

# IAS Mains Law Science 1991

## Paper II

### Section A

1. Answer any three of the following (each answer should be in about 200 words):
  - a. Explain the common law doctrine of contributory negligence and the illogicality involved in it that paved the way for its modification.
  - b. The basic principle for the measure of damages in tort as well as in contract is that there should be restitution in integrum. Explain and comment.
  - c. While Section 55 of the Indian Penal Code (IPC) empowers the appropriate Government to commute a sentence of imprisonment for life to fourteen years, Section 57 states that in calculating the fractions of sentence of imprisonment, imprisonment for life shall be reckoned as equivalent to twenty years. What is the actual duration of a sentence imprisonment for life and how do you explain the above two seemingly contradictory statements?
  - d. How do you differentiate preparation for and attempt at commission of a crime? To be guilty of an attempt, it is not necessary that circumstances should be such as would facilitate the completion of the crime. Comment. What is the punishment prescribed for a criminal attempt?
2. Answer the following questions
  - a. What are the conditions of application of the maxim *res ipsa loquitur*? How does it affect the burden of proof in cases of negligence?
  - b. The plaintiff engaged the defendants, a firm of interior decorators, to do some work in his house. The firm deputed one of its servants to do the work. The plaintiff instructed the worker that if he should ever go out he should close shut the front door and go. The worker went out without securely closing the front door to fetch some materials. Before he returned some thieves entered the house and stole some very valuable jewels. Can the plaintiff recover the value of the jewels from the defendants?
3. Answer the following questions
  - a. Explain the distinction between Criminal Misappropriation and Criminal Breach of Trust.
  - b. A letter is received to the address of one A Raman. A person bearing the same name and working in the same office as the former receives it. On opening it, he finds in it a dividend warrant, to which he knows he has no claim at all and has reason to believe that the former

Raman could have. He however takes it and deposits it in his own bank account. What offence has he committed? Assuming that the former Raman has himself received the latter but gave to the latter to be deposited in the former's bank account, what is the offence committed by the latter thereby?

4. Answer the following questions

- a. Examine the following statements:

- ii. Killing another in excessive self-defence but without premeditation is not murder.
- b. A and B were married in 1988. A had been pestering B all along to bring from her parents money for him to buy a scooter and even subjecting her to cruelty. One day he gave her a severe thrashing on this account and left the house. When he returned home two hours later, he found her dead, having consumed cyanide poison. He reported the death to the police as a case of suicide due to some personal ailment. The police prosecuted him for dowry death, and in the alternative for abetment of suicide. At the trial he did not produce any evidence of ailment from which she suffered. For what offence can he be held guilty?

## Section B

5. Answer any three of the following (each answer should be in about 200 words):
- Explain the principle of non est factum, and comment on its rationality when applied in reference to a document executed by a well-educated person.
  - Examine the value of stipulations contained in a contract which specify the images or penalties to be paid by the party in breach to the other party.
  - A stipulation may be a condition though called a warranty in the contra. Explain bringing out the distinction between conditions and stipulations. When may a condition in contract of sale of good have to be treated as a warranty?
  - In what way a holder of a negotiable instrument stands in a less advantageous position than a holder in due course?

Comment on: A holder who derives title from a holder in due course has the same rights as a holder in due course.

6. Answer the following questions

- Explain the doctrine of frustration of contracts. Examine the statement Cases of frustration of contracts are not simply cases of initial or supervening physical or legal impossibility of performance of contracts.
- X agreed with Y to supply twenty transformers, which were to be imported from a foreign country, at a price stated to be firm and not subject to escalation. X imported ten transformers and there after stopped importing as the prices had gone up three-fold due to conditions of war. V sued X for specific performance of the contract limiting the chain to the ten transformers available with X, and claimed damages with respect to the remaining ten. X has taken the position that the whole contract has become frustrated and so the suit is not maintainable. Does V succeed?

7. Answer the following questions

- In a sale of goods risk usually passes with the property, but may pass independently of it. Explain, when property and risk pass.
- P agreed to sell 100 bales of cotton from W, to be delivered at Delhi. P sent the goods by railway, the railway receipt to a bank at Delhi with an instruction that it should be delivered to W on his paying the invoiced amount. W paid the amount and got the receipt, but then learnt that a few days earlier the bales were destroyed by fire.

Can W recover the amount he has paid?

8. Answer the following questions

- a. What are the essential elements of a partnership? If two corporations agree that they shall invest equally and start a joint venture one year hence, can you say that there is a subsisting partnership?
- b. What are the types of complaints that may be preferred under the Consumer Protection Act, 1986? Who are competent to bring a complaint before a District Forum? What are the remedies available to a party aggrieved by a decision of a District Forum?
- c. Who are the person that can invoke the protection afforded by the Protection of Civil Rights

Act, 1955? A person belonging to a scheduled tribe, professing the religion of Christianity, is refused admission to a Hindu temple. Can be invoke the protection under the Act?