

# IAS Mains Law Science 1994

## Paper II

### Section A

1. Answer any three of the following (each answer should be in about 200 words):
  - a. A partner has undefined ownership alongwith other partners over all the assets of partnership, and if he chooses to use any of them for his own purposes, he cannot be held guilty of criminal misappropriation of property. Examine.
  - b. Examine the criminal liability of a landlord who cuts off the electricity connection of his tenant in order to put pressure on him to pay enhanced rent.
  - c. The maxim Res Ipsa Loquitur is not a rule of Law but a rule of Evidence. Explain and illustrate.
  - d. A wrong falls within the course of employment of the servant if it is necessarily incidental to something which the servant is employed to do. Explain.
2. Answer the following questions
  - a. Clause (4) of Section 300, Indian Penal Code, defining murder, cannot be applied until it is clear that Clause 1, 2 and 3 of the section each or all of them fail to suit the circumstances. Examine the above statement with the help of decided cases.
  - b. A enticed a minor girl M without the consent of her lawful guardian G and kept her with him for a month after which he deserted her. While M was loitering on the street immediately thereafter, B took her with him from whose custody M, was later recovered by the police.

Discuss with reasons and decided cases criminal liability of A and B.

3. Answer the following questions
  - a. Study very carefully the following two situations: Situation A: While playing on a cricket ground owned by the defendant a batsman hit the ball so hard that it went over the boundary wall and hit the plaintiff walking on an adjoining street. In the history of the eighty year old ground the ball had been so hit out five or six times. Situation B: Trespassing children used to play football in an open area belonging to the defendant adjoining a busy road In the absence of a high boundary wall the ball used to go on to the road frequently and children used to go there to fetch the ball back. One day the ball was shot out on the road where it hit a scooter driver causing him to fall and suffer injuries Compare the tortious liability of the defendants in above mentioned situations. Give reasons and cite case law.
  - b. A, a journalist, writes an article against B, a public servant, alleging that B has misappropriated sum of Rs. 2 lacs from the public fund under his control In an action in tort for defamation by B against him A takes the defence of fair comment. Discuss with reasons.
4. Answer the following questions
  - a. Discuss the various defences which may or may not be allowed during prosecutions under the Prevention of Food Adulteration Act, 1954.

## Section B

5. Answer any three of the following (each answer should be in about 200 words):

- a. A contract is a contract from the time it is made and not from the time its performance is due. Explain.
- b. Explain an offer “and a quotation” and differentiate between the two.
- c. In a partnership where no contract exists, how would the partners distribute the assets after dissolution and how would they charge interest on capital and loan?
- d. Under the Consumer Protection Act, 1986 discuss the procedure to be followed by the

District Forum on receipt of complaint relating to any goods.

6. Answer the following questions

- a. Though offer and acceptance bring the parties together and constitute the outward semblance of contract, yet most systems of law require some further evidence of the intention of the parties and in default of such evidence refuse to recognise an obligation. Comment upon the above statement and discuss the nature of evidence required to be supplied under the Indian Contract Act.
- b. The plaintiff, municipality of a town, sold to the defendant by contract the right to collect dung in the municipal area for one year. No dung was, however, left to be collected by the defendant as the same was removed by the pig owners themselves in their own right.

7. Answer the following questions

- a. Examine the situations in which law of fiction shall apply in partnership relations Refer to the relevant provisions of the Partnership Act and case-law.
- b. A and Sons, a partnership firm, manufactures certain articles under a trade name B gives to his own products a similar name to pass them off as a product of the said firm. The firm files a suit against B and claims injunction against using the name. B pleads that the firm being non-registered the suit is not maintainable. Decide.

8. Answer the following questions

- a. The notion of transit is both a matter of fact as well as of law as regards stoppage in transit by an unpaid seller. Examine this statement and refer to case-law.
- b. Discuss the various ways under the Negotiable Instruments Act in which the liability on a negotiable instrument is discharged.