

MPSC Judicial Magistrate First Class Prelims 2019

The question paper and the key is downloaded from Maharashtra Public Service Commission website. Correct answers as shown in the key provided by MPSC are shown in the bold letters. Explanations regarding correct answers are aided by me and will be helpful to the candidates preparing for examination.

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1. As per the provisions of the Code of Criminal Procedure, which of the following are acquittals?

- a. Disposal under Section 256
- b. Disposal under Section 245(2)
- c. Disposal under Section 203
- d. Disposal under Section 320

- (1) a and b
- (2) b and c
- (3) c and d

(4) a and d

Explanation - as provided under section 256 of the Code of Criminal Procedure the Court has to acquit the accused while passing the order under section 256 to dismiss the case. Similarly, it is provided under section 320 (8) that the composition of an offence under this section shall have the effect of an acquittal of the accused. Whereas disposal under section 245 (2) amount to discharge and disposal under section 203 amount to dismissing the complaint before issuance of process. Option 4 is correct answer.

2. The period of limitation for taking cognizance of an offence punishable with imprisonment of one year is

- (1) Six months
- (2) One year**
- (3) Two years
- (4) Three years

Explanation - as provided under section 468 (2) (B) of the Code of Criminal Procedure no Court will take cognizance of the offence after the period of limitation of one year if the offences punishable with imprisonment for a term not exceeding one year. Option No. 2 is correct answer.

3. Magistrate convicted an accused for dishonour of cheque of 1,00,000. As per Section 357 of the Code of Criminal Procedure, he can impose a fine of

- (1) not more than Rs.50,000
- (2) Rs. 50,000 and also compensation of Rs. 1,00,000

(3) Rs. 2,00,000 and out of it, Rs. 1,00,000 as compensation

- (4) Rs. 2,00,000 and also compensation of Rs. 1,00,000 other than fine

Explanation - in view of the provisions of section 138 of the Negotiable Instruments Act on probe of offence the Magistrate may impose fine which may extend to twice the amount of the cheque. In view of provisions under section 357 of the Code of Criminal Procedure when it Court imposes a sentence of fine the Court may be in passing the judgement or order the whole or any part of the fine recovered be applied in the payment to any person of compensation for any loss or injury caused by the offence. In the present case the complainant suffered loss of Rs. 1 lakh by dishonour of cheque. The Court therefore may pass sentence and impose fine of up to Rs. 2 lacks and out of that may provide Rs. 1 lakh as compensation. Option No. 3 is correct answer

4. As per Section 239 of the Code of Criminal Procedure, Magistrate can consider _____.
(Choose correct option)

(1) the charge-sheet and its accompanying documents only

- (2) the documents produced by the accused also

(3) the documents collected from the accused during investigation, but produced on application by him

(4) discharge of an accused summoned vide Section 319 of the Code of Criminal Procedure

Explanation - provisions under section 239 of the Code of Criminal Procedure are regarding discharge of the accused if charge against the accused is found groundless. The opening sentence of the section itself provides that the magistrate has to take into consideration chargesheet and the documents sent with it under section 173 for making of his mind beside hearing the accused and the prosecution. Option No. 1 is the correct answer.

5. A and B are on bail. The Magistrate has sentenced A to three years imprisonment and B to a fine of 10,000 with default imprisonment of one month. They intend to file appeal and hence applied for bail. The Magistrate

(1) can suspend the conviction and grant bail to both.

(2) can suspend the conviction and grant bail to B only.

(3) can suspend the sentence and grant bail to both.

(4) can suspend the sentence and grant bail to A only.

Explanation - in view of provisions under section 389 of the Code of Criminal Procedure, on conviction when the convicted person satisfies the Court by which he is convicted that he intends to prefer an appeal against the order of conviction the Court shall, where such person is on bail and is sentenced to imprisonment for a term not exceeding 3 years shall pass an order that the convicted person be released on bail unless there are special reasons to refuse bail in order to facilitate filing of appeal by the convicted person. The bill is granted on passing the order of suspension of execution of the sentence and can be exercised by the Court passing sentence. In this case a and B both are entitled for suspension of sentence and for bail. Option No. 3 is correct answer.

6. Set-off to a convicted person

(1) does not apply to the period of police custody.

(2) applies to substantive sentence only.

(3) applies to default sentence only.

(4) applies to both the substantive and default sentences.

Explanation - section 428 of the Code of Criminal Procedure specifies that where an accused person, has, on conviction, been sentenced to imprisonment for a term, not being imprisonment in default of fine, the period of detention, if any, undergone by him during the pre-conviction period shall be set off. In view of this provision that can be set off only in case of substantive sentence and period of police custody is to be considered for set-off. Option No. 2 is therefore correct answer.

7. As per the definition given in the Indian Penal Code, the word injury" denotes any harm illegally caused to any person

a. in body

b. in mind

c. in reputation

d. in property

Choose the correct option out of the above.

(1) a only

(2) a and b

(3) a, b and C

(4) All of the above

Explanation - injury is defined under section 44 of the Indian Penal Code and it denotes any harm whatsoever illegally caused to any person in body, mind, reputation or property. Option No. 4 is therefore correct answer.

8. A company *cannot* be prosecuted for an offence prescribing mandatory punishment of imprisonment.

b. A thing which has been obtained by criminal misappropriation *cannot* be termed as stolen property.

Choose the correct option.

(1) a is correct and b is incorrect

(2) a is incorrect and b is correct

(3) Both are correct

(4) Both are incorrect

Explanation - section 11 of the Indian Penal Code defines "person" to include any company or association or body of persons, whether incorporated or not. Statement No. is therefore incorrect. Section 410 of the Indian Penal Code defines a stolen property as the property position of which has been transferred by theft, or by extortion, or by robbery, and property which has been criminally misappropriated. Statement b is also incorrect. Correct answer is therefore option No. 4.

9. A shakes his fist at Z, intending that thereby he may cause Z to believe that A is about to strike Z. A committed

(1) Criminal Intimidation and Hurt

2) Criminal Force

(3) Assault

(4) Affray

Explanation - assault as defined under section 351 of the Indian Penal Code provides that whoever makes any gesture or any preparation intending or knowing it to be likely that such a gesture or preparation will cause any person present to apprehend that he who makes that gesture or preparation is about to use criminal force to that person. The example given is picked from the illustration (a) of the section. Option No. 3 is correct answer.

10. An unlawful assembly requires assembly of at least _____ persons with a common object.

(1) two

(2) four

(3) five

(4) six

Explanation - section 141 of the Indian Penal Code defines unlawful assembly as the assembly of 5 or more persons if the common object of the persons composing said assembly is as defined in the section. Option No. 3 is correct answer.

11. A is a cement dealer. He enters into a contract with Z to deliver 100 bags of cement and obtains money from Z. Afterwards, A breaks his contract and does *not* deliver the cement bags.

(1) A cheated Z.

(2) A did not cheat Z, but is only liable to a civil action for breach of contract.

(3) A committed criminal misappropriation of property.

(4) A committed criminal breach of trust.

Explanation - section 57 of the sales of good provides that where the seller wrongfully neglects or refuses to deliver the goods to the buyer, the buyer may sue the seller for damages for non-delivery. Here the dealer neither has dishonest intention to deceive nor intention to put the buyer to wrongful loss, hence in view of the law governing sale of movables he will be liable for action under section 57. Option No. is proper answer.

12. A finds the key of Z's house-door, which Z had lost, and commits house-trespass by entering Z's house, having opened the door with the key. This is

(1) house-trespass

(2) house breaking

(3) theft

(4) mischief

Explanation - as mentioned in the 4th clause of section 445 of the Indian Penal Code a person is said to commit house breaking who commits house trespass by entering any house by opening a lock in order to committing house trespass. The question is picked up from illustration F of section 445. Option 2 is correct answer.

13. A gives a fist blow and causes dislocation of tooth of Z. A committed an offence punishable under Section _____ of the Indian Penal Code.

(1) 323

(2) 324

(3) 325

(4) 326

Explanation - causing dislocation of tooth comes under the definition of grievous hurt as 7th clause of the section covers fracture or dislocation of a bone or tooth. The grievous hurt is caused by fist blow that means no weapon was used as required under section 326 of the Indian Penal Code. The offence committed is under section 325. Option No. 3 is correct answer.

