

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 x 1 = 10]

1. Which is correct?
 - (a) Proposal + Acceptance = Promise
 - (b) Promise + Consideration = Agreement
 - (c) **Agreement + Enforceability at law = Contract**
 - (d) All of the above
2. A contract with or by a minor is a _____.
 - (a) Valid Contract
 - (b) **Void Contract**
 - (c) Voidable Contract
 - (d) Voidable at the option of either party.
3. The term price has been defined in Section _____ of the Sale of Goods Act.
 - (a) Section 2(12)
 - (b) Section 2(7)
 - (c) **Section 2(10)**
 - (d) Section 2(13)
4. _____ is not a negotiable instrument as per customs and usage.
 - (a) Delivery Note
 - (b) Railway Receipt
 - (c) **Cheque**
 - (d) Government Promissory Note
5. A partnership firm can be formed with a minimum share capital of _____.
 - (a) ₹ 50,000
 - (b) ₹ 5,00,000
 - (c) ₹ 1,00,000
 - (d) **Not fixed**
6. In case of dissolution of firm, the available assets are distributed as per _____.
 - (a) **Garner V Murry decision**
 - (b) Profit Sharing ratio
 - (c) as per fixed capital ratio
 - (d) as per paying capacity of the partners

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7. Shyam was doing overtime in a factory, he is entitled to ₹5,000 as basic wages, how much he will get for overtime work:
- (a) **₹10,000**
 - (b) ₹5,000
 - (c) ₹15,000
 - (d) ₹7,000
8. No fine can be imposed on any employed person who is under the age of _____
- (a) 14
 - (b) **15**
 - (c) 18
 - (d) 12
9. The Employer's Share of contribution to ESI Fund is _____
- (a) 1.75% of wages
 - (b) **4.75% of wages**
 - (c) 10% of wages
 - (d) 11% of wages
10. This is not of the 7 principles of public life.
- (a) Integrity
 - (b) Honesty
 - (c) **Content**
 - (d) Accountability

II. Fill in the blanks:

[10 x 2 = 20]

1. Indian Contract Act, 1872 came into force with effect from **1st September, 1872** .
2. An agreement in restraint of marriage is **Void** .
3. In case of **Barter** there is transfer of ownership of one thing is in return for transfer of another thing.
4. When a cheque is payable across the counter of a bank it is called **Open Cheque**
5. **Nominal** partner is known to the outsiders and does not share in the profits.
6. Wages as per the Payment of Wages Act cannot be paid in **Kind**
7. As per Minimum Wages Act, adolescent means a person who has completed the age of 14 years but not completed the age of **18 years**
8. Sickness Benefit in the form of cash compensation at the rate of **70%** of wages is payable.
9. Child Labour Technical Advisory Committee is appointed by **Central Government**.
10. The study of Ethics is divided into **4** operational areas.

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III. Match the following

[5 x 1 = 5]

Column 'A'		Column 'B'	
1.	Consensus ad idem	A	Section 45
2.	Test of Partnership	B	Transferring the title of the instrument
3.	Unpaid Seller	C	Identity of Minds
4.	Negotiation	D	Sec. 64
5.	Rules regarding Auction Sale	E	Cox v Hickman

Answer:

Column 'A'		Column 'B'	
1.	Consensus ad idem	C	Identity of Minds
2.	Test of Partnership	E	Cox v Hickman
3.	Unpaid Seller	A	Section 45
4.	Negotiation	B	Transferring the title of the instrument
5.	Rules regarding Auction Sale	D	Sec. 64

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

[10 x 1 = 10]

1. The word Ethics is derived from the latin word 'Ethika'.
False
2. The period of work of a child labor cannot spread over more than six hours.
True
3. The sickness benefit in the form of cash compensation is paid at the rate of 50% of wages during the period of certified sickness.
False
4. XYZ is a factory to which Payment of Wages Act is applicable and employing 700 employees. The factory has the practice of paying wages only after 15th of the following month.
False
5. Adolescent means a person who has completed his fourteenth year of age but has not completed his eighteenth year.
True
6. The Employee's State Insurance Act, 1948 is applicable to whole of India.
True
7. Appropriate Government in case of Railways is Central Government.
True

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8. For every district, District Judge shall be an Inspector for the Factories Act, 1948.

False

9. ABC are three partners. On death of C, his son D is admitted into the partnership. This is a case of Dissolution of Partnership.

True

10. A set of formalized rules and standards that describe what a company expects of its employees is called a Code of Ethics.

True

V. Define any Five of the following:

[5 x 3 = 15]

1. Void Contract:

A contract which ceases to be enforceable by law becomes void when it ceases to be enforceable. Void contract is a valid contract at the beginning but subsequently becomes void when it ceases to be enforceable.

