

District Judge (Entry Level), Direct From Bar Exam – 2023
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 10 marks.**
- b. Answer any ten questions, however, at least one question should be answered from each part.**
- 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.**

Part-A (The Constitution of India);

- 1. Explain the meaning of the following in connection with a judgment:-**
 - (a) Stare Decisis**
 - (b) Obiter Dicta**
 - (c) Sub Silentio**
 - (d) Ratio Decidendi**
- 2. Protection in respect of conviction for offences is dealt with under Article 20 of the Constitution of India. Discuss.**

Part-B (The Code of Civil Procedure, 1908);

- 3. (a) Discuss the provisions regarding Summary proceedings? How is Summary suit different from an Ordinary suit?**
(b) Enumerate the characteristics of Inter-Pleader suit?
- 4. (a) What is Restitution? Does the Court has inherent power to grant restitution?**

(b) 'A' obtained decree against 'B' for possession. 'B' filed an appeal against the decree and obtained stay of delivery. The appeal was allowed and the decree was set aside. Against it 'A' preferred Second appeal, which was allowed and decree of trial court was restored. 'A' applied restitution and for mesne profits from the day of stay of order of first appellate court to the date of the decree of second appellate court. Is 'A' entitled to mesne profits so claimed.

(c) 'A' obtained an ex-parte decree against 'B' and in the execution of the decree brought the properties of 'B' to sale and himself became the purchaser. On appeal by 'B', the appellate court set aside the decree and remanded the suit for trial. Then 'B' applied for restitution. While that application was pending, the suit was heard and again decreed. 'A' then contended that as the suit had been decreed no restitution could be granted. Is 'B' entitled for restitution?

Part-C (The Limitation Act, 1963);

5. Explain, "Law of Limitation merely bars the remedy, but does not extinguish the underlying right." Write a short note on Legal Disability?
6. (a) 'A' has mortgaged his landed property and as a mortgagor when should he file a suit for redemption? When does his right to redeem possession accrues? When does the period of limitation begin to run? When does it gets extinguished? Answers should be based on relevant provisions of the limitation Act, 1963 and case laws.

Part-D (The Code of Criminal Procedure, 1973);

7. (a) What is the distinction between 'Complaint' and 'First Information Report'?
- (b) Discuss the ambit and scope of an 'Investigation'. What is the distinction between 'Investigation' and 'Inquiry' under Code of Criminal Procedure.
8. Solve the following problems:-
 - (a) Mr. 'A' grievously injures Mr. 'B' at Mumbai. Mr. 'B' was taken to Nashik, his native place. After long treatment Mr. 'B' dies in Nashik. Which is the ordinary place of inquiry and trial in this case? In which court, the offence can be tried?
 - (b) 'X' & 'Y' are tried for murder. 'X', the main accused got convicted and was sentenced to imprisonment for life. However, the court acquits 'Y'? The

State files an appeal against acquittal of 'Y'. 'X' also files an appeal against his conviction. Unfortunately, 'X' & 'Y' both die in an accident. What is the status of the appeal filed by the State against the acquittal of 'Y'?

Part-E (The Indian Evidence Act, 1872);

9. (a) '*Allegans Contraria Non Est Audiendus*' (A person alleging contradictory facts should not be heard) Under which provision of the Indian Evidence Act, 1872 the above maxim is based? Elaborate.

(b) Is it a Rule of equity or a Rule of evidence? On whom does the burden of proving the ingredients of this Section/provision lie upon? What are the three essential ingredients of this Section/provision? Substantiate your answer by relevant case laws.
10. Write short notes on the following :
(i) Electronic evidence.
(ii) Privileged communication.
(iii) Admission.
(iv) Confession.

Part-F (The Indian Contract Act, 1872);

11. What is the measure of compensation for breach of contract where penalty is stipulated for, in the contract? Explain with illustrations.
12. (a) Write notes on *Quantum Meruit*. What are the distinctions between Fraud and Misrepresentation.
(b) What do you mean by *Doctrine of Frustration*. Discuss with illustration.

Part-G (The Sale of Goods Act, 1930);

13. (a) 'A' contracts with 'B' to sell him all the oil to be produced from the annual crop of peppermint of 'A's' farm. When the crop gets harvested, oil is extracted. Answer with appropriate provision of law/section as to when and whose property the oil becomes. Supplement your answer with relevant case laws.

(b) Ashish purchased 975 bales of rice, being the whole contents of a Gola, paid earnest money and took part delivery of the rice. The rest of the rice was later destroyed by fire. Decide with relevant provisions of Law and

authorities as to whether the property in a whole had passed to him or not? What legal consequences Ashish is liable for?

14. (a) What is Caveat Emptor? Discuss its exceptions, if any.
(b) Distinguish between 'Sale' and 'Hire Purchase' under the Sale of Goods Act, 1930.

Part-H (The Indian Partnership Act, 1932);

15. Can a minor become a partner in a Partnership firm? Justify your answer and also explain the rights of a minor in a Partnership firm.
16. What kinds of partnership are there under the Indian Partnership Act? What is meaning of dissolution of a firm? In what manner dissolution of a firm may take place?