14. The maximum default sentence for an offence punishable under Section 510 of the Indian Penal Code is

(1) Two months

(2) Four months

(3) Six months

(4) One year

#Explanation - This question is cancelled. The punishment provided under section 510 for appearing in public place in the state of intoxication is imprisonment for a term which may extend 24 hours or with fine which may extend to Rs. 10 on with both. None of the options disclose the correct answer and therefore the question was cancelled.

15. A person born on 14.01.2001 committed an offence punishable under Section 379 of the Indian Penal Code on 14.01.2019. Which court is competent to deal with his case of trial ?

(1) Judicial Magistrate First Class

(2) Juvenile Justice Board

(3) Chief Judicial Magistrate

(4) Sessions Court

Explanation - the Juvenile Justice Care and Protection Act covers child up to the age of 18 years under the definition of juvenile. The person mentioned here completed his 18 years of age on 13th of January 2019 and therefore he will be tried under Indian Penal Code as an adult. offence under section 379 of the Indian Penal Code is triable by the Court of Magistrate as mentioned in 2nd schedule of the Code of Criminal Procedure. Option No. 1 is correct answer.

16. In a case of offences punishable under Sections 143, 147, 148 and 326 read with 149 of the Indian Penal Code, which of the following charges will be proper ?

(1) 143 read with 149, 147 read with 149, 148 read with 149 and 326 read with 149

(2) 143, 147, 148 read with 149 and 326 read with 149.

(3) 143, 147, 148 and 326 read with 149.

(4) 143 read with 149, 147, 148 and 326 read with 149.

Explanation - being a member of unlawful assembly is a separate offence under section 143. riot this ing and rioting armed with deadly weapons are independent offences providing punishment under section 147 and 148 of the Indian Penal Code. Section 149 of the Indian Penal Code, however makes every member of unlawful assembly guilty of offence committed in prosecution of common object of that assembly. So when the offence of causing grievous hurt by dangerous weapon is committed by any member of the assembly in prosecution of common object of the assembly then every member of the assembly is required to be charged for committing that offence in view of section 149. The proper charge therefore will be as per the option No. 3.

17. Match the following:

- | | |
|-------------------------|-----------------------------------------------|
| a. <i>Obiter Dicta</i> | I. Resulting from ignorance |
| b. <i>Sub Silentio</i> | II. Persuasive value |
| c. <i>Stare decisis</i> | III. Particular legal point was not discussed |
| d. <i>Per incuriam</i> | IV. Stand by precedent |

Answer Options :

- | | a | b | c | d |
|----------|-----------|------------|-----------|----------|
| 1 | II | IV | I | III |
| 2 | III | IV | I | II |
| 3 | IV | I | II | III |
| 4 | II | III | IV | I |

Explanation - Any Indian judicial system follows the principle of stare decisis and as per this principle previous adjudications of the Supreme Court are binding on all the courts and previous adjudications of high court are binding on the courts functioning within the jurisdiction of that High Court. The above terms are regarding this principle. The binding part of the judgement which is known as ratio decendandi is only binding. The portion of the precedent which is not binding and have persuasive value is known as obiter dicta. When the precedent doesn't refer to legal point expected to have been discussed it is referred as sub silentio and when the judgement is given by not referring to previous precedents or the law the judgement is considered as per incuriam. Option No. 4 is correct answer.

18. In *Shayara Bano vs Union of India* (2017) 9 SCC 1, the practice of _____ has been declared as illegal.

(1) Talaq-e-ahsan

(2) Talaq-e-hasan

(3) Talaq-e-biddat

(4) Tafwid

Explanation - Talaq e biddat, which literally means prohibited form of divorce, and which can be enforced by 3 pronouncements of talaq unilaterally by the husband, was declared as an illegal practice by the Supreme Court in the above referred case. Option No. 3 is correct answer.

19. Match the following:

- | | |
|---------------------------------------------------------|--------------------------------------------|
| a. Sexual intercourse by husband with minor wife | I. State of Punjab vs. Gurinit Singh |
| b. In-camera trial of rape cases | II. Vishakha vs. State of Rajasthan |
| c. Sexual harassment of women at workplace | III. Sakshi vs. Union of India |
| d. In-camera trial of IPC cases of Sections 354 and 377 | IV. Independent Thought vs. Union of India |

Answer Options:

- | | a | b | c | d |
|----------|-----------|----------|-----------|------------|
| 1 | I | II | III | IV |
| 2 | II | III | IV | I |
| 3 | III | II | I | IV |
| 4 | IV | I | II | III |

Explanation - in Independent thought versus union of India the Supreme Court considered legality of exception 2 of section 375 of the Indian Penal Code which excludes sexual intercourse by a man with his minor wife. The Court found that the classification between a minor unmarried girl and minor married girl is unconstitutional. In the case of state of Punjab versus Gurinit Singh the Supreme Court laid down guidelines that the rape cases be tried in camera. In the

case of Vishakha versus state of Rajasthan the Supreme Court considered the issue of harassment of women at work places and laid down material guidelines to avoid such harassment. In the case of Sakshi versus union of India Hon'ble Supreme Court came up with guidelines for trial of cases of outraging modesty of a woman and unnatural offences in camera. At option No. 4 all these cases are properly arranged according to the issue dealt in these cases. Option No. 4 is the correct answer.

20. Match the following:

- | | |
|------------------|---------------------------------|
| a. Mandamus | I. 'To be certified' |
| b. Habeas corpus | II. 'We command' |
| c. Certiorari | III. To prohibit inferior court |
| d. Prohibition | IV. 'You may have the body' |

Answer Options :

- | | a | b | c | d |
|----------|-----------|-----------|----------|------------|
| 1 | III | IV | I | II |
| 2 | II | IV | III | I |
| 3 | II | IV | I | III |
| 4 | I | II | III | IV |

Explanation - Article 32 of the Constitution of India provides that the Supreme Court shall have power to issue writs in the nature of habeas corpus, mandamus, Prohibition, Quo warranto and Certiorari. The writs mentioned here are issued for specific directions or purposes. Writ of mandamus is issued as a command, writ of habeas corpus is issued for production of a person detained otherwise than in due process of law, writ of Certiorari is issued directing to certify particular action and writ of prohibition is issued against the Court inferior to the Court issuing the writ to restrain from taking particular action or passing particular order. writs and their meanings are properly arranged at option No. 3. Correct answer is option No. 3

21. Match the following with the Articles of Constitution of India :

- | | |
|----------------------------------------------|--------------------|
| a. Protection from self-incrimination | I. Article 20(2) |
| b. Protection of life and personal liberty | II. Article 20(1) |
| c. Protection from double punishment | III. Article 20(3) |
| d. Protection from ex-post facto legislation | IV. Article 21 |

Answer Options :

- | | a | b | c | d |
|----------|------------|-----------|----------|-----------|
| 1 | I | II | III | IV |
| 2 | II | III | IV | I |
| 3 | III | IV | I | II |
| 4 | IV | I | II | III |

Explanation - Article 20 (3) of the Constitution of India provides that no person accused of any offence shall be compelled to be a witness against himself, Article 20 (1) provides that no person shall be convicted for any offence except for violation of the law in force at the time of commission of offence, Article 20 (2) provides that no person shall be prosecuted and punished for the same offence more than once and Article 21 provides that no person shall be deprived of his life or personal liberty except in accordance with the law. At option No. 3 the Articles are properly arranged according to the fundamental rights they protect. Option No. 3 is correct answer.

22. What is the objective of the Constitution 103rd Amendment of the Constitution 103rd Amendment) Act 2019?

- (1) National Commission for Backward Classes.
- (2) National Judicial Appointments Commission,
- (3) 10% Reservation in Education and appointments for E.W.S.**
- (4) Muslim women protection of rights on marriage.

Explanation - the said amendment introduces sub Articles 5 and 6 to Article 15 extending 10% Reservation to economically weaker sections other than backward classes and in recruitment in government jobs. Option No. 3 is correct answer

23. According to the judgment in Selvi and Others vs State of Karnataka does *not* violate the personal liberty.

- (1) Narco Analysis Test
- (2) Polygraph Test
- (3) BEAP (Brain Electrical Activation Profile)

(4) Collection of specimen signature and handwriting

Explanation - in this 2010 judgement Hon'ble Supreme Court held the involuntary administration of certain scientific techniques namely narco analysis, polygraph examination and the brain Electrical activation are violative of Article 20 (3) of the Constitution. 4th option is correct answer.

