

Roll NO - BDBA2350

Sub - Family Law - I

Q-4 Answer.

Fasid or irregular marriage:

Failure to fulfill the following essentials of a valid muslim marriage results in a irregular or fasid marriage

1. A marriage with out witness.

→ marriage must be done in presence of proper and competent witnesses.

→ Atleast two male or one male and two female witnesses should be present

→ The witness should be a major, sound mind and a Muslim.

2. Marriage of a man with fifth wife

→ A muslim man can have four wives at a time but if he marries the fifth one that fifth marriage becomes irregular.

→ The fifth marriage can be valid after death or termination of marriage of one of the four wives.

3. Marriage with a woman undergoing Iddat

→ It is referred as a period of waiting after death of her husband or after termination of marriage during which she cannot marry.

- A divorced woman has to observe for a period of three months
- A widow observes it for four lunar months and ten days after death of husband.

4. Difference of religion

- Marriage with non-muslims who are fire worshipper is irregular.
- Fasid marriages not legally valid but irregular
- It is prohibition to marriage is temporary or remedial
- Once remediated, they becomes regular.

Q10) Ans.

Q-10 Ans

General legacy :

→ It is an amount of money or other asset that is given to someone out of general assets of a person who has died rather than particular named object.

→ It is a legacy not of any particular thing.

Example - I give XYZ Rupees to Person P.

Specific Legacy :

→ A specific legacy is a gift of some particular thing or of some interest, legal or equitable forming part of testator's estate.

→ It must be identified with by a sufficient description.

→ It must be separated in favour of particular legatee from general mass of testator's personal estate.

Example : I give my shop to person P.

Demonstrative Legacy:

- It shares characteristics of both general and specific legacy.
- It is in the nature of a specific legacy in that it is a gift of a specified amount or quantity which is directed to be satisfied primarily out of a particular fund or asset.
- It is in the nature of general legacy, in that it could be paid out of general estate if specified fund falls short.

Example: I give 1 Cr Rupees to be raised out of sale of my shop.

Q. - 2. Answer

Divorce by mutual consent

Requirement :-

1. The parties have not been living separately for a period not less than one year.
2. Parties have failed for any reason whatsoever to live together
i.e. No adjustment is possible
3. The parties have freely consented to the agreement of the dissolution of marriage
4. The parties are at liberty to withdraw the petition. but unilateral right of a party to withdraw the petition appears to be barred.

Q-5 Answer.

Muslim Law recognises the following kind of Guardianship

1. A natural or legal Guardian

- Father is recognised as the natural guardian of his kid under muslim law.
- In absence of father, the father's executor or the executor appointed by father or grandfather to act as the guardian of his minor kid on his behalf

Priority -

1. Father
2. Executor of father
3. Parental grandfather
4. The executor of parental grandfather

2. Testamentary Guardians

- A testamentary guardian may be a one that is appointed as guardian of minor beneath a will.
- Only father or in his absence Parent paternal grandfather in the absence of father

3) De-facto guardians

- not a guardian

De-facto guardian

→ A de-facto guardian is a person who is neither a legal nor testamentary or statutory guardian..

→ But has himself assumed the custody and care of a child.

Q-8 Answer

The person who can make the will shall be in testamentary capacity.

1. He must be of sound mind.
2. He must be major
3. Deaf, dumb, blind persons can make will only if he understands and what a testament means and has a desire to make one, then he may be sign and tokens declared his testament.
4. The person who is lunatic during lucid interval by appointing executors and ~~for~~ certify lunatic conditions must be certified by a doctor
5. A person who is under the effect of Drunkenness and excitement are not considered.
6. A person who is under the effect of old age illness, infirmity can make a will if he is perfectly conscious at the time of making a will.

Q-1 Ans.

According to section 24 of Special marriage Act, 1954 on the petition of either of the party, a marriage can be declared null and void by the decree of nullity.

The grounds are -

- Either party has a living spouse
- Either party was incapable of giving valid consent due to unsoundness of mind or mental illness or unfit to procreation of children
- Parties are under aged.
- Parties are in a relation of a prohibited degree
- Impotency of respondent.

Q-9 Answer

Direction for accumulation.

- When the term of a will direct that the income arising from any property shall be accumulated either wholly or in part during any period longer than a period of 18 years from the death of testator.
- At the end of eighteen years the property and the income shall be disposed of as if the period during which the accumulation has been directed to be made elapsed.
- shall not effect on any purpose following
 - The payment of the debts of the testator or any other person taking interest under will.
 - The provision of portions for children of the testator.
 - The preservation or maintenance of any property.