

Paper 3 - Fundamentals of Laws and Ethics

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Full Marks :100

Time allowed: 3 hours

The figures in the margin on the right side indicate full marks.

This question paper has two sections.

Both the sections are to be answered subject to instructions given against each.

Section A

I. Choose the correct answer from the given four alternatives: [25 ×1 = 25]

1. Two persons have the capacity to contract
 - (a) If both are not of unsound mind
 - (b) If none of them is barred by law
 - (c) If both has attained majority
 - (d) All of the above**

2. Where consideration is illegal or physically impossible, uncertain or ambiguous, it shall not be
 - (a) Transferable by law
 - (b) Unenforceable by law
 - (c) Enforceable by law**
 - (d) None of the above

3. An auction sale is complete on the _____
 - (a) delivery of goods
 - (b) payment of price
 - (c) fall of hammer**
 - (d) all of the above

4. Where the sale is not notified to be subject to a right to bid on behalf of seller, and the Auctioneer knowingly takes any bid from the Seller or any such person, the sale shall be treated as _____ by the buyer.
 - (a) unlawful
 - (b) illegal
 - (c) immoral**
 - (d) fraudulent

5. The Negotiable Instruments Act, 1881 is applicable to _____
 - (a) Whole of India**
 - (b) Whole of India except state of Jammu & Kashmir
 - (c) Whole of India except city of Jammu & Kashmir
 - (d) Whole of India except state of Jammu & Kashmir and Andaman Nicobar Islands

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6. How many parties are involved in a Bill of Exchange
- (a) 1
 - (b) 2
 - (c) 3**
 - (d) 4
7. _____ is not a negotiable instrument as per customs and usage.
- (a) Delivery Note
 - (b) Railway Receipt
 - (c) Cheque**
 - (d) Government Promissory Note
8. Conditions are stipulations
- (a) essential to the main purpose of the contract**
 - (b) collateral to the main purpose of the contract
 - (c) either 'a' or 'b'
 - (d) neither 'a' nor 'b'
9. A promissory note contains a/an
- (a) unconditional undertaking
 - (b) unconditional order**
 - (c) conditional undertaking
 - (d) conditional order
10. M. gave a piece of suit length to Z a leading tailor of his area to be returned to him on payment of his charges after making a party dress for him. This is a case of
- (a) Sale
 - (b) Bailment**
 - (c) Barter
 - (d) Agreement of sale
11. A bill dated 6th Feb, 2016 is made payable 90 days after date. It's due date is
- (a) 6th May, 2016
 - (b) 9th May, 2016**
 - (c) 5th May, 2016
 - (d) 4th May, 2016
12. When a cheque is payable across the counter of a bank it is called
- (a) OTC Cheque
 - (b) Open Cheque**
 - (c) Crossed Cheque
 - (d) Restricted Cheque
13. Which section, of Indian Contract Act defines "performance of the conditions of a proposal is an acceptance of the proposal"?
- (a) Section 6

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- (b) Section 7
(c) Section 8
(d) Section 9
14. The difference between an advertisement for sale and a proposal is
(a) No difference at all
(b) That a proposal becomes a promise as soon as the party to whom it is made accepts it but an advertisement does not
(c) Every case will be viewed according to the circumstances
(d) None of these
15. In a sale by sample and description, there is an implied condition
(a) that bulk of the goods correspond with the sample
(b) that bulk of goods must correspond to the description as well as the sample thereof
(c) the bulk of goods must correspond either to the description or to the sample
(d) the bulk of goods must correspond to the description only
16. Property in the goods in the Sale of Goods Act means
(a) ownership of goods
(b) possession of goods
(c) asset in the goods
(d) custody of goods
17. Who among the following cannot cross a cheque?
(a) Drawer
(b) Holder
(c) Banker
(d) Foreigner
18. Past consideration means _____
(a) Consideration and promise should move together
(b) Executed consideration
(c) Consideration is provided prior to the making of the contract
(d) Invalid consideration
19. Which one of the following is a correct statement
(a) Stranger to consideration contract can sue
(b) Stranger to consideration contract cannot file a suit
(c) Stranger to consideration contract would be a stranger only
(d) Stranger to consideration contract cannot be party to the contract
20. Right in rem implies
(a) A right available against the whole world
(b) A right available against a particular person
(c) A right available against the Government
(d) none of these