Part-I. (The Specific Relief Act, 1963);

17. (a) What is '*Substituted Performance Of Contract*'. Discuss.
(b) What do you understand by a declaratory decree? What is its practical utility?
18. What are the different kinds of Injunctions? Describe the grounds for grant of Injunctions.

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Part-A (The Transfer of Property Act, 1882);

1. (a) Describe the Law relating to Gift? When Gift may be suspended or revoked.
(b) What is 'Actionable Claim' and how it can be transferred?
2. What are the different types of Mortgages under Section 58 of the Transfer of Property Act? Discuss.

Part-B (The Negotiable Instruments Act, 1881);

3. Discuss Promissory Note, Bill of Exchange and Cheque, as defined under the Negotiable Instruments Act, 1881 and the differences between them.
4. (a) 'A' does not have any funds in his bank account and as such he issues instructions to his banker for *stop payment* of his cheques to third persons. One person who is in possession of a cheque issued by 'A' presents it to his banker for encashment. The cheque gets dishonored by reason for *stop payment* instructions. Is an offence under section 138 of The Negotiable Instruments Act, 1881 made out against 'A'? On whom the burden of proof

lies? What would be your answer if 'A' had sufficient funds in his bank account? Answer with reasons and reference to relevant case laws.

(b) Is a complaint filed under Section 138 of The Negotiable Instruments Act, 1881, before expiry of 15 days period for making payment, competent or premature?

Part-C (The Arbitration and Conciliation Act, 1996);

5. What are the essential elements of an Arbitration Agreement in India?
6. What are the grounds on which an Arbitral Award may be set aside?

Part-D The Personal Laws (Hindu, Muslim and Christian);

7. Discuss the grounds of divorce under the Hindu Law. Whether a Hindu Male after his acquittal for the offence under Section 498 A Indian Penal Code, 1860 can seek divorce from his wife under the Hindu Law.
8. What is the proposition of law laid down by the Hon'ble Supreme Court of India in Shayara Bano Vs. Union of India reported in (2017) 9 SCC 1?

Part-E (The Motor Vehicles Act, 1988);

9. (a) Is there any embargo imposed by the Legislature on the Tribunals for grant of compensation over and above the amount claimed by the parties in a given case?
(b) Is it the requirement of Law under the Motor Vehicles Act for the claimants to specify the amount for compensation?
10. (a) What is the duty of the Tribunal in determining compensation?
(b) To what extent is a widow of the deceased victim entitled for compensation, if she has remarried?
(c) Is a husband a legal heir of his deceased wife and whether he is entitled for compensation? Supplement your answer with reasons and case laws.

Part-F (The Family Courts Act, 1984);

11. The Hon'ble Supreme Court in the case of Rajnesh Vs. Neha, reported in (2021) 2 SCC 324, has given directions to all the Principal Judges of Family courts, Judicial Magistrates to determine the issues relating to Maintenance and overlapping jurisdictions in matrimonial disputes. Enumerate the law

laid down by the Hon'ble Supreme Court regarding the following:- (a) Issue of overlapping jurisdictions, (b) Date from which Maintenance is to be awarded, (c) Enforcement of the orders of Maintenance.

12. Define the jurisdiction of a Family Court under Section 7 of the Family Courts Act, 1984. State as to where an appeal shall lie from a judgment or order, not being an interlocutory order of Family Court and in which case no appeal shall lie from a decree or order passed by the Family Court.

Part-G (The Prevention of Corruption Act, 1988);

13. Section 19 of the Prevention of Corruption Act, 1988 provides that previous Sanction is necessary for prosecution. Discuss and elaborate with reference to case laws.
14. What is the credibility of the witness on whose instance the trap was laid? Is independent corroboration necessary to test his credibility? Is a trap witness guilty of offering bribe? Supplement your answer with relevant laws and authority.

Part-H (The Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989);

15. (a) Whether an application under Section 482 CrPC is maintainable where the applicant has got a statutory remedy of filing appeal under Section 14 A of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989?
(b) Whether a Sessions Judge is competent to take cognizance of the offence under The Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 without the case being committed by a competent Magistrate?
16. (a) What is the meaning of the expression '*Within Public View*'? Is it different or similar to '*Public Place*'. Answer with relevant provisions of The Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989. Supplement your answer with case laws.
(b) Is every abuse or utterance against any member of an S.C and S.T. not in public view also an offence under The Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989? Answer with relevant provisions.

Part-I (Indian Penal Code, 1860);

17. 'A' an illiterate boy of 8 years, who works as a servant, stole a new 'Parker' Fountain Pen worth Rs. 200/- from the table of his employee and sold it to B, a student of law aged 21 years for Rs. 10/- only. Both 'A' and 'B' are put on trial. The former is charged with theft and latter for receiving the stolen property. How would you, as a judge, decide the case?
18. What offence, if any, has been committed by 'A' in following cases:
- (i) 'A' maliciously says that 'B' is suffering from plague.
 - (ii) 'A' got married to a woman thinking that her husband was alive but infact he was dead.
 - (iii) 'A', a pickpocket, attempts to take the purse of 'B', who has a loaded pistol in his pocket. 'A' touches the trigger, the pistol goes off and 'B' is shot dead.