24. Civil Judge Junior Division is appointed by

- (1) State Public Service Commission
- (2) High Court
- (3) Chief Minister

(4) State Governor

Explanation - appointment of civil judge is done by the order of Governor. Option No. 4 is the proper answer.

25. Constitution Day is observed in India on

- (1) 26th January
- (2) 15th August
- (3) 26th October

(4) 26th November

Explanation - as mentioned in the preamble of the Constitution, the Constitution was adopted by the people of India on 26th of November 1949. The Constitution Day is therefore observed on 26th of November. Option No. 4 is correct answer.

26. has power to exercise writ jurisdiction.

(1) High Court

- (2) Governor of State
- (3) President of India
- (4) Prime Minister of India

Explanation - Article 226 of the Constitution of India empower the High Courts to issue writs akin to the powers vested with the Supreme Court under Article 32. Option No. 1 is correct answer

27. A issued a cheque to B towards repayment of a five-year-old promissory note. It is dishonoured. Hence, A filed a money suit and a complaint case under Section 138 of the Negotiable Instruments Act.

Choose the correct option.

- (1) Complaint is tenable, but suit is not tenable.
- (2) Suit is tenable, but complaint case is not tenable.
- (3) Both are tenable.
- (4) Both are not tenable.

#Explanation - This Question is cancelled

28. Vendee (Defendant) paid * 1,000 as earnest money and then 24,000 after 7 days, as out of sale price. If the vendee does *not* pay the balance by the agreed date, the whole amount of * 25,000 is deemed to be forfeited as per the agreement. He failed to pay the balance amount. Which amount is liable to be forfeited as earnest money?

- (1) 1,000**
- (2) 24,000

(3) 325,000

(4) Nothing

Explanation - section 74 of the contract act provides for compensation for breach of contract. In view of these provisions the amount provided as earnest money can be forfeited however the amount provided as a part of consideration with an intention to get the agreement completed cannot be forfeited. Option No. 1 is correct answer.

29. A executes a registered agreement promising his son B to give 5,00,000 out of natural love and affection.

Choose the correct option.

(1) It is void.

(2) It is valid and enforceable.

(3) It is voidable at the option of A.

(4) It is a contingency contract.

Explanation - section 122 of the transfer of property act defines gift as transfer of certain existing movable and immovable property made voluntarily without consideration. The gift of amount without consideration by a person to his son is therefore valid and enforceable transfer by way of gift. Option 2 is correct answer.

30. In a suit by seller for the amount of price, in absence of contract to the contrary, the court

(1) Can award interest from the date on which the price was payable,

(2) Can award interest from the date of the demand notice only.

(3) Can award interest from the date of institution of suit only.

(4) Cannot award interest at all.

Explanation - in view of the provisions under section 61 of the sale of goods act, in the absence of contract to the contrary, the Court may award interest at such rate as it thinks fit, on the amount of the price in a suit filed by seller when the buyer wrongfully neglects or refuses to pay for the goods according to the terms of the contract. Option one is the correct answer.

31. When a cake authoring in a buyer refuses to accept the delivery of goods which are not in conformity with the contract, -

(1) The buyer is bound to arrange to send back the goods

(2) The buyer will have lien over the goods to secure return of the consideration paid by him

(3) The buyer shall give intimation of rejection of the goods to the seller

(4) None of the above

Explanation - in view of provisions under section 36 of the sale of goods act unless otherwise agreed between the seller and buyer when the buyer refuses to accept the goods having the right to do so he is not bound to return them but it is sufficient for him to intimate to the seller about his refusal to accept. When the goods are not in conformity with the contract, the buyer is having right to refuse to accept the delivery. In such a case he has to intimate the seller of his refusal. Option No. 3 is correct answer.

32. As per the Indian Partnership Act, the relation of partnership arises by

(1) Inheritance

(2) Marriage

(3) Status

(4) Contract

Explanation - in view of definition of partnership under section 4 of the Indian partnership act, 'partnership' is a relation between the persons, who have agreed to share the profit of a business carried on by them all, or, any of them acting for all. As such the relations are contractual relations arising from an agreement. Option No. 4 is correct answer.

33. a. A minor admitted to the benefits of a partnership with consent of all partners, becomes a partner after six months of attaining majority, unless he determines his relation.

b. An outgoing partner may, in absence of a contract to the contrary, carry on a business competing with that of the firm,

Choose the correct option in respect of the above statements.

(1) a is correct and b is incorrect.

(2) a is incorrect and b is correct.

(3) Both are correct.

(4) Both are incorrect.

Explanation - in view of section 30 of the partnership act, though a minor cannot be a partner of the firm, but, with the consent of the partners for the time being, he may be admitted to the benefit of partnership by an agreement executed by his Guardian with other partners. On attaining majority or receiving the knowledge of such agreement within 6 months years to decide whether he want to be a partner in the firm and give public notice of his decision. In view of the provisions of section 36 an outgoing partner may carry on business competing with that of the firm. Both the statements are therefore correct in view of the provisions cited above. Option No. 3 is correct answer.

34. Continuing guarantee means

(1) Surety's co-extensive liability with that of borrower.

(2) Surety's guarantee to future transactions.

(3) Continuation of guarantee after revocation of surety.

(4) Continuation of surety after his death.

Explanation -section 129 of the Indian contract act defines continuing guarantee which extends to a series of transactions and covers future transactions. Option No. 2 is correct answer.

35. a. To create an agency, consideration is necessary.

b. The authority of an agent may be implied also.

Choose the correct option.

(1) a is correct and b is incorrect

(2) a is incorrect and b is correct

(3) Both are correct

(4) Both are incorrect

Explanation - in view of section 185 of the contract act no consideration is necessary to create an agency. Section 186 of the contract act provides that authority of an agent may be express or implied. Statement a is therefore incorrect and statement b is correct. option 2 is correct answer.

36. a. A debtor's payment without any direction as to its appropriation, may be appropriated towards time-barred debt by the creditor,

b. Pawnee is not entitled to receive from the pawnor the extraordinary expenses incurred by him for preservation of the pledged goods.

Choose the correct option.

(1) a is correct and b is incorrect

(2) a is incorrect and b is correct

(3) Both are correct

(4) Both are incorrect

Explanation - section 60 of the Indian contract act provides that where the debtor has made a payment to the creditor without intimation as to how the payment is to be applied, the creditor may apply it at his discretion to any lawful debt actually due and payable to him, whether its recovery is or is not barred by the law of limitation. In view of the provisions of section 175 of the pawnee is entitled to receive from pawnor the extraordinary expenses incurred by him for preservation of goods pledged. Statement a is correct and statement b is incorrect. Option one is proper answer.

37. a. The presumption under Section 90 of the Evidence Act is in respect of truthfulness of the contents of the document,

b. 30 years period of it is to be reckoned from the date of production in the court and not from the date of tendering in evidence.

Choose the correct option in respect of the above statements.

(1) a is correct and b is incorrect

(2) a is incorrect and b is correct

(3) Both are correct

(4) Both are incorrect

Explanation - in view of the provisions of section 90 of the evidence act the Court may presume that the signature and every other part of such a document which purports to be in the handwriting of any particular person is in the persons handwriting and in the case of the document executed or attested, that it is duly executed and attested by the persons by whom it purports to be executed and attested. The presumption is not in respect of truthfulness of the contents of the document. Similarly, the period will start when the document is proved to be 30-year-old and is purported to be produced from proper custody. The 30 years period will therefore be reckoned from the date of tendering the document in evidence. Both statements are incorrect. Option 4 is correct answer.

38. Section 165 of the Indian Evidence Act empowers the judge

- (1) To allow the party to put questions to own witness.
- (2) To allow the party to put questions to opponents witness.

(3) To put himself questions to a party.

- (4) To allow re-examination of a witness.

Explanation - section 165 of the evidence act empowers the judge, in order to discover or to obtain proper proof of relevant facts, ask any question he pleases, in any form, at anytime, to any witness, or to the parties about any fact relevant or irrelevant. Option No. 3 is correct answer.

