

**(ALL CA FOUNDATION BATCHES)****DATE: 12.01.2021****MAXIMUM MARKS: 100****TIMING: 3 Hours****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) {Problem asked in the question is based on the provisions of the Indian Contract Act, 1872 as contained in section 10. According to the provisions there should be an intention to create legal relationship between the parties. Agreements of a social nature or domestic nature do not contemplate legal relationship and as such are not contracts, which can be enforced. This principle has been laid down in the case of Balfour vs. Balfour (1912 2 KB. 571).} **{3 M}** {Accordingly, applying the above provisions and the case decision, in this case son cannot recover the amount of Rs. 1 lakh from father for the reasons explained above.} **{1 M}**

**Answer:**

- (b) Doctrine of Indoor Management: The Doctrine of Indoor Management is the exception to the doctrine of constructive notice. The doctrine of constructive notice does not mean that outsiders are deemed to have notice of the internal affairs of the company. For instance, if an act is authorised by the articles or memorandum, an outsider is entitled to assume that all the detailed formalities for doing that act have been observed. **{2 M}**
- The doctrine of Indoor Management is important to persons dealing with a company through its directors or other persons. They are entitled to assume that the acts of the directors or other officers of the company are validly performed, if they are within the scope of their apparent authority. So long as an act is valid under the articles, if done in a particular manner, an outsider dealing with the company is entitled to assume that it has been done in the manner required.
- In the given question, Mr. X has made payment to Mr. Z and he (Mr. Z) gave to receipt of the same to Mr. X. Thus, it will be rightful on part of Mr. X to assume that Mr. Z was also authorised to receive money on behalf of the company. Hence, Mr. X will be free from liability for payment of goods purchased from M/s ABC Limited, as he has paid amount due to an employee of the company. **{2 M}**

**Answer:**

- (c) Section 37 of the Indian Partnership Act, 1932 provides that where a partner dies or otherwise ceases to be a partner and there is no final settlement of account between the legal representatives of the deceased partner or the firms with the property of the firm, then, in the absence of a contract to the contrary, the legal representatives of the deceased partner or the retired partner are entitled to claim either. **{2 M}**
- (1) Such shares of the profits earned after the death or retirement of the partner which is attributable to the use of his share in the property of the firm; or
- (2) Interest at the rate of 6 per cent annum on the amount of his share in the property.
- Based on the aforesaid provisions of Section 37 of the Indian Partnership Act, 1932, in the given problem, A's Legal representatives shall be entitled, at their option to: **{2 M}**

- (a) the 20% shares of profits (as per the partnership deed); or  
 (b) interest at the rate of 6 per cent per annum on the amount of A's share in the property.

**Answer 2:****(a) Doctrine of Privity of Contract:**

There is a concept regarding consideration is that 'there can be the stranger to consideration but there cannot be the stranger to contract'. i.e. consideration may proceed or can be given by third party but the third party cannot sue on agreement and only a person who is party to a contract can sue on it.

**Note:** The above rule i.e. there can be the stranger to consideration but there cannot be stranger to contract is known as doctrine of privity of contract.

**Exceptions of the rule that there can be the stranger to consideration but there cannot be the stranger to contract:** i.e. in following cases even a stranger to a contract i.e. a person who is not the party of the contract may enforce the contract:

- (i) **A beneficiary can enforce his right in case of trust even though he is not the party of a contract:**  
**Example:** A contract between A & B was executed whereby A pays money to B for delivering some goods to C. C has not paid any consideration can enforce the agreement ?  
**Answer:** Yes, because 'C' is the beneficiary of trust even though he is not the party of a contract.  
**Example:** A transferred his property to 'B' under the trust, to be held by him for the benefit of 'C', if B refuses to give benefit to 'C' then 'C' can enforce the contract against 'B' even he is not the party to be contract.
- (ii) **In case of Family Settlement:** If the terms of the settlement are reduced in writing then the members who are not the parties to the settlement may enforce an agreement.
- (iii) **In case of marriage contract :** A female can enforce a provision for marriage expenses based on partition of HUF.
- (iv) **In case of Assignment of Contract:** When benefit under a contract has been assigned then the assignee can enforce the contract.  
**Example:** A nominee can claim the amount or insurance policy though he is not the party of a contract.
- (v) **In case of an estoppel by acknowledgement of liability:** Where a person by his word or conduct acknowledge or admit himself as an agent of third party then he is liable towards third party though he is not a party to contract.  
**Example:** If L gives to M Rs. 2,000 to be given to N, and M informs N that he is holding the money for him, but afterwards M refuses to pay the money. N will be entitled to recover the same from the former.
- (vi) **In the case of covenant running with the land:** When a person purchase a land with a notice that the original owner is bound by certain duties regarding the land then the successor of the seller is also liable to bound by certain duties.
- (vii) When a contract is made by agent then principle is liable on such contract provided agent made the contract with in the scope of his authority and with the name of the principle.

