

(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.

Question 1:

- (a) एक पिता ने अपने पुत्र को आश्वासन दिया कि यदि वह पहली ही बारी में सी.ए. की परीक्षा को पास कर लेगा तो वह उसको एक लाख की राशि देगा। पुत्र ने पहली ही बारी में परीक्षा पास कर ली पर पिता ने अपने आश्वासन के उपरान्त भी उस राशि का भुगतान नहीं किया। बेटे ने उस राशि उगाही के लिए एक वाद प्रस्तुत किया कारणों के सहित बतायें कि क्या बेटा भारतीय अनुबंध अधिनियम, 1872 के अर्न्तगत वे उस राशि की उगाही कर सकता है?

(4 Marks)

- (b) X ने M/s ABC लिमिटेड से उधार माल खरीदा। X को 1 माह की ऋण अवधि प्रदान की गई थी। ऋण देय होने से पहले ही X कम्पनी में चला गया और अपने ऋण के भुगतान का ईरादा प्रकट किया। उसको वहाँ केवल Mr. Z मिले जो कम्पनी की फेक्टरी के अधिविषय (सुपरवाइजर) है। Mr. Z ने कहा कि लेखापाल और केशियर छुट्टी पर है। इसलिए वही राशि प्राप्त करने का अधिकारी है। X ने Z को राशि का भुगतान कर दिया और Z ने अपने द्वारा हस्ताक्षर करके एक रसीद X को दे दी। बाद में कम्पनी ने X को नोटिस जारी किया और कहा कि X ने अपने ऋण का भुगतान नहीं किया है और X ने उत्तर में यह कहा कि उसने पैसा दे दिया है और यह भी कहा कि उसने Z को पैसा दिया है और उसको पता नहीं था कि Z पैसा प्राप्त करने के लिए अधिकारी नहीं है क्योंकि वह बाहरी व्यक्ति है और वह बाहरी व्यक्ति होने के कारण उसने यह मान लिया कि Z इस कम्पनी का कर्मचारी है और वह यह राशि प्राप्त करने का अधिकारी है और उसने Z पर विश्वास किया। इस स्थिति में बताइये कि क्या X अपने दायित्व से मुक्त होगा।

(4 Marks)

- (c) A, B, C एक फर्म में साझेदार हैं। A का लाभ में 20 प्रतिशत हिस्सा है। A सेवानिवृत्त होता है और उसके 15 दिन बाद उसकी मृत्यु हो जाती है। B व C बिना खातो को, निपटारा किए व्यवसाय जारी रखते हैं। A के वैधानिक उत्तराधिकारियों के अधिकार बताएं।

(4 Marks)**Question 2:**

- (a) “अनुबंध की विशिष्टता का सिद्धान्त” के बारे में बताएं व नियम के अपवादों का भी वर्णन करें?

(7 Marks)

- (b) सुश्री प्रीति एक कार की स्वामी थी जो कि उस को श्री जोशी को देती है “क्रय या वापसी” के आधार पर, एक सप्ताह बाद श्री जोशी उस कार को श्री गणेश को गिरवी रख देते हैं। सुश्री प्रीति अपनी कार श्री गणेश से वापिस मांगना चाहती है। वस्तु विक्रय अधिनियम के संदर्भ में निर्णय लें क्या सुश्री प्रीति को कार वापिस प्राप्त होगी।

(5 Marks)

Question 3:

- (a) J फिएट कार का मालिक अपनी कार बेचना चाहता था। इस उद्देश्य से वह अपनी कार P एक अभिकर्ता को सौंपता है, और कहता है कीमत कम से कम रुपये 50,000 हो। एजेंट कार रुपये 40,000 में A को बेच देता है जो सद्विश्वास में कार खरीदता है, और उसे किसी कपट की सूचना भी नहीं है। P पैसे का गलत इस्तेमाल करता है। J कार की वसूली के लिए पर मुकदमा करता है। क्या J सफल होगा।

(6 Marks)

- (b) साझेदारी के विभिन्न प्रकारों के बारे में बताएं?

