

# Family Law

VINA

Indian Succession Act

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Q1) who is an administrator ?

Ans. Sec. 2 (a) - Administrator means, a person appointed by competent authority administer the estate of a deceased person ; when there is no "executor".

i) The administrator is the legal representative of the testator.

ii) Under Sec. 232, court may grant "A letter of administration" to an universal legatee or residuary legatee, when

Q2) who is executor ?

Ans. i) Under Sec 2 (c), means, a person to whom the execution of last will of a deceased is "confided by the testator".

ii) The executor is appointed by the testator himself during the making of the will or codicil.

iii) Under Sec. 20, executor has the power to sue in the deceased testator, behalf with respect to all cause of action.

iv)

Q3) What is domicile of origin?

Ans - 1) Domicile of origin is the domicile of his parents & he follows the domicile of the parents.

2) Your father is permanent residential of that country where you born =

3) the domicile of father if child is legitimate

4) The domicile of mother if the child is illegitimate.

Q4) Who is in 'Intestate' succession

Ans - Acc. to Intestate Succession Act 1989 the law makes provision for the distribution of the various shares.

2) If there are no survivors in that category, if no spouse, children, parents or dependent survivor, the estate is distributed to near relative to whom

3) If there is no near relatives the estate devolved upon the state.

Q 5) ✓ Who is residuary legatee?

Ans - A residuary legatee is the one who receives the property not been assigned to anyone.

Ex) In the absence of one the remaining property will go to the legal heir of the testator.

Q 6) What is lapsing legacy?

Ans - It means, the failure of testamentary gift owing to the death of the legatee before the death of the testator, either before or after making of the will.

Q 7) Who can make privileged will?

Ans - 1) A medical officer attached to the regiment is actually employed in an expedition can make privileged will.

Ex) privileged wills are a will that may be written or made by word of mouth by those in active service like soldier, airman, marines.

2) The testator should sign the privileged will written wholly or in part by another person! In such there is no requirement Scanned By ScannerGpati on.

Q.8) What is Codicil?

Ans: Sec 2 (b), Codicil means, it is a document that amends an existing will, but does not replace it.

1) It allows you to change your will without making an entirely new will.

2) It must be signed in the exact same way as the will was signed.

Q.9) Define will?

Ans: Sec 2 (h) means, the legal declaration of the intention of the testator (person) with respect to his property, which he desires to be carried into effect after his death.

Q.10) State four grounds on which Muslim woman can seek divorce?

Ans: 1) If she treated purely by her husband.

2) If her husband takes a second wife

3. If her husband fail to provide maintenance for six consecutive months.

4. If her husband don't cohabit with her even in six months.

(Q11) What is Tuhur?

Ans 11) Tuhur is a period of wife impurity i.e. period between two menstruation.

Q) As such, the period of tuhur is the period during cohabitation, is possible.

3) Tuhur is applicable only in case of oral divorce & not in the case of written talaq.

(Q12) What is Talq-E-Tafweez?

Ans 12) It means "Delegated Divorce".

2) Husband can delegate his power of giving talq to some third party or to his wife.

3) This power could be delegated absolutely & conditionally for a particular period of time or permanently.

4) Temporary delegation is revocable but permanent delegation is irrevocable.

5) Husband delegate to his wife the right to give him divorce by Talq-E-Tafweez. The provision of such talq can be scanned by Scanner & it is normal.

Q12(m1)

13) KHULA [Redemption]

✓ Khula or Khoola it is literally means "to 'lauj doon";

✓ In law it means laying down by his husband of his right & authority over his wife.

✓ In this if mutual relationship between wife & husband is not good then wife seeks a Khula divorce.

✓ By that husband can accept & refuse it by consideration of dower & grant divorce to her.

✓ Khula may be any consideration like dower, money & property etc.

✓ It is at the instance by wife only. husband cannot propose Khula.

