CA Foundation Course **(Mock Test Paper – Series : 1)**
DATE: 24.11.2024 **MAXIMUM MARKS: 100** **TIMING: $3^{1/4}$ Hours**

PAPER 2 : BUSINESS LAW

Question No. 1 is Compulsory.

Answer any four question from the remaining five questions.

Wherever necessary, suitable assumptions should be made and disclosed by way of note forming part of the answer. Working Notes should from part of the answer.

Answer 1:

(a) A contract made with or by a minor is void ab-initio: Pursuant to Section 11, a minor is not competent to contract and any agreement with or by a minor is void from the very beginning. **{1/2 M}**

(i) By following the above provision, Mr. Sharma will not succeed in recovering the outstanding amount by filing a case against Jaya, a minor.

(ii) Minor cannot bind parent or guardian: In the absence of authority, express or implied, a minor is not capable of binding his parent or guardian, even for necessaries. The parents will be held liable only when the child is acting as an agent for parents.
In the instant case, Mr. Sharma will not succeed in recovering the outstanding amount by filing a case against Mr. Shyam, father of Jaya.

(iii) No ratification after attaining majority: A minor cannot ratify the agreement on attaining majority as the original agreement is void ab-initio and a void agreement can never be ratified. **{2 M Each}**

Hence, in this case also, Mr. Sharma will not succeed in recovering the outstanding amount by filing a case against Jaya, after she attains majority. **{1/2 M}**

Answer:

(b) The House of Lords in Salomon Vs. Salomon & Co. Ltd. laid down that a company is a person distinct and separate from its members, and therefore, has an independent separate legal existence from its members who have constituted the company. But under certain circumstances the separate entity of the company may be ignored by the courts. When that happens, the courts ignore the corporate entity of the company and look behind the corporate facade and hold the persons in control of the management of its affairs liable for the acts of the company. Where a company is incorporated and formed by certain persons only for the purpose of evading taxes, the courts have discretion to disregard the corporate entity and tax the income in the hands of the appropriate assessee. **{2 M}**

1. The problem asked in the Question is based upon the aforesaid facts. The three companies were formed by the assessee purely and simply as a means of avoiding tax and the companies were nothing more than the facade of the assessee himself. Therefore, the whole idea of Mr. Rajeev was simply to split his income into three parts with a view to evade tax. No other business was done by the company. **{$2^{1/2}$ M}**
2. The legal personality of the three private companies may be disregarded because the companies were formed only to avoid tax liability. It carried on no other business, but was created simply as a legal entity to ostensibly receive the dividend and interest and to hand them over to the assessee as pretended loans. The same was upheld i n Re Sir Dinshaw Maneckjee Petit and Juggilal vs. Commissioner of Income Tax. **{$2^{1/2}$ M}**

Answer:

(c) **PARTNERSHIP V/S JOINT STOCK COMPANY**

BASIS	PARTNERSHIP	JOINT STOCK COMPANY
Legal status	A firm is not legal entity i.e., it has no legal personality distinct from the personalities of its constituent members.	A company is a separate legal entity distinct from its members (Salomon v. Salomon).
Agency	In a firm, every partner is an agent of the other partners, as well as of the firm.	In a company a member is not an agent of the other members or of the company, his actions do not bind either.
Distribution of profits	The profits of the firm must be distributed among the partners according to the terms of the partnership deed.	There is no such compulsion to distribute its profits among its members. Some portion of the profits, but generally not the entire profit, become distributable among the shareholders only when dividends are declared.
Extent of liability	In a partnership, the liability of the partners is unlimited. This means that each partner is liable for debts of a firm incurred in the course of the business of the firm and these debts can be recovered from his private property, if the joint estate is insufficient to meet them wholly.	In a company limited by shares, the liability of a shareholder is limited to the amount, if any, unpaid on his shares, but in the case of a guarantee company, the liability is limited to the amount for which he has agreed to be liable. However, there may be companies where the liability of members is unlimited.
Property	The firm's property is that which is the "joint estate" of all the partners as distinguished from the 'separate' estate of any of them and it does not belong to a body distinct in law from its members.	In a company, its property is separate from that of its members who can receive it back only in the form of dividends or refund of capital.
Transfer of shares	A share in a partnership cannot be transferred without the consent of all the partners.	In a company a shareholder may transfer his shares, subject to the provisions contained in its Articles. In the case of public limited companies whose shares are quoted on the stock exchange, the transfer is usually unrestricted.
Management.	In the absence of an express agreement to the contrary, all the partners are entitled to participate in the management	Members of a company are not entitled to take part in the management unless they are appointed as directors, in which case they may participate. Members, however, enjoy the right of attending general meeting and voting where they can decide certain questions such as election of directors, appointment of auditors, etc.
Number of membership	According to section 464 of the Companies Act, 2013 the number of partners in any association shall not exceed 100. As per companies Rules 2014 the present limit is 50.	A private company may have as many as 200 members but not less than two and a public company may have any number of members but not less than seven. A private Company can also be formed by one person known as one person Company.
Duration of existence	Unless there is a contract to the contrary, death, retirement or insolvency of a partner results in the dissolution of the firm.	A company enjoys a perpetual succession.
Audit & Registration	The audit/registration of the accounts of a firm is not compulsory.	The audit/registration of the accounts of a company is obligatory.

