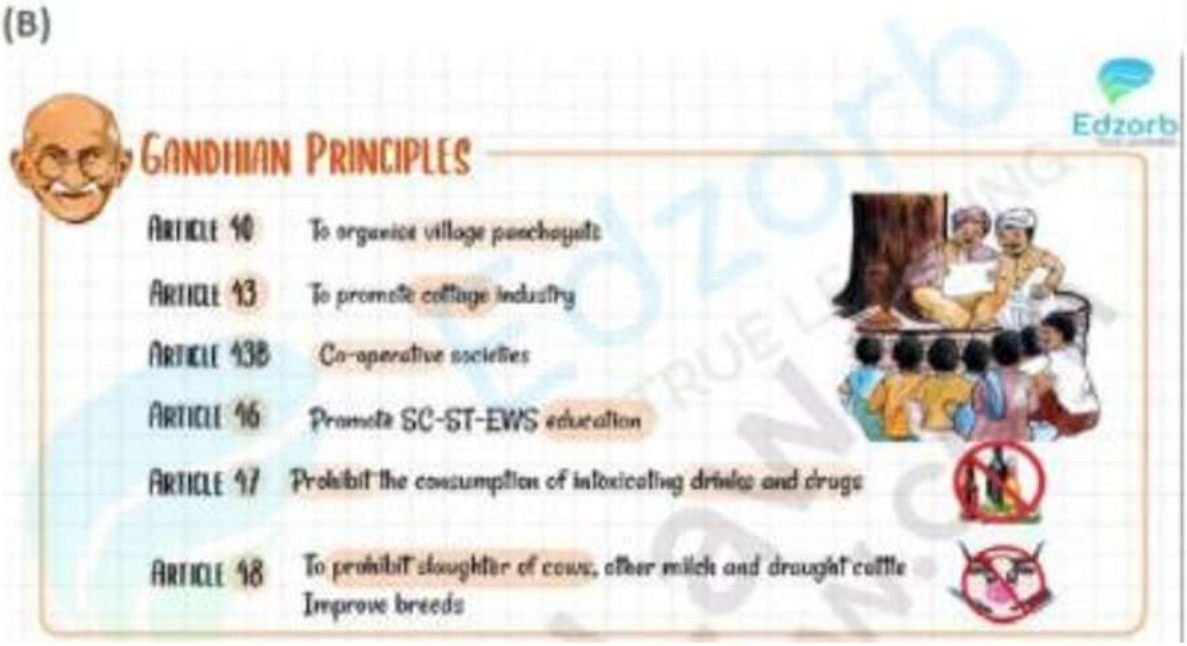
b. Provisions for free and compulsory education for the citizens of all age groups.

c. Provision for just and human conditions of work.

d. Promotion of educational and economic interests of Scheduled Castes and Scheduled Tribes and other weak

Explanation

(B)



LIBERAL PRINCIPLES

ARTICLE 44 Uniform civil code

ARTICLE 45 To promote early childhood care and education till 6 years

ARTICLE 48 Agriculture, Husbandary on scientific lines

ARTICLE 48A To protect and improve environment

ARTICLE 49 To protect monuments, places
objects of artistic or
historic interest which are declared to be of national importance

ARTICLE 50 To separate the judiciary from the executive in the public services of the State

ARTICLE 51 To promote international peace and security
Respect for international law and treaty obligations
Settlement of international disputes by arbitration

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Constitution (Eighty-sixth Amendment) Act, 2002 inserted **Article 21-A** to provide free and compulsory education of all **children in the age group of six to fourteen years** as a **Fundamental Right**.

Option (B) is wrong as:

- It is a **Fundamental Right** and not a DPSP.
- it is for children of **6 to 14** years.

T.M.A Pai Foundation Vs State of Karnataka
AIR 2003 SC355

State can determine the status of a **religious or linguistic** minority and religious and linguistic minorities, who have been put on a par in **Article 30** and any regulation framed in the **national interest** must necessarily apply to all educational institutions, whether run by the **majority or the minority**.

Reference: The Constitutional Law of India by M.P. Jain; 6th Ed, 2012; Page No: 1301, 1512.
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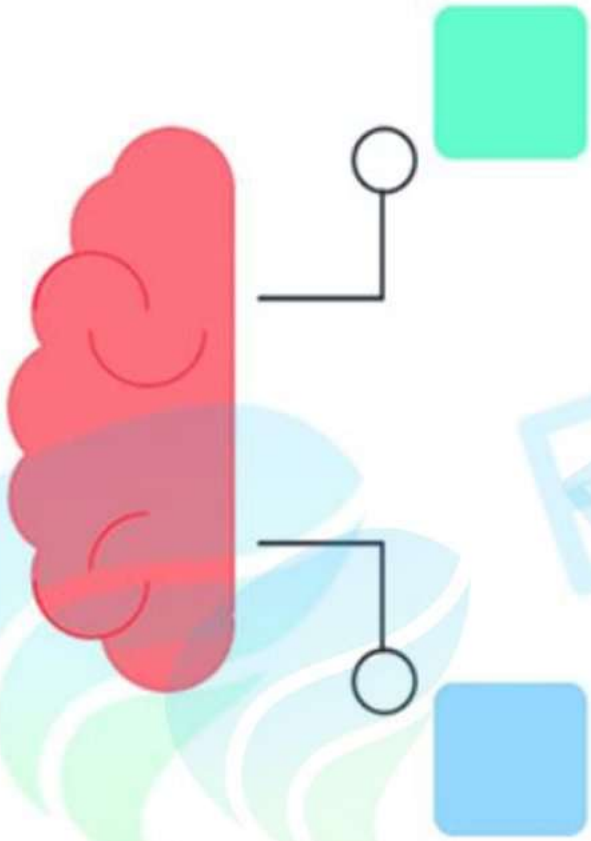

A. 38 State to secure a social order for the promotion of welfare of the people.

The State shall:

(1) strive to **promote the welfare of the people** by securing & protecting a social order in which justice, social, economic & political, shall inform all the institutions of the national life.

(2) strive to minimize the inequalities in income, & to eliminate inequalities in status, facilities & opportunities, not only amongst individuals but also amongst groups of people residing in different areas.

76.

Which committee is related to Panchayati Raj Institution?

a) Mudholkar Committee

b) Balwant Rai Mehta Committee

c) Malimath Committee

d) Khullar Committee

Ans: B

Edzorb Law QBank- Constitutional Law- Unit XIV- Q 32

32.

MCQ, Single Correct Question

Balwant Rai Mehta Commiittee is associated with

a Educational Reforms

b Anti-defection Laws

c Panchayati Raj

d Criminal law reforms

Explanation

C

PANCHAYATI RAJ

System of rural local self-government

73rd Constitutional Amendment Act of 1992.

Established in all the states of India by the Acts of the state legislatures to build democracy at the grass root level

EVOLUTION

Balwant Rai Mehta Committee (1957)

Examine
- Community Development Programme (1952)
- National Extension Service (1953)

Recommended
- 'Democratic decentralisation', came to be known as Panchayati Raj.

3 Tier system

Gram panchayat (Village level)
- Directly elected ✓

Panchayat samiti (Block level)
- Indirectly elected
- Executive Body

Zila parishad (District level)
- Indirectly elected

Advisory/ Coordinate/Supervisory

Chairman: **District Collector**

- No single rigid pattern
- States to evolve their own patterns suitable to local conditions.
- **Rajasthan** first state to establish Panchayati Raj – **Nagaur district**

Planning and development

Ashok Mehta Committee (1977)

Recommendations

3 Tier system —replaced by→ 2 Tier system

Zila parishad (District level)

Executive body — First point for decentralisation

Mandal panchayat (group of villages)

- Minister for Panchayati Raj
- Official participation of political parties
- Nyaya panchayats

- Regular social audit
- Compulsory powers of taxation
- Constitutional recognition

✗ Due to the collapse of the Janata Government, no action could be taken on the recommendations

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77. Which constitutional amendment is known as 'Mini Constitution'?

a) 31st Amendment

b) 42nd Amendment

c) 44th Amendment

d) 91st Amendment

Ans: B

Edzorb Law QBank- Constitutional Law- Unit II- Q 21

21.

MCQ, Single Correct Question

Which amendment added Fundamental Duties in the Indian Constitution

a 41

b 42

c 44

d 46

Explanation

B

Forty-Second Amendment Act, 1976 'Mini-Constitution'

(recommendations of **Swaran Singh Committee**.)

1. Added three new words- **SOCIALIST**, **SECULAR** AND **INTEGRITY** in the Preamble.
2. Added **Fundamental Duties** by the citizens (new Part IV A).
3. Made the president bound by the advise of the cabinet.
4. Provided for administrative tribunals and tribunals for other matters (Added Part XIV A).
5. Froze seats in the Lok Sabha & state legislative assemblies on the basis of 1971 census till 2001.
6. Made the constitutional amendments beyond judicial scruting.
7. Curtailed the power of judicial review and writ jurisdiction of the S.C. and H.C.
8. Raised the tenure of Lok Sabha and state legislative assemblies from 5 to 6 years.
9. Provided that the laws made for the implementation of Directive Principles cannot be declared invalid by the courts on the ground of violation of some Fundamental Rights.
10. Empowered the Parliament to make laws to deal with anti-national activities and such laws are to take precedence over Fundamental Rights.
11. Added 3 new Directive Principles
    - Equal justice
    - Free-legal aid
    - Protect environment, forests and wild life
    - Participation of workers in the management of industries
12. Facilitated the proclamation of national emergency in a part of territory of India.
13. Extended the one-time duration of the President's rule in a state from 6 months to one year.
14. Empowered the Centre to deploy its armed forces in any state to deal with a grave situation of law and order.
15. Shifted 5 subjects from **State list** → **Concurrent list**
    - Administration of justice
    - Constitution and organisation of all courts except S.C & H.C
    - Education
    - Forests
    - Protect wild animals & birds

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Did you Know?

This constitution brought so many amendments that it is also known as **"mini constitution".**

Reference: The Constitutional Law of India by M.P. Jain, 6th Edn., 2012, Page no.1814

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78. Who has served/serving as India's 12th President?

a) Ram Nath Kovind

b) A.P.J. Abdul Kalam

c) Pratibha Patil

d) Pranab Mukherjee

Ans: C

Source: Edzorb Law QBank- Constitutional Law- Unit XI- Q 33

33.

MCQ, Single Correct Question

Who served as the 11th President of India

a Smt. Pratibha Patil

b A.P.J Abdul Kalam

c Ram Nath Kovind

d K.R. Narayan

Explanation

B

List of all Presidents of India

Reference: The Constitutional Law of India.

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79. Who appoints the Advocate General of the State?

a) The President

b) The Prime Minister

c) The Governor

d) The Chief Minister

Ans: C

Source: Edzorb Law QBank- Constitutional Law- Unit XI- Q 22

22.

MCQ, Single Correct Question

Who of the following has the right to participate in the proceedings of State Legislature?

a Chairman, State Public Service Commission

b Chief Justice of High Court

c Advocate-General

d Chief of Police Force in the State

Explanation

(C)

Article 165: Advocate General of State

Category	Description
Appointment	By the Governor
Qualification	Same as that of High Court Judge
Duty	• To give advice to the Government of the State, and • To perform other duties as assigned to him by the Governor
Rights	• Right of audience in any court in the State. • Right to speak or to take part in the proceedings of state legislature, but without a right to vote.

- Right to speak or to take part in the meeting of any committee of the state legislature of which he is named as a member, but without a right to vote.
- He enjoys all the privileges and immunities that are available to a member of the state legislature.

Reference: The Constitutional Law of India by M.P. Jain; 6th Ed, 2012; Page No: 129

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80. The post of Deputy Prime Minister is

a) Constitutional

b) Non-constitutional

c) Judicial

d) None of the above

Ans: B

Source : Edzorb Law QBank- Constitutional Law- Unit XI- Q 34

34.

MCQ, Single Correct Question

Deputy Prime Minister office is a

a Constitutional Body

b Non-constitutional Body

c Quasi- Judicial Body

d Judicial Body

Explanation

B

Deputy Prime Minister of India

Position	He is the deputy head of the Government of the Republic of India.
Rank	The second highest ranking member of the Union Council of Ministers.
From	Non-constitutional body.
Duties	A deputy prime minister traditionally serves as acting prime minister when the prime minister is temporarily absent or incapable of exercising power.

Did you Know?

Till now, only three people have serve has deputy Prime Minister, namely, **Vallabhai Patel, Morarji Desai and L.K. Advani.**

Reference: The Constitutional Law of India by M.P. Jain, 6th Edn., 2012, Page no.24

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81. Which Part of the Constitution of India deals with the finance, property, contract and suits?

a) Part-XII

b) Part-XIII

c) Part-XVII

d) Part-XIX

Ans: A

Source : Edzorb Law QBank- Constitutional Law- Unit VII- Q 30

30.

MCQ, Single Correct Question

Provisions related to Panchayati Raj is provided from

a Article 243-243M

b Article 243-243N

c Article 243-243O

d Article 243-243P

Explanation

C

The Constitution of India at a Glance

Edzorb
TRUE LEARNING

Parts	Subject Matter	Articles Covered
I	The Union and its territory	1 to 4
II	Citizenship	5 to 11
III	Fundamental Rights	12 to 35
IV	Directive Principles of State Policy	36 to 51
IV-A	Fundamental Duties	51-A
V	The Union Government	52 to 151
VI	The State Governments	152 to 237
VII	The States in Part B of the First Schedule (deleted)	238 (deleted)
VIII	The Union Territories	239 to 242
IX	The Panchayats	243 to 243-O
IX-A	The Municipalities	243-P to 243-ZG
IX-B	The Co-operative Societies	243-ZH to 243-ZT
X	The Scheduled and Tribal Areas	244 to 244-A
XI	Relations between the Union and the States	245 to 263
XII	Finance, Property, Contracts and Suits	264 to 300-A

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The Constitution of India at a Glance

Edzorb
TRUE LEARNING

Parts	Subject Matter	Articles Covered
XIII	Trade, Commerce and Intercourse within the Territory of India	301 to 307
XIV	Services under the Union and the States	308 to 323
XIV-A	Tribunals	323-A to 323-B
XV	Elections	324 to 329-A
XVI	Special Provisions relating to Certain Classes	330 to 342
XVII	Official Language	343 to 351
XVIII	Emergency Provisions	352 to 360
XIX	Miscellaneous	361 to 367
XX	Amendment of the Constitution	368
XXI	Temporary, Transitional and Special Provisions	369 to 392
XXII	Short title, Commencement, Authoritative Text in Hindi and Repeals	393 to 395

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82. Which Article of the Indian Constitution talks about the Audit of Accounts of Cooperative Societies?

a) Article 243 ZA

b) Article 243 ZE

c) Article 243 ZK

d) Article 243 ZM

Ans: D

Source: Edzorb Law QBank- Constitutional Law- Unit XIV- Q 33

33.

MCQ, Single Correct Question

Elections of municipalities is provided under

a Article 243 ZA

b Article 243 ZD

c Article 243 ZJ

d Article 243 ZM

Explanation

A

Article 243 ZA: Elections to the Municipalities

Article 243 ZE: Committee for Metropolitan planning

Article 243 ZK: Election of members of board.

Article 243 ZM: Audit of accounts of co-operative societies.

Reference: The Constitutional Law of India

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83. Article 279 of the Indian Constitution defines

a) taxes on profession

b) calculation of net proceeds

c) Finance Commission

d) grants from the Union to certain States

Ans: B

Source: Edzorb Law QBank- Constitutional Law- Unit XIV- Q 34

34.

MCQ, Single Correct Question

Which of the following is incorrect:

a Article 280- Finance Commission

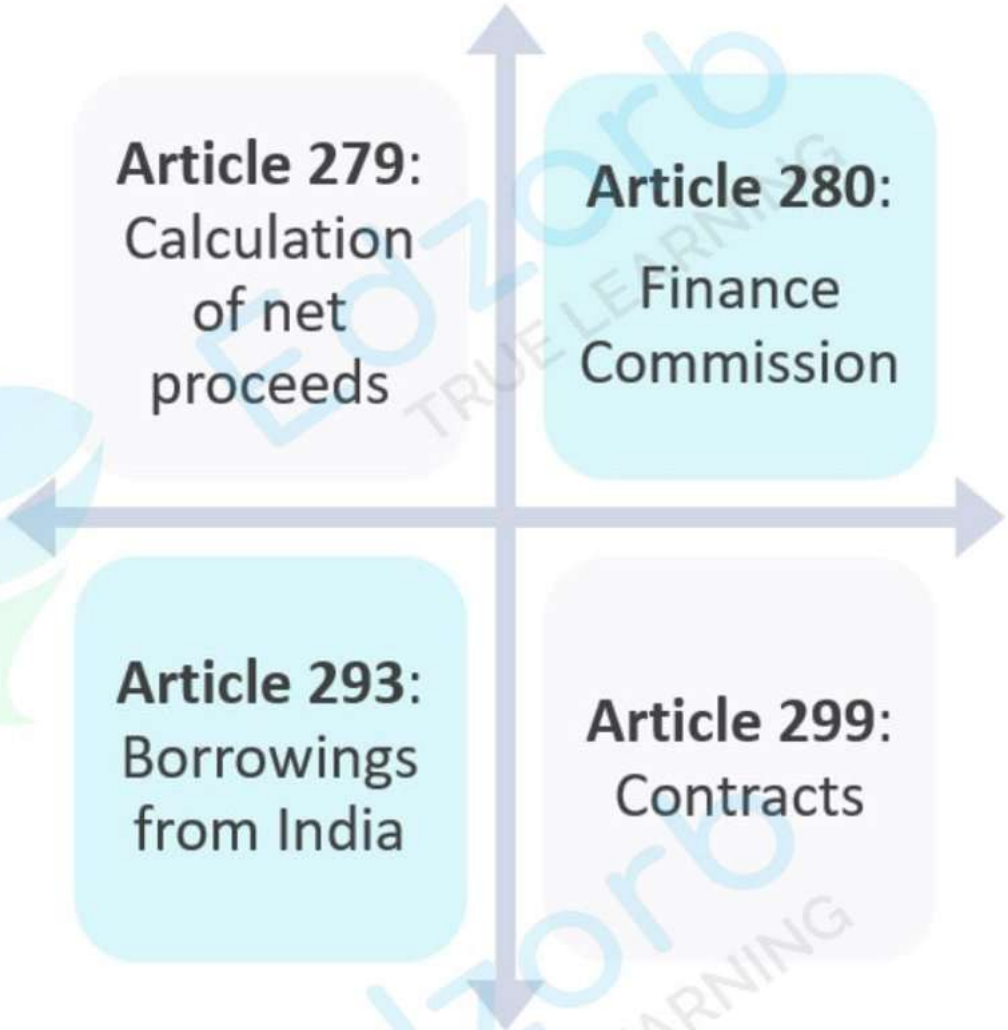
b Article 279-calculation of net proceeds

c Article 293-Borrowings from India

d Article 299- Suits and proceedings

Explanation

D



Reference: The Constitutional Law of India

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84. In which of the following cases, Justice Hidayatullah held that the Preamble is very soul of the Constitution - eternal and unalterable?

a) S. R. Bommai case

b) Golaknath case

c) Kesavananda Bharati case

d) Minerva Mills case

Ans: B

Source : Edzorb Law QBank- Constitutional Law- Unit IV- Q 23

23.

MCQ, Single Correct Question

Preamble is the soul of the constitution

a Justice Krishna Iyer

b Justice Khanna

c Justice Hidayataullah

d Justce P.N. Bhagwati

Explanation

C

I.C. Golak Nath And Ors. Vs State of Punjab And Anr.

AIR 1967 SC 1643

- **Fundamental Rights** are given a transcendental position in the constitution and are **not amenable** to the Parliamentary restriction as stated in **Article 13**.
- A place of permanence is given to the Fundamental Rights in the Constitution.
- In order to amend Fundamental Rights, a new Constituent Assembly is necessary.
- **Article 368** provides the procedure to **amend the Constitution** but does not confer power on **Parliament** to amend the Constitution.

Chief Justice **Subba Rao** - *"The preamble to an Act sets out the main objectives which the legislation is intended to achieve".*

Chief Justice **Sikri** - *"It seems to me that the preamble of our Constitution is of extreme importance and the constitution should be read and interpreted in the light of the grand and noble vision expressed in the preamble."*

Justice **K.K. Mathew** - *"Democracy was an essential feature and that election disputes must be decided on the basis of law and facts by the judiciary."*

Justice **Hidayatullah** - *"The Preamble is very soul of the Constitution - eternal and unalterable"*

Reference: The Constitutional Law of India by M.P. Jain, 6th Edn., 2012, Page no.1754

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85. Who among the following has said that "the Preamble is an epitome of basic feature of the Constitution"?

a) Justice Gajendragadkar

b) Justice Subbarao

c) Justice Mudholkar

d) Justice Sikri

Ans: C

Source: Edzorb Law QBank- Constitutional Law- Unit IV- Q 23

23.

MCQ, Single Correct Question

Preamble is the soul of the constitution

a Justice Krishna Iyer

b Justice Khanna

c Justice Hidayataullah

d Justce P.N. Bhagwati

Explanation

C

THE CONSTITUTION OF INDIA

PREAMBLE

"WE, THE PEOPLE OF INDIA, having solemnly resolved to constitute India into a SOVERIGN SOCIALISTIC SECULAR DEMOCRATIC REPUBLIC and to secure to all its citizens:

JUSTICE, Social, Economic & Political;

LIBERTY of thought, expression, belief, faith and worship;

EQUALITY of status and of opportunity;

and to promote among them all

FRATERNITY assuring the dignity of the individual and the unity and integrity of the Nation;

IN OUR CONSTITUENT ASSEMBLY this twenty-sixth day of November, 1949, do HEREBY ADOPT, ENACT AND GIVE TO OURSELVES THIS CONSTITUTION".

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The Preamble is the epitome of basic structure of the Constitution.

Justice Hidyatullah

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I.C. Golak Nath And Ors. Vs State of Punjab And Anr.

AIR 1967 SC 1643

- **Fundamental Rights** are given a transcendental position in the constitution and are **not amenable** to the Parliamentary restriction as stated in **Article 13**.
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Justice **Hidayatullah** - *"The Preamble is very soul of the Constitution - eternal and unalterable"*

Reference: The Constitutional Law of India by M.P. Jain, 6th Edn., 2012, Page no.1754

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86. The concept of 'equal protection of laws' enshrined under Article 14 of the Indian Constitution finds its root from the

a) British Constitution
b) American Constitution
c) German Constitution
d) Australian Constitution

Ans: B

Source: Edzorb Law QBank- Constitutional Law- Unit VIII- Q 5

5.

MCQ, Single Correct Question

The expression 'equal protection of laws' in Article 14 of the Indian Constitution has been taken from:

a British Constitution
b American Constitution
c Australian Constitution
d None of these

Explanation

(B)

Article 14 - "The State shall not deny to any person **equality before the law or the equal protection of the laws** within the territory of India."

Article 14

- Equality before Law
  - Not Absolute
  - Similar to Rule of Law
- Equal Protection of Law
  - Positive Concept
- Access to Justice
  - Equality in front of Judicial System

Equality before law: All people must be treated equally by the law and that all are subject to the same laws of justice.

