

District Judge 2020

The question paper and the key is downloaded from High Court of Bombay website. Correct answers as shown in the key provided by High Court of Bombay 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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Set-A.

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1. In the questions given below are two statements labeled as Assertion (A) and Reason (R).

In the context of the two statements, which of the following I correct?

Assertion (A) : Ordinarily the remuneration of the Special Public Prosecutor is to be paid by the state.

Reason (R) : There may be certain cases where exception maybe mad such as where the complainant is a public sector undertaking, a bank whether nationalized or not, an educational institution and the like.

(a) Both A and R are true and R is the correct explanation of A.

(b) Both A and Rare true and R is not the correct explanation of A.

(c) A is true but R is false.

(d) A is false but R is true.

Explanation - appointment of special Public prosecutor is governed by appointment rules framed by the state government by taking recourse to Section 24 (8) of the Code of Criminal Procedure. In view of rule 18, 20 and 22 of the appointment rules special Public prosecutor is a commented appointed by the State either at its own instance or at the instance of a private party. When he is appointed on the request of the private party the field upon by the private party. When the appointment is at the instance of the state the state government pays the fee is and when the appointment is at the instance of private party the private parties Plaintiff is will have to pay the fees. Both statements are correct. Option No. a is correct answer.

2. 'Attested' in relation to an instrument mean and shall be deemed 'always to have attested by

(a) one witness only

(b) two witnesses

(c) two or more witnesses

(d) no condition prevails.

Explanation - Word "attested" is defined in Section 3 of the transfer of property Act by stating that attested in relation to an instrument, means and shall be deemed to be attested by 2 or more witnesses each of whom has seen the signatory affix his mark to the instrument. Option c is correct answer

3. The imprisonment in default of fine under Section 30 of the Code of Criminal Procedure

(a) shall be in addition to a substantive sentence awardable under Section 29 without any specific order.

(b) shall be in addition to a substantive sentence only when a specific order to that effect is passed

- (c) shall not be in addition to the substantive sentence awardable by the Magistrate
(d) shall be in addition to the substantive sentence awardable but subject to the upper limit for substantive sentence prescribed under Section 29. .

*****Both option a or d is correct**

Explanation - Section 29 of the Code of Criminal Procedure provides the maximum term of imprisonment which the Magistrate and Court of Chief judicial magistrate shall have power to inflict. Section 30 deals with powers of magistrate to sentence for armed, to blame as a catalogue in exhibit imprisonment in default of fine. As per subSection 2 of Section 30 the imprisonment awarded under this Section may be in addition to the substantive sentence of imprisonment for the maximum term awardable by the Magistrate under Section 29. In view of subSection 1 the Magistrate award such term of imprisonment in default of payment of fine as authorised by law however it shall not exceed the powers of the Magistrate under Section 29 and the sentence in default of fine in imposed along with substantive sentence in its not exceed 1. The term of imprisonment which in the Magistrate is empowered to conflict inflict as punishment for the often otherwise than as imprisonment in the world of payment of the fine. Option a and d are correct in view of subSection 2 of Section 30 and

4. Consider the following statements.

To claim the benefit of provocation in reducing liability for murder the offender must prove that the

1. Provocation was sufficient in ordinary course of nature to cause a person of ordinary temper to lose his self-control
2. Provocation was grave: and sudden to justify killing
3. Provocation was so grave that it would stir a desire for revenge
4. Sufficient time did not elapse so as to cool down the passion.

The correct order of the sequence in which they are placed in the provision is -

- (a) 1 alone is correct
- (b) 2 and 3 are correct
- (c) 1,3 and 4 are correct

(d) 1,2 and 4 are correct

Explanation - exception 1 to Section 300 of the Indian Penal Code provides that culpable homicide is not murder if the offender when deprived of the power of self-control by grave and sudden provocation causes death of the person who gave provocation. Further the nature of grave and sudden provocation was such that the founder is deprived of power of self-control. The proviso to the exception prescribes that the provocation is not sought to create an excuse for killing. If the death is caused by revenge then it is intentional causing of death. Considering the exception and illustrations to the exception statements 1.2 and 4 are correct. Option d is correct answer.

5. Dacoity is committed

- (a) when 7 or more persons conjointly commit or attempt to commit robbery
- (b) when 5 or more persons conjointly commit or attempt to commit robbery**
- (c) when 3 or more persons conjointly commit or attempt to commit robbery
- (d) when 3 or more persons conjointly commit or attempt to commit robbery.

Explanation - Section 391 of the Indian Penal Code provides that when 5 or more persons conjointly commit or attempt to commit a robbery or where the whole No. of persons conjointly committing or attempting to commit robbery, and persons present and aiding such commission or attempt, amount of 5 or more, every person so committing, attempting or aiding, is said to commit dacoity. Option b is correct answer.

6. *Res gestae* means

- (a) fact in issue and surrounding circumstances
- (b) things done in the course of a transaction
- (c) Acts talking for themselves

(d) all the above.

Explanation - principle of *res gestae* is incorporated in the Indian Evidence Act under Section 6 which provides that facts which, though not an issue, are so connected with the fact in issue as to form part of the same transaction, are relevant, whether they occurred at the same time and place or at different times and places. Considering this provision all the statements at a, b and c are correct. Option d is correct answer.

7. The Hon'ble Apex Court in the Judgment of Smt. S. Vanitha Vs. The Deputy Commissioner, Bengaluru Urban District & Ors. has held that,

(a) Section 3 of the Senior Citizens Act, 2007 cannot be deployed to over-ride & nullify other protections in law particularly that of a woman's right to a shared household under Section 17 of the PWDV Act.

(b) Section 3 of the Senior Citizens Act, 2007 can be deployed to over-ride & nullify other protections in law particularly that of a woman's right to a shared household under Section 17 of the PWDV Act.

(c) None of above.

Explanation - The issue in this case it in respect of the grievances raised by the parents of a married man for the peaceful possession of their house or property by evicting their daughter-in-law. The daughter-in-law on the other hand raised defence that she has a right to share the matrimonial home as legal dispute between her and her husband is pending where she is claiming maintenance and shelter from her husband in the litigation pending under the protection of woman from domestic violence Act. The house belonged to the mother. The authorities under the Senior Citizen Act allowed the application and directed son and daughter-in-law to vacate the premises. The order was challenged before the High Court and the High Court also that as the premises belong to the mother, and therefore the aged couple is entitled to oust the daughter-in-law in view of the provisions of senior citizens Act. Hon'ble Supreme Court while passing an order of restraint against father and mother in law from ousting their mother daughter-in-law of the premises or creating any right, title or interest in favour of 3rd party for the period of one year to enable the appellant daughter-in-law to pursue remedies in accordance with law under PWDV Act, holding that Section 3 of the Senior Citizens Act, 2007 cannot be deployed to over-ride & nullify other protections in law particularly that of a woman's right to a shared household under Section 17 of the PWDV Act. Option a is correct answer.

8. The Hon'ble Apex Court in the Judgement of Sushila Aggarwal Vs. State of NCT of Delhi has laid down that

(a) **The protection granted to a person under Section 438 Cr.P.C. should not invariably be limited to a fixed period.**

(b) The protection granted to a person under Section 438 Cr.P.C. should invariably be limited to a fixed period.

(c) None of above.

Explanation - 5 judges' bench of the Supreme Court in the present case was considering conflicting views of different benches of the Supreme Court of varying strength, more particularly in the case of Shri Gurubax singh vs. State of Punjab, Shidhram Mhatre vs. state of Maharashtra, Bhadresh Sheth vs. State of Gujarat, Salaudin Vs. state of Maharashtra, KL Verma versus State, Sunita Devi vs. state of Bihar and Nirmal jeet Kaur Vs. state of MP considered the issues, i). whether the protection granted to a person under Section 438 CrPC should be limited to a fixed period so as to enable the person to surrender before the trial Court and seek regular bail and ii). whether the life of an anticipatory bail should end at the time and the stage when the accused is summoned by the Court. Hon'ble Supreme Court laid down 10 principles regarding when the application for in exhibit a bill can be can be filed, when the notice to the public prosecutor may be issued what order should be passed and which restrict or condition should be imposed. By laying down all the guidelines Hon'ble apex Court also held that anticipatory bail granted can, depending on the conduct and behaviour of the accused, continue after filing of the chargesheet till end of the trial. Option a is correct answer.