{1 M Each for Any 6 Points}

Answer 2:

(a) As per the provisions of Sub-Section (2) of Section 17 of the Sale of Goods Act, 1930, in a contract of sale by sample, there is an implied condition that:

(a) the bulk shall correspond with the sample in quality;

(b) the buyer shall have a reasonable opportunity of comparing the bulk with the sample. **{2 M}**

In the instant case, Mr. Das on examination of the sample on which he agreed to buy, failed to notice that it contained a mix of long and short grain of rice.

In the light of the provisions of Sub-Clause (b) of Sub-Section (2) of Section 17 of the Act, Mr. Das will not be successful as he examined the sample of Basmati rice (which exactly corresponded to the entire lot) without noticing the fact that even though the sample was that of Basmati Rice but it contained a mix of long and short grains. It could have been discovered by Mr. Das, by an ordinary examination of the goods that it contained a mix of long and short grains. This reflects lack of due diligence on part of Mr. Das. **{2 M}**

Therefore, Mr. Das, the buyer does not have any option available to him for grievance redressal.

In case Mr. Das specified his exact requirement as to length of rice, then there is an implied condition that the goods shall correspond with the description. If it is not so, then in such case, seller will be held liable. **{2 M}**

Answer:

(b) The meaning of the term ultra vires is simply "beyond (their) powers". The legal phrase "*ultra vires*" is applicable only to acts done in excess of the legal powers of the doers. This presupposes that the powers in their nature are limited.

It is a fundamental rule of Company Law that the objects of a company as stated in its memorandum can be departed from only to the extent permitted by the Act, thus far and no further. In consequence, any act done or a contract made by the company which travels beyond the powers not only of the directors but also of the company is wholly void and inoperative in law and is therefore not binding on the company. **{1 M}**

If the ultra vires loan has been utilised in meeting lawful debt of the company then the lender steps into the shoes of the debtor paid off and consequently he would be entitled to recover his loan to that extent from the company.

The leading case through which this doctrine was enunciated is that of Ashbury Railway Carriage and Iron Company Limited v. Riche-(1875). **{1 M}**

The facts of the case are:

The main objects of a company were:

(a) To make, sell or lend on hire, railway carriages and wagons;

(b) To carry on the business of mechanical engineers and general contractors.

(c) To purchase, lease, sell and work mines.

(d) To purchase and sell as merchants or agents, coal, timber, metals etc. **{1/2 M Each}**

The directors of the company entered into a contract with Riche, for financing the construction of a railway line in Belgium, and the company further ratified this act of the directors by passing a special resolution. The company however, repudiated the contract as being ultra-vires. And Riche brought an action for damages for breach of contract. His contention was that the contract was well within the meaning of the word general contractors and hence within its powers. Moreover it had been ratified by a majority of share-holders. However, it was held by the Court that the contract was null and void. It said that the terms general contractors was associated with mechanical engineers, i.e. it had to be read in connection with the company's main business. **{1 M}**

The whole position regarding the doctrine of ultra vires can be summed up as:

(i) When an act is performed, which though legal in itself, is not authorized by the object clause of the memorandum, or by the statute, it is said to be ultravires the company, and hence null and void.
(ii) An act which is ultravires, the company cannot be ratified even by the unanimous consent of all the shareholders.
(iii) An act which is ultravires the directors, but intravires the company can be ratified by the members of the company through a resolution passed at a general meeting.
(iv) If an act is ultravires the Articles, it can be ratified by altering the Articles by a Special Resolution at a general meeting.