39. a. Explanation The presumption under Section 112 of the Indian Evidence Act can be rebutted by DNA Test.
b. Falsus in uno, falsus in omnibus is a rule of law.

Choose the correct option.

(1) a is correct and b is incorrect

- (2) a is incorrect and b is correct
- (3) Both are correct
- (4) Both are incorrect

Explanation-in the case of Nandlal Wasudeo vs Lata Nandlal CDJ 2014 SC 005 the Supreme Court held that presumption under section 112 of the evidence act is rebuttable and DNA test, which is scientifically accurate, may help the Court to rebut the presumption. Statement is therefore correct.. Falsus in uno, falsus in omnibus is a principle of common law but has no applicability in India. In view of the provisions of Indian evidence act and the settled law the Court can even consider the evidence of a hostile witness by relying on an admissible evidence coming from his mouth. Statement a is therefore correct and b is incorrect. Option 1 is correct answer.

40. A man is presumed to be dead if he is not heard of as alive for

- (1) Five years
- (2) Seven years**
- (3) Nine years
- (4) Ten years

Explanation - section 107 of the Indian evidence act provides that when the question is whether a man is alive or dead and it is proved that he has not been heard for 7 years by those, who would naturally have heard of him, if he had been alive, presumption arises to accept fact of his death and then the burden shifts on other party. who claims that he is alive to prove the said fact. Option 2 is correct answer.

41. A is charged with voluntarily causing grievous hurt under Section 325 of the Indian Penal Code. The burden of proving the sudden and grave provocation by the injured is on _____

- (1) A**
- (2) Prosecution
- (3) Injured
- (4) None of the above

Explanation - The prosecution has to prove that the A has caused grievous hurt. If the defence is raised that the act was done under particular circumstances, then it is for the accused to do so. I however found the question inappropriate as the defence of the grave and sudden provocation is available under section 300 of the Indian Penal Code and it is raised when the defence want to bring down the gravity of the offence from murder to culpable homicide. Considering the nature of question option 1 is correct answer.

42. An email was forwarded by the originator through an email server to the addressee. The court may presume that the message

(1) Corresponds with the message fed into the originator's computer

- (2) Was sent by the originator
- (3) Both (1) and (2) above
- (4) None of the above

Explanation - in view of the provisions of section 88 A of the Indian evidence act the Court may presume that an electronic message forwarded by the originator through an electronic mail server to the addressee corresponds with the message fed into the computer for transmission. Option 1 is correct answer.

43. A prepared a letter on his laptop and sent by email. The letter may be proved by

- (1) Producing print-out of letter along with certificate under Section 65B of the Indian Evidence Act and oral evidence of A.
- (2) Producing the laptop, and oral evidence of A.
- (3) Producing a pen drive or CD containing the letter copied from the laptop and oral evidence of A with Section 65B certificate.

(4) Any of the above

Explanation - in view of the provisions under section 65B of the Indian evidence act printed electronic record may be proved by production of printed record, optical and magnetic media having electronic record or by producing device on which record is created subject to condition of production of certificate as required by section 65B. Mere production of these things without certificate will not be sufficient evidence. In the given circumstances option No. 4 is the correct answer.

44. First Information Report can be used for

(1) Corroborating the evidence of Informant.

- (2) Contradicting and confronting other witnesses.
- (3) Confession purpose.
- (4) Substantive evidence.

Explanation - In Pandurang Mhatre vs State of Maharashtra it was observed that FIR is not a substantive piece of evidence and it can be used only to impeach the creditworthiness of the testimony of the informant and it cannot be used for the purpose of contradicting or discrediting the testimony of other witnesses. FIR also can be used for corroborating testimony of the informant. Considering these observations option No. 1 is the correct answer.

45. a. A statement of an accused to police under Section 27 of the Indian Evidence Act cannot be used as confession.
b. To constitute discovery of a fact, there must be discovery of some physical object.

Choose the correct option.

(1) a is correct and b is incorrect

- (2) a is incorrect and b is correct
- (3) Both are correct
- (4) Both are incorrect

Explanation - section 27 in fact proviso to section 26 of the Indian evidence act and provides that when any fact is discovered in consequences of information received from a person accused of any offence, in the custody of a police officer, so much of such information, whether it amounts to confession or not, as relates distinctly to the fact there by discovered, may be proved. The statement under section 27 can be used to prove discovery of fact and not as a confession. Similarly, the discovery is of the fact and not necessary that it should be of any physical object. Option No. 1 is therefore correct answer.

46. Leading questions are *not* permissible
- In cross-examination.
 - In examination-in-chief, without permission of the court.

Choose the correct option.

(1) a is correct and b is incorrect

(2) a is incorrect and b is correct

(3) Both are correct

(4) Both are incorrect

Explanation - section 142 of the Indian evidence act provides that leading questions must not, if objected to by the adverse party, be asked in an examination in Chief, or in re-examination except with the permission of the Court. Section 143 provides that leading questions may be asked in cross-examination. Statement b is therefore correct and a is incorrect. Option No. 2 is correct answer.

47. In a proceeding before Rent Controller, the tenant disclaimed landlord's title. Landlord issued quit notice under Section 116(g) of the Transfer of Property Act and filed regular civil suit for eviction on forfeiture ground. Landlord accepted the rent, but continued the suit.

- Eviction decree can be passed by regular civil court.
- Acceptance of rent did not amount to waiver of forfeiture ground.

(1) a is correct and b is incorrect

(2) a is incorrect and b is correct

(3) Both are correct

(4) Both are incorrect

Explanation - proviso to section 112 of the transfer of property act excludes the act of the landlord to accept the rent after the institution of the suit to evict the leasee on the ground of forfeiture from the definition of waiver of forfeiture. Eviction decree can be passed by regular civil suit in such circumstances because the tenant by denying the landlord's title was estopped from claiming protection of the rent control act. Considering these provisions both the statements are correct. Option No. 3 is correct answer.

48. a) An oral agreement to sell is invalid.
b) An agreement to sell, signed by vendor alone, in evidence of oral agreement, is valid.
Choose the correct option.

(1) a is correct and b is incorrect

(2) a is incorrect and b is correct

(3) Both are correct

(4) Both are incorrect

Explanation - section 10 of the Indian contract act nowhere specifies that every agreement to sale shall be in writing. An agreement to sale signed by vendor alone and accepted by the purchaser can lend a good evidence of an agreement between the parties. Statement a is incorrect however statement b is correct. Option No. 2 is correct answer.

49. As per the Transfer of Property Act, monthly tenancy is terminable on notice of

- One month from the date of notice.
- One month from the date of receipt.
- 15 days from the date of notice.

(4) 15 days from the date of receipt.

Explanation - 106 of the transfer of property act provides that a lease from month to month is terminable, on the part of either lessor or leasee, by 15 days notice. Option 4 is correct answer

50. Lis pendens

- prohibits transfer of property involved in the pending suit.
- mandates prior permission of the court to transfer of immovable property.

(3) makes the transfer made pending the lis subject to decree.

(4) annuls the conveyance made pending the suit.

Explanation - principle of lis pendens enunciated in section 52 of the transfer of property act provides that, during the pendency, in any Court, of any suit or proceeding, in which any right to immovable property, is directly, or, specifically in question, the property cannot be transferred or otherwise dealt with by any party to the suit or proceeding so as to affect the right of any other party thereto under any decree or order which can be made therein, except under the authority

of the Court and on such terms as it may impose. In the key option No. 3 is shown as correct answer, however option No. 1 and option No. 2 also seems to be correct answers in view of the provisions cited above.

- 51.** A tenant who continues possession with landlord's consent, after determination of lease is
- (1) a tenant holding over
 - (2) a tenant at will
 - (3) a tenant at sufferance**
 - (4) None of the above

Explanation - it in an continuing his position all the tenanted premises after determination of lease is a tenant at sufferance. Option No. 3 is correct answer.

- 52.** One of the requirements of Section 53A of the Transfer of Property Act is
- (1) Transferee is in adverse possession of the property.
 - (2) Transferee has been or is willing to perform his part of contract.**
 - (3) Transferee's right to set the specific performance has been declared as unenforceable.
 - (4) Transferee has paid the whole amount of consideration,

Explanation - section 53 A of the transfer of property act provides that when any person contracts to transfer for consideration any property by writing signed by him or on his behalf and the transferee has in part performance of contract, taken possession of the property or any part thereof, and the transferee has done some act in furtherance of the contract and is ready and willing to perform his part of the contract the transferor shall be debarred from enforcing, against the transferee, any right in respect of the property other than expressly provided by the terms of the contract. Option 2 is correct answer.

