

KOTHARI INTERNATIONAL SCHOOL, NOIDA
PRE-BOARD EXAMINATION-1, SESSION: 2023-24
GRADE: 12 SUBJECT: LEGAL STUDIES (074)
SET-A
MARKING SCHEME

DATE & DAY: TUESDAY, NOVEMBER 24, 2023

MAXIMUM MARKS: 80

TIME ALLOTTED: 3 HOURS

| SECTION-A | | |
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| Q1. | Indian women were included in the Legal Profession and Practice in the year..... A.1921 B.1923 C.1956 D.1960 | 1 |
| Q2. | Professional Legal Education in India is regulated by A. Advocate Act 1961 B. Government of India Act 1963 C. Legal Practitioner Act XXIII of 1923 D. UGC Act 1953 | 1 |
| Q3. | Advocates are allowed to furnish a five piece information on their websites after the approval of Bar Council of India. Which amongst the following information is allowed to be put on internet by an advocate? A. Professional and Academic B. Areas of practice C. List of successful cases D. Photograph with name and details of enrolment with Bar E. Contract details Choose the correct answer from the options given below: 1. a, b, c only 2. b, e, d only 3. a, b, e only 4. c, d, e only | 1 |
| Q4. | Ramika International Ltd. And Northstar Pvt. Ltd. have a dispute over production process which involved intricate trade secrets. Suggest the most suited ADR that can protect the trade secret while resolving the dispute: A. Arbitration B. Mediation C. Conciliation D. Lok Adalat | 1 |

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| Q5. | <p>What is the benefit of ADR is...</p> <p>A. prevents appeals. B. saves time C. costs more money. D. is not always binding.</p> | 1 |
| Q6. | <p>Which of the following articles of the Indian Constitution deals with the appellate jurisdiction of the Supreme Court in appeals from High Courts in certain cases?</p> <p>A. Article 132 B. Article 130 C. Article 133 D. Article 136</p> | 1 |
| Q7. | <p>The protection under section 162 of the Code of Criminal Procedure, 1973 is –</p> <p>A. Available in Civil Proceedings B. Available for proceedings under Article 32 and/or 226 of the Constitution C. Not Available in rape cases D. Only available in Criminal enquiry or trial in respect of the offence under Investigation</p> | 1 |
| Q8. | <p>Which of the following statements in NOT TRUE regarding the charge sheet made under the provisions of the Code of Criminal Procedure, 1973?</p> <p>A. In case of offence of a rape of a child the charge sheet must be submitted within three months of the FIR B. After submission of the charge sheet there cannot be any further investigation into the case by police C. The right to be released on bail is lost once the charge-sheet is filed D. Charge sheet against absconding accused can be filed even if the accused is not arrested.</p> | 1 |
| Q9. | <p>Which of the following is TRUE of Section 31 Cr. P.C.?</p> <p>A. it relates to the quantum of the punishment that the Court has jurisdiction to pass where the accused is convicted of two or more offences at one trial B. it is rule of the procedural law C. either (A) or (B) D. both (A) and (B)</p> | 1 |
| Q10. | <p>Which is not the issue of original jurisdiction of Supreme Court of India</p> <p>A. Dispute of fundamental rights B. Dispute between States C. Interpretation of the constitution D. To give opinion to president</p> | 1 |
| Q11. | <p>A copyright will be issued for the work related to</p> <p>A. movie</p> | 1 |

