

LAW

Paper—II

Time : Three Hours

Full Marks : 300

*Candidates should attempt Question No. 1 from Section-A and Question No. 5 from Section-B which are compulsory, and any **THREE** of the remaining questions, selecting at least **ONE** from each Section.*

All questions carry equal marks.

SECTION—A

1. Discuss any **THREE** of the following statements (answer to each question must not exceed 200 words). Support your answer with legal provisions and decided cases :— 3×20=60

(a) "The defence of consent has but a limited purpose in criminal law."

(b) "Mere medical insanity is not a valid defence under the Indian Penal Code but legal insanity is."

- (c) "Whenever there is a breach of duty there is a cause of action in tort."
- (d) "Law of tort is based upon a fundamental general principle that it is wrongful to cause harm to other persons in the absence of some specific ground of justification or excuse."
2. (a) "The law of criminal conspiracy insists on an agreement between two or more persons whereas in abetment by conspiracy a mere engagement between them may be sufficient." Discuss. 30
- (b) A intentionally attacks B. While doing so A does not know that he is suffering from an enlarged appendix. The blow falls on the appendix as a result of which the appendix bursts and B dies. Discuss liability of A. 30
3. (a) In the scheme of the Penal Code, "culpable homicide" is the genus and "murder" its species. All murders are "culpable homicide" but not vice-versa. Discuss and illustrate. 30
- (b) A boatman gets hold of gold ornaments from the body of a person who had drowned. A police constable takes away the same after slapping the boatman. The constable does not enter the same

in the records and dishonestly keeps them with himself. Discuss the criminal liability of the constable. 30

4. (a) Discuss the rules regarding Vicarious Liability. Examine also the liability of the State in India for the torts of its servants. 30

(b) The defendant establishes a flour mill in the heart of a city adjacent to the plaintiff's house in a residential area. Running of the mill causes vibrations to the house and unpleasant noise. The plaintiff sues the defendant and claims damages and injunction. 30

SECTION—B

5. Answer any **THREE** of the following (answer to each question must not exceed 200 words) :— $3 \times 20 = 60$

(a) State and explain void, voidable, illegal and unenforceable agreements.

(b) 'A' undertakes to repay 'B' a loan of Rs. 1000 by 5 equal monthly instalments with a stipulation that in default of payment of any instalment the whole shall become due. Can the contract be enforced according to its terms ? Give reasons.

- (c) Frustration of a contract is the result of impossibility of performance. Both go together as far as Indian law is concerned. Frustration is the result of impossibility of performance.
- (d) There are certain grounds making the performance of a contract impossible. What are those grounds and explain each with the help of decided cases.
- (e) 'A' applies to a banker for loan when there is stringency in the money-market. The banker declines to make the loan except at unusual high rate of interest. 'A' accepts the loan on the terms of high rate of interest. Can 'A' refuse to pay high rate of interest taking the plea of undue influence ? Discuss.
6. (a) A, B and C were partners of a firm which was not registered. Firm brought a suit for the recovery of debt due from 'X' to the firm. A, B and C had sent an application to the Registrar of Firms on the prescribed form and all formalities were completed, but the firm was not yet registered. Firm brought a suit against 'X'. Can suit proceed. Discuss.

- (b) What are the legal remedies available to the buyer against the seller for breach of contract under the Sale of Goods Act, 1930 ? Discuss.
7. (a) Can a minor be admitted as a partner of a firm ? If so, can he subsequently ratify or revoke such partnership. Describe the rights and liabilities of such partner.
- (b) 'X' in Madras writes to 'Y' in Bombay to send to 'X' a packet of patent medicines. 'Y' accordingly sends the packet. 'X' finds some defect in the medicines. Can 'X' receive the price of medicines from 'Y' ?
8. (a) State and explain consequences of breach of contract.
- (b) "There is no stronger fiduciary relationship known to the law than that of a partnership." Amplify and state the standards of conduct to which partners must adhere.