14) MUBARAKAT [Mutual Freeing]

✓ When divorce is effected by mutual consent of the husband & wife is known as Mubarakat i.e. freeing one another mutually.

- b) When the aversion is on the side of wife she desires a separation the transaction is called khula. but when the aversion is mutual & both sides desire a separation on, the transaction is called mubarat.
- c) It has been held in Pakistan (Case of Sayeed Khanum v/s Mohammad Sami (1952)).
- 15 Q. IDDAH: 1) If the woman is pregnant, the period of iddat is until delivery or 4 months & 10 days which ever is longer.
- 2) It is a waiting period that a muslim woman observe after the death of her husband or after a divorce.
- 3) If the woman is subject to menstruation, the period of iddat upon divorce is three courses.
- 4) If woman is not subject to menstruation it is three lunar months.
- 5) If woman is pregnant at the time of divorce, the iddat last until delivery whether it is less or more than three months.

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(Q18) Fasid Marriage [Irregular marriage]  
voidable

- 1) It is the process of removing irregularity,  
with:
- without witnesses
  - with his fifth wife (by divorcing one of wives)
  - with a woman undergoing iddat.
- 2) Prohibited by reason of different of religion.

(Q17) Batid marriage :- (A void marriage)

Ans: 1) If it is illegal marriage acc. to the Islam that does not create any right or obligation between the parties.

2) There is no power, Iddah & legitimacy.

3) In this a married woman does not contract with another when while her husband is alive & the marriage subsisting.

✓  
Ans

Q18)

Ancient Source of Muslim law?

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1) Duran :- 1) Derived from Arabic word "Qurra' which means "To Read"

2) It was collected & arranged by "Abu Bakar" (1st Khalifa) & revised by Usman (3rd Khalifa).

3) Communicated to prophet by Gabriel in form of messages (Wahi) over 23 yrs.

4) Duran contains [6,223] ayat i.e. out of [200] Meals with legal principles.

5) In Duran there are total (26) paras which are further divided in (14) sura

2) Sunnah (Sunnat) -

"The Path"

1) Arabic word Sunnah means "Trodden Path"

2) It is mainly refer to the practice & precedent of the prophet i.e. "Sunnat-al-nabi".

3) whatever the prophet said, did or allowed tacitly is called "Hadis".

said = sunnat-ul-qawl, did = sunnat-ul-fa'el

allowed = sunnat-ul-taqdhib

3) IJMA → It means "Consensus of opinion" among the learned of their community.

4) This source has been validated by both the Quran & the prophet.

5) The validity of IJMA is based upon a hadis of prophet which says that "my people will not agree in error."

6) Ijma is of three types

a) Ijma of the Companions of the prophet

b) Ijma of the Jurist & scholars

c) Ijma of the people.

7) QIYAS → the principle of analogy applied in the interpretation of points of Islamic law not clearly covered in the Quran or Sunna.

(Q19) mahar or Dower is some of money or other property which the wife is entitled to receive from the husband in consideration of the marriage.

- 1) Specified Dower 1) An amount settled by the parties at the time of marriage or after marriage is called 'specified Dower'
- 2) If the bridegroom is minor his father has the power to make the contract of dower on behalf of him.
- 3) In sunni law says that the father is not held liable for dower but in shia he will be so liable.

#### Prompt Dower

#### Deferred Dower

- |   |  |
|---|--|
| 1) Payable immediately after the marriage or <u>demanded</u> by the wife          | It is payable on dissolution of marriage by <u>death or divorce.</u> |
| 2) It may be realised by the wife at any time before or after <u>consummation</u> | 2) The deferred dower could not be demanded                          |

## (a20) Unspecified Dowry.

- 1) If the amount of dower is not fixed, the wife is entitled to proper dower (mahr-ul-misi).
- 2) Amount of proper dower settled upon any female member of her father family such as her elder sister, future sister.
- 3) Her own personal qualification, like age, beauty, fortune, understanding will also be considered (tiedaya).
- 4) The social position of husband & means.