

**DELHI JUDICIAL SERVICE MAIN EXAMINATION 2018**  
(09.02.2019)

Time Allowed: 3 Hours

Max Marks: 250

**Instructions:**

- (i) Please read the questions carefully and answer them as directed.
- (ii) All questions are compulsory, unless specified.
- (iii) You are allowed 15 minutes time before the examination begins, during which you should read the question paper and, if you wish, highlight and/or make notes on the question paper. However, you are not allowed, under any circumstances, to open the answer sheet and start writing during this time.
- (iv) Criteria for will include but will not be limited to the range of vocabulary, the employment of vocabulary for precise expression, cohesive presentation of ideas and concise articulation of views.

**PART – A**

**GENERAL KNOWLEDGE**

**Q. No.1** Answer in 100 words or less (answer any 6).

- (i) Right to Reputation under Article 21 of the Constitution of India
- (ii) Adultery under the amended (2018) Section 497 of the Indian Penal Code.
- (iii) 42<sup>nd</sup> Amendment to the Preamble of the Indian Constitution
- (iv) Rights of transgender community
- (v) Citizenship (Amendment) Bill 2019
- (vi) Religious Purity and Rights of Women
- (vii) The landing of Chang'e-4 on the Moon
- (viii) US decision to back out from the UNESCO
- (ix) The Blue Whale Challenge and the implications of social media on children
- (x) The decriminalization of Homosexuality in India

(6 x 10 = 60 Marks)

**Q. No.2** Answer in one sentence or less (answer any 10)

- (i) What is the timeframe within which the registration of an FIR be made available online.
- (ii) Which Senior Advocate, who played a significant role in seeking justice for the victims of 1984 riots, was conferred with the Padma Shree recently.
- (iii) Five women were prominent members of the Constituent Assembly that drafted the Constitution of India. The members included Sarojini Naidu, Amrit Kaur and Vijaya Lakshmi Pandit. Name the two remaining members.
- (iv) Benegal Narsing Rau, who was the Constitutional Adviser to the Constituent Assembly and aided the formulation of the Indian Constitution, also worked to draft the Constitution of another country. Name the country.
- (v) Who said "There is a higher court than courts of justice and that is the court of conscience. It supersedes all other courts"?
- (vi) What is Tour de France?
- (vii) Who is the author of 'We are Displaced: My Journey and Stories from Refugee Girls around the World'?
- (viii) Which sportsperson has been conferred with the title 'Meethoileima'?
- (ix) What is bioluminescence?
- (x) How many people were conferred with the Padma Vibhushan in the year 2018?
- (xi) Name the far-right candidate elected as the President of Brazil on 28<sup>th</sup> October 2018.
- (xii) Who is the 114<sup>th</sup> Justice of the US Supreme Court who was accused of sexual misconduct by Christine Blasey Ford?

- (xiii) Name the biographical movie based on the life of physicist and cosmologist, Stephen Hawking who was played by Eddie Redmayne.
- (xiv) Name the sister of Odisha CM Naveen Patnaik who is an author and who declined the Padma Shree award in 2019.
- (xv) Who was the woman who led the All-Women Assam Rifle's contingent during the Republic Parade, 2019? (10 x 2 = 20 Marks)

**Q. No.3** Write whether the following statements are True or False.

- (i) The Philip Kotler Presidential Award was conferred to Indian Prime Minister, Narendra Modi by GAIL under the aegis of Kotler Impact in the year 2019.
- (ii) Jai Kisan Rin Mukti Yojna was launched to waive off farmer's debts by the Madhya Pradesh government.
- (iii) The recently inaugurated Diffo bridge provides uninterrupted access between Dibang Valley and Lohit Valley region of Meghalaya.
- (iv) The Majuli island became the first island to be made a district in India.
- (v) Puducherry has decided to impose a ban of single-use plastics from 01<sup>st</sup> March, 2019.
- (vi) The Mawlynnong village of Mizoram is known to be the cleanest village in Asia.
- (vii) The theme of National Girl Child Day, 2019 was Beti Bachao Beti Padhao.
- (viii) The Central Bank of Bangladesh has recently banned the use of Indian currency notes of rupees 200, 500 and 2000.
- (ix) The National Museum of Indian Cinema was recently inaugurated in Hyderabad by Prime Minister Narendra Modi.
- (x) The Saraswati Samman is an annual award for outstanding singing in any of the 22 Indian languages listed in Schedule VIII of the Constitution of India.

(10 x 1 = 10 Marks)

**Q. No.4** Who wrote the following (answer any 5)

- (i) The Idea of Justice
- (ii) Before Memory Fades
- (iii) We the People: India the Largest Democracy
- (iv) Courts and their judgments
- (v) Crime and Punishment
- (vi) The Trial
- (vii) Why I am Not a Hindu
- (viii) A Century is not Enough
- (ix) 21 Lessons for the 21<sup>st</sup> Century
- (x) I Do What I Do

(5 x 2 = 10 Marks)

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**PART – B**

**LANGUAGE**

**Q. No.1** Write an essay in 500 words each on any TWO of the given topics:

- (i) Ethics of creating life in a laboratory
- (ii) Imagining an altered world with Artificial Intelligence
- (iii) Is social media ripping society apart?
- (iv) Religion is the opium of masses.
- (v) "The Space X expedition to Mars is also an impulse to colonize, dominate and control." Respond in your own words.