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| | <p>B. literature C. music D. all of the above</p> | | | |
| Q12. | <p>Under the provisions of the Code of Criminal Procedure, 1973 cognizance can be taken of –</p> <p>A. Offence B. Accused C. Witnesses D. Offenders</p> <p>1. Only I 2. I and III 3. I and II 4. I and IV</p> | 1 | | |
| Q13. | <p>Which is NOT independence of judiciary?</p> <p>A. safeguards rights of individual. B. settle disputes impartially. C. judiciary to have their own law D. protect rule of law</p> | 1 | | |
| Q14. | <p>Match the Articles with the corresponding Fundamental Rights</p> <table style="width: 100%; border: none;"> <tr> <td style="width: 50%; vertical-align: top;"> <p>Column I</p> <p>A. Articles 14-18 B. Articles 19-22 C. Articles 23-24 D. Articles 25-28 E. Articles 29-30</p> </td> <td style="width: 50%; vertical-align: top;"> <p>Column II</p> <p>i. Right to Freedom ii. Cultural and Educational Rights iii. Right to Equality iv. Right against Exploitation v. Right to Freedom of Religion</p> </td> </tr> </table> <p>a. A(i), B(ii), C(iii), D(iv), E(v) b. A(iv), B(i), C(ii), D (v), E(iii) c. A(iii), B(i), C(iv), D(v), E(ii) d. A(ii), B(iii), C(v), D(i), E(iv)</p> | <p>Column I</p> <p>A. Articles 14-18 B. Articles 19-22 C. Articles 23-24 D. Articles 25-28 E. Articles 29-30</p> | <p>Column II</p> <p>i. Right to Freedom ii. Cultural and Educational Rights iii. Right to Equality iv. Right against Exploitation v. Right to Freedom of Religion</p> | 1 |
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| Q15. | <p>Statement (1): The intentional tort of battery occurs when the defendant causes the touching of the claimant with the intent to cause harm or offense.</p> <p>Statement (2): The act of touching doesn't necessarily have to be done with defendant's hands always.</p> <p>a. Both Statement 1 and Statement 2 are correct. b. Both Statement 1 and Statement 2 are incorrect. c. Statement 1 is correct but Statement 2 is incorrect. d. Statement 1 is incorrect but Statement 2 is correct.</p> | 1 | | |
| Q16. | <p>Sanjeev allows the growth of poisonous weed on his plot of land. He was not negligent nor was he aware of the fact that the weed is poisonous. The weed spreads and grows onto the property owned by Gurmeet. Gurmeet's cattle die after consuming the poisonous weed. Which of the following is applicable in the given scenario?</p> | 1 | | |

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| | <p>(a) Sanjeev is not liable to Gurmeet as the latter should have taken due care of his livestock.</p> <p>(b) Sanjeev is liable because allowing poisonous plants to grow and spread amounts to trespass to land.</p> <p>(c) Sanjeev is strictly liable to Gurmeet even though he may not be negligent.</p> <p>(d) Sanjeev is liable as it amounts to trespass to chattels.</p> | |
| Q17. | <p>Phulmaniya travels from Ranchi to Kolkata to work as a domestic help. On landing in Kolkata, she was subjected to forced surrogacy. Which Fundamental Right of Phulmaniya has been violated?</p> <p>A. Right to Equality B. Right against Exploitation C. Right to Life and Personal Liberty D. Right to Freedom</p> | 1 |
| Q18. | <p>There were three processes whereby the developing civilization progressively moved towards social engineering through free legal aid. Point the odd one out:</p> <p>A. To grant aid to vulnerable communities B. To encourage pleaders to provide free legal aid C. To put restrictions upon the exercise of privileges accorded by law to those well-off D. To strip those fortunate of their privileges and place the strong and weak on an equal footing before the law</p> | 1 |
| Q19. | <p>Assertion (A): When the defendant carries out or keeps an unusually hazardous situation or activity on his or her building premises or involves in an activity that offers an inevitable danger of injury to the claimant or his or her property, the defendant could be responsible for the damage caused.</p> <p>Reason (R): The liability arises due to the violation of the principle established under <i>Donoghue v. Stevenson</i>.</p> <p>a. Both Assertion (A) and Reason (R) are true and Reason (R) is the correct explanation of Assertion (A) b. Both Assertion (A) and Reason (R) are true and Reason (R) is not the correct explanation of Assertion (A) c. Assertion (A) is true but Reason (R) is false. d. Assertion (A) is false but Reason (R) is true.</p> | 1 |
| Q20. | <p>Given below are the different stages in the development of the legal aid movement in India. Arrange them chronologically.</p> <ol style="list-style-type: none"> Article 39A was inserted by the 42nd Amendment Act of the Indian Constitution. The Committee on National Implementation of Legal Aid was constituted with Justice Bhagwati as its head. The Union Government initiated the national legal aid scheme which faced financial shortages and died a natural death. | 1 |

