

(GI-1, GI-2, VI-VDI-SI-1,2)

DATE: 27.08.2022

MAXIMUM MARKS: 100

TIMING: 3¼ Hours

PAPER : LAW

Answer to questions are to be given only in English except in the case of candidates who have opted for Hindi Medium. If a candidate who has not opted for Hindi Medium. His/her answer in Hindi will not be valued.

Question No. 1 is compulsory.

Candidates are also required to answer any Five questions from the remaining Six Questions.

Answer 1:

- | | | | |
|-----|--------|---|------------------------|
| 1. | Ans. c | } | {1 M Each x 14 = 14 M} |
| 2. | Ans. b | | |
| 3. | Ans. c | | |
| 4. | Ans. c | | |
| 5. | Ans. a | | |
| 6. | Ans. a | | |
| 7. | Ans. a | | |
| 8. | Ans. d | | |
| 9. | Ans. d | | |
| 10. | Ans. c | | |
| 11. | Ans. d | | |
| 12. | Ans. b | | |
| 13. | Ans. b | | |
| 14. | Ans. d | | |
| 15. | Ans. c | } | {2 M Each x 8 = 16 M} |
| 16. | Ans. d | | |
| 17. | Ans. c | | |
| 18. | Ans. c | | |
| 19. | Ans. b | | |
| 20. | Ans. c | | |
| 21. | Ans. d | | |
| 22. | Ans. a | | |

Answer 2:

- (a) Sweat Equity Shares is governed by Section 54 of the Companies Act, 2013 and Rule 8 of Companies (Share capital and debentures) Rules, 2014. According to Section 54 the company can issue sweat equity shares to its director and permanent employees of the company. According to rule 8 (4) proviso, states that a start up company, is defined in a notification number Ministry of Commerce and industry Government of India, may issue sweat equity share not exceeding 50% of its paid up share capital up to 10 years from the date of its in incorporation or registration. }{2 M}
- According to Rule 8(5), the sweat equity shares issued to directors or employees shall be locked in/ non transferable for a period of three years from the date of allotment and the fact that the share certificates are under lock-in too. }{1 M}
- Hence, in the above case the company can issue sweat equity shares by passing special resolution at its general meeting. The company as a start up company is right in issue of 10% sweat equity share as it is overall within the limit of 50% of its paid up share capital. But the lock in period of the shares is limited to maximum three years period from the date of allotment. }{2 M}

Answer:

- (b) As per the facts stated in the question, Ravi (drawer) after having issued the cheque, informs Aman (drawee) not to present the cheque for payment and as well as gave a stop payment request to the bank in respect of the cheque issued to Aman. **{1 M}**
- Section 138 of the Negotiable Instruments Act, 1881, is a penal provision in the sense that once a cheque is drawn on an account maintained by the drawer with his banker for payment of any amount of money to another person out of that account for the discharge in whole or in part of any debt or liability, is informed by the bank unpaid either because of insufficiency of funds to honour the cheques or the amount exceeding the arrangement made with the bank, such a person shall be deemed to have committed an offence. **{2 M}**
- Once a cheque is issued by the drawer, a presumption under Section 139 of the Negotiable Instruments Act, 1881 follows and merely because the drawer issues a notice thereafter to the drawee or to the bank for stoppage of payment, it will not preclude an action under Section 138. Also, Section 140 of the Negotiable Instruments Act, 1881, specifies absolute liability of the drawer of the cheque for commission of an offence under the section 138 of the Act. Section 140 states that it shall not be a defence in a prosecution for an offence under section 138 that the drawer had no reason to believe when he issued the cheque that the cheque may be dishonoured on presentment for the reasons stated in that section. **{2 M}**

Answer:

- (c) **{General lien of bankers: According to section 171 of the Indian Contract Act, 1872, bankers, factors wharfingers, attorneys of a High Court and policy brokers may, in the absence of a contract to the contrary, retain, as a security for a general balance of account any goods bailed to them; but no other persons have a right to retain, as a security for such balance, goods bailed to them, unless there is an express contract to the effect.}{2 M}** **{Section 171 empowers the banker with general right of lien in absence of a contract whereby it is entitled to retain the goods belonging to another party, until all the dues are discharged. Here, in the first instance, the banker under an agreement has a right of particular lien on the gold pledged with it against the first secured loan of Rs. 50,000/-, which has already been fully repaid by Shyam. Accordingly, Bank's decision to continue the lien on the gold until the unsecured loan of Rs. 20,000/- (which is the second loan) is not valid.}{2 M}**

Answer 3:

