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JUDICIARY EXAMS QUESTION PAPER

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Delhi Judicial Service

Examination, 2000

Question Paper

CRIMINAL LAW 2000

Q. 1. A bus stopped at the stand. A man and a woman started to board it from the front gate. The driver put it in motion, throwing the woman on road and the man under back left wheel. While the man died, women suffered only bruises.

The driver pleaded 'not guilty' to charges under sections 279, 337, 304 A Indian Penal Code and in alternative asked for probation.

Write judgment to decide the case keeping view the points likely to be raised by the prosecutor and the accused Driver.

OR

Q. 1. Six Brothers faced trial for offence of rioting and grievous hurt. It was alleged that two brothers gave first and kick blows to victim and third prevented his wife from coming to his rescue while remaining three did not do any overt act. They all had come with the object of belabouring the victim.

Write judgment indicating the offence and deal with the plea of lastly mentioned three brothers of alibi.

Q. 2. Police got information of a double murder and reached a two storeyed house at about 5 p.m. They found 'S' standing there. They found dead body of a young woman on the first floor and a middle-aged woman in the courtyard. Maternal uncle and brother-in-law of 'S' came there. When 'S' was being taken by police in the jeep, he confessed that he killed his wife and then widowed mother by strangulation. He got recovered a Chunni and rope from under a tree in front of the house. Post-mortem confirmed death of the woman by strangulation.

Write a complete judgment.

OR

Q. 2. A woman was admitted in burnt condition in the hospital by her husband on 15.6.1999 at 3 p.m. She told the doctor that it was an accident. SDM came on 19.6.99 and recorded her statement. She then said, "I was married two years back. My husband and mother-in-law were not satisfied with dowry and harassed her. Father-in-law was indifferent. Unmarried sister-in-law always found fault with whatever I did. When I could take no more, I sprinkled kerosene on my head and showed lighted "match stick" The woman died on 23.6.1999. Parents of the woman alleged dowry-death. Sister of the woman produced 4 inland letters received from the victim detailing the demand and harassment being meted out to her. Decide.

50

Q. 3. After conclusion of evidence but before judgment, Prosecutor applied under section 311 Cr.P.C. for summoning (i) Senior Scientific Officer of C.F.S.L. to prove report (ii) Director of Explosives to give reasons for his opinion that bullet 'P1' could be fired from gun 'P2' only (iii) Head constable to prove entries of Malkhana Register.

Accused also moved application for recalling the eye-witness already examined for further Cross-examination by new counsel appointed after death of previous counsel.

Decide both application after mentioning the arguments in favour and against each application.

OR

Q. 3. 'X' a Director of Chit Fund is facing trial under section 420 IPC. The FIR was lodged by 'C'. As PW1 'C' stated after a part examination in chief was recorded that X's wife was also involved. The Magistrate ordered, "Summon X's wife also under section 319 Cr.P.C. She is a co-accused in two other cases of cheating in which FIR was lodged by 'B' and 'C' against 'X'.

Argue in support and against the Order. 50

Q. 4. Briefly discuss any five of the following:

- (a) In what manner a police officer can seize, if at all, bank account of an accused during investigation of a corruption case?
- (b) Can a statement under section 161 Cr.P.C. be confronted to the witness, when he deposes before the court, if other statement is signed by him?
- (c) Apart from the investigating officer, can a Prosecutrix approach the Magistrate directly for recording her statement under section 164 Cr.P.C. during the course of investigation?
- (d) Whether charges under section 395 or 498-A IPC against more than one persons can be framed without the aid of section 34 or 120-B IPC?
- (e) Whether a detailed speaking order is required to be passed before framing charges by Court of Sessions?
- (f) Can an accused invites section 91 Cr.P.C. to bring on record some documents before arguments on charge?
- (g) Does a statement made to S.D.M. by a bride relating to the cause of her death, become a 'dying declaration' under section 32 Evidence Act though the bride firmly believed that she would recover, but dies after three days of making it?
- (h) Is section 320 Cr.P.C. exhaustive of compoundable cases or bailable cases punishable with imprisonment upto one year in I.P.C. or other laws be also compounded?
- (i) Do you require Sanction under section 197 Cr. P.C. for an offence under section 406/409 or 379 IPC, if committed by an investigating police officer? 50

Each question is based on a recent decision of Apex Court or High Court, cite the authority also.