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| | <p>4. The Union Government constituted a committee under the chairmanship of Justice Krishna Iyer to develop a legal aid scheme for states.</p> <p>a. 1, 2, 3, 4 b. 1, 3, 2, 4 c. 3, 4, 1, 2 d. 4, 3, 2, 1</p> | |
| SECTION-B | | |
| Q21. | <p>Why is it essential that the judicial branch of government be kept separate from the executive and legislative branches?</p> <p>The judicial branch of government should be kept separate from the executive and legislative branches due to the following reasons:-</p> <ul style="list-style-type: none"> • It helps in maintaining rule of law, a free and fair society. • It is a guardian of our fundamental rights. • If Judiciary is not kept separate from the other branches, it may result in arbitrariness/ high handedness of executive. • It grants a fair trial to the accused. • It acts as a watch dog in society. • It ensures a good governance | 2 |
| Q22. | <p>A milkman shows his delivery boy how to make profit by adulterating milk. He shows him the techniques of adulteration so that customers may never suspect anything wrong with the taste or texture. Identify and explain the basis on which the milkman can be punished on account of this conversation.</p> <p>The milkman has confessed his fraud to the delivery boy. Hence we can call it extra judicial confession. An extra-judicial confession has been defined to mean "a free and voluntary confession of guilt by a person accused of a crime in the course of conversation with persons other than judge or magistrate seized of the charge against himself". Extra-judicial confession can be accepted and can be the basis of a conviction only if it passes the tests of credibility as laid down in the procedural laws.</p> | 2 |
| Q23. | <p>Praveen was arrested on the suspicion of having murdered his friend. He was produced before the Magistrate within twenty-four hours of his arrest. No concrete evidence could be presented by the police against Praveen. After being brought back from the court he was taken to custody to make him confess his crime. Is the police justified in its action? Which provision of Article of the Constitution of India is being violated by the police?</p> <p>The police is not justified in its action. No person can be detained in custody beyond 24 hours without the authority of a magistrate. Or Article 20 (3) Right against self incrimination</p> | 2 |
| Q24. | “Neither is it possible nor is it proper to isolate the right to legal aid from | 2 |

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| | <p>the range of human rights.” Comment.</p> <p>The access to justice itself is one of the most basic human rights, and without it, the realization of many other human rights may become difficult.</p> <ul style="list-style-type: none"> • Indeed, the right to access to justice or Legal Aid is evolved by judicial creativity for the benevolence of poor persons. • The right to legal aid enables accomplishment of these human rights and makes them worthwhile for the poor masses in the world. • In the present legal system of most of the countries justice is not given but sold. The consumers of justice have to pay remuneration of the counsel. • Indeed, the poverty is an obstacle in the way of getting justice and due to this reason the poor becomes sufferer of social injustice. • Legal aid is only a way for providing social justice to all. <p>Legal aid indeed, is an integral part of human rights and it requires urgent considerations. (Any two points can be considered)</p> | |
| Q25. | <p>Enumerate the components of the pre-litigation legal services.</p> <p>Legal education</p> <ul style="list-style-type: none"> • Legal advice • Legal awareness • Pre litigation legal settlement <p>(Any two points can be considered)</p> | 2 |
| Q26. | <p>State the provisions of the most authoritative source of International Law.</p> <p>The most authoritative source of international law is Article 38(1) of the Statute of the International Court of Justice – It provides that when a court which deals with disputes relating to international law, it shall apply:</p> <ol style="list-style-type: none"> a) International conventions, b) International custom, as evidence of general practice accepted by law - c) The general principles of law recognized by civilized nations - d) Judicial decisions and teachings of the most highly qualified publicists | 2 |
| Q27. | <p>In a country called Jingpa give effect to a treaty, it was put before the legislature for a vote of the majority. Identify the form of the consent and the purpose behind such form of consent.</p> <p>Consent by ratification</p> <p>This was initiated as a measure to ensure that the representative who signed a treaty had due authority, by seeing whether the state agrees to ratify the same.</p> | 2 |