{1/2 M Each}

Answer:
(c)

1. **LLP is a body corporate:** Section 3 of LLP Act provides that a LLP is a body corporate formed and incorporated under this Act and is a legal entity separate from that of its partners.
2. **Perpetual Succession:** The LLP can continue its existence irrespective of changes in partners. Death, insanity, retirement or insolvency of partners has no impact on the existence of LLP. It is capable of entering into contracts and holding property in its own name.
3. **Separate Legal Entity:** The LLP is a separate legal entity, is liable to the full extent of its assets but liability of the partners is limited to their agreed contribution in the LLP. In other words, creditors of LLP shall be the creditors of LLP alone.
4. **Mutual Agency:** Further, no partner is liable on account of the independent or un-authorized actions of other partners, thus individual partners are shielded from joint liability created by another partner's wrongful business decisions or misconduct. In other words, all partners will be the agents of the LLP alone. No one partner can bind the other partner by his acts.
5. **LLP Agreement:** Mutual rights and duties of the partners within a LLP are governed by an agreement between the partners. The LLP Act, 2008 provides flexibility to partner to devise the agreement as per their choice. In the absence of any such agreement, the mutual rights and duties shall be governed by the provisions of the LLP Act, 2008.
6. **Artificial Legal Person:** A LLP is an artificial legal person because it is created by a legal process and is clothed with all rights of an individual. It can do everything which any natural person can do, except of course that, it cannot be sent to jail, cannot take an oath, cannot marry or get divorce nor can it practice a learned profession like CA or Medicine. A LLP is invisible, intangible, immortal (it can be dissolved by law alone) but not fictitious because it really exists.
7. **Common Seal:** A LLP being an artificial person can act through its partners and designated partners. LLP may have a common seal, if it decides to have one [Section 14(c)]. Thus, it is not mandatory for a LLP to have a common seal. It shall remain under the custody of some responsible official and it shall be a fixed in the presence of at least 2 designated partners of the LLP.
8. **Limited Liability:** Every partner of a LLP is, for the purpose of the business of LLP, the agent of the LLP, but not of other partners (Section. 26). The liability of the partners will be limited to their agreed contribution in the LLP.
9. **Management of Business:** The partners in the LLP are entitled to manage the business of LLP. But only the designated partners are responsible for legal compliances.

{1/2 M Each for Any 14 Points}

10. **Minimum and Maximum number of Partners:** Every LLP shall have least two partners and shall also have at least 2 individuals as designated partners, of whom at least one shall be resident in India. There is no maximum limit on the partners in LLP.
11. **Business for Profit Only:** The essential requirement for forming LLP is carrying on a lawful business with a view to earn profit. Thus LLP cannot be formed for charitable or non-economic purpose.
12. **Investigation:** The Central Government shall have powers to investigate the a airs of an LLP by appointment of competence authority for the purpose.
13. **Compromise or Arrangement:** Any compromise or arrangement including merger and amalgamation of LLPs shall be in accordance with the provisions of the LLP Act, 2008.
14. **Conversion into LLP:** A firm, private company or an unlisted public company would be allowed to be converted into LLP in accordance with the provisions of LLP Act, 2008.
15. **E-Filling of Documents:** Every form or application of document required to be filed or delivered under the act and rules made thereunder, shall be filed in computer readable electronic form on its website www.mca.gov.in and authenticated by a partner or designated partner of LLP by the use of electronic or digital signature.
16. **Foreign LLPs:** Section 2(1)(m) defines foreign limited liability partnership "as a limited liability partnership formed, incorporated, or registered outside India which established a place of business within India". Foreign LLP can become a partner in an Indian LLP.