CIVIL LAW-I, 2000

Note: Section 74 of Indian Contract Act, Section 27 and 47 of Indian Sales of Goods Act, 34 of Specific Relief Act and Section 14 of Hindu Succession Act, have been reproduced in the question paper.

Q. 1. (a) What are the essential requirements of Consideration under Indian Contract Act?

Is an agreement without consideration void? Are there some exceptions to this general Rule?

Please Discuss. 15

Q. 1. (b) Section 27 of the Indian Contract Act provides that an agreement by which any one is restrained from exercising a lawful profession, trade or business of any kind, is void to that extent.

In a given case, landlord is the owner of shop running a Sophisticated Cosmetic Hair Dressing Saloon in Delhi. He gives on rent and said shop with the said business along with all tools, machinery, plants, fans, air-conditioners, telephone, furniture and other equipments, to a tenant with the stipulation that the tenant shall do the said business only under said particular name and style.

Is this agreement of lease hit by section 27 of the Indian Contract Act? Decide. 10

Q. 1. (c) X executes Power of Attorney in favour of his advocate 'Y' while X was in good state of health and mental understanding. Later on, X because old, infirm, weak and incapable of apprehending due to mental incapacity.

Does the power of Attorney executed by him become worthless and redundant in the eye of law, on account of change in the state of health and mental infirmity of X? Please discuss giving reasons. 10

Q. 1. (d) A gives bond for the repayment of Rs. 1,000/- with interest @ 12% at the end of six months, with stipulation that, in case of default interest shall be payable @ 75% w.e.f. the date of default.

Discuss the liability of A in case he fails to repay the amount of loan of Rs. 1,000/- after six months. To how much compensation, B will be entitled and what would be the measure of assessing damages in such case? 15

OR

Q. 1. (a) Briefly state rights and duties of the Partner *inter se*, under the Indian Partnership Act. 15

Q. 1. (b) One of the partners of a Partnership Firm had retire from the firm on 01.04.1982. The firm continued carrying on its business. The firm took a loan on 01.03.85. It was established that the retired partner had neither represented nor permitted himself to be represented that he was the partner in the firm on 01.03.1985. Can he be held liable for the loan taken by the firm on 01.03.1985? Decide in the light of the provisions of the Indian Partnership Act. 10

Q. 1. (c) Under what circumstances a Partnership is dissolved? Briefly discuss the provisions of law as provided in the Indian Partnership Act. 15

Does death of one of the partners dissolve the firm automatically? What will be the effect of death of one partner, if the partnership is constituted by two partners only?

Q. (d) It is neither compulsory, nor penal for non-registration of the Partnership Firm, yet an unregistered firm suffers from certain disabilities under the Partnership Act. What are those disabilities? Please discuss the same under relevant provisions of the law in this respect. 10

Q. 2. (a) 'A' purchased a car from 'B', which turned out to be stolen property. 'A' filed a suit for recovery of price against 'B'. 'B' took the plea that he himself was a bona fide purchaser from 'C' a third party and never knew that the car was stolen property belonging to 'D' and therefore, he is not liable to return the price.

Decide the case in the light of section 27 of the Indian Sale of Goods Act. 20

Q. 2. (b) 'A' purchased rice from 'B', being the whole contents of a godown. 'A' had paid earnest money and had taken delivery of a part of rice. Before the rest could be taken away, it was destroyed by fire.

Discuss who shall bear the loss. 15

Q. 2 (c) 'A' sold 50 bales of cotton on credit and kept them in his godown on rent charged to buyer B. Before the period of credit expired, B sold away 15 bales and became insolvent. 'A' seeks to exercise his lien on the remaining bales lying in his godown, for the price of 50 bales and the rent in arrears. Advise A regarding his right being unpaid seller, under the provisions of Sale of Good Act. 15

OR

Q. 2. (a) Section 10 of the Specific Relief Act provides for contracts, which can be specifically enforced. State and illustrate limitation of the Court in using its discretion in such matters. 10

Q. 2. (b) Is a suit maintainable for mere declaration by a Government employee that the order of his dismissal from service is illegal, without seeking for the relief regarding arrears of salary etc., in view of proviso to section 34 of the Specific Relief Act. 15

Q. 2. (c) Any imputation, which may tend to lower a person in the estimation of right thinking members of the society generally, or to expose him to hatred contempt or ridicule is defamatory of him. Discuss the law of damages for defamation. 15

Q. 2. (d) An industry engaged in some hazardous activity, causes harm to public. Do the affected persons have right to recover compensation from such Industry? Discuss with the help of decided cases on the point. 10