9. Which of the following Section provides the punishment for voluntarily causing of grievous hurt by the use of acid?

(a) Section 326 of the Indian Penal Code

(b) Section 326 A of the Indian Penal Code

(c) Section 326 B of the Indian Penal Code

(d) Section 325 A of the Indian Penal Code.

Explanation - considering the repeated instances of causing severe injuries to a person by throwing acid at him or her Section 326 A has been added to the Indian Penal Code which provides that whoever causes permanent or partial damage or deformity to or buns or maims or disfigures or disables, any part or parts of the body of a person or causes grievous hurt by throwing acid or by administering acid to that person shall be punished under this Section with imprisonment which shall not be less than 10 years but which may extend to imprisonment of life and fine. option b is correct answer.

10. Which of the following classification of offences is not there in the First Schedule of the Code of Criminal Procedure, 1973?

(a)ailable and Non-Bailable offences

(b) Cognizable and non-cognizable offences

(c) Compoundable and non-compoundable offences

(d) None of the above.

Explanation - 1st schedule of the Code of Criminal Procedure classifies the offences into bailable non-bailable, cognizable non-cognizable categories and also provides by which Court the of offences will be triable. Classification of compoundable and non-compoundable offences can be found in the table incorporated in Section 320 of the Code of Criminal Procedure. Option c is correct answer.

11. Which of the following is not a judicial proceeding?

- (a) Proceeding under Section 200 of Cr.P.C.
- (b) Proceeding under Section 202 of Cr.P.C.

(c) A Magistrate holding a test identification parade.

- (d) Proceeding under Section 340 of Cr.P.C.

Explanation - under Section 200 of the Code of Criminal Procedure the magistrate having jurisdiction, on presentation of the complaint of commission of offence before him shall have to record the statement of the complainant and witnesses, if any, under Section 202 of the Code of Criminal Procedure on presentation of the complaint before the magistrate he has to apply his mind and may pass an order for investigation by police or may hold enquiry himself to find out whether or not there is sufficient ground for proceeding, under Section 340 of the Code of Criminal Procedure the magistrate has to pass judicial order if he notices that offence under Section 195 of the Indian Penal Code has been committed in relation to the proceeding in this Court or in respect of the document produced or given in evidence. Test identification parade is one of the aspects of the investigation of the case and it is carried as contemplated under Section 9 of the Indian evidence Act and Section 54 A of the Code of Criminal Procedure. It amount to collection of evidence and the process of collecting evidence by test identification parade is subject to judicial scrutiny during trial. Test identification parade is therefore not judicial proceeding. Option c is correct answer.

12. The doctrine of 'res ipsa loquitor'

- (a) shifts the burden of proving negligence on the plaintiff.
- (b) shifts the burden of disproving on negligence on the defendant.**
- (c) does not shift the burden of disproving negligence on the defendant.
- (d) both (a) and (c).

Explanation - this is the principle of tort that allow the Plaintiff to comply is part of burden of proof by brewing 3 things

1. The incident was of the type that doesn't generally happen without negligence
2. it was caused by an instrumentality solely in the Defendant's control
3. the Plaintiff did not contribute to the cause

on proving these 3 things by the Plaintiff the principles of res Ipsa loquitor is invoked and the burden shifts on the Defendant to disprove that the damages were quashed because of his negligence. Option b is correct answer.

13. As per the Schedule of Code of Criminal Procddurc,1973 an offense under special enActment, punishable with imprisonment for more than Seven years are triable by

- (a) Chief Judicial Magistrate
- (b) Court of Session**
- (c) Metropolitan Magistrate
- (d) None of the above

Explanation - part 2 of 1st schedule of the Criminal Procedure Code provides for classification of offences and the Court by which such offences are triable regarding the offences punishable under laws other than Indian Penal Code. It is provided in this part of that the offences punishable with imprisonment for more than 7 years are triable by the Court of session. Option b is correct answer.

14. The members of the Armed Forces cannot be arrested except after obtaining the consent of the
(a) Director General of Police

(b) Central Government

- (c) Chief of the concerned Armed Force
(d) Magistrate

Explanation - Section 45 (1) of the Code of Criminal Procedure provides protection to the members of the Armed Forces from arrest by providing that no member of the armed forces can be arrested for anything done while discharging the official duties except with the consent of the central government. Option b is correct answer

15. When a report forwarded by the Police to the Magistrate under Section 173(2)(i) of the Code of Criminal Procedure is placed before him, the * Magistrate may

- (a) Accept the report and take cognizance of the offence and issue process
(b) Disagree with the report and drop the proceeding
(c) Direct further investigation

(d) Any one of the above.

Explanation - Section 190 of the Code of Criminal Procedure provides that the magistrate may take cognizance of the offence on receiving the police report. Section 173 of the Code of Criminal Procedure provides that the police officer on completion of investigation shall file a report with the magistrate. Combined reading of Section 173 and Section 190 make it clear that it is not mandatory on the part of the magistrate to take cognizance of the offence regarding which police report is filed. the magistrate may take cognizance, refuse to take cognizance and may direct further investigation in view of provisions of Section 173 (8) of the Code of Criminal Procedure. Option d is correct answer.

16. A, intending to murder Z, by poison, purchases poison and mixes the same with food and delivers it to Z's servants to place it on Z's table

(a) A has committed the offence under Section 307

- (b) A has not yet committed the offence under Section 307
(c) Depends
(d) None of the above

Explanation - the question is not complete as the consequences of the Act of A are not mentioned. If Z consumes the poisoned food and dies, the Act of A amounts to causing death of Z by doing an Act with the intention of causing death and comes under the 1st clause of Section 300 of Indian Penal Code. If Z do not consume the poisoned food but some other person

consumes it and dies Act of A shall still amount to causing death of that person by doing an Act with the intention of causing death and comes under the definition of culpable homicide, however if the poisoned food is not consumed by anybody and destroyed the Act of A is covered under the definition of offence of attempt to murder defined under Section 307 of the Indian Penal Code as “whoever does any Act with such intention or knowledge and under such circumstances that, if he by that Act causes death, he would be guilty of murder. In the key option a is given is correct answer.

17. Which of the following is a decree?

- (a) Any order of dismissal for default
- (b) Any adjudication from which an appeal is lies as appeal from an order

(c) Rejection of a plaint

- (d) None of the above

Explanation - decree is defined under Section 2 (2) of the Code of Civil Procedure as a formal expression of an adjudication which conclusively determined the right of the parties with regard to all or any of the matter in controversy in the suit. The definition further speaks that the decree shall include rejection of the plaint, determinants of a question under Section 144 but will not include any adjudication from which an appeal lies as an appeal from an order or any order of dismissal for default. Option a and b are excluded from the definition of decree and options c is included. Options c is correct answer.

18. Dismissal of suit under Order XXIII Rule 1 is

- (a) A decree
- (h) Not a decree
- (c) Depends
- (d) None of the above

**** Two marks given for this question**

Explanation - order 23 rule 1 encumbrances provision for withdrawal of suit by Plaintiff. Provisions for dismissal of suit in default on Plaintiff are under order 9 rule 9 of the Code of Civil Procedure. The question is incorrect. And certainly answer to the previous question indicates that dismissal of suit in default is not a decree.

19. All civil courts have jurisdiction to try

- (a) All suits of civil nature
- (h) All suits of civil nature except suits of which their cognizance is expressly not barred
- (c) All suits of civil nature except suits of which their cognizance is impliedly not barred

(d) All suits of civil nature except suits of which their cognizance is expressly or impliedly barred.

Explanation - Section 9 of the Code of Civil Procedure provides that the Court shall have jurisdiction to try all suits of civil nature except the sorts cognizance of which is either expressly or impliedly barred. Option d is correct answer.

