

Paper 3 - Fundamentals of Laws and Ethics

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Full Marks :100

Time allowed: 3 hours

Section A

I. Choose the correct answer from the given four alternatives:

[25 × 1 = 25]

1. Mercantile Law
 - (a) Is applicable to businessmen only
 - (b) **Is applicable to everybody**
 - (c) Is applicable to non-businessman only
 - (d) Is applicable to Indians only

2. An agreement in restraint of marriage is:
 - (a) Voidable
 - (b) **Void**
 - (c) Valid
 - (d) Illegal

3. A agrees to sell to B a 'hundred tons of oil'. There is nothing whatever to show what kind of oil was intended. The agreement is
 - (a) Valid
 - (b) **Void for uncertainty**
 - (c) Voidable
 - (d) Illegal

4. An insurance contract is
 - (a) **Contingent contract**
 - (b) Wagering agreement
 - (c) Unenforceable contract
 - (d) Void contract

5. Which of the following statements regarding Quasi-contracts is incorrect
 - (a) It resembles a contract
 - (b) It is imposed by law
 - (c) It is based on the doctrine of unjust enrichment
 - (d) **It is voluntarily created**

6. Advertisement for tender is merely an invitation to offer.
 - (a) **True**
 - (b) False
 - (c) Cannot say
 - (d) Insufficient information

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7. A change of nature of obligation of a contract is known as:
- (a) Novation
 - (b) Rescission
 - (c) **Alteration**
 - (d) Repudiation
8. 'A' promises to paint a picture for 'B' by a certain day at a certain price. 'A' dies before that day. In this situation, the contract
- (a) **Cannot be enforced as it becomes void due to personal incapacity**
 - (b) Will be performed by the legal representative of 'A', who is bound by law to perform it
 - (c) Can be performed by an agent of 'A'
 - (d) Can be performed by a third person on behalf 'A'
9. A party who does not suffer any loss in case of breach of contract, is entitled to
- (a) Statutory damages
 - (b) Liquidated damages
 - (c) Exemplary damages
 - (d) **Nominal damages**
10. The Sale of Goods Act, 1930 governs the transfer of property in
- (a) **movable property**
 - (b) immovable property
 - (c) both movable and immovable property
 - (d) all type of properties
11. An essential element of a contract of sale is
- (a) **transfer of ownership in goods**
 - (b) delivery of goods
 - (c) both 'a' and 'b'
 - (d) either 'a' or 'b'
12. The subject matter of a valid sale are such goods which are
- (a) **transferred by seller to the buyer for a price**
 - (b) transferred by succession
 - (c) transferred by a will
 - (d) transferred by a buyer to the seller
13. The Sale of Goods Act, 1930 extends to the whole of India, except the state of _____
- (a) Maharashtra
 - (b) **Jammu and Kashmir**
 - (c) Tamilnadu
 - (d) Uttar Pradesh
14. "If you contract to sell peas, you cannot oblige a party to have beans": this statement applies to

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- (a) **a implied condition as to be description of goods**
 - (b) the implied condition as to fitness of goods for a particular purpose
 - (c) implied condition as to sample
 - (d) implied condition as to title
15. For passing of property in goods, the goods must be in
- (a) **deliverable state**
 - (b) manufacturing stage
 - (c) consumable state
 - (d) marketing state
16. "Nemo dat quad non habet", means:
- (a) no one is greater than god
 - (b) **none can give what he does not possess**
 - (c) everyone can give everything he has
 - (d) everyone is bound by is habit
17. Transfer of documents of title to the goods sold to the buyer, amounts to
- (a) actual delivery
 - (b) **symbolic delivery**
 - (c) constructive delivery
 - (d) none of these
18. A Bill of Lading is a _____.
- (a) Bill of Exchange
 - (b) Promissory Note
 - (c) Cheque
 - (d) **Document of Title to Goods**
19. Performance of conditions of a proposal is an acceptance to the proposal
- (a) **True**
 - (b) False
 - (c) Depends on the facts of the case
 - (d) Partially true and partially false
20. If a minor draws, endorses, delivers or negotiates an instrument, such instrument binds
- (a) all parties to the instrument including the minor
 - (b) only the minor and not other parties to the instrument
 - (c) **all parties to the instrument except the minor**
 - (d) none of the above
21. The undertaking contained in a promissory note, to pay a certain sum of money is
- (a) Conditional
 - (b) **Unconditional**
 - (c) may be conditional or unconditional depending upon the circumstances
 - (d) none of the above

