

# **District Judge (ENTRY LEVEL), DIRECT FROM BAR EXAM-2021**

## **Theory Paper-I**

**Time Allowed: Three Hours**

**Full Marks: 100**

### **Question paper specific instructions:**

Please read each of the following instructions carefully before attempting questions:-

- a. Each question carries equal marks.
- b. Answer any ten questions.
- c. Any page or portion of the page left blank in the Answer Booklet must be clearly struck off (X) with pen.
- d. A candidate must not write his/her name or enter any sign or mark of identification inside the Answer Booklet. The candidature of a candidate who breaches this instruction shall be liable to be cancelled.

1. Write short notes on any four of the following:- (2.5 x 4=10)

- a. Whether a partnership firm is a legal entity?
- b. The effect of novation, rescission or alteration of a contract under Section 62 of the Indian Contract Act,1872
- c. The principle of unjust enrichment
- d. Unconscionable Contract
- e. Dissolution of partnership
- f. Contingent Contract

2. Chapter 15A of The Scheduled Caste and the Scheduled Tribe (Prevention of Atrocities) Act, 1989 lays down the rights of the victims and the witnesses. What are the duties of the Special Court/Exclusive Special Court under the Act towards a victim or a witness under the said Chapter? Define "victim" under the said Act.

3. Explain the procedures for awarding enhanced punishment to a convict on the ground of his previous conviction with reference to Section 211(7) and Section 236 of the Cr.P.C..
4. X comes to the police station and lodges FIR that Y has assaulted him and has threatened to kill him. After two days of lodging of the FIR, X is murdered. Y is arrested and prosecuted for the offence of murdering X. Decide/discuss whether the FIR may be treated as a dying declaration.
5. Who is an expert under the Indian Evidence Act, 1872? When are the opinions of the experts relevant? What is the difference between an expert witness and an ordinary witness? Analyse the evidentiary value of the opinion of experts.
6.
  - a. Hearsay evidence is no evidence. Explain the reasons for exclusion of hearsay evidence. To what extent has the principle of exclusion of hearsay evidence been adopted in the Indian Evidence Act, 1872. State the exceptions.
  - b. How and under which provision of the Evidence Act, 1872 oral evidence of a dumb witness is recorded\
7. What is a negotiable instrument? Is a banker's cheque a negotiable instrument? Discuss the criminal liability consequent upon dishonor of a cheque under the Negotiable Instruments Act, 1881. By whom and to whom a notice of dishonour of cheque shall be given? What is the object of such notice?
8. Discuss fully the law relating to grave and sudden provocation as laid down under the Indian Penal Code and state the extent to which it may mitigate the culpability of an accused in relation to an offence of murder.

9. a. X intending to kill Y, opens fire targeting Y. X misses the target and his bullet hits another person Z who dies instantaneously because of the said gunshot injury caused by X. The said act of X is punishable under which provision of law and why? Discuss.
- b. What is the punishment prescribed under the Indian Penal Code, if a life-convict commits murder? Support your answer with reference to legal provisions.
10. Explain the essential ingredients of rape. Can a person be an offender of rape of his wife? Can a woman be prosecuted and punished for committing rape? Give brief reasons in support of your answer.
11. State with reasons, whether the following shall amount to a valid acceptance of a negotiable instrument:-
- a. An oral acceptance
- b. Acceptance by mere signature of the drawee without writing the word "accepted" on the Negotiable Instrument.
12. a. A is absolute owner of a property Z. B approaches A to sell the property Z to him. An agreement of sale was executed between A and B for sale of the property Z for Rs.10,00,000. In terms of the said agreement, a sum of Rs.1,00,000 was paid by B to A and the remaining Rs. 9,00,000 was to be paid within two years from the date of agreement. A refuses to execute the sale deed in favour of B in terms of the agreement of sale. B files a suit for specific performance of contract alleging that in spite of him being ready and willing to pay the remaining consideration amount, A has not executed the sale deed. However, in his plaint B does not plead his readiness and willingness to pay the remaining consideration amount but expresses his willingness to deposit the amount in the Court. Decide the case.
- b. What is the period of limitation for filing suit for specific performance of contract and when does the period of limitation begin?



# District Judge (ENTRY LEVEL), DIRECT FROM BAR EXAM-2021

## Theory Paper-II

**Time Allowed: Three Hours**

**Full Marks: 100**

Please read each of the following instructions carefully before attempting questions:-

**Question paper specific instructions:**

- a. Each question carries equal marks.
- b. Answer any ten questions.
- c. Any page or portion of the page left blank in the Answer Booklet must be clearly struck off (X) with pen.
- d. A candidate must not write his/her name or enter any sign or mark of identification inside the Answer Booklet. The candidature of a candidate who breaches this instruction shall be liable to be cancelled.

