

Paper 3 - Fundamentals of Laws and Ethics

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Full Marks :100

Time allowed: 3 hours

I. Choose the correct answer from the given four alternatives: [10 × 1 = 10]

1. A contract is a contract
 - (a) **from the time it is made**
 - (b) from the time its performance is due
 - (c) at the time from its performance
 - (d) none of the above

2. Which of the following statements is false in respect of formal contract?
 - (a) It should be in a particular form
 - (b) It should be in writing and witnessed
 - (c) **It should have consideration**
 - (d) Consideration is not necessary

3. In an auction sale of goods, the seller makes use of pretended bidding to raise the price, the sale is _____.
 - (a) valid
 - (b) void
 - (c) **voidable at the instance of the buyer**
 - (d) unenforceable

4. S sells certain goods to B of Bombay. The goods are handed over to the railways for transmission to B. In the mean time B sells the goods to a third party T for consideration without the consent of S. B. becomes insolvent. In this case _____.
 - (a) S has the right of stoppage in transit
 - (b) S has lost his right of stoppage in transit
 - (c) **Station Master has the right of stoppage in transit**
 - (d) None of the above

5. When the day on which a promissory note or bill of exchange is at maturity is a public holiday, the instrument shall be deemed to be due on the _____.
 - (a) Preceding day
 - (b) **next preceding business day**
 - (c) same day of next week
 - (d) 3rd day following the date holiday

6. _____ cannot be admitted as a partner in a firm
 - (a) Married
 - (b) **Person of unsound mind**
 - (c) Widower
 - (d) Bachelor

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7. For overtime worker is entitled to wages _____.
(a) **twice the normal wages**
(b) normal wages
(c) normal wages plus compensatory holiday
(d) normal wages plus bonus
8. _____ has power to make rules under the Payment of Wages Act, 1936
(a) **Appropriate Government**
(b) Central Government
(c) State Government
(d) Local Administrator
9. For the purpose of fixation of Minimum wages the Appropriate Government is advised by _____.
(a) **Central Advisory Board**
(b) Labor Commissioner
(c) Ministry of Social Justice and Welfare
(d) all the three
10. Business ethics calls for avoidance of:
(a) Competition
(b) Publicity
(c) **Monopoly**
(d) Self Interest

II. Fill in the blanks:

[10 × 2 = 20]

1. The phrase "Quantum Meruit" literally means **as much as earned**.
2. Law is **Codification** of ethics.
3. A cheque is always payable on **Demand**.
4. The Negotiable Instruments Act, 1881 came into force on **1st March, 1882**.
5. When a partnership firm is continued even after the expiry of fixed term it is called **Partnership at will**.
6. A Manufacturing Ltd. needs to ensure provisions for cooling drinking water during hot weather, if more than **250** workers are ordinarily employed.
7. The term factory used in the Payment of Wages Act, 1936 has the same meaning as in **Section 2(m) of the Factories Act, 1948**.
8. The Minimum Wages Act, 1948 is applicable to **Whole of India**.
9. **Appropriate Government** has power to extend the provision of this Act to any other establishment or class of establishment, industrial, commercial, agricultural or otherwise.
10. Occupier means a person the person who has **Ultimate Control** over the affairs of the establishment or workshop.

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III. Match the following

[5 × 1 = 5]

	Column 'A'		Column 'B'
1.	Occupier	A	Cheque Truncation
2.	Safety Officers	B	Honesty
3.	Cheque in electronic form	C	1st July, 1930
4.	Principles	D	Factories Act
5.	Sale of Goods Act, 1930	E	Sec 40(B) of Factories Act

Answer:

	Column 'A'		Column 'B'
1.	Occupier	D	Factories Act
2.	Safety Officers	E	Sec 40(B) of Factories Act
3.	Cheque in electronic form	A	Cheque Truncation
4.	Principles	B	Honesty
5.	Sale of Goods Act, 1930	C	1st July, 1930

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

[10 × 1 = 10]

1. All contracts other than formal are called informal contracts.

False

2. A declaration of intention to make an offer is an offer.

False

3. Every employer shall be responsible for the payment of all wages required to be paid under Payment of Wages Act to person employed by him.

True

4. All wages shall be in current coin or currency notes or in both.

True

5. Every police officer shall be an inspector for his district.

False

6. Factory" means any premises including the precincts thereof, whereon ten or more workers are working, or were working on any day of the preceding twelve months, and in any part of which a manufacturing process is being carried on with the aid of power.