Q. 3. (a) Discuss the conditions for valid Hindu Marriage, under Hindu Marriage Act, 1955. 15

Q. 3. (b) What is the scope of section 27 of the Hindu Marriage Act, 1955 for disposal of property of hindu spouse? Discuss. 10

Q. 3. (c) Elucidate and illustrate the law on widow's right to her husband's estate, in light of Section 14 of the Hindu Succession Act. 15

Q. 3. (d) 'A', a Hindu sells coparcenary property in the life time of his son B without B's consent and without justified necessity. B dies 2 years after the sale. Six months after the death of 'B' another son 'C' is born to A's wife from 'A'. Discuss the right of 'C' who want to challenge the sale made by his father 'A'. 10

OR

Q. 3. (a) What is meant by 'Wakf'? If a Wakf is valid, without designating a "Mutawalli"? How can a Mutawalli be appointed and by whom? 15

Q. 3. (b) Who can be *de facto* and *de jure* Guardians respecting Minor's property under the Mohammedan Law? To what extent a *de facto* guardian of a minor can alienate the immovable and movable property of a minor? 15

Q. 3. (c) A divorced Muslim woman is entitled to get a fair and reasonable provision made for her livelihood under section 3(1) of the Muslim Woman (Protection of Right on Divorce) Act, after the period of 'Iddat', apart from her right to get maintenance during the period of 'Iddat'. Discuss about the liability of a Muslim to maintain his divorced wife during her lifetime, if she does not remarry. 10

Q. 3. (d) What are the essential requirements of a valid gift or 'hiba', under the Mohammedan law? 10

Q. 4. (a) Discuss the provision of Delhi Rent Control Act regarding landlord's duty to keep the premises in good tenantable repairs. 15

Q. 4. (b) A tenant of residential premises constructed a residential house in Lal-Dora area of Delhi to which provisions of Delhi Rent Control Act, 1958 did not apply. The landlord filed eviction petition on the ground that tenant has acquired alternative residential accommodation and hence liable to vacate the tenanted premises. Decide giving reasons and discussing relevant provisions of law applicable to this case. 15

Q. 4. (c) In response to the notice of demand-served U/s 14(1)(a) of the Delhi Rent Control Act, 1958, the tenant deposited the entire arrears of rent under section 27 of the Act, within two months of the service of the notice. The landlord seeks eviction of the tenant on ground of non-payment of rent. Decide giving reasons. 10

Q. 4. (d) What do you understand by limited period tenancy under the Delhi Rent Control Act, 1958? What considerations are required to be fulfilled for creating tenancy for limited period? Discuss in the light of law as laid down in the case *S.B. Naronah v. Prem Kumar*, 1980 (1) SCC 52. 10

CIVIL LAW-II, 2000

Q. 1. (a) In 1975, a suit was filed for partition of movable and immovable properties. Parties were near relations, who claimed succession through common ancestor. During trial in 1993, the parties filed application under Order XXIII Rule 3 C.P.C. seeking to pass decree in terms of family settlement Ex. C-1 and compromises Ex. C-2 and Ex. C-3. By this compromise, they had mutually settled and adjusted their rights and claims in the suit properties, had mutually relinquished rights in favour of each other and these contained mutual covenants transferring some of the properties *inter se*. Court accepted it and passed compromise decree on 25.08.1993. In 1995, three of the defendants filed application for setting aside that compromise decree and raised a legal objection that the decree passed on the basis of compromise affects several immovable properties; it required compulsory registration under section 17 of the Registration Act, 1908 and the decree not having been registered is *void* and unenforceable. This is disputed by the other parties. Deal with this objection and give your decision. 25

Q. 1. (b) Fishery rights in Jalkar were settled with A for the years 1976-77 and 1977-78 at 1,65,000 per year. State Government made deposit of settlement fee of Rs. 1,65,000/- by A *sine qua non* to issue of order of settlement. A deposited that sum, but was informed that Government had taken a decision that settlement for 1976-77 be done on additional condition of A depositing arrears of the previous that settlement for 1976-77 be done on additional condition of A depositing arrears of the previous year, failing which settlement be issued by highest bid. On 02.07.1976. A filed writ for direction to Government to execute lease in his favour for 1976-77 and 1977-78 and not to disturb his

possession over fishery right in question during currency of term of lease. Writ is opposed *inter alia* on the ground that as settlement was not evidenced by a registered instrument, *A* had not right, title or interest, which could be enforced by him. The point to be decided is whether instrument granting right to catch fish in tank is compulsorily registerable instrument? Will it make any difference in case duration of lease was only nine months? 25

