

Paper-6: LAWS, ETHICS AND GOVERNANCE

Full Marks: 100

Time Allowed: 3 Hours

This paper contains 4 questions. All questions are compulsory, subject to instructions provided against each question. All workings must form part of your answer. Assumptions, if any, must be clearly indicated.

Question 1: Answer all questions

[2 X 10 = 20]

(i) H lends a sum of ₹15,000 to D, on the security of two shares of a Limited Company on 1st April 2011. On 15th September, 2011, the company issued two bonus shares. D returns the loan amount of ₹15,000 with interest but H returns only two shares which were pledged and refuses to give the two bonus shares. Advise D in the light of the provisions of the Indian Contract Act, 1872.

(ii) Mr. D of RB Textile Ltd. enters into a contract with RS Garments Show Room for supply of 1,000 pieces of Cotton Shirts at ₹300 per shirt to be supplied on or before 31st December, 2011. However, on 1st November, 2011 RB Textiles Ltd informs the RS Garments Show Room that he is not willing to supply the goods as the price of Cotton shirts in the meantime has gone up to ₹350 per shirt. Examine the rights of the Retail Garments Show Room in this regard.

(iii) B holds agricultural land on a lease granted by A, the owner. The land revenue payable by A to the Government being in arrear, his land is advertised for sale by the Government. Under the Revenue law, the consequence of such sale will be termination of B's lease. B, in order to prevent the sale and the consequent termination of his own lease, pays the Government, the sum due from A. Referring to the provisions of the Indian Contract Act, 1872 decide whether A is liable to make good to B, the amount so paid?

(iv) G's goods were seized by Custom Authorities. Whether this is bailment under Indian Contract Act, 1872?

(v) In an agreement between P and Q, there is a condition that they will not institute legal proceeding against each other without consent. Is the contract valid or void?

(vi) R sent a consignment of goods worth ₹160,000 by railway and got railway receipt. He obtained an advance of ₹80,000 from the bank and endorsed and delivered the railway receipt in favour of the bank by way of security. The railway failed to deliver the goods at the destination. The bank filed a suit against the railway for ₹160,000. Decide in the light of provisions of the Indian Contract Act, 1872, whether the bank would succeed in the said suit?

(vii) What are the core objectives of Corporate Governance?

(viii) The articles of association of a listed company has fixed payment of sitting fee for each Meeting of Directors subject to maximum of ₹10,000. In view of increased responsibilities of independent directors of listed company, the company proposes to increase the sitting fee to ₹25,000. Would it be possible under Companies Act, 1956?

(ix) State 'The Utilitarian Approach' of ethical standard.

(x) What is meant by 'Ethical Dilemma'?

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Question 2: Answer any 4 questions

[4 × 12 = 48]

Question 2(a)

- (i) What is meant by Anticipatory Breach of Contract?
- (ii) What is meant by 'Undue Influence'?
- (iii) State the circumstances where under an agent is personally liable to a third party for the acts during the course of agency?
- (iv) When a contract need not be performed?

[2+4+4+2 = 12]

Question 2(b):

- (i) A sold his car to B for ₹175,000. After inspection and satisfaction, B paid ₹87,500 and took possession of the car and promised to pay the remaining amount within a month. Later on A refuses to give the remaining amount on the ground that the car was not in a good condition. Advise A as to what remedy is available to him against B.
- (ii) K the owner of a Fiat car wants to sell his car. For this purpose he hands over the car to M, a mercantile agent for sale at a price not less than ₹100, 000. The agent sells the car for ₹75,000 to B, who buys the car in good faith and without notice of any fraud. M misappropriated the money also. K sues B to recover the Car. Decide given reasons whether K would succeed.
- (iii) What are the consequences of "destruction of goods" under the Sale of Goods Act, 1930, where the goods have been destroyed after the agreement to sell but before the sale is affected.
- (iv) G absented himself from duty without applying for leave and left the job. When he claimed gratuity, the company refused to pay gratuity quoting his absence from duty without proper leave resulted in break in service. Will he get gratuity?

[3+3+3+3 = 12]

Question 2(c):

- (i) Fortunate Ltd. was running in continuous losses for 7 years. As a result, the company's financial position worsened. The company declared lay-off of 25 of its employees. The employees protested the lay-off. Is this action of employer justified?
- (ii) An electrician, who had to go frequently to a heating room from a cooling plant, contracted pneumonia which resulted in his death. Is the employer liable to pay compensation under the Employees Compensation Act, 1923?
- (iii) F failed to give details of travelling expenses on account of tour inspite of several reminders. His company deducted the amount of tour advance from F's salary after expiry of 3 months. Is the company justified under the Payment of Wages Act, 1936?
- (iv) X, an out worker prepared goods at his residence and later on supplied these goods to the M/s ABC . Is he an employee under the Minimum Wages Act, 1948?

