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## SCREENING TEST FOR THE POST OF

A.D.A.—2016

*Time : 3 Hours*

*Maximum Marks : 100*

*Note :— Answer in all five questions, selecting at least two questions from each part. All questions carry equal marks.*

### Part A

#### Criminal Law

1. (a) Mr. X, a police officer who was armed with his service revolver fired several shots at B, a constable. One shot hit B, beneath the knee of his right leg and he fell down, even after that X, fired another shot at B which did not hit him. However, B died. In a charge for murder

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of X, it is pleaded that X only intended to frighten B or at the most to cause grievous injury and not to kill him. Discuss with reasons the liability of Mr. X.

- (b) P and Q were the workers in the factory of M. A dispute arose between them with regard to payment of wages. One day workers assembled outside factory and raised provocative slogans and hurdled stones at the factory, where some administrative officers were present in their offices. Factory was partially damaged and some injuries were caused to officers who were inside. Mr. M, who too was incidently present came out with a revolver and fired a shot which killed P instantaneously. In a charge of murder against M, he pleads for his right of private defence. Discuss the liability of M, cite relevant provisions of law.

2. (a) X, a cab-driver who used to take employees to call centre from Delhi to Gurgaon, was directed to make only three shifts in a day. On 1st of July, 2016 he made six trips exceeding the limit prescribed. While returning for his last (6th trip) from Gurgaon to Delhi at midnight, he felt sleepy due to tiredness and the vehicle along with 10 employees collided with the wall, causing death of Mr. P and injuries to rest.

Decide the liability if any of X, give reasons.

- (b) X, delivered his watch to Y, a watchmaker to be regulated. Y carried it to his shop. X, not owing to Y any debt for which he might lawfully retain the watch as security, entered the shop and openly took his own watch by force out of Y's hand and carried it away.

Can X be charged with the offence of theft or not ? Give reasons to support your answer.

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3. (a) Mr. X was tried for the offence of attempted dacoity under Section 399 and 402 of Indian Penal Code and Section 3 of TADA (Now Replead). He was not tried in that prosecution for illegal possession of firearms under Arms Act and Section 5 of TADA. Mr. X is now being tried under Arms Act and TADA, he pleads that it is against his Fundamental Rights. Discuss whether stand taken by X is correct or not ?
- (b) A, intending to murder B, by poison, purchases poison and mixes the same with food, which remains in A's keeping. Decide the liability of A.

Will it make any difference if A, places the same food on B's table or delivers it to B's servant to place it on B's table. Kindly illustrate your answer with decided cases.

4. (a) Gautum who appeared in 12th class examination of CBSE, was declared pass with 95% marks from Biology Group, while he had appeared in exam. from Mathematics Group.

Gautum remained silent about such mistake in marks sheet and procured a seat in a Medical College. After 1½ years of study CBSE realized its error and informed Gautum as well as Medical College authorities to cancel his admission. Mr. Gautum contends it on the basis of doctrine of Estoppel. Advise Gautum.

- (b) "The provisions of Anticipatory bail though exists on Statute Book, but is rarely being used by courts of competence, as it seems to have lost the purpose with which it was introduced."  
Comment.

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5. Discuss the following :

(a) Acid Attack

(b) Compensatory scheme for victims under Section 357-A of Cr.P.C.

(c) Law of Remand under Section 167 of Cr. P.C. 1973.

(d) Trafficking

### **Part B**

#### **Civil Law**

6. An A.S.I. was dismissed from services by the D.I.G. He challenged the said decision by filing a writ petition in the High Court on the ground that he was not afforded a reasonable opportunity. The writ petition was dismissed. He then filed a civil suit and raised an additional plea that he was appointed by I.G.P.,

therefore D.I.G. being lower in rank, was not competent to pass an order against him. In this civil suit, contention of the state is that suit is barred by res judicata. Decide.

7. State the provisions which govern the determination of place of sueing and answer the following questions :

(a) A, B and C jointly took a loan from 'D' at Varanasi on a promissory note. D, lives in Lucknow. A, B and C reside in Faizabad, Varanasi and Kanpur respectively. Determine the place of sueing.

(b) Certain immovable property of 'A' falls within jurisdictions of Dehradun Court as well as that of Haridwar. A files a suit against them in Haridwar Court which is dismissed on the ground

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that larger portion of the stated property is situated within the jurisdiction of Dehradun Court and a very small portion of the same falls within the jurisdiction of Haridwar Courts. Assess the Judgement legally.

8. (a) A Hindu undivided family sued in its business name. It was not appreciated at an early stage of the suit that in fact the firm name was not of a partnership but was the name of a joint Hindu family. Defendant objected as to the maintainability of suit. An application to amend the plaint was made seeking substitution of three members of joint family for the name of the family firm as plaintiffs. Can this amendment be allowed ? Discuss the relevant law and cases.

(b) Can temporary injunction be granted in a case where the agreement of sale of a house is challenged by the transferor on the ground of fraud, after the transferee has obtained the decree for specific performance of contract ?  
Discuss.

9. A Joint Hindu Family consisted of father, his wife, two sons and three daughters. Father died in 2000, as an undivided member of the Mitakshara Coparcenary and three years later wife files a suit for partition and separate possession of her share in the property by inheritance. The son resists the suit on the ground that mother is not entitled to get share at the time of affecting Notional Partition. Decide the case with the support of case law.

Would your answer be the same if the suit was filed in 2006 ? How far it would have affected the division of share amongst heirs ?

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10. Divya and Rahul married in Dec. 2014. Just after a few months of marriage Rahul left the home and abandoned Divya without any reasonable cause. During his stay, Rahul meted out cruelty to Divya. Aggrieved by this Divya filed a petition seeking divorce under Section 13(1) (ia) and (ib) under Hindu Marriage Act, 1955. Since then Divya has been living alone without any assistance and help of her husband. Discuss whether Divya is entitled to separate residence and maintenance under Hindu Law. Decide with relevant cases.