Answer 3:

(a) An anticipatory breach of contract is a breach of contract occurring before the time fixed for performance has arrived. When the promisor refuses altogether to perform his promise and signifies his unwillingness even before the time for performance has arrived, it is called Anticipatory Breach. **{1 M}**

Section 39 of the Indian Contract Act deals with anticipatory breach of contract and provides as follows: "When a party to a contract has refused to perform or disable himself from performing, his promise in its entirety, the promisee may put an end to the contract, unless he has signified, but words or conduct, his acquiescence in its continuance." **{1 M}**

Effect of anticipatory breach: The promisee is excused from performance or from further performance. Further he gets an option:

(1) To either treat the contract as "rescinded and sue the other party for damages from breach of contract immediately without waiting until the due date of performance; or

(2) He may elect not to rescind but to treat the contract as still operative, and wait for the time of performance and then hold the other party responsible for the consequences of non-performance. But in this case, he will keep the contract alive for the benefit of the other party as well as his own, and the guilty party, if he so decides on re-consideration, may still perform his part of the, contract and can also take advantage of any supervening impossibility which may have the effect of discharging the contract. **{2 M Each}**

Answer:

(b) According to the provisions of Section 2(45) of Companies Act, 2013, Government Company means any company in which not less than 51% of the paid-up share capital is held by- **{1 M Each}**

(i) the Central Government, or

(ii) by any State Government or Governments, or
(iii) partly by the Central Government and partly by one or more State Governments, and the section includes a company which is a subsidiary company of such a Government company.

According to Section 2(87), "subsidiary company" in relation to any other company (that is to say the holding company), means a company in which the holding exercises or controls more than one-half of the total voting power either at its own or together with one or more of its subsidiary companies. **{2 M}**

By virtue of provisions of Section 2(87) of Companies Act, 2013, Farukh Auto Private Limited is a subsidiary company of Mahendra Motors Limited because Mahendra Motors Limited is holding more than one-half of the total voting power in Farukh Auto Private Limited. Further as per Section 2(45), a subsidiary company of Government Company is also termed as Government Company. Hence, Farukh Auto Private Limited being subsidiary of Mahendra Motors Limited will also be considered as Government Company. **{2 M}**

Answer:

(c) Generally, the effect of the death of a partner is the dissolution of the partnership, but the rule in regard to the dissolution of the partnership, by death of partner, is subject to a contract between the parties and the partners are competent to agree that the death of one will not have the effect of dissolving the partnership as regards the surviving partners unless the firm consists of only two partners. In order that the estate of the deceased partner may be absolved from liability for the future obligations of the firm, it is not necessary to give any notice either to the public or the persons having dealings with the firm. **{4 M}**

In the light of the provisions of the Act and the facts of the question, Mr. X (creditor) can have only a personal decree against the surviving partners (Mr. A and Mr. B) and a decree against the partnership assets in the hands of those partners. A suit for goods sold and delivered would not lie against the representatives of the deceased partner. Hence, the legal heirs of Mr. C cannot be held liable for the dues towards Mr. X. **{3 M}**

Answer 4:

(a) **Provision :** According to section 51 of Indian Contract Act, 1872. When a contract consists of Reciprocal Promises to be simultaneously performed, no promisor needs to perform his promise unless the promisee is ready & willing to perform his reciprocal promise. **{1 M}**

Such promises constitute concurrent conditions & the performance of one of the promises is conditional on the performance of the other. If one of the promises is not performed the other too need not to be performed. **{1 M}**

Facts of case & conclusion : In the given case R did not pay the agreed price on the delivery date therefore R will be guilty of breach of promise & the breach would relive S of the obligation to perform his promise & would enable S to treat the contract as at an end. **{1 M}**

Answer:

(b) **Section 69** of the Indian Contract Act, 1872 provides that "A person who is interested in the payment of money which another is bound by law to pay, and who therefore pays it, is entitled to be reimbursed by the other". **{2 M}**

In the given problem W has made the payment of lawful dues of Z in which W had an interest.
Therefore, W is entitled to get the reimbursement from Z. **{2 M}**

Answer:

(c) **Inchoate Instrument:** It means an instrument that is incomplete in certain respects. The drawer/ maker/ acceptor/ indorser of a negotiable instrument may sign and deliver the instrument to another person in his capacity leaving the instrument, either wholly blank or having written on it the word incomplete. Such an instrument is called an inchoate instrument and this gives a power to its holder to make it complete by writing any amount either within limits specified therein or within the limits specified by the stamp's affixed on it. **The principle of this rule of an inchoate instrument is based on the principle of estoppel.** {$1^{1/2}$ M}