1. Distinguish the following terms:- ( Answer any five, 2 x 5=10)

- a. Judgment, Decree and Order;
- b. Preliminary Decree and Final Decree; partly preliminary decree and partly final decree;
- c. *res judicata* and *res subjudice* and constructive *res judicata*;
- d. Counter claim, set-off and cross objection;
- e. Suit for foreclosure and suit for redemption;
- f. Reference, Review and Revision;
- g. Rejection of plaint and return of plaint.

2. Write short notes on any five of the following:- (2 x 5=10)

- a. License and lease;
- b. Usufructuary mortgage and English Mortgage;
- c. Benami transaction and sham transaction;
- d. Adverse possession and holding over;
- e. Injunction under the Civil Procedure Code, 1908 and Criminal Procedure Code, 1973.
- f. Compensation under Section 357 and Section 357A of the Criminal Procedure Code, 1973
- g. Misjoinder and non-joinder of cause of action

3. Discuss the procedure for alternative dispute resolution (ADR) by Lok Adalat and Permanent Lok Adalat as prescribed under Section 89 of the Civil Procedure Code, 1908.

4. Discuss the daughter's right in coparcenary property as laid down by the Supreme Court in case of Vineeta Sharma Vs. Rakesh Sharma reported in (2020) 9 SCC 1.

5.

- a. What does the Electoral College for election of President of India consist of? What is the manner of election of the President of India?
- b. Briefly discuss the nature and extent of power exercised by the President of India. Discuss the situations where the President can exercise his/her Constitutional functions without advice of the Council of Ministers.

6. Discuss with case laws, the Constitutional safeguards in respect of dismissal, removal or reduction in rank of persons employed in civil capacities under the Union or the State.

7. Discuss the salient features of the latest Supreme Court's decision in case of Satender Kumar Antil vs. Central Bureau of Investigation, on grant of bail and the significance of Section 41A of the Criminal Procedure Code, 1973.
8. A partnership firm was granted license for operating a petrol pump by a Oil Company. The said license was cancelled and the licensee filed a request case before the High Court in terms of the dealership agreement, for appointment of an Arbitrator and pursuant thereto an arbitrator was appointed. The arbitrator passed an award holding termination of license as illegal and set aside the termination order with further direction to the Oil Company to restore the license and also to restore the supply of petroleum products. The Oil Company challenged the award under Section 34 of the Arbitration and Conciliation Act, 1996 within time but without complying with the requirement under Sub-Section 5 of section 34 of the said Act. The firm raised a preliminary objection regarding maintainability of the said challenge to the award on the ground of absence of the requisite pre-service of notice. Faced with the said objection, the Oil Company withdrew the case. Within fifteen days thereafter the Oil Company filed a second application challenging the award, this time after pre-service of notice to the licensee. The licensee took a plea that as the earlier case was withdrawn without obtaining permission to file a fresh case. Discuss with reference to statutory provisions and the case law as to whether the second application is maintainable or not?
9. The wife filed an application under Section 125 of the Cr.P.C. claiming maintenance for herself and her minor daughter alleging that at the time of her marriage with the respondent in 2014 the fact that the respondent was already married and his spouse was living was not known and that after the discovery of previous marriage of the respondent, the relationship between the parties became strained and the respondent started neglecting the applicant and the minor daughter and refused to maintain them. The respondent denied his liability to pay the maintenance and pleaded that

the applicant was fully aware about his first marriage and the fact that his first wife was alive at that time. Decide the dispute with case laws, if any.

10. Explain the types of arbitral awards. Discuss grounds for challenging an award.

11.

a. How do the provisions under sections 140,163A and Section 166 of the Motor Vehicles Act, 1988 differ?

b. What does Section 185 of the Motor Vehicles Act, 1988 contemplate?

c. Briefly discuss the provision under Section 167 of the Motor Vehicles Act, 1988?

d. What is "contributory negligence" for the purpose of determination of quantum of compensation under the Motor Vehicles Act, 1988?

12. a.

A civil suit is filed by two plaintiffs seeking a declaration that the first plaintiff is the legally wedded wife of late A and the second plaintiff is the legitimate son of the first plaintiff and late A, and are, thus, the legal heirs of late A. The suit was filed in a situation where the legal heirship obtained by the plaintiffs was sought to be challenged by the defendants who claimed to be the wife and son of late A. The defendants have raised preliminary objection over the maintainability of the suit with reference to the provisions under the Family Courts Act, 1984. Decide the question of maintainability with reasons.

b. Whether the provisions of CPC and Evidence Act are applicable in a proceeding before the family court?

c. Whether an appeal would lie against a decree for divorce passed under Section 13B of the Hindu Marriage Act, 1955?