(2 x 25 = 50 Marks)

**Q. No.2** Prepare a précis of the following passages in about 150 words:

Power has two connotations. One is physical force, but this, however great, is inert in itself. It can be dangerous only when exercised, and juridically its exercise is often a matter of liberty to do so or not. The problem of curbing the abusive exercise of physical force is, therefore, the problem of curbing liberty of action. Power has the other connotation of legal capacity to alter jural relations and this is the sense in which the problem of power is considered here, especially the supreme power of making laws. Abuse of this power by government may be designated 'rule *by* law' where laws are used as instruments of government policy. 'Rule *of* law', by contrast, is the use of law, among other things, to curb the misuse of law-making power by the government.

The abuse of 'rule *by* law' manifests itself in the passing of unjust laws. The supreme legislative authority in Britain being the Crown in Parliament, in order to prevent an unjust statute from being treated as 'law', it would be necessary to include a criterion of just quality in the requirements for the validity of a statute in addition to purely formal criteria. The point is that on purely formal criteria an unjust enactment, however heinous, is 'law' provided the requisite procedures have been observed and majorities obtained. The addition of a moral quality of justness is designated to ensure that an enactment is not 'law' merely because it has been passed in due form.

Laws are not just things of the moment, but enduring phenomena. Just quality is a factor of endurance, which means that, in a long view, that quality needs to be taken into account *now*. However, one positivist philosopher has contended that clarity and honesty might be gained by keeping the juristic and moral issues separate. To accord validity to an unjust enactment, so he argues, does not imply moral approval of it, namely, that 'might is right', but only that it is 'law'. The positivist attitude enables regimes like that of Nazi Germany to establish themselves through the grossest injustices becoming accepted as 'laws' simply because they satisfy some formal criterion. Finally, even a doctrine such as the 'Rule of Law' becomes a betrayal of the individual if all it means is that formally valid laws shall be administered impartially, for there is neither hope nor comfort in the impartial application of oppressive and degrading rules. It is for such reasons as these that people press for some means of controlling, not just the form of enactment, but its very substance.

(30 Marks)

**Q. No.3** Translate the given extract into Hindi:

When I was growing up, every Sunday my family would have a family dinner. "Sunday dinner" – or as I called it, "torture" – was my parents' attempt at being civilized and having at least one meal a week with the entire family. There was no getting out of it. It was "family time," and I remember hating it. Dad would use a low voice as if to indicate to the rest of us, "Compliment your mother or you die." My siblings and I would quickly chime in with, "It's great. Thanks mom." I remember being a kid and never being able to find a multicourse meal appealing. I couldn't understand why we couldn't just have McDonald's for Sunday dinner. My eight-year-old palette was already accustomed to fast food, and expanding it beyond that has been a lifelong struggle for me.

Occasionally my father would ask us about historical events. "Jimmy, what do you think of the Vietnam War?" It didn't matter that the Vietnam War was long over or that I was ten years old at the time and pretty much unaware of the existence of Vietnam. Many of these Sunday night family discussions would inevitably lead to massive arguments, and normally someone would end up crying or getting punished. The punishment was pretty harsh and usually involved cleaning up after the Sunday dinner, which was the only thing worse than the actual Sunday dinner. Cleaning up after an eight-person Sunday dinner that you don't even want to be at should probably be added to Amnesty International's list of torture techniques. But we were dressed nicely, so it seemed like very civilized torture. It's no wonder I still love McDonald's. You can just eat it, then throw the bag away. (30 Marks)

4. Translate the given extract into English :

" दिल्ली में प्रत्येक मोटर चलानेवाला आदमी साइकिल चलानेवालों से नफरत करता है। दिल्ली के हर आदमी के मस्तिष्क में घृणा चलती रहती है और एक-न-एक दिन किसी-न-किसी रूप में फट पड़ती है। दिल्ली की सड़कों पर सारे वक्त घृणा का व्यापार चलता रहता है। बसों में चक्के खाकर चढ़ने वाले, भाग-भागकर सड़कें लेंचने वाले, मौजूद बजाती मोटरों में स्फुर करने वाले सभी किसी-न-किसी पर चिल्लाते; गालियाँ बकते, मुड़-मुड़कर एक-दूसरे को दाँत दिखाते जाते हैं। घृणा एक चुन्ध की तरह सड़कों पर तैरती रहती है।

पिछले जमाने की घृणा कितनी सरल हुआ करती थी, लगभग प्यार-जैसी सरल। क्योंकि वह घृणा किसी व्यक्तिविशेष के प्रति हुआ करती थी। पर अन्जान लोगों के प्रति यह अमूर्त घृणा, ~~जिस~~ मस्तिष्क से जो निकल-निकलकर सारा वक्त वातावरण में अपना जहर छौलती रहती है, यह नई है।"

(30 marks)