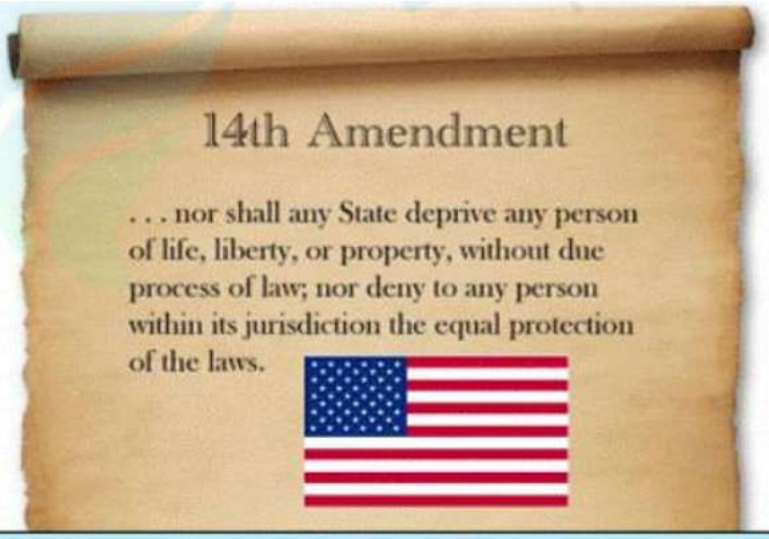
DICEY

POOR

RICH

Gave as 1st Principle in Rule of Law

Equal protection of law: Equal Protection of law means no person or class of person shall be denied the same protection of law which is enjoyed by the other person or other class of persons in like circumstances.



The term equal protection of law has been borrowed from American Constitution.

Indira Nehru Gandhi Vs Raj Narayan

1975 SC

Article 14 combines the English ***doctrine of the rule of law and the equal protection clause of the 14th Amendment to the American Constitution.***

Rule of law embodied in **Article 14** is basic structure of the Constitution.

The **two great values** which emanate from the concept of Rule of law in modern times are –

- No arbitrary Government and
- upholding individual liberty.

The rule of law postulates the pervasiveness of the spirit of law throughout the whole range of government in the sense of excluding arbitrary official action in any sphere.

Reference: The Constitutional Law of India by M.P. Jain; 6th Ed, 2012; Page No: 929

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87. In which of the following cases, the Supreme Court held that the equality clause cannot be applied to legitimize an illegal action?

a) UP State Sugar Corps. Ltd. vs. Sant Raj Singh

b) Vishal Properties Put. Ltd. vs. State of UP

c) Ekta Shakti Foundation vs. Gout. of NCT of Delhi

d) Bhagwan Dass vs. Punjab State Electricity Board

Ans: C

Source: Edzorb Law QBank- Constitutional Law- Unit VII- Q 27

27.

MCQ, Single Correct Question

Ekta Shakti Foundation Vs Govt. of NCT of Delhi invokes article

a 14

b 18

c 19 1(f)

d 19 (1) (a)

Explanation

A

Ekta Shakti Foundation Vs Govt. of NCT of Delhi (2006) 10 SCC 337

- **Article 14** has no application or justification to legitimize an illegal and **illegitimate action**.
- **Article 14** states that a citizen has legal and valid right enforceable at law and persons having similar right and persons similarly circumstanced, cannot be denied of the benefit thereof.
- Such person cannot be discriminated to deny the similar benefit.
- The **rational relationship** and **legal back up** are the foundations to invoke **the doctrine of equality** in case of persons similarly situated.

Reference: Ekta Shakti Foundation Vs Govt. of NCT of Delhi (2006) 10 SCC 337

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88. Promotion of International Peace and Security comes under the purview of which Article of the Indian Constitution?

a) Article 46

b) Article 49

c) Article 51

d) Article 53

Ans: C

Source: Edzorb Law QBank- Constitutional Law- Unit III- Q 19

19.

MCQ, Single Correct Question

Under which Article of the Constitution of India the STATE shall endeavor to promote international peace and security.

a 43.

b 46.

c 49.

d 51.

Explanation

(D)

Article 51 deals with **DPSP** and directs the Indian state to promote:

- **International peace and security**.
- Maintenance of just and honorable relations between nations.
- Respect for international law/treaty obligations.
- Encouraging settlement of international disputes by arbitration.

Example: The foreign secretaries of the India and Bangladesh signed the instruments of the land **exchange** in presence of Prime Ministers of both countries.

West Bengal Chief minister Mamata Banerjee declared that her government cannot be a part of **Teesta water sharing** deal as the river does not have 'excess water' to share with the neighbouring country. Since, water is state subject Central Government has no say and Bangladesh may approach an international court or demand share from the hydro-electricity generated in Sikkim.

Read more about the dispute:

https://timesofindia.indiatimes.com/india/the-teesta-river-dispute-explained-in-10-points/articleshow/58091320.cms

Reference: The Constitutional Law of India by M.P. Jain; 6th Ed, 2012; Page No: 1520.

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89. As per Article 77 of the Indian Constitution, all executive actions of the Government of India shall be expressed to be taken in the name of the

a) Government of India
b) Union of India
c) President
d) Prime Minister

Ans: C

Source: Edzorb Law QBank- Constitutional Law- Unit XII- Q 24

24.

MCQ, Single Correct Question

Who participates in the Presidential Elections

a Elected and nominated members of State Legislative Assembly
b All the members present and voting
c Elected members of Lok Sabha
d Elected members of both the houses of Parliament

Explanation
D

PART V Articles 52 to 78
Union executive

PRESIDENT

Union executive

President

- Vice-President
- Attorney general of India
- Prime Minister
- Council of Ministers

ELECTION - Not directly elected by the people

Electoral college

- Elected members
  - Parliament (Both Houses)
  - Legislative Assemblies
    - States + U.T (Delhi, Puducherry)

Do not Vote

- Nominated members
- Members
  - State Legislative Councils (both elected and nominated)

Constitution provides that : there shall be uniformity in the scale of representation of different states as well as parity between the states as a whole and the Union.

$$\frac{\text{Total population of State}}{\text{Total elected members in the State Legislative Assembly}} \times \frac{1}{1000}$$ — M.L.A — Vote Value — M.P — $$\frac{\text{Total value of votes of all MLAs of all states}}{\text{Total elected members of Parliament}}$$

Electoral Quota = $\frac{\text{Total number of valid votes polled}}{1+1=(2)} + 1$

Qualifications

Citizen of India

- Completed 35 years of age
- Qualified for election of the Lok Sabha
- Not hold any office of profit (Union/state or local/public authority

Oath

Administered by

- Chief Justice of India (Absence)
- Seniormost Judge (Supreme Court)

Conditions

Should not be a member

- Parliament/State Legislature
- Emoluments/Allowances/Previlages determined by Parliament
- Rastrapathi Bhavan ✓

- Immune from criminal proceedings during his term of office
- No arrest or imprisonment
- 2 months after Notice
- Civil Proceedings can be instituted against him.

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Did you Know?

All executive actions are taken in the name of President as provided in **Article 77 of the Constitution.**

Reference: The Constitutional Law of India by M.P. Jain, 6th Edn., 2012, Page no. 129

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90. The Supreme Court of India declared which constitutional amendment as unconstitutional.

a) 97th Amendment

b) 98th Amendment

c) 99th Amendment

d) 91st Amendment

Ans: C

Source: Edzorb Law QBank-Constitution – Unit XIV – Q 18

18.

MCQ, Single Correct Question

National Judicial Appointments Commission Act, 2014 came into force

a on April 13, 2015

b on December 31, 2014

c is not inforce, yet

d on January 31, 2015

Explanation

(A)

National Judicial Appointment Act, 2014:

National Judicial Appointments Commission (NJAC) was a proposed body which would have been responsible for the appointment and transfer of judges to the higher judiciary in India.

Territorial Extent	India
Assented	15 August 2014
Enforced	13 April 2015
Repealed	16 October 2015

COMPOSITION OF COLLEGIUM SYSTEM

COLLEGIUM SYSTEM

- Chief Justice of India
- 4 Senior Judges of Supreme Court
- Chief Justice of high court

What the Apex Court Says

- SC invites suggestions from the bar to further improve the appointment process
- Court hearing on November 3 to improve the collegium system

SC rules NJAC as violative of the basic structure of the Constitution as it affects the independence of the judiciary

REVIVES THE EARLIER COLLEGIUM SYSTEM OF JUDGES APPOINTING JUDGES

- Government moves quickly to deny any tug of war between judiciary, executive
- Says no review of the ruling to be sought
- Leaves it open for Parliament to correct deficiencies in the struck down law and introduce a fresh bill later

"It (the judgment)... ignored the will of Parliament & half of the assemblies and the cumulative views of the people to have greater transparency and accountability"

MUKUL ROHATGI, ATTORNEY GENERAL

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Supreme Court Advocates-on-Record Assn. Vs Union of India (2016) 5 SCC 1

- **Independence of judiciary** is part of basic structure.
- Primacy of the judiciary in the matters of appointment and transfer of Judges is part of the basic structure.
- Constitution (**99th Amendment**) Act, 2014 violates the basic structure of Constitution.
- Hence, it is **struck down as void**.
- **National Judicial Appointments Commission Act**, 2014 is **also ultra vires** the Constitution

Reference: Constitution of India art 124A

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91. What is the minimum number of Judges who are to sit for the purpose of deciding any case involving substantial question of law as to the interpretation of the Constitution?

a) 3 judges bench

b) 5 judges bench

c) 7 judges bench

d) 9 judges bench

Ans: B

Source: Edzorb Law QBank- Constitutional Law- Unit XV- Q 20

20.

MCQ, Single Correct Question

The minimum number of judges to hear the matter referred to the Supreme Court under Article 143 is :

a 2

b 3

c 5

d 9

Explanation

(C)

Article 145(3):

"The **minimum number of Judges shall be five** for the purpose of deciding:

- any case involving a substantial question of law as to the interpretation of this Constitution or
- for the purpose of hearing any reference under **Article 143**

Did you Know?

As per Article 124, total number of judges in Supreme Court is 34 including CJI

Reference: The Constitutional Law of India by M.P. Jain; 6th Ed, 2012; Page No: 202

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92. The Comptroller and Auditor General of India shall submit his report relating to the accounts of the Union to the

a) Public Accounts Committee

b) Parliament

c) President

d) Finance Minister

Ans: C

Source: Edzorb Law QBank- Constitutional Law- Unit XII- Q 31

31.

MCQ, Single Correct Question

Which Article in the Constitution on India provides for the post of Comptroller and Auditor (

a Article 148

b Article 248

c Article 268

d Article 348

Explanation

A

Comptroller and Auditor General of India

Head
Indian Audit & Accounts Department

GUARDIAN OF THE PUBLIC PURSE

(Article 148) CAG — is appointed by the president of India by a warrant under his hand and seal

Term
6 years
65 Age

Salary
Determined by **Parliament**
Equal to SC Judge
Consolidated Fund of India

Reappointment
Not eligible for any further office either under the GOI or any state

Reports

3 Audit Reports → **President**
- Appropiation Accounts
- Finance Accounts
- Public Undertakings

Parliament (Both Houses)
Public Accounts Committe

Removal

By **President**
Resolution passed by both the houses
Parliament
Special Majority
- Proved Misbehaviour
- Incapacity

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93. Which one among the following has exclusive power to expand All India Services?

a) The Parliament

b) The Lok Sabha only

c) The Rajya Sabha only

d) The President

Ans: C

Source: Edzorb Law QBank-Constitution – Unit XIV – Q 31

31.

MCQ, Single Correct Question

Provisions for All India Judicial Services is provided under

a Article 311

b Article 312

c Article 314

d Article 313

Explanation

B

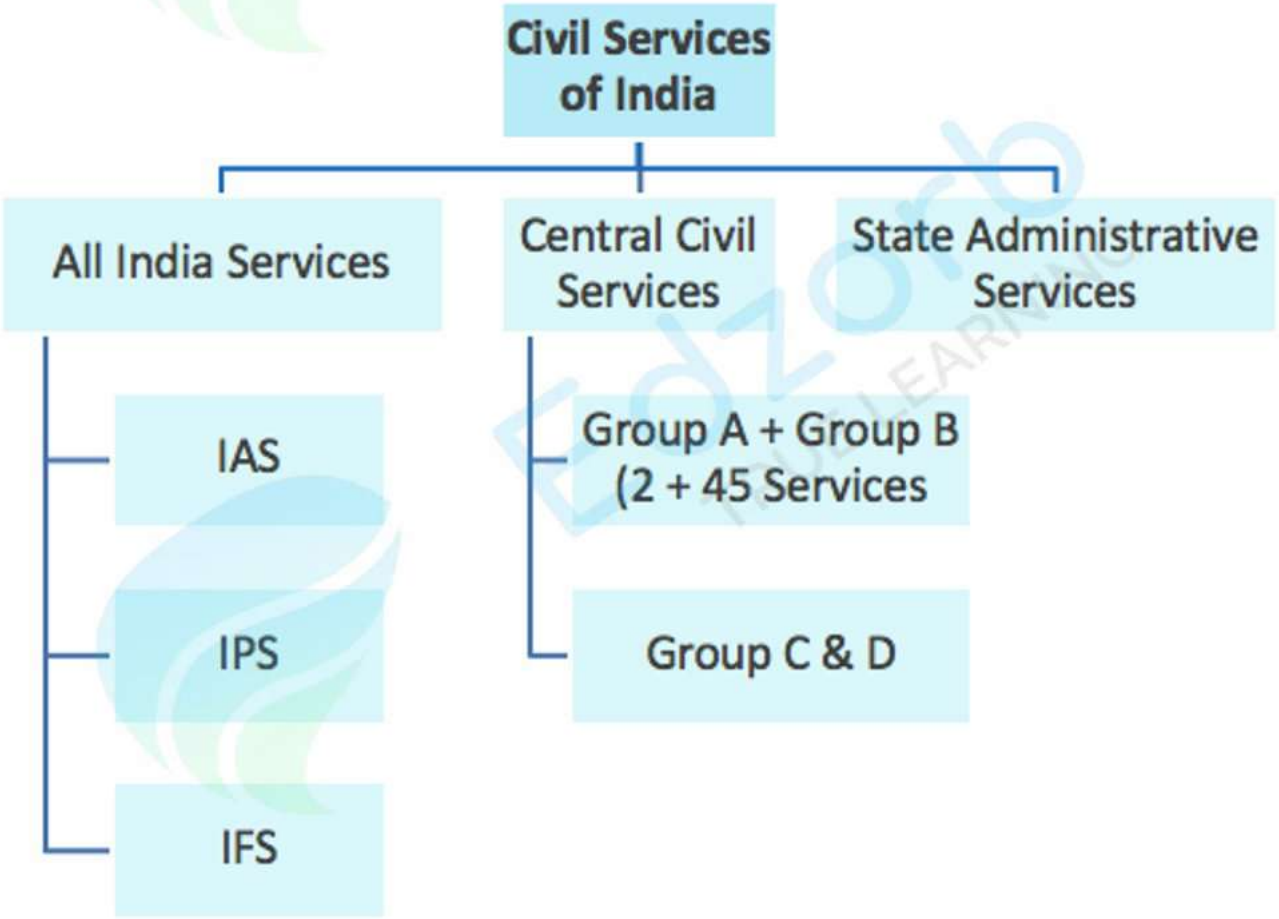
Article 312

(1) **Creation of** All India Services (including all India judicial service:

- Declaration by **two thirds** of the members **present and voting of Council of States.**

(2) Indian Administrative Service and the Indian Police Service are created by Parliament.

(3) All India judicial service **shall not include** any post lower than district judge.



Reference: Constitution of India art 312

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94. According to the Indian Constitution, which one of the following in the language of the Union?

a) Hindi in Bundell script

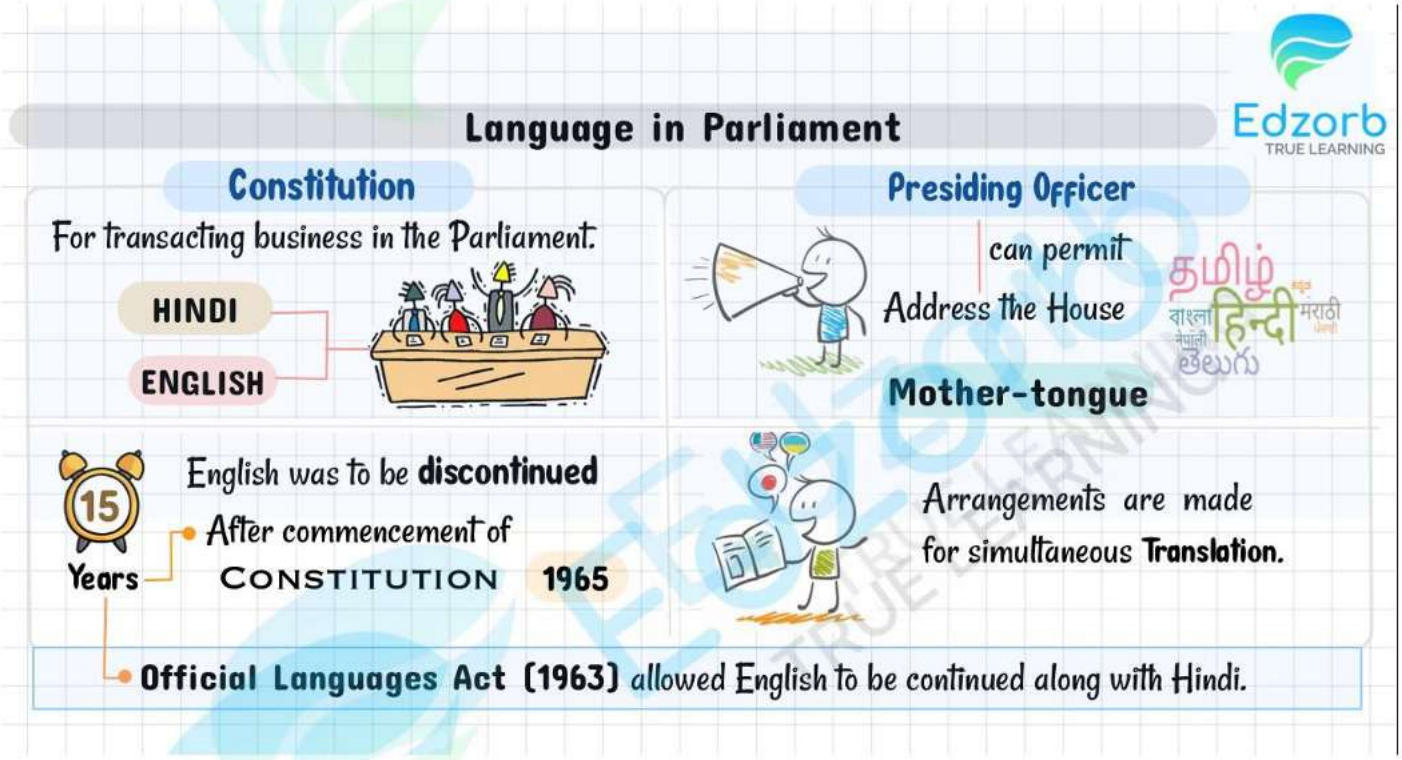
b) Hindi in Devanagari script

c) Hindi and English both

d) Only Hindi not English

Ans: B

Source: Edzorb Law Premium Treasures - Constitution – Parliament – Languages in Parliament



Rights of Ministers and Attorney General

Right to speak — Take part — Without being entitled to **vote**

- **PROCEEDINGS**
- **EITHER HOUSE**
- **JOINT SITTING**
- **ANY COMMITTEE** (member)

Minister

(One House) **Member**

can participate in the proceedings of a House, of which he is not a member.

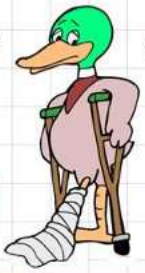
Not a member (either House)

can participate in the proceedings of both the Houses.

A person can remain a minister for six months, without being a member of Parliament.

Lame-duck Session

Last session of the **existing** Lok Sabha **after** a **new** Lok Sabha has been **elected.**



Lame-ducks

Members of the **existing** Lok Sabha

not get re-elected to the new Lok Sabha

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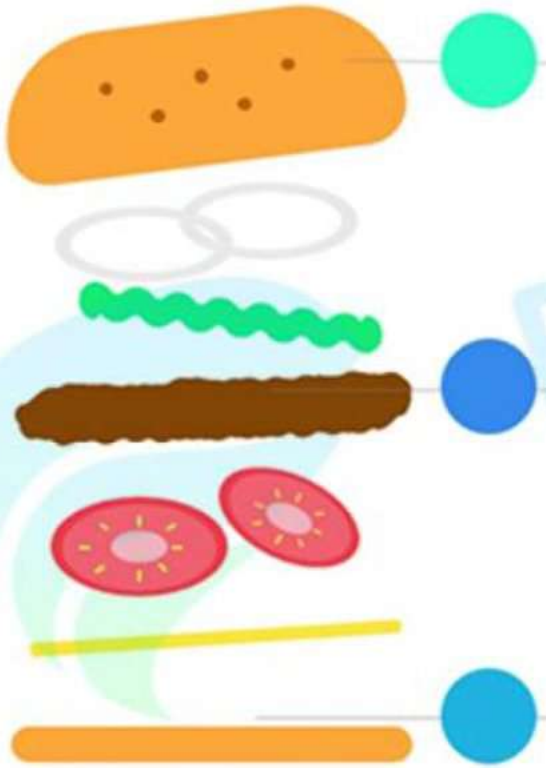
A.343 Official language of the Union:



(1) The official language of the Union - **Hindi in Devanagari script**. The form of numerals to be used shall be the international form of Indian numerals.

(2) Nothing in clause **(1)**, for a period of **15 years** from the commencement of this Constitution, the language for all official purposes shall be English:
The **President may**, by order authorise the use of the Hindi language in addition to the English language.

(3) Parliament may by law provide for the use, after the said period of **15 years, of— (a) the English language, or (b) the Devanagari form of numerals, as may be specified in the law.**

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95. Which Article of the Indian Constitution saves the judgment of the Privy Council?

a) Article 295

b) Article 301

c) Article 393

d) Article 395

Ans: D

Source: Edzorb Law QBank- Constitutional Law- Unit XVI – Q 29

29.

MCQ, Single Correct Question

Which article repeals Indian Independence Act, 1947

a Article 398

b Article 395

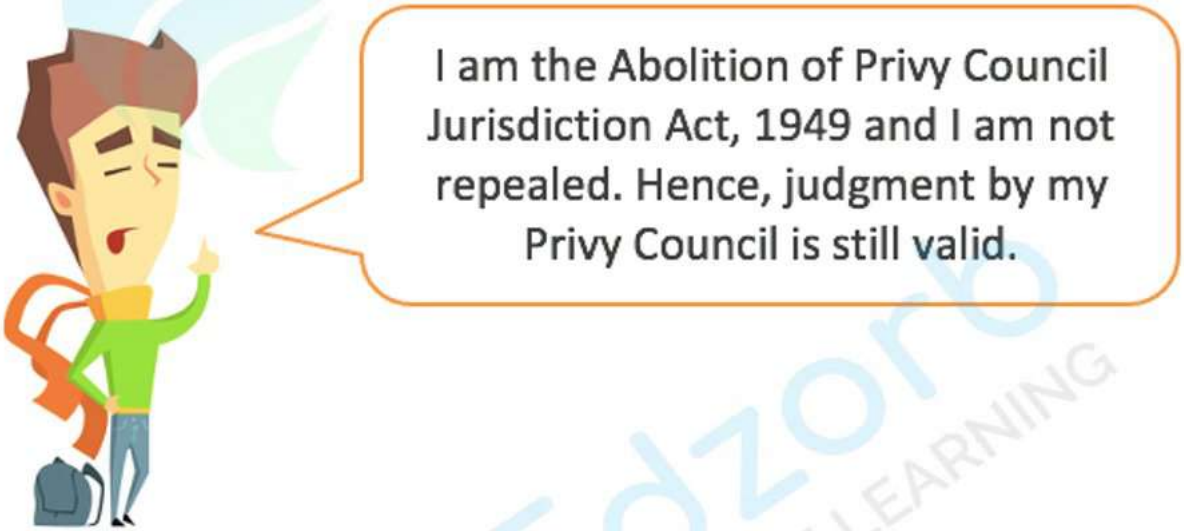
c Article 396

d Article 392

Explanation

B

Article 395: Repeal: The following acts stands repealed:



Reference: The Constitutional Law of India

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96. Who was the Chairman of the of the Commission on review of the Indian Constitution?

a) Justice Venkatachliah

b) Justice Hidayatullah

c) Justice A. M. Ahmadi

d) Justice K.G. Balakrishnan

Ans: A

Source: Edzorb Law QBank- Constitutional Law- Unit I – Q 12

12.

