



[This question paper contains 03 printed pages]

Himachal Pradesh Administrative Service Combined Competitive (Main /  
Written) Examination, 2020

LAW (PAPER–II)

Time allowed: Three Hours

Maximum Marks: 100

QUESTION PAPER SPECIFIC INSTRUCTIONS

Please read each of the following instructions carefully before attempting questions.

1. There are EIGHT questions printed in English.
2. Candidate has to attempt FIVE questions in all in English.
3. Question No.1 is compulsory. Out of the remaining SEVEN questions, FOUR are to be attempted.
4. All questions carry equal marks. The number of marks carried by a question / part is indicated against it.
5. Write answers in legible handwriting. Each part of the question must be answered in sequence and in the same continuation.
6. Attempts of questions shall be counted in sequential order. Unless struck off, attempt of a question shall be counted even if attempted partly. Any page or portion of the page left blank in answer book must be clearly struck off.
7. Re-evaluation / Re-checking of answer book of the candidate is not allowed.

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1. (a) “An agreement against public policy is void”. Explain with the help of decided cases. (6)
  - (b) “To fasten the criminal liability, the act of the accused must be *causa causans* of a prohibited consequence, and not the *causa sine qua non*”. Discuss and substantiate your answer with judicial precedents. (6)
  - (c) Distinguish between ‘relevancy’ and ‘admissibility’ of Evidence. Illustrate with the help of suitable provisions of Evidence Act, 1872. (4)
  - (d) ‘Mere breach of a moral duty will not result in tort’. Explain with relevant judicial decisions. (4)
  2. (a) “In order to convert a proposal into a promise the acceptance must be absolute and unqualified and, in the manner, prescribed or in some usual and reasonable manner.” Explain the statement in the light of decided cases. (6)

- (b) “Mere duty of blind obedience by a subordinate to his superior authority is not protected under Indian Penal Code, 1960.” In the light of the statement discuss the criminal liability of a subordinate who acts under the dictate of his superior authority. (6)
- (c) Discuss the ‘circumstantial evidence’ rule? Examine the legality of trial court verdict wherein the accused is convicted and punished with death sentence only on the basis of circumstantial evidence. (4)
- (d) Discuss the scope of *damnum fatale* as a defence against tortious liability. (4)
3. (a) “Minor’s agreement is *void ab initio*. Explain, and also examine the exceptions, if any, to this general rule. (6)
- (b) “Under the chapter General Exceptions, killing a person under self defence may appear to be an example of necessity. However, while self-defence may overlap necessity, the two are not the same.” Examine the statement and explain with the relevant provisions of Indian Penal Code, 1860 and decide cases. (6)
- (c) Explain the relevancy of a Test Identification Parade (TIP) under Indian Evidence Act, 1872. Substantiate your answer with relevant judicial decisions. (4)
- (d) With reference to absolute liability doctrine, what is deep pocket theory? Explain and illustrate with suitable examples. (4)
4. (a) Explain the distinction between ‘offer’ and ‘invitation to treat’. Illustrate with suitable judicial decisions. (6)
- (b) “The question is not whether the accused intended to inflict a serious injury or a trivial one but whether he intended to inflict the injury that is proved to be present.” Discuss the scope of Section 300-*thirdly* of the Indian Penal Code, 1860 in view of the guideline provided in *Virsa Singh v. State of Punjab* (1958). (6)
- (c) ‘A’, ‘B’ and ‘C’ enter into conspiracy to execute a bomb explosion in the mid of the city. As per the plan, the explosion was executed. Police arrested ‘C’. During investigation, ‘C’ makes a confession to police, and at his instance police raid the place where this entire planning was discussed. From this place, a paper containing the drawing of the plan, a letter containing the details of the supply of explosives written by ‘A’ were recovered. In view of the provisions contained under the Indian Evidence Act, 1872, discuss the admissibility of C’s confession, the recovery of paper containing the plan, and the letter. (4)
- (d) Explain the test for determining the remoteness of damage under law of tort. (4)
5. (a) ‘The Indian Contract Act, 1872 does not restrict the parties to a contract for self-imposed partial restriction on the enforcement of their legal rights’. Explain. (6)

- (b) 'A', with an intention to cause bodily injury likely to cause death, attacks 'B' with a wooden stick (lathi). However, before he could inflict the same, wife of 'B' intervenes suddenly, while holding her infant daughter, resulting in head injury to her daughter, who died immediately. Discuss the criminal liability of 'A'. (6)
- (c) Who is an expert? Discuss the relevance of an opinion of an expert as prescribed under the Indian Evidence Act, 1872. (4)
- (d) Discuss the scope of *Res ipsa loquitur* as applicable under law of tort. (4)
6. (a) What is the *quantum meruit* claim? Whether claim under *quantum meruit* is enforceable under the Indian Contract Act, 1872? (6)
- (b) Discuss the scope of expression 'takes or entices' used under Section 361 of Indian Penal Code, 1860. Explain with the help of decided cases. (6)
- (c) "Dying declaration is an exception to the rule of hearsay." Explain with the help of decided cases. (4)
- (d) "State shall not be liable, either directly or vicariously, for an act which is done in exercise of its sovereign function". In the light of the statement, examine the vicarious liability of the state. (4)
7. (a) Mr. X, who is running a hotel business has executed numerous online bookings wherein customers were required to book the hotel by depositing Rs.2000/-. Customers were further informed that in case of any cancellation of the said bookings, no refund will be made. However, during Covid-19 pandemic, the hotel was acquired by the state government for quarantine purposes, and thus all bookings were declared cancelled. Mr. X, who booked the hotel during that period, demanded a refund of his booking amount and also compensation. Mr. X refused to refund any booking citing the booking rule. Decide the legality with the help of provisions of Indian Contract Act, 1872 and decided cases. (6)
- (b) What is theft? Whether a temporary dispossession of movable property from one's possession is theft? Discuss with the help of decided cases. (6)
- (c) Explain the circumstances under which secondary evidence is admissible. Explain with the help of relevant provision of Evidence Act, 1872 and judicial decisions. (4)
- (d) Discuss the scope of *Bolam test* in adjudicating medical negligence. Explain with the help of relevant judicial decisions. (4)
8. (a) A government department notifies huge vacancies for Class III & IV. In view of the notification, a number of people applied against the said post along with the requisite application fee. It was categorically mentioned in the notification that the application fee is non-refundable. After 6 months, citing change of departmental service regulations, this notification was withdrawn. A fresh notification for the same posts was again notified with a note that "*all persons who have applied*

*against the earlier notification are required to re-apply along with revised application fee.*” Mr. Z, who had applied against the first notification, filed an application for the refund of application fee submitted by him in accordance with the first notification. He contended that filing of application resulted into a contract, and non-refund of fee would create unjust enrichment. The department, however, has refused to refund the application fee citing the non-refundable clause. Discuss the legality of the claim of the applicant. (6)

- (b) Discuss the scope and applicability of section 144, Code of Criminal Procedure, 1973. Whether prohibitory order under Section 144 can be used against a single individual? (6)
- (c) Explain the distinction between ‘burden of proof’ and ‘onus of proof’? Prosecution wishes to adduce a dying declaration of the deceased victim. Whether prosecution would be required to prove this beyond reasonable doubt? (4)
- (d) Define the tort of nuisance, and distinguish it with tort of trespass. (4)

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