Q. No.5 Fill in the blanks in the following passages, choosing the most appropriate word from the given choices:

All human beings are conscious of the past by \_\_\_\_\_ (1) (virtue of/ dint of/ consideration of) living with people \_\_\_\_\_ (2) (older/elder/elderly) than themselves. All societies likely to concern the historian have a past, for even the most innovatory colonies \_\_\_\_\_ (3)(are populated/were populated/ have been populated) by people who come from some society with an already long history. To be a member of any human \_\_\_\_\_ (4) (commune/ community/ communality) is to situate oneself with regard to its past, if only by rejecting it. The past is therefore a permanent dimension of human consciousness, an \_\_\_\_\_ (5) (inevitable/ excitable/ inscrutable) component of the institutions and values of society.

From his childhood days, Kabir \_\_\_\_\_ (6) (dreamed/ had dreamt/was dreaming) of driving a train. An orphan, he \_\_\_\_\_ (7) (lives/ lived/was living) with his engine-driver uncle, in the railway colony. All day, he would sit at the side of the tracks and watch the great engines rumble past \_\_\_\_\_ (8) (on/ at/with) their daily chores. Sometimes his uncle \_\_\_\_\_ (9) (would have smuggled/ smuggled/ would smuggle) him into the driver's cab of an engine for a joy ride. "I \_\_\_\_\_ (10) (should be/ would be/ will be) an engine driver one day," he would say on such occasions.

(10x1 = 10 Marks)

END OF PAPER

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**CRIMINAL LAW**

1. The investigating agency files a charge sheet against "A." for commission of offences to be tried as 'Warrant case'. The magistrate tries him following the procedure prescribed for a 'summons trial' case and convicts him. 'A' challenges the conviction before the appellate court and seeks a de-novo trial. Elucidate the powers of an appellate court to order re-trial under Section 386 of the Code of Criminal Procedure. **(10 Marks)**
  
2. (a) The law presumes that every person committing a crime is sane and liable for his acts. Section 84 of the Indian Penal Code carves out an exception. Elaborate on the doctrine of burden of proof in the context of the plea of insanity. **(10 Marks)**  
  
(b) Expression in Section 84 of the Indian Penal Code is "unsoundness of mind" and not "insanity". Is there any difference between the two? **(5 Marks)**
  
3. (a) 'X', blind by birth, is a victim of sexual assault. She identifies the accused 'A' only by his voice during the trial. 'A' denies his presence at the spot. Under what circumstances and to what extent is such identification by voice reliable? **(5 Marks)**  
  
(b) Test Identification Parade (TIP) of an accused during investigation is a material piece of evidence. In this context, discuss:
  - (i) Is conducting TIP during investigation mandatory?
  - (ii) Effect of delay in holding TIP.
  - (iii) TIP of two accused persons arrested in the case conducted jointly.
  - (iv) Can the accused ask for TIP as a matter of right during investigation?**(4x2.5 = 10 Marks)**
  
4. (a) 'A' faces the charge of committing murder of his friend 'B'. The trial court acquits him of the charge for lack of evidence. The State challenges the acquittal in appeal. The High Court declines leave to appeal. Can 'W' – wife of the deceased maintain an appeal against the acquittal? **(5 Marks)**  
  
(b) The doctrine of "locus standi" is totally foreign to criminal jurisdiction. Discuss. **(5 Marks)**
  
5. What are the essential ingredients of the offence of criminal conspiracy? How can the existence of conspiracy and its objective be established during trial? **(10 Marks)**

6. (a) Elucidate the powers of a police officer to conduct further investigation under Section 173 (8) of the Code of Criminal Procedure after filing of the police report under Section 173 (2) of the Code of Criminal Procedure. Whether a Magistrate can direct re-investigation or investigation de-novo? **(5 Marks)**
- (b) Whether the person who is arrested has a right to insist for the presence of an advocate at the stage of police interrogation? **(5 Marks)**
7. (a) The accused in police custody provides information to the Investigating Officer (IO) under Section 27 of the Indian Evidence Act. The IO, to ensure its sanctity, soon thereafter calls independent public witnesses and records the same in their presence. Whether such information is admissible in evidence? **(5 Marks)**
- (b) During trial of a case under Section 302/364A of the Indian Penal Code, no objection was taken by the accused to the mode of proof when Call Detail Records (CDRs) of mobile phone recovered from him was adduced in evidence. The CDRs were admitted in evidence and marked as an Exhibit. Whether the same amounts to waiver of insisting of formal proof of documents? Whether such waiver from the accused is permissible in criminal case under Section 294 of the Code of Criminal Procedure? **(5 Marks)**
- (c) What is meant by the word '*alibi*'? Whether plea of *alibi* is one of the general exceptions or a rule of evidence? Discuss the relevance of plea of *alibi* in a criminal trial? **(10 Marks)**
8. (a) Whether provisions of Section 154 of the Indian Evidence Act make any distinction between a civil or a criminal case. At what stage of the examination can the witness be cross-examined by the party who called him as a witness. **(5 Marks)**
- (b) What are the reasons for the witnesses turning 'hostile' during trial. Can a 'hostile' witness be permitted to subvert a criminal trial? To what extent the testimony of a 'hostile' witness can be read against the accused? **(10 Marks)**
9. Distinguish any **three** of the following:
- (a) Interested witness and Related witness
  - (b) Suspension of sentence and Bail
  - (c) Suspension of sentence and Suspension of conviction
  - (d) Anticipatory bail and Regular bail
  - (e) Charge in police case and charge in complaint case
- (3x5 = 15 Marks)**