MCQ, Single Correct Question

Who was the Chairman of review commission of the Indian Constitution?

a Justice Hidayataullah

b Justice Ramaiah

c Justice Bhagwati

d Justice Venkatachaliah

Explanation

D

The National Commission to review the working of the Constitution (NCRWC)

- Set up by NDA
- To suggest possible amendments
- Submitted report in 2002
- Report in 3 volumes
- Recommendations not accepted

Composition of the committee:

The 11-member commission was headed by Retired Chief Justice of India Justice M.N. Venkatachaliah.

Reference: The Constitutional Law of India

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97. Which one of the following writs is also known as 'judicial remedy'?

a) Habeas corpus

b) Mandamus

c) Quo warranto

d) Certiorari

Ans: B

Source: Edzorb Law QBank- Constitutional Law- Unit IV – Q 15

15.

MCQ, Single Correct Question

Mandamus

a) is issued to check the performance of duties of a public nature

b) is issued to impede the performance of duties of a private nature

c) is issued to compel the performance of duties of a public nature

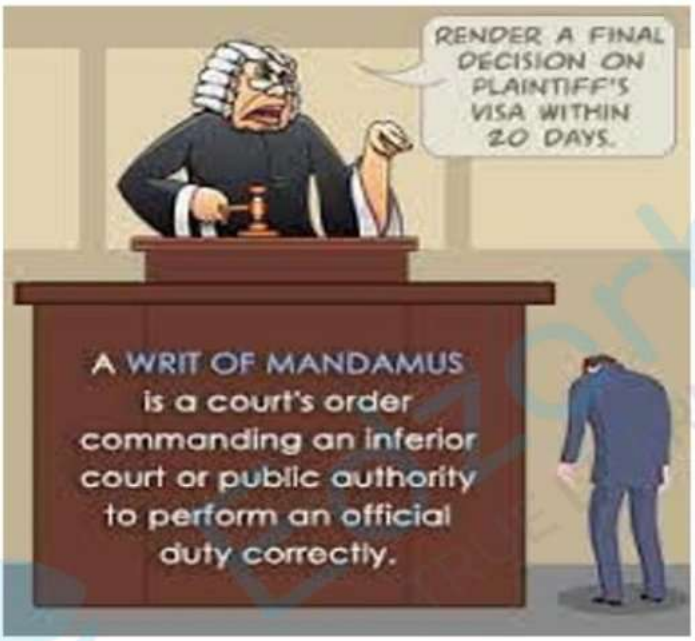
d) None of the above

Explanation

(C)

Writ of Mandamus:

- The word **'mandamus'** means **"we command"**.
- **Black's law Dictionary**- A writ of mandamus is a judicial remedy which is issued by a court to compel performance of a particular act by lower court or a governmental officer or body, to correct prior action or failure of act.



When the writ of mandamus lies:

- The applicant must have a legal right to the performance of a legal duty. It will not issue where to do or not to do an act is left to the discretion of the authority.
- The legal duty must be of a public nature.
- The right sought to be enforced must be subsisting on the date of the petition.

Against whom the writ applies:

The writ applies only when the right is against public authority.

Against whom writ does not apply:

- The President and the Governor of a State in their personal capacities.
- The members of Parliament or State Legislature.
- Company which is not public in nature.
- When the legal right arises out of breach of contract.

Reference: The Constitutional Law of India by M.P. Jain; 6th Ed, 2012; Page No: 1428.

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98. Every proclamation issued under Article 352 shall be

a) laid before each House of the Parliament

b) laid before the Lok Sabha

c) decided by the Prime Minister and conveyed to the President

d) None of the above

Ans: A

Source: Edzorb Law QBank-Constitution – Unit XVI – Q 25

25.

MCQ, Single Correct Question

For negating the mandate of which Constitutional provision, the Supreme C
Act, 1983 as unconstitutional ?

a Article 249

b Article 355

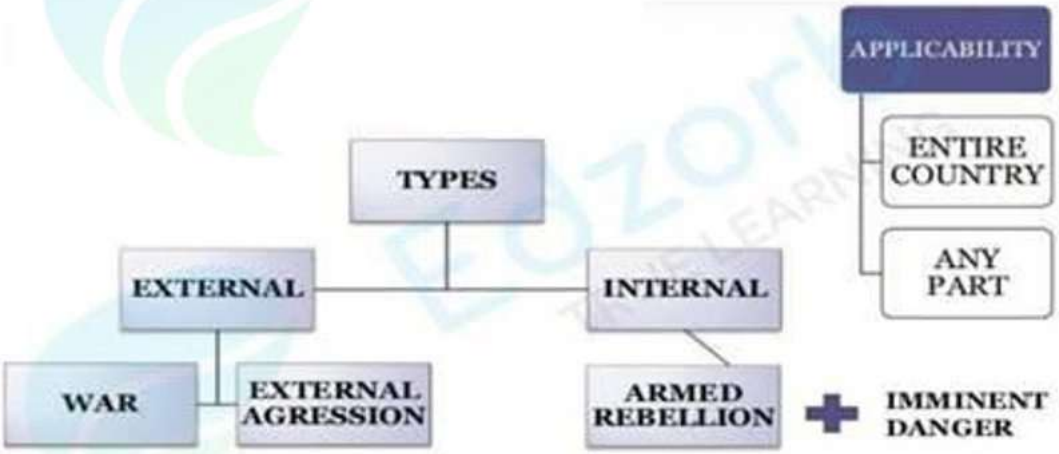
c Article 11

d Article 359

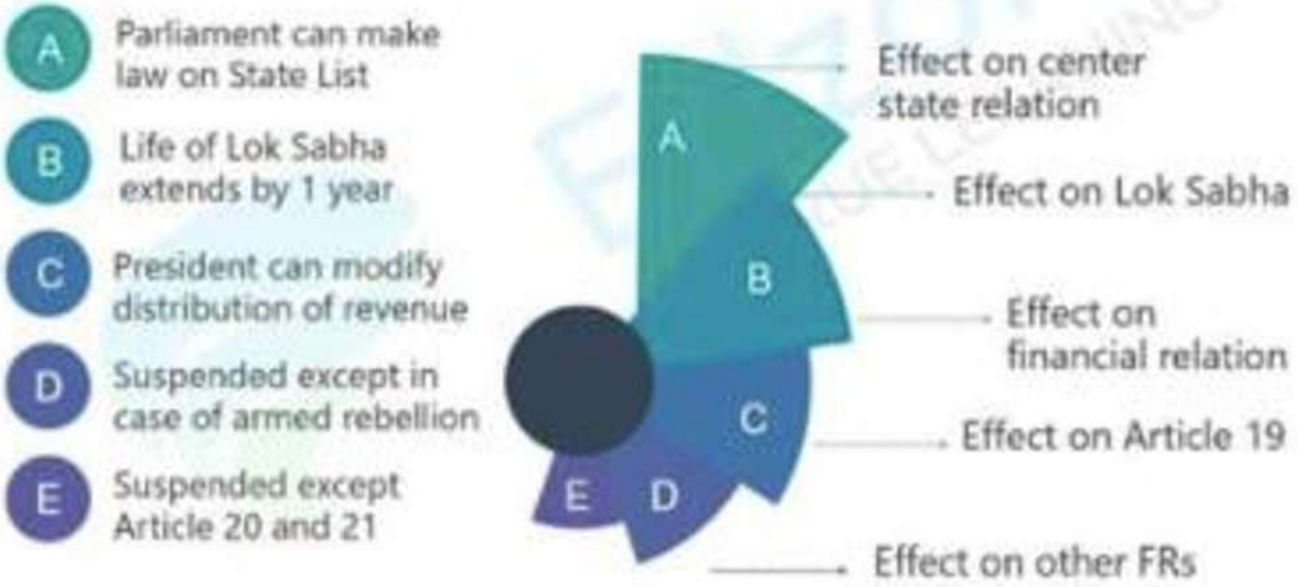
Explanation

B

National Emergency: (Article 352)



Effect of National Emergency:



Article 352(4)

- Proclamation issued → Laid before **each House of Parliament**.

- It shall cease to operate after one month.
- **Continue after one month when approved** both Houses of Parliament Provided.

Role of 44th Amendment

- It laid out that **Article 19** can only be suspended when the National Emergency is laid on the grounds of war or external aggression and not in the case of armed rebellion.
- The President cannot suspend the right to move the court for the enforcement of Fundamental Rights guaranteed by **Article 20 and 21**.

Reference: The Constitutional Law of India by M.P. Jain; 6th Ed, 2012; Page No: 738.

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99. The Finance Commission consists of

a) five members

b) four whole-time members

c) a Chairman and four members

d) a Chairman and three other members

Ans: C

Source : Edzorb Law QBank- Constitutional Law- Unit XV- Q 29

29.

MCQ, Single Correct Question

Provision regarding Finance Commission

a Article 280

b Article 276

c Article 268

d Article 257

Explanation

A

Finance Commission of India (Article 280):

Who constitutes	President of India
Term	Constituted every 5 years
Composition	Chairman and 4 other members
Qualification	To be qualified as High Court judges, or Be knowledgeable in finance or Be experienced in financial matters.
Recommendations to Presidents	• Distribution of net tax proceeds. • Grants-in-aid to the states by the Centre out of the consolidated fund. • The steps required to extend the consolidated fund of a state. • Any other matter referred to it by the president.
	• Evaluates the rise in the Consolidated Fund of a state in order to affix the resources of the state Panchayats and Municipalities. The FC has sufficient powers to exercise its functions within its activity domain.
Role	Advisory in nature

FINANCE COMMISSION SUBMITS REPORT TO THE PRESIDENT

Ahead of Budget

- **FinMin will now use the report** to prepare FY21 Budget
- **Interim report likely to be made public** around Budget day
- **Officials say status quo maintained,** giving 15th FC more time
- **15th FC will draft final report** in the backdrop of economic slowdown

President Ram Nath Kovind recieves the report for FY21 submitted by Chairman of the 15th Finance Commission N K Singh PHOTO: PTI

https://www.thehindu.com/business/Economy/15th-finance-commission-finalises-report-to-submit-it-to-president-on-nov-9/article32983334.ece

Reference: The Constitutional Law of India

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100.The composition of the UPSC

a) has been laid down in the Constitution

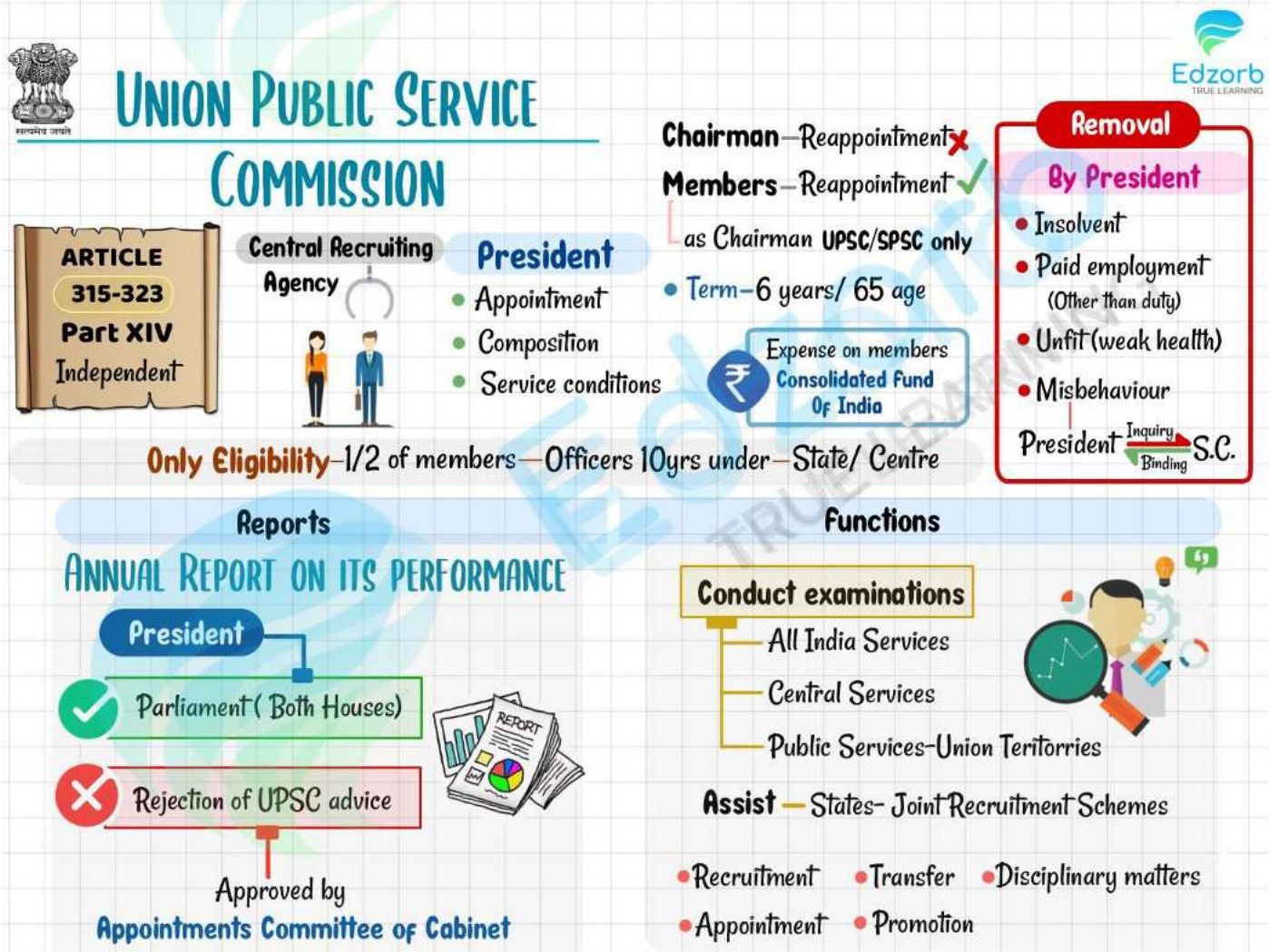
b) is determined by the Parliament

c) is determined by the President

d) is determined by the Home Minister

Ans: C

Source: Edzorb Law Premium Treasures - Constitution – Parliament – UPSC Composition



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101. Article 340 of the Indian Constitution deals with the

a) Backward Classes Commission

b) Election Commission

c) UPSC

d) Finance Commission

Ans: A

Source: Edzorb Law QBank- Constitutional Law- Unit VI- Q 33

33.

MCQ, Single Correct Question

After which one of the following Supreme Court decisions was the special provision for socially and educationally backward classes introduced by an amendment to the

a Balaji v. State of Mysore

b State of Madras v. Champakam Doirajan

c Deodasan v. UOI

d Periakarupan v. State of Tamil Nadu.

Explanation

B

State of Madras Vs Champakam Dorairajan

AIR 1951 SC 226

With regard to admission of students to the Engineering and Medical Colleges of the State, the Province of Madras had issued an order which, **fixed number of seats for particular communities**.

Held - The communal Government Order constituted a **violation of the fundamental right guaranteed** to the citizens of India by **Article 29(2)** of the Constitution of India and was therefore **void** under **Article 13.**

The **directive principles of State Policy** laid down in **Part IV** of the Constitution **cannot** in any way override or abridge the **fundamental rights** guaranteed by **Part III**, rather, they have to conform to and run as subsidiary to the fundamental rights laid down **in Part III**.

The term 'backward classes' is not described in the Constitution. It is up to the centre and the states to postulate the classes that belong to this group. However, it is understood that classes that are **not represented adequately in the services of the** state can be termed, backward classes.

Articles	Provisions
Article 15	**Prohibition** of **discrimination** on grounds of religion, race, caste, sex or place of birth.
Article 15 (4)	State shall **not** be prevented from making any provisions for the **advancement of any socially and economically backward classes** of citizens or for Scheduled Castes and Scheduled Tribes.
Article 15 (5)	This clause was added in **93rd** amendment in 2005 and allows the state to make **special provisions for backward classes or SCs or STs** for **admissions** in **private educational** institutions, aided or unaided.
Article 16	Equality of opportunity in matters of **public employment.**
Article 16(4)	This clause allows the state to **reserve vacancies in public service for any backward classes** of the state that are not adequately represented in the public services.

Article 16(4A)	This allows the state to implement **reservation in the matter of promotion** for SCs and STs.
Article 16(4B)	This allows the state to consider **unfilled vacancies reserved for backward classes** as a separate class of vacancies not subject to a limit of **50% reservation**.
Article 340	President can constitute a **commission to investigate the condition of socially and educationally backward classes** and specify them.

Food for Thought!

Is India truly secular if there is reservation?

Reservation isn't a fundamental right: Supreme Court - https://economictimes.indiatimes.com/news/politics-and-nation/reservation-isnt-a-fundamental-right-supreme-court/articleshow/76332024.cms

102.According to which Article of the Constitution of India, the term District Judge' shall not include the Tribunal Judge?

a) Article 235

b) Article 235(a)

c) Article 236(a)

d) Article 236(b)

Ans: C

Source: Edzorb Law QBank- Constitutional Law- Unit XI- Q 35

Disclaimer: All attempts have been made to ensure accuracy and reliability of all information provided, However, this in no way provides final guarantee on the acceptability of the answers published by the examination authorities and must not be considered the absolute right.

35.

MCQ, Single Correct Question

Which of the following is include in the definition of District Judge:

a Assistant District Judge

b Session Judge

c Presidency of tribunal court

d Judge of small cause court

Explanation

C

District Judge is a judicial officer appointed by High court in consultation with the state government that works regularly on that post.

Article 236 (a): The term "District Judge" includes:

Tribunals:

- The tribunals are created by the statute and for a special purpose to deal with a particular type of judges, the constitution of the tribunal, nature, extent, and scope is determined by the legislature; and
- hence the **presiding officer of the tribunal is not included within the meaning of sessions judge.**

Reference: The Constitutional Law of India by M.P. Jain, 6th Edn., 2012, Page no. 483

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103.Mainly on whose advice, the President's Rule is imposed in a State.

a) The Chief Minister
b) The Governor
c) The Union Cabinet
d) On his own motion

Ans: B

Source: Edzorb Law QBank- Constitutional Law- Unit IV- Q 17

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EMERGENCY PROVISIONS

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Part XVIII Articles 352 to 360

✓ Enable the Central government to meet any abnormal situation effectively.

- Central government becomes all powerful
- States go into the total control of the Centre.
- Converts federal structure into a unitary one

without a formal amendment

3 Types of emergencies:

National Emergency

Article 352

Emergency due to war, external aggression or armed rebellion

President's Rule

Article 356

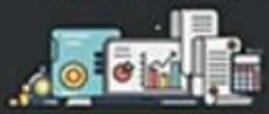
State Emergency' or 'constitutional Emergency'.

Failure of the constitutional machinery in the states

Financial Emergency

Article 360

Threat to the financial stability or credit of India



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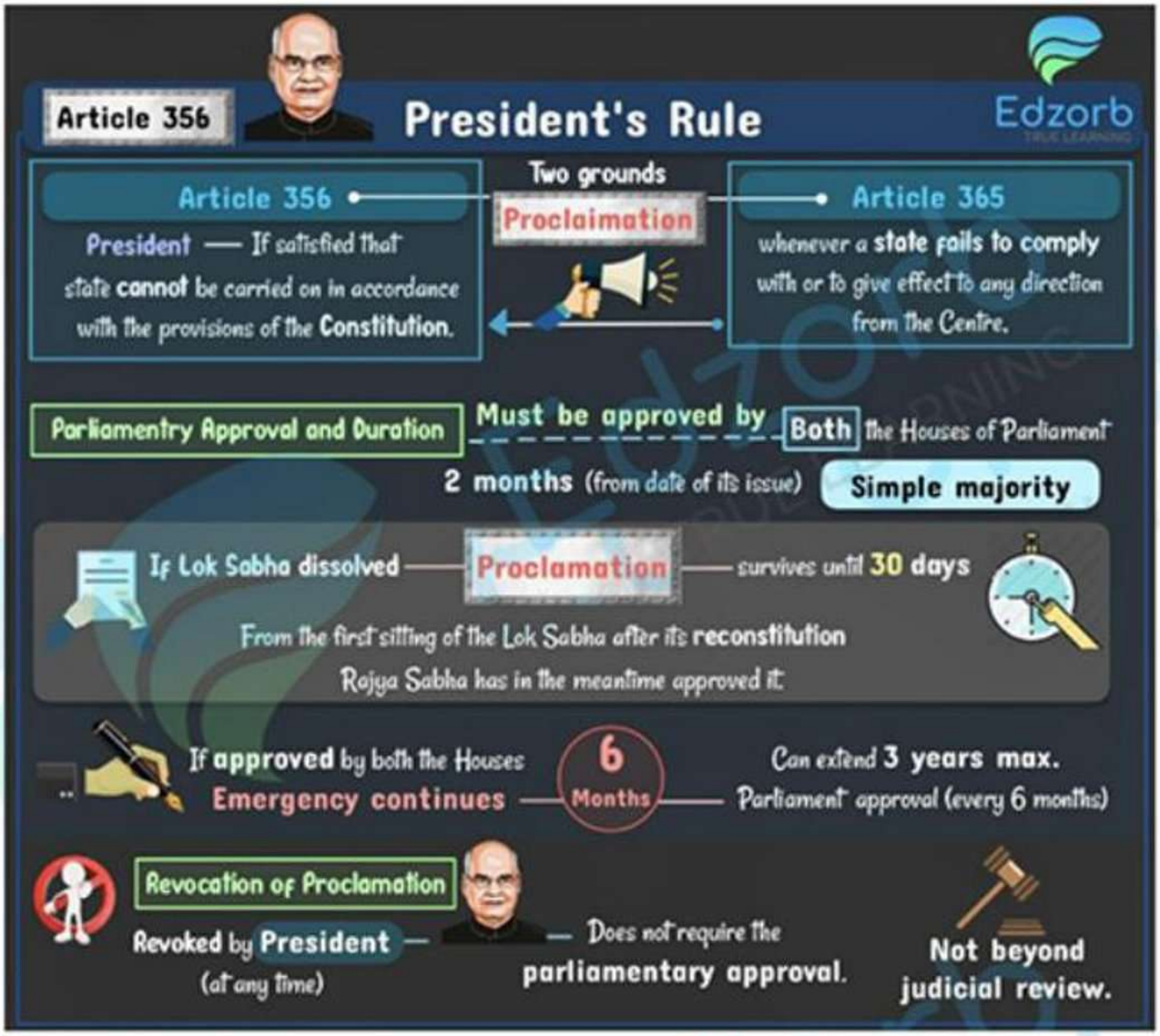
Article 356
President's Rule
Edzorb
Two grounds
Proclaimation
Article 356
President — If satisfied that state cannot be carried on in accordance with the provisions of the Constitution.
Article 365
whenever a state fails to comply with or to give effect to any direction from the Centre.
Parliamentry Approval and Duration
Must be approved by Both the Houses of Parliament
2 months (from date of its issue)
Simple majority
If Lok Sabha dissolved — Proclamation — survives until 30 days
From the first sitting of the Lok Sabha after its reconstitution
Rajya Sabha has in the meantime approved it
If approved by both the Houses
Emergency continues
6 Months
Can extend 3 years max.
Parliament approval (every 6 months)
Revocation of Proclamation
Revoked by President
(at any time)
Does not require the parliamentary approval.
Not beyond judicial review.