20. Which of the following does not operate as res judicata?

- (a) A decree passed on compromise

- b) When the plaint is returned
- (c) Decision beyond jurisdiction of Court

(d) All the above

Explanation - Section 11 of the Code of Civil Procedure invoke the principle of Resjudicata and provides that no Court shall try any suit or issue in which the matter directly and substantially in issue has been directly and substantially an issue in a former suit between the same parties, or between parties, under whom, they are any of them claim, litigating under the same title, in a Court competent to try such subsequent suit or the suit in which such issue has been substantially raised, and has been heard and finally decided by such Court. Settlement by compromise and return the plaint are not covered in the phrase “heard and finally decided by the Court”. In order to apply the principle of Res-judicata the previous suit must have been decided by the Court having competent jurisdiction. The order passed in the circumstances mentioned in clause is a,b,c does not involve the bar of Res-judicata. Option d is correct answer.

- 21.** All persons interested ought to be joined as parties to it so that the matters involved there in maybe finally adjudicated upon and fresh litigations over the same matters may be avoided. Which of the following provisions in the Code of Civil Procedure, 1908 is an exception to this rule?
- (a) Order I, Rule 5
 - (b) Order I, Rule 6
 - (c) Order I, Rule 7

(d) Order I, Rule 8

Explanation - order 1 rule 8 is an exception to the above statement because it permits one person to sue or defend on behalf of all in same interest. Option d is correct answer

- 22.** Can a civil court resort to Section 151 of the Code of Civil Procedure, 1908 when Order VI, Rule 17 is not applicable?
- (a) Yes**
- (b) No
 - (c) Never
 - (d) None of the above

- 23.** Substituted service of summons, in case of the defendant avoiding service of summons may be effected by
- (a) Affixing a copy of the summons upon some conspicuous part of the house in which the defendant is known to have last resided or carried on business or personally worked for gain
 - (b) Affixing a copy of the summons in some conspicuous place in the court house
- (c) Either (a) or (b)**
- (d) None of the above

*****Two marks given for this question**

Explanation - order 5 of 20 of the Code of Civil Procedure provides for substituted service mentioning that when the Court is satisfied that there is a reason to believe that the Defendant

is keeping out of the way for the purpose of avoiding service the Court may order service of summons by affixing a copy thereof in some conspicuous place in the Court house and also upon some conspicuous place of the house, in which the Defendant is known to have last resided, or, carried on his business, or, personally worked for gain, or in such other manner as the Court thinks fit. Considering this provision for service to the Defendant summons is required to be affixed at the conspicuous place of the Court and also at the conspicuous place of the house of the Defendant. Affixing copy at one place will not be a proper substituted service. The option No. c ought to have been a and b but it is a or b and therefore 2 marks are given to everybody attempting this question.

24. The first hearing of a case means

- (a) The day for which plaint is filed
- (b) The day on which written statement is filed
- (c) The day on which issues are framed**
- (d) None of the above

Explanation - again there is a problem in this question. Sub-rule 5 of order XIV rule 1 speaks that in the 1st hearing of the suit the Court shall after reading the plaint and the written statements, if any, and after examination under rule 2 of order X and after hearing the parties or their pleaders ascertain upon what material proposition of facts or of law the parties are at variance, and shall thereupon proceed to frame and record the issues on which the right decision of the case appears to depend. This provision very well explains that examination and hearing of the parties or their pleaders under order 10 rule 2 is the 1st hearing of the suit and the subsequent to that the stage of framing of the issues comes. Answer given in the key is option c.

25. Judgment on admission can be given

- (a) Under Order XII, Rule 1 of the Code of Civil Procedure, 1908
- (b) Under Order XII, Rule 2 of the Code of Civil Procedure, 1908
- (c) Under Order XII, Rule 6 of the Code of Civil Procedure, 1908**
- (d) Under Order XIII, Rule 3 of the Code of Civil Procedure, 1908

Explanation - order XII rule 6 of the Code of Civil Procedure provides that where admission of fact have been made either in the pleading or otherwise, whether orally or in writing, the Court may at any stage of the suit, either on the application of any party or of its own motion and without waiting for the determination of any other question between the parties, make such order to give such judgement as it may think fit, having regard to such admission. Order XII rule 1 is regarding notice of admission of truth of the whole or any part of case of other party order XII rule 2 is in respect of notice to admit documents by either party to the suit. order XIII rule 3 is in respect of the rejection of irrelevant or inadmissible documents. Option c is correct answer.

26. The words 'consensus ad idem' means

- (a) No agreement can have more than one meaning
- (h) To agree in the same way

(c) To agree on the same thing in the same sense

(d) To agree for different objects in the same sense.

Explanation - the maxim has applicability to the contractual law. It refers to the fact that there is an agreement amongst the parties to the contract and there has been a meeting of mind of the parties involved and everyone has accepted the contractual obligations of each party in the same sense. Option c is correct answer.

27. A contract to transfer under Section 53 A of the Transfer of Property Act, 1882 should be

(a) In writing and signed

(b) In writing with or without sign

(c) Oral

(d) Oral or in writing.

Explanation -Section 53 A of the transfer of property Act is about statutory right accrued to a person under the principle of part performance. Under this provision where any person contracts to transfer for consideration any immovable property by writing signed by him or on his behalf from which the terms necessary to constitute the transfer can be ascertained with reasonable certainty and the transferee has, in part performance of the contract is in possession and is ready and willing to perform his part of contract, then the transferor shall be debarred from enforcing, against the transferee, any right in respect of said property other than right expressly provided by the terms of the contract. Option a is correct answer.

28. and. Spec successionis

(a) Lawful Succession

(b) Assured Inheritance

(c) Promised Inheritance

(d) Expectation of Inheritance.

Explanation - spec succession is a Latin maxim indicating the chance of succeeding in a person's property after his death. It indicates about the mere possibility of a person to succeed in a property on the death of a person. It is a right of heir apparent or any relation expecting to succeed in a property by way of will or succession. It doesn't vest any interest in the property and cannot be subject to transfer. Option d is correct answer.

29. Transfer by ostensible owner is

(a) Void

(h) Null and void

(c) Void ab-initio

(d) Voidable.

Explanation - Section 41 of the transfer of property provides that where, with the consent, express or implied, of the persons interested in immovable property, a person's ostensible owner of said property and transfer the same for the consideration, the transfer shall not be voidable on the ground that the transfer was not authorised to make it; provided that transferee, after taking reasonable care to ascertain that the transferor had power to make the transfer, has acted in good faith. Here also the question is not complete. The above Section specifies that the transfer by ostensible owner in the above and circumstances cannot be denied by the defacto owner on the ground that the transfer was not authorised to make it. Option d is mentioned is correct answer in the key.

30. Section 6(4) bars the person from suing to establish his title to a property regarding which an order or decree is passed under Section 6 (1) of the Specific Relief Act. The statement is -

(a) True

(b) False

(c) Partly correct

(d) None of the above.

Explanation - Section 6 of the specific relief Act provides a remedy to the person in possession of property who is dispossessed otherwise than in due process of law. In view of this provision if any person is dispossessed without his consent of immovable property otherwise than in due course of law, he may bring a suit to recover possession thereof notwithstanding any other title that may be set up in such a suit. Section 6 (4) provides that nothing in Section 6 shall bar any person from suing to establish his title such property and to recover possession thereof. The statement is incorrect. Option b is correct answer.

31. Can an order of injunction be granted in favour of a person who has gained unlawful possession as against the true owner?

(a) Yes

(b) No

(c) Depends

(d) None of the above.

Explanation - in view of provisions under Section 38 of the specific relief Act when the Defendant invades or threatens to invade the plaintiff's right to, or enjoyment of property the Court may grant perpetual injunction if there exist specified circumstances mentioned in clause (a) to (d). Interim injunction under order 39 rule 1 can be granted when the Plaintiff establishes prima facie case in his favour regarding his right. So, the person who acquired possession unlawfully is not entitled for injunction. Further relief of injunction is an equitable relief and for getting this relief the Plaintiff has to come before the Court with clean hands. Considering these requirements for getting a remedy of injunction, order of injunction cannot be passed in favour of person, who acquired possession unlawfully. Option b is correct answer.

32. A partnership at will may be dissolved

(a) By notice by any partner to all other partners

- (b) By operation of law
- (c) Completion of the term
- (d) None of the above.

