

EXAMINATION OF ARTICLED CLERKS

PAPER V

MODERN COMMERCIAL LAWS

Wednesday, 22nd May, 2013

TIME : 3 HOURS (1.00 P.M. TO 4.00 P.M.)

(Total Marks – 100)

Marks

SECTION – I

THE INDIAN CONTRACT ACT, 1872

1. Answer any **one** of the following :— 8
 Discuss in detail Contract of Bailment with the Rights and Duties of a Bailee. If there is any accretion to the goods bailed, who can claim such accretion to the goods? Why?
- OR
- Discuss in detail the Law of Agency with special reference to termination of Agency.
2. Answer any **three** of the following :— 12
 (a) What are the exceptions to “An Agreement without consideration being void” ?
 (b) Agency by Ratification.
 (c) Doctrine of Frustration with supporting case laws.
 (d) Contract of Indemnity and Guarantee.
 (e) Define “Coercion”, “Undue Influence”, “Fraud” and “Misrepresentation”.
3. Choose the correct option :— 5
 (a) As per law of Agency, wife becomes an Agent of her husband due to :
 (i) Marriage
 (ii) Cohabitation
 (iii) Either Marriage or Cohabitation
 (iv) Neither Marriage nor Cohabitation.
 (b) A ‘Pawnee’ has the following lien over the ‘Goods Pledged’ —
 (i) General Lien
 (ii) Particular Lien
 (iii) Either General Lien or Particular Lien
 (iv) Neither General Lien nor Particular Lien.
 (c) Continuing Guarantee —
 (i) Cannot be revoked at any time by Surety
 (ii) Can be revoked at any time by Surety
 (iii) Either (i) or (ii) above
 (iv) All of the above.
 (d) Factor —
 (i) Cannot delegate his authority to another person
 (ii) Can be revoked at any time by Surety
 (iii) Either (i) or (ii)
 (iv) All of the above.
 (e) Agency becomes irrevocable under Section 202:
 (i) When the Agent has an interest in such subject matter
 (ii) When the Principal has an interest in the subject matter
 (iii) When a third party has an interest in the subject matter
 (iv) None of the above.

SECTION - II

Marks

THE INDIAN PARTNERSHIP ACT, 1932

4. Discuss with reasons, the provisions dealing with registration of partnership firms under the Act. What is the object of such Registration? Can an unregistered partnership firm file another suit after registration of the Partnership firm against the same third party on the same causes of action without the permission of the Honorable Court? 10
5. Write short notes on any **five** of the following :— 15
- Duties of a Partner.
 - Relation of Partners *inter se* and with third parties.
 - Under what conditions, a company can be a partner in a firm?
 - Sale of Goodwill after dissolution
 - Distinction between Partnership and Co-Ownership
 - Holding Out
 - Insolvency of a partner.

SECTION - III

THE SALE OF GOODS ACT, 1930

6. Answer any **one** of the following :— 10
- Discuss the remedies available to Seller and Buyer for Breach of Contract by both of them.
- OR
- Quote rules regarding Transfer of Property from Seller to Buyer under the Sale of Goods Act, 1930.
7. Write short notes on any **four** of the following :— 10
- What do you mean by "Price" as envisaged under the Sale of Goods Act, 1930?
 - What are the rights of an "Unpaid Seller" vis a vis the "Goods"?
 - Distinguish between "Condition" and "Warranty"
 - Implied Undertaking as to Title
 - Auction Sale.
8. Choose the correct option :— 5
- Under the Sale of Goods Act, 1930, the following are not "Goods"
 - Actionable Claims
 - Steam
 - Decree
 - All of the Above.
 - Section 7 of the Sale of Goods Act, 1930 lays down that a Contract for Sale of Specific Goods is void.
 - Where the goods have perished / damaged without the knowledge of the seller
 - Where the goods have perished / damaged with the knowledge of the seller.
 - Where the goods have perished / damaged irrespective of without knowledge of the seller
 - Where the goods have perished / damaged to the knowledge of the buyer.

- (c) Under Section 2 (2) of the Sale of Goods Act, 1930, "Delivery" means :
- (i) Gratuitous Transfer of possession from one person to another
 - (ii) Involuntary transfer of possession from one person to another
 - (iii) Voluntary transfer of possession from one person to another
 - (iv) Transfer of possession irrespective of whether it is gratuitous, involuntary or voluntary from one person to another.
- (d) The exception under Section 16 (1) of the Sale of Goods Act, 1930 is not available, where the buyer contracts :
- (i) For a specified article under its patent or other trade name relying on the skill and judgment of the seller
 - (ii) For a specified article under its Patent or other Trade Name not relying on the skill and judgment of the seller
 - (iii) Both (i) and (ii) above
 - (iv) None of the above.
- (e) In which case, the Supreme Court has observed that the contract of sale, like any other contract, is a consensual act in as much as the parties are at liberty to settle for themselves the terms of their bargain:
- (i) *Safdarjung Sugar Mills Ltd. Vs. The State of Mysore and Ors.* (AIR 1972 SC 87)
 - (ii) *New India Sugar Mills Ltd. Vs. Commissioner of Sales Tax, Bihar* (AIR 1963 SC 1207)
 - (iii) *Agricultural Market Committee vs. Shalimar Chemical Works Ltd.* (AIR 1997 SC 2502)
 - (iv) *Chhittermal Narayan Dass vs. Commissioner of Sales Tax, Uttar Pradesh* (AIR 1970 SC 2000).

SECTION - IV

THE NEGOTIABLE INSTRUMENTS ACT, 1881

9. Explain any **five** of the following :— 15
- (a) Inchoate instruments.
 - (b) Who is a drawee in case of need ?
 - (c) Foreign instrument.
 - (d) Negotiation by Delivery.
 - (e) Consequences of dishonour of a cheque by a company.
 - (f) Explain the modes of discharge from liability on Notes, Bills and Cheques.
 - (g) Protest for better security.
10. Answer any **two** of the following :— 10
- (a) What are the necessary averments required in a complaint before a person can be subjected to criminal process under the Act?
 - (b) Explain "at-sight", "on presentation", "after-sight" and "maturity".
 - (c) Define "cheque". Explain "cheque in electronic form".
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