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21. A Promissory note must be _____
- in writing
 - unconditional
 - signed by the maker
 - all the three**
22. Acceptance is to offer what a lighted match is to a train of gun powder. This statement indicates
- Once an offer is accepted it results in binding contract**
 - Communication of acceptance is necessary
 - Acceptance must be absolute & unqualified
 - All the above
23. Appropriation of goods means
- separating the goods sold from other goods
 - putting the quantity of goods sold in suitable receptacles
 - delivering the goods to the carrier or other bailee for the purpose of transmission to the buyer with reserving the right of disposal
 - all the above**
24. Merchantable quality of goods means
- that the goods are commercially saleable
 - they are fit for the purpose for which they are generally used**
 - both 'a' and 'b'
 - the quality should be of high standard
25. In a sale by sample and description, there is an implied condition
- That bulk must correspond to the sample
 - That bulk must correspond to the description
 - That bulk must correspond to the description and sample**
 - That bulk must correspond to the description or sample

II. Match the following

[5 × 1 = 5]

	Column 'A'		Column 'B'
1.	Grace days	A	Taking Back
2.	Condition	B	Three days
3.	Revocation	C	Section 71
4.	Finder of lost Goods	D	Section 2(b)
5.	Acceptance	E	Essential to the main purpose of the contract

	Column 'A'		Column 'B'
1.	Grace days	B	Three days

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2.	Condition	E	Essential to the main purpose of the contract
3.	Revocation	A	Taking Back
4.	Finder of lost Goods	C	Section 71
5.	Acceptance	D	Section 2(b)

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 from both sides.
True
2. An offer must be expressed.
False
3. Silence is fraud when silence is in itself equivalent to speech.
True
4. A mere mental resolve can be a valid acceptance.
False
5. Both offer and acceptance should be absolute, unqualified and unconditional.
False
6. Symbolic delivery occurs by doing some act, which has the effect of putting the goods in the possession of the buyer.
True
7. Delivery of goods can be actual and constructive.
False
8. Negotiable Instruments Act, 1881 provides that a negotiable instrument include promissory note, bill of exchange and cheque, only payable to bearer.
False
9. A person is competent to contract if he is a graduate.
False
10. A pawnee may under certain circumstances sell the goods pledged to him on giving the pawner reasonable notice of sale.
True
11. P renders some service to D at D's desire. After a month D promises to compensate P for the service rendered to him, it is a future consideration
False
12. Caveat Emptor means buyer be aware.
True

IV. Answer any four of the following questions.

[4 × 7 = 28]

1. Describe the term 'Fraud' and its effects.

7

Answer:

As per section 17 of the Contract Act, "Fraud" means and includes any of the following acts committed by a party to a contract, or with his connivance, or by his agent, with intent to deceive another party thereto or his agent, or to induce him to enter into the contract:

- (i) The suggestion, as a fact, of that which is not true by one who does not believe it to be true;
- (ii) The active concealment of a fact by one having knowledge or belief of the fact;
- (iii) A promise made without any intention of performing it;
- (iv) Any other act fitted to deceive;
- (v) Any such act or omission as the law specially declares to be fraudulent.

Mere silence as to facts likely to affect the willingness of a person to enter into a contract is not fraud, unless the circumstances of the case are such that, regard being had to them, it is the duty of the person keeping silence to speak, or unless his silence is, in itself, equivalent to speech.

Effect of Fraud:

According to section 19 when consent to an agreement is caused by coercion, fraud or misrepresentation, the agreement is a contract voidable at the option of the party whose consent was so caused.