- 53.** A contract for sale of immovable property creates
- (1) interest in such property
 - (2) charge on such property
 - (3) Both (1) and (2) above

(4) Neither interest nor charge

Explanation - section 54 of the transfer of property act provides that contract for sale doesn't, of itself, create any interest in or charge on the property which is subject matter of the contract for sale. Option No. 4 is the correct answer.

- 54.** The rents and profits of the immovable property from the date of agreement till the ownership passes to the buyers, go to
- (1) the seller or buyer, as per the agreement's paid consideration, when agreement is silent about it.
 - (2) both equally, in absence of such agreement.
 - (3) the buyer, in absence of such agreement.

(4) the seller, in absence of such agreement.

Explanation - section 55 of the transfer of property act provides that, in absence of a contract to the contrary, the seller is entitled to the rent and profits of the property till ownership thereof passes to the buyer. Option 4 the correct answer.

- 55.** Unless there is something contrary in the subject and context in the Transfer of Property Act,
- a. "Immovable property" includes standing timber.
 - b. "Instrument" means testamentary instrument.

Choose the correct option,

- (1) a is correct and b is incorrect
- (2) a is incorrect and b is correct
- (3) Both are correct

(4) Both are incorrect

Explanation - section 3 of the transfer of property act defines instrument as a non-testamentary instrument. Testamentary into instrument is will. Similarly immovable property is defined to be

non-inclusive of standing timber, growing crops or grass. What the statements are therefore incorrect. Option 4 is the correct answer.

56. Plaintiff succeeded in proving that defendant no. 1 accepted 1 Lakh and entered into agreement to sell the suit property for * 5 Lakh. But, defendant 2 purchased it for * 4 Lakh with knowledge of the plaintiff's agreement. Defendant no. 1 executed sale deed in favour of defendant no. 2. Now what will be the proper course ?

(1) To decree the suit, direct defendant no. 1 to execute sale deed and plaintiff to pay the balance price to defendant no. 2.

(2) To dismiss the suit.

(3) To decree the suit, direct defendant no. 2 to execute sale deed and plaintiff to pay the balance price to defendant no. 2.

(4) To decree the suit and direct defendant no. 2 to join defendant no. 1 to execute sale deed and plaintiff to pay balance price to defendant no. 2.

Explanation - Defendant No. 2 purchased the property from Defendant No. 1 though he has knowledge that Defendant No. 1 already executed agreement to sale the suit property in favour of Plaintiff. Defendant No. 2 is not a bona fide purchaser. As the sale deed is in existence in favour of Defendant No. 2 and as the Defendant No. 1 continues owner of the property and as the said sale deed was not a bona fide transaction it would be appropriate to direct both the Defendants to execute sale deed and Defendant No. 2 will receive the amount of Rs. 4 Lacs which he has paid to Defendant No. 1. Option No. 4 is proper answer.

57. A suit by vendee for specific performance of contract to sell an agricultural land with condition of the vendor obtaining Collector's permission

(1) cannot be decreed as the agreement is void.

(2) cannot be decreed as the agreement is voidable at the option of the vendor.

(3) can be decreed, but execution is subject to obtaining the Collector's permission.

(4) can be decreed as the agreement is voidable at the option of vendee.

Explanation - a suit for specific performance of contract to sale can be decreed subject to imposing condition of obtaining collector's permission and then execute sale deed of agricultural land. Option No. 3 is correct answer.

58. Application to amend plaint to include alternate claim of refund of earnest money and compensation

(1) can be allowed as regards earnest money subject to limitation.

(2) can be allowed as regards compensation subject to limitation.

(3) cannot be allowed.

(4) Both can be allowed even if time-barred.

Explanation - proviso to subsection 2 of section 22 of the specific relief act provides that when the Plaintiff has not claimed any relief for refund of earnest money or deposit paid, the Court shall, at any stage of the proceeding, allow him to amend the plaint. section 21 of the specific relief act in the proviso to subsection 5 has similar provision regarding claim compensation. Option for is the correct answer.

59. Two daughters and their parents agreed to sell an immovable property jointly owned with a minor daughter, to P with permission of court. The court rejected permission for sale of minor's share. P sued for specific performance of agreement to the extent of parents and major daughters. Specific performance shall be

(1) refused

(2) allowed to the extent of share of parents only.

(3) allowed to the extent of share of two daughters only.

(4) allowed to the extent of share of two daughters and parents.

Explanation - subsection 5 of section 12 of the specific relief act provides that when a part of contract which, taken by itself, can and ought to be specifically performed, stands on a separate and independent footing from another part of the same contract which cannot or ought not to be specifically performed, the Court may their direct specific performance of the former part. In view of this provision the Court may grant specific performance to the extent of share of 2 major daughters and parents. Option No. 4 is correct answer.

60.a. An agreement to sell an immovable property mortgaged for less than sale price can be enforced.

b. A landlord can recover possession of the property from the person who unlawfully dispossessed his tenant, under Section 6 of the Specific Relief Act.

Choose the correct option in respect of the above statements.

(1) a is correct and b is incorrect

(2) a is incorrect and b is correct

(3) Both are correct

(4) Both are incorrect

Explanation - section 6 of the specific relief act gives the right to person dispossessed of the immovable property otherwise than in due course of law. In such an eventuality he or any person claiming through him may file a suit to recover possession. When tenant is dispossessed without due process of law by 3rd person, a landlord is proper person to file a suit to recover possession under section 6 of the specific relief act. An agreement to sale immovable property mortgaged may be specifically performed by applying the sale proceeds to discharge income and's of mortgage in view of section 69 of the transfer of property act. Both statements are therefore correct. Option No. 3 is correct answer.

61. a. Absence of averment of ready and willingness makes the suit for specific performance of contract liable to be dismissed.

b. Where, granting injunction would cause delay in completion of project of Electricity Distribution, no injunction should be granted,

Choose the correct option in respect of the above statements.

(1) a is correct and b is incorrect

(2) a is incorrect and b is correct

(3) Both are correct

(4) Both are incorrect

Explanation - section 16 of the specific relief act provides that specific performance of contract cannot be enforced in favour of a person who fails to prove that he has performed or has always been ready and willing to perform the essential terms of the contract which are to be performed by him. The provision thus make it clear that proving the fact of readiness and willingness to perform is necessary and not the averment. Relief of injunction is an equitable remedy and it cannot be granted to prevent completion of a project benefiting larger public interest. Statement a is incorrect and b is correct. Option No. 2 is correct answer.

62. a. Court can extend time to deposit the balance price in spite of order in decree to pay it by a certain date and on failure, the suit stands dismissed.

b. As regards a suit for specific performance of contract of sale of immovable property, the prayer for possession can be made in final decree proceeding.

Choose the correct option in respect of the above statements,

(1) a is correct and b is incorrect

(2) a is incorrect and b is correct

(3) Both are correct

(4) Both are incorrect

Explanation - section 148 of the Code of civil procedure that when any period is fixed or granted by the Court for doing any act prescribed the Court may in its discretion enlarge such time. The Court therefore can extend the time prescribed in the decree. When the preliminary decree is passed and more orders of the courts are required in the premises of the judgement of the Court prayer as mentioned in statement b can be made in final decree proceeding. Both the statements are correct. Option No. 3 is correct answer

63. a. As per the Specific Relief Act a. Unless and until the contrary is proved, court shall presume that a contract to transfer immovable property cannot be adequately released by monetary compensation,

b. A contract which is in its nature determinable cannot be specifically enforced. Choose the correct option in respect of the above statements.

(1) a is correct and b is incorrect

(2) a is incorrect and b is correct

(3) Both are correct

(4) Both are incorrect

Explanation - Explanation to section 10 of the specific relief act provides that unless and until the contrary is proved the Court shall presume that the breach of a contract to transfer of immovable property cannot be adequately relieved by compensation in money. Clause c of subsection 1 of section 14 of the specific relief act provides that the contract which is in its

nature determinable cannot be specifically enforced. Statement a is correct and the statement b is incorrect. Option 2 is correct answer.