True

7. The relevance of ethics is in its application.

True

8. In case the assets of the firm are insufficient to pay the debts in full, the personal property of each partner cannot be attached to pay the creditors of the firm.

False

9. A contract of sale may be absolute or conditional.

True

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10. When an instrument due to faulty drafting may be interpreted either as bill or note, it is an ambiguous instrument.

True

V. Define any Five of the following:

[$5 \times 3 = 15$]

1. A Contract:

A contract is an agreement made between two or more parties which is enforceable in court of Law.

Section 2(h) defines the term contract as "an agreement enforceable by law." Pollock defines contract as "Every agreement and promise enforceable at law is a contract."

According to Salmond, a contract is an "agreement creating and defining obligations between the parties."

2. Capacity of the parties:

The parties to an agreement must be capable of entering into a contract.

A person is considered competent if he is:

- Eighteen years of age
- Of sound mind
- Not disqualified from contracting by any law to which he is subject to..

3. Important Points regarding Price:

- The 'price' in a contract of sale means the money consideration for sale of goods [Sec. 2(10)].
- Unless goods are sold for some price there cannot be sale.
- Transfer of ownership without any consideration is not a sale but merely a gift. Goods must be sold for some price.
- In a contract of sale 'price' is the consideration for sale of goods and is expressed in terms of money.
- It forms an essential part of contract and any contract of sales/agreement to sell without price is void ab initio.
- The price can be partly in money terms and partly in goods.
- Where goods are exchanged for goods, it is not a case of sale but a case of barter which is not within the scope of this Act.
- Similarly if there is no price, it is not a sales but a case of gift.
- If any consideration other than money is given/ to be given for the goods purchased/sold it is not a case of sale.

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4. Genuine, accommodation and fictitious bill:

When a bill is drawn, accepted, or endorsed for consideration it is a genuine bill. When it is drawn, accepted, or endorsed without consideration it is accommodation bill. When drawer or payee or both are fictitious the bill is called fictitious bill. If both drawer and payee of a bill is fictitious person, the acceptor is liable to a holder in due course, if the holder in due course can show that the signature of the supposed drawer and that of first payee are in the same handwriting.

5. Essentials of a valid endorsement:

- It must be on the instrument itself or on a separate slip of paper (called allonge) attached thereto.
- For the purpose of negotiation, it must be signed by the endorser.
- The instrument may contain in addition to the signature of the endorser, the name of the endorsee also. No particular form of words is necessary for endorsement.
- Endorsement is complete when the instrument is delivered to the endorsee with the intention of passing the property in it to the endorsee. Delivery is to be made by the endorser himself or someone on behalf of him.

6. Cleanliness in every factory:

Every factory shall be kept clean and free from effluvia arising from any drain, privy or other, nuisance, and in particular –

- Accumulations of dirt and refuse shall be removed daily
- shall be cleaned at least once in every week by washing, using disinfectant
- effective means of drainage shall be provided
- All inside walls and partitions, all ceilings, doors and window frames shall be painted and varnished every 5 years

7. Deductions for absence from duty:

- (1) Deductions may be made only on account of the absence of an employed person from the place, where he is required to work. Such absence being for the whole or any part of the period during which he is so required to work.
- (2) The amount of such deduction shall in no case bear to the wages payable to the employed person.

Provided that if ten or more employed persons acting in concert absent themselves without due notice and without reasonable cause such deduction from any such person may include such amount not exceeding his wages for eight days.

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Explanation: For the purposes of this section an employed person shall be deemed to be absent from the place where he is required to work if although present in such place he refuses in pursuance of a stay-in strike or for any other cause which is not reasonable in the circumstances to carry out his work.

8. Business for Profit:

It would seem that business ethics does not come within the confines of ethics. As Adam Smith (1779), the father of modern economics says: 'People of the same trade seldom come together, even for merriment and diversion, but the conversation ends in a conspiracy against the public, or in some contrivance to raise prices.' People find mechanisms to generate the highest possible returns when conducting business. No one holds it against a worker for demanding higher wages, or a landlord for increasing the rent. Their actions are not considered illegal or unethical. Profits are the just wages for invested capital and entrepreneurship. Hence, these should not be resented and should be left alone outside the boundaries of ethics. Business is for profit; the just reward for doing business lies in the excess returns received on the investment.

VI. Answer any four of the following questions.

[4 × 10 = 40]

1. Rules relating to contingent contracts

10

Section 31 of the Indian Contract Act, defines a contingent contract as "a contract to do or not to do something if some event, collateral to such contract, does or does not happen".