Explanation - Section 7 of the Indian partnership Act provides that where no provision is made by contract between the partners for the duration of the partnership, or for the determination of the partnership the partnership is partnership at will. Section 43 of the Indian partnership Act provides that the partnership at will can be dissolved by any part in giving notice in writing to all other partners informing them about his intention to dissolve the firm. Option a is correct answer.

33. Which of the following is/are correct?

- (a) A partnership firm is not a juristic person.
- (b) The firm has no personality of its own
- (c) Partners are the real executives of the firm

(d) All the above.

Explanation - Section 4 of the Indian partnership Act defines “partnership” is a relation between persons, who have agreed to share the profits of the business carried on by all any of them or any one of them Acting for all. The partnership is not a perpetual body and it can be dissolved as per statutory provisions. The partnership firm cannot enter into a contract but all the partners or one of the partner authorised by all the partners can enter into contract on behalf of firm. The firm therefore is neither a juristic person nor for our have a personality of its own. Partners are real executives of the firm. Option d is correct answer.

34. Section 24 of the Hindu Marriage Act, 1955 provides for

- (a) Maintenance pendente lite
- (b) Expenses of legal proceeding

(c) Both (a) and (b)

- (d) Neither (a) nor (b).

Explanation - Section 24 of the Hindu marriage Act empowers the Court to pass an order directing the Respondent to pay to the petitioner the expenses of the proceeding, and monthly during the proceedings a sum, as having regard to the petitioners own income and income of the Respondent, it may seem reasonable to the Court. Option c is correct answer

35. Is a homam is an essential ceremony for adoption under the Hindu Adoption and Maintenance Act?

- (a) Yes

(b) No

- (c) Depends

- (d) None of the above.

Explanation - Section 4 of the Hindu adoption and maintenance Act creates an overriding effect and provides that any text, rule or interpretation of Hindu law or any custom or usage in respect

of adoption shall cease to have effect with respect to any matter for which provisions are made under the Act. Section 5 provides that the adoption made after the commencement of this Act otherwise than in accordance with the provisions of the Act will be void. The Act doesn't provide performance of any religious ceremony for valid adoption. Option b is correct answer.

36. The main objective of the Information Technology Act, 2000 was/were

- (a) Legal recognition of electronic commerce
- (b) To facilitate electronic filing of documents with the Government agencies
- (c) Both (a) and (b)**
- (d) None of above.

37. Preamble is -

- (a) Part of the Constitution**
- (b) Not a part of the Constitution
- (c) Only an introduction not forms part of the Constitution
- (d) None of above.

Explanation - in the case of Keshavananda Bharati Vs. state of Kerala, which is also known as fundamental rights case, Hon'ble Supreme Court held that the preamble of the Constitution is integral part of the Constitution and it can be subjected to constitutional amendment by taking recourse to article 368 of the Constitution. Option a is correct answer.

38. How many times has the preamble to the Constitution of India amended?

- (a) Once**
- (b) Twice
- (c) Thrice
- (d) Never.

Explanation - The preamble of the Indian Constitution was amended only once by 42nd amendment. Option a is correct answer.

39. Which of the following doctrines is based on the rule that, 'you cannot do indirectly what you cannot do directly'

- (a) Doctrine of colorable legislation**
- (b) Doctrine of pith and substance
- (c) Doctrine of repugnancy
- (d) None of above.

Explanation - The doctrine explained in English is derived from the Latin maxim "Quando aliquid prohibetur ex directo, prohibeturat per oblicuum. This is doctrine of colourable legislation. It is applied when legislature tries to accomplish something in a backhanded way when it cannot do it straightforwardly. In India, the Supreme Court has to apply doctrine to set right any attempt

by the Central or State governments to make laws overreaching the constitutional power. Option a is correct answer

40. As per Constitution of India the State shall not make any law which takes away or abridges the
(a) Fundamental Rights

- (b) Directive Principles
- (c) Fundamental duties
- (d) None of above.

Explanation - Article 13 (2) of the Constitution of India provides that the State shall not make any law which takes away or abridges the right conferred by part III of the Constitution and any law made in contravention of this clause shall, to the extent of its contravention, be void. Part III of the Constitution unfolds fundamental rights and create a mechanism for the safeguard of fundamental rights by empowering the Supreme Court under article 32 declare any law void which contravenes fundamental rights. Option a is correct answer.

41. Appointments, postings and promotion of district judges in any State shall be made by the
(a) Governor of the State

- (b) Chief Justice of India
- (c) Chief Justice of the respective High Court
- (d) None of above.

Explanation - in view of the provisions under article 233 of the Constitution appointment of persons to be and the posting and promotions of district judges in any state shall be made by the Governor of the State in consultation with the High Court exercising jurisdiction in relation to such state. Option a is correct answer.

42. The Indian Penal Code, 1860 is applicable to

- (a) Indian citizens who commit an offence in India
- (b) Foreigners who commit an offence in India
- (c) Indian citizens who commit an offence under the Code beyond India
- (d) Indian citizens who commit an offence under the Code beyond India.

*****Two marks given for this question**

Explanation - Section 1 to 4 of the Indian Penal Code explain intra-territorial and extraterritorial applicability of the Indian Penal Code. According to Section 1 the provisions of Indian Penal Code are applicable throughout the territory of India. Section 2 provides that every person shall be liable for punishment under the Code and not otherwise for any Act or omission contrary to the provisions of the Indian Penal Code. Section 3 provides that punishment of offences committed beyond but which by law may be tried within India shall be in the same manner as if such Act had been committed within India. Section 4 that provides that provisions of of the Indian Penal Code will apply to any offence committed by any citizen of India in any place without and beyond India, any person on any ship or aircraft registered in India wherever it may be, and any person in any place without and beyond India committing an offence targeting a computer source located in India. Proper options are not given to test the knowledge regarding extraterritorial jurisdiction of the Indian Penal Code and hence candidates attempting the question received a 2 marks.

43. Right of private defence is available to
- (a) One's own body
 - (b) The body of any other person
 - (c) Against any offence affecting human body

(d) All of above.

Explanation - Section 97 of the Indian Penal Code provides that every individual has a right, subject to the limitations contained in Section 99 to protect his own body, and the body of some other individual, in respect of any offence affecting human body. Private defence is therefore available to protect one's own body and body of any other person in respect of an offence affecting human body. Option d is correct answer.

44. An offence under Section 191 of the Indian Penal Code committed in or in relation to any proceedings in court is one where no prosecution could be resorted to without a complaint from the Court. The circumstances which such a complaint is to be made are those provided under - ---of the Code of Criminal Procedure.
- (a) Section 240
 - (b) Section 330
 - (c) Section 350

(d) Section 340

Explanation - offence defined under Section 191 of the Indian Penal Code is committed when a witness legally bound by oath or by an express provision of law to state the truth, or being bound by law to make a declaration upon any subject, makes any statement which is false, and which he either knows or believes it to be false or does not believe it to be true. Section 340 of CRPC provides special procedure for taking cognizance of the offence against delivery of justice. Option b is correct answer.

45. A lays sticks and turf over a pit, with the intention of thereby causing death or with the knowledge that death is likely to be thereby caused. Z believing the ground to be firm, treads on it, falls in and is killed. A has committed the offence of-

- (a) Death by rash and negligent Act
- (b) Homicide

(c) Culpable homicide

- (d) None of above.

Explanation - this is illustration a of Section 299 of the Indian Penal Code explaining one of the aspects of culpable homicide of causing death of a person by doing an Act with the intention of causing death or with the knowledge that the death is likely to be thereby caused. Option c is correct answer.

46. To attract the provisions under Section 353 of the Indian Penal Code, 1860 when assaulted, the public servant must have been acting

- (a) In the execution of his official duties

(b) The assault was intended to deter him from discharging his duty as such public servant

(c) In consequences of anything done or attempted to be done by such person in the lawful discharge of his duty as such public servant

(d) All of above.