A party to a contract, whose consent was caused by fraud or misrepresentation, may, if he thinks fit, insist that the contract shall be performed, and that he shall be put in the position in which he would have been, if the representations made had been true.

However there is one exception to the rule of voidability of contract at the option of aggrieved party. If such consent was caused by misrepresentation, or by silence, fraudulent within the meaning of section 19 the contract, nevertheless, is not voidable, if the party whose consent was so caused had the means to discovering the truth with ordinary diligence.

2. Write a note on 'various types of bilateral mistakes'.

7

Answer:

Bilateral mistake:

Where both the parties to an agreement are under a mistake as to a matter of fact essential to the agreement, the agreement is void.

The **various types of mistakes falling under bilateral mistakes** are as under:

- (i) Mistake as to subject matter covers following cases:
 - (a) Mistake as to existence of subject matter: If both the parties are at mutual mistake as to existence of the subject matter the agreement is void.

- (b) Mistake as to identity of subject matter: It usually happens when both the parties have different subject matter of contract in their mind. The contract is void due to
 - (c) Mistake of identify of subject matter.
 - (d) Mistake as to the quality of the subject matter: If the subject matter is something essentially different from what the parties thought to be, the agreement is void.
 - (e) Mistake as to quantity of subject matter: Bilateral mistake as to quantity of subject matter would render the contract void.
 - (f) Mistake as to title of subject matter: The agreement is void due to bilateral mistake as to title of the subject matter.
 - (g) Mistake as to price of the subject matter: Mutual mistake as to price of the subject matter would render the agreement void.
- (ii) Mistake as to possibility of performance of Contract. Impossibility may be:
- (a) Physical impossibility: A contract is void if it is identified to be non-feasible due to physical factors, like time, distance, height, etc.
 - (b) Legal impossibility: A contract is void if it provides that something shall be done which as a matter of law cannot be done.

3. What is a contingent contract and what are its essentials.

7

Answer:

Contingent Contracts:

A contract may be an absolute contract or a contingent contract. An absolute contract is one where the promisor undertakes to perform the contract in all events without any conditions. Hence, it is also known as 'unconditional contract'. A contingent contract is also called 'conditional contract'. It is a contract in which the performance becomes due, only upon the happening of some event, which may or may not happen. Contracts of insurance, indemnity and guarantee are good examples of contingent contracts.

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:

1. There must be a contract to do or not to do something.
2. The performance of the contract depends upon the happening or non-happening of some event in future.
3. The event must be uncertain.
4. The event must be collateral or incidental to the contract.

4. Write a note on implied warranties.

7

Answer:

A warranty is a stipulation collateral to the main purpose of the contract, the breach of which gives rise to a claim for damages but not to a right to reject the goods and treat the contract as repudiated.

Implied Warranties:

In the absence of a contract to the contrary, the following warranties are implied in every contract of sale. They are:

1. Warranty of quiet possession
2. Warranty of freedom from encumbrances
3. Warranty of disclosing the dangerous nature of goods to the ignorant buyer.
4. Warranty as to fitness

The above can be explained as follows:

1. Warranty of quiet possession:
In a contract of sale, there is an implied warranty that the buyer shall have and enjoy quiet possession of the goods. In case the buyer is in any way disturbed, he has a right to sue the seller for damages. Such a situation arises when the seller's title to goods is defective.
2. Warranty of freedom from encumbrances: There is an implied warranty on the part of the seller that goods shall be free from any charge or encumbrance in favour of any third party. Where there is a breach of this implied warranty, the remedy of the buyer is to sue for damages.
3. Warranty as to fitness: An implied warranty or condition as to quality or fitness for a particular purpose may be annexed by the usage of trade.
4. Warranty of disclosing the dangerous nature of goods to the ignorant buyer: The third implied warranty on the part of the seller is that in case the goods sold are of dangerous nature, he must warn the ignorant buyer of the probable danger. If there is a breach of this warranty, the buyer is entitled to claim compensation for the injuries caused to him.