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22. Cheque is a
- (a) promissory note
 - (b) **bill of exchange**
 - (c) both (a) and (b) above
 - (d) None of the above
23. The Negotiable Instruments Act, 1881 came into force on
- (a) 9th December, 1881
 - (b) 19th December, 1881
 - (c) **1st March, 1882**
 - (d) none of the above
24. A contract is formed when the acceptor
- (a) **has done something to signify his intention**
 - (b) makes his mind to do so
 - (c) reads the offer
 - (d) all the above
25. An offer stands revoked
- (a) If the fact of the death or insanity is known to offeree
 - (b) By counter offer
 - (c) By rejection of offer
 - (d) **All the above**

II. Match the following

[5 × 1 = 5]

	Column 'A'		Column 'B'
1.	Offer	A	Remission
2.	Implied Condition	B	Substitution of a new contract
3.	Novation	C	Quite possession
4.	Discharge by agreement	D	Adherence to sample and description
5.	Implied Warranty	E	expression of willingness to contract on certain terms

Answer:

	Column 'A'		Column 'B'
1.	Offer	E	expression of willingness to contract on certain terms
2.	Implied Condition	D	Adherence to sample and description
3.	Novation	B	Substitution of a new contract
4.	Discharge by agreement	A	Remission
5.	Implied Warranty	C	Quite possession

III. State whether the following statement is True (or) False.

[12 × 1 = 12]

1. A contract is said to be executed when it has been performed wholly on two sides.
True
2. Performance of conditions of a proposal is an acceptance to the proposal.
True
3. Silence is fraud when silence is, in itself equivalent to speech.
True
4. A person is competent to contract if he is a graduate.
False
5. If consent is not free due to coercion, undue influence, fraud, and misrepresentation then the agreement is void.
True
6. Quiet possession, freedom from encumbrance, disclosing dangerous nature of goods etc are implied conditions.
False
7. Right of stoppage of goods in transit can be exercised subject to fulfillment of some conditions.
True
8. Negotiable Instruments can be transferred ad infinitum.
True
9. An instrument incomplete in some respect is known as inchoate instrument.
True
10. When goods are physically handed over by the seller to the buyer it is called symbolic delivery.
False
11. A master asks his servant to sell his cycle to him at less than the market price. This contract can be avoided by the servant.
False
12. For an acceptance to be valid, it must be absolute and unqualified.
True

VI. Answer any four of the following questions.

[4 × 7 = 28]

1. Section 6 of the Act provides the modes for revocation of an offer or acceptance.

- (1) By the communication of notice of revocation by the proposer to the other party. The offeror may revoke his proposal any time before the letter of acceptance is posted to him and not afterwards. Similarly acceptance can be revoked any time before the letter of acceptance is received by the offeror.
- (2) By the lapse of the time prescribed in such proposal for its acceptance, or, if no time is so prescribed, by the lapse of a reasonable time, without communication of the acceptance; What is a reasonable time is a question of fact in each case.
- (3) By the failure of the acceptor to fulfill a condition precedent to acceptance.
- (4) By the death or insanity of the proposer, if the fact of the death or insanity comes to the knowledge of the acceptor before acceptance. Where an offeree writes his acceptance but dies before posting, the offer lapse and posting of the letter after his death will not create a contract.
- (5) If a counter offer is made to it. Where the offer is accepted with some modification in terms of the offer or with some other condition not forming part of the offer, such qualified acceptance amounts to a counter offer.
- (6) If an offer not accepted according to prescribed or usual mode. However, the offeror gives notice to the offeree within the reasonable time that the acceptance is not according to the prescribed or usual mode of acceptance.
- (7) An offer comes to an end if the law is changed so as to make the contract contemplated by the offer illegal or incapable of performance

2. Quasi contract

Under certain circumstances, the law creates and enforces legal rights and obligations although the parties have never entered into a contract. Such obligations imposed or created by law are known as "Quasi-Contracts". In other words, Contracts constituted by law are known as Quasi-Contracts.