{1 M}

{1 M for each correct 6 points}

**Answer:**

- (b) As per the provisions of section 24 of the Sale of Goods Act, 1930, when goods are delivered to the buyer on approval or "on sale or return" or other similar terms, the property therein passes to the buyer-
- (a) when the buyer signifies his approval or acceptance to the seller or does any other act adopting the transaction;
  - (b) if he does not signify his approval or acceptance to the seller but retains the goods without giving notice of rejection, then, if a time has been fixed for the return of the goods, on the expiration of such time, and, if no time has been fixed, on the expiration of a reasonable time; or
  - (c) he does something to the good which is equivalent to accepting the goods e.g. he pledges or sells the goods.
- Referring to the above provisions, we can analyse the situation given in the question. Since, Mr. Joshi, who had taken delivery of the Motor car on Sale or Return basis and pledged the motor car to Mr. Ganesh, has attracted the third condition that he has done something to the good which is equivalent to accepting the goods e.g. he pledges or sells the goods. Therefore, the property therein (Motor car) passes to Mr. Joshi. Now in this situation, Ms. Preeti cannot claim back her Motor Car from Mr. Ganesh, but she can claim the price of the motor car from Mr. Joshi only.

**Answer 3:**

- (a) {The problem in this case is based on the provisions of the Sale of Goods Act, 1930 contained in the proviso to Section 27. The proviso provides that a mercantile agent is one who in the customary course of his business, has, as such agent, authority either to sell goods, or to consign goods, for the purpose of sale, or to buy goods, or to raise money on the security of goods [Section 2(9)].} {1 M} {The buyer of goods from a mercantile agent, who has no authority from the principal to sell, gets a good title to the goods if the following conditions are satisfied:
- (1) The agent should be in possession of the goods or documents of title to the goods with the consent of the owner.
  - (2) The agent should sell the goods while acting in the ordinary course of business of a mercantile agent.
  - (3) The buyer should act in good faith.
  - (4) The buyer should not have at the time of the contract of sale notice that the agent has no authority to sell.
- In the instant case, P, the agent, was in the possession of the car with J's consent for the purpose of sale. A, the buyer, therefore obtained a good title to the car. Hence, J in this case, cannot recover the car from A.

**Answer:**

- (b) The following chart illustrates the various kinds of partnership:  
The various kinds of partnership are discussed below:
1. **Partnership at will**  
According to Section 7 of the Act, partnership at will is a partnership when:
    - (i) no fixed period has been agreed upon for the duration of the partnership; and
    - (ii) there is no provision made as to the determination of the partnership.
 These two conditions must be satisfied before a partnership can be regarded as a partnership at will. But, where there is an agreement between the partners either for the duration of the partnership or for the determination of the partnership, the partnership is not partnership at will.  
Where a partnership entered into for a fixed term is continued after the expiry of such term, it is to be treated as having become a partnership at will.

- A partnership at will may be dissolved by any partner by giving notice in writing to all the other partners of his intention to dissolve the same.
2. **Partnership for a fixed period:** Where a provision is made by a contract for the duration of the partnership, the partnership is called 'partnership for a fixed period'. It is a partnership created for a particular period of time. Such a partnership comes to an end on the expiry of the fixed period.
  3. **Particular partnership:** A partnership may be organized for the prosecution of a single adventure as well as for the conduct of a continuous business. Where a person becomes a partner with another person in any particular adventure or undertaking the partnership is called 'particular partnership'. A partnership, constituted for a single adventure or undertaking is, subject to any agreement, dissolved by the completion of the adventure or undertaking.
  4. **General partnership:** Where a partnership is constituted with respect to the business in general, it is called a general partnership. A general partnership is different from a particular partnership. In the case of a particular partnership the liability of the partners extends only to that particular adventure or undertaking, but it is not so in the case of general partnership.