Liability on drawing inchoate instrument: The person signing and delivering the inchoate instrument is liable both to a holder and holder in due course. However, there is a difference in their respective rights:
The holder of such an instrument cannot recover the amount in excess of the amount intended to be paid by the signor.
The holder in due course can, however, recover any amount on such instrument provided it is covered by the stamp affixed on the instrument. {1 M}

Section 20 of the Act reads as "Where one person signs and delivers to another a paper stamped in accordance with the law relating to negotiable instruments then in force in India, and either wholly blank or having written thereon an incomplete negotiable instrument, he thereby gives prima facie authority to the holder thereof to make or complete, as the case may be, upon it a negotiable instrument, for any amount specified therein and not exceeding the amount covered by the stamp. The person so signing shall be liable upon such instrument, in the capacity in which he signed the same, to any holder in due course for such amount. Provided that no person other than a holder in due course shall recover from the person delivering the instrument anything in excess of the amount intended by him to be paid thereunder". {2 M}

Ambiguous Instrument: Section 17 of the Act, reads as: "Where an instrument may be construed either as a promissory note or bill of exchange, the holder may at his election treat it as either, and the instrument shall be thenceforward treated accordingly." {1 M}

Thus, an instrument which is vague and cannot be clearly identified either as a bill of exchange, or as a promissory note, is an ambiguous instrument. In other words, such an instrument may be construed either as promissory note, or as a bill of exchange. Section 17 provides that the holder may, at his discretion, treat it as either and the instrument shall thereafter be treated accordingly. Thus, after exercising his option, the holder cannot change that it is the other kind of instrument. {$1^{1/2}$ M}

Answer:

(d) **Reserve Bank of India-**

- is India's Central Bank and regulatory body responsible for regulation of the Indian banking system.
- It is under the ownership of Ministry of Finance, Government of India.
- It is responsible for the control, issue and maintaining supply of the Indian rupee.
- It also manages the country's main payment systems and works to promote its economic development.
- Bharatiya Reserve Bank Note Mudran (BRBNM) is a specialised division of RBI through which it prints and mints Indian currency notes (INR) in two of its currency printing presses located in Nashik (Western India) and Dewas (Central India).

{1 M Each for Any 6 Points}

- RBI established the National Payments Corporation of India as one of its specialised division to regulate the payment and settlement systems in India.
- Deposit Insurance and Credit Guarantee Corporation was established by RBI as one of its specialised division for the purpose of providing insurance of deposits and guaranteeing of credit facilities to all Indian banks.

Answer 5:

(a) (i) **Contract of guarantee:** As per the provisions of section 126 of the Indian Contract Act, 1872, a contract of guarantee is a contract to perform the promise made or discharge the liability, of a third person in case of his default.
Three parties are involved in a contract of guarantee:
Surety- person who gives the guarantee,
Principal debtor- person in respect of whose default the guarantee is given,
Creditor- person to whom the guarantee is given {$1^{1/2}$ M}

(ii) According to the provisions of section 133 of the Indian Contract Act, 1872, where there is any variance in the terms of contract between the principal debtor and creditor without surety's consent, it would discharge the surety in respect of all transactions taking place subsequent to such variance.
In the instant case, Kuldeep (Creditor) cannot sue Sumit (Surety), because Sumit is discharged from liability when, without his consent, Shashank (Principal debtor) has changed the terms of his contract with Kuldeep (creditor). It is immaterial whether the variation is beneficial to the surety or does not materially affect the position of the surety. {$1^{1/2}$ M}

Answer:

(b) **An invitation to offer is different from offer**. Quotations, menu cards, price tags, advertisements in newspaper for sale are not offer. These are merely invitations to public to make an offer. An invitation to offer is an act precedent to making an offer. Acceptance of an invitation to an offer does not result in the contract and only an offer emerges in the process of negotiation. {2 M}

In the instant case, Mehul reaches to super market and selects a washing machine with a discounted price tag of Rs. 15000 but cashier denied to sale at discounted price by saying that discount is closed from today and request to make full payment. But Mehul insists to sale at discounted price. {1 M}