Quasi-contracts are based on the principles of equity and justice. The claim based on a quasi-contract is generally for money. The remedy in quasi-contracts is only compensation and not damages.

Types of Quasi Contract

The Indian Contract Act deals with the following quasi-contractual obligations.

1. Claims for necessaries supplied:

Where necessaries are supplied to a person who is incompetent to contract, the supplier is entitled to recover the price from the property of the incompetent person under section 68 of the Indian Contract Act.

Example:

A supplies B, a minor, with necessaries suitable to his condition in life. A is entitled to be reimbursed from B's property.

2. Payment by an interested person:

Section 69 provides that a person who is interested in the payment of money of which another is bound by law to pay, and who therefore, pays it, is entitled to be reimbursed by the other".

In order to apply section 69, the following conditions must be satisfied.

- (a) The payment made should be bonafide for the protection of one's interest.
- (b) The payment should not have been made gratuitously or voluntarily.
- (c) Another person must be bound by law to pay.
- (d) The payment must be made to a third party and not to himself.

3. Benefits of non-gratuitous act:

Section 70 deal with the obligation of a person enjoying benefit of a non-gratuitous act. When a person lawfully does anything for another person or delivers anything to him, not intending to do so gratuitously, such person who enjoys the benefit must reimburse the former or must restore to him the thing so delivered.

For the application of section 70, the following conditions must be fulfilled.

- a. The act must have been done lawfully.
- b. It must have been done by the person not intending to act gratuitously.
- c. The person for whom the act is done must have enjoyed the benefit of that act.

4. Responsibility of finder of goods:

A person who finds goods belonging to another and takes them into his custody is liable as a bailee. The finder of goods must try to find out the real owner of the goods and deliver the goods to him on demand. The obligations are imposed on finder of goods by Section 71 of the Indian Contract Act.

5. Money paid by mistake or under coercion:

According to section 72, a person to whom money has been paid or anything delivered by mistake or under coercion, must repay or return it.

Example: A and B jointly owe ₹100 to C. A alone pays the amount to C, and B, not knowing this fact, later on also pays ₹100 to C. C is bound to repay the amount to B.

3. Appropriation of Payments:

(i) Application of Payment where debt to be discharged is indicated (Section 59)

Where a debtor, owing several distinct debts to one person, makes a payment to him, either with express intimation, or under circumstances implying that the payment is to be applied to the discharge of some particular debt, the payment, if accepted, must be applied accordingly.

Illustrations

- (a) A owes B, among other debts, ₹1,000 upon a promissory note which falls due on the first June. He owes B no other debt of that amount. On the first June A pays to B ₹1,000. The payment is to be applied to the discharge of the promissory note.
- (b) A owes to B, among other debts, the sum of ₹567. B writes to A and demands payment of this sum. A sends to B ₹567. This payment is to be applied to the discharge of the debt of which B had demanded payment.

(ii) Application of payment where debt to be discharged is not indicated (Section 60)

Where the debtor has omitted to intimate and there are no other circumstances indicating to which debt the payment is to be applied, the creditor may apply it at his discretion to any lawful debt actually due and payable to him from the debtor, whether its recovery is or is not barred by the law in force for the time being as to the limitation of suits.

(iii) Application of Payment where neither party appropriates (Section 61)

Where neither party makes any appropriation the payment shall be applied in discharge of the debts in order of time, whether they are or are not barred by the law in force for the time being as to the limitation of suits. If the debts are of equal standing, the payment shall be applied in discharge of each proportionately.

