

(GCF-1 to GCF-7, SCF-1 to SCF-3 & VCF-1 to VCF-3)

DATE: 22.10.2018

MAXIMUM MARKS: 100

TIMING: 3¼ Hours

PAPER 3: BUSINESS LAW & BUSINESS CORRESPONDENCE & REPORTING

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 form part of the answer.

Answer 1:

(a) **Minor can be a beneficiary or can take benefit out of a contract:** Though a minor is not competent to contract, nothing in the Contract Act prevents him from making the other party bound to the minor. Thus, a promissory note duly executed in favour of a minor is not void and can be sued upon by him, because he though incompetent to contract, may yet accept a benefit. **2M**

A minor cannot become partner in a partnership firm. However, he may with the consent of all the partners, be admitted to the benefits of partnership (Section 30 of the Indian Partnership Act, 1932). **2M**

Example: A mortgage was executed in favour of a minor. Held, he can get a decree for the enforcement of the mortgage.

(b) The doctrine of Indoor Management is laid down in the **Royal British Bank vs. Turquand**. If an outsider does an act authorised by MOA or AOA he can presume that all necessary formalities have been complied by the company. Outsider is not required to inquire into internal affairs of the company. **2M**

However, this doctrine is not applicable where the person dealing with the company has notice of irregularity or when an instrument purporting to be enacted on behalf of the company is a forgery.

In the instant problem the doctrine of indoor management will not apply as the certificate is a forgery which does not give a good title to A and thereby to B. The title of the buyer cannot be better than that of the seller (Sale of Goods Act, 1930). Hence, 'B' will not succeed in getting the share registered in his name. **2M**

Case: Ruben v. Great Fingall Consolidated: In Ruben v. Great Fingall Consolidated, it was held that Doctrine of Indoor Management could not be extended to cases of forgery. Transaction effected by forgery is void ab initio.

(c)

- The present problem is concerned with the contractual liability of the Partners. As stated in the **Section 25** of the Indian Partnership Act, 1932, in Partnership the liability of the partners is unlimited.
- The Share of each partner in the partnership in the partnership property along with his private property is liable for the discharge of partnership liabilities.
- The liability of the partners is not only unlimited but is also stated that a partner is both jointly and severally liable to third parties.
- However, every partner is liable jointly with other partner and also severally for the acts of the firm done while he is a partner.
- On the basis of above provisions, Parul can compel Anurag for the payment of entire loan. Anurag must pay the said loan and then he can recover the share of Rohit's loan from his property.

(1M each for every correct
4 points)

Answer 2:**(a) Section 8 Company- Significant points**

- Formed for the promotion of commerce, art, science, religion, charity, protection environment, sports, etc.
- Requirement of minimum share capital does not apply.
- Uses its profits for the promotion of the objective for which formed.
- Does not declare dividend to members.
- Operates under a special licence from Central Government.
- Need not use the word Ltd./ Pvt. Ltd. in its name and adopt a more suitable name such as club, chambers of commerce etc.
- Licence revoked if conditions contravened.
- Before revocation notice to company opportunity of being heard will be given.
- On revocation, Central Government may direct it to
 - Converts its status and change its name
 - Wind – up
 - Amalgamate with another company having similar object.
- Can call its general meeting by giving a clear 14 days notice instead of 21 days.
- Requirement of minimum number of directors, independent directors etc. does not apply.
- Need not constitute Nomination and Remuneration Committee and Shareholders Relationship Committee.
- A partnership firm can be a member of Section 8 company.
- E.g. FICCI, ASSOCHAM, National Sports Club of India.

(1/2M for each correct 12 points)

Penalty/punishment in contravention: If a company makes any default in complying with any of the requirements laid down in this section, the company shall, be punishable with fine varying from ten lakh rupees to one crore rupees and the directors and every officer of the company who is in default shall be punishable with imprisonment for a term which may extend to three years or with fine varying from twenty-five thousand rupees to twenty- five lakh rupees, or with both and where it is proved that the affairs of the company were conducted fraudulently, every officer in default shall be liable for action under section 447 which deals with Fraud.