(6 Marks)**Question 4:**

- (a) Z ने मुम्बई स्थित अपना मकान W को रु. 10,000 मासिक किराये पर दिया। Z द्वारा देय रु. 2 लाख की राशि सम्पत्ति कर के रूप में बकाया होने के कारण निगम ने उसका मकान नीलाम करने के लिए विज्ञापन दिया W उसके कानूनी परिणाम से बचने के लिए निगम को Z द्वारा देय सम्पत्ति कर का भुगतान कर देता है। भारतीय अनुबंध अधिनियम, 1872 के प्रावधानों को ध्यान में रखते हुए निर्णय कि क्या W उस राशि को Z से वापस प्राप्त करने का अधिकारी है।

(4 Marks)

- (b) पूर्वाधिकार व माल को रास्ते में रोकने के अधिकार में अन्तर बताएं ?

(4 Marks)

- (c) ABC प्राइवेट लि. एक निजी कम्पनी है जिसमें 5 सदस्य हैं। सभी सदस्य किसी कार्य के सम्बंध में कार द्वारा मुम्बई जा रहे थे। एक दुर्घटना के कारण सभी सदस्यों की मृत्यु हो गई। कम्पनी अधिनियम, 2013 के प्रावधानों के अन्तर्गत बताइए कि क्या कम्पनी का अस्तित्व भी समाप्त हो गया ?

(4 Marks)**Question 5:**

- (a) श्रीमती गीता ने स्थानीय चावल और गेहूं की थोक दुकान में जाकर 100 किलोग्राम बासमती चावल मांगा। दुकानदार ने इसकी कीमत रुपये 125 प्रति किलो के बराबर बताई, जिसके लिए वह सहमत हुई। श्रीमती गीता ने जोर देकर कहा कि वह इस तरह की खरीद पर सहमति देने से पहले दुकानदार द्वारा उसे क्या प्रदान किया जाएगा, इसका नमूना देखना चाहेंगी। दुकानदार ने उसे नमूने के तौर पर एक कटोरी चावल दिखाया। नमूना वास्तव में पूरे माल के अनुरूप था। खरीदार ने इस तथ्य की ओर ध्यान दिए बिना नमूना की जांच की कि भले ही नमूना बासमती चावल का था, लेकिन इसमें लंबे और छोटे अनाज का मिश्रण था। बैग खोलने पर रसोइया ने शिकायत की कि यदि चावल की गुणवत्ता पकवान के अनुसार नहीं होगी तो चावल के साथ तैयार पकवान का भी स्वाद अच्छा नहीं होगा। अब श्रीमती गीता विक्रेता के खिलाफ धोखाधड़ी का मुकदमा दर्ज करना चाहती है और उस पर अच्छे और सस्ते क्वालिटी के चावल मिलाकर बेचने का आरोप लगाती है। क्या वह सफल होगी? वस्तु विक्रय अधिनियम 1930 के तहत नमूना द्वारा बिक्री पर मूल कानून की व्याख्या करें? वस्तु विक्रय अधिनियम 1930 प्रावधानों के अनुसार शिकायत निवारण के लिए क्रेता के पास क्या विकल्प है बताइये? श्रीमती गीता ने चावल की लंबाई के रूप में यदि उसकी सटीक आवश्यकता निर्दिष्ट की होती तो उस मामले में आपका जवाब क्या होता?

(6 Marks)

- (b) LLP के समामेलन के विभिन्न चरण बताएं?

(6 Marks)

Question 6

(a) आन्तरिक प्रबंध का सिद्धान्त एवं उसके अपवाद बताएं ?

(6 Marks)

(b) M लि. ने शान्ति ट्रेडर्स को कुछ मशीनें रु. 11.50 लाख में 30.06.2004 तक बनाकर देने का अनुबंध किया। M लि., शान्ति ट्रेडर्स को हड़ताल के कारण मशीन बनाकर नहीं दे सका। बाद में शान्ति ट्रेडर्स ने किसी दूसरे निर्माता से रु. 12.50 लाख में मशीन खरीदी। शान्ति ट्रेडर्स को जैनित्थ ट्रेडर्स के साथ किये गये समझौते को भी जो उसने M लि. के साथ किए गये समझौते के समय किया था, पूरा करने से रोका गया तथा उन्हें अनुबंध भंग के लिए हर्जाना देने के लिए बाध्य किया गया। शान्ति ट्रेडर्स को सलाह दीजिए कि वे भारतीय अनुबंध अधिनियम, 1872 के प्रावधानों के अनुसार कितना हर्जाना M लि. से वसूल कर सकते हैं?