Explanation - definition of offence under Section 353 is, whoever assaults or uses criminal force to any person being a public servant in the execution of his duty as a public servant, or with intent to prevent or deter that person from discharging his duty as a public servant, or in consequences of anything done or attempted to be done by such person in the lawful discharge of his duty as a public servant. All the aspects mentioned in options a to c are there in this definition. The correct answer is option d.

47. Which of the following is not a necessary ingredient of Section 406 of the Indian Penal Code?

(a) The accused must be a public servant

(b) He must have been entrusted with property

(c) He must have committed breach of trust in respect of the entrusted property

(d) All of above.

Explanation - the offence of criminal breach of trust, defined under Section 406 of the Indian Penal Code, is committed when a person entrusted with the property commits breach of trust in respect of the said property. When the offender committing criminal breach of trust is a public servant the said offence falls under Section 409 of the Indian Penal Code. Option a is correct answer.

48. Who is authorized to decide as to admissibility of evidence?

(a) Prosecutor

(b) Defence

(c) Judge

(d) None of above

Explanation - Section 136 of the Indian Evidence Act in its title clause endorses that judge to decide as to admissibility of evidence. Option c is correct answer.

49. 'Motive is a sine qua non for bringing home the offence of the accused in case of circumstantial evidence'. The statement is

(a) True

(b) False

(c) Partly correct

(d) None of above.

Explanation - In the case of Sukhpal Singh v/s State of Punjab Hon'ble Supreme Court observed that "we would think that while it is true that if the prosecution establishes a motive for

the accused to commit a crime it will undoubtedly strengthen the prosecution version based on circumstantial evidence, but that is far cry from saying that the absence of a motive for the commission of the crime by the accused will irrespective of other material available before the Court by way of circumstantial evidence be fatal to the prosecution” in view of these observations motive is not a sine qua non to prove the guilt of the accused based on circumstantial evidence if the circumstantial evidence is strong enough. Option b is correct answer.

50. In the questions given below are two statements labeled as Assertion (A) and Reason (R). In the context of the two statements, which of the following is correct?

Assertion (A) The Indian Evidence Act is not exhaustive of the rules of evidence.

Reason (R) : There are special rules of evidence contained in special statutes.

(a) **Both A and R are true and R is the correct explanation of A**

(b) Both A and R are true and R is not the correct explanation of A

(c) A is true but R is false

(d) A is false but R is true.

Explanation - in the case of Arjun Khotkar Vs. Kailash Kushanrao Hon^{ble} Supreme Court held that the evidence Act is a procedure Code for adducing evidence. Any procedure Code is not complete and it is open for amendments in view of the future challenges. The special Acts may create special rules of evidence and the courts while applying these special Acts has to deal with the evidence according to the rules contained in the special Acts. For example Section 304B of the Indian Penal Code creates a presumption of dowry death on establishment of particular facts. The provisions under the is this protection of Child from sexual offences and the evidence in the trial of the offences under the POCSO Act is this required to be considered according to the presumption created therein. Option a is correct answer.

51. In the questions given below are two statements labeled as Assertion (A) and Reason (R). In the context of the two statements, which of the following is correct?

Assertion (A) : No proceeding under Section 145 of the Code of Criminal Procedure,1973 is maintainable with regard to a house property.

Reason (R) Dispute over house property is purely a civil dispute.

(a) Both A and R are true and R is the correct explanation of A

(b) Both A and R are true and R is not the correct explanation of A

(c) A is true but R is false

(d) A is false but R is true.

Explanation - Section 145 of the Code of Criminal Procedure provides procedure where dispute concerning land or water is likely to cause breach of peace. The house property is not included here and a probable reason is that the provisions under Section 145 is to prevent breach of peace for public at large and therefore house property is not included. The reason given in the question is that disputes regarding house property is a civil dispute and therefore it is not included under Section 145 may be considered as correct reason. Option d is correct answer.

This

52. For an application under Order VII, Rule 11

(a) the averments in the plaint are germane and the plea taken by the defendant in the written statement are wholly irrelevant.

(b) the averments in the plaint are germane and the pleas taken by the defendant in the written statement are also to be considered

(c) the averments in the plaint are germane and the pleas taken by the defendant in the written statement may also to be considered

(d) either (b) or (c).

Explanation – O. VII of the Code of Civil Procedure deals with the stage of filing plaint and under rule 11 the plaint is to be rejected if it doesn't disclose cause of Action and mandatory requirements of the plaint. In the recent judgement the Supreme Court held that Plaint is to be rejected if the reliefs claimed in it cannot be granted under the law. Though the application for rejection of plaint can be filed at any stage, the Court has to consider only the content of the plaint while considering the contention of rejection. Statement a is correct.

53. Precept is

(a) a transfer of the decree

(b) an order to another competent court to attach any property of the judgment debtor

(c) an execution of decree

(d) all of above.

Explanation - Section 46 of the Code of Civil Procedure deals with precepts. Upon the application of the decree holder Court which passed the decree may, whenever it to thinks fit, issue a precept to any other Court, which would be competent to execute such decree to attach any property belonging to the judgement debtor specified in the precept. Option b is correct answer.

54. An application for substitution of the legal representatives of the defendant who has died, has to be moved by

(a) the legal representatives of the defendant

(b) the plaintiff

(c) both (a) and (b)

(d) either (a) or (b).

Explanation - Order XXII rule 4 of CPC provides procedure in case of death of one of several Defendants or of sole Defendant. The application to bring legal heirs of Defendant is required to be brought by the Plaintiff for survival of right to sue. Option b is correct answer.

55. Under Section 75, a commission can be issued

(a) to make local investigation

(b) to hold a scientific, technical or expert investigation

(c) to perform any ministerial Act

(d) all the above.

Explanation - Section 75 of the Code of Civil Procedure provides that the Court may issue a commission to examine any person, to make a local investigation, to examine or adjust accounts, or to make a partition, or to hold a scientific, technical or expert investigation, to conduct sale of property which is subject to natural decay or to perform any ministerial Act. Option d is correct answer

56. Section 5 of Limitation Act applies to

(a) suit

(b) appeal and application

(c) execution

(d) all the above.

Explanation - Section 5 of the Limitation Act provides that any appeal or any application other than application under the provisions of order 21 of the Code of Civil Procedure may be admitted beyond the prescribed period if the Appellant or the Applicant satisfies the Court that there is sufficient cause for not referring the appeal or application within specified period. Option b is correct answer.

57. Limitation for filing an appeal commences from

(a) the date of judgment

(b) the date of signing the decree

(c) the date of application for copy of the judgment

(d) the date of availability of copy of the judgment.

Explanation - in view of article 116 of the Limitation Act the limitation for filing appeal to the High Court is 90 days commencing from the date of the judgement, however Section 12 of the Limitation Act provides for exclusion of time and exclusion of time is available for the period of obtaining certified copy of decree and other exclusions. Option a is correct answer.

58. The rule of 'strict liability' is based on the decision in

(a) Donoghue Vs Stevenson

(b) Rylands Vs Fletcher

(c) Lumley Vs Gyc

(d) Champman Vs Pickergill.

Explanation - The House of Lords laid down the rule recognising no-fault liability. in the case of Ryland vs. Fletcher. The Defendant, Rylands got constructed a reservoir on his land for providing water to his mill. The old unused shafts were not noticed during construction. When water was filled in the reservoir, it escaped through shafts and flooded the coal mines of the Defendant on the adjoining land. The matter went up to the Court of Exchequer chamber where the 6 judges bench came to conclusion that Ryland has a duty of care avoid the risk, as he was aware of the fact that if the quantity of water escape, it would be harmful. The Court held that there was want of care by the Defendants as they were doing unnatural use of their land by storing huge quantity of water. Though it was not harmful that time, but will be harmful if it escapes. The judgement is followed in India prominently in the case of MC Mehta versus union of India. Option b is correct answer.

59. Under the vicarious liability, the liability is

- (a) joint only
- (b) several only

(c) joint and several

(d) any of the above depending on the facts and circumstances.

Explanation - vicarious liability means the liability of a person for an Act committed by another person and such liability arises due to the nature of the relation between the 2 for example master and servant, partners in a partnership firm, principal and agent, company and directors or owner and independent contractor. The nature of liability joint and several. Option c is correct answer.