1M**(b) Need of new form of Limited Liability Partnership:**

- The lawmakers envisage the needs for bringing out the new legislation for creation of the Limited Liability Partnership to meet with the contemporary growth of the Indian economy.
- A need has been felt for a new corporate form that would provide an alternative to the traditional partnership with unlimited personal liability on the one hand and the statute-based governance structure of the limited liability company on the other hand.
- In order to enable professional expertise and entrepreneurial initiative to combine, organize and operate inflexible, innovative and efficient manner.
- The Limited Liability Partnership (LLP) is viewed as an alternative corporate business vehicle. It provides the benefits of limited liability but allows its members the flexibility of organizing their internal structure as a partnership based on a mutually arrived agreement.

(1M each for every correct 5 points)

- The LLP form enables entrepreneurs, professionals and enterprises providing services of any kind or engaged in scientific and technical disciplines, to form commercially efficient vehicles suited to their requirements.
- Owing to flexibility in its structure and operation, the LLP is a suitable vehicle for small enterprises and for investment by venture capital.

Answer 3:**(a) MINOR'S POSITION IN PARTNERSHIP (Section 30)**

A minor cannot become a partner in partnership firm but he can be admitted for the benefits of the firm with the consent of all the partners.

Rights:

- A minor has a right to claim his agreed share of the profits in firm.
- Minor can access and inspect and can take copy of the accounts of the firm.
- He can sue the partners for accounts or for payment of his share but only when severing his connection with the firm, and not otherwise.
- On attaining majority, minor has a right to decide within 6 months to become a partner or not to become a partner and if he decide to become a partner in partnership firm then his share in profits and loss will remain same.

Liabilities:

- The liability of minor is limited upto the extent of his share in profits of the firm.
- Minor has no personal liability for the debts of the firm incurred during his minority.
- Minor cannot be declared insolvent, but if the firm is declared insolvent his share in the firm vests in the Official Receiver/Assignee.
- Minor has to decide within 6 months on attaining the majority that whether he wants to become a partner in a firm or not and if he does not decide then he automatically becomes the partner in the firm.
- If a minor becomes partner in a firm then he shall be personally liable to third parties for all acts of the firm done **since he was admitted to the benefits of partnership**
- If a minor decides not to become a partner then his rights and liabilities continue to be those of a minor up to the date of giving public notice. His share shall not be liable for any acts of the firm done after the date of the notice.

(b) A lien is a right to retain possession of goods until the payment of the price. It is available to the unpaid seller of the goods who is in possession of them where-

- (i) the goods have been sold without any stipulation as to credit;
- (ii) the goods have been sold on credit, but the term of credit has expired;
- (iii) the buyer becomes insolvent.

The unpaid seller can exercise 'his right of lien even if the property in goods has passed on to the buyer. He can exercise his right even if he is in possession of the goods as agent or bailee for the buyer.

Termination of lien: An unpaid seller loses his right of lien thereon-

1. When he delivers the goods to a carrier or other bailee for the purpose of transmission to the buyer without reserving the right of disposal of the goods;
2. When the buyer or his agent lawfully obtains possession of the goods;
3. By waiver
4. By estoppel

He can exercise right of lien even if he has obtained decree of court for price of goods.

Answer 4:

(a)

- (i) Under this heading, we shall discuss the principles of Novation, Rescission and Alteration. The law is contained in Section 62 to 67 of the Contract Act.

(a) Novation:

When a new contract is substituted at the place of old one then it will be a case of novation. In case of novation the old contract comes to an end but no new contract comes into existence.

1½M

- (b) Rescission** In the case of rescission, only the old contract is cancelled and no new contract comes into existence.

Note: novation also involves rescission. Both in novation and in rescission, the contract is discharged by mutual agreement.

1½M

- (c) Alteration:** In case of alteration the terms and conditions of a contract is altered.