(6 Marks)

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)**Question 7:**

(a) Read the following comprehension passages and answer the following questions
Passage 1

The great Acharyas have said that having discovered a great goal, surrender yourself to that goal and act towards it drawing your inspiration from that goal whereby you will get a new column of energy. Do not allow this energy to be dissipated in the futile memories of past regrets or failures nor in the imagined sorrow of the future or the present and thus bring the entire energy focused into activity. That is the highest creative action in the world outside. Thereby the individual who is till now considered most inefficient finds his way to the highest achievement and success.

This is said very easily in a second. But in order to train our mind to this attitude it needs considerable training because we have already trained the mind wrongly to such an extent that we have become perfect in imperfection. Not knowing the art of action, we have been master artists in doing the wrong thing. The totality of activity will bring the country to a wrong end indeed.

If each one is given a car, to achieve an ideal socialistic pattern, and nobody knows driving but everybody starts driving, what would be the condition on the road ? Everybody has equal right on the public road. Then each car must necessarily dash against the other, and there is bound to be a jumble. This seems to be the very apt pattern of life that we are heading to. Everyone of us is a vehicle. We know how to go forward. The point is that intellect is very powerful and everyone is driving but nobody seems to know how to control the mental energy and direct it properly or guide it to a proper destination.

- (1) Which of the following will cause the country to perish?
- (a) Driving cars without proper driving knowledge and skill
 - (b) Directing mental energy to the right destination
 - (c) Wrong deeds performed without proper knowledge
 - (d) Memories of past regrets and failures

- (2) What is the effect of the wrong training of the mind?
 - (a) The art of action is too much emphasised.
 - (b) We have become perfect in all aspects.
 - (c) Each of us could become a master artist.
 - (d) We have become perfect in imperfections.
- (3) The author's chief concern is
 - (a) The car accidents resulting from lack of driving skill.
 - (b) Regulation of energy in a proper direction
 - (c) Discovery of a great goal in life
 - (d) Establishment of socialistic pattern
- (4) Which of the following is the source of energy?
 - (a) Stimulation obtained from a set aim
 - (b) Highest creative action
 - (c) A column that supports a building
 - (d) Proper training of the mind to achieve perfection
- (5) Which of the following could lead to success?
 - (a) Preparing oneself to face the probable sorrows of the future
 - (b) Cherishing the memories of the past
 - (c) Bringing all the energy into activity
 - (d) Being alert about the excitement of present

(5 Marks)

(b) Read the following passage and make proper notes-

By making it optional for cinema halls to play the national anthem before every show, the Supreme Court has at last removed the coercive element it had unfortunately introduced by an interim order in November 2016. Laying down a judicial rule that the anthem must be played on certain occasions in specific places, in the absence of any statutory provision to this effect, was unnecessary and opened the court to charges of over-reach. With the Centre saying this directive could be placed on hold, and that it would set up an inter-ministerial committee to recommend regulations for the presentation of the national anthem, the court has said it is not mandatory to play it in cinema halls. The panel will also suggest changes in the Prevention of Insults to National Honour Act, 1971, or in the Orders relating to the anthem issued from time to time. Justice D.Y. Chandrachud, one of the three judges on the Bench, had at an earlier hearing doubted the wisdom of asking patrons of cinema to visibly demonstrate their patriotism each time they entered a theatre to watch a film, remarking that there was no need for an Indian to "wear his patriotism on his sleeve". He had asked at what point would such "moral policing" stop if it were to be prescribed that some kinds of apparel should not be worn at the movies as they could amount to showing disrespect to the national anthem. The court's order also had some unintended, but not unforeseen, consequences. The audience began looking for signs of 'disrespect' and there were reports of vigilantism, with people beaten up or harangued for not standing up.

(5 Marks)

Question 8:

- (a)** As the Manager, HR of Net Solutions Ltd, Mumbai, draft a complaint letter to the Administration Head of Food for you Solutions, Mumbai, stating your concern about the bad quality of food being supplied to your company's cafeteria.