5. Discuss about the Doctrine of 'Caveat Emptor'.

7

Answer:

The term Caveat Emptor is a Latin word which means 'let buyer be aware'. This principle underlines the concept that it is for the buyer to satisfy himself that the goods which he is purchasing are of the quality required by him. It is a fundamental principle of law of sale of goods and implies that the seller is under no obligation to point out the defects in his own goods. The buyer must take care while purchasing the goods and if he makes a wrong selection he cannot blame the seller if the goods turn out to be defective or do not serve his purpose. This principle was applied in the case of Ward v Hobbs. However the doctrine of

Caveat Emptor does not mean that the buyer must take a chance, it only means he must take care. However this rule is not without any exception. With the passage of time this doctrine has been considered to be too unreasonable to the buyers. Hence the law in section 16 recognized certain exception to the rule. The doctrine is however subject to following exceptions as provided in section 16 of the Act.

- (i) Where the buyer expressly or by implication makes known to the seller the particular purpose for which the goods are required and relied upon the skill and judgment of the seller and the goods are of description which it is the course of the sellers business to supply, there is an implied condition that the goods shall be reasonably fit for such purpose. Accordingly the seller cannot get any immunity on the grab of Caveat Emptor.
- (ii) Implied condition as to Merchantability where the goods are bought by description from the seller in goods of that description.
- (iii) Condition as to Wholesomeness in case of foodstuffs and other goods meant for human consumption.
- (iv) When the seller commits fraud.
- (v) When there is a usage of trade.

6. Explain the different types of Negotiable Instruments.

7

Answer:

(i) Bearer and order instruments

A negotiable instrument is said to be payable to bearer when

- (a) It is expressed to be so payable
- (b) Only or last endorsement is a blank endorsement.

A negotiable instrument is said to be payable to order when

- (a) It is expressed to be so payable
- (b) Expressed to be payable to a particular person with restricting its transferability.

(ii) Inland and foreign instruments

A bill, promissory note or cheque if both drawn and payable in India or drawn on a person resident in India is said to be an inland bill.

A bill which is not an inland bill is deemed to be a foreign bill. Foreign bill must be protested for dishonor if such protest is required by the law of the place where it was drawn, this is not case with Inland bills where protest for nonpayment is optional as per section 104 of the Act.

(iii) Demand and time instruments

An instrument is payable on demand when it is expressed to be so payable or when no time is specified on it. A cheque is always payable on demand.

A note or bill if payable after a specified period or happening of a specified event which is certain, it is a time instrument. If a promissory note or bill of exchange bears the expression "at sight" and "on presentation" means on demand (section 21). The words

“on demand’ are usually found in a promissory note, where the words “at sight’ are found in a bill of exchange.

(iv) 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 are 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.

(v) Clean and documentary bill

When no documents relating to goods are annexed to the bill, it is clean bill. When documents of title or other documents relating to goods are attached, it is documentary bill.

(vi) Ambiguous instrument

When an instrument due to faulty drafting may be interpreted either as bill or note, it is an ambiguous instrument. It is for holder to decide how he wants the bill to be treated. Ambiguity may also arise when the amount is stated differently in words and figures. In such case the amount stated in words will be taken into account.

(vii) Inchoate instrument

An instrument incomplete in some respect is known as inchoate instrument. When a person signs and delivers to another a blank or incomplete stamped paper, he authorizes the other person to make or complete upon it a negotiable instrument for any amount not exceeding the amount covered by the stamp. The effect of such signing is that the person signing the instrument is liable upon such instrument in the capacity in which he signed it to holder in due course of the instrument.

(viii) Escrow Instrument

When an instrument is drawn conditionally or for a special purpose as a collateral security and not for the purpose of transferring property therein, it is called Escrow instrument. The liability to pay in case of an Escrow instrument does not arise if the conditions agreed upon are not fulfilled or the purpose for which the instrument was delivered is not achieved.