Difference between Novation & Alteration

Novation	Alteration
(i) In case of Novation a totally new contract is substituted at the place of old one.	In case of Alteration only terms and conditions of a contract is changed.
(ii) In case of Novation there may be the change in the parties of a contract.	In case of alteration the parties of a contract remain same.

1½M

- (ii) Remission:** In this case, Promisee may waive or remit performance of promise, or may extend the time for such performance or may accept instead of its any satisfaction which he thinks fit

Note: Novation, Rescission alteration and Remission take place with the mutual consent of the parties.

1½M

(b) Liability for settlement of accounts:

- (i) In case of losses:** Losses including deficiencies of capital are to be paid:

- First out of profits then.
- Out of capital and lastly.
- By the Partners personally or individually in the proportions in which they are entitled to share profits.

(1M Each)

- (ii) In case of Profits:** The amount or assets available in the firm will be applied in following manner and order:

- Payment of debts of the third parties
- Payment of advances received from partners
- Payment of capital of partners
- Remaining surplus will be distributed among partners in their profit sharing ratio.

(1M for each correct 3 points)

Answer 5:

- (a)** Section 16 of the sale of goods act states that goods sold should be capable of being used for the purpose for which it has been sold. Kerosene oil should be capable of being used as fuel which was not so.

2M

In the present case Kamini shall be entitled to receive back the price as well as compensation for the loss. Condition as to merchantability is breached.

2M

- (b) If goods are purchased under patent or brand name implied condition of quality or fitness is not applicable.
The seller is not responsible because he has supplied the goods as per the orders and specifications of buyer. **2M**
- If the buyer could not use the goods for his purpose, it is not the failure of seller. Buyer should have been careful while giving the order for the goods, whether such goods would serve his purpose or not. **1M**
- But in this case buyer is also not responsible the company having patent or brand name is responsible as goods are sold under patent or brand name. **1M**

(c) **PARTNERSHIP V/S CO-OWNERSHIP**

Basis of difference	Partnership	Co-ownership
Formation	Partnership always arises out of a contract, express or implied.	Co-ownership may arise either from agreement or by the operation of law, such as by inheritance.
Implied agency	A partner is the agent of the other partners.	A co-owner is not the agent of other co-owners.
Nature of interest	There is community of interest which means that profits and losses must have to be shared	Co-ownership does not necessarily involve sharing of profits and losses.
Transfer of interest	A share in the partnership is transferred only by the consent of other partners	A co-owner may transfer his interest or rights in the property without the consent of other co-owners.

(1M for each point)

Answer 6:**(a) Agreement in restraint of trade (Section 27):**

- An agreement by which any person is restrained from exercising a lawful profession, trade or business of any kind, is to that extent void. **1M**
- But this rule is subject to the following **exceptions**, namely:
 - Where a person **sells the goodwill** of a business and agrees with the buyer to refrain from carrying on a similar business, within specified local limits, so long as the buyer or his successor in interest carries on a like business therein, such an agreement is valid (goodwill is the advantage enjoyed by a business on account of public patronage and encouragement from habitual customers). The local limits within which the seller of the goodwill agrees not to carry on similar business must be reasonable.
 - Under Section 36 of the Indian **Partnership** Act, 1932 if an outgoing partner makes an agreement with the continuing partners that he will not carry on any business similar to that of the firm within a specified period or within specified local limits, such an agreement, thought in restraint of trade, will be valid, if the restrictions imposed are reasonable. Similarly, under Section 11 of that Act an agreement between partners not to carry on competing business during the continuance of partnership is valid.
 - But an agreement of **service** by which an employee binds himself, during the term of his **agreement**, not to compete with his employer is not in restraint of trade. **(1M each for correct every 5 points)**

- 4. LLP Act, 2008
- 5. Trade Combinations
- 6. Sole or Exclusive dealing agreements.