44th Amendment Act of 1978

President's Rule can be extended by 6 months at a time only when:

Proclamation of **National Emergency** should be in operation (whole of India / whole or any part of state)

Election Commission must certify : general elections to the legislative assembly state cannot be held.

Consequences of President s Rule

- can **take up** the functions of the **State government**
- can declare that the **powers** of the state legislature are to be exercised by the **Parliament.**
- take necessary steps -**suspension** of the constitutional provisions (body /authority in the state)

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104.In which Article, the doctrine of 'Due Process of Law' is included?

a) Article 13

b) Article 14

c) Article 21

d) Article 256

Ans: C

Source: Edzorb Law QBank- Constitutional Law- Unit VII- Q 28

28.

MCQ, Single Correct Question

Procedure established by law is included in

a Article 20

b Article 21

c Article 18

d Article 19

Explanation

B

Article 21 of the Indian Constitution:

No person shall be deprived of his life or personal liberty except according to procedure established by law.

Due Process of Law Vs Procedure Established by law:

Due Process of Law	Procedure Established by Law
• Due process of law checks whether any law in question is fair and not arbitrary.	• It means that a law that is duly enacted by the legislature or the body in question is valid if the procedure to establish it has been correctly followed.

Procedure Established by Law and due process of law same:

Maneka Gandhi Vs Union of India
AIR 1978 SC 597

- 'Procedure established by law' within the meaning of article 21 must be 'right and just and fair' and 'not arbitrary, fanciful or oppressive' otherwise, it would be no procedure at all and the requirement of Article 21 would not be satisfied.
- Here, the procedure established must have same meaning as due process of law.

Reference: The Constitutional Law of India by M.P. Jain, 6th Edn., 2012, Page no. 1178

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Part 11 / 16

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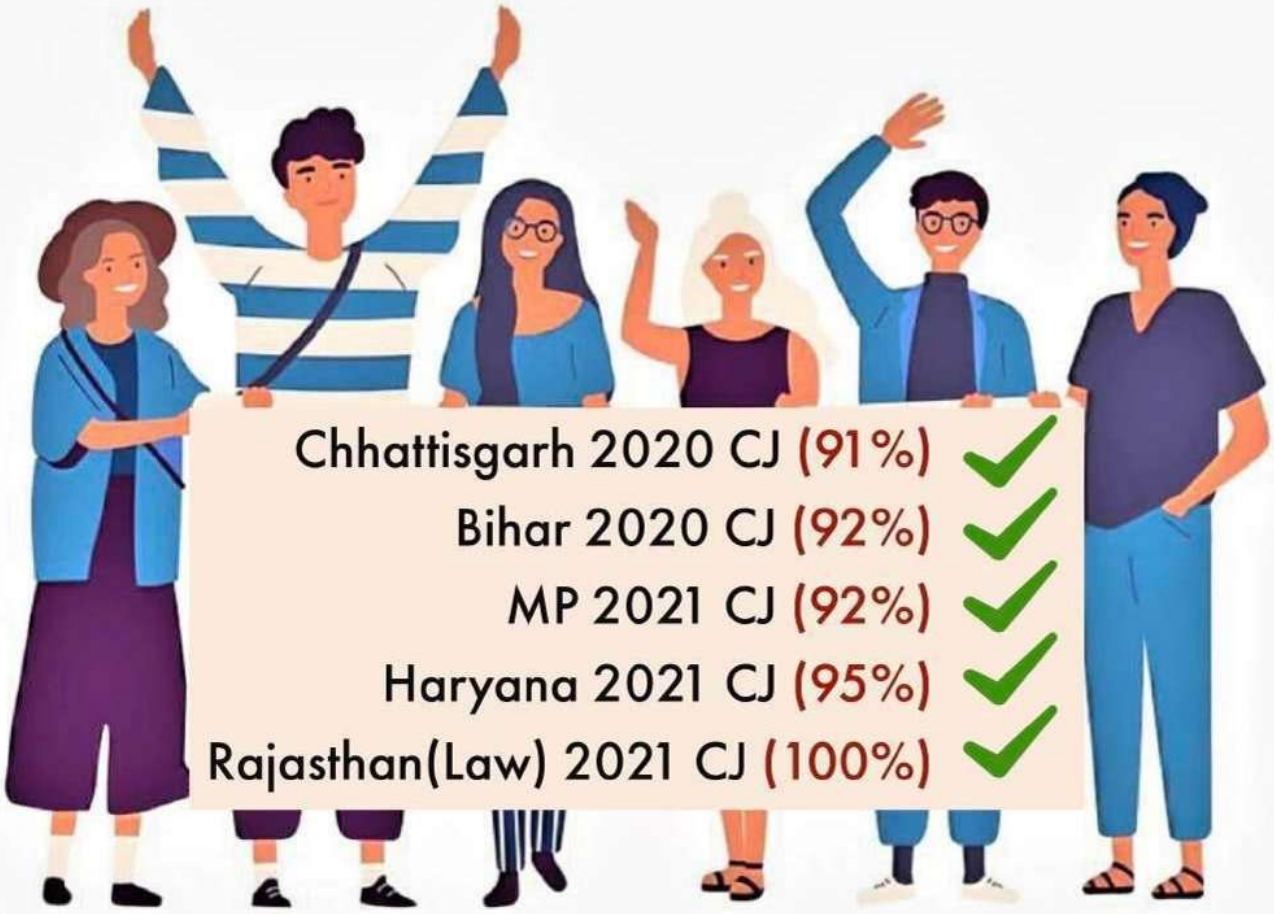

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Section - 11
Administrative Law

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105.The doctrine of Separation of Powers' was systematically formulated by

a) Plato
b) Montesquieu
c) Dicey
d) Aristotle

Ans: B

Source: Edzorb Law QBank- Administrative Law- Unit I- Q 15

15.

MCQ, Single Correct Question

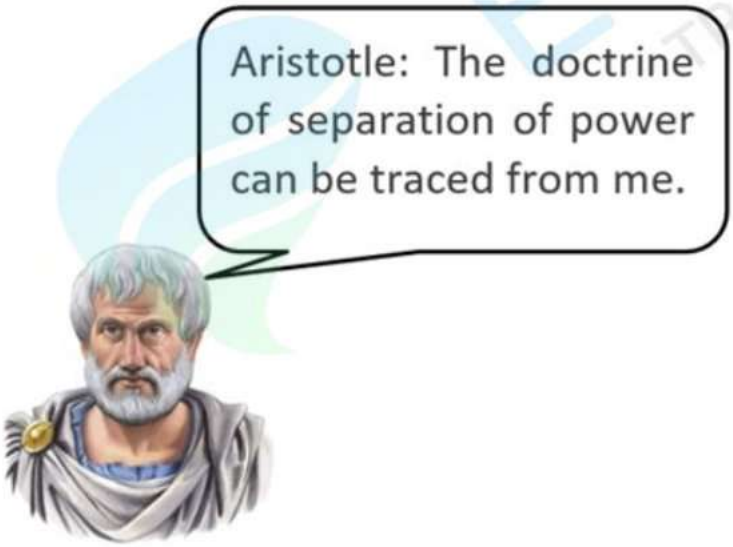
The doctrine of separation of power was formulated by

a Aristotle
b Dicey
c Montesquieu
d Plato

Explanation

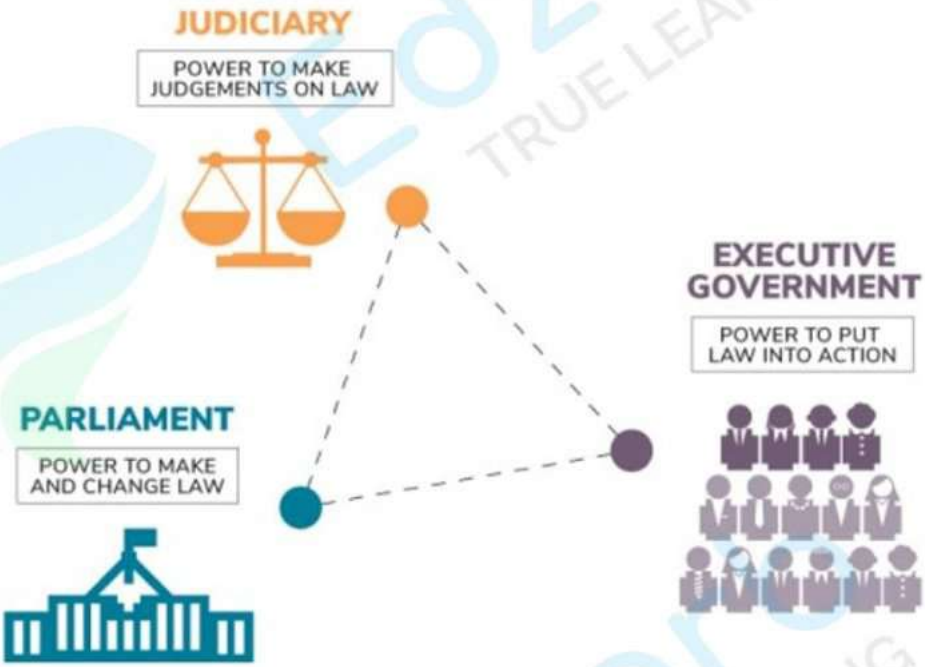
C

Separation of Powers:



Montesquieu: I am French Jurist and I formulated it for the first time.

In India, we have three organs to function properly as below



Separation of power means all the three organs should not interfere in the working of each other.

Reference: Administrative Law by I.P. Massey; 9th Edn., 2017, Page no. 42

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106.The 'Rule of Law' means

1. supremacy of the judiciary

2. supremacy of the law

3. equality before the law

4. supremacy of the Parliament

Select the correct answer using the codes given below.

a) 1 and 3
b) 3 and 4
c) 2 and 4
d) 2 and 3

Ans: D

Source: Edzorb Law QBank - Administrative Law- Unit II- Q 4

4.

MCQ, Single Correct Question

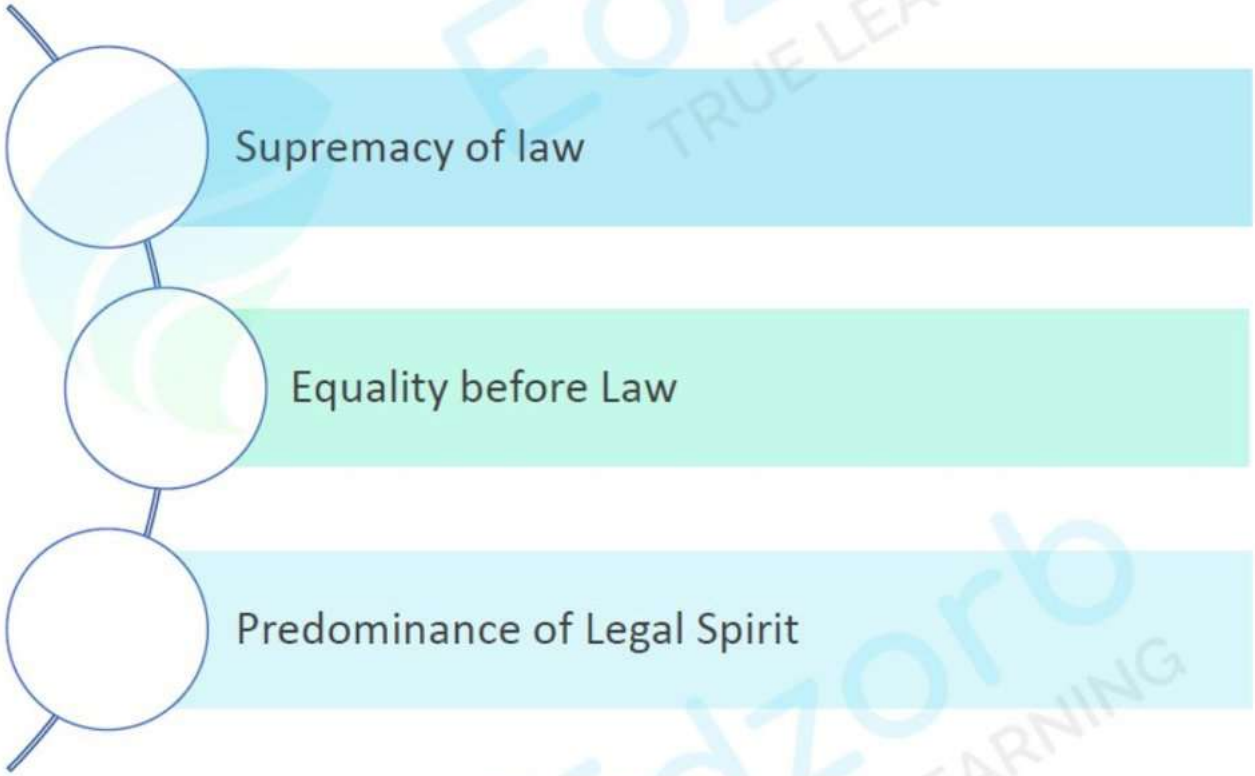
According to A.V. Dicey's formulation of Rule of Law, it denotes __

a two meanings
b five meanings
c three meanings
d single meaning

Explanation

(C)

According to Prof. Dicey, rule of law has three means or we can say three principles which are must be followed so that there will be supremacy of rule of law. The three principles are:



Supremacy of Law : According to the first principle, A. V Dicey states that rule of law means there should be lacking of arbitrariness or wide discretionary power.

The rule of law requires both citizens and governments to be subject to known and standing laws.

Equality before Law : The attribute of "Rule of Law" Dicey stated was "**equality before the law** and equal subjection of all classes to the ordinary law of the land administered by the ordinary law courts." The government, irrespective of rank, shall be subject to the same law and courts.

Predominance of Legal Spirit: Dicey states that many constitutions of the states guarantee their citizens certain rights such as right to personal liberty, freedom from arrest etc. According to him documentary guarantee of such rights is not enough.

Reference: Administrative Law by I.P. Massey; 9th Ed., 2017, Page No. 73

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107.Match List-I with List-II and select the correct answer using the codes given below:

List—I	List—II
a. Abuse of Discretion	1. Rule of Law
b. Equality before Law	2. Lack of Power
c. Delegated Legislation	3. Check and Balance
d. Separation of Powers	4. Subordinate

Codes:

a)	a	b	c	d
	2	1	4	3
b)	a	b	c	d
	1	2	4	3
c)	a	b	c	d
	4	3	2	1
d)	a	b	c	d
	3	4	1	2

Ans: A

Source: Edzorb Law QBank- Administrative Law- Unit II- Q 31

31.

MCQ, Single Correct Question

Match the following List I with List II:

a. Abuse of Discretion	1. Rule of Law
b. Equality before Law	2. Lack of Power
c. Delegated Legislation	3. Check and balance
d. Separation of Powers	4. Subordinate Legislation

Codes:

a abcd
2143

b abcd
1234

c abcd
4321

d abcd
3412

Explanation

A

Abuse of Discretion	Lack of Power
Equality before Law	Rule of Law
Delegated Legislation	Subordinate Legislation
Separation of Powers	Check and Balance

Reference: Administrative Law by I.P. Massey; 9th Edn., 2017

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108. Which one of the following statements is true?

a) Delegated legislation cannot have retrospective effect.

b) Delegated legislation can have retrospective effect if authorized by Act or Statute.

c) Delegated legislation can have retrospective effect if not authorized by Act or Statute but have reasonable and rational justification.

d) None of the above

Ans: B

Source: Edzorb Law QBank- Administrative Law- Unit I- Q 16

16.

MCQ, Single Correct Question

Whether delegated legislation can have retrospective effect?

a Yes

b No

c Yes, if authorized by act or statute

d None of the above

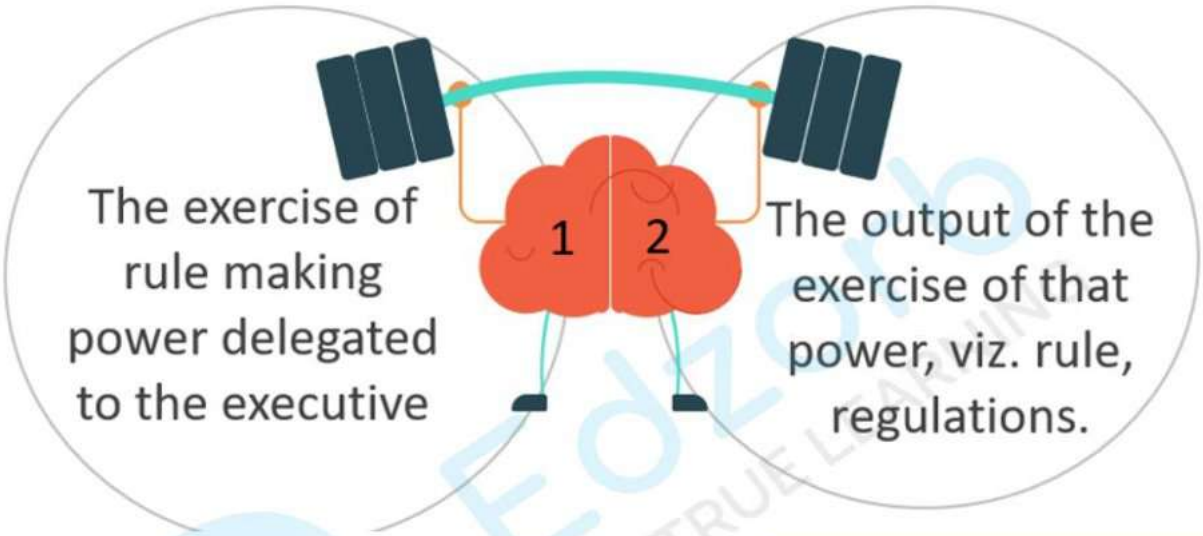
Explanation

C

There can be no law without a legislative act.

- Austin

'Delegate legislation' is used in two senses.



In simple words, **delegated legislation** refers to **all law making by the authorities other than the legislature** and is generally expressed as statutory rules and orders, regulations, by-laws, scheme directions or notifications etc.

Legislature to Executive

Delegated Legislation can have retrospective effect

Union of India & Ors. Vs M/s G S Chatha Rice Mills & Anr.

23/09/2020

- Subordinate legislation is not retrospective unless the statute under which it has been framed, expressly or by necessary implication, imports retrospectivity.
- Subordinate legislation cannot always be equated as an 'Act of legislature' for the interpretation of 'Central Act' as defined by the General Clauses Act.

Reference: Administrative Law by I.P. Massey; 9th Edn., 2017, Page no. 24

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110. "Administrative Law is the law concerning the powers and procedures of administrative agencies, including especially the law governing judicial review of administrative action." This definition of Administrative Law is given by

a) Ivor Jennings
b) Garner
c) K. C. Davis
d) Wade

Ans: C

Source: Edzorb Law QBank - Administrative Law- Unit I- Q 1

1.

MCQ, Single Correct Question

"Administrative law is a study of pathology of power in a developing society. Accountability of the holders of public power for the ruled is the focal point of this formulation."
Who among the following jurists has given this definition?

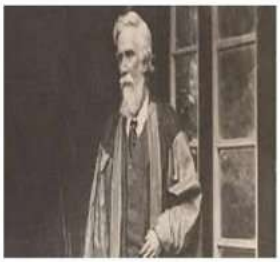
a) A. V. Dicey
b) Davis
c) Sir William Ivor Jennings
d) Prof. Upendra Baxi

Explanation

(D)

Prof. Upendra Baxi- Administrative law is a study of **pathology of power** in a developing society. Accountability of the holders of public power for the ruled is the focal point of this formulation.

A.V. Dicey- Administrative Law is that portion of a nation's legal system which determines the legal status and liabilities of all state officials and defines the **rights and liabilities of private individuals in their dealing with public officials.**



K.V. Davis- Administrative law as the law concerning **the powers and procedures of administrative agencies**, including especially the law governing judicial review of administrative action.

Sir William Ivon Jennings- Administrative Law as the law relating to administration. It determines the **organisation, powers and duties of administrative authorities**.

Reference: Administrative Law by I.P. Massey; 9th Ed., 2017, Page No. 1

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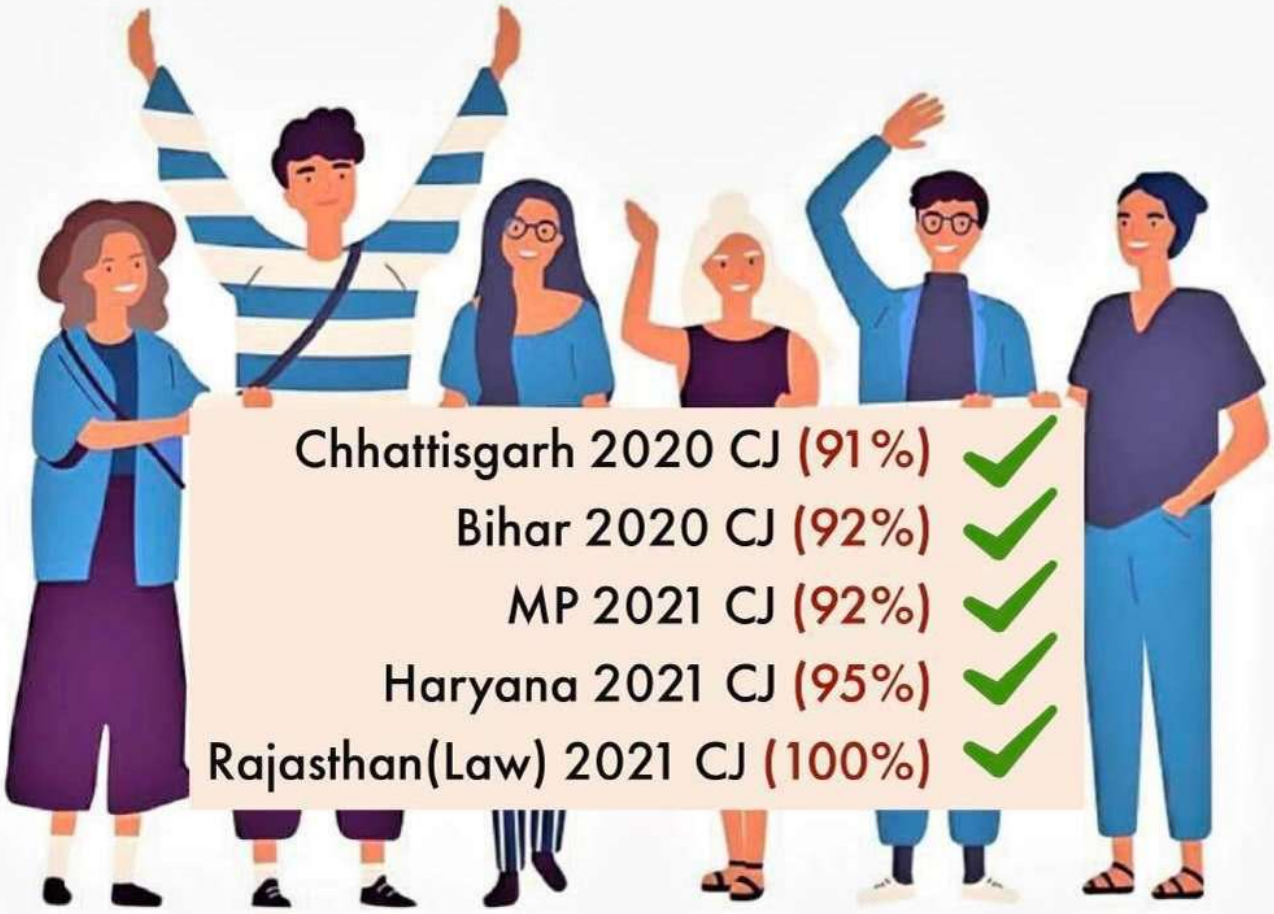

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Section - 12
Personal Laws

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111.The author of Dayabhaga was

a) Vijnaneshwara

b) Jimutavahana

c) Vashishtha

d) Narada

Ans: B

Source: Edzorb Law QBank- Personal Law- Hindu Law- Unit III- Q 19

19.