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| <p>Q28.</p> | <p>A convention was held by an international body which created a treaty that avoided choice of laws issues in relation to contractual disputes.</p> <p>a. Identify the law. Private International Law</p> <p>b. Define this law. It describes the body of the law surrounding which law governs when there as a conflict between citizens of the different countries.</p> | <p>2</p> |
| <p>SECTION-C</p> | | |
| <p>Q29.</p> | <p>“ ‘Ambulance chasing’ is commonplace in the USA but is not representative of professional practice in India.” Justify the statement and explain the norms of advertising by advocates in India.</p> <p>'Ambulance chasers' are personal injury lawyers in USA whob are robust in their advertising- on billboards, newspapers, flyers, and even distasteful ads on the television.</p> <p>The position in the USA is different from that in India, where lawyers have a right to advertise but subject to reasonable restrictions. (Any 1 point on USA)</p> <p>Norms - In India advertising by lawyers has been strictly restricted by the Bar Council of India. An advocate is prohibited from promoting himself through circulars, advertisements, touts, personal communications, interviews other than through personal relations, furnishing or inspiring newspaper comments or producing his photographs to be published in connection with cases in which he has been engaged or concerned.</p> <p>Only 5 pieces of information can be put up on the internet, that is first, the name of the advocate or the firm, second, the contact details, third details of enrolment with the Bar, fourth, his professional and academic qualification and fifth the areas of practice.</p> | <p>3</p> |
| <p>Q30.</p> | <p>What are ‘Fundamental Duties’? How are Fundamental Duties different from Fundamental Rights?</p> <p>Article 51A of the Constitution prescribes fundamental duties. In that, certain conduct and behavior are expected of the citizens.</p> <p>The salient features of fundamental duties are given below:</p> <ul style="list-style-type: none"> • The fundamental duties cannot be enforced in a court of law for violation of the duties, and no one can be punished for the violation. • Fundamental duties contain standards to be followed by the citizens. • They remind citizens not to behave irresponsibly but help in building a free, democratic and strong society. <p>(Any 2 points)</p> <p>Difference –</p> <p>Fundamental rights are enforceable in the higher courts of</p> | <p>3</p> |

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| | <p>law. One can claim one's rights if they are violated, whereas fundamental duties are laid down for the citizens to follow, but for the violation, no one is punished and they are not enforceable in courts</p> | |
| Q31. | <p>What is Conciliation? In what ways does the role of a conciliator go beyond that of a mediator?</p> <p>Conciliation- Parties out of their own free will appoint a neutral third party to resolve their disputes. The role of a conciliator goes beyond that of a mediator. A conciliator may be interventionist in the sense that he/she may suggest potential solutions to the parties, in-order to resolve their claims and disputes.</p> | 3 |
| Q32. | <p>State the characteristics of Public Interest Litigation.</p> <ul style="list-style-type: none"> • Tools for social change, non adversarial litigation, pits interest of one party over another • It expands the right of third parties to approach the court • Remedial nature, creates a dynamic, welfare oriented society • incorporates directive principles of state policy, which cannot be enforced in courts | 3 |
| Q33. | <p>Vaibhav, without taking permission from his friend Araj, took his golf kit, he damaged the golf kit in such a way that it became useless.</p> <p>Identify the tort. This tort in the above position is the Intentional Tort of Conversion. Conversion happens when the defendant intentionally does or intermingles with the chattel of the claimant in such a serious tone that it becomes fair to ask for payment or money paid for the total prior value of the chattel.</p> <p>Explain the above tort. Vaibhav took his friend, Raj's Golf kit without his permission and damaged it to the point of making it useless. It is a trespass to movable goods It means illegally causing the disturbances to someone's movable property or goods without one's permission or consent.</p> <p>What is the remedy available in such cases? The remedy in conversion is forced sale. The defendant is forced to buy the chattel for a purchase price based on the original value. Every person who has wrongfully or illegally detained the property which is movable in nature is generally called as a wrongful detainer.</p> | 3 |
| Q34. | <p>Justify the relevance of the following constitutional provisions with respect to enforceability of Fundamental Rights.</p> <p>Article 13 Article 13 confers a power and imposes a duty and an obligation on the</p> | 3 |