On the basis of above provisions and facts, the price tag with washing machine was not offer. It is merely an invitation to offer. Hence, it is the Mehul who is making the offer not the super market. Cashier has right to reject the Mehul's offer. Therefore, Mehul cannot enforce cashier to sale at discounted price. {1 M}

Answer:

(c) (i) According to section 202 of the Indian Contract Act, 1872, where the agent has himself an interest in the property which forms the subject matter of the agency, the agency cannot, in the absence of an express contract, be terminated to the prejudice of such interest.
In other words, when the agent is personally interested in the subject matter of agency, the agency becomes irrevocable. {$2^{1/2}$ M}

In the given question, A gives authority to B to sell A's land, and to pay himself, out of the proceeds, the debts due to him from A. As per the facts of the question and provision of law, A cannot revoke this authority, nor it can be terminated by his insanity. {1 M}

(ii) According to section 191 of the Indian Contract Act, 1872, a "Sub-agent" is a person employed by, and acting under the control of, the original agent in the business of the agency.
Section 210 provides that, the termination of the authority of an agent causes the termination (subject to the rules regarding the termination of an agent's authority) of the authority of all sub-agents appointed by him. **{$2^{1/2}$ M}**

In the given question, B is the agent of A, and C is the agent of B. Hence, C becomes a sub- agent.
Thus, when A revokes the authority of B (agent), it results in termination of authority of sub-agent appointed by B i.e. C (sub-agent). **{1 M}**

Answer:

(d) (i) Yes, Mr. Jai can refuse to replace the marble as he has supplied the marble as per the requirement of the buyer i.e. Mr. Kamal.
Duty of Mr. Kamal (the buyer) is that he has to examine the marbles and tiles carefully and should follow the caution given by Mr. Jai i.e. the seller that tiles can bear only a reasonable weight before laying them in the parking space of his house. **{2 M}**

Duty of Mr. Jai (the seller) is that the goods supplied (i.e. tiles and marbles) shall be reasonably fit for the purpose for which the buyer wants them.
According to the doctrine of Caveat Emptor, it is the duty of the buyer to satisfy himself before buying the goods that the goods will serve the purpose for which they are being bought. **{2 M}**

In this case Mr. Kamal has accepted the marbles without examination. Hence, there is no implied condition as regards to defects in marbles. Mr. Jai can refuse to replace the marble as he has supplied the marble as per the requirement of the buyer i.e., Mr. Kamal. **{2 M}**

Alternate Answer

(i) According to doctrine of caveat emptor the buyer cannot hold the seller responsible for defect in goods supplied as it is the duty of the buyer to make a proper selection or choice of the goods. Section 16(1) also provides that there is no implied conditio n as to quality of fitness of the goods sold for any particular purpose. However, as an exception to this doctrine, the section further provides that if the buyer had made known to the seller the purpose of his purchase; relied on the seller's skill and judgement; and Seller's business is to supply goods of that description then it shall be the duty of the seller to supply such goods as are reasonably fit for that purpose.
In the instant case, Mr. Kamal has made known to Mr. Jai the purpose of his purchase and relied on his skill and judgement. It was the duty of Mr. Jai to supply the marbles fit for that purpose including for second floor. Since the marbles supplied were not fit for second floor Mr. Jai is liable to replace the marbles to the extent not fit for that purpose. **{2 M}**

Duty of Mr. Kamal (the buyer) As per the above doctrine it was the duty of the buyer Mr. Kamal to make known to Mr. Jai the purpose of his purchase of marbles. He has fully performed his part arranging the visit of Mr. Jai to the site.
Duty of Mr. Jai (the seller) is that the goods supplied (i.e. tiles and marbles) shall be reasonably fit for the purpose for which the buyer wants them. If Mr. Kamal relied on the skill and judgement of Mr. Jai he failed to perform his duty by neglecting the request of Mr. Kamal to visit second floor resulting in supplies of unfit marbles for the purpose of Mr. Kamal. **{2 M}**

Considering the above provisions Mr. Jai will be liable to replace the marbles not fit for the second floor as Mr. Jai is bound to the implied condition to supply the marbles as per the requirement of Mr. Jai when he has made him known about that and relied on his skill and judgement.