4. **'Nemo dat qui non habet'** means that no one can give what he himself does not have. It means a non owner cannot make valid transfer of property in goods. Exceptions to this doctrine are as follows:

Sale by mercantile agent (Sec. 27)

Where a mercantile agent is with the consent of the owner, in possession of the goods or of a document of title to the goods, any sale made by him, when acting in the ordinary course of business of a mercantile agent, shall be as valid as if he were expressly authorized by the owner of the goods to make the same, provided that the buyer's act is in good faith and has not at the time of the contract of sale notice that the seller has no authority to sell.

Sale by one of joint owners (Sec. 28)

If one of several joint owners of goods has the sole possession of them by permission of the co-owners, the property in the goods is transferred to any person who buys them of such joint owner in good faith and has not at the time of the contract of sale notice that the seller has no authority to sell. Where there is a contract for the sale of unascertained goods, no property in the goods is transferred to the buyer unless and until the goods are sanctioned.

Sale by person in possession under voidable contract (Sec. 29)

When the seller of goods has obtained possession thereof under a contract voidable under Section 19 or Section 19A of the Indian Contract Act, 1872, but the contract has not

rescinded at the time of the sale, the buyer acquires a good title to the goods, provided he buys them in good faith and without notice of the seller's defect of title.

Seller or buyer in possession after sale (Sec. 30)

Explanation (a): Where a person, having sold goods, continues or is in possession of the goods or of the documents of title to the goods, the delivery or transfer by that person or by a mercantile agent acting for him of the goods or documents of title under any sale, pledge or other disposition thereof to any person receiving the same in good faith and without notice of the previous sale shall have the same effect as if the person making the delivery or transfer were expressly authorized by the owner of the goods to make the same.

Explanation (b): Where a person, having bought or agreed to buy goods, obtains with the consent of the seller, possession of the goods or the documents of title to the goods, the delivery or transfer by that person or by a mercantile agent acting for him, of the goods or documents of title under any sale, pledge or other disposition thereof to any person receiving the same in good faith and without notice of any lien or other right of the original seller in respect of the goods shall have effect as if such lien or right did not exist.

Sale by estoppel (Sec. 27)

Where the owner by his conduct or omission, leads the buyer to believe that the seller has authority to sell, he is stopped from denying the fact afterwards. The buyer thus gets a better title than the seller.

Sale by a finder of goods:

Under section 169 of the Contract Act, if a finder of lost goods could not reasonably find the true owner or the true owner refuses to pay the lawful charges of the finder of lost goods, the finder of lost goods can sell the goods when the goods are

5. Auction Sale

Auction sale is a mode of selling property by inviting bids publicly and the property is sold to the highest bidder.

In an Auction sale, the auctioneer warrants the following:

- (a) The auctioneer warrants his authority to sell.
- (b) He warrants that he has no knowledge of any defect in his principal's title.
- (c) He warrants to give quiet possession of the goods to the buyer against payment of price.

Rules regarding an auction. (Sec. 64)

In the case of sale by auction-

- (a) Where goods are put up for sale in lots, each lot is prima facie deemed to be the subject of a separate contract of sale. [Sec 64(1)]

- (b) The sale is complete when the auctioneer announces its completion by the fall of the hammer or in other customary manner, and, until such announcement is made, any bidder may retract his bid. [Sec 64(2)]
- (c) A right to bid may be reserved expressly by or on behalf of the seller and, where such rights is expressly so reserved, but not otherwise, the seller or any one person on his behalf may, subject to the provisions hereinafter contained, bid at the auction, [Sec 64(3)]
- (d) Where the sale is not notified to be subject to a right to bid on behalf of the seller, it shall not be lawful for the seller to bid himself or to employ any person to bid at such sale, or for the auctioneer knowingly to take any bid from the seller or any such person, and any such person, and any sale contravening this rule may be treated as fraudulent by the buyer. [Sec 64(4)]
- (e) The sale may be notified to be subject to a reserved or upset price.
- (f) If the seller makes use of pretended bidding to raise the price, the sale is voidable at the option of the buyer.