2. 'Goods' under Sale of Goods Act, 1930:

According to section 2(7) Goods means "every kind of movable property other than actionable claims and money and includes stock and shares, growing crops, grass and things attached to or forming part of the land which are agreed to be severed before sale or under the contract of sale.

3. Bill of Exchange:

A bill of exchange is an instrument in writing containing an unconditional order signed by maker directing a certain person to pay a certain sum of money only to, or to the order of a certain person or to the bearer of the instrument. – Sec. 5 of the Negotiable Instruments Act, 1881.

4. Adolescent:

According to sec. 2(b) of the Factories Act, 1948, 'Adolescent' means "a person who has completed his fifteenth years of age but has not completed his eighteenth year".

5. Consideration:

"When at the desire of the promisor, the promisee or any other person has done or abstained from doing, or does or abstains from doing, or promises to do or to abstain from doing, something, such act or abstinence or promise is called a consideration for the promise". – Sec. 2(d) of Indian Contract Act, 1872.

6. 'Week' under Child Labor (Prohibition and Regulation) Act, 1986.

"Week" means a period of seven days beginning at midnight on Saturday night or such other night as may be approved in writing for a particular area by the inspector. - Sec. 2(ix) of Child Labour (Prohibition and Regulation) Act, 1986

7. Morals

The word moral (s) is derived from the latin root moralis which implies custom. In other words, it refers to a behavior that is accepted or rejected due to an accepted social custom.

8. Sleeping Partner

A sleeping or dormant partner does not take any active part in the management of the business. He contributes capital and shares the profits which are usually less than that of the active partners. He is liable for all the deals of the firm but his relationship with the firm is not disclosed to the general public.

VI. Answer any four of the following questions.

[4 x 10 = 40]

1. Define Quasi Contract. Explain the different types of Quasi Contracts.

10

Answer:

A quasi contract is a fictitious contract created under legal obligations, similar to a valid contract. These contracts are also known as implied-in-law contracts. What makes this different is that the parties involved do not intend to create a contract. A quasi contract is created by the court. For the same reason, there is no actual offer or acceptance or an agreement between the parties.

Types of Quasi contracts: -

Section 68 to 72 deal with five kinds of Quasi contractual obligations. They are:

(i) Supply of necessaries to an incompetent person: -

Under Sec. 68 to the Indian Contract Act, 1872, a person, who supplies another person, who is incompetent to enter into a contract, with necessaries of life is entitled to get a share from the property of the later.

(ii) Payment by an Interested person: -

Under section 69 of the Act, a person, who is interested in payment of money which was supposed to be paid by another but pays it, is entitled for reimbursement from the said person.

(iii) Performance of Non – Gratuitous Act: -

Section 70 provides that if a person has received lawful services from another person, which the former had not asked for but needed at that moment, the other person is entitled to be compensated for the services that were rendered.

(iv) Become finder of Lost Goods: -

Under section 71 of the Act, a person who finds goods belonging to another person and takes the custody of the goods is subjected to the responsibilities of having possession of the property under bailment and cannot use it for his own good. By implication, the finder has to safeguard it.

(v) Payment of money by mistake; -

Under section 72 of the Act, a person who receives money or goods by mistake or under compulsion is liable to return it.

2. Who is an Unpaid Seller? Explain the rights of an unpaid seller.

10

Answer:

Unpaid Seller: -

Sec. 49 of the sale of goods Act, 1930 has defined an unpaid seller as, the seller of goods is deemed to be an 'unpaid seller' within the meaning of this Act:

- (a) When the whole of the price has not been paid or unpaid seller as follows:
- (b) When a bill of exchange or other negotiable instrument has been received as conditional payment and the conditions on which it was received has not been fulfilled by reason of the dishonor of the instrument or otherwise.

Right of an unpaid seller:

The right of an unpaid seller can be broadly discussed under two heads.

(i) Right against the Goods:

An unpaid seller has some rights against the goods sold when the property in the goods has passed to the buyer. They are as follows:

(a) Right of Lien: [Sec. 47]

Lien is a right to retain possession of goods until payment of price. According to sec.47 (1) an unpaid seller can exercise the right of lien in the following cases: -

- Where goods are sold without any stipulation as to credit.
- Where goods are sold on credit, but the period of credit has expired.
- Where the buyer becomes insolvent.

(b) Right of stoppage of goods in transit: - [Sec. 50]

When the buyer of goods becomes insolvent, the unpaid seller who has parted with the possession of the goods has the right of stopping them in transit that is to say, he may

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resume possession of the goods as long as they are in the course of transit, and may retain them until payment or tender of the price.