64. a. Perpetual injunction can be granted by a decree only upon merits of the suit.
b. Temporary injunction may be granted after the judgment also.

Choose the correct option.

- (1) a is correct and b is incorrect
(2) a is incorrect and b is correct

(3) Both are correct

- (4) Both are incorrect

Explanation - collective reading of section 37 of the specific relief act and section 94 of the Code of civil procedure disclose that the Court may grant temporary injunction in order to prevent the ends of justice of being defeated. The Court therefore may extend the order of injunction after passing of a judgement. Perpetual injunction is the ultimate remedy in a suit seeking relief for perpetual injunction and can be granted by decree depending upon the merits of the suit. But the statements are therefore correct. Option 3 is correct answer.

65. A suit for cancellation of a written instrument, by a party against whom it is

- a. Void, is tenable.
b. Voidable, is not tenable.

Choose the correct option,

(1) a is correct and b is incorrect

- (2) a is incorrect and b is correct
(3) Both are correct
(4) Both are incorrect

Explanation - in view of the provisions under section 27 of the specific relief act the Court may adjudge rescission of the contract whether the contract is voidable or terminable by the Plaintiff or whether the contract is unlawful for causes not apparent on its face and the Defendant is more to blame than the Plaintiff. The cancellation of written instrument thus can be granted by the Court in case of void and voidable agreements. Statement a is therefore correct and b is incorrect. Option No. 1 is correct answer.

66. a. An injunction cannot be granted when the plaintiff has no personal interest in the matter.

- b. A suit by a coparcener against Karta of the family restraining from alienating the house property of the joint family for legal necessity, is not tenable.

Choose the correct option.

- (1) a is correct and b is incorrect
(2) a is incorrect and b is correct

(3) Both are correct

- (4) Both are incorrect

Explanation - clause g of the section 41 of the specific relief act provides that an injunction cannot be granted when the Plaintiff has no personal interest in the matter. The manager of Hindu joint family has power to sale the joint family property for legal necessity and a cannot seek injunction to restrain the manager from doing so. (Sushil Kumar vr. Ram Prakash AIR 1988 SC 576). Both statements are therefore correct. Option No. 3 is correct answer.

67. A, a tenant of a residential premises died last year. At the time of his death, his married daughter was residing with him and his unmarried daughter, was residing away and separate from him. Upon his death, as per Section 7(15) of the Maharashtra Rent Control Act, 1999, who becomes "tenant" ?

(1) Married daughter

- (2) Unmarried daughter
(3) Both
(4) None of the above

Explanation - section 7 of the Maharashtra rent control act provides that the person residing the tenant at the time of his death will inherit the tenancy. The married daughter in this case will inherit the tenancy. Option 1 is correct answer.

68. A is a licensee of B under a written agreement of licence for a certain period under the Maharashtra Rent Control Act, 1999. The property is situated in Pune. A continued possession even after expiry of the licence period. Which is the legal forum for B to file eviction proceeding?
- (1) Small Causes Court, Pune
 - (2) Civil Judge Senior Division, Pune
 - (3) Joint Civil Judge Junior Division, Pune

(4) Competent Authority

Explanation - section 41(c) of the Maharashtra rent control act provides that when the premises is given for residential purpose under license, matter will be covered by chapter VIII of the Act. In that case, only competent authority will have jurisdiction. In the present case the property was given on licence and therefore eviction proceeding will lie with the competent authority. Option No. 4 is correct answer.

69. In a suit for eviction under the Maharashtra Rent Control Act on wilful default and bonafide requirement grounds, the tenant already paid the arrears of rent till the date of reply to the demand notice but did not regularly deposit rent during the pendency of the suit. The plaintiff could not prove his bonafide need.
- (1) Suit is liable to be dismissed as the rent was paid as per the demand notice.
 - (2) Suit is liable to be dismissed by granting one chance to the tenant.

(3) Suit is liable to be decreed on wilful default ground.

- (4) Suit is liable to be decreed on both grounds.

Wilful default under Maharashtra Rent Control Act

Explanation - the facts are taken from the case of Mohan vs Noor Mohammad AIR1988 SC 1111. The Supreme Court interpreting the provisions of section 12 (3) (B) of the Bombay rents, hotel and lodging house, rates control act which are analogous to the provisions under section 15 (2) of the Maharashtra rent control act that the law demands regular payment of rent and irregularity in payment of rent after payment of rent in terms of default notice also can be considered as wilful default and suit filed by the landlord can be decreed on that ground. Option No. 3 is correct answer.

70. Under the Maharashtra Rent Control Act, in absence of a contract to the contrary, a tenant is *not* to do the following:
- a. Sub-letting
 - b. Giving on licence
 - c. Assignment
 - d Transfer

Choose the correct option,

- (1) a and b
- (2) a, b and c
- (3) b, c and d

(4) All of the above

Explanation - section 16 of the Maharashtra rent control act while providing the grounds for the landlord to recover possession of the premises from tenant included all the 4 grounds the centre cited above as the ground for recovery of possession. The tenant is not supposed to sublet or provide the let-out premises on licence. He is also not supposed to assign or transfer the tenancy. Option No. 4 is the correct answer.

71. An agreement of leave and licence under the Maharashtra Rent Control Act for _____ needs to be compulsorily registered.
- (1) 10 months
 - (2) 11 months
 - (3) 12 months

(4) Any period

Explanation - section 55 of the Maharashtra rent control act provides that any agreement for leave and license for or letting of any premises shall be in writing and shall be registered under the registration act. Option No. 4 is correct answer.

72. a. In the absence of written agreement of lease, the landlord is precluded from giving evidence of terms and conditions of lease, under the Maharashtra Rent Control Act.

b. A suit under the Maharashtra Rent Control Act has to be decided in 9 months. Choose the correct option.

- (1) a is correct and b is incorrect
- (2) a is incorrect and b is correct
- (3) Both are correct

(4) Both are incorrect

Explanation - subsection 2 of section 55 of the Maharashtra rent control act provides that responsibility of getting lease agreement registered shall be on the landlord and if he fails to do so the tenant's contention about terms and conditions of the lease will be believed unless otherwise Proved. The landlord thus can give evidence to rebut the contention of the tenant. Section 38 of the Maharashtra rent control act provides the period of 12 months for disposal of suit or proceeding under the Act. Both statements are therefore incorrect. Option for is correct answer.

73. As per the Maharashtra Rent Control Act,

- a. It is unlawful for a landlord to accept a deposit to grant lease.
- b. It is unlawful for a tenant to claim a sum for relinquishment of tenancy.

Choose the correct option.

- (1) a is correct and b is incorrect
- (2) a is incorrect and b is correct
- (3) Both are correct

(4) Both are incorrect

Explanation - there are no stipulations under Maharashtra rent control act to prohibit landlord from accepting deposit or prohibiting the tenant from claiming sum for relinquishment of tenancy. Option for is correct answer.

74. As per the Maharashtra Rent Control Act,

- a. Closing of balcony of the tenanted premises without landlord's written consent amounts to causing damage to the building.
- b. Erecting a permanent structure by tenant on the let-out premises without landlord's consent is a legal ground for eviction.

Choose the correct option.

- (1) a is correct and b is incorrect

(2) a is incorrect and b is correct

- (3) Both are correct

- (4) Both are incorrect

Explanation - Explanation to section 16 (1) (a) excludes closing of balcony of the premises from the act of causing damage to the building which is one of the ground provided under section 108 (o) of the transfer of property act. Clause (b) of section 16 (1) however provides that erecting permanent structure by the tenant without permission of the landlord on the let out premises will be a ground for eviction. Statement a is therefore incorrect but statement b is correct. Option 2 is correct answer.

75. Under the Maharashtra Rent Control Act, for eviction of tenant on non-user grounds, the landlord has no burden to prove the following fact :

- (1) The premises were not used continuously for six months just before the suit.
- (2) It was not used for the purpose for which it was let-out.

(3) The non-user was without reasonable cause.

- (4) None of the above

Explanation - when the landlord 6 eviction of tenant on nonuser ground initial burden is on the landlord to prove that the premises has not been in use for the period of 6 months for the purpose for which it was let and then the burden shifts on the tenant to prove that there was a reasonable cause for non-occupation of the premises. Option 3 is correct answer.