10. 'A' is arrested in a case for commission of offence punishable under Section 302 of the Indian Penal Code on 8<sup>th</sup> April 2018. He is subsequently remanded to police/judicial custody from time to time. The complainant moves the High Court for a fair and impartial investigation. On the assurance of the Public Prosecutor that investigation would be conducted by an officer not below the rank of Assistant Commissioner of Police (ACP) and the report of the investigation with the opinion of the Investigating Officer (IO) shall be filed within two months, the High Court disposes of the petition on 03.07.18.

On 05.07.18, the police officer files a report under Section 173 of the Code of Criminal Procedure before the Metropolitan Magistrate (MM). Since the report was filed by a police officer below the rank of ACP contrary to the order dated 03.07.18, the MM returned the charge sheet to the police for due compliance. On 09.07.18, the accused filed an application for statutory bail under Section 167 (2) of the Code of Criminal Procedure which was dismissed by the MM observing that the order dated 03.07.18 of the High Court was an extension of the period within which the investigation could have been completed. The appellant challenges it before the High Court. Decide.

**(10 Marks)**

11. The case of the prosecution is that on 03.02.18 at 13:15 hours, a decapitated body was found lying in a Tea Estate. On the basis of a written complaint by 'X', the investigation commenced. 'A' is arrested and makes a disclosure statement on 04.02.18. Pursuant to the disclosure statement, he leads the police to the Tea Estate where the dead body was found on 03.02.18 and got recovered the severed head which was found wrapped with the wearing clothes of the deceased, concealed with soil and dry leaves in a garden drain. The body and severed head were identified by the relatives of the deceased. 'A' also got recovered the weapon used in the crime on 08.02.18 from a concealed place in the presence of an independent public witness 'P'. The post mortem examination report revealed that there were 8 stab injuries on the chest, stomach and other vital parts of the body of the deceased.

During evidence, 'W' – wife of the deceased deposed that her husband was a sweeper by profession. On 02.02.18 he was taken from the house at around 2:00 pm by 'A' on cycle. When in the evening, the deceased did not turn up, she went to A's house and met his father who informed that both 'A' and the deceased had gone to clean a safety tank on 03.02.18. The deceased did not return home that night. Next day, 'W' met 'A' and enquired about her husband. 'A' asked her to go to the police station. She went there but did not find her husband. On 04.02.18, she came to know about the recovery of the beheaded body of her husband.

During trial, 'P', a witness to recovery of weapon of crime turned hostile and denied recovery of the weapon of offence in his presence. 'W' admitted in the cross-examination that she used to suspect that her husband had intimate relations with A's wife. She further admitted that 'A' and the deceased were friends since long.

Decide the culpability of 'A' in the crime.

**(30 Marks)**

12. 'X', a Superintendent in the Ministry of Defence committed suicide on 15.01.2018 in his house. His wife lodged a complaint that 'X' was suffering from mental torture as his superior officer 'P' was getting heavy work done from him from 10 am to 10 pm. 'P' would call him at odd hours and even on holidays to get the work done. 'P' had stopped his salary without any reason for 3 months and was threatening to stop his increments. Because of pressure of work, 'X' used to remain silent. She named 'P' to be responsible for the death of her husband. On the basis of the said complaint, an FIR under Sections 306 and 506 of the Indian Penal Code is registered against 'P'. During investigation, the police recovered a suicide note written by 'X' detailing these facts. 'P' seeks quashing of the FIR under Section 482 of the Code of Criminal Procedure. Discuss.

**(10 Marks)**

13. 'X' a teacher in a public school at Delhi assaulted 'Y', a second standard student with a wooden stick. It resulted in an injury to her left eye. Despite treatment and surgery, there was loss of eyesight. 'Y's father lodged FIR after 25 days. What is the nature of the offence committed by 'X'.

**(5 Marks)**

14. (a) What is the role of a Public Prosecutor in a criminal trial. Under which circumstances can he withdraw from prosecution?

**(10 Marks)**

(b) 'X' is facing criminal proceedings for the commission of offences under Sections 506 and 195-A of the Indian Penal Code. The Public Prosecutor files an application to withdraw from the prosecution stating that the Government had no objection to the withdrawal. He files a Government Notification in that regard. Decide.

**(5 Marks)**

15. Marriage of 'A' aged about 25 years took place with accused 'B' on 17.01.2018. She committed suicide by jumping into a nearby well of the village within 4 months of her marriage. The reason for her extreme step was her harassment due to demand of dowry and also cruelty meted out to her as 'B' had illicit relations with a woman. There used to be frequent quarrels between them on this issue. 'B' did not mend his ways and continued his relation.