(b) OPC (One Person Company) - significant points

- Only one person as member.
- Minimum paid up capital – no limit prescribed.
- The memorandum of OPC shall indicate the name of the other person, who shall, in the event of the subscriber's death or his incapacity to contract, become the member of the company.
- The other person whose name is given in the memorandum shall give his prior written consent in prescribed form and the same shall be filed with Registrar of companies at the time of incorporation.
- Such other person may be given the right to withdraw his consent.
- The member of OPC may at any time change the name of such other person by giving notice to the company and the company shall intimate the same to the Registrar.
- Any such change in the name of the person shall not be deemed to be an alteration of the memorandum.
- Only a natural person who is an Indian citizen and resident in India (person who has stayed in India for a period of not less than 182 days during the immediately preceding one calendar year)-
 - shall be eligible to incorporate a OPC;
 - shall be a nominee for the sole member of a OPC.
- No person shall be eligible to incorporate more than one OPC or become nominee in more than one such company.
- No minor shall become member or nominee of the OPC or can hold share with beneficial interest.
- Such Company cannot be incorporated or converted into a company under section 8 of the Act. Though it may be converted to private or public companies in certain cases.
- Such Company cannot carry out Non-Banking Financial Investment activities including investment in securities of anybody corporate.
- OPC cannot convert voluntarily into any kind of company unless two years have expired from the date of incorporation, except where the paid up share capital is increased beyond fifty lakh rupees or its average annual turnover during the relevant period exceeds two crore rupees.
- If One Person Company or any officer of such company contravenes the provisions, they shall be punishable with fine which may extend to ten thousand rupees and with a further fine which may extend to one thousand rupees for every day after the first during which such contravention continues.

(1/2M for each correct 10 points)

PAPER 3: BUSINESS CORRESPONDENCE & REPORTING

The Question Paper comprises of 5 questions of 10 marks each.
Question No. 1 is compulsory. Out of questions 2 to 5, attempt any three.

Answer 1:

- (a) **Written communication** includes letters and documents, e-mails, reports, handbooks, brochures, various chat platforms, SMS and any form of written interaction between people. **(1 M)**

The written form of communication is essential and indispensable for formal business interactions (contracts, memos, press releases, formal business proposals etc.) and legal instructions and documentation. The effectiveness of written communication depends on the writing style, grammar, vocabulary, and clarity. **(1 M)**

- (b)
- | | | |
|------------|-----------|-----------|
| (i) | (ii) | (iii) |
| Turned out | Came into | Broke out |
- (1 M) Each**

- (c) **Characteristics of a good man: (1 M)**

According to the author, an ideally good man is intensely religious and avoids bad habits such as smoking and drinking. He does not use obscene or indecent language and has a fear of wrong doing and wrong thinking. He is professionally dutiful and takes active interest in promoting virtues such as patriotism, industry and sobriety among workers and their children. If possible he prevents the employment of professors with subversive ideas. **(4 M)**

Answer 2:

- (a) **Attitude barriers-** Personal attitudes of employees can affect communication within the organization. A proactive, motivated worker will facilitate the communication process. **(1 M)**

Whereas a dissatisfied, disgruntled, shy, introvert or lazy employee can delay, hesitate in taking the initiative, or refuse to communicate. Attitude problems can be addressed by good management and regular interaction with fiesta members. **(1 M)**

- (b)
- (i) You are requested to bring me some tea.
(ii) The ball WAS HIT BY Varun.
(iii) Has his homework been done by him. **(1 M) Each**

- (c)

Answer Sheet

1.	2.	3.	4.	5.
(a)	(a)	(b)	(a)	(b)

(1 M) Each

Answer 3:

- (a) **Aesthetic communication:** Art forms such as dancing, painting, sculptor, music are also means of communication. They distinctly convey the ideas and thoughts of the artist. **(1 M)**

- (b)

- (i) **Chain of Command:** The communication pattern that follows the chain of command from the senior to the junior is called the chain network. Communication starts at the top, like from a CEO, and works its way down to the different levels of employees. It involves a lot of organizational hierarchy. **(1 M)**

Drawbacks: The chain network often takes up time, and communication may not be clear. It creates a lot of miscommunication as the message travels a long path. **(1 M)**