76. Assignment of decree of the following ground, under the Maharashtra Rent Control Act is unlawful :

- (1) Tenant contravened Section 108(0) of the Transfer of Property Act.
- (2) Tenant unlawfully sub-let the premises.

(3) Decree was for bonafide occupation of landlord.

(4) The premises are required for immediate demolition ordered by Municipal Authority.

Explanation - one of the grounds for the landlord to recover possession of any premises from the tenant as provided under section 16 (1) (g) is that the premises is required to occupation by the landlord. Provisions under section 18 (2) reveals that the landlord who recovers position on the grounds specified in clause (G) of subsection (1) of section 16 and keeps the premises unoccupied without reasonable excuse is liable for substantive or fine punishment or both. In view of this provision there cannot be assignment of decree by which tenant was evicted on the ground that the landlord requires premises for bonafide use. Option No. 3 is correct answer.

77. a. In absence of defence of bar of limitation, the court shall not dismiss a suit, appeal or application.

b. In computing the period of limitation for any suit, appeal or application, the day from which such period is to be reckoned shall be excluded.

Choose the correct option in respect of the above statements.

(1) a is correct and b is incorrect

(2) a is incorrect and b is correct

(3) Both are correct

(4) Both are incorrect

Explanation - issue of limitation is issue of law and even in absence of defence of bar of limitation the Court shall to dismiss the suit, appeal or application if filed beyond the period of limitation. Section Paul 12 (1) in computing the period of limitation for any sort of appeal or application the date from which such period is to be the quantum shall be excluded. Statement a is incorrect and statement b is correct. Option No. 2 is correct answer.

78. a. Period of limitation for suit to recover arrears of rent is three years from the date of demand notice.

b. Period of limitation for suit for specific performance of a contract, in which no date is fixed for the performance, is three years from the date of contract.

Choose the correct option in respect of the above statements.

(1) a is correct and b is incorrect

(2) a is incorrect and b is correct

(3) Both are correct

(4) Both are incorrect

Explanation - for recovery of arears, the period of limitation has been provided under Article 52 of the schedule to the limitation act, which is 3 years from the date when the arears become due. Article 54 of the limitation act provides that limitation for filing a suit for specific performance shall be 3 years and that the limitations starts running from the date of expiry of the time, if any, stipulated in the agreement and if no time is prescribed, from the date on which the Plaintiff gets notice that the performance is refused. Both the statements are therefore incorrect. Option 4 is the proper answer

79. Limitation to file application for Review of Judgment by a Civil Judge Junior Division is

(1) 30 days

(2) 60 days

(3) 90 days

(4) 120 days

Explanation - Article 124 in the schedule of the limitation act provides a limitation period of 30 days for filing of a review petition. Option 1 is correct answer.

80. Application to bring legal representatives of deceased defendant is to be filed within

(1) 60 days from the date of knowledge of death.

(2) 60 days from the date of death.

(3) 90 days from the date of knowledge of death.

(4) 90 days from the date of death.

Explanation - Article 120 in the schedule of limitation act provides limitation of 90 days from the date of death of the Defendant to bring his legal heirs on record. Option No. 4 is correct answer.

81. Limitation to enforce payment of money secured by mortgage of property is

(1) Three years

(2) Twelve years

(3) Twenty years

(4) Thirty years

Explanation - the period of limitation for a suit to enforce payment of money secured by mortgage, in view of Article 62 in the schedule of the limitation act, is 12 years and the period of limitation starts to run when the money suit for become due. Option No. 2 is correct answer.

82. Suit for possession under Section 6 of the Specific Relief Act is to be filed within from the date of dispossession.

(1) Six months

(2) Three years

(3) Twelve years

(4) Twenty years

Explanation - subsection 2 of section 6 of the specific relief act specifies that no suit under this section shall be brought after expiry of 6 months from the date of dispossession. Option 1 is correct answer.

83. The Statute of Limitation regarding debt.

(1) bars the remedy

(2) extinguishes the right

(3) bars the remedy and extinguishes the right

(4) bars neither remedy nor right

Explanation - the question is very cryptic and it is difficult to make out what the examiner wants to ask. What I make out is that suit for recovery of debt cannot be filed beyond the period of limitation provided by statute of limitation, however the right to recovery may be exercised on acknowledgement of the time barred debt. The statute thus bars remedy but doesn't extinguish the right.

84. Limitation for application under the Code of Civil Procedure for setting aside an abatement is

(1) 30 days from date of abatement.

(2) 30 days from the date of death,

(3) 60 days from date of abatement.

(4) 30 days from the date of knowledge.

Explanation - Article 121 in the schedule of the limitation act provides limitation of 60 days from the date of abatement for filing an application for setting aside abatement. Option 3 is correct answer 1

85. Limitation to file appeal under the Code of Criminal Procedure, to Sessions Court against a sentence is

(1) 30 days

(2) 60 days

(3) 90 days

(4) 120 days

Explanation - Article 115 (b) (ii) in the schedule of the limitation act provides limitation of 30 days for filing an appeal against the order of conviction to the Court other than High Court. Option No. 1 is correct answer.

86. Limitation for filing application for setting aside ex-parte decree when the summons was served through substituted service is

(1) 30 days from the date of decree.

(2) 30 days from the date of knowledge.

(3) 60 days from the date of decree.

(4) 60 days from the date of knowledge.

Explanation - under Article 123 in the schedule of the limitation act limitation of 30 days as provided for filing application for setting aside ex parte decree and the limitation start running from the date of knowledge of the ex-parte decree. Option 2 is correct answer.

87. To which processes, can a court refer the parties to a suit, without the consent of a party?
a. Lok Adalat

b. Mediation

c. Judicial Settlement

d. Conciliation

Choose correct options :

(1) a, b and c

(2) b, c and d

(3) a, b and d

(4) a, c and d

Explanation - section 89 of the Code of civil procedure provides that where it appears to the Court that there exist an element of settlement which may be acceptable to the parties, the Court shall formulate the terms of settlement, procure observations of the parties on the terms of settlement and may reframe terms of settlement by considering observations of the parties and refer the same for arbitration, conciliation or judicial settlement including settlement by lok adalat, however in respect of conciliation and arbitration provisions of the statute dealing with these modes shall apply. In view of these provisions the Court did not have to ask for the consent of the parties for referring the matter to lok Adalat, mediation and a judicial settlement. Option No. 1 is the correct answer.

88. The "specified value" under the Commercial Courts Act as amended in 2018 means a "commercial dispute" of subject matter of not less than Rupees _____ which are not to be tried by ordinary civil court.

(1) Three Lakh

(2) Five Lakh

(3) Twenty-five Lakh

(4) One Crore

Explanation - as per provisions of section 2 (1) (i) of the commercial Courts act amended in 2018 commercial dispute of subject matter of not less than Rs. 3 lakhs are to be tried by commercial Courts and jurisdiction of civil Courts to try such disputes is ousted. Option No. 1 is correct answer.

89. The principal sum adjudged as "such principal sum" referred to in Section 34 of the Code of Civil Procedure, 1908 means

(1) the principal sum actually advanced

(2) the principal sum actually advanced coupled with interest with periodical rests as per the agreement, till filing of the suit

(3) the principal sum actually advanced coupled with the interest excluding the periodical rests, till filing of the suit

(4) the whole decretal amount

Explanation - section 34 of the Code of civil procedure makes it very clear that the principal sum regarding which the Court can pass a decree includes principal sum advanced along with interest adjudged as per the agreement till filing of the suit. Option No. 2 is correct answer.

90. a. objection relating to deficit stamp duty must be decided before exhibiting the document.
b. Objection relating to proof of document of which admissibility is not in dispute, may be taken and determined after exhibiting the document.
c. Objection to document which in itself is inadmissible cannot be admitted after exhibiting the document.

Choose the correct option in respect of the above statements,

(1) a and b are incorrect

(2) b and c are incorrect

(3) cand d are incorrect

(4) All are incorrect

Explanation - section 34 of the Maharashtra Stamp Act provides that no instrument chargeable with duty shall be admitted in evidence for any purpose by any person who has authority to receive evidence. In view of this provision objection regarding deficit stamp duty is to be decided before exhibiting the document. Statements b and c are absurd. The correct answer is option No. 2.