OR

Q. 1. (a) In 1985, Food Corporation of India invited offers from land-owners for construction of plinth and other facilities for storage purposes and after construction, to lease to FCI on rent for three years. *B* submitted offer. After negotiation, offer of *B* at negotiated rate was accepted and agreement dated 12.06.1986 was entered into giving details of terms on which *B* agreed to lease out plinths after construction under lease agreement to be executed between the parties in prescribed proforma. Time was essence of the agreement and in case of delay in construction of faulty workmanship, FCI was not bound to take plinths on lease. *B* borrowed loan from Bank and raised construction. FCI took possession on 24.01.87, but served notice of vacation on 26.09.1988. *B* filed suit for damages for breach of contract. Main defence of FCI is that in absence of registered lease deed the parties were not bound by the period of lease as the agreement was unenforceable and in absence of valid agreement, tenancy was month to month and liable to be terminated under section 106 of the T.P. Act and hence the plaintiff cannot claim damages. Question is whether or not agreement dated 12.06.1986 required compulsory registration under section 17 of the Registration Act and what is its effect? Decide giving reasons. 25

Q. 1. (b) *A* filed suit against *B* for specific performance seeking direction to register sale deed Ex. A6 and for injunction or possession of immovable property alleging that *B* duly executed sale deed in his favour for consideration of Rs. 3,200/-, but did not get it registered thereafter. *B* says that he signed it as a result of fraud and misrepresentation by *A*, who took advantage of his illiteracy and that he had agreed to sell suit land to *A* for Rs. 16,000/-. Trial Court dismissed the suit on the ground that *A* had to avail of remedy under section 77 of

the Registration Act. In appeal, suit was decreed holding that section 77 will not come in the way. *B* filed second appeal on the ground that section 77 of the Registration Act is a complete code in itself providing for enforcement of right to get a document registered and Court cannot direct registration of document after expiry of period mentioned in the Act and that Ex. A6 is sale deed and being unregistered, a decree for specific performance based on the same could not be granted and that sale consideration was Rs. 16,000/- and not Rs. 3,200/- as written in that document. Decide the appeal referring to relevant provision of law relating to points involved. 25

Q. 2. (a) A suit was filed for specific performance to execute sale-deed in favour of the plaintiffs on the allegation that defendants No. 1 & 2 failed to honour their agreement dt. 12.04.1978 *vide* which they agreed to sell their building. *X* was added as defendant No. 3 alleging that he had similar right of getting specific performance of agreement in question but has not joined the plaintiffs in the suit and, therefore, had been impleaded as defendant. As per agreement, one-half of the property was proposed to be purchased by plaintiffs. While the other half was to be purchased by *X*. Subsequently *X* is sought to be transposed as plaintiff. This is opposed on the ground that this is not permissible under Order 1 Rule 10 C.P.C. and his transposition from array of defendants as plaintiff is far beyond the period of limitation for enforcing the agreement in relation to sale of his half share in the property in question and section 21 of the Limitation Act will apply and the suit will be barred by limitation. Decide the controversy giving reasons. 25

Q. 2. (b) Eviction petition filed by *A* against his tenant *B* was dismissed on 25.09.1956 accepting plea of *B* that there was no relationship of landlord and tenant between the parties. *A* filed appeal, which was allowed on 30.09.57 holding that *B* was tenant and grounds existed for his eviction. (During pendency of appeal, *C* purchased the property from *A* on 18.06.1957 subject to decision of appeal). *B* filed Revision, which was dismissed on 19.09.58 holding that *B* was tenant and three months time was granted for vacation of premises. *C* was in Government Service and was moving from place to place. On 24.07.69 *C* filed eviction petition against *B*, who contended that he was not a tenant and had acquired title by adverse possession. On 05.08.70, *C*

filed suit for possession based on title, which was resisted on the ground that *B* had acquired title by adverse possession; suit was in reality in nature of execution of earlier eviction order but execution of decree was time-barred and the suit stood barred by section 11 and 47 C.P.C. *C* refutes all this and says that the suit was based on fresh cause of action and has been filed within 12 years from the final eviction order. Give your decision on the points raised. 25