(ii)

- (a) omnipresent, omniscient, omnivorous etc.
 (b) protozoa, prototype, protocol etc.
 (c) racist, theist, misogynist etc.
 (d) biology, geology, zoology, psychology, astrology etc.
- } (1/2 M Each)

(c) Natural resources are of different types however these have largely been classified as renewable and non-renewable. Some of the examples of renewable natural resources are sunlight, water, wind, wood and soil. While few of these natural resources are available in abundance in nature and can be replenished fast others take time to renew. (1 M)

Coal, oil and natural gases are some of the examples of non-renewable natural resources. Though available naturally in the environment, these natural resources cannot be replenished or take hundreds of years to recycle. (1 M)

The presence of natural resources is essential for maintaining the environmental balance. However, we do not think twice before utilizing them. We are exploiting our natural resources and they are getting depleted at a rapid speed. We must understand the importance of natural resources and the need to conserve them for future use. We must particularly be cautious while using the non-renewable resources as well as the renewable resources that take time to replenish. These resources are our basic requirements. They are essential for our survival. If we do not take serious measures to conserve them, then it will become almost impossible for us to live on Earth. (2 M)

The government of every country needs to emphasize the importance of conservation of natural resources and ensure its citizens avoid wastage of any kind. (1 M)

Answer 4:

(a) Based on Communication channels, there are three kinds of categories:

- (i) Verbal
 (ii) Non Verbal
 (iii) Visual
- } (1 M)

- **Verbal:** Verbal communication involves the use of words and language in delivering the intended message.
 - **Non Verbal:** Nonverbal communication is the process of communicating by sending and receiving wordless messages. These messages can aid verbal communication, convey thoughts and feelings contrary to the spoken words or express ideas and emotions on their own.
 - **Visual:** Visual communication through visual aids such as signs, typography, drawing, graphic design, illustration, colour and other electronic resources usually reinforces written communication. Visuals like graphs, pie charts and other diagrammatic presentations convey clearly and concisely a great deal of information. They are an essential part of official presentations these days.
- } Any One Explanation (1 M)

(b)

- (i) To respect or admire someone.
 (ii) Cause to be lower.
 (iii) To take control of something.
 (iv) Ready to listen.
- } Any Three (1 M) Each

(c) (i)

1. Self Medication and Medical Prescription

a) Occasional self-medication practiced in past } (1/2 M)

b) Medical diagnosis recent-100 yrs. approx. } (1/2 M)

c) Difference between a prescribed medicine and self-medication } (1/2 M)

2. Doc.: trained -knows when to treat symptoms } (1/2 M)

(a) When to treat causes. } (1/2 M)

(b) Individ. doing self medication ignorant abt. above. } (1/2 M)**Abbreviations:**

1. Yrs- Years

2. Approx.- Approximately

3. Doc.-Doctor

4. Individ.-Individual

5. Abt. -about

6. Prblms.-Problems

(1M)

(ii) Self Medication- A Growing Trend. } (1M)

Answer 5:

(a)

(i) Complex sentence - dependent clause: If you cannot do this job, independent clause-I will ask someone else to do it for me. } (1^{1/2} M)(ii) Compound sentence-independent clause -Neither is the architecture of the house appealing - independent clause-nor is the interior of the house done well. } (1^{1/2} M)

(b)

(i) (c) needy } (1 M) Each

(ii) (d) basic }

(c)

Cultural Event for Charity

For all employees

This is an official communication informing about a cultural event being organized in the office premises on the coming weekend (6th and 7th Jan, 2018). } (2 M)

The events would be as follows:

- Singing competition
- Dance competition
- Stand up Comedy
- Dumb charades
- Food stalls

(2 M)

Participation fees is Rs. 50/ per member. Family and friends are cordially invited.

The proceeds of the event will be given to Aaroyga NGO, working for the benefit of old citizens. }

Please get in touch with the HR team for more registration and details.

Looking forward to an active participation.

Sheela Mishra

Manager, HR

(1 M)