The allegations are duly proved. What offence(s), if any, have been committed by 'B'?

**(10 Marks)**

**END OF PAPER**



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**CIVIL LAW – I**

**Q. No.1**

Ramesh was the owner of several residential and commercial properties in Delhi. He inducted Harish as a tenant in one of his commercial properties. After the death of Ramesh, his married daughter Kavita filed an eviction petition against Harish on the ground of bonafide need for herself and also that of the members of her family. She pleaded in her petition filed under the provisions of the Delhi Rent Control Act 1958 that she holds a diploma in cooking and wants to run a restaurant in the shop under the tenancy of Harish; that her son, who is in the final year of Chartered Accountancy will need another shop to establish his office; that there are two vacant rooms in the said commercial property which could have been made available for her use, but the same were already occupied by her brothers who were using them as their guest rooms.

Harish filed an application seeking leave to defend the petition on several grounds. He denies that Kavita is the owner or land lady of the shop in his tenancy; that her two brothers are the joint owners of the property and he pays rent to them and therefore Kavita by herself cannot seek eviction of a tenant from the shop; that otherwise also being a married daughter of the late owner and landlord of the property, she cannot seek eviction of a tenant from the shop to meet her bonafide needs; that she can easily get a job in a hotel and earn good salary; that the two rooms on the ground floor of the building were lying vacant and that they open on to a 20 feet wide road and could easily be converted into shops for the use of the petitioner and her son.

Decide the application of Harish by referring to the applicable legal provisions and case law. **(20 Marks)**

**Q. No.2.**

“H” is engaged in the business of trading and manufacture of cardboard boxes. He has business dealings with “M” for the last several years. After finalising the previous accounts, both of them started fresh transactions from 02.04.2010 and “H” supplied boxes to “M” till 05.11.2011 of a total value of Rs.50,000/- without receiving any complaint. “M” paid Rs.30,000/-, leaving behind the balance amount of Rs.20,000/-. The outstanding amount is not paid. “H” therefore institutes a suit for recovery of the outstanding amount from “M”.

“M” denies his liability on the ground that “H” did not supply the boxes of agreed quality; that he wrote letters dated 02.12.2010 and 24.04.2011 asking “H” to compensate “M” as boxes worth Rs.20,000/- were of bad quality; that he wrote letter dated 15.12.2010 to

“H” informing him about the goods being of bad quality. “M” makes a counter claim to the tune of Rs.25,000/- towards damages and states that he is not liable to pay any amount to “H”.

Examine the respective contentions of “H” and “M” and decide applying the relevant legal principles. **(20 Marks)**

**Q. No.3.**

A registered firm of five partners A, B, C, D and E was constituted w.e.f. 01.01.1990. Two partners i.e., A and B retired from the firm. The other three partners C, D and E, who were earlier partners in their individual capacity joined the firm as Karta of their respective HUFs w.e.f. 01.01.1995. An application for recording the changes was filed with the Registrar of Firms on 12.01.1995. The firm entered into a contract with a third party on 18.01.1996 and later on filed a suit against that party for breach of contract. The suit was filed through partner D on 18.10.1996, who prior to the reconstitution of the firm was partner in his individual capacity and w.e.f. 01.01.1995 had joined as Karta of his HUF. The Registrar of Firms recorded the changes on 20.12.1996 with retrospective effect from the date of actual reconstitution of the firm.

Whether the suit is liable to be dismissed in view of the provisions of Section 69 of the Indian Partnership Act? Decide with case laws. **(15 Marks)**

**Q. No.4.**

A young Hindu couple married for the past five years are living separately for the last one year and five months due to strained relations. Their family members and well wishers could not resolve their differences. Now both husband and wife want to bring a peaceful end to their relationship to enable them to settle down in their future life. The wife is expecting to get a job in a foreign country after about three months.

Advise them about the legal procedure which they may follow to get divorced before the wife goes abroad. Support your opinion with case law. **(15 Marks)**

**Q. No.5.**

A, a well built boy of 17 years of age, by representing himself to be 20 years old, agreed to sell a house to B for Rs. 80 lakhs and took an advance of Rs. 30 lakhs from B. The rest of the amount was to be paid at the time of registration of the sale deed within 90 days of the agreement to sell. Later on A refused to execute and register the sale deed despite B showing readiness and willingness to pay the remaining sale consideration.

B files a suit for specific performance of the agreement to sell and in the alternative for refund of the advance amount paid to A along with interest.

Can B succeed? Decide with reference to statutory provisions and case law.

**(15 Marks)**

**Q. No.6.**

Choose **any of the two topics** given below and elucidate the distinction:

- (a) Tort and Breach of Contract.
- (b) Tort and Quasi Contract
- (c) Tort and Bailment

**(5 X 2- 10 Marks)**

**Q. No.7.**

Gopal entered into an agreement with the municipality to construct a road in the city. As per one of the two clauses of the agreement, Gopal deposited an amount as refundable security deposited with the municipality. This deposit was to secure the performance of the construction contract. On successful completion of the construction of the road, the authorities paid the entire contractual amount to Gopal. When the contractor asked for refund of his security amount, the authorities deducted the charges of Goods and Service Tax (GST) which was to be deducted against payment of the contractual amount. The balance amount from the security deposit was refunded to Gopal.