60. Expression 'solemnisation of marriage' refers to

(a) condition of a Hindu marriage

(b) rites and ceremonies of marriage

(c) both (a) and (b)

(d) either (a) or (b).

Explanation - Section 7 of the Hindu Marriage Act is regarding ceremonies for the marriage and in subSection 1 it is provided that a Hindu marriage may be solemnised in accordance with the customary rites and ceremonies of either party thereto. Option b is correct answer.

61. Non-registration of marriage under Section 8 of Hindu Marriage Act, 1955

(a) invalidates the marriage and calls for imposition of Penalty

(b) does not invalidate the marriage but calls for imposition of Penalty

(c) neither invalidates the marriage nor calls for imposition of Penalty

(d) makes the marriage voidable.

Explanation - subSection 5 of Section 8 of the Hindu Marriage Act provides that the validity of any marriage in no way be affected by omission of registration of the marriage option b is correct answer.

62. Restitution of conjugal right when can be claimed

(a) when there is a withdrawal from the society of other with an excuse

(b) when there is a withdrawal from the society of other without any reasonable cause

(c) when there is a withdrawal from the society of other without any absolute cause

(d) both (b) and (c).

Explanation -according to Section 9 of the Hindu marriage Act when either the husband or the wife has, without reasonable excuse, withdrawn from the society of the other, the aggrieved party may apply, by petition to the district Court, for restitution of conjugal right. Option b is correct answer.

63. An adopted child

(a) can not renounce his adoptive parents

(b) can renounce his adoptive parents but can not return to the family of his birth

(c) can renounce his adoptive parents and can return to the family of his birth

(d) either (b) or (c) and not (a)

Explanation - according to Section 12 of the Hindu adoption and maintenance Act an adopted child is deemed to be the natural born child of his/her adoptive father/adoptive mother and all the ties of the adopted child with the original family stand extinguished from the date of adoption. Option a is correct answer.

64. An obligation of husband to maintain his wife is

(a) co-extensive with property

(b) a personal obligation

(c) both (a) and (b)

(d) either (a) or (b).

Explanation - an obligation of husband to maintain his wife is a personal obligation option b is correct answer.

65. Section 14 of Hindu Succession Act, 1956 provides for

(a) property of male Hindu to be his absolute property

(b) property of female Hindu to be her absolute property

(c) both (a) and (b)

(d) coparcenary property.

Explanation - Section 14 of the Hindu succession Act brought a revolutionary change in customary Hindu law as well as the laws existing previous to the Hindu succession Act and declared that property of female Hindu to be her absolute property. Option b is correct answer.

66. A murderer is disqualified as a heir on

(a) conviction

(b) acquittal

(c) discharge

(d) either (a) or (b) or (c).

Explanation - Section 25 of the Hindu succession Act provides that A person who commits murder or abets the commission of murder shall be disqualified from inheriting the property of the person murdered, or any other property in furtherance of the succession to which he or she committed or abetted the commission of the murder. Hon'ble Bombay High Court in the case of *Jaya versus Tanuja* appeal No. 358 of 2017 decided on 17 December 2018 while considering the issue whether the finding of conviction by the criminal Court will be sufficient for the civil Court to debar a person from inheritance. The division bench of the High Court observed, "9. It has been well settled that the issue of a person having committed murder or abets in the commission of murder to attract Section 25 of the Act is to be decided independently by a Civil Court and that mere reliance on the finding of the Sessions Court is considered insufficient." Considering these observations then the key doesn't appear appropriate. Option a is given as answer in the key circulated by MPSC.

67. De-jure guardian means

- (a) legal guardian
- (b) guardian appointed by court
- (c) both (a) and (b)**
- (d) only (b) and not (a).

Explanation - the meaning of the jure guardian is guardian of a minor who has legal right to Act as a guardian. He may be legal guardian or guardian appointed by the Court. Option a is correct answer.

68. In hiba-bil-iwaz

- a. the consideration should be adequate
- b. the consideration need not be adequate
- c. the adequacy of consideration is not material**
- d. the adequacy of consideration is quite material.

Explanation -Hiba-bil- Iwaz means a gift for consideration already received. It is the a transAction of mutual or reciprocal gifts between 2 persons. One gift from the donor to the donee and one from donee to the donor. The adequacy of consideration is not material here. Option c is correct answer.

69. Classification of compoundable and non-compoundable offences has been provided under

- a. First Schedule
- b. Second Schedule
- c. Section 320 of Cr.PC.**
- d. Section 321 of Cr.P.C.

Explanation - procedure regarding compounding of offences is provided under Section 320 of the Code of Criminal Procedure which also has a table classifying compoundable and non-compoundable offences. Option c is correct answer.

70. Section 54 of Cr.P.C. provides for

- a. medical examination of the accused at the request of the police officer
- b. medical examination of the accused at the request of the police officer
- c. both (a) and (b)
- d. neither (a) nor (b).

*****Two marks given to this question**

Explanation - Section 54 of the Code of Criminal Procedure provides that when an arrested person when is produced before the magistrate or at any time during the period of his detention in custody alleges that the examination of his body will afford evidence which will disprove the commission by him of any offence or which will establish the commission of offence by any other person against his body the magistrate shall direct examination of body of such accused by registered medical prActioner. Proper options are not given and therefore marks are given to the candidates.

71. Under Section 91 of Cr.P.C, a person who is summoned to produce a document on appearance before court

- a. becomes a witness and can be subjected to cross-examination
- b. does not become a witness but can not be subjected to cross examination
- c. become a witness but can not be subjected to cross-examination
- d. does not become a witness but can not be subjected to cross examination.

***** Both option b or d is correct**

Explanation - in view of the provisions under Section 91 of the Code of Criminal Procedure any person required under this Section merely to produce a document or other thing shall be deemed to have complied with the request if he causes a document or thing to be produced instead of attending personally to produce the same. Considering this provision, a person receiving summons to produce document or any other thing neither becomes a witness nor is liable to face cross-examination. Option b and d are correct and are similar.

72. A search warrant can be issued in respect of a place

- a. used for deposit and sale of stolen property
- b. used for deposit, sale and production of counterfeit coin, currency notes and stamps
- C. used for deposit, sale and production of forged documents and false seals

d. all the above.

Explanation - under Section 94 of the Code of Criminal Procedure if a district magistrate, subdivisional magistrate or magistrate of 1st class after such enquiry thinks necessary to issue a search warrant for the search of a place which he has reason to believe to be used for the deposit for sale of stolen property, or for deposit of objectionable articles. The objectionable articles are further defined in the Section to include counterfeit coins forged documents etc. option d is correct answer.

73. Obtaining signature on the confession of the person making the confession, under Section 164 of Cr.P.C. is

a. mandatory

- b. directory being procedural
- c. discretionary
- d. optional.

Explanation - subSection 4 of Section 164 provides that confession under this Section shall be recorded in the manner provided in Section 281 for recording the examination of the accused person and shall be signed by the person making the confession. Option a is correct answer.

74. On completion of investigation, the police is to submit a final report to the Magistrate. The Magistrate

- a. is bound by the conclusions drawn by the police and accept the same if the police recommended that there is no sufficient ground for proceeding further
- b. is not bound by the conclusions drawn by the police and may order further investigation
- c. may issue a process against the accused person/s

d. both (b) and (c).

Explanation - in view of the provisions under subSection 8 of Section 173 of the Code of Criminal Procedure the magistrate may order further investigation. If he finds that the investigation is complete, he may issue process against the accused. Option is correct answer

75. Section 125 of Cr.P.C. is applicable to

- a. Hindus
- b. Muslims
- c. Christians

d. All of above.

Explanation - Section 125 of the Code of Criminal Procedure is enacted to provide maintenance to the district or persons and requires that if any person having sufficient means neglects or if it is to maintain his destitute wife minor children and aged parents having no means of livelihood shall be ordered to pay maintenance. The provisions are not religion sensitive and applied to all the persons. Option d is correct answer.

76. The Fundamental rights secured to the individual are

- a. limited to the State Action only
- b. meant to protect persons against the conduct of private persons
- c. meant to protect persons against police Action
- d. all of above are correct.