Example: A contracts to pay B ₹ 50,000 if B's house is burnt. This is a contingent contract.

Essentials of Contingent Contract:

The following are the essentials of a contingent contract. They are:

- (a) There must be a contract to do or not to do something.
- (b) The performance of the contract depends upon the happening or non-happening of some event in future.
- (c) The event must be uncertain.
- (d) The event must be collateral or incidental to the contract.

Rules regarding contingent contract:

Rules regarding contingent contracts are contained in section 32 to 36 of the Indian Contract Act. They are as follows:

(i) Enforcement of contracts contingent on an event happening: [Sec. 32]

Contracts, contingent upon the happening of a future uncertain event cannot be enforced by law unless and until that event has happened. If the event becomes impossible, such contracts become void.

Example: A contracts to pay B a sum of money when B marries C. C dies without being married to B. The contract becomes void.

(ii) Enforcement of contracts contingent on an event not happening: [Sec. 33]

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Contracts contingent upon the non-happening of an uncertain future event can be enforced when the happening of that event becomes impossible.

Example: A agrees to pay B a sum of money if a certain ship does not return. The ship is sunk. The contract can be enforced after the ship sinks.

(iii) When event on which contract is contingent to be deemed impossible, if it is the future conduct of a living person [Sec. 34]

If the future event on which a contract is contingent is the way in which a person will act at an unspecified time, the event shall be considered to become impossible when such person does anything which renders it impossible that he should so act within any definite time, or otherwise than under further contingencies.

Example: A agrees to pay B a sum of money if B marries C. C marries D. The marriage of B to C must now be considered impossible, although it is possible that D may die and that C may afterwards marry B.

(iv) When contracts become void which are contingent on happening of specified event within fixed time (Sec. 35)

Contingent contracts to do or not to do anything if a specified uncertain event happens within a fixed time become void if, at the expiration of the time fixed, such event has not happened, or if, before the time fixed, such event becomes impossible.

When contracts may be enforced which are contingent on specified event not happening within fixed time —

Contingent contracts to do or not to do anything if a specified uncertain event does not happen within a fixed time may be enforced by law when the time fixed has expired and such event has not happened, or, before the time fixed has expired, if it becomes certain that such event will not happen.

(v) Agreements contingent on impossible events void [Sec. 36]

Contingent agreements to do or not to do anything if an impossible event happens, are void, whether the impossibility of the event is known or not to the parties to the agreement at the time when it is made.

2. Legal rules relating Auction Sales.

10

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)]

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- (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.

3. Explain the differences between Promissory Note, Bills of Exchange and Cheque. 10

Point of Difference	Promissory Note	Bill of Exchange	Cheque
Parties	2 Parties - maker & payee	3 parties - drawer, drawee and Payee	3 parties - drawer, banker and payee
Nature	Contains an unconditional promise by maker to pay the payee	Contains an unconditional order to the drawee to pay the payee	Drawn on specified banker to pay on demand.
Acceptance	Not necessary	Necessary if the bill is payable after sight.	Not necessary.
Liability	Liability of maker is primary and absolute.	Liability of drawer is conditional and secondary upon nonpayment by drawee.	Liability of drawer is conditional and secondary upon non-payment by banker
Notice of dishonor	Not necessary	Necessary	Not necessary
Payable	On demand or after a specified time. Cannot be made payable to bearer on demand or even after certain period.	On demand or after a specified time. Cannot be made payable to bearer on demand.	On demand even to bearer if so made.
Crossing	Not possible	Not possible	Can be crossed.
Noting and protesting in case of dishonour	Not required	Required to establish the fact of dishonour.	Not required
Grace period	Available if payable after specified time	Available if payable after specified time (usance bill)	Not available.
Other features	Number, date, place not essential. Must be stamped.	Number, date, place not essential. Must be stamped.	Number, date, place, essential. Need not be stamped.

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4. (a) Provisions relating to first aid appliances according to the Factories Act, 1948. 6

First-aid appliances

- (1) There shall in every factory be provided and maintained so as to be readily accessible during all working hours first-aid boxes or cupboards, equipped with the prescribed contents, and the number of such boxes or cupboards to be provided and maintained shall not be less than one for every one hundred and fifty workers ordinarily employed at any one time in the factory.
- (2) Nothing except the prescribed contents shall be kept in a first-aid box or cupboard.
- (3) Each first-aid box or cupboard shall be kept in the charge of a separate responsible person who holds a certificate in first-aid treatment recognized by the State Government and who shall always be readily available during the working hours of the factory.
- (4) In every factory wherein more than five hundred workers are ordinarily employed there shall be provided and maintained an ambulance room of the prescribed size, containing the prescribed equipment and in the charge of such medical and nursing staff as may be prescribed and those facilities shall always be made readily available during the working hours of the factory.