**Answer 4:**

- (a) **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". {3 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. }{1 M}

**Answer:**

- (b) **Distinction between Right of Lien and Right of Stoppage in Transit**
- (i) The essence of a right of lien is to retain possession whereas the right of stoppage in transit is right to regain possession.
  - (ii) Seller should be in possession of goods under lien while in stoppage in transit (i) seller should have parted with the possession (ii) possession should be with a carrier, & (iii) buyer has not acquired the possession.
  - (iii) Right of lien can be exercised even when the buyer is not insolvent but it is not the case with right of stoppage in transit.
  - (iv) Right of stoppage in transit begins when the right of lien ends. Thus the end of the right of lien is the starting point of the right of stoppage in transit.
- }{1 M Each}

**Answer:**

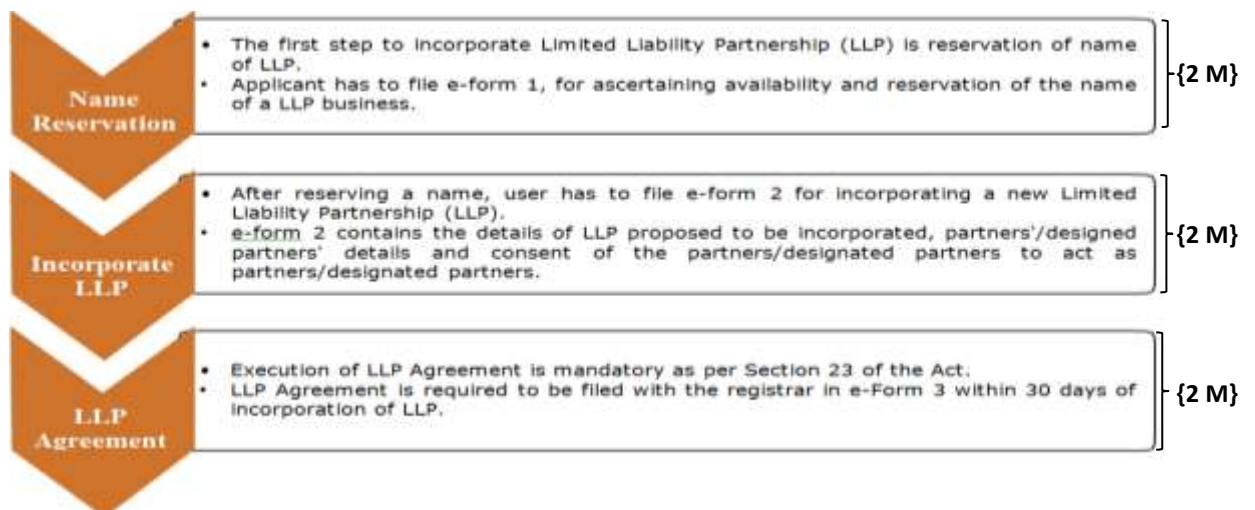
- (c) **Death of all members of a Private Limited Company, Under the Companies Act, 2013:** The most distinguishing feature of a company is its being a separate entity from the shareholders and promoters who form it. This lends stability and perpetuity to the company form of business organization. In short, a company is brought into existence by a process of law and can be terminated or wound up or brought to an end only by a process of law. Its life is not impacted by the death, insolvency or retirement of any or all shareholder(s) or director(s). {2 M}
- The provision for transferability or transmission of the shares helps to preserve the perpetual existence of a company by allowing the constitution and identity of shareholders to change.
- In the present case, ABC Pvt. Ltd. does not cease to exist even by the death of all its shareholders. The legal process will be for the successors of the deceased shareholders to get the shares registered in their names by way of the process which {1 M}

is called “transmission of shares”. The company will cease to exist only when it is wound up by a due process of law.

Therefore, even with the death of all members (i.e. 5), ABC (Pvt.) Ltd. does not cease to exist. {1 M}

**Answer 5:**

- (a) (i) 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.
- In the instant case, in the light of the provisions of Sub-Clause (b) of Sub-Section (2) of Section 17 of the Act, Mrs. Geeta will not be successful as she casually examined the sample of 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. {2 M}
- (ii) Sale by Sample: (Section 17 of the Sale of Goods Act, 1930): As per the provisions of Sub-Section (1) of section 17 of the Sale of Goods Act, 1930, a contract of sale is a contract for sale by sample where there is a term in the contract, express or implied, to that effect.
- 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) that the bulk shall correspond with the sample in quality;
  - (b) that the buyer shall have a reasonable opportunity of comparing the bulk with the sample.
  - (c) that the goods shall be free from any defect, rendering them unmerchantable, which would not be apparent on reasonable examination of the sample.
- (iii) In the instant case, the buyer does not have any option available to him for grievance redressal. {1 M}
- (iv) In case Mrs. Geeta specified her 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, the seller will be held liable. {1 M}