Gopal is not satisfied with the deduction of sum from the security amount. His objections are as follows:-

- (a) There is no clause in the agreement for the deduction of GST from the contractual amount and as such the contractor is not liable to pay such tax.
- (b) In the absence of any agreement that the contractor is liable to pay GST, it is only the municipality which is liable to pay tax from its funds, if it is payable.

Assume that GST was applicable in the facts of the case, decide the objections raised by Gopal by referring to legal provisions and case law. (15 Marks)

**Q. No.8.**

Write short notes on **any five** of the following as applicable under Muslim Law:-

- (a) Iddat.
- (b) Muta Marriage.
- (c) Dower
- (d) Puberty
- (e) Ijah
- (f) Qabool

(10 Marks – 2 marks each)

**Q. No.9.**

Suresh and Karan are in dispute over an agreement of sale in respect of an immovable property which Karan agreed to sell to Suresh.

Suresh argues that the terms “readiness and willingness” are synonymous.

Do you find any merit in the averment of Suresh? Explain the provisions of law which deal with the above contention of Suresh. Support your finding with case law.

(10 Marks)

**Q. No.10.**

Both husband and wife are Hindus and their marriage was solemnized in accordance with Hindu rites and customs. They have a minor son and a minor daughter. The wife has filed a petition against the husband for the grant of custody of children along with maintenance for them. She is employed and earning a salary of Rs.10,000/- per month. She claimed maintenance of Rs.7,000/- per month for the children by pleading that her husband is earning a salary of Rs.9,000/- per month.

The family court grants custody of children to their mother.

The husband pleaded that he is to maintain his ailing old parents and that the wife is earning sufficiently to maintain herself and the children.

Describe the meaning of maintenance under the enactments applicable to Hindu Law. Can an employed wife get maintenance for children from their father? If yes, how much amount can be allowed in the facts and circumstances of this case? (15 Marks)

**Q. No.11.**

An ordnance factory, owned by "X" manufactured explosives and ammunition for the Government of India. One day, a shell exploded in the premises of the factory. A workman who was working in the factory and "P" who had illegally entered into the factory were injured in the explosion.

The injured workman and "P" sued "X" for damages under the "Rylands vs. Fletcher" Rule.

Which of them is entitled to damages/compensation and how is the same to be calculated? **(10 Marks)**

**Q. No.12.**

B and C are two partners in a firm. H, a minor, is inducted as a partner in the firm.

What would be the legal rights and liability of H in respect of acts of B and C in relation to the firm's business in the following situations:-

- (a) During his minority.
- (b) After he attains majority when he opts to become a partner in a firm.
- (c) When he opts not to become a partner.

**(15 Marks)**

**Q. No.13.**

On what grounds, can a decree of judicial separation granted under the Hindu Marriage Act 1955, be revoked by the Court?

Does the resumption of cohabitation without intimation to the Court automatically rescind such decree? **(10 Marks)**

**Q. No.14.**

A entered into a contract with a wholesaler for the purchase of crackers for use in Delhi on the occasion of the festival of Diwali. Before the arrival of the consignment, the Supreme Court imposed a ban on the sale of crackers in Delhi. A refused to take delivery of crackers and asked for refund of his advance money deposited with the wholesaler.

Can A succeed? Discuss the matter with the help of legal provisions and case law.

**(10 Marks)**

**Q. No.15.**

What is the meaning of earnest money deposit in a contract for sale of immovable property?

What are the principles that govern forfeiture of earnest money deposit? Under what circumstances can earnest money deposit be forfeited? Explain with some case laws.

**(10 Marks)**

**END OF PAPER**

**DELHI JUDICIAL SERVICE MAIN EXAMINATION 2018**

(10.02.2019)

**Time Allowed: 3 Hours**

**Max Marks: 200**

**Instructions:**

- (i) Please read the questions carefully and answer them as directed.
- (ii) All questions are compulsory, unless specified.
- (iii) You are allowed 15 minutes time before the examination begins, during which you should read the question paper and, if you wish, highlight and/or make notes on the question paper. However, you are not allowed, under any circumstances, to open the answer sheet and start writing during this time.
- (iv) Support each of your answers with reasons, relevant legal provisions and legal principles. Length of the answer would not determine the marks.
- (v) Bare Acts will be provided by this Court in the examination hall for use by you.
- (vi) Even if you do not know the answer, it is advisable to attempt as much, as the test is not only of the knowledge of law but also of analytical reasoning.

**CIVIL LAW – II**

**Q No. 1**

Ram Singh was in occupation of a house belonging to Kehar Singh. In January, 2016 Kehar Singh filed a suit for possession alleging that Ram Singh was a trespasser in his house. The suit was contested by Ram Singh whose defence was, that he had become owner of the house by virtue of a sale deed executed by Kehar Singh in his favour, which fact was denied by Kehar Singh.