(ii) According to the doctrine of Caveat Emptor, it is the duty of the buyer to satisfy himself before buying the goods that the goods will serve the purpose for which they are being bought.
Here, Mr. Jai supplied the boxes of tiles with a word of caution that the tiles can bear only a reasonable weight. Even though the tiles were laid in the car parking space of Mr. Kamal and got damaged later because of vehicle used for unloading of cement bags were beyond the reasonable weight. Hence, the seller i.e., M/ s Makrana Marbles is not liable as the buyer Mr. Kamal as before laying down the tiles, has to satisfy himself that the tiles will serve the specific purpose i.e., can be used for car parking space only.
Therefore, the replacement of the damaged tiles cannot be imposed on M/s Makrana Marbles. **{2 M}**

Answer 6:

(a) Capacity to make, etc., promissory notes, etc. Every person capable of contracting, according to the law to which he is subject, may bind himself and be bound by the making, drawing, acceptance, endorsement, delivery and tiation of a promissory note, bill of exchange or cheque.
However, a minor may draw, endorse, deliver and tiate such instruments so as to bind all parties except himself. **{3 M}**

As per the facts given in the question, Mr. C Muttu draws a cheque in favour of Manav, a minor. Manav endorses the same in favour of Mrs. Anjali to settle his rental dues. The cheque was dishonoured when it was presented by Mrs. Anjali to the bank on the ground of inadequacy of funds. Here in this case, Manav being a minor may draw, endorse, deliver and tiate the instrument so as to bind all parties except himself. Therefore, Manav is not liable. Mrs. Anjali can, thus, proceed against Mr. C Muttu to collect her dues. **{3 M}**

Answer:

(b) As per Sale of Goods Act, 1930 states that no man can sell the goods and give a good title unless he is the owner of the goods. However, there are certain exceptions to this rule of transfer of title of goods.

One of the exceptions is sale by person in possession under a voidable contract.

1. If a person has possession of goods under a voidable contract.
2. The contract has not been rescinded or avoided so far
3. The person having possession sells it to a buyer
4. The buyer acts in good faith
5. The buyer has no knowledge that the seller has no right to sell.

{1 M Each}

Then, such a sale by a person who has possession of goods under a voidable contract shall amount to a valid sale and the buyer gets the better title.
Based on the provisions, Mr. A is in possession of the ring under a voidable contract as per provisions of Indian Contract Act, 1872. Also, B has not rescinded or avoided the contract, Mr. A is in possession of the ring and he sells it new buyer Mr. C who acts in good faith and has no knowledge that A is not the real owner. Since all the conditions of Section 29 of Sale of Goods Act, 1930 are fulfilled, therefore sale of ring made by Mr. A to Mr. C is a valid sale. **{2 M}**

Answer:

(c) As per Indian Contract Act 1872 defines 'Bailment' as the delivery of goods by one person to another for some purpose, upon a contract that they shall, when the purpose is accomplished, be returned or otherwise disposed of according to the direction of the person delivering them. **{1 M}**

According to the Indian Contract Act, 1872, the delivery to the bailee may be made by doing anything which has the effect of putting the goods in the possession of the intended bailee or of any person authorised to hold them on his behalf. Thus, delivery is necessary to constitute bailment. **{1 M}**

Thus, the mere keeping of the box at Y's shop, when A herself took away the key cannot amount to delivery as per the meaning of delivery given in the provision in section 149. Therefore, in this case there is no contract of bailment as Mrs. Aarti did not deliver the complete possession of the good by keeping the keys with herself. **{2 M}**

Answer:

(d) Section 25 of Indian Contract Act, 1872 provides that an agreement made without consideration is valid if it is expressed in writing and registered under the law for the time being in force for the registration of documents and is made on account of natural love and affection between parties standing in a near relation to each other. **{$1^{1/2}$ M}**

In the instant case, the transfer of house made by Mr. Ajeet Birla on account of natural love and affection between the parties standing in near relation to each other is written but not registered. Hence, this transfer is not enforceable and his daughter cannot get the house as gift under the Indian Contract Act, 1872. **{$1^{1/2}$ M}**

__**__