(5 Marks)

- (b)** What is nonverbal communication? Explain its types.

(2 Marks)

- (c) (i) Select the suitable antonym for the given word:
Concealed
(a) To hide
(b) Uninteresting
(c) Known
(d) Related
(1 Mark)
- (ii) Rewrite the following sentences in active voice
A conservative lifestyle was led by women in olden days.
(1 Mark)
- (iii) Change the following sentence into Indirect speech.
The girl asked, 'Where do you live?'
(1 Mark)

Question 9:**(a) Précis Writing**

Read the following passages and write a précis for the same.

The word 'gender', originally a grammatical term, has come to refer to the social roles and behavior of individuals arising from their classification as biologically male or female. In other words, Gender is general terms is imported from the social sciences for the sex or sexuality of human beings. Hence 'gender difference', of a difference in speech between men and women; language and gender, as a branch of sociolinguistics dealing with such differences. This is a huge complex embracing virtually all aspects of social behavior of which language is only one. Recently, intensive research has been carried out about the relationship of language and gender, largely by female scholars who have felt drawn to the topic because of the obvious discrimination against women that has taken place in the past and which can still be observed today. The initial impulse was the work of the American linguist Robin Lakoff, who in the early 1970s focussed her attention on certain themes with the language and gender complex above those that she rightly felt required rectification. Her work stimulated other scholars to engage in this study and soon language and gender was a burgeoning research area in universities across the western world. Various opinions emerged on this relationship with two gaining particular focus. One is the difference approach which established that male and female language is dissimilar in spoken as well as written without attributing this to the nature of the social relationship between men and women. The other is the dominance approach which saw language usage by females and males as reflecting established relationship of social control of the latter over the former. With the maturation of research on language and gender the simple 'difference – dominance' dichotomy was increasingly regarded as unsatisfactory and insufficiently nuanced. For example, to maintain that men have a competitive style of social behavior in western countries is a generalization that everyone would agree. However, there are men who are not competitive in this respect. There are common tendencies that one comes across such as men interrupt women more, women are more communicative than men, women gossip more than men, men speak more comfortably in public and are good in calculation than women.

(5 Marks)

- (b) Explain informal communication.
(3 Marks)
- (c) Rewrite the following sentences in passive voice.
1. I ran the obstacle course in record time.
2. We would reduce costs if we used less paper.
(2 Marks)

Question 10:

- (a) What are the disadvantages of the wheel network?
(3 Marks)
- (b) Change the following Direct speech into Indirect speech.
(i) The teacher praised the girl, 'You have been working hard'
(ii) Uncle said, 'I am unwell'
(2 Marks)
- (c) Resume Writing
(i) Draft a resume for Aditya Narula, who has passed class XIIth, has completed his B.com with distinction and is currently pursuing M.com (final year). Aditya wishes to apply for a job in a small start up which deals with stocks.
(5 Marks)

Question 11:

- (a) List at least 5 barriers of communication. Explain any two of them in your own words.
(3 Marks)
- (b) (i) Change the following Direct speech into Indirect speech:
The athlete said, 'I can break old records'
(1 Mark)
- (ii) Select the suitable synonym for the given words:
Distort
(a) Save
(b) Abundant
(c) Deform
(d) Overwhelm
(e) Move
(1 Mark)
- (c) **Précis Writing**
Read the following passages and write a précis for the same. Follow the basic rules of précis writing while writing.
(1) How does television affect our lives. It can be very helpful to people who carefully choose the shows that they watch. Television can increase our knowledge of the outside world, there are high quality programmes that helps us to understand many fields of study, science, medicine, the arts and so on. Moreover, television benefits very old people, who can't often leave the house as well as patients in hospitals. It also offers non native speakers the advantage of daily informal language practice. They can increase their vocabulary and practice listening.
On the other hand, there are several serious disadvantages of television. Of course, it provides us with a pleasant way to relax and spend our free time, but in some countries, people watch the 'blood tube' for an average of six hours or more a day. Many children stare at a television screen for more hours each day than they do anything else including studying & sleeping. It's clear that the tube has a powerful influence on their lives and that its influence is often negative.
(5 Marks)