**** Two marks given for this question**

Explanation - fundamental rights enshrined in the Constitution are to protect the personal dignity, liberty, equality and freedom of individuals. Neither the state can make any law infringing fundamental rights nor any State machinery like police infringing these rights. In specified cases like in case of issuance of writ of habeas corpus, a person detained unlawfully by even a private person can be directed to be produced before the Court if the regular mode of securing liberty of the person did not achieve any fruits. The examiner in its wisdom decided to give 2 marks for this question to the candidates.

77. In Keshavananda Bharti Vs. State of Kerala it was held that

a. under the amended Article 368, all provisions of the Constitution including those enshrined Fundamental rights could be amended

- b. Fundamental rights can not be amended
- c. Fundamental rights have the primacy and supremacy than than any of the provisions of the Constitution
- d. none of above.

Explanation - it was held in case Keshavanand Bharti by 13 judges bench of the Supreme Court by 7-6 majority that the Parliament can amend provisions of the Constitution to fulfil its socio-economic obligations including preamble and fundamental rights subject to condition that such amendment won't change the basic structure of the Indian Constitution. Considering these observations of the Court article 368 doesn't give unfettered power to the legislature to amend the Constitution and every amendment is to go through the test of basic structure. Option a is given as answer in the key.

78. Assertion (A) : the principle of equality before law means that there should be 'equality of treatment under equal circumstances'.

Reason (R) : All persons are not equal by nature, attainment or circumstances.

- a. **both A and R are true and R is correct explanation of A**
- b. both A and R are true and R is not correct explanation of A
- c. A is true but R is false
- d. A is false but R is true.

Explanation - article 14 of the Indian Constitution declares that the State shall not deny to any person equality before the law or equal protection of law within the territory of India. The state however, in order to achieve the goals of the Constitution, has to make special laws conferring rights and privileges to particular class of persons and obviously deny these rights to the persons left out from implementation of such a legislation. For example, special benefits are conferred on women under maternity laws to achieve the welfare of mother and child. Special laws are made to protect welfare of children and special rights are conferred on backward classes in some legislation. In these legislations inequalities created amongst class of persons and validity of such laws is tested by the High Courts and the Supreme Court by applying the principle of reasonable classification. The concept of equality in the constitution conveys that there should be equality of treatment under equal circumstances. The statement and the reason are correct. Option a is correct answer.

79. The doctrine of double jeopardy in Article 20 (2) means

- a. **no one can be tried and punished more than once for the same offence**
- b. one can be tried several times for the same offence
- c. punishment once awarded can not be enhanced in appeal or revision
- d. one can be tried more than once but punished only once.

Explanation - article 20 (2) of the Indian Constitution provides that no person shall be prosecuted and punished for the same offence more than once. Option a is correct answer.

80. The right guaranteed under Article 32 can be suspended

- a. by the Parliament
- b. by the State Legislature
- c. by the Supreme Court
- d. by the Supreme Court of India when proclamation of emergency is in operation.

**** Two marks given for this question**

Explanation - in ADM Jabalpur vs. Shivkant Shukla it has been held by the Supreme Court that the powers of the Supreme Court under article 32 to issue writ of habeas corpus cannot be suspended even at the time of an emergency. Article 358 provides that nothing in article 19 shall restrict the power of the State as defined in part III of the Constitution to make any law or to take any executive Action. The powers of the Supreme Court under article 32 thus cannot be suspended during the emergency. None of the options are correct.

81. Documents registration of which is optional has been dealt in

- a. Section 16 of The Registration Act, 1908
- b. Section 17 of The Registration Act, 1908
- c. **Section 18 of The Registration Act, 1908**
- d. Section 19 of The Registration Act, 1908.

Explanation - there are some instruments like gift, sale deed, power of attorney which are required to be compulsorily registered by various laws dealing with these instruments. There are some instruments which create, declare, assign, limit or extinguish any right, title or interest in immovable property for the value less than 100 rupees, or the instruments like receipt of payment, assignment of rights, instruments creating rights in respect of movable properties, wills are the documents which may and may not be registered. The procedure to register such documents is provided under Section 18 of the registration Act. Option c is correct answer.

82. Under Section 34 of the Specific Relief Act, 1963 a declaration can be sought by
- a. a stranger who has no interest
 - b. a person having a legal character or right as to property which is denied**
 - c. a person whose legal character or right to property not denied
 - d. all the above.

Explanation - under Section 34 of the specific relief Act any person entitled to any legal character, or to any right as to any property may institute a suit seeking relief of declaration. Option b is correct answer.

83. Perpetual injunction can be granted under Section 38 of the Specific Relief Act, 1963
- a. when there exists standard for ascertaining the Actual damages caused
 - b. when compensation would afford adequate remedy
 - c. when it is necessary to prevent multiplicity of proceedings**
 - d. when the defendant is not a trustee of property for the plaintiff

Explanation - in view of provisions under Section 38 of the specific relief Act to perpetual injunction may be granted to the Plaintiff to prevent the breach of an obligation existing in his favour or when the Defendant invades or threatens to invade Plaintiff's right to or enjoyment of property. The Section also mentions some instances when the Court may grant perpetual injunction and it includes the instance where there exists no standard for sustaining the Actual damage caused or likely to be caused by the invasion of the defendant over the property of the Plaintiff or where the invasion is such that compensation in money would not afford adequate relief. One more instance is that that the Court may grant injunction where it is necessary to prevent the multiplicity of judicial proceedings. Perpetual injunction cannot be granted where there exists standard for ascertaining the Actual damages caused or the compensation would afford adequate remedy. Option c is correct answer.

84. A mandatory injunction is
- a. retrospective in operation .
 - b. prospective in operation
 - c. concurrent in operation

d. both (b) and (c).

Explanation - in view of provisions under Section 39 of the specific relief Act the Court may grant mandatory injunction to compel the performance of certain Acts to prevent the breach of an obligation. The Court in its discretion to prevent the breach complained of and also to compel performance of the requisite Acts. The mandatory injunction as such may be prospective or retrospective in operation depending on the order of the Court. Option d is correct answer

85. Period of limitation for execution of a decree is

a. 03 years

b. 12 years

c. 30 years

d. 60 years.

Explanation - article 136 of the Limitation Act prescribes limitation of 12 years for the execution of any decree other than a decree granting a mandatory injunction. Option b is correct answer.

86. Period of limitation for suits not specifically provided under the Schedule is relating to immovable property is

a. 01 year

b. 02 years

c. 03 years

d. 12 years.

Explanation -article 120 of the Limitation Act is a recessionary article providing limitation for the sorts regarding which limitation is not otherwise provided in the schedule of the Limitation Act. Such limitation is of 3 years. Options is correct answer.

87. An additional Sessions Judge may pass

a. any sentence authorized by law

b. any sentence except the death sentence

c. any sentence except the death sentence and life imprisonment

d. none of above.

Explanation - Section 28 of the Code of Criminal Procedure provides that a session judge or additional Sessions Judge may pass any sentence authorised by law; but any sentence of death passed by any such judge shall be subject to confirmation by the High Court. Option a is correct answer.

88. An accused arrested can be kept in custody without producing him before the Magistrate, after his arrest for a period of

a. 12 hours

b. 24 hours

c. 48 hours

d. 90 days.

Explanation - article 22 (2) of the Constitution of India provides that any person arrested and detained in custody must be produced before the nearest magistrate within 24 hours. Option b is correct answer

89. Agreement between the parties to institute the suit relating to dispute in a particular court

(a) does not oust the jurisdiction of other courts

(b) may operate as estoppel between the parties

(c) both (a) and (b)

(d) neither (a) nor (b).

Explanation - M/s. Swastik Gases P. Ltd. Vs. Indian Oil Corp. Ltd. – Civil Appeal NO. 5086 OF 2013 while considering the efficacy of after close of in the agreement between the parties Hon'ble Supreme Court outlawed "The very fact that the ouster clause is included in the agreement between the parties conveys their clear intention to exclude the jurisdiction of Courts other than those mentioned in the concerned clause. Conversely, if the parties had intended that all Courts where the cause of Action or a part thereof had arisen would continue to have jurisdiction over the dispute, the exclusion clause would not have found a place in the agreement between the parties." Statement c is shown as correct answer.

