

EXAMINATION OF ARTICLED CLERKS

PAPER V

MODERN COMMERCIAL LAWS

WEDNESDAY, 5TH NOVEMBER, 2014

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

(TOTAL MARKS – 100)

Section I.

The Indian Partnership Act, 1932

1. Explain any five of the following quoting the relevant Sections :— **(10)**
 - (a) Who makes the application for registration of a firm with the Registrar of Firms ?
 - (b) Which are the names of a firm permitted under the Partnership Act for it to be registered ?
 - (c) When can a partner use the firm name after dissolution and under what provisions of the Act ?
 - (d) Who gets the goodwill of the partnership firm, upon dissolution ?
 - (e) What comprises the property of the firm ?
 - (f) What are the rights of an outgoing partner and what are the restrictions upon him carrying on any similar business ?

2. How does a partner retire from the firm ? What are the liabilities of a Retiring Partner ? **(5)**

3. Answer the following :----
 - (a) When is the firm liable for misapplication of the funds or property by any partner/partners ? **(2)**
 - (b) What are the rights of minor, admitted to the benefits of partnership. Is a minor personally liable to third parties for the liabilities of the firm ? How does a minor elect to be a partner and when ? **(2)**
 - (c) In what circumstances does a firm stand dissolved ? Please indicate the relevant Sections of the Act. **(6)**

Section II**The Negotiable Instruments Act, 1881**

4. Explain the following and quote the relevant provision of Act in support of your answer. Please also give an example to your answer. (15)
- (a) Negotiation.
 - (b) Which law is applicable in case of dishonour of a negotiable instrument ?
 - (c) How is a negotiable instrument dishonoured ?
 - (d) How is a liability under a negotiable instrument discharged and who is discharged consequently ?
 - (e) What are the circumstances under which a liability arises under inchoate stamped instruments ?
5. In what circumstances is an Independent Director in a Public Limited Company liable for the dishonour of a cheque issued by the Company. What are remedies available once cognizance is taken by a Magistrate of the Complaint filed and verification recorded and process issued. What is the latest case law on this issue ? (7)
6. (a) How is a bill of exchange presented for acceptance ? (3)
- (b) How is a negotiable instrument presented for payment and to whom ?
- (c) What is the liability of a drawee of a cheque ?

Section III**The Sale of Goods Act, 1930**

7. Answer any three of the following quoting the relevant Sections: (15)
- (a) Who is an unpaid seller and what are the rights of an unpaid seller ?
 - (b) How does property in the following goods pass ?
 - (i) Specific goods in a deliverable state.
 - (ii) Goods sent on approval basis.
 - (iii) Delivery to a Carrier.
 - (c) How is the price in a contract for sale of goods to be determined ?
 - (d) What is the difference between a condition and a warranty ?

8. Write short notes on any five of the following: **(10)**
- (a) What are the consequences if specific goods perish before making of the contract or before sale thereof ?
 - (b) What is the implied condition of sale of goods by description ?
 - (c) What is the implied condition of sale of goods by sample ?
 - (d) What is the remedy available to the unpaid seller when the buyer becomes insolvent ?
 - (e) What are the liabilities of a buyer for refusing delivery of goods ?
 - (f) In what circumstances can any Court award specific performance of the contract of sale of goods ?

Section IV

The Indian Contract Act, 1872

9. Explain the following quoting the relevant Sections : **(10)**
- (a) Competency to contract
 - (b) What is consent and when is consent said to be "free" ?
 - (c) What are lawful and unlawful considerations and objects ?
 - (d) What is a contract of indemnity ?
 - (e) What is a continuing guarantee ?
10. What are the rights available to a party who suffers by breach of contract and under which Sections of the Act ? **(3)**
11. What is the consideration for issuing a guarantee ? **(3)**
12. In what circumstances is a surety discharged from his/her liability ? **(4)**
13. When does a Bailee have a lien on the goods bailed ? **(3)**
14. What are the nature, extent and parameters of an Agents' authority ? **(3)**
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