OR

Q. 2. (a) In 1893, oral mortgage in respect of land was executed for Rs. 53/-. On 11.01.1960, mortgagors sold their mortgage rights to *A* *Vide* a registered sale deed. In the mean while, in 1959, *B* has purchased the suit land from the original mortgagor *vide* registered sale deed. In 1980, *B* filed suit for possession by way of redemption of suit land against *A*, who raised preliminary objection that the suit was hopelessly time-barred as the period of limitation of redemption started on the very date of execution and thus period of 60 years is to be counted from 1893. On this point, contentions of *B* are that (1) till Act of 1913 came in force, there was no period of limitation for oral mortgage and hence limitation cannot start before the date when this Act came into force; (2) in this case neither mortgagors offered to pay mortgage amount, nor mortgagors communicated satisfaction of the mortgage amount through usufruct from land, hence right to redeem could not be said to have accrued, so question of running of period of limitation never arose and (3) moreover, since in 1960, the original mortgage had acknowledged the original mortgage, therefore in view of section 18 of the Limitation Act, period of limitation is revived, which would only start from the date of acknowledgement, hence suit filed in 1980 would be within limitation. Discuss the merits of the respective contentions of the parties and give your verdict.

Note: (a) As per the Limitation Act, period of limitation for such a suit begins to run when right to redeem or to recover possession accrues. (Period at relevant time was 60 years). 30

Q. 2. (b) Cheques dated 15th, 16th March, 1995 bounced, when presented for encashment. Notices were served on accused on 29.09.95, who failed to pay amount within 15 days as per section 138 of the Negotiable Instruments Act. Period of 15 days in the present case expired

on 14.10.1996. Complaints were filed on 15.10.1995. Objection was raised that the complaints were filed beyond time. Decide this objection.

Note: As per section 142 of the said Act, complaint is to be made within one month of the date on which the cause of action arises. 20

Q. 3. (a) *A* was tenant in the building belonging to *X*. *X* sold the building to *B* vide Ex. P1 Sale deed dated 23.01.1989. On this footing, *B* filed eviction petition against *A* in 1990 on ground of non-payment of rent. In written statement, *A* alleged that the building was actually purchased by *B*'s father as per Ex. P1 and *B* was only a name-lender therein and was not entitled to rent or eviction order. After trial court found that *B* was the real owner pursuant to Ex. P1 and was entitled to rent. However the suit was dismissed as *A* deposited arrears of rent, which were allowed to be withdrawn by *B*. In 1994, *B* filed suit for *A*'s eviction on the ground of bonafide requirement. *A* contested the suit on the ground that *B* was only benami to his father in Ex. P1 and the sale was void being forbidden by The Benami Transaction (Prohibition) Act. *B*'s contentions are that there is bar of *res judicata* in re-agitating issue regarding his title to the building; that the party, who wants to prove that recitals in Ex. P1 are untrue must bear the burden to prove it. Is there any merit in his contentions? Give your judgement. 30

Q. 3. (b) On 14.07.1977 a decree for Rs. 69,000/- was passed in favour of Decree-holder and against all the Judgement-Debtors. The decree holder filed execution of decree on 09.01.1978. She expired on 14.03.1980. She had executed a Will assigning the decree in favour of Judgement Debtor No. 2 and 3, who obtained Probate of Will. Judgment Debtor No. 4 also expired on 20.03.1990 Judgment Debtors No. 2 and 3 are now seeking to execute the decree against legal heirs of Judgment Debtor No. 4 who have objected to execution of decree against them and have submitted that the decree cannot be executed by Judgment Debtor No. 2 and 3 on the basis of Probate granted in their favour. The question is whether the applicants, who were also the JDs, can execute the decree against one or other Judgment Debtors even assuming the share of the DH has developed upon them under the Will? 20

OR

Q. 3. (a) Plaintiff is elder brother of defendant. When he acquired and constructed property, defendant was 17 years old. Plaintiff permitted

defendant to stay on first floor after his marriage. Their relations turned sour as defendant obstructed plaintiff, when he wanted to construct two toilets on ground floor and raise construction on 2nd floor. Plaintiff filed suit for possession of first floor, declaration and injunction against defendant and moved an application under Order XXXIX, R. 1 and 2 C.P.C. for ad-interim injunction for removal of staircase constructed by defendant in front of property without consent of plaintiff or sanction of M.C.D. It is alleged that there is staircase in the backside, which is properly sanctioned and is in use; the plaintiff cannot enjoy his property unless unauthorised construction is removed. Application is opposed on the ground that no notice for demolition has been received from M.C.D. and apprehension of plaintiff is without foundation; construction of staircase took place long time ago; by removing it, the plaintiff may not receive any particular benefit, but it would cause great inconvenience and hardship to defendant. Decide the application giving reasons therefor. 25