MCQ, Single Correct Question

Dayabhaga is prominent in which area

a Bengal

b Maharashtra

c Punjab

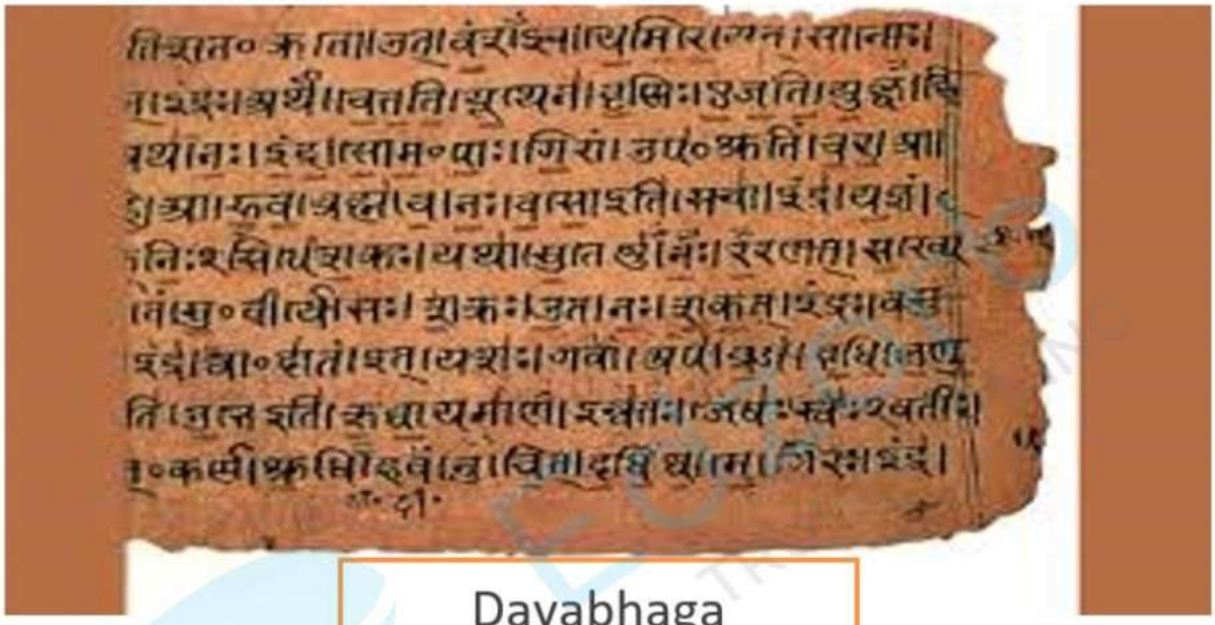
d Himachal Pradesh

Explanation

A

Dayabhaga:

- The Dāyabhāga is a Hindu law treatise written by **Jīmūtavāhana** which primarily focuses on inheritance procedure.
- It was the **strongest authority in Modern British Indian courts in the Bengal region** of India.
- Based on Jīmūtavāhana's criticisms of the Mitākṣarā, it is thought that his work is precluded by the Mitākṣarā.



Dayabhaga

Did you Know?

The Mitakshara prevails all over India except in Bengal and Assam where the Dayabhaga prevails. The Mitakshara is a commentary on only one Smriti called Yajnavalkya Smriti, whereas Dayabhaga is a digest of all the Smritis.

Reference: Hindu Law by B.M. Gandhi, 4th Edn., 2016, Page No. 475

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112.Under which Section of the Hindu Marriage Act, 1955, a Hindu marriage may be declared as void?

a) Section 9

b) Section 10

c) Section 11

d) Section 12

Ans: C

Source: Edzorb Law QBank - Personal Law- Hindu Law- Unit I- Q 56

56.

MCQ, Single Correct Question

A marriage under the Hindu Marriage Act, 1955 between two persons within prohibited degrees of relationship is

a valid

b void

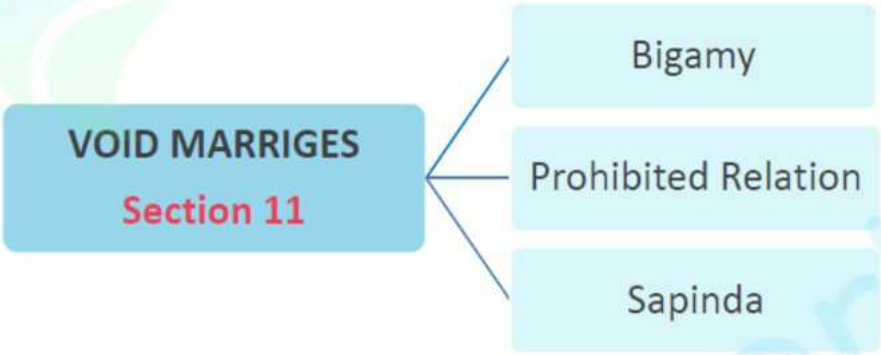
c voidable

d void unless the custom permits.

Explanation

(D)

VOID MARRIAGE	VOIDABLE MARRIAGE
Section 11: A void marriage is the one which is considered as no marriage in the eyes of the court.	**Section 12**: A voidable marriage is the one which can be declared invalid on petition by either party to such marriage.



Reference: Modern Hindu Law by Dr. Paras Diwan, 22nd Edn., 2013, Page No. 120.

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113.Section 16 of the Hindu 'Marriage Act, 1955 does not confer status of legitimacy to children born

a) out of a valid marriage
b) out of a voidable marriage
c) out of a void marriage
d) Without marriage

Ans: D

Source: Edzorb Law QBank - Personal Law- Hindu Law Unit I- Q 15

15.

MCQ, Single Correct Question

Under the Hindu law, in relation to illegitimate children

a A court declaration is necessary to confer a status of legitimacy
b A court declaration is not necessary to confer a status of legitimacy
c Such a child becomes legitimate after reaching the age of 18 years
d Such a child cannot become legitimate

Explanation

(B)

Section 16 of HMA, 1955: **Legitimacy** of **children** of **void** and **voidable marriages**.

VOID MARRIAGES:

- Any child of such marriage who would have been legitimate if the marriage had been valid, shall be legitimate, and
- Whether or not a decree of nullity is granted in respect of that marriage.
- Whether or not the marriage is held to be void otherwise than on a petition.

VOIDABLE MARRIAGES:

- Where a decree of nullity is granted in respect of a voidable marriage under **Section 12**,
- Any child begotten or conceived before the decree is made, who would have been the legitimate child of the parties to the marriage
- If at the date of the decree it had been dissolved instead of being annulled, shall be deemed to be their legitimate child notwithstanding the decree of nullity.

OTHER:

- Any child of a marriage which is null and void or
- Which is annulled by a decree of nullity under **Section 12**,
- Any rights in or to the property of any person, other than the parents, in any case where, but for the passing of this Act,
- Such child would have been incapable of possessing or acquiring any such rights by reason of his not being the legitimate child of his parents.

Reference: Modern Hindu Law by Dr. Paras Diwan, 22nd Edn., 2013, Page No. 94-111.

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114.Under the Hindu Adoption and Maintenance Act, 1956, a child to be adopted should not have, in the absence of a valid custom, completed the age of

a) 8 years

b) 10 years

c) 12 years

d) 15 years

Ans: D

Source: Edzorb Law QBank- Personal Law- Hindu Law- Unit II- Q 11

11.

MCQ, Single Correct Question

Which section deals with "Persons who may be adopted".

a Section 11

b Section 10

c Section 8

d Section 9

Explanation

B

Person who may be adopted (Section 10):

Child must be hindu.

Child should not be already adopted.

Person should not be married, except if custom allows.

Person should not be above 15 years, except custom allows.

Reference: Hindu Law by B.M. Gandhi, 4th Edn., 2016, Page No. 475

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115. After the Hindu Succession (Amendment) Act, 2005, the Mitakshara Hindu coparcenary **does not** include whom as its member?

a) Son
b) Married daughter
c) Adopted son
d) Daughter-in-law

Ans: D

Source: Edzorb Law QBank- Personal Law- Hindu Law- Unit III- Q 10

10.

MCQ, Single Correct Question

Mark the incorrect statement with respect to Hindu Succession (Amendment) Act, 2005

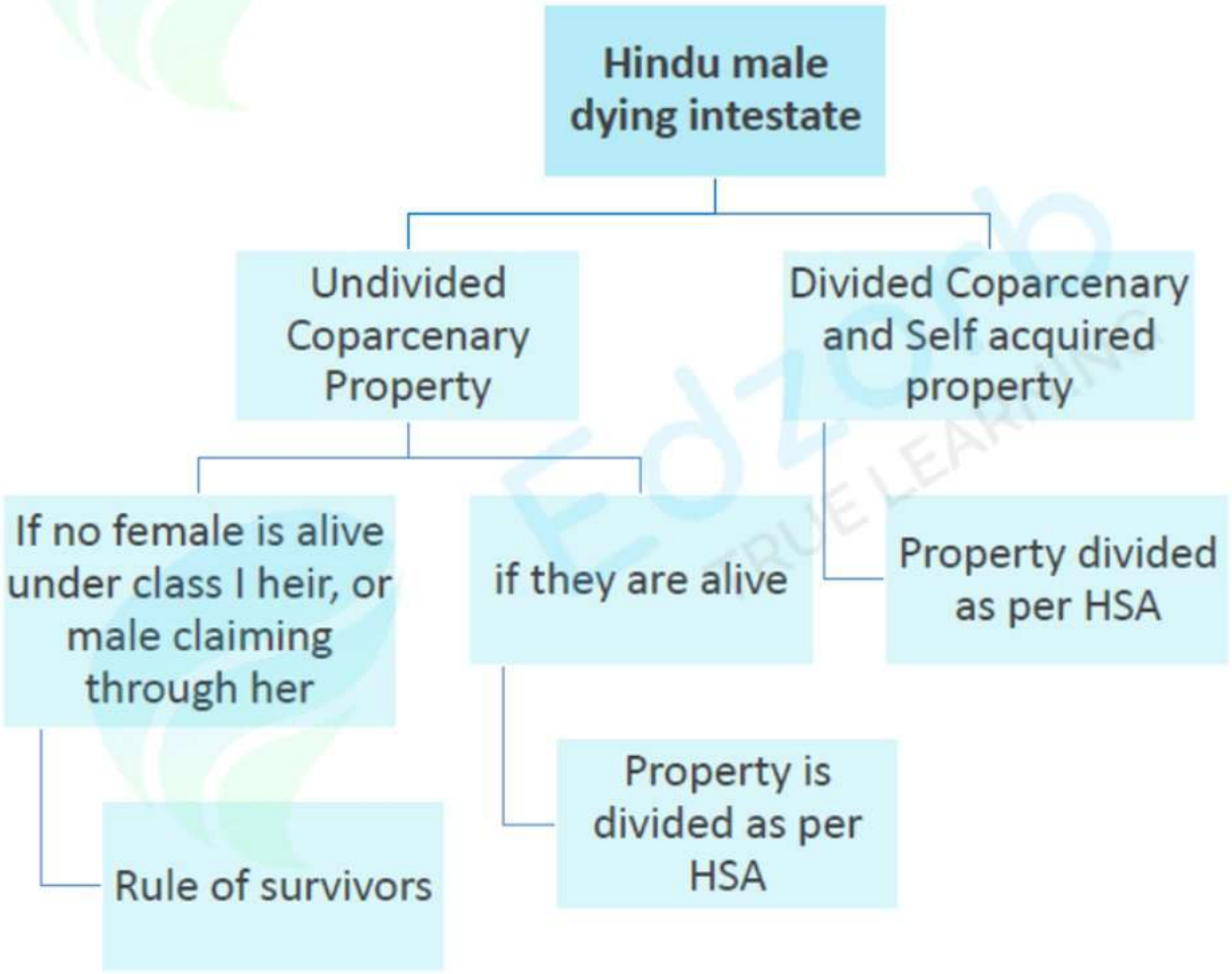
a) by this amendment right by birth in the coparcenary property has been conferred in favor of daughters
b) the doctrine of survivorship in case of male coparceners has been abolished
c) the pious obligation of a son to pay the debts of his father, grand father or great grand father has been abolished
d) none of the above.

Explanation

(D)

The **position of woman** for inheriting the property can be divided under three eras:

- **Under Old Hindu Law i.e. before 1956 Act**: The daughters were excluded from inheriting the property of their fathers. The coparcenary properties go to coparcener which consist of **male lineage up to 4 generations.**
- **After HSA, 1956 till Amendment Act, 2005**: The changes brought by **Section 6**: Daughters were not made coparceners but,


Hindu male dying intestate
Undivided Coparcenary Property
Divided Coparcenary and Self acquired property
If no female is alive under class I heir, or male claiming through her
if they are alive
Property divided as per HSA
Rule of survivors
Property is divided as per HSA

- **After 2005 Amendment Act:**
  - The daughters, whether married or unmarried, acquired same rights in the property as sons.
  - **The rule of survivorship was abolished.**
  - They acquire equal rights in coparcenary property as that of son, they can also demand partition.
  - They became coparceners in the same capacity as that of sons.
  - **Pious obligation of a son to pay debts of his father, grandfather and great grand grand-father has been abolished.**

Food for Thought!

Do you think the position of woman is at par with man and are given equal rights? The law has been amended but whether the ground reality has changed?

Reference: Hindu Law by B.M. Gandhi, 4th Edn., 2016, Page No. 406

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116.A Hindu male is survived by an adopted son, an after-born natural "son and his married daughter. His self-acquired property shall devolve upon

a) all the three equally
b) only to the two sons
c) only to the natural son and to the daughter
d) only to the natural son

Ans: A

Source: Edzorb Law QBank- Personal Law- Hindu Law- Unit III- Q 10

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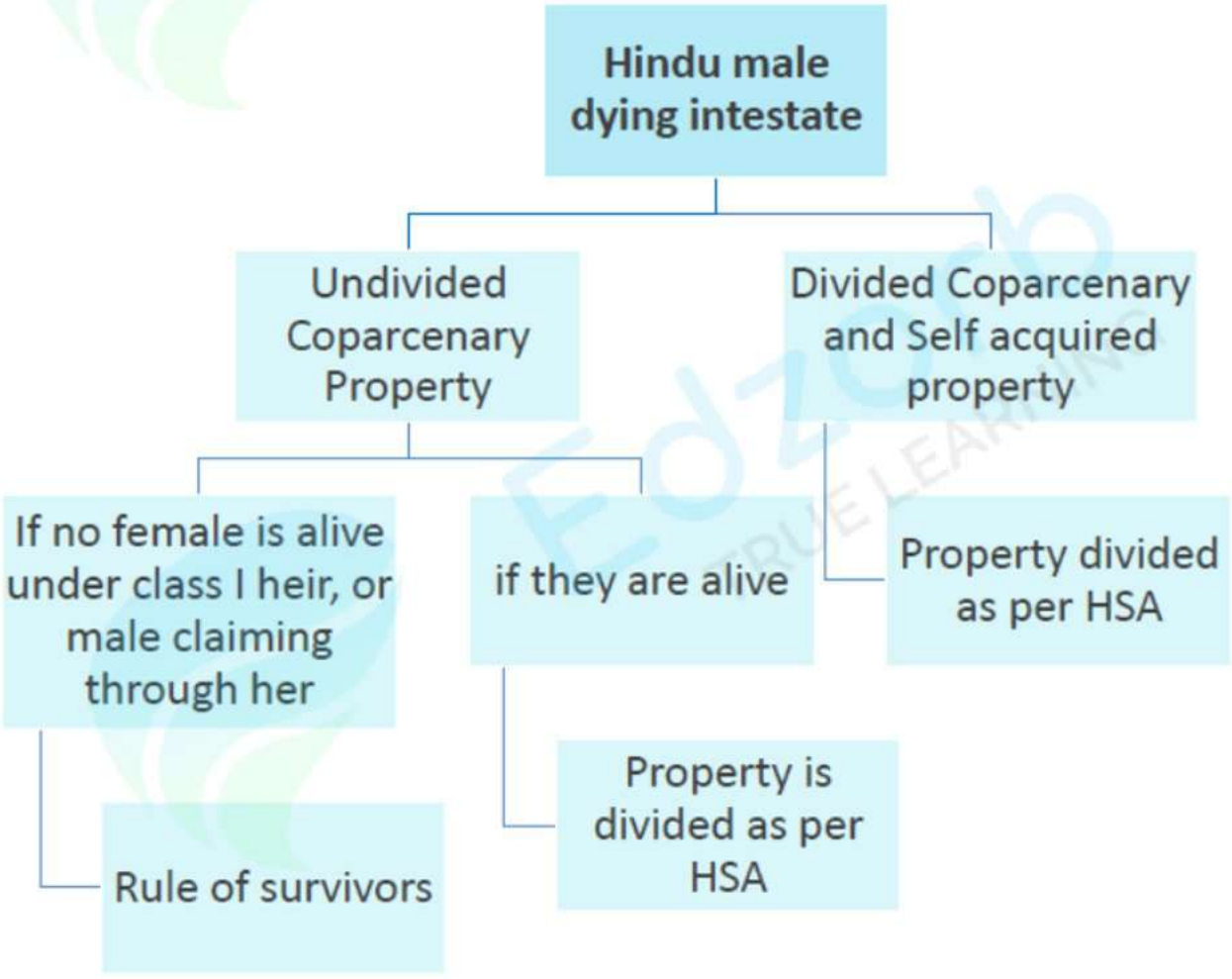
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Rule of survivors
Property is divided as per HSA

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  - **Pious obligation of a son to pay debts of his father, grandfather and great grand grand-father has been abolished.**

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Reference: Hindu Law by B.M. Gandhi, 4th Edn., 2016, Page No. 406

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117.A Hindu female is survived by a stepson, a married daughter and an illegitimate son. Her property shall devolve upon

a) All the three equally

b) only to the married daughter

c) her daughter and the stepson

d) her daughter and her illegitimate son

Ans: D

Source: Edzorb Law QBank- Personal Law- Hindu Law- Unit III- Q 20

20.

MCQ, Single Correct Question

Whether illegitimate son is included in son under Section 15 (a)

a) Yes

b) No

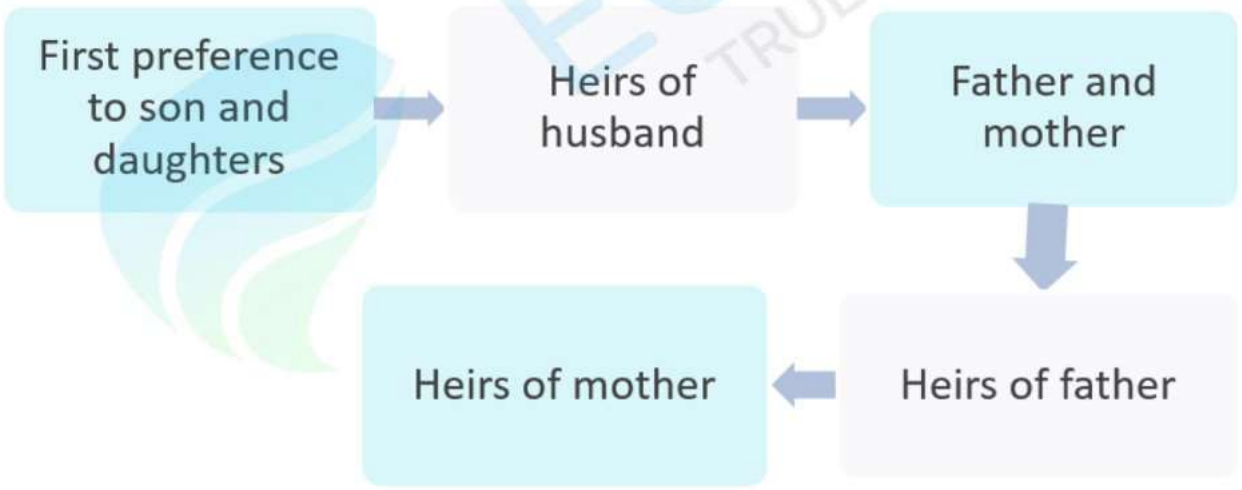
c) never inherit property of mother

d) none of the above

Explanation

A

Section 15: Devolution of Hindu Female Property:



Lachman Singh Vs Kripa Singh

(AIR 1987 SC 1616)

A stepson would thus only be able to stake a claim under the category of 'heirs of the husband' referred to in **clause (b) of Section 15(1).**

*Hence, the **stepson would be excluded from inheriting the property**. Hence, only daughter and illegitimate son will inherit the property.*

Reference: Hindu Law by B.M. Gandhi, 4th Edn., 2016, Page No. 438

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118. On partition of a Hindu coparcenary property, the person not entitled for a share is

a) an adopted son

b) a married daughter

c) an illegitimate son

d) widow of a coparcener

Ans: C

Source: Edzorb Law QBank- Personal Law- Hindu Law- Unit III- Q 21

21.

MCQ, Single Correct Question

Section 16 applies to:

a Children of void marriage

b Children of voidable marriage

c Illegitimate child

d Both A and B

Explanation

D

Joint Family Property and Partition

- Unlike a legitimate son, **an illegitimate son does not acquire any interest in the ancestral property in the hands** of his father;
- nor does he can be a coparcenary in a Joint Hindu Family.

Amendment Act, 1976:

Section 16 now enacts a legal fiction deeming the illegitimate children as legitimate for all practical purposes including succession to their family properties.

Neelamma Vs Sarojamma

(2006) 9 SCC 612

Child born of void or voidable marriage can only claim share in self-acquired properties of parents not in ancestral property.

Reference: Hindu Law by B.M. Gandhi, 4th Edn., 2016, Page No. 438

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119. Stridhan does not include

a) the chastity of a female

b) presents given to her

c) property purchased by her

d) property inherited by her

Ans: A

Source: Edzorb Law QBank- Personal Law- Hindu Law- Unit I- Q 76

76.

MCQ, Single Correct Question

Stridhan does not include

a presents given to her

b chastity of female

c property purchased by her

d property inherited by her

Explanation

B

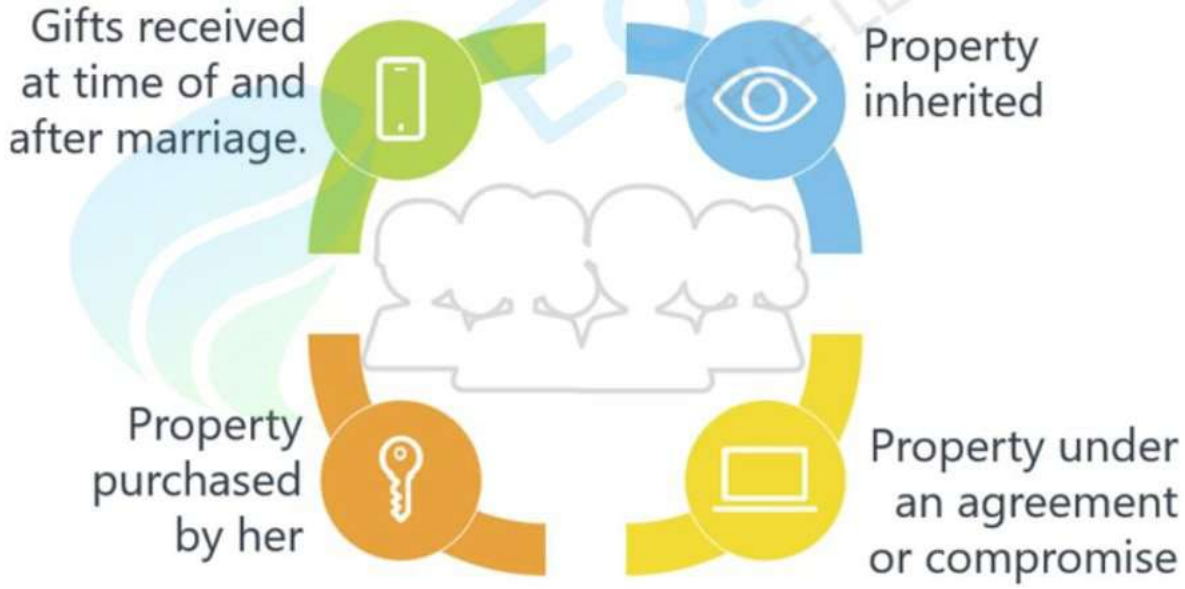
Stridhan:

- The word 'Stridhan' is constituted of two words namely, 'stri' meaning woman and 'dhana' meaning property.