6. Effects of different types of crossing

Effect of General Crossing:

- It gives a direction to the paying banker.
- Sec. 126 of the NI Act, 1881 lays down that when a cheque is crossed generally, the banker on whom it is drawn shall not pay it otherwise than to a banker. Therefore, this type of cheque cannot be paid at counter. The payment should be made through an account only. Thus the General crossing gives protection and avoids fraudulent withdrawals.
- It is the liability of the paying banker to verify proper payment in proper account. The payment does not constitute "Payment in due course". The banker is answerable to his customer, if he pays the money to a third person without the direction of his customer. He should not make any contract with third party concerning the cheque generally crossed.

Effect of Special Crossing:

- It prevents the fraudulent transactions and misappropriation.
- It is direction to the paying banker to pay the amount to the account holder of that bank, but not to others.
- If a cheque specially crossed on a particular bank, and if such cheque is presented in another bank, the paying bank should refuse the payment.
- Special crossing gives more protection than general crossing. In the case of special crossing, the banker's name and payee's name are mentioned, and the banker is well acquainted with the payee's name and signature. If there is any forgery he can easily detect it.

Effect of Account Payee crossing:

- It is merely in the form of direction to the receiving bank that the drawer desires to pay the particular cheque into bank which keeps the account of the payee.
- A/c Payee crossing cheque can also be transferable like other cheques.
- It gives further protection to the payee. The collecting banker should credit the cheque only to the mentioned account of the payee.
- If the banker credits the cheque to another's account and not to the account of the payee, the banker shall be held responsible for his negligence, and shall be held liable to pay the compensation.
- The safest method is to cross the cheque with the terms of 'Not Negotiable' and 'A/c Payee only'.

Effect of Not Negotiable crossing:

- It gives more protection and safe to the holder of the cheque.
- A third person cannot cash it so easily.
- It can be transferred like any other cheque.
- If the banker is negligent and transfers the amount of that cheque to another account, he will be held responsible and he will be liable to make the compensation to the sufferer.

Effect of Double Crossing:

- Double crossing is not permitted to general public. It is practiced only in case of transactions between the bankers. Others are not allowed to use double crossing.
- It is in practice to cross on the face of the cheque at left side. But in case of Double crossing it is the regular practice to cross at the back side of the cheque, where sufficient space is available.
- Sec. 127 lays down that where a cheque is crossed specially to more than one banker except when crossed to an agent for the purpose of collection, the banker on whom it is drawn shall refuse payment thereof.
- According to Sec. 127, it means that it is necessary, in all cases, to specify in the second special crossing that the banker in whose favour it is made is an agent of the first banker for collection.

Section B

I. Choose the correct answer from the given four alternatives:

[12 × 1 = 12]

1. Ethical and unethical behaviors are determined by
 - (a) The individual
 - (b) The culture
 - (c) **Both the individual and the culture**
 - (d) Neither the individual nor the culture
2. Behavior that does not confirm to generally social norms will be considered as:
 - (a) Arrogant Behavior

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- (b) Arbitrary Behavior
 - (c) Ethical Behavior
 - (d) **Unethical Behavior**
3. Business ethics relates to
- (a) Society's decisions
 - (b) **An individual's or work group's decisions**
 - (c) Customers decisions
 - (d) Government decisions
4. The crucial step in understanding business ethics is
- (a) Establishing codes of ethics
 - (b) **Learning to recognize ethical issues**
 - (c) Having efficient operations
 - (d) Implementing a strategic plan
5. Business ethics has a _____ application
- (a) **Universal**
 - (b) Natural
 - (c) Practical
 - (d) None of the above
6. Business ethics is based on well accepted _____.
- (a) **Moral and social values**
 - (b) Social values only
 - (c) Moral values only
 - (d) None of the above
7. Business Ethics is a code of conduct which businessmen should follow while conducting their _____
- (a) **Normal activities**
 - (b) Special activities
 - (c) Specific activities
 - (d) None of the above
8. Compliance is about obeying and adhering to _____.
- (a) **Rules an authority**
 - (b) Discipline
 - (c) Laws
 - (d) All of the above
9. Which of the following is an unethical business practice?
- (a) Collusion
 - (b) False Communication
 - (c) Insider Trading
 - (d) **All the above**