The suit was fixed for hearing on 17<sup>th</sup> April, 2016 before the District Judge, Delhi. On that date, Kehar Singh did not appear before the Court in the case. However, Ram Singh had appeared on that date in the Court.

The suit for possession filed by Kehar Singh was dismissed in default due to his non-appearance.

On 10<sup>th</sup> October, 2016, Ram Singh died leaving behind his widow Smt. Prem Kumari. In November, 2016, Kehar Singh filed a fresh suit against Smt. Prem Kumari alleging that she is in illegal possession of the house owned by him and prayed that a decree for possession be passed in his favour and against Smt. Prem Kumari.

Advise Smt. Prem Kumari, if the suit for possession filed against her by Ram Singh is maintainable or not. Give reasons quoting the relevant legal provisions. **(10 Marks)**

**Q. No.2**

Naresh Kumar is residing at Mumbai, Raj Kumar at Jaipur and Surender Kumar at Delhi. All three go together to Srinagar for holidays. While at Srinagar, Raj Kumar and Naresh Kumar execute a joint promissory note payable on demand in favour of Surender Kumar for money borrowed from Surender Kumar.

Surender Kumar files a suit for recovery on the basis of the promissory note at Srinagar against Naresh Kumar and Raj Kumar. They both in their written statement take a preliminary objection to the jurisdiction of the court at Srinagar to try the suit by asserting that the defendants do not reside at Srinagar.

Decide the objection with reasons.

**(10 Marks)**

**Q. No.3**

Plaintiff- Ramesh Chand files an application under Order 39 Rules 1 and 2 of Code of Civil Procedure before the Trial Court. Defendant- Prem Kumar opposes that application. The trial court dismissed the application of Ramesh Chand. Being aggrieved, Ramesh Chand files an appeal before the Appellate Court. However, counsel for Ramesh Chand after some arguments withdraws his appeal. Consequently, the appeal filed by Ramesh Chand is dismissed as withdrawn.

Thereafter, Ramesh Chand files an application under Order 47 Rule 1 of Code of Civil Procedure before the Trial Court for review of the order of dismissal of his application under Order 39 Rules 1 and 2 of the Code of Civil Procedure.

Prem Kumar takes a preliminary objection, that once Ramesh Chand has availed the remedy of appeal and had withdrawn the same, the trial court cannot review its order.

Decide.

(10 Marks)

**Q. No.4**

'X' applies for execution of a decree for possession against 'Y'. During the pendency of the said execution, 'Y' dies on 21<sup>st</sup> January, 2000. 'X' applies on 21<sup>st</sup> July, 2000 for substitution of legal representatives of 'Y' in the execution.

Whether the application for substitution of legal representatives is within time? Give reasons.

(10 Marks)

**Q. No.5**

A sues B for specific performance of an agreement to sell by B to A of immovable property. It is the case of A, that:

(i) a written agreement to sell was executed;

(ii) though the same recorded that it was prepared in duplicate with one copy to be retained by each party but only a photocopy of the agreement to sell was given to A and both originals were retained by B;

(iii) that A, at the time of agreement to sell had given earnest money in cash to B and receipt whereof was acknowledged by B in one of the clauses in the written agreement to sell; and

(iv) that B was refusing to perform his part of the agreement to sell.

B denies that any agreement to sell was entered into with A or that any amount by way of earnest money was paid by A to B in cash. B also files an application under Order VII Rule 11 of the CPC for rejection of the plaint and / or summary dismissal of the suit on the ground that since, according to A, there was a written agreement to sell and no written agreement to sell was produced and only a photocopy was produced, the suit was not maintainable in law.

Decide specifically with reference to maintainability of the suit.

(20 Marks)

**Q. No.6**

A files a suit against B for partition of immovable property owned by the father of the parties who has since died. B contests the suit claiming that the father has left a registered Will bequeathing the property exclusively to B.

Issues are framed and parties relegated to evidence. B besides himself examines only the official from the office of the Sub-Registrar with which the will was registered and the Advocate who claimed to have drafted the Will. While the official from the office of the Sub-Registrar produces the record of the office of the Sub-Registrar having a copy of the Will, the Advocate deposes that the father of the parties had approached him in his office for drafting the Will and that he had drafted the Will as per the instructions given by the father of the parties and handed over the typed document to the father of the parties. During the testimony of the official from the office of the Sub-Registrar, an exhibit mark is put on the original Will produced by B, subject to objection of the counsel for A.

Decide whether the Will has been proved.

(20 Marks)

**Q. No.7**

A agrees to sell his immovable property situated at Delhi to B for a sale consideration of Rs. 5 lacs and an agreement to sell dated 1<sup>st</sup> November 2010 on a stamp paper of Rs.50/- is executed by the parties. A, at the time of the agreement to sell, against receipt of 50% of the sale consideration, put B into vacant, peaceful, physical possession of the property. B, having been so put in possession, does not pay the balance sale consideration to A and continues in possession of the property. Resultantly, no sale deed is executed by A in favour of B.

