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**HPAS (Main)—2017**

**LAW**

**Paper II**

*Time : 3 Hours*

*Maximum Marks : 100*

*Note :— Part 'A' is compulsory and answer four questions from Part 'B'. All questions carry equal marks. Give reasons for your answer supported by relevant statutory provisions and case law. Write all parts of a question at one place in continuity.*

**Part 'A'**

1. (a) Agreements in restraint of marriage, trade or business and legal proceedings are void.' Discuss in detail and also explain the exceptions, if any.

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P.T.O.

- (b) How does Confession differ from Admission ? Explain. What are Extra-Judicial Confessions and are these admissible in Court ? 6
- (c) What do you understand by the maxim *Res ipsa loquitur* ? Explain. 6

### Part 'B'

2. (a) (i) Define and discuss Mc Naughton's rule of insanity. 5
- (ii) What is the difference between 'medical insanity' and 'legal insanity' ? Cite relevant decisions of the Courts. 5
- (b) Explain the concept of 'duty to take care' in cases of negligence.

A branch of a tree standing by the roadside suddenly broke and fell on the head of a cyclist thereby resulting in his death. The periodical inspection and management of the tree vested in the Municipal

Corporation of Delhi. The evidence revealed that the tree had completely dried up and had no bark or foliage left. Moreover, on the day of the occurrence, there was no extraordinary rainfall or storm or earthquake that could have caused the tree to fall. In the given circumstances, can an action brought by the widow of the deceased against the Municipal Corporation of Delhi succeed ? Decide giving examples. 10

3. (a) "An agreement enforceable by law is a contract." Explain and elucidate the essentials of a valid contract.

M offered to purchase a lodge owned by A for Rs. 8 lacs. He wrote to A's agent asking whether his offer was accepted. He also added that he was ready to pay any higher price, if found reasonable. The agent replied, "Would not accept less than Rs. 10

lacs". M sent a telegram to the agent accepting the price. The agent did not reply. M brought a suit for specific performance against A for refusal to sell the lodge. Decide with the help of decided case. 10

(b) (i) Describe the provisions of the Indian Evidence Act, 1872 relating to facts which need not be proved. 5

(ii) Distinguish between 'Relevant facts' and 'Facts in issue.' 5

4. (a) Discuss the rules relating to 'Communication of Acceptance' and 'Revocation'.

A sends an offer to B by post. B posts his letter of acceptance but subsequently sends a telegram revoking his acceptance. Both the letters of acceptance and revocation are received by A at the same time. A claims the enforcement of contract. Decide referring to relevant statutory provisions. 10



- (b) Discuss the rule of 'Absolute liability' as propounded by Justice Bhagwati in the case of *M.C. Mehta Vs. Union of India*, AIR 1987 SC 1086. How is the rule of absolute liability different from the rule of strict liability as laid down in the case of *Rylands Vs. Fletcher*, (1868) LR 3 HL 330. 10
5. (a) What is a 'Contingent contract' ? When does a contingent contract become enforceable ? Discuss. A agrees to pay B Rs. 500 if B repairs his car. Is this a contingent contract ? Explain. 10
- (b) 'Death penalty brings disgrace to human dignity'. In the light of this statement, discuss the constitutionality of death penalty. Refer to decided cases. 10
6. (a) Discuss briefly about 'Disputes as to immovable property' under Chapter X-D of the Criminal Procedure Code, 1973. 10

- (b) Explain the concept of 'Vicarious Liability of the State' for the wrongs done by its employees with the help of decided cases. Has the Supreme Court been successful in drawing a clear distinction between sovereign and non-sovereign functions of the State for determining its liability for the tort committed by its servants ? Explain with the help of case law. 10
7. (a) Discuss the rules laid down in the well known case of *Hadley Vs. Baxendale* as incorporated in Section 73 of the Indian Contract Act, 1872 as to the extent of damage for which damages could be claimed. 10
- (b) What do you understand by the term 'Burden of Proof' ? How is it different from 'Onus of Proof' ? Explain with the help of relevant provisions and decided cases. 10

8. (a) Discuss the law relating to the offence of 'Sedition' ? Also discuss the constitutionality of the provision dealing with the offence of 'Sedition' under the Indian Penal Code with the help of decided cases and relevant provisions. 10
- (b) In a trial for the murder of mother of a child whose cries attracted the passers-by, can the witnesses speak about the nature of the child's cries and even as to what the child said. Discuss comprehensively in the light of the doctrine of *Res Gestae*. 10