(b) Payment of wages in kind according to Minimum of Wages Act, 1948. 4

- (1) Minimum wages payable under this Act shall be paid in cash.
- (2) Where it has been the custom to pay wages wholly or partly in kind the appropriate government being of the opinion that it is necessary in the circumstances of the case may by notification in the Official Gazette authorize the payment of minimum wages either wholly or partly in kind.
- (3) If appropriate government is of the opinion that provision should be made for the supply of essential commodities at concession rates the appropriate government may by notification in the Official Gazette authorize the provision of such supplies at concessional rates.
- (4) The cash value of wages in kind and of concessions in respect of supplies of essential commodities at concession rates authorized under sub-sections (2) and (3) shall be estimated in the prescribed manner.

5. Social security benefits under Employee's State Insurance Act, 1948 10

The section 46 of the Act envisages following six social security benefits:-

(A) Medical Benefit: Full medical care is provided to an Insured person and his family members from the day he enters insurable employment. There is no ceiling on expenditure on the treatment of an Insured Person or his family member. Medical care is also provided to retired and permanently disabled insured persons and their spouses on payment of a token annual premium of ₹120/- .

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(B) Sickness Benefit (SB): Sickness Benefit in the form of cash compensation at the rate of 70 per cent of wages is payable to insured workers during the periods of certified sickness for a maximum of 91 days in a year. In order to qualify for sickness benefit the insured worker is required to contribute for 78 days in a contribution period of 6 months.

(C) Maternity Benefit (MB) : Maternity Benefit for confinement/pregnancy is payable for three months, which is extendable by further one month on medical advice at the rate of full wage subject to contribution for 70 days in the preceding year.

(D) Disablement Benefit :

(a) **Temporary disablement benefit (TDB):** From day one of entering insurable employment & irrespective of having paid any contribution in case of employment injury. Temporary Disablement Benefit at the rate of 90% of wage is payable so long as disability continues.

(b) **Permanent disablement benefit (PDB):** The benefit is paid at the rate of 90% of wage in the form of monthly payment depending upon the extent of loss of earning capacity as certified by a Medical Board.

(E) Dependents' Benefit (DB): DB paid at the rate of 90% of wage in the form of monthly payment to the dependents of a deceased Insured person in cases where death occurs due to employment injury or occupational hazards.

(F) Other Benefits:

(a) **Funeral Expenses:** An amount of ₹10, 000/- is payable to the dependents or to the person who performs last rites from day one of entering insurable employment.

(b) **Confinement Expenses:** An Insured Women or an insured person in respect of his wife in case confinement occurs at a place where necessary medical facilities under ESI Scheme are not available.

In addition, the scheme also provides some other need based benefits to insured workers.

(a) **Vocational Rehabilitation:** To permanently disabled Insured Person for undergoing VR Training at VRS.

(b) **Physical Rehabilitation:** In case of physical disablement due to employment injury.

(c) **Old Age Medical Care:** For Insured Person retiring on attaining the age of superannuation or under VRS/ERS and person having to leave service due to permanent disability insured person & spouse on payment of ₹ 120/- per annum.

(d) **Rajiv Gandhi Shramik Kalyan Yojana** - This scheme of Unemployment allowance was introduced w.e.f. 01-04-2005. An Insured Person who become unemployed after being insured three or more years, due to closure of factory/establishment, retrenchment or permanent invalidity are entitled to unemployment allowance equal to 50% of wage for a maximum period of upto one year, apart from other benefits.

6. Seven principles of public life.

10

Seven principles of public life: -

(1) Selflessness: -

Holders of public office should take decisions solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves; their family or their friends.

(2) Integrity: -

Holders of public office should not place themselves under any financial or other obligation to outside individuals or organizations that might influence them in the performance of their official duties.

(3) Objectivity: -

In carrying out public business including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

(4) Accountability: -

Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

(5) Openness: -

Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

(6) Honesty: -

Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

(7) Leadership: -

Holders of public office should promote and support these principles by sound leadership and prove to be an example in whatever they perform.