Section B

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

[12 × 1 = 12]

1. Business ethics calls for avoidance of _____
 - (a) Competition
 - (b) Publicity
 - (c) Monopoly**
 - (d) All of the above

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2. The issue of fraudulent asset valuation is included in
 - (a) Ethics in compliance
 - (b) Ethic in finance**
 - (c) Ethics in marketing
 - (d) Ethics in production

3. Business Ethics is _____ in nature
 - (a) Absolute
 - (b) Not absolute**
 - (c) Permanent
 - (d) None of the above

4. Ethics have evolved with the evolution of _____
 - (a) Globalization
 - (b) Communication explosion
 - (c) Society**
 - (d) None of the above

5. In setting ethical standards, perhaps the most effective step that a company can take is to
 - (a) Adopt a code of ethics
 - (b) Demonstrate top management support of ethical standards**
 - (c) Engage employees in ethics training
 - (d) Take an accommodative stance

6. _____ are beliefs about what is right and wrong or good or bad.
 - (a) Mental strength
 - (b) Motivators
 - (c) Cultures
 - (d) Ethics**

7. Administrative corruption includes 'gifts' to the _____
 - (a) Factory Inspector
 - (b) Boiler Inspector
 - (c) Pollution Control Board Inspector
 - (d) All of the above**

8. Corporate codes of ethics:
 - (a) Are always externally audited
 - (b) Create guidelines for employees to work by**
 - (c) Are always compliance based
 - (d) Are always integrity based

9. The relevance of ethics is in its _____
 - (a) Context
 - (b) Principles

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(c) Application

(d) Understanding

10. If a company has ethics than it gets back from the employees

(a) Time

(b) Skill & energy

(c) Return out of money

(d) Both (a) & (b)

11. The society for business ethics was started in _____.

(a) 1950

(b) 1960

(c) 1970

(d) 1980

12. Which of the following is NOT necessary to assess ethical behavior?

(a) Gather Facts

(b) Make a judgment based on the rightness or wrongness of the activity or policy

(c) Consider appropriate moral values

(d) Listen to what is the being said in the rumor

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

[6 × 1 = 6]

1. Ethics refers to the study and development of ones ethical standards.

True

2. Business ethics is losing importance because of consumer movement.

False

3. Ethics is a branch of philosophy.

True

4. Business can survive so long it enjoys the patronage of consumer.

True

5. Morals are concerned with the principles of right or wrong behavior.

True

6. There is a difference between normative and practical ethics.

True

III. Answer any two of the following questions.

[2 × 6 = 12]

1. Discuss the concept of value free ethics.

6

Answer:

It would seem that business is an ethically neutral or value-free activity. In other words, the only value business is concerned with is the monetary value. It is not in the interest of business to mix ethical values. An ancient Arabic wisdom states, 'Live together like brothers and do business like strangers.'

Business should be kept free from other social relationships and obligations. The only successful relationship that exists in business is that of a vendor and a customer. It is also said that 'for the merchant, even honesty is a financial speculation.' Indeed, for a businessman every factor in the business is measured in terms of money. The volatility that we see in the stock market is a clear example of the speculative nature of business, which is directly proportional to the prevailing attitude of the people

2. State the needs of Business Ethics.

6

Answer:

Business ethics is currently a very prominent business topic, and the debates and dilemmas surrounding business ethics have attracted enormous amount of attention from different quarters of organizations and society. Hence, it has emerged as an increasingly important area of study. Some of the major reasons why a good understanding of business ethics is important can be stated as follows:

1. Stop Business Malpractices
2. Improve customers confidence
3. Survival of business
4. Safe guarding consumer's rights
5. Protecting employees and shareholders
6. Develops good relations
7. Creates good image
8. Smooth functioning
9. Consumer movement
10. Consumer satisfaction
11. Importance of labour
12. Healthy competition

3. Describe the principles of Selflessness and integrity.

6

Answer:

The principles of Selflessness and Integrity can be described as follows:

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.

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 or their official duties.