**Answer:****(b) Steps to incorporate LLP.**

**Answer 6:**

- (a) **Doctrine of Indoor Management:** The Doctrine of Indoor Management is the exception to the doctrine of constructive notice. The aforesaid doctrine of constructive notice does in no sense mean that outsiders are deemed to have notice of the internal affairs of the company. For instance, if an act is authorised by the articles or memorandum, an outsider is entitled to assume that all the detailed formalities for doing that act have been observed. This can be explained with the help of a landmark case **The Royal British Bank vs. Turquand**. This is the doctrine of indoor management popularly known as **Turquand Rule**. {1 M}
- FACTS of The Royal British Bank vs. Turquand**  
Mr. Turquand was the official manager (liquidator) of the insolvent Cameron's Coalbrook Steam, Coal and Swansea and Loughor Railway Company. It was incorporated under the Joint Stock Companies Act, 1844. The company had given a bond for £ 2,000 to the Royal British Bank, which secured the company's drawings on its current account. The bond was under the company's seal, signed by two directors and the secretary. When the company was sued, it alleged that under its registered deed of settlement (the articles of association), directors only had power to borrow up to an amount authorized by a company resolution. A resolution had been passed but not specifying how much the directors could borrow. {1/2 M}
- The above mentioned doctrine of Indoor Management or Turquand Rule has limitations of its own. That is to say, it is inapplicable to the following cases, namely:
- (a) **Actual or constructive knowledge of irregularity:** The rule does not protect any person when the person dealing with the company has notice, whether actual or constructive, of the irregularity. {1 1/2 M}
- In **Howard vs. Patent Ivory Manufacturing Co.** where the directors could not defend the issue of debentures to themselves because they should have known that the extent to which they were lending money to the company required the assent of the general meeting which they had not obtained.
- (b) **Suspicion of Irregularity:** The doctrine in no way, rewards those who behave negligently. Where the person dealing with the company is put upon an inquiry, for example, where the transaction is unusual or not in the ordinary course of business, it is the duty of the outsider to make the necessary enquiry. {1 1/2 M}
- The protection of the "Turquand Rule" is also not available where the circumstances surrounding the contract are suspicious and therefore invite inquiry. Suspicion should arise, for example, from the fact that an officer is purporting to act in matter, which is apparently outside the scope of his authority. Where, for example, as in the case of **Anand Bihari Lal vs. Dinshaw & Co.** the plaintiff accepted a transfer of a company's property from its accountant, the transfer was held void. The plaintiff could not have supposed, in absence of a power of attorney that the accountant had authority to effect transfer of the company's property.
- (c) **Forgery:** The doctrine of indoor management applies only to irregularities which might otherwise affect a transaction but it cannot apply to forgery which must be regarded as nullity. {1 1/2 M}
- Forgery may in circumstances exclude the '**Turquand Rule**'. The only clear illustration is found in the **Ruben v Great Fingall Consolidated**. In this case the plaintiff was the transferee of a share certificate issued under the seal of the defendant's company. The company's secretary, who had a fixed the seal of the company and forged the signature of the two directors, issued the certificate.

The plaintiff contended that whether the signature were genuine or forged was apart of the internal management, and therefore, the company should be estopped from denying genuineness of the document. But it was held, that the rule has never been extended to cover such a complete forgery.

**Answer:**

- (b) **Section 73** of the Indian Contract Act, 1872 provides for consequences of breach of contract. According to it, when a contract has been broken, the party who suffers by such breach is entitled to receive from the party who has broken the contract, compensation for any loss or damage caused to him thereby which naturally arose in the usual course of things from such breach or which the parties knew when they made the contract, to be likely to result from the breach of it. Such compensation is not given for any remote and indirect loss or damage sustained by reason of the breach. It is further provided in the explanation to the section that in estimating the loss or damage from a breach of contract, the means which existed of remedying the inconvenience caused by the non-performance of the contract must be taken into account. **{3 M}**
- Applying the above principle of law to the given case, M Ltd is obliged to compensate for the loss of Rs. 1.25 lakhs (i.e. Rs. 12.75 minus Rs. 11.50 = Rs. 1.25 lakhs) which had naturally arisen due to default in performing the contract by the specified date. **{1<sup>1/2</sup> M}**
- Regarding the amount of compensation which Shanti Traders were compelled to make to Zenith Traders, it depends upon the fact whether M Ltd., knew about the contract of Shanti Traders for supply of the contracted machinery to Zenith Traders on the specified date. If so, M Ltd is also obliged to reimburse the compensation which Shanti Traders had to pay to Zenith Traders for breach of contract. Otherwise M Ltd is not liable. **{1<sup>1/2</sup> M}**