(c) Right of resale: Sec. 54

An unpaid seller can exercise the right of resale in the following cases: -

- Where the goods are perishable in nature.
- Where the seller expressly reserves the right of resale in case the buyer makes a default in the payment of price.
- Where the seller has exercised his right of lien or stoppage in transit, and gives notice to the buyer of his intention to resell the goods.

(ii) Right against buyer :

(a) Suit for price: [Sec. 55]

Where the property in goods has passed to the buyer and the buyer wrongfully neglects or refuses to pay the price, the seller can sue the buyer for price.

(b) Suit for damages for non-acceptance: [Sec. 56]

Where the buyer wrongfully neglects or refuses to accept and pay for the goods, the seller can sue him for damages for non-acceptance of the goods.

(c) Suit for interest: - [Sec. 61]

Where there is specific agreement between the seller and the buyer regarding interest on the price of goods, the seller can claim it from the date when payment becomes due. If there is no specific agreement, the interest is payable from the date notified by the seller to the buyer.

3. (a) What is meant by Crossing of Cheque? Explain the different types of crossing. 7
(b) Who cannot enter into partnership contract? 3

Answer:

(a) Cheques are of two types

- (i) Open Cheque
- (ii) Crossed Cheque

When a cheque is payable in cash across the counter of a bank, it is said to be open. A crossed cheque is one on which two parallel transverse lines with or without the words & co is drawn.

Crossing a cheque implies directing the drawee banker to pay the amount only to a banker or a particular banker so that the party getting payment can be easily traced.

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The payment of such crossed cheques can be made only through a banker and not over the counter. A cheque may be crossed by the drawer, holder or banker.

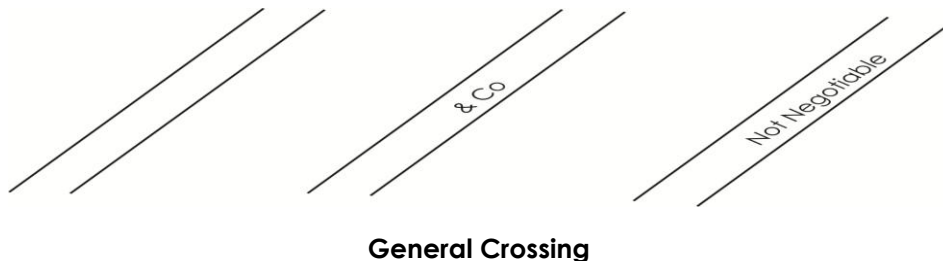
Types of crossing: -

Crossing may be of two types: -

- (i) General Crossing
- (ii) Special Crossing

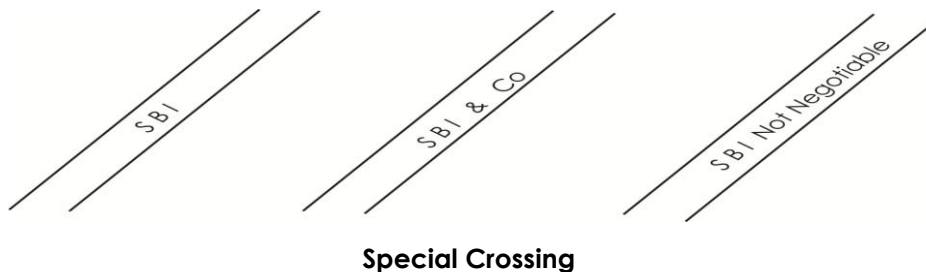
(i) **General Crossing:** -

When two transverse parallel lines are drawn across the face of the cheque with or without the words '& co' and "Not negotiable" then such type of crossing is called General Crossing. It is an indication to the paying banker not to pay the proceeds across the counter.



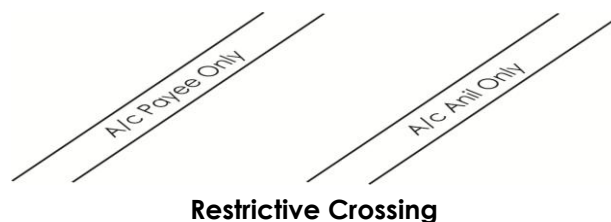
(ii) **Special Crossing:** -

When the name of the banker is also indicated in the general crossing in addition to the words '& co' and 'Not Negotiable' then such type of crossing is called as special crossing.



(iii) **Restrictive Crossing:-**

In addition to above two crossing prescribed in the Act, there is another type of crossing known as restrictive crossing developed out of business usages. In this type of crossing the word a/c payee are added to general or special crossing. The effect of making the cheque a/c payee is to give direction to the bank to credit the amount to the account of the payee.