- Stridhan is the property that is given to a women at the time of her marriage.

What constitutes Stridhan:

According to Mitakshara and Dayabhag, the following in the hands of a women (maiden, married or widow) constituted Stridhan;



Pratibha Rani Vs Suraj Kumar

1985 SCR (3) 191

- The woman is the absolute owner of her Stridhan and she can use it the way she wants to.
- In ordinary circumstances, the husband will have no right or interest in the Stridhan nonetheless in times of extreme distress he can use that but has to restore it back when he is able to do so.

Reference: Hindu Law by B.M. Gandhi, 4th Edn., 2016, Page No. 450

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120.The legal position of a Hindu Idol is of a

a) Hindu major male

b) Hindu major female

c) Mahanta

d) Hindu minor

Ans: D

Source: Edzorb Law QBank- Personal Law- Hindu Law- Unit II- Q

12.

MCQ, Single Correct Question

The legal position of a Hindu idol is of

a Hindu major male

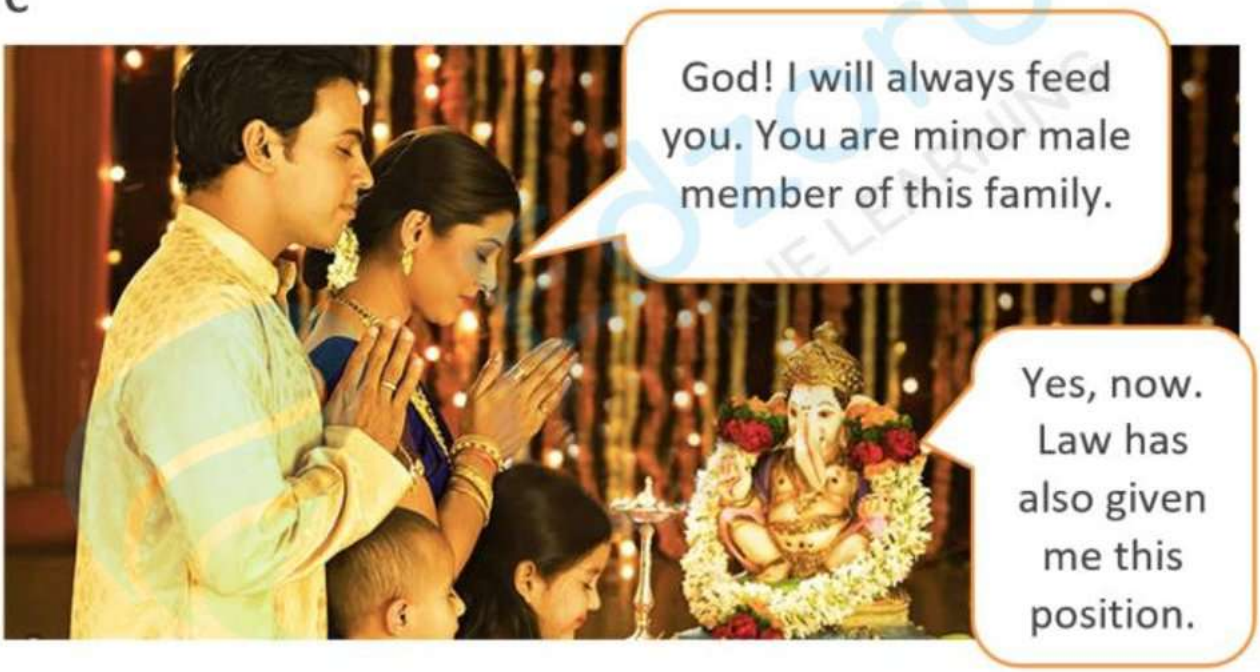
b Hindu major female

c Hindu minor male

d Hindu minor female

Explanation

C



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Ram Lal & anr. Vs Board of Revenue & ors.

The law does not require a deity, which is **minor** in perpetuity and juristic person, to cultivate the land by itself.

Reference: Ram Lal & anr. Vs Board of Revenue & ors.

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121. Among the sources of Muslim Law, the foremost is

a) Sunna

b) Ijma

c) Quyas

d) Koran

Ans: D

Source: Edzorb Law QBank- Personal Law- Muslim Law- Unit I- Q 5

5.

MCQ, Single Correct Question

Which of the following is the most important source of Muslim law

a Qiyas

b Ijmaa

c Sunnah

d Quran

Explanation

(D)

Quran is the **most important source** of Muslim law.

- The Quran is the **holy book for Muslims**,
- **Revealed** in stages to the **Prophet Muhammad over 23 years**.
- Quranic **revelations** are regarded by **Muslims** as the **sacred word of God.**
- Intended to correct any errors in previous holy books such as the Old and New Testaments.

The Quran confirms and reminds the world of the teachings of the past prophets.

The Quran distinguishes between moral and immoral, ethical and unethical, good and evil.

Reference: Mohammedan Law by Aqil Ahmad, 24th Edn., Page No. 15

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122. The Sunni Law does. Not recognize

a) Sahi (valid) marriage

b) Muta (temporary) marriage

c) Fasid (irregular) marriage

d) Batil (void) marriage

Ans: B

Source: Edzorb Law QBank - Personal Law- Muslim Law- Unit I- Q 66

66.

MCQ, Single Correct Question

A Muta Marriage is

I. A temporary marriage

II. Recognized under Shia Law

III. Recognized under Sunni Law

IV. A marriage for a fixed period viz. a day a month, year, years

V. One in which dower need not be specified

a) I, II, V

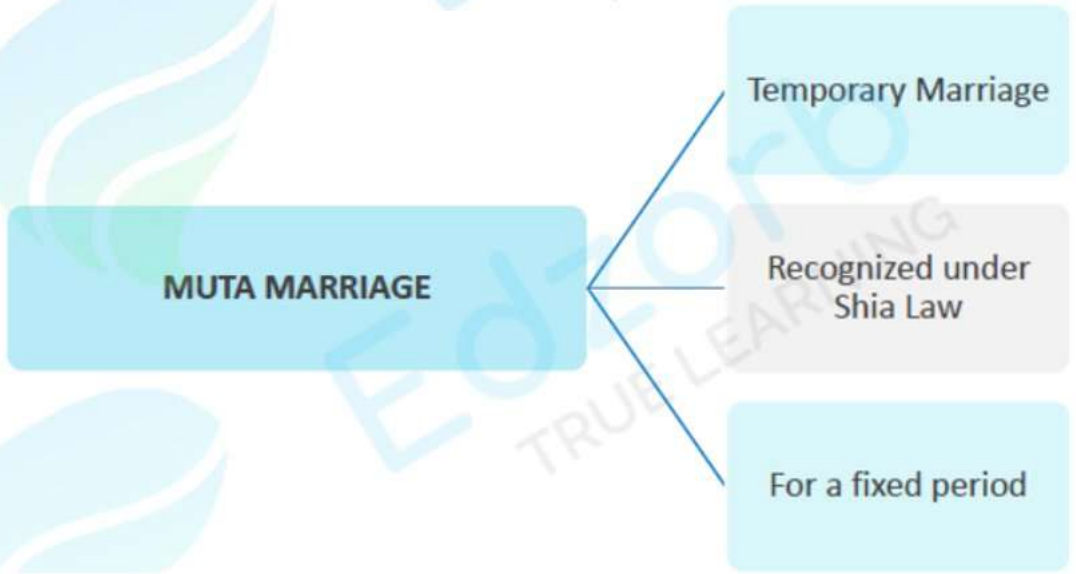
b) I, II, IV

c) I, III, IV

d) I, III, IV, V.

Explanation

(B)



Essentials of Muta marriage:

- Competent parties
- Free consent
- Offer and acceptance
- Prohibited relationship is no bar
- Shia male may contract muta with any female but Muslim female is not allowed to marry non-muslim

Legal effects:

- Cohabitation is lawful
- Children are legitimate
- Wife is entitled to full dower even if husband do not cohabit for full term
- But if wife leaves before specified time than husband can deduct dower amount
- No divorce in Muta marriage

Reference: Mohammedan Law by Aqil Ahmad, 24th Edn., Page No. 140

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123.A Muslim marriage without dower is

a) valid

b) void

c) irregular

d) voidable

Ans: B

Source: Edzorb Law QBank- Personal Law- Muslim Law- Unit I- Q 79

79.

MCQ, Single Correct Question

Essentials of Valid Marriage

a Offer

b Acceptance

c Dower

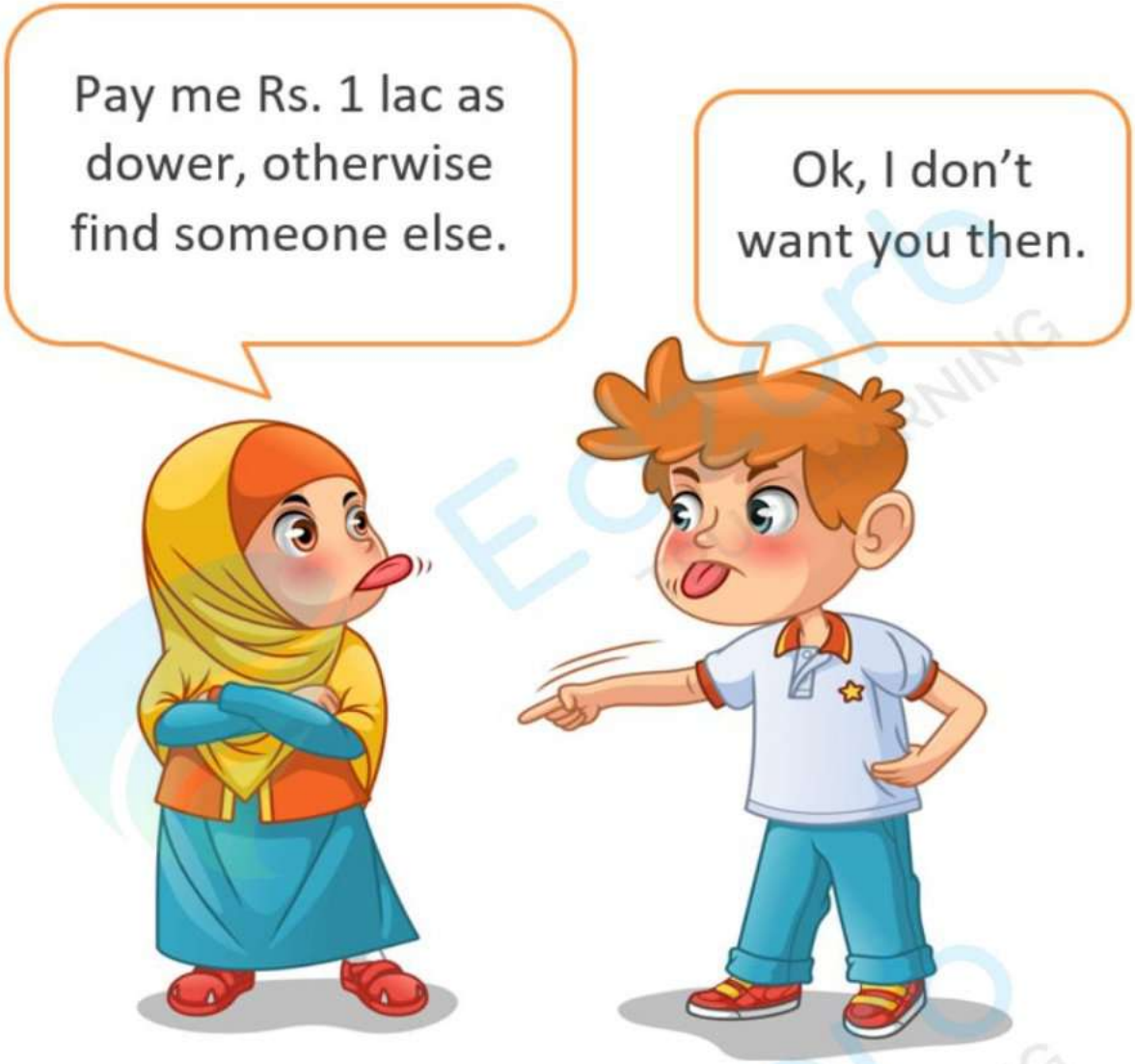
d All of the above

Explanation

D

Dower is a sum of **money** or other **property**

- which **wife** is **entitled** to **receive** from the **husband;**
- In **consideration of marriage**.



Status of marriage without dower

Marriage without dower ✗ **Void**

Reference: Mohammeden Law by Aqil Ahmed, 24th Edn., Page no. 133

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124.A gift in favour of an unborn child is

a) valid

b) irregular

c) voidable

d) void

Ans: D

Source: Edzorb Law QBank- Personal Law- Muslim Law- Unit III- Q 91

91.

MCQ, Multiple Correct Question

Gift to an unborn child

a Valid

b Irregular

c Void

d Voidable

Explanation

C

Gift (Hiba):

A gift is a transfer of property where interest is transferred from one living person to another, without any consideration.

Formalities to the Gift:

Revocation of Gift:

Before the delivery of possession:

These are *inchoate gifts*,i.e., incomplete gifts. Hence, these are irrovacable at any point of time without the intervention of court.

After the delivery of possession:

Sunni Law	Shia Law
• Gift can be revoked only after the decree of the court. • It can be revoked during the lifetime of the donor & donee.	• Gift can be revoked any time by mere declaration. • A gift made to a spouse is revocable; and thirdly, a gift to a relation, whether within the prohibited degrees or not, is revocable.

Gift to an unborn child:

Gift to an unborn child is void.

Reference: Mohammeden Law by Aqil Ahmed, 24th Edn., Page no. 251

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125.A bequest may be made to a child in the womb provided it is born, from the date of the will, within

a) 6 months

b) 8 months

c) 9 months

d) 10 months

Ans: A

Source: Edzorb Law QBank- Personal Law- Muslim Law- Unit III- Q 92

92.

MCQ, Single Correct Question

Under Muslim law, bequest in favour of child in womb is

a Valid

b Invalid

c Depends on the time of the birth of a child in the womb

d None of the above

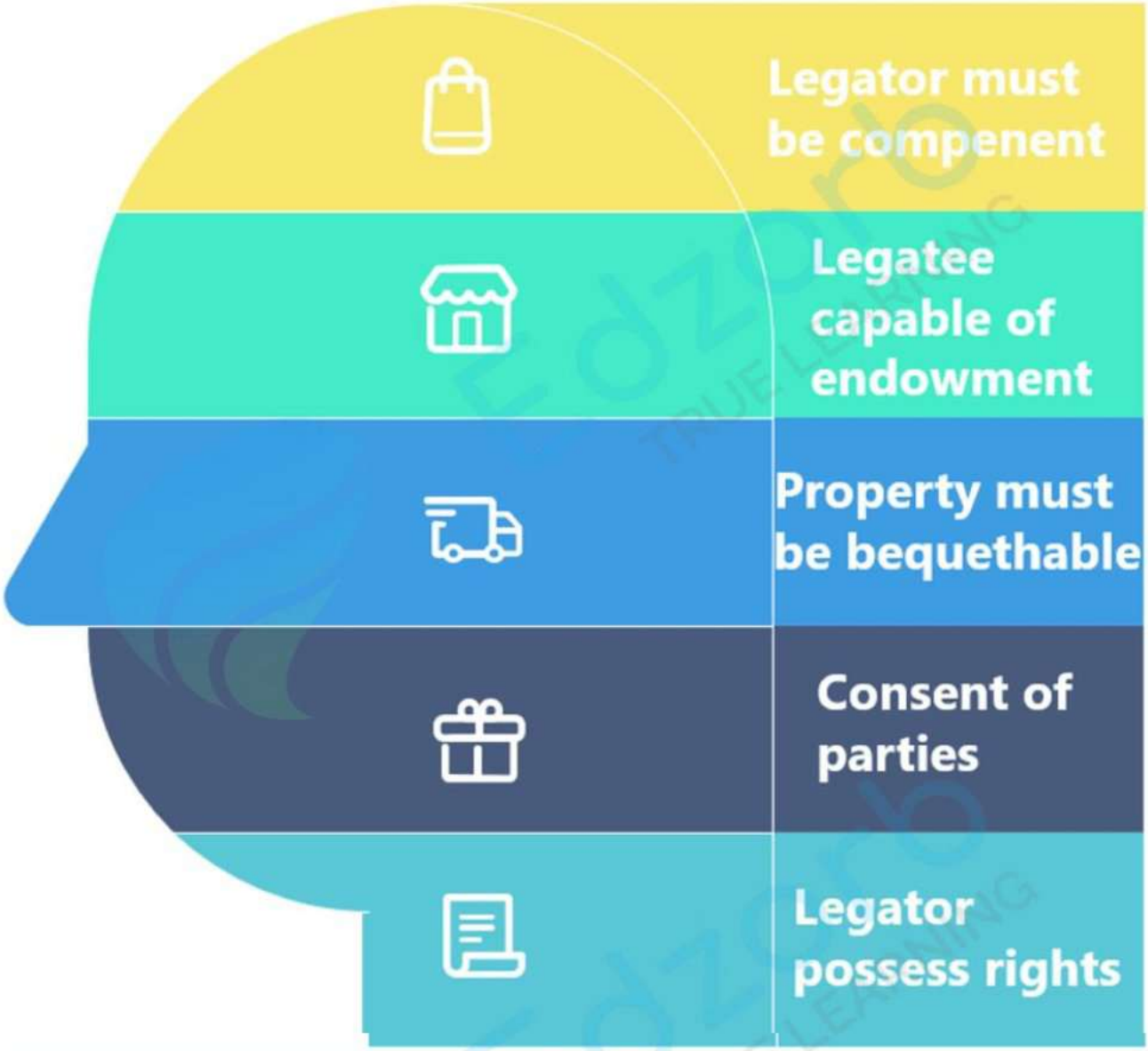
Explanation

C

Will:

Wasiyat is an implement which enables a person to dispose of his own property to someone whom he wants to give after his death.

Essentials of Valid will:



Will in favour of child in womb:

Sunni Law	Shia Law
Bequest for an unborn child is valid if he is born within 6 months of making the Will.	Bequest for an unborn child is valid if he is born within 10 months of making the Will.

Reference: Mohammeden Law by Aqil Ahmed, 24th Edn., Page no.340

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126.A Wakf cannot be created for

a) celebrating the birth of Ali Murtaza

b) construction of a church

c) maintenance of a Khanqah

d) construction of a bridge

Ans: B

Source: Edzorb Law QBank- Personal Law- Muslim Law- Unit II- Q 50

50.

MCQ, Single Correct Question

Wakf can be created for

a Objects are uncertain

b Construction of church

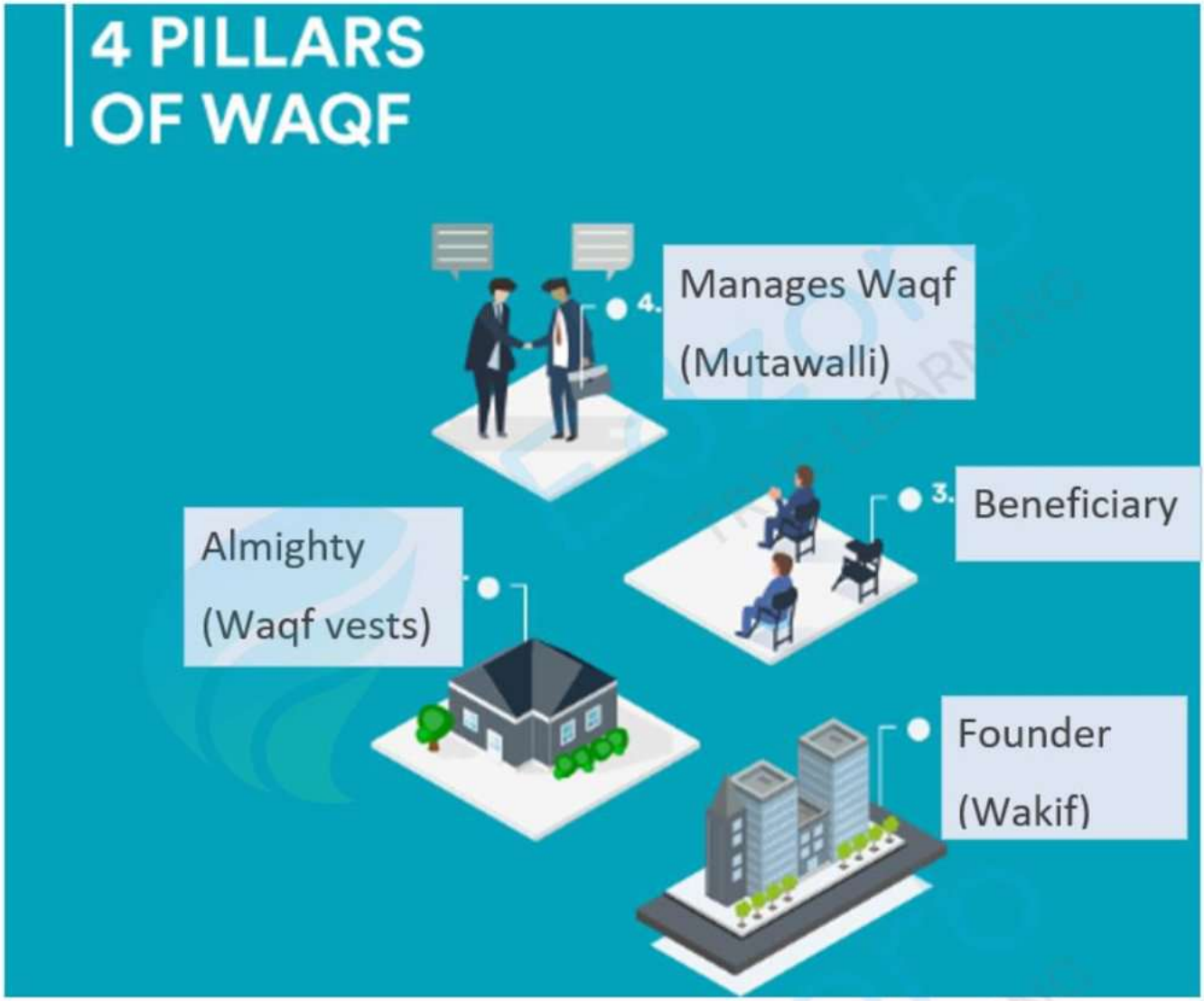
c Alms to Poor

d Providing benefits to the rich

Explanation

C

Wakf Act, 1954 defines **Wakf** as, *"Wakf means the permanent dedication by a person professing the Islam, of any movable or immovable property for any purpose recognized by Muslim Law as religious, pious, or charitable."*



Valid objects of Wakf:

Invalid objects:

Not valid obejcts of Wakf

Reference: Mohammeden Law by Aqil Ahmed, 24th Edn., Page no. 294

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127.The difference of ages between the acknowledger' and the acknowledged child must be at least

a) 8 years

b) 10 years

c) 11 years

d) 12 1/2 years

Ans: D

Source: Edzorb Law QBank - Personal Law- Muslim Law- Unit III- Q 54

54.