**PAPER : BUSINESS CORRESPONDENCE & REPORTING**

The Question Paper comprises of 5 questions of 10 marks each.  
Question No. 7 is compulsory. Out of questions 8 to 11, attempt any three.

**SECTION-B : BUSINESS CORRESPONDENCE & REPORTING (40 MARKS)****Answer 7:**

- (a) (1) Option c  
(2) Option d  
(3) Option b } {1 Mark Each}  
(4) Option a  
(5) Option c

**Answer:**

- (b) Playing of National anthem in movie halls (Heading) } {1 M}  
(I) The Court's order withdrawn  
(II) Court makes it optional; cannot have a mandate on the issue  
(III) Consequences } {1 M}  
(a) Govt intervenes; calls for a ministerial discussion  
(b) Proposes a hold on the court's judicial rule  
(c) Suggest changes in the Prevention of Insults to National Honour Act  
(IV) Justice Chadrachud suggests, no end to 'moral policing'  
(V) Consequences } {1 M}  
(a) Violence amongst ppl.  
(b) Harassment of pub.  
(c) Disrespect in the society.

**Key Used:**

- (1) Order= order  
(2) Withdrawn= withdrawn  
(3) Makes= makes  
(4) Cannot= cannot  
(5) Govt= government  
(6) Ministerial=ministerial  
(7) Discussion=discussion  
(8) Proposes=proposes  
(9) Judicial=judicial  
(10) Changes= changes  
(11) Prevention=prevention  
(12) National= national  
(13) Consequences= consequences  
(14) Violence=violence  
(15) Amongst= amongst  
(16) Ppl= people  
(17) Harassment=harassment  
(18) Pub=public  
(19) Disrespect=disrespect  
(20) Society= society
- {Any 5 Keys 2 Marks}



**Answer 8:**

- (a) Letter  
 Manager Operations and Admin  
 Net Solutions  
 Mumbai  
 15<sup>th</sup> Feb, 2019  
 Administration Head  
 Food for you Solutions  
 Mumbai  
 {1 M}
- Dear Sir/Madam  
 Sub: Complaint against food quality } {1 M}
- This with reference to the food supplied to our cafeteria by your company's kitchen. Unfortunately, for the past few weeks, we have observed that the quality of food items, especially rice, wheat flour and pulses has degraded considerably. A few of our employees complained of ill health after having consumed your food. I presume stale food is not being sent to us. Kindly assure that the raw material you use is of high quality standards and is ISI approved. I request you to look into this matter urgently and present a report within 2 days time to avoid a stern action.  
 {2 M}
- Thanks and Regards,  
 Name  
 Manager, Ops and Admin  
 Net Solutions  
 {1 M}
- (Signed)  
 Manager, Office and food supplies Ltd.

**Answer:**

- (b) 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. Some of the functions of nonverbal communication in humans are to complement and illustrate, to reinforce and emphasize, to replace and substitute, to control and regulate, and to contradict the denoted message  
 {1 M}
- Physical nonverbal communication: An individual's body language that is, facial expressions, stance, gestures, tone of voice, touch, and other physical signals constitute this type of communication. For example, leaning forward may mean friendliness, acceptance and interest, while crossing arms can be interpreted as antagonistic or defensive posture.
  - Paralanguage: The way you say something, more than the actual words used, reveal the intent of the message, The voice quality, intonation, pitch, stress, emotion, tone, and style of speaking, communicates approval, interest or the lack of it.
  - 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.
  - Appearance: Appearance is usually the first thing noticed about a person. A well dressed and groomed person is presumed to be organized and methodical, whereas a sloppy or shabby person fails to make a favourable impression.
- {Any 2 Points Each 1/2 Mark}

Therefore, dressing appropriately in all formal interactions is emphasized. The dress code in office is generally formal. It constitutes of formal suits, trousers with plain white or light coloured shirts and leather shoes. Bright colours, jeans, T - shirts, especially with slogans and other informal wear are frowned upon. For women formal two-piece trouser or skirt sets or formal ethnic wear like sarees, is permissible.