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10. A business should have which kind of an approach?
- (a) Profit earning
 - (b) Social responsibility
 - (c) **Both (a) and (b)**
 - (d) Either (a) and (b)
11. Companies which are responsive to employees' would have _____.
- (a) Profits
 - (b) **Lower turnover in staff**
 - (c) Staff Dissatisfaction
 - (d) Strikes
12. Ethics in compliance means _____.
- (a) It is about obeying and adhering to rules and authority
 - (b) It deals with the moral principles behind the operation and regulation of marketing
 - (c) It deals with the duties of a company to ensure that products and production processes do not cause harm
 - (d) **None of the above**

II. State whether the following statement is True (or) False.

[6 × 1 = 6]

1. Business ethics are important to develop good and friendly relations between business and society.
True
2. The customers have more trust and confidence in the businessmen who follow ethical rules.
True
3. There is separate business ethics for businessmen, and ethics applies to all the activities of people.
False
4. Business ethics concerns itself with adhering to the social principles of the situations in which business takes place.
True
5. Holders of public office have a duty to declare any private interests relating to their public duties.
True
6. Business ethics is a pure science.
False

III. Answer any two of the following questions.

[2 × 6 = 12]

1. Ethics as a Principle

We have established that social evolution has developed definite principles of civic behaviour, which have attained the status of principles. By principle, we understand that something proceeds and depends on it for its cause. For instance, when one kicks a football, force is the principle that propels it into motion and the ball remains in motion till the force lasts. In other words, the physical world functions strictly according to the laws of physics. It is expected that people also submit their behaviour, both in thoughts and in actions, to these principles. An action is valid as long as it reflects the principle, just as the speed of the moving ball depends on the force it receives.

All moral actions are directed towards their object, the good, which is the principle of all happiness. This is not only the sole purpose of our existence but our co-existence with others as well. We cannot be happy alone; we can only be happy together. The universal idea of the good is applied to individual instances. Individuals are good in their own particular way, and are good in so far as they share the essence of goodness. The universal good is a pure or general idea. It is formed through a process of abstraction of the essence from individuals or particulars.

2. The relevance of ethics is in its application.

Just as when we study the theory of relativity in physics, we ensure that the laws or principles of relativity are applied to the factors and elements being considered, so too in our study of ethics, the universal principles have to be applied to individual contexts and situations. We have to abandon the absolutism of universal principles. For instance, killing a man is wrong. But we approve the killing of the enemy in a war and the government honours the act with medals for bravery. This is due to the fact that such an act has served a higher principle, that is, the protection of countrymen. Ethics, in the practical sense, is also known as moral action and is an applied discipline that deals with a particular human action and also assesses to what extent it is compatible with the general principles

3. Evolution of ethics

Social conduct has evolved along with the evolution of society over hundreds of years. The codes of conduct have been passed down from generation to generation, and there is a pattern to the evolution of such codes. Acceptable behaviour is promoted and elevated as a social value, and unacceptable behaviour is rejected and condemned. In ancient India, there was no moral problem with the custom of sati-immolating the wife on the funeral pyre or the deceased husband. But society has evolved humanely and has condemned the act as unacceptable and morally reprehensible.

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The laws of a country are based on the customs or moral codes of its society. Penalties are prescribed for bad actions - actions that contradict the established laws. The laws are a measure against those people who cross the limits of the code of social conduct, and ensure that good citizens are protected from the negative consequences of the law-breakers. The object of the social codes of conduct is to maintain, promote, and elevate harmonious relationships. 'Honour your parents' is one such code. It maintains a peaceful relationship between parents and children and promotes respect for each other in the family. It is because of its salutary effects, it is considered as one of the fundamental values to be cultivated.