MCQ, Single Correct Question

For valid acknowledgment of paternity the acknowledger must be at least

a twelve years older the person acknowledged.

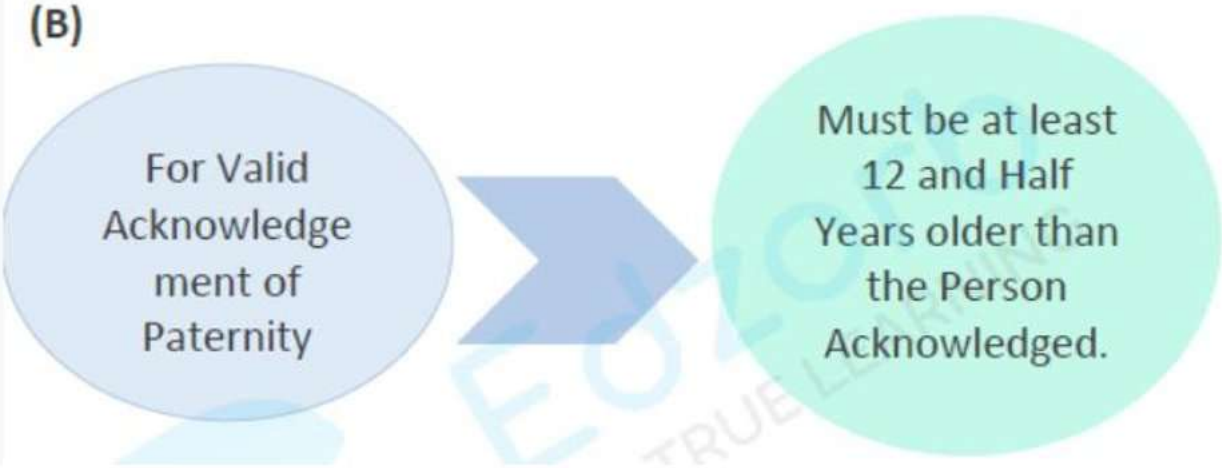
b twelve and half years older the person acknowledged.

c eighteen years older than the person acknowledged.

d twenty-one years older than the person acknowledged.

Explanation

(B)



The acknowledger must be at least twelve and half years older than the person acknowledged.

- If the **acknowledger is equal** in age or is **younger** to the acknowledged person
- The acknowledgement of **paternity would be void** on its very face
- Because they would not appear to be father and child.

Reference: Mohammedan Law By Aqil Ahmad, 24th Edn., Page No. 205

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128.The custody of a minor wife shall be with her

a) husband

b) father

c) mother

d) father-in-law

Ans. C

Source: Edzorb law QBank- Personal Law- Muslim Law- Unit I- Q 80

80.

MCQ, Single Correct Question

Under Muslim law, custody of child is known as

a Hizanat

b Khyar-ul-bulgh

c Hiba

d Ijab

Explanation

A

Hizanat: Custody of the child

Minor muslim girl custody to mother till the age of puberty

Minor muslim boy custody to mother till the age of seven.

Minor married girl custody to her husband.

Abu Bakar Siddiq Vs A B Siddique

Custody of an eight-year-old boy to his mother considering the welfare of the child as of paramount interest.

Did you Know?

If husband is also minor, then the custody will be given to her mother.

Reference: Mohammeden Law by Aqil Ahmed, 24th Edn., Page no. 251

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129. An illegitimate Shia Mohammedan dies intestate. His property will be inherited by

a) his mother

b) his father

c) his brother

d) None of them

Ans: D

Source: Edzorb Law QBank- Personal Law- Muslim Law- Unit III- Q 93

93.

MCQ, Single Correct Question

An illegitimate child inherits from

a his mother

b his father

c his grandfather

d all of the above

Explanation

A

Rehmat Ullah Vs Maqsood

AIR 1952 All 640

If a woman has two children, one legitimate and the other illegitimate, they do not inherit from one another.

Reference: Mohammeden Law by Aqil Ahmed, 24th Edn., Page no. 384

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130. A Shia Muslim, already having four wives, has contracted a fifth marriage. This fifth Marriage is

a) valid

b) voidable

c) void

d) irregular

Ans: C

Source: Edzorb Law QBank - Personal Law- Muslim Law- Unit I- Q 32

32.

MCQ, Single Correct Question

If a Muslim marries a fifth wife such marriage shall be

a Valid

b Void

c irregular

d either (a) or (c)

Explanation

(C)

Muslim who marries a fifth wife, such a marriage is irregular.

Irregular marriage is marriage which can be made valid, these are different from void marriages.

This form of marriage is recognised in Sunnis.

Shias do not recognise irregular marriage, hence such marriages are void under their law.

Update:

Supreme Court's opinion on irregular marriage and its implications https://feminisminindia.com/2019/01/28/irregular-marriage-sc-interfaith/

Reference: Mohammedan Law By Aqil Ahmad, 24th Edn.,Page No. 129

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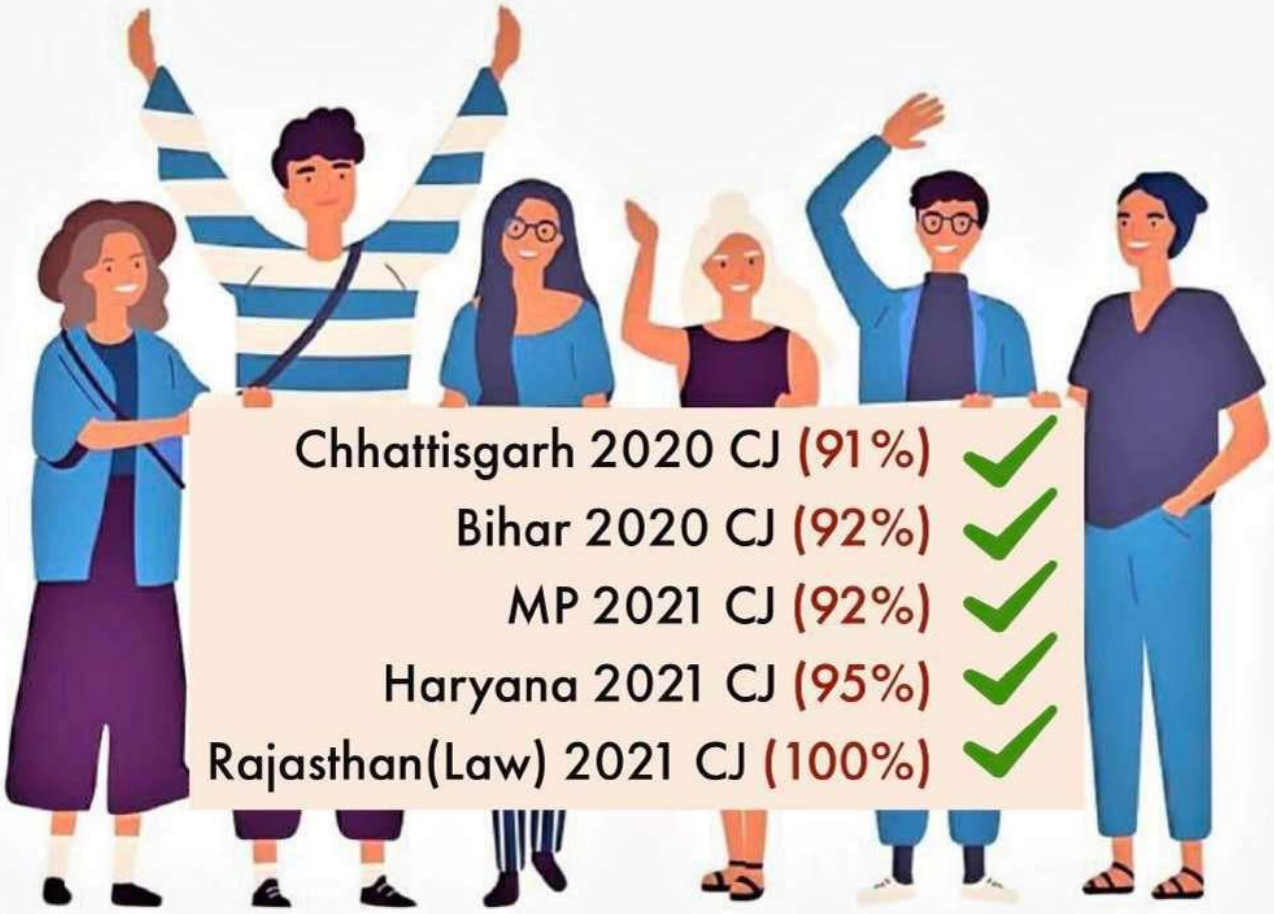

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Section - 13
TPA

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131.Match List-I with List-II and select the correct answer using the codes given below:

List -I	List- II
a. Feeding the Grant by Estoppel	1. Section 92
b. Doctrine of Subrogation	2. Section 17
c. Doctrine of Accumulation	3. Section 14
d. Rule against Perpetuity	4. Section 43

Codes:

	a	b	c	d
a)	4	1	2	3
b)	1	2	3	4
c)	3	4	2	1
d)	4	2	1	3

Ans: A

Source: Edzorb Law QBank- TPA- Unit II- Q 47

47.

MCQ, Single Correct Question

Match the following:

a. Feeding the grant by estoppel	1. Section 92
b. Doctrine of Subrogation	2. Section 17
c. Doctrine of Accumulation	3. Section 14
d. Rule against Perpetuity	4. Section 43

Codes:

a abcd
4123

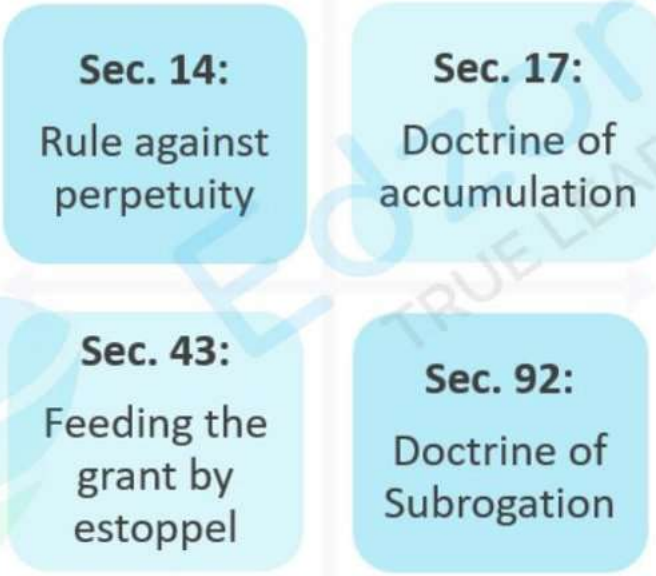
b abcd
1234

c abcd
4213

d abcd
3421

Explanation

A



Reference: Transfer of Property Act.

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132.The provision regarding the doctrine of 'Substituted Security' is contained under which of the following Sections of the Transfer of Property Act?

a) Section 74

b) Section 75

c) Section 73

d) Section 72

Ans: C

Source: Edzorb Law QBank- TPA- Unit II- Q 48

48.

MCQ, Single Correct Question

Section 73 deals with

a Doctrine of subrogation

b The doctrine of Substituted Security

c Doctrine of Contribution

d Doctrine of Marshalling

Explanation

B

Doctrine of Substituted Security:

- The mortgagee for the purpose of his security **is entitled to anything that may be substituted for it**.
- Hence, if the mortgaged property takes a new form, the security extends to that also.

Punniah Vs Venkatappa Rao

- A had mortgaged his house to B. A's representatives pulled down the house, and, used the building materials to build new house.
- Held that the new house was a "substituted security" to protect the interests of the mortgagee.

Section 73 of TPA and Doctrine of Substituted Security

The mortgagee is entitled to claim the payment of mortgage-money after satisfying the govt. arrears.

Reference: Property Law by PP Saxena; 2nd Ed., 2011, Page No.225

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133.Consider the following statements regarding the distinction between 'lease' and 'license':

1. A lease can be assigned but a license cannot be assigned.
2. Both lessee and license holders can sue a trespasser in his own name.
3. A lease is a transfer of an interest in land, whereas a license does not create any interest in land.
4. A lease cannot be revoked until the end of the term but a license, subject to certain exceptions, can be revoked.

Which of the above statements is/are correct?

a) 2, 3 and 4
b) Only 4
c) 1 and 2
d) 1, 3 and 4

Ans: D

Source: Edzorb Law QBank- TPA- Unit III- Q 49

49.

MCQ, Single Correct Question

Which of the following statement is incorrect:

a A lease can be assigned but not a license.

b The lease gives the interest to the leaseholder, whereas the license does not transfer any interest.

c Lease is a transferable, license is not

d Lease and Licence are heritable.

Explanation

D

Lease: Lease is a right provided for a particular period of time to an individual to **enjoy an immovable property**.

License: License is **an authority of a person** to perform a certain kind of act or series of acts on the land owned by someone else for a particular time period.

Lease Vs Licence

Basis of difference	Lease	Licence
Agreement between the Parties	• It is necessary to have an agreement, whether written or oral, between the parties.	• There is no requirement of any kind of agreement for license.

Interest embedded in the Real Property	• An interest which gets transferred by virtue of lease created, known as leasehold interest.	• No interest in the licence.
Transferability	• The lease is transferable and heritable.	• A license cannot be passed on further to any other person.
Effect of sale	• Lease does not get effected by transfer of ownership.	• It ends immediately on sale.
Protection to possession	• A lessee has right to protect possession in his own right.	• Licence cannot defend.

Reference: Property Law by PP Saxena; 2nd Ed., 2011, Page No. 352

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134. Writing and registration are not required in which one of the following mortgages?

a) Usufructuary mortgage
b) Mortgage by deposit of title deeds
c) Simple mortgage
d) English mortgage

Ans: B

Source: Edzorb Law QBank- TPA- Unit III- Q 50

50.

MCQ, Single Correct Question

Which mortgage is also known as equitable mortgage

a English mortgage
b Usufructuary mortgage
c Simple mortgage
d Mortgage by deposit of title deed

Explanation

D

Mortgage by deposit of title deed:
Where **a person delivers to a creditor or his agent documents of title to immovable property**, with intent to create a security thereon, the transaction is called a mortgage by deposit of title-deeds."

Registration of Mortgage by deposit of title deed:

Section 59 of the TP Act specifically **excludes mortgages by deposit of title deeds** when talking about the types of mortgages that need registration.

State of Haryana Vs Narvir Singh
(2014) 1 SCC 105

"In a mortgage by deposit of title deeds.....where the memorandum recorded in writing creates rights, liabilities or extinguishes those, the same requires registration."

Did you Know?

It is also known as equitable mortgage.

Reference: Property Law by PP Saxena; 2nd Ed., 2011, Page No. 380

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135. Which of the following **does not** constitute exception to the rule against perpetuity?

a) A fund is bequeathed to next seven generations

b) Where a property is transferred for the benefit of public

c) It does not apply to vested interest

d) A lease with a covenant for renewal

Ans: A

Source: Edzorb Law QBank- TPA- Unit I- Q 21

21.

MCQ, Single Correct Question

Which of the following does not constitute exception to Section 14

a Vested Interest

b Personal agreement

c Fund bequeathed to the next seven generations

d Land held by Corporation

Explanation

C

Section 14 of TPA, 1882: Rule against perpetuity is the rule

- Which is against a transfer making them inalienable for an indefinite period or forever.
- Where a property is transferred in such a way that it becomes non-transferable in future
- For an indefinite period, the property is tied up forever.

Exceptions to Section 14:

Reference: Property Law by PP Saxena; 2nd Ed., 2011, Page No. 152

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136.The literary meaning of 'Lis pendens' is

a) a previous decision bars the subsequent filing of the suit

b) a suit under consideration of any court of law

c) an exception to doctrine of res judicata

d) None of the above

Ans: B

Source: Edzorb Law QBank - TPA- Unit II- Q 7

7.

MCQ, Single Correct Question

The doctrine of Lis pendense applies where :

a The suit is collusive

b The transfer is made after the decree of the trial court but before the filling on an appeal

c Right to movable property is in question

d Property is situated outside the territorial jurisdiction of the court

Explanation

(B)

When is Lis Pendens?

It means **Pendente lite** or **pending litigation** wherein, neither party to the litigation can transfer the property in dispute so as to affect the interests of his opponent.

Doctrine of Lis Pendens is dealt under Section 52 of Transfer of Property Act

The essentials under this Doctrine:

- The transfer should take place during the pendency of a suit or proceeding;

- The case must be pending in a court of competent jurisdiction;
- The case should not be collusive;
- The litigation should be specifically in respect of the immovable property transferred.

Did you know?

The Doctrine of **'Lis Pendens'** has its origin in **Bellamy Vs Sabine.**

The transfer **should not defeat the rights** of the other party, and any decree which may be passed by the court.

The suit or proceeding commences **on the date of the presentation of the plaint** or the institution of the proceeding in a court which has got **jurisdiction**

The case is pending until it has been disposed off by a **final decree or order of the court.**

There must be **complete satisfaction** of the decree or order of the court thereof.

Reference: Property Law by P.P. Saxena; 2nd Ed., 2011, Page No. 225

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137.Which one of the following Sections of the Transfer of Property Act provides for the competency to transfer any immovable property?

a) Section 17

b) Section 6

c) Section 10

d) Section 7

Ans: D

Source: Edzorb Law QBank - TPA- Unit I- Q 22

22.

MCQ, Single Correct Question

Section 7 of Transfer of Property Act deals with

a WHat may be transferred

b Person competent to transfer

c Operation of transfer

d Oral Transfer

Explanation

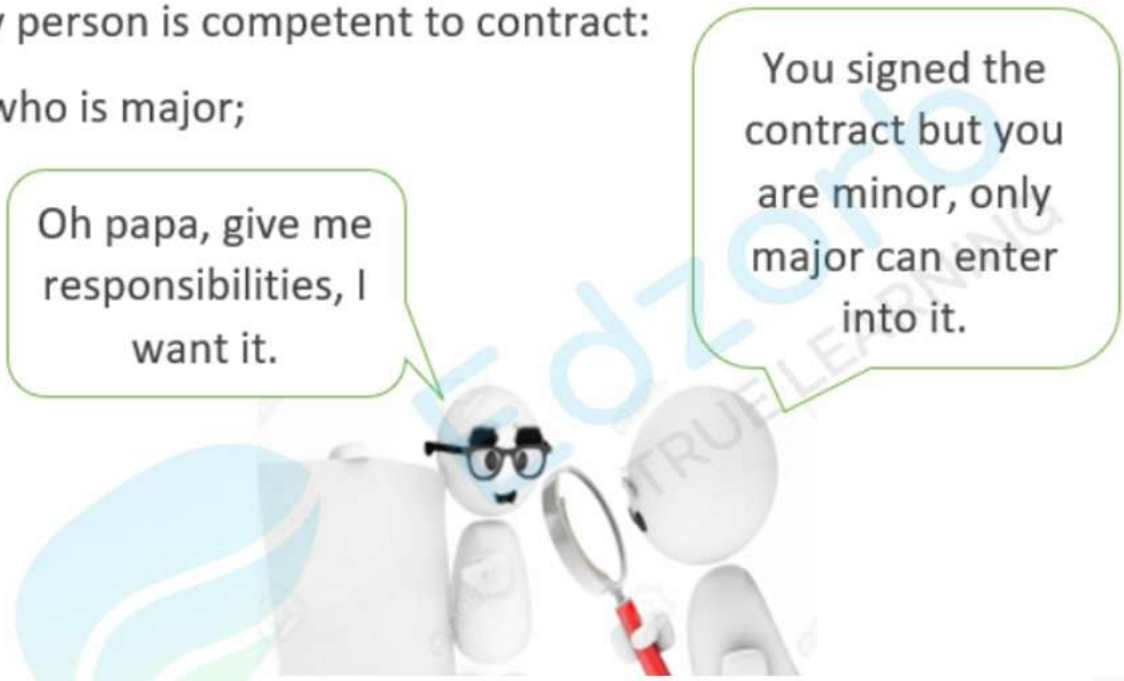
B

Section 7 of Transfer of Property Act: Person competent to transfer- Person competent to contract.

Section 11 of Indian Contract Act:

Every person is competent to contract:

- who is major;



- who is of sound mind;

- who is not disqualified from contracting by any law to which he is subject.

138. Under which Section of the Transfer of Property Act, there is restriction for accumulation of property beyond a certain period?

a) Section 17

b) Section 14

c) Section 20

d) Section 25

Ans: A

Source: Edzorb Law QBank - TPA- Unit I- Q 20

20.

MCQ, Multiple Correct Question

Restriction on direction of accumulation is dealt under

a Section 14

b Section 20

c Section 17

d Section 18

Explanation

C

Direction for Accumulation:

Direction of accumulation of incomes and profits of property transferred as per the terms of the Act as a separate fund means postponing transferee's right of beneficial enjoyment of the property transferred.

Section 17: Restriction on direction for Accumulation:

Section allows accumulation of income during either of the two following periods:

Exception to this rule:

- **Payment of debts:** If the purpose of the accumulation is payment of debt incurred by the transferor or anyone having interest in property.

- **Raising Portions**: Raising portion means providing for a portion of income for maintenance.

- **Preservation of property**: The income of property was directed to be accumulated for the purpose of preservation and maintenance of the property so transferred.

Reference: Property Law by PP Saxena; 2nd Ed., 2011, Page No. 152

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139.The principle of 'Marshalling and Contribution' is a principle under the law of the Transfer of Property Act which relates to the matter of

a) deposit
b) lease
c) security
d) gift

Ans: C

Source: Edzorb Law QBank - TPA- Unit VI- Q 17

17.

MCQ, Single Correct Question

Doctrine of Marshalling has been provided in which of the following sections of the Transfer of Property Act?

a) Sections 56 and 81
b) Sections 56 and 82
c) Sections 56, 81, 82
d) Sections 81 and 82

Explanation

(A)

Marshalling Securities (Section 81)

The mortgagees may be **two or more persons** but the **mortgagor must be common** i.e., there must be a common debtor.

- The right cannot be exercised to the prejudice of the prior mortgagee.
- The right cannot be exercised to the prejudice of any other person having claim over the property.

- A mortgagor mortgages his three properties A, B and C to a mortgagee **Ram** for Rs 25,000.
- He further mortgages only property C to **Mohan** for Rs 5,000.
- Here, **Ram** is prior mortgagee and **Mohan** is subsequent mortgagee and property C is mortgaged to both the mortgagees.

- The mortgage-debt of **Ram** is Rs 25,000.

This section gives **Mohan** a right to say that the debt of **Ram** should be satisfied out of sale-proceeds of properties A and B and not C.

In case the proceeds of sale of A and B are less than Rs 25,000 only then property C may be sold.

Therefore, although **Mohan is a subsequent mortgagee and his claim is not prior to that of X, but he has a right to marshalling** i.e., arranging the securities in his favour as far as possible.

Reference: Property Law by P.P. Saxena; 2nd Ed., 2011, Page No.423

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140. Where a gift is made of a property, which is not in existence, which one of the following Sections of the Transfer of Property Act declares it void?

a) Section 124
b) Section 125
c) Section 126
d) Section 127

Ans: A

Source: Edzorb Law QBank - TPA- Unit IV- Q 10

10.