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| | <p>courts to declare a law void if it is inconsistent with a fundamental right. Article 32 Article 32 confers power on the Supreme Court to enforce fundamental rights.</p> | |
| Q35. | <p>What is the principle of absolute liability? What did Justice Bhagwati hold in the famous 1987 case of M C Mehta and Shri Ram Food and Fertilizers Industries regarding this principle?</p> <p>Absolute liability is a standard of legal liability found in tort and criminal law of various legal jurisdictions. To be convicted of an ordinary crime, in certain jurisdictions, a person must not only have committed a criminal action but also have had a deliberate intention or guilty mind (mens rea).</p> <p>The Supreme Court allowed the plant to reopen after imposing strict compliance safety guidelines. In the subsequent case, the Supreme Court imposed the doctrine of absolute liability for corporations engaging in industries that are hazardous or inherently dangerous to life and health.</p> | 3 |
| Q36. | <p>Discuss the main problems confronting law courts that have resulted in the rise of Alternate Dispute Resolution (ADR) mechanisms.</p> <p>The main problems confronting law courts that have resulted in the rise of ADR mechanism are:</p> <ol style="list-style-type: none"> 1. Lack of number of courts and judges, inadequacy within the justice delivery system; 2. Increasing litigation in India due to increasing population, complex laws, obsolete continuation of some pre-existing legal statutes; 3. Increasing cost of litigation in prosecuting or defending a case, increasing court fees, lawyer's fees and incidental expenses; 4. Delay in disposal of cases resulting in huge pendency in all the courts. <p>(Any four points can be considered)</p> | 3 |
| SECTION-D | | |
| Q37. | <p>A. Deepak purchased woolen innerwear of a renowned company. As soon as he wore it, rashes developed all over the body and he was diagnosed of having 'acute dermatitis'. He had to undergo medication and a huge amount was spent on his treatment.</p> <p>Deepak wants to sue the company for compensation. In order to successfully argue that the company was careless in a way that harmed Deepak, what are the elements that must be proved against the company?</p> <p>B. In the situation given above, the court orders for laboratory testing of the innerwear to find out the reason for Deepak's ailment. The laboratory report stated that:</p> <ol style="list-style-type: none"> (i) The innerwear had traces of white petrol and naphtha but in a permissible limit required to protect the garments from being infested by moths. (ii) A normal person will not have any problem using it. (iii) It was concluded that Deepak's skin was very sensitive. | 5 |