- Symbols such as religious and status.

**Answer:**

- (c) (i) c (known) }  
 (ii) Women led a conservative lifestyle in olden days } {Each 1 Mark}  
 (iii) The girl asked where I lived? }

**Answer 9:**

(a) **Language and Gender** } {1 M}

The word 'gender' used in two contexts, first for grammatical gender and second biological gender. Language is influenced by gender. Women tend to use more standard language than men (perhaps due to their position in western societies). On the other hand they also tend to be at the forefront of linguistic innovations. A woman tends to good in verbalization. } {2 M}

**Answer:**

- (b) **Informal communication:** Informal Communication is the casual, friendly and unofficial. It is spontaneous conversation and exchange of information between two or more persons without conforming to the prescribed official rules, processes, systems, formalities and chain of command. } {1 M}
- Informal communication is between family, friends, neighbors, members of the community and other social relations that are based on common interests, tastes and dispositions. Information can flow from any source in any direction. } {1 M}
- Employees in an organization interact with each other outside the formal domain. Such communication is called 'grapevine' - gossip in the office. Employees of different departments and varied levels meet and discuss matters casually and informally. The grapevine satisfies the social needs of the people and helps in building relationships. It is also useful in addressing certain needs and grievances of employees. } {1 M}

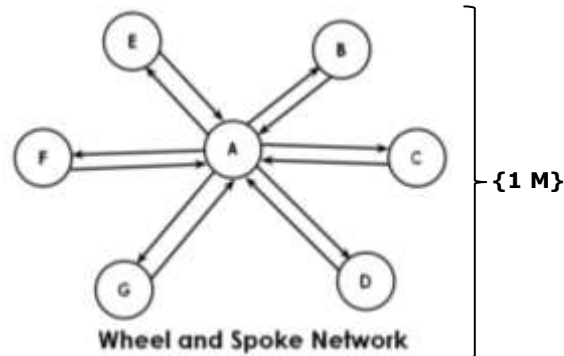
**Answer:**

- (c) 1. The obstacle course was run by me in record time. }  
 2. Costs would be reduced by us if we use less paper. } {1 M each}

**Answer 10:**

(a) **Wheel & Spoke Network:**

This is an organization where there is a single controlling authority who gives instructions and orders to all employees working under him/her. All employees get instructions directly from the leader and report back to him/her. It is direct and efficient for a small business/company, but inappropriate way of communication in a large organization with many people. A company with many employees needs more decision makers or nothing would get done. Can a large conglomerate like Reliance or Tata Sons have one person making decisions? Moreover, if the central figure is not competent, the entire business will suffer. } {1 M}

**Answer:**

- (b) (i) Teacher appreciated the girl that she had been working hard } {1 Mark Each}  
 (ii) Uncle complained that he was unwell.

**Answer:**

- (c) (i) Aditya Narula Resume hints  
 Following is a standard format, with subheadings for fresher like Aditya:
- Name and contact details
  - Objective Summary
  - Academic Qualifications and Achievements
  - Co-curricular Achievements
  - Training Programs attended/completed
  - Strengths
  - Interests/Hobbies
  - Declaration
  - Signature
- {1/2 For Mark Each Point}

**Answer 11:**

- (a) Barriers in communication:
- Physical Barriers
  - Cultural Barriers
  - Language Barriers
  - Technology Barriers
  - Emotional Barriers
- {1 M}

Technology Barriers: Being a technology driven world, all communication is dependent on good and extensive use of technology. However, there might arise technical issues, like server crash, overload of information etc which lead to miscommunication or no communication at all. } {1 M}

Language Barriers: It's a cosmopolitan set up, where people of different nationalities move from their home to other countries for work. As a result, it is difficult to have a common language for communication. Hence, diversity gives rise to many languages and it acts as a barrier at times. } {1 M}

**Answer**

- (b) (i) Direct to Indirect Speech:  
 The athlete said that he could break all records } {1 M}

**Answer:**

- (b) (ii) Synonyms  
Option c }{1 M}

**Answer:**

- (c) Television: Bane or Boon (Title) }{1 M}  
Television affects our lives in several ways. We should choose the shows carefully. }{2 M}  
Television increases our knowledge It helps us to understand many fields of study. }{2 M}  
It benefits and people and patients. There are some disadvantages too some }{2 M}  
people devote a long time to it. Students leave their studies and it distracts their }{2 M}  
attention.

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