91. Where the plaintiff appears and the defendant does not appear in spite of due service of suit summons for settlement of issues, then the court shall

(1) issue arrest warrant against the defendant

(2) pass an order to proceed ex parte

(3) decree the suit

(4) dismiss the suit

Explanation - order 9 rule 6 of the Code of civil procedure provides procedure when only the Plaintiff appears and the Defendant doesn't appear when the suit is called for hearing after due service of summons to the Defendant. In such situation the Court has to make an order that the suit shall be heard ex parte. Option 2 is correct answer.

92. In which suit may summons for judgment be issued ?

(1) Small causes suit

(2) Summary suit

(3) Partition suit

(4) Tenancy suit

Explanation - order 37 of the Code of civil procedure provides procedure for summary suit where the Plaintiff under rule to (6) serves on the Defendant summons for judgement. Option 2 is correct answer.

93. a. A judgment against a defendant who died after the arguments but before the judgment, is not a nullity.

b. Sending a decree to collector for effecting partition as per the decree is called 'precept'.

Choose the correct option in respect of the above statements.

(1) a is correct and b is incorrect

(2) a is incorrect and b is correct

(3) Both are correct

(4) Both are incorrect

Explanation - order 22 rule 4 (4) of the Code of civil procedure empowers the Court to exempt the Plaintiff from the necessity of substituting legal representatives. A judgement against the deceased is always not a nullity. In the present case the arguments were heard and there was nothing to be done by the parties. In this consequences a judgement against the deceased Defendant is not nullity. Section 46 provides that upon the application of the decree holder the Court may whenever it thinks fit issue precept to any other Court competent to execute decree. Partition of agricultural property is required to be done by revenue Courts and therefore precept is required to be sent to the Court of collector. Both the statements are correct. Option 3 is correct answer

94. Detention of a judgment debtor in civil imprisonment in an execution of a decree is *not* permissible

a. when the judgment debtor intends to apply to be declared as insolvent.

b. when it is a money-decree against a woman.

c. when the judgment debtor has already undergone civil imprisonment of three months for the same decree.

d. when the money-decree is for not more than 5,000.

Choose the correct option in respect of the above statements.

(1) a only

(2) a and b

(3) a, b and c

(4) All of the above

Explanation - section 56 of the Code of civil procedure provides that the Court shall not pass any order of arrest or detention of a woman in civil prison in execution of a decree for payment of money. In view of the provisions under section 55 of the Code of civil procedure when the judgement debtor intends to apply to be declared as insolvent and is ready to provide a surety he shall not be detained in civil prison. The person who has already undergone civil imprisonment in view of section 55 of the Code of civil procedure cannot be rearrested in execution of the same decree. The judgement debtor cannot be arrested for execution of money decree when the decree is for recovery of less than Rs 2000. 1st three Statements are correct. Option No. 3 is correct answer.

95. a. Filing of appeal operates as stay of proceeding under a decree or order appealed.

b. The court which passed the decree has power to stay the execution at any time if no appeal is filed within limitation. Choose the correct options in respect of the above statements.

(1) a is correct and b is incorrect

(2) a is incorrect and b is correct

(3) Both are correct

(4) Both are incorrect

Explanation - in view of the provisions under order 41 to 5 of the Code of civil procedure the party intending to file appeal has to obtain stay from the Court which passed the decree to get time to file appeal and the stay granted by the Court which passed the decree will not be more than the period of limitation. The order of stay after filing of the appeal is to be obtained from the appellate Court. Filing of appeal itself will not operate as stay. Both the statements are incorrect. Option No. 4 is the correct answer.

96. Which of the following are *not* liable to attachment or sale in execution of a decree?

a. Bullocks and cart of an agriculturist

b. Pay and allowances of Armed Forces' members

c. Voluntary deposits in provident fund

d. Two-third of salary, in execution of maintenance decree

Choose the correct option in respect of the above statements.

(1) a and b (2) b and c (3) c and d (4) a and d

Explanation - section 60 of the Code of civil procedure deals with properties liable to attachment and sale in execution of decree. Proviso to subsection 1 provides that the necessary wearing apparel, cooking vessels, beds and bedding of the judgement debtor and his family members, personal ornaments as used to according to religious sentiments, tools of artisans and where the judgement debtor is an agriculturist his implements of husbandry and such cattle and seed grains as in the opinion of the Court are necessary to enable him to earn livelihood. The pay and allowances of persons to whom the Air Force act, the Army act and the Navy act applies are also exempt from attachment and sale in execution of decree. One third of the salary in execution of decree of maintenance is exempt from attachment. Compulsory deposits in provident fund and the deposits declared by public provident fund act to be non-attachable cannot be attached, however private deposits or voluntary deposits in PPF to earn interest are not exempt. Statement a and b are correct. Option 1 is proper answer.

97. Cognizable offence means an offence

a. in which a police officer may arrest without warrant.

b. which may be investigated by police without order of a magistrate.

c. in which police cannot grant bail.

d. cognizance of which can be taken by Magistrate upon police report only.

Choose correct option in respect of the above statements.

(1) a and b

(2) b and c

(3) c and d

(4) a and d

Explanation - cognizable offence as defined in section 2 the Code of Criminal Procedure is an offence in which a police officer can arrest without warrant and without orders of a magistrate. offences are classified as cognizable or non-cognizable in the 1st schedule of the Code of Criminal Procedure or any other law timing in force. In non-bailable offences police cannot grant bail. Option 1 is correct answer.

98. A Judicial Magistrate First Class convicted an accused for offences punishable under Sections 420 and 468 of the Indian Penal Code. How much maximum imprisonment can he award him ?

(1) Three years

(2) Six years

(3) Ten years

(4) Fourteen years

Explanation - in view of the provisions under section 29 of the Code of Criminal Procedure the Court of magistrate may pass a sentence of imprisonment for a term not exceeding 3 years or fine not exceeding Rs. 10,000 of both. The magistrate may sentence the accused under section 420 for the maximum sentence of 3 years and under section 468 for maximum sentence of 3 years. If the Court will not make the sentences to run concurrent, the maximum punishment to the accused will be of 6 years. Option No. 2 is correct answer.

99. Out of the following statements, which one is *incorrect*?

(1) Summons-case procedure shall be followed while trying summons-case.

(2) Warrant-case procedure shall be followed while trying warrant-case.

(3) Summons-case procedure shall be followed while trying warrant summary way.

(4) Warrant-case procedure shall be followed while trying warrant-case in a summary way.

Explanation - the Code of Criminal Procedure provides 2 types of procedure for trial of offences. One is summons trial procedure and other is warrant trial procedure. Offences punishable with imprisonment up to 2 years defined a summons cases are triable by summons trial procedure and other offences are triable by warrant trial procedure. Trial of the offences by the Court of sessions are also according to warrant trial procedure with the modification suggested in the Code of Criminal Procedure. Section 260 to 265 of the Code of Criminal Procedure provides summary manner of trial of certain offences enlisted in the said chapter. In this list offences like offence of theft or receiving stolen property when the value of property is not more than Rs. 2000 and so on. Summons trial procedure is to be followed while trying the offences in summary manner. In view of the above discussion statement No. 4 is incorrect.

100. Judicial Magistrate First Class can grant police custody under Section 167 of the *Code of Criminal Procedure* for a maximum period of

(1) Fourteen days from the date of arrest.

(2) Fifteen days from the date of arrest.

(3) Fourteen days from the date of first production before Magistrate.

(4) Fifteen days from the date of first production before Magistrate.

Explanation - as explained in the case of State vs. Dharamapal 1980 CriLJ 1394 Delhi High Court, the period for production of the accused before the magistrate under section 57 is distinct. provisions of section 167 (2) empowers the magistrate to whom an accused person is forwarded to authorise detention of the accused in such custody as the magistrate thinks fit, for a term not exceeding 15 days in the whole. The proviso to the subsection provides that the magistrate may authorise the detention of the accused person, otherwise than in the custody of the police beyond the period of 15 days. The total period of 15 days starts from the day of production of the accused before the magistrate under section 167 of the Code of Criminal Procedure. Option 4 is correct answer.

----ALL THE BEST----