A, after nearly seven years of the agreement to sell, institutes a suit for recovery of possession of property from B. B defends the suit, *inter alia*, pleading that A having put B into possession of the property in pursuance of the agreement to sell, is only entitled to recover the balance sale consideration from B and is not entitled to recover possession of the property from B.

Decide the said objection of B.

**(20 Marks)**

**Q. No.8**

A institutes a suit for permanent injunction to restrain B from dispossessing him from an immovable property pleading:

(i) that A is in possession of the said property with the permission of C who was the owner of the property;

(ii) that C has died and none has come forward claiming any right to the property;

(iii) that B is a stranger to the property and has no right, title or interest in the property and is not entitled to disturb the possession of A;

B contests the suit pleading that C has left an unregistered Will bequeathing the property to B.

Issues are framed in the suit with one of the issues being with respect to the validity of the Will of C set up by B.

B in his evidence, besides examining himself examines only one other witness, D, who deposes that C had called D to the house of C and informed D that C had signed his Will and also got it signed from E as a witness but was advised that a Will has to have at least two attesting witnesses and wanted D to sign the Will as a witness. D further deposed that he had accordingly signed as a witness.

Decide whether the Will has been proved in accordance with law.

**(20 Marks)**

**Q No.9**

A, claiming to be owner of immovable property, sues B for recovery of possession of that property claiming that B, about 20 years prior to the institution of the suit, was permitted as a licensee to occupy the property; the licence of B was terminated one year prior to the institution of the suit but B, despite promises to vacate the property has failed to do so.

B contested the suit pleading that:-

(A) (i) the suit was barred by time;

(ii) that A in the plaint itself has admitted the possession of B for nearly 20 years prior to the institution of the suit;

(iii) the suit for possession filed after 20 years was barred by time and B had become owner of the property by prescription;

(B) Alternatively, B pleads that he was inducted into the property as a tenant and his tenancy was protected under the provisions of Delhi Rent Control Act, 1958 and thus civil court did not have the jurisdiction to entertain a suit for recovery of possession of immovable property from a protected tenant.

Decide, whether the suit claim is within time and whether B is to be permitted to lead evidence on both the pleas taken in his written statement.

**(20 Marks)**

**Q No.10**

A, a resident of Delhi, institutes a suit on 1st March, 2017 at Mumbai against B, also a resident of Delhi, for compensation for defamation with respect to a poster defaming A having been published by B at Delhi on 15<sup>th</sup> January, 2017.

The jurisdiction of the court at Mumbai is invoked pleading that a relative of A, who was a resident of Mumbai, on his visit to Delhi on 15<sup>th</sup> January, 2017 came across the said poster and after returning to Mumbai had telephonically inquired from A on 25<sup>th</sup> January, 2017 about the contents of the same and further pleading that the cause of action accrued to A at Mumbai.

B in his written statement objects to the territorial jurisdiction of the court at Mumbai and pleads that the jurisdiction of Mumbai Court has been invoked malafide to harass him specially when both A and B were residents of Delhi and the allegedly defamatory publication was also made at Delhi.

A does not file any replication.

One of the issues framed in the suit is on the aspect of territorial jurisdiction. The Mumbai Court though finds B to have defamed A and A entitled to compensation therefor, however dismisses the suit vide judgment dated 1<sup>st</sup> November, 2018 holding that the court at Mumbai did not have the territorial jurisdiction to entertain the suit.

A thereafter on 7<sup>th</sup> January, 2019 files a suit for the same relief in the court at Delhi.

Decide whether the suit at Delhi is within limitation. (20 Marks)

**Q No.11**

A defendant in an ordinary suit for recovery of money is on the 1<sup>st</sup> August, 2018 served with summons of the suit for 27<sup>th</sup> September, 2018 which is declared a public holiday and all cases of which date are by a general notification adjourned for 2<sup>nd</sup> November, 2018.

On 2<sup>nd</sup> November, 2018 the Judge is on leave and the suit is adjourned to 10<sup>th</sup> December, 2018 when the counsel for the defendant appears and files the written statement and furnishes a copy thereof to counsel for the plaintiff. The counsel for the plaintiff states that the written statement cannot be taken on record. The counsel for the defendant states that since on none of the previous dates of hearing the court was in session, the written statement having been filed on the very first effective date of hearing should be taken on record.

Decide. (20 Marks)

**Q No.12**

ABC Pvt Limited, a company, institutes a suit for permanent injunction against D claiming that D had taken up employment with the said company about one year back and had agreed to serve the company for a minimum period of three years and had further agreed to during the said period of three years not take up employment with anyone else; however D had submitted resignation to the company and was about to join a competitor of the company.

Permanent injunction was sought by ABC Pvt Limited to restrain D from joining employment with any other company for the period of three years from the date of his appointment with ABC Private Limited, as he had agreed in his letter of appointment.

The suit is accompanied with an application for interim injunction for restraining D from joining employment elsewhere.

Summons of the suit and notice of the application are issued to D who fails to appear on the date for which he has been served and D is proceeded against ex- parte.

The counsel for ABC Pvt. Limited presses the application for interim injunction.

Decide the application for interim injunction. (20 Marks)

**END OF PAPER**