Q. 3. (b) In a land acquisition matter, Reference Court enhanced land value from Rs. 1 lac to Rs. 17 lacs vide Award dated 12.11.1991. State filed appeal without noticing that the sole respondent in the Award had died before filing the said appeal. On 22.05.1993, an application was filed quoting Order 1, Rule 10 C.P.C. for joining names of legal representatives of the deceased respondent, alleging that Government came to know of death of the sole respondent only when notice of appeal was returned unserved stating that he was no more. The application is contested by the proposed L.Rs. on the ground that Order XXII, Rule 4 is the relevant provision to be invoked and the application for impleadment of L.Rs. should have been filed within 90 days after death as per Article 120 of the Limitation Act and one officer of Government. Knew about factum of death and, therefore, the appeal abates. Contention of Government is that Order 1, Rule 10 is relevant and there is no specified period of limitation for making such an application and if at all any application is necessary, the same could be filed within 3 years under Article 137 of the Limitation Act and in this case, the application was filed much ahead of that time. Deal with the points raised by the parties and decide the matter. 25

Q. 4. (a) A sued B for redemption and possession of shop alleging that he mortgaged his shop vide registered mortgage deed dt.

15.04.1969; that on 01.02.1981, he demanded production of the deed and possession on redemption, but *B* did not comply. *B* says that actually *A* had leased out shop on rent to him and the alleged mortgage was only a sham transaction to by-pass Rent Act. The parties led evidence. *A* produced certified copy of the deed. *B* says that deed in question is not proved as per section 68 of the Evidence Act as none of its attesting witnesses have been examined. To prove payment of rent, *B* placed on record Ex. D2 to Ex. D5, handwritten extracts of his accounts books showing payment to *A* (though no receipt was issued or obtained). Original accounts books have not been produced. *A* is challenging late production and genuineness of Ex. D2 to D5 and is urging that these are not admissible under section 34 of the Evidence Act. He has further argued that oral evidence for proving a document to be sham document is inadmissible in view of section 92 of the Evidence Act. Evaluate these points raised by the parties and give your decisions. 25

Q. 4. (b) In 1960, Marwari Community filed suit for possession of Temple and Dharmshala alleging that Respondent/Pujari had executed Nokarnama in 1948 after passing decree of declaration of their title in the earlier suit against him, but he has again started claiming ownership thereof, which plea was negated in the earlier case. It is alleged that they have lost all papers and original was not available in Court record. In W.S., the respondent claimed title to the property and pleaded that suit is barred by Order 2, Rule 2 C.P.C., as in the earlier case, relief of possession should have been, but was not claimed and in any way earlier judgment was not binding. Plaintiff led oral evidence in support of its contentions and relied on an ordinary copy of judgment and certified copy of decree in the earlier suit. Objection of the respondent is that judgment is public document and could be proved only by a certified copy. Plaintiff says that section 54 of the Evidence Act permits secondary evidence in such a case also; that section 54 of the Evidence Act permits secondary evidence in such a case also; that on principle of *res judicata*, the respondent was precluded from denying its title and suit was not barred. Decide the case, discussing the admissibility of evidence led on record. 25

OR

Q. 4. (a) Super Express Bus was set on fire. 23 passengers were roasted to death while rest received burn injuries. A few could survive

for some more days, but only to narrate their woeful tale to others. Some of them, who sustained less serious burns, figured as witnesses during trial. The Judicial Magistrate, who recorded dying declarations took down Ex. P 71 and Ex. P 75, the statements of Pw 5 also as dying declaration, thinking that they too might succumb to burns. They survived. What is the utility of their statements Ex. P 71 and Ex. P 75 during trial? Can their statements be used as evidence under section 32 of the Evidence Act? Is it permissible to use these as substantive evidence? Whether these statements can be relied upon the premise that it is relevant and admissible as *res gestae* under section 6 of the Act? Can these be used to corroborate their testimony in Court under section 157 of the Evidence Act? 20

Q. 4. (b) In 1967, suit for possession has been filed alleging that the plaintiff acquired suit site *vide* gift deed executed by X on 18.01.61 and 09.02.61 through his attorney C. Suit is contested on the grounds that X had no right to make gift deed and gift deed, if any, must be a devise by the plaintiff to grab the defendant's property. During trial, the said gift deed was exhibited in testimony of Pw6, which reads as follows:

"I know X, I am employed with him for fifteen years. I had scribed Ex. Pw6/1 correctly on instruction of X. I had read it over to him and after accepting the same as correct, he signed it in my presence. I have also signed as witness. I know C. He was manager and a general power of attorney. I also identify his signatures.