MCQ, Single Correct Question

Under Transfer of Property Act gift of future property is:

a Valid
b Voidable
c Void
d Irregular

Explanation

(C)

Section 124

A gift comprising both existing and future property is **void as to the latter.**

Reference: Property Law by P.P. Saxena; 2nd Ed., 2011, Page No. 555

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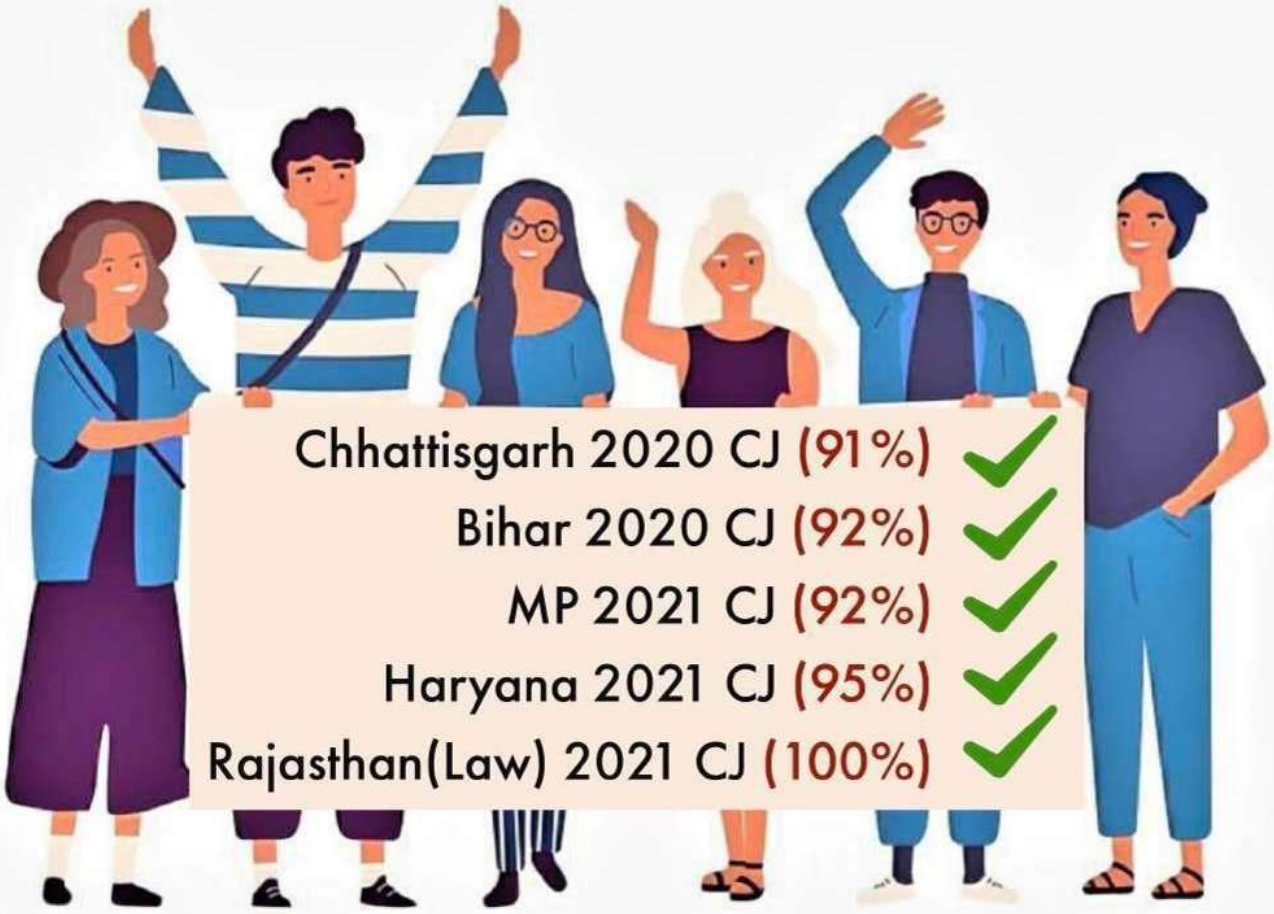

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Section - 14
Equity

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141.The primary source of equity is

a) written law

b) conscience

c) custom

d) judicial decisions

Ans: B

Source: Edzorb Law QBank - Equity 1- Q 1

1.

MCQ, Single Correct Question

The primary source of equity is

a Custom

b Written law

c Judicial decisions

d Conscience

Explanation

(D)

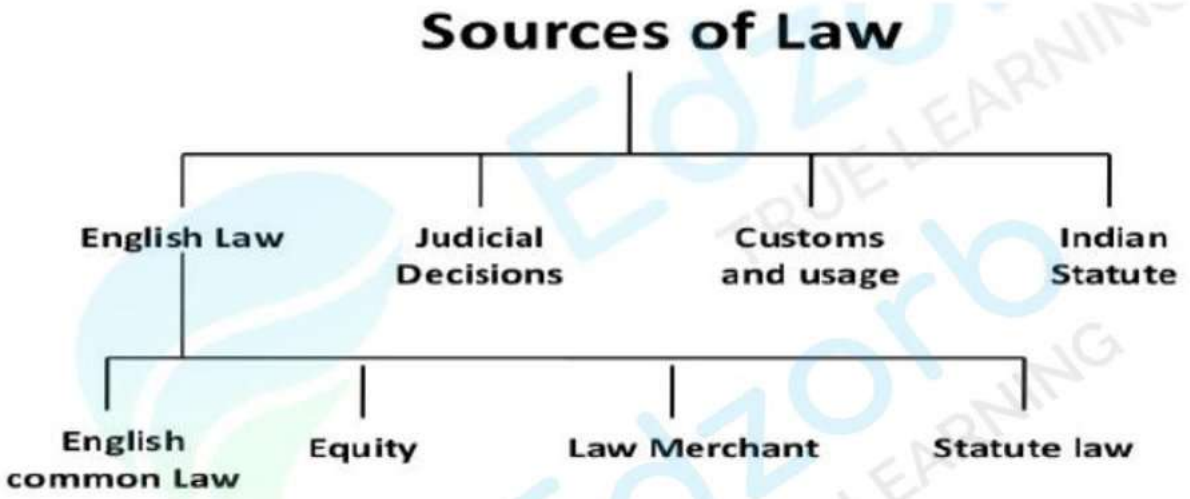
"Equity is a body of rules, the primary source of which, was neither custom nor written law, but the imperative dictates of conscience and which had been set forth and developed in the courts of Chancery."

- Henry Levy Ulman

- The principle of Equity refers to a set of rules, which neither originated from **customs nor statutory law**. Equity rules were formed on the **basis of dictates of conscience** which had been decided in the **Courts of Chancery**.
- In cases, where Common Law was not applicable, the Chancellor presided over such cases in special courts called **'Equity Courts'**.

These 'Equity Courts' acted on a **number of principles** such as:

- He who seeks equity must do equity.
- He who comes to equity must come with clean hands.



Reference: Equity, Trust, Mortgage & Specific Relief Act, 15th Edn, 2017, Page No. **1-3**

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142.The statutory recognition of the principles of equity is not found in the

a) Indian Contract Act, 1872
b) Specific Relief Act, 1877
c) Sale of Goods Act, 1930
d) Indian Succession Act, 1925

Ans: D

Source: Edzorb Law QBank - Equity 1 – Q 6

6.

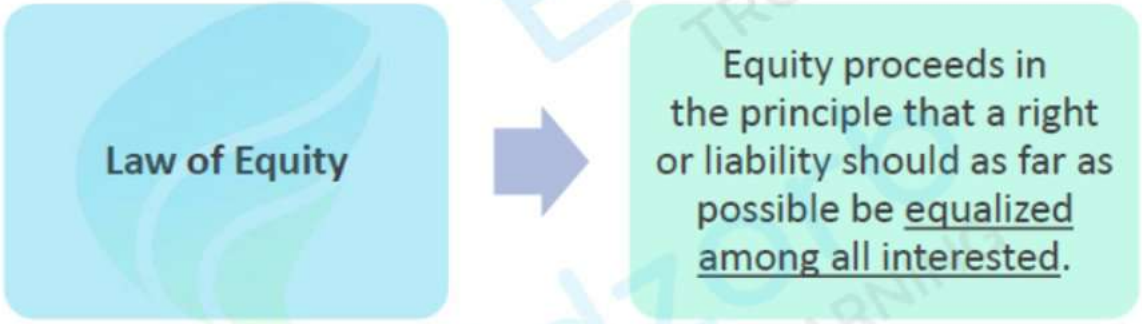
MCQ, Single Correct Question

Statutory recognition of the principles of principles of equity is not found in

a Specified Relief Act, 1877
b Indian Contract Act, 1872
c The Sale of Goods Act, 1930
d Indian Succession Act, 1925

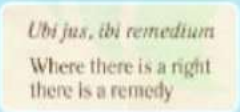
Explanation

(C)



Principles of Equity:

He who seeks equity must do equity



To provide remedy for every wrong even if not provided at law.

Equality is equity

He who comes to equity must come with clean hands

Equity aids the vigilant and not the indolent

Equity looks at the intent rather than the form

Equity regards as done that which ought to be done

Principles of Equity under Indian Law:

- **The Indian Contract Act, 1872**: The equitable doctrines featuring in the Indian Contract Act are mainly, the doctrine of penalties and forfeiture, stipulations as to time in a contract, equitable relief on the ground of misrepresentation, fraud and undue influence.
- **The Specific Relief Act, 1877**: All the reliefs provided in it are equitable in nature, for instance recovery of possession.
- **The Indian Succession Act, 1925**: Provides for doctrine of election.

Reference: Equity, Trust, Mortgage & Specific Relief Act, 15th Edn, 2017, Page No. 55-85

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143. “Equity has three-fold jurisdiction—exclusive, con- current and auxiliary.” This is said by

a) Maitland

b) Story

c) Austin

d) Roscoe Pound

Ans: B

Source: Edzorb Law QBank - Equity 1 – Q 20

20.

MCQ, Single Correct Question

Equity has how many folds of jurisdiction

a 4

b 3

c 5

d 2

Explanation

B

“Equity has three-fold jurisdiction- exclusive, concurrent and auxiliary”.

-Story

Jurisdiction of Equity courts:

- **Exclusive Jurisdiction:** In its exclusive jurisdiction, it provides the relief where **common law** is silent.

- **Concurrent Jurisdiction:** The court gave relief in cases in which the **common law** courts recognised the right but did not grant adequate remedy.

- **Auxiliary Jurisdiction**: The court aided a party to a **common law** action in matters of procedure.

Reference: Equity, Trust, Mortgage and SRA by Aqil Ahmed, 15th ed., 2017, Page No. 52

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144. English rules of equity

a) have been substantially incorporated by the Indian legislature

b) have not at all been incorporated by the Indian legislature

c) have been wholly incorporated by the Indian legislature

d) have been partially incorporated by the Indian legislature

Ans: A

Source: Edzorb Law QBank - Equity 1 – Q 21

21.

MCQ, Single Correct Question

Whether English rules have been incorporated in Indian Law

a Yes, all the rules have been included in Indian Law

b No, No rule has been included.

c Yes, but substantially not whole

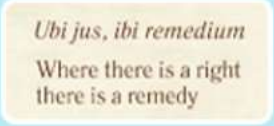
d Yes, but with some modifications in the rule

Explanation

C

Principles of Equity:

He who seeks equity must do equity



To provide remedy for every wrong even if not provided at law.

Equality is equity

He who comes to equity must come with clean hands

Equity aids the vigilant and not the indolent

Equity looks at the intent rather than the form

Equity regards as done that which ought to be done

Principles of Equity under Indian Law:

- It is important to bring to the notice for the researcher that though the English rules of equity have been substantially incorporated by the Indian Legislature;
- Yet, there are many other rules of English Equity are either not been followed in India or are adopted only in a modified form, keeping in view the different ground realities of the country."

Reference: Equity, Trust, Mortgage and SRA by Aqil Ahmed, 15th ed., 2017, Page No. 55-85

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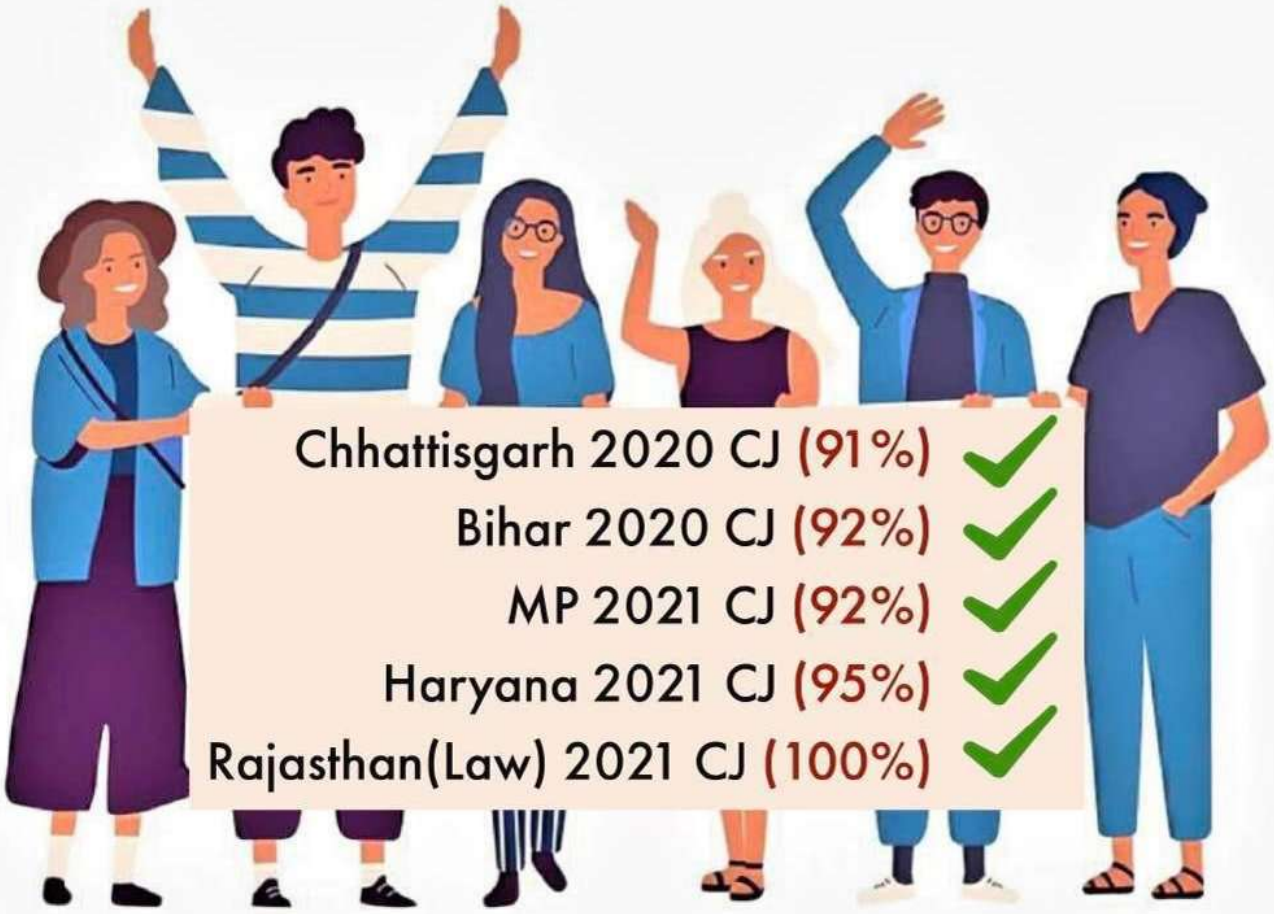

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Section - 15
Trust

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145. A trust is extinguished in which of the following conditions?

a) When the trust, being revocable, is expressly revoked

b) When its purpose is completely fulfilled

c) When its purpose becomes unlawful

d) All of the above

Ans: D

Source: Edzorb Law QBank - Trust- Q 22

22.

MCQ, Single Correct Question

A trust is not extinguished

a when its purposes is completely fulfilled

b when its purpose becomes unlawful

c when the trust, being revocable, is expressly revoked

d where the trustees have transferred their interests.

Explanation

(D)

Section 77: Trust how extinguished

- When its purpose is completely fulfilled; or
- When its purpose becomes unlawful; or
- When the fulfilment of its purpose becomes impossible by destruction of the trust-property or otherwise; or
- When the trust, being revocable, is expressly revoked.

Trust → is not extinguished → When trustees have → Transferred their interest

Did you Know?

On extinguishment of trust, the trust deed also becomes redundant.

Reference: Equity, Trust, Mortage & SRA by Aqil Ahmad, 15th Edn., 2017, Page No.342

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146.'Breach of Trust' has been defined under which Section of the Indian Trust Act, 1882?

a) Section 2

b) Section 3

c) Section 6

d) Section 10

Ans: B

Source: Edzorb Law QBank - Trust- Q 26

26.

MCQ, Single Correct Question

Breach of trust is defined under

a Section 3

b Section 2

c Section 4

d Section 23

Explanation

A

Section 3 of Indian Trust Act: Breach of Trust:

A breach of any duty imposed on a trustee, as such, by any law for the time being in force, is called a "**breach of trust**".

Duties of a Trustee

Reference: Indian Trust Act, Section 3.

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147. Who among the following **cannot** create a trust?

a) A juristic person

b) A minor

c) An advocate

d) A person of 21 years of age

Ans: B

Source: Edzorb Law QBank - Trust- Q 27

27.

MCQ, Single Correct Question

Section 7 of Indian Trust Act deals with

a Creation of trust

b Who may create trust

c Subject of trust

d Beneficiary of trust

Explanation

B

Section 7 of Indian Trust Act: Person who can create trust- Person competent to contract.

Section 11 of Indian Contract Act:

Every person is competent to contract:

- who is major;

- who is of sound mind;

- who is not disqualified from contracting by any law to which he is subject.

Reference: Indian Trust Act, Section 7

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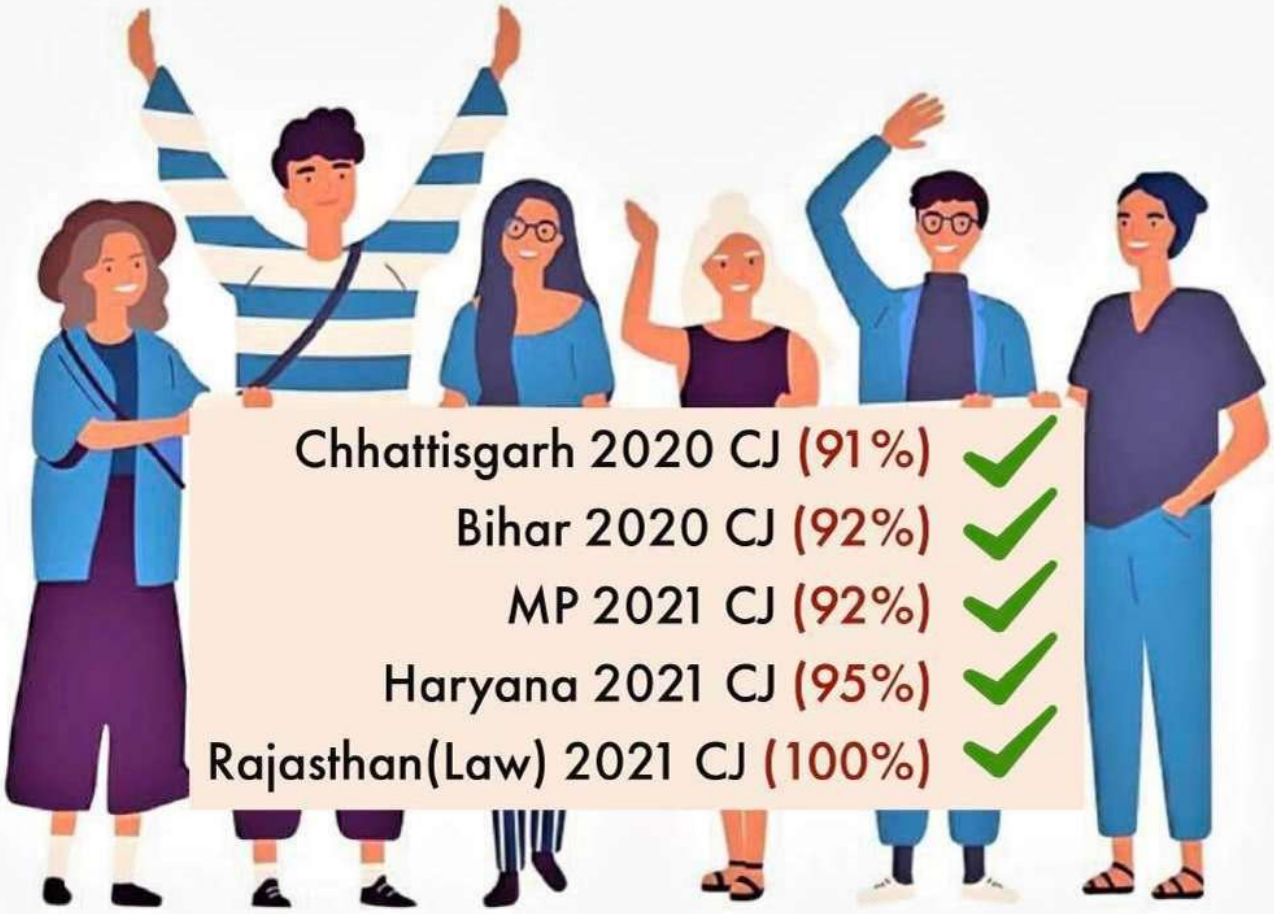

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Section - 16
SRA

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148.Recovery of specific immovable property may be made under Section 5 of the Specific Relief Act according to the

a) Law of Code of Civil Procedure

b) Law of Contract Act

c) Law of Transfer of Property Act

d) Law of Sale of Goods Act

Ans: A

Source: Edzorb Law QBank - Specific Relief Act- Unit IV- Q 29

29.

MCQ, Single Correct Question

Recovery of specific immovable property may be made under Section 5 according to the

a Sale of Goods Act

b Transfer of Property Act

c Specific Relief Act

d Code of Civil Procedure

Explanation

D

Three types of actions which can be filed for the recovery of specific immovable property:

Section 5: It provides that a person entitled to the possession of an immovable property may recover **it by filing a suit in the manner as provided under the Code of Civil Procedure**.

Ravinder Kaur Grewal Vs Manjit Kaur

(2019) 8 SCC 729

- The concept of suit based on a possessory title under Section 5 of Specific Relief Act read with Article 64 of Schedule to Limitation Act, overlaps with the concept of adverse possession.
- Therefore, the concept of possessory title generally termed as *"better title"* as against all but the true owner, when accompanied with other ingredients such as un-interrupted, peaceful and open possession, the same can be stretched little further and made applicable in cases against true owner also.
- *The suit has to be filed within 12 years.*

Reference: Contract and Specific Relief by Avtar Singh, 12th Ed., 2017, Page no. 22.

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149.The general principle on which the perpetual injunctions could be granted is contained in

a) Section 39
b) Section 36
c) Section 38
d) Section 40

Ans: C

Source: Edzorb PYP Pointers - Specific Relief Act- String 1

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Section 38 of the Specific Relief Act, 1963

The circumstances under which a perpetual injunction can be granted have been enumerated.

150. The relief by the way of mandatory injunction is

a) discretionary

b) prohibitory

c) mandatory

d) None of the above

Ans: A

Source: Edzorb Law QBank - Specific Relief Act- Unit III- Q 14

14.

MCQ, Single Correct Question

Mandatory injunction is defined in section..... of the Specific Relief Act.

a Section 39

b Section 37

c Section 38

d Section 36

Explanation

(A)

Section 39 of SRA, 1963: **Mandatory injunctions-**

- To prevent the breach of obligation,
- It is necessary to compel performance of certain acts which,
- Court is capable of enforcing,
- Court may with discretion grant injunction to prevent breach and
- Also, to compel performance of requisite acts.

Mandatory: required by law or compulsory.

Reference: Equity, Trust and Specific Relief Act, By Aqil Ahmed, 15th Edn. (2017), Page No. 144

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