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(iv) **Not Negotiable Crossing:** -

At times the cheques are marked "Not Negotiable". The effect of such marking is that transferee does not get better title than that of the transferor. Anyone who takes a cheque marked "Not Negotiable" takes it on his own risk and cost.

(b) The answer is who is not competent to enter into a contract under Section 11 of the Indian Contract Act, is not competent to become a partner. The following persons for want of capacity cannot enter into contract and accordingly cannot be a partner in a firm.

(i) **Minor:** -

A minor cannot become a partner in a firm, but with the consent of all the partners, a minor can be admitted to the benefits of partnership.

(ii) **Alien Enemy:** -

An Alien enemy cannot enter into a partnership with an Indian subject. However, a native of Alien friend country can enter into partnership with Indian citizen.

(iii) **Person of unsound mind:** -

A person of unsound mind is not competent to enter into a contract of partnership.

(iv) **Corporation:** -

A registered company can enter into a contract of partnership as a single individual but not as a group of Individuals comprising it. It may be noted that a company can be a partner in a firm only if so authorized by its Memorandum of Association.

4. (a) Explain the provisions relating to drinking water according to the Factories Act, 1948.

5

(b) Who is responsible for Payment of Wages according to Payment of Wages Act, 1936.

5

Answer:

(a) Provisions relating to Drinking water: [Sec. 18]

(1) In every factory effective arrangements shall be made to provide and maintain at suitable points conveniently situated for all workers employed therein a sufficient supply of wholesome drinking water.

(2) All such points shall be legibly marked "drinking water" in a language understood by a minority of the workers employed in the factory, and no such point shall be situated within six meters of any washing place, urinal, latrine, spittoon, open drain carrying sullage or effluent or any other source of contamination unless a shorter distance is approved in writing by the chief inspection.

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- (3) In every factory where in more than 250 workers are ordinary employed, provisions shall be made for cooling drinking water during hot weather.
- (4) In respect of all factories or any class or description of factories the State Government may make rules for securing compliance with the provisions of sub-sections (1), (2) and (3).

(b) Responsibility for payment of wages: (Sec. 3)

Every employer shall be responsible for the payment of all wages required to be paid under this act to person employed by him. Provided that in case of persons employed:

- (a) In factories if a person has been named as the manager of the factory.
- (b) In industrial or other establishments if there is a person responsible to the employer for the supervision and control of the industrial or other establishments.
- (c) Upon railway if the employer is the railway administration and the railway administration has nominated a person in this behalf for the local area concerned.
- (d) In the case of contractor a person designated by such contractor who is directly under his charge.
- (e) In any other case a person designated by the employer as a person responsible for company with the provision of the Act.

The person so named the person so responsible to the employer or the person so nominated as the case may be shall also be responsible for such payment.

- 5. (a) Explain the procedure for fixing and revising minimum wages. 5
- (b) Write about the hours and period of work of children according to Child Labor (Prohibition and Regulation) Act, 1986. 5

Answer:

(a) The responsibility of fixing minimum wages lies with Appropriate Government.

The appropriate government shall in the manner here in after provided –

- (a) Fix the minimum rates of wages payable to employees employed in an employment specified in Part I and Part II of the Schedule and in an employment added to either Part by notification under Sec. 27

Provided that the Appropriate Government may in respect of employees employed in an employment specified in Part II of the Schedule instead of fixing minimum rates of wages under this clause for the whole State fix such rates for a part of the State or for any specified class or classes of such employment in the whole state or part thereof.

- (b) Review at such intervals as it may think fit such intervals not exceeding five years the minimum rates of wages so fixed and revise the minimum rates is necessary.

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Provided that where for any reason the appropriate government has not reviewed the minimum rates of wages fixed by it in respect of any scheduled employment within any interval of five years nothing contained in this clause shall be deemed to prevent it from reviewing the minimum rates after the expiry of the said period of five years and revising them if necessary and until they are so revised the minimum rates in force immediately before the expiry of the said period of five years shall continue in force.

(b) Hours and period of work: (Sec. 7)

- (1) No child shall be required or permitted to work in any establishment in excess of such number of hours as may be prescribed for such establishment or class of establishments.
- (2) The period of work on each day shall be so fixed that no period shall exceed three hours and that no child shall work for more than three hours before he has had an interval for rest for at least one hour.
- (3) The period of work of a child shall be so arranged that inclusive of his interval for rest, under sub-section (2), it shall not be spread over more than six hours, including the time spent in waiting for work on any day.
- (4) No child shall be permitted or required to work between 7 p. m. to 8 a.m.
- (5) No child shall be required or permitted to work overtime.
- (6) No child shall be required or permitted to work in, any establishment on any day on which he has already been working in another establishment.

6. Explain about the seven principles of public life.

10

Answer:

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.

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(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.