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(v) Y, on retirement withdrew the entire amount of his accumulation in the provident fund. Later on, he was re-appointed for a fixed tenure. The PF Inspector claimed contribution in respect of salary paid to Y. Is the demand made by PF Inspector tenable in law under The Employees 'Provident Funds and Miscellaneous Provisions Act, 1952?

[3+2+2+3+2 = 12]

Question 2(d):

(i) Explain the term 'Arbitration' for resolution of industrial dispute under the Industrial Dispute Act, 1947.

(ii) What is the procedure of fixing minimum wages under the Minimum Wages Act, 1948?

(iii) S delivered his car to M for repairs. M completed the work, but did not return the car to S within reasonable time, though S repeatedly reminded M for the return of car. In the meantime a big fire occurred in the neighborhood and the car was destroyed. Decide whether M can be held liable under the provisions of the Indian Contract Act. 1872.

[5+5+2 = 12]

Question 2(e):

(i) 'X' stands surety for 'Y' for any amount which 'Z' may lend to Y from time to time during the next three months subject to a maximum of ₹150,000. One month later X revokes the guarantee, when Z had lent to B ₹15,000. Referring to the provisions of the Indian Contract Act, 1872 decide whether 'X' is discharged from all the liabilities to 'Z' for any subsequent loan. What would be your answer in case 'Y' makes a default in paying back to 'Z' the money already borrowed i.e. ₹ 15,000?

(ii) Explain the provisions of the Payment of Bonus Act, 1965 relating to application of the Act to the establishments in public sector. What is the time limit within which payment of bonus due to an employee under the Act, be paid?

(iii) Explain the term 'designated partners' under LLP Act, 2008.

[3+4+5 = 12]

Question 3: Answer any 2 questions

[2 × 8 = 16]

Question 3(a)

(i) Write a short note on Statutory Audit.

(ii) The maximum number of directors of each of the following companies as per their articles is 11:

1. Aaron Company Ltd.
2. Sharon Trading Private Ltd.
3. United Traders Association (a company registered u/s 25)
4. Hindustan Paper Ltd. (A Government company u/s 617)

The Board of directors of the company wants to increase the number of directors to 15. State with reference to the provisions of the Companies Act, 1956 whether the directors can be do so.

[5+3 = 8]

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Question 3(b):

(i) State the powers and functions of the Information Commissions as per the Right to Information Act, 2005.

(ii) Notice has been received from a member proposing himself for appointment as a director after the issue of notice convening the annual general meeting. As a secretary of a public company, how will you deal with the above situation, with reference to Companies Act, 1956?

[6+2 = 8]

Question 3(c):

(i) The Board of Directors of Bikash Steels Limited consists of one Managing Director, one Technical Director and three ordinary Directors. Mr. Shyam, an ordinary Director sent his resignation in writing to the Company. Mr. Rohan, the Managing Director also sent his resignation to the Chairman of the Board of Directors and requested that he shall be relieved immediately. When does the resignation take effect? It is possible for a Director to resign orally or withdraw the resignation? Explain as per Companies Act, 1956.

(ii) The articles of association of Sundar Ltd. mentioned in it that Mr. Lal and Mr. Neel will act as directors of the company from the date of incorporation. The company was incorporated on 2nd January, 2014. The articles also provided that the directors will have to obtain qualification shares within one month from the date of appointment as director. Mr. Lal purchased the shares of the company on 28th February, 2014 and Mr. Neel purchased on 28th March, 2014 thus violating the provisions contained in the articles. Having regard to the provisions of the Companies Act, 1956 examine the validity of the appointments of Mr. Lal and Mr. Neel as directors.

[5+3 = 8]

Question 4: Answer any 2 questions

[2 × 8 = 16]

Question 4(a)

(i) What is the difference between business ethics and an ethical business?

(ii) What is Ethical Conflict? What are the aspects to be considered to resolve the conflict?

[4+4 = 8]

Question 4(b)

(i) X have just starting working for a plc and all his colleagues have warned him that his predecessor was asked to inflate the value of products, as well as to overvalue stock, when reporting.

This was to benefit the directors' bonus. To date X has not been asked to do anything untoward, but wonder how best he can approach the issue should he be put in this position. Share your views with him.

(ii) P is the financial manager for KBC Ltd. He has worked there for three years and it has been doing well.

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One of the directors is also a director at another firm. He has been asked to transfer a large sum of money between the two – unrelated – companies.

Although he has requested further information, as he do not feel comfortable, he has been asked to “sign off” the transfer urgently. He has been verbally told that it is in the business’s interest and has the support of the Board.

But he does not want to be responsible for approving such a transfer without the appropriate paperwork and feels awkward questioning the director’s decision again. Advise him

[4+4 = 8]

Question 4(c)

(i) Explain the types of Ethical issues.

(ii) What are the consequences of an unethical behaviour?

[5+3 = 8]