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| | <p>Will the company be liable to pay any compensation in this situation when it is proved that it was not careless? Give reason for your answer.</p> <p>Deepak needs to prove the following elements against the company in order to hold them liable:</p> <ul style="list-style-type: none"> • Duty of Care – Duty of care is owed to those whom one can reasonably foresee as being potentially harmed. • Breach of duty of care- The defendant was unsuccessful in fulfilling the duty of care in accordance with the standard of 'reasonableness'. • Harm to the Claimant - As Deepak suffered from dermatitis, the company is liable. <p>b) The company is not liable. The company did not design garments for those with extra sensitive skin as it is not reasonably foreseeable.</p> | |
| Q38. | <p>In the context of International Dispute Resolution mechanism, answer the following questions:</p> <p>(a) When and why was the International Criminal Court (ICC) set up? (b) What is the Jurisdiction of the ICC? (c) When can the ICC take up a case?</p> <p>a) The International Criminal Court (ICC) is a tribunal set up through the Rome Statute in 2002 with the purpose of prosecuting criminals for 4 major crimes: Crimes against Humanity Genocide, War Crimes Crime of Aggression</p> <p>b) The ICC may prosecute criminals for crimes committed in a country which accepts the jurisdiction of the court. Thus, only if countries agree to submit to the jurisdiction can the ICC take up certain cases in which the person who has committed the crime is a national of the country or if it was committed in the territory of that country</p> <p>c) Only if countries agree to submit to the jurisdiction can the ICC take up certain cases in which the person who has committed the crime is a national of the country or if it was committed in the territory of that country. The cases may be referred by the country directly to the ICJ or through the Prosecutor of the ICC, who is the person appointed to try cases on behalf of the ICC. Note: Some points of content in b) and c) part of the question are the same. Students should get the credit for the same.</p> | 5 |
| Q39. | <p>Deep Mohanty and Raghav Nair are neighbours in an apartment complex. Large flowering pots kept on the balcony of Deep's flat have caused seepage</p> | 5 |

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| | <p>and weakened the ceiling above Raghav’s balcony. The latter demands that Deep remove the plants and a dispute ensues. Identify and explain the alternative dispute resolution mechanism that is best suited in the given situation. Also explain its process.</p> <p>Mediation – Process -The neutral third party facilitating the process of mediation is known as a mediator. Mediation does not follow a uniform set of rules, though mediators typically set forth rules that the mediation will observe at the outset of the process. There is no uniform set of rules for mediators to become licensed, and rules vary by state regarding requirements for mediator certification.</p> <p>Broadly speaking, mediation may be triggered in three ways:</p> <p>(i) Parties may agree to resolve their claims through a preagreed mediation agreement without initiating formal judicial proceedings (pre-litigation mediation).</p> <p>(ii) Parties may agree to mediate, at the beginning of formal court proceedings (popularly known as court referrals).</p> <p>(iii) Mediation may be taken recourse of, after formal court proceedings have started, or even post-trial, i.e. at the appellate stage.</p> <p>(To be assessed as a whole)</p> | |
| <p>Q40.</p> | <p>Explain the importance of the following provisions to create equal opportunity and ensure access to justice for all:</p> <p>(a) Article 39-A of the Indian Constitution (b) Section 304 (1) of the Criminal Procedure Code, 1973 (c) NALSA Regulations, 2010</p> <p>The 1976 amendment of the Constitution inserted Article 39-A in the Constitution. It provided that the state should provide free legal aid, by suitable legislation or schemes, to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities. It bought in equality to promote access to justice for all by creating equal opportunity.</p> <p>b) Section 304(1) provides that: In a trial before the sessions judge, if the accused has not sufficient means to engage a pleader, the court should assign a pleader for his defense at the expense of the State. Thus it gives a chance to the poor too to defend themselves and have a fair trial.</p> <p>c) NALSA Regulations- ensure that legal aid is granted to the poor. The Regulations are applicable to the Legal Service Committees of the Supreme Court, High Courts, the States, districts and taluks.</p> <p>Selection of panel lawyers- Applications are invited from legal practitioners with requisite professional experience to indicate the types of cases as they may be entrusted with. A panel is</p> | <p>5</p> |

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| | <p>formed. The panel lawyer is barred from taking any fee, remuneration or other valuable consideration from any person for whom legal services are rendered</p> <p>Payment of Fee</p> <p>The Regulations specify the rules regarding the payment of fees for panel lawyers which shall be in accordance with the State regulations without any delay on receipt of completion of proceedings for them.</p> <p>Senior Advocates- services of senior advocates may be availed if the Chairman of the legal services institution forms an opinion in cases of great public importance and where serious threats to life and liberty of the applicant exists.</p> | |
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