Cross-examination

"I know X. I am employed with him for fifteen years. I had scribed Ex. Pw6/1 correctly on instruction of X. I had read it over to him and after accepting the same as correct, he signed it in my presence. I have also signed as witness. I know C. He was manager and a general power of attorney. I also identify his signatures.

Perusal of Ex. Pw6/1 shows that it was executed by X and it bore signatures of two witness Perusal of Ex. Pw6/1 on its front page alongside signature by C as attorney of X, and C was identified by Pw6.

Contentions of the defendant are that the gift-deed has not been proved as only one of the attesting witness was called and he merely deposed about its execution by X and attestation by himself (Pw6) and was not asked about any other attestor having seen the execution; that an identifying witness cannot be treated as attesting witness; that X himself had not presented gift deed for registration and there was time gap between execution and presentation for registration; the mere marking of Ex. does not amount to proof. The plaintiff has argued that execution of the gift deed has not been specifically assailed; and its execution and registration is duly proved.

Evaluate the respective contentions of the parties, referring to relevant provisions of law, and give your verdict whether the gift deed stands proved or not and whether it is duly registered or not? 30

LANGUAGE, 2000

(Credit will be given for legible handwriting)

Q. 1. Translate the following passage into Hindi:

(a) As courts become effective instruments of justice within the State, they naturally promote the level of national consciousness which, in turn influences international consciousness dislodging narrow loyalties and irrational perceptions of the destiny of Man. They can accomplish a great deal for human rights, peace and a just socio-economic order even outside their countries, which a world parliament or a world government may not be able to advance in the foreseeable future. In this context the judiciaries of the world have a great deal in common which they can profitably utilise in an organized manner without compromising their commitment to the constitution under which they function in their respective States. Judiciary, constituted as it is, by wise and learned men owe the duty to give intellectual leadership to promote the values of human dignity, world peace and development; submerging shortsighted politics.

If human dignity is the source of rights and if natural law is to provide the content of these rights, there is reason why the judiciary should take a pro-active role in the internationalization of human rights. 20

(b) Whenever we think of wild animals in connection with India, tiger first present himself to our mind. And well he may, for he is the most distinctively national beast, and there is no doubt whatever that India is his original national beast, and there is no doubt whatever that India is his original home, whence he migrated into other parts of Asia, both east and west. Low hot plains, with tangled jungles to hide in are his realm; hence it is that the royal tiger of Bengal is the handsomest, firecest, and altogether the most representative specimen of the race. Even a brief and cursory review of India's physical traits and resources would be incomplete without some mention of the mineral wealth which, for ages has been pre-eminently associated with the name. To say 'India' was to evoke visions of gold, diamonds, pearls and all manner of precious stones. These visions, to be just, were made more than plausible by the samples which reached the west from time to time in the form of treasures of untold variety and value, either in the regular ways of trade or by that shorter road of wholesale robbery, which men call conquest; and indeed, but for the glamour of such visions and covetousness they bred, India might not have seen most of the nations of Europe fight for a place on her soil, from a mere foothold to whole realms, and might have remained free from invasion and foreign rule. 30

Q. 2. Translate the following passage into English:

(क) जहाँ आदमी को अपनी जिन्दगी मजेदार बनाने के लिए खाने-पीने, चलने-फिरने आदि की जरूरत है, वहाँ बातचीत का भी हमको अत्यन्त आवश्यकता