90. Any person aggrieved by a refusal on the part of an officer in charge of a police station to record the information referred to in sub Section (1) of Section 154 may send the substance of such information, in writing and by post, to the

a. Superintendent of police

b. Magistrate having jurisdiction

c. any police officer above the rank of station house officer who refused to record the information

d. none of above.

Explanation - in view of the provisions under Section 154 (3) of the Code of Criminal Procedure any person aggrieved by refusal on the part of an officer in charge of a police station to record the information referred to in subSection (1) may send the substance of such information, in writing and by post, to the Superintendent of police concerned. Option a is correct answer.

91. Power under Section 156 (3) of the Code of Criminal Procedure can be exercised by a Magistrate

a. only after taking cognizance of the offence

b. before taking cognizance of the offence

c. either before or after taking cognizance of the offence

d. none of above.

*** Both option b & c are correct

Explanation - in the case of Ram Khelawan Vs. State of UP the Allahabad High Court interpreted the provisions of Section 156 (3) by citing several cases decided by Hon'ble Supreme Court and the High Court. The observations are as under,

"37. Investigation into commission of a crime can be commenced by two different modes: first, where the police officer registers an FIR in relation to commission of a cognizable offence and commences investigation in terms of Chapter XII of the Code; the other is when a Magistrate competent to take cognizance in terms of Section 190 may order an investigation into commission of a crime as per the provisions of that Chapter XIV. Section 156 primarily deals with the powers of a police officer to investigate a cognizable case. While dealing with the application or passing an order under Section 156(3), the Magistrate does not take cognizance of an offence. When the Magistrate had applied his mind only for ordering an investigation under Section 156(3) of the Code or issued a warrant for the said purpose, he is not said to have taken cognizance. It is an order in the nature of a pre-emptory reminder or intimation to the police to exercise its primary duty and power of investigation in terms of Section 151 of the Code. Such an investigation embraces the continuity of the process which begins with collection of evidence under Section 156 and ends with the final report either under Section 159 or submission of charge-sheet under Section 173 of the Code. (Refer to Mona Panwar v. High Court of Judicature of Allahabad [(2011) 3 SCC 496 : (2011) 1 SCC (Cri) 1181]. In Dilawar Singh v. State of Delhi [(2007) 12 SCC 641 : (2008) 3 SCC (Cri) 330 : (2007) 9 SCR 695], this Court as well stated the principle that investigation beginning in furtherance of an order under Section 156(3) is not anyway different from the kind of investigation commenced in terms of Section 156(1). They both terminate with filing of a

report under Section 173 of the Code. The Court signified the point that when a Magistrate orders investigation under Chapter XII he does so before taking cognizance of an offence. The Court in para 18 of the judgment held as under:

The clear position therefore is that any Judicial Magistrate, before taking cognizance of the offence, can order investigation under Section 156(3) of the Code. If he does so, he is not to examine the complainant on oath because he was not taking cognizance of any offence therein. For the purpose of enabling the police to start investigation it is open to the Magistrate to direct the police to register an FIR. There is nothing illegal in doing so. After all registration of an FIR involves only the process of entering the substance of the information relating to the commission of the cognizable offence in a book kept by the officer-in-charge of the police station as indicated in Section 154 of the Code. Even if a Magistrate does not say in so many words while directing investigation under Section 156(3) of the Code that an FIR should be registered, it is the duty of the officer-in-charge of the police station to register the FIR regarding the cognizable offence disclosed by the complainant because that police officer could take further steps contemplated in Chapter XII of the Code only thereafter. In view of these observations only option a is correct answer, however in the key option a and b are given as correct answers.

92. In the questions given below are two statements labeled as Assertion (A) and Reason (R). In the context of the two statements, which of the following is correct?

Assertion (A) : There is no provision in the Code of Criminal Procedure, 1973 to file a 'Protest Petition' by the informant who lodged the first information report.

Reason (R) : But this has been practice.

(a) Both A and R are true and R is the correct explanation of A

(b) Both A and R are true and R is not the correct explanation of A

(c) A is true but R is false

(d) A is false but R is true.

Explanation - the assertion and reason are self explanatory. Option a is correct answer.

93. Cognizance is taken of the

a. offence

b. offender

c. both (a) and (b)

d. none of above

Explanation - information to the police under Section 154 of the Code of Criminal Procedure is the information relating to commission of offence and he takes cognizance of the offences cognizable. Under Section 190 the Magistrate may take cognizance of the offence. Considering this provision option a is correct answer.

94. Section 300 of the Code of Criminal Procedure is based on the maxim

a. **Nemo debet bis vexari pro una et eadem causa**

b. Ubi jus ibi remedium

c. Discretio est discernere per legum quid sit justum

d. None of above.

Explanation - Section 300 of the Code of Criminal Procedure is based on doctrine of double Jeopardy. The doctrine is based on Latin maxim Nemo debet bis vexari pro una et eadem causa which means that a person should not be vexed or have the answer for themselves by being tried

or punished more than once for any particular accusation brought against them. Option a is correct answer.

95. Mesne profit can be claimed with respect to

- a. movable property only
- b. immovable property only**
- c. both movable and immovable property
- d. none of above.

Explanation - Mesne profit is defined under Section 2 (12) of the Code of Civil Procedure as “those profits which of the person in the wrongful possession of such property Actually received or might, with the ordinary diligence have received therefrom, together with interest on such profits but shall not include profit due to improvement made by the person and wrongful possession. Option b is correct answer.

96. Issues arise when

- a. A material proposition of fact or law is admitted by one party
- b. when a material proposition of fact or law is affirmed by the one party and denied by the other**
- c. when a material proposition of fact or law is denied by one party.
- d. none of above.

Explanation - order 14 rule one of the Code of Civil Procedure while explaining when the issues arise states that issues arise when a material proposition of fact or law is affirmed by the one party and denied by the other. Option b is correct answer.

97. Which of the following rules is based on the cardinal principle that the defendant should not be vexed twice for the same cause?

- a. Order 2 Rule 5 of the Code of Civil Procedure,1908
- b. Order 2 Rule 4 of the Code of Civil Procedure,1908
- c. Order 2 Rule 3 of the Code of Civil Procedure,1908
- d. Order 2 Rule 2 of the Code of Civil Procedure,1908.**

Explanation - order 2 of the Code of Civil Procedure is regarding the form of suit and indicates what the suit shall include and what not. Rule 2 requires that every suit shall include the whole of the claim which the Plaintiff is entitled to make in respect of the cause of Action. It further provides that when Plaintiff omits to sue in respect of or intentionally relinquishes any portion of the claim, he shall not afterwards sue in respect of the portion so omitted or relinquished. Option d is correct answer.

98. The extinction of debts of which two persons reciprocally debtors to one another by the credits of which they are reciprocally creditors to one another is called

- a. set-off**
- b. counter-claim
- c. settlement of accounts
- d. none of above.

Explanation - the question itself specifies what is set-off. Option a is correct answer.

99. Interest pendent lite means

a. Interest prior to the suit

b. Interest from the date of suit to the date of decree

c. Interest from the date of decree to the date of payment

d. none of above

Explanation - Interest pendent lite means interest accumulated pending litigation or future interest on the amount due and payable. Option b is correct answer.

100. In the questions given below are two statements labeled as Assertion (A) and Reason (R). In the context of the, two statements, which of the following is correct?

Assertion (A) : There is a presumption in favour of jurisdiction of a civil court.

Reason (R) Ouster of jurisdiction must be established by the one who pleads it.

(a) Both A and R are true and R is the correct explanation of A

(b) Both A and R are true and R is not the correct explanation of A

(c) A is true but R is false.

Explanation - Section 9 of the Code of Civil Procedure provides that the Court shall have jurisdiction to try all suits of the civil nature except the suits of which cognizance is either expressly or impliedly barred. Considering this provision burden of proving ouster of jurisdiction will be on the person who takes such plea. Statement and reason both are correct. Option a is correct answer.

***** ALL THE BEST *****