है। जो कुछ मवाद या धुआं जमा रहता है वह सब बातचीत के जरिए भाप बन बाहर निकल पड़ता है, चित्त हलका और स्वच्छ हो परम आनन्द में मग्न हो जाता है। बातचीत का भी एक खास तरह का मजा होता है। जिनको बात करने की लत पड़ जाती है वे इसके पीछे खाना-पीना तक छोड़ देते हैं, अपना बड़ा हर्ज कर देना उन्हें पसन्द आता है, पर बातचीत का मजा नहीं खोना चाहते। रॉबिन्सन क्रूसो का किस्सा, बहुधा लोगों ने पढ़ा होगा, जिसे सोलह वर्ष तक मनुष्य का मुख देखने को नहीं मिला। कुत्ता, बिल्ली आदि जानवरों के बीच रहा, सोलह वर्ष के अपरांत जब उसने फ्राइडे के मुख से एक बात सुनी, यद्यपि इसने अपनी जंगली बोली में कहा था, उस समय रॉबिन्सन का ऐसा आनन्द हुआ मानो इसने नए सिरे से फिर से आदमी का चोला पाया। इससे सिद्ध होता है कि मनुष्य की वाक्शक्ति में कहां तक लुभा लेने की ताकत है। जिनसे केवल पत्र-व्यवहार है, कभी एक बार भी साक्षात्कार नहीं हुआ, उन्हें अपने प्रेमी से कितनी लालसा बात करने की रहती है। अपना आभ्यंतरिक भाव दूसरे को प्रकट करना और उसका आशय आप ग्रहण करना, केवल शब्दों ही के द्वारा हो सकता है।

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(ख) भारत का संविधान तैयार करने के लिए जब लगभग आधी शताब्दी पूर्व 9 सितम्बर, 1946 को संविधान सभा की पहली बैठक हुई तो सामने अनेक चुनौतियां थीं। एक ओर तो वे सीमा-बंधन थे, जिन्हें उसके अधिकारों पर लगाने का प्रयत्न था और दूसरी ओर वे अनेक अड़चनें थीं, जिनपर पार पाना असंभव सा लगता था। इस सबसे विचलित हुए बिना हमारे संविधान-निर्माता अपने कर्तव्य-पथ पर साहस और निश्चय के साथ बढ़े। जिस बुद्धिमत्ता और राजनीतिक मर्मज्ञता के साथ राजाओं-महाराजाओं की समस्या सुलझाई गई, उसका परिणाम यह हुआ कि ब्रिटिश भारत के प्रान्तों की भांति देशी राज्य भी भारत के संघ में सम्मिलित हो गए। इस प्रकार अखंड भारत की शताब्दियों पुरानी कल्पना तो साकार हो गई, अपितु देशी राज्यों की जनता तथा शेष भारतीयों के बीच की वह खाई भी पट गई, जो देशी राज्यों में प्रजातांत्रिक प्रणाली के अभाव तथा अन्य भारतीय प्रान्तों में प्रजातांत्रिक संस्थाओं के विकास के कारण बन गई थी।

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ESSAY AND GENERAL KNOWLEDGE, 2000

PART I

Q. 1. Write an essay on any one of the following:

- (a) Internet-Whether a threat to print media?
- (b) Pandering to the dictates of terrorism
- (c) Sexual harassment of women at workplaces
- (d) Trial Court Judge is the king-pin of judicial system
- (e) Nexus between politicians and criminals

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PART II

Q. 2. Write short notes on any two of the following:

- (a) CTBT
- (b) Match-fixing
- (c) Population Explosion
- (d) Panchayati Raj

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Q. 3. Who are the following? Answer in a sentence or two:

- (a) Bill Gates
- (b) Mahendra Chaudhry
- (c) Al-Gore
- (d) Osho
- (e) Barkha Dutt
- (f) Martin Luther King

- (g) Amrita Pritam
- (h) Asma Jahangir
- (i) P. Venugopal
- (j) Sunder Lal Bahuguna

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Q. 4. Who gave the following slogans:

- (a) Vande Mataram
- (b) Delhi Chalo
- (c) Swaraj is my birth right.

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Q. 5. Who founded the following organisations:

- (a) Brahma Samaj
- (b) Khudai Khidmatgar
- (c) Sabarmati Ashram

Q. 6. Give one-word to the following:

- (a) A form of social organisation in which mother is the head of the family and in which descendant is reckoned in the female line

(b) A U.S. Government building which houses the Defence Department

- (c) The study of poisons
- (d) The study of collection of postage stamps
- (e) The process by which plants absorb sugar and starch by means of sunlight.

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Q. 7. Briefly explain the following concepts:

- (a) Closed economy
- (b) Vote on account

Q. 8. Who wrote the following:

- (a) Das Kapital
- (b) Dr. Zhivago
- (c) Bhagwad-Gita
- (d) Marriage and Morals
- (e) The Mayor of Casterbridge.

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