- (a) According to section 101(1) of the Companies Act, 2013, a general meeting of a company may be called by giving not less than clear twenty-one days' notice either in writing or through electronic mode in such manner as may be prescribed. **{2 M}**
- Also, it is to be noted that 21 clear days mean that the date on which notice is served and the date of meeting are excluded for sending the notice.
- Further, Rule 35(6) of the Companies (Incorporation) Rules, 2014, provides that in case of delivery by post, such service shall be deemed to have been effected - in the case of a notice of a meeting, at the expiration of forty eight hours after the letter containing the same is posted. **{1 M}**
- Hence, in the given question:
- (i) A 21 days' clear notice must be given. In the given question, only 19 clear days' notice is served (after excluding 48 hours from the time of its posting and the day of sending and date of meeting). Therefore, the meeting was not validly called. **{1 M}**
- (ii) As explained in (i) above, notice falls short by 2 days. **{1 M}**

Answer:

- (b) "Inland instrument" and "Foreign instrument" [Sections 11 & 12 of the Negotiable Instruments Act, 1881]
- A promissory note, bill of exchange or cheque drawn or made in India and made payable in, or drawn upon any person resident in India shall be deemed to be an inland instrument. **{1 M}**
- Any such instrument not so drawn, made or made payable shall be deemed to be foreign instrument. Following are the answers as to the nature of the Instruments:
- (i) In first case, Bill is drawn in Delhi by Ram on a person (Shyam), a resident of Jaipur (though accepted to be payable in Thailand after 90 days) is an Inland instrument. **{1 M}**
- (ii) In second case, Ramesh draws a bill in Mumbai on Suresh resident of Australia and accepted to be payable in Chennai after 30 days of sight, is an Inland instrument. **{1 M}**
- (iii) In third case, Ajay draws a bill in California (which is situated outside India) and accepted to be payable in India (Kanpur), drawn upon Vijay, a person resident in India (Jodhpur), therefore the Instrument is a Foreign instrument. **{1 M}**
- (iv) In fourth case, the said instrument is a Foreign instrument as the bill is drawn in India by Mukesh upon Dinesh, the person resident outside India (China) and also payable outside India (China) after 45 days of acceptance. **{1 M}**

Answer:

- (c) In terms of section 2 (87) of the Companies Act 2013 "subsidiary company" or "subsidiary", in relation to any other company (that is to say the holding company), means a company in which the holding company,
- (i) controls the composition of the Board of Directors; or
- (ii) 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}**
- Provided that such class or classes of holding companies as may be prescribed shall not have layers of subsidiaries beyond such numbers as may be prescribed.
- Since, Kavya Ltd. is holding more than one half (50 crores out of 80 crores) of the total share capital of Kavya Ltd., it (Anjali Ltd.) is holding of Kavya Ltd.
- Further, as per the provisions of section 19 of the Companies Act, 2013, no company shall, either by itself or through its nominees, hold any shares in its holding company and no holding company shall allot or transfer its shares to any of its subsidiary companies and any such allotment or transfer of shares of a company to its subsidiary company shall be void: Provided that nothing in this sub-section shall apply to a case
- (a) where the subsidiary company holds such shares as the legal representative of a deceased member of the holding company; or
- (b) where the subsidiary company holds such shares as a trustee; or
- (c) where the subsidiary company is a shareholder even before it became a subsidiary company of the holding company **{2 M}**
- In the given question, Kavya Ltd. cannot acquire the shares of Anjali Ltd. as the acquisition of shares does not fall within the ambit of any of the exceptions provided in section 19.

Answer 4:

- (a) According to section 103(1)(a)(i) of the Companies Act, 2013, unless the articles of the company provide for a larger number, in case of public company, if the number of members as on the date of meeting is not more than one thousand, five members personally present shall be the quorum for a meeting of the company. In the instant case, the quorum for the public company will be 5 members personally present. **{2 M}**

In the said company, two members are bodies corporate and one member is the President of India. }

Only members present in person and not by proxy are to be counted. Hence, proxies whether they are members or not will have to be excluded for the purposes of quorum. As per section 113 of the Companies Act, 2013, if a company is a member of another company, it may authorize a person by resolution to act as its representative at a meeting of the latter company, then such a person shall be deemed to be a member present in person and counted for the purpose of quorum and shall be entitled to vote. As per section 112 of the Companies Act, 2013, the President of India, if he is a member of a company, may appoint such a person as he thinks fit, to act as his representative at any meeting of the company. A person so appointed shall be deemed to be a member of such a company and thus considered as member personally present and shall be entitled to vote. } {1^{1/2} M}

(ii) According to Rule - 20(4)(iii)(C) of the Companies (Management and Administration) Rules, 2014, the notice of the meeting shall clearly state that the members who have cast their vote by remote e-voting prior to the meeting may also attend the meeting but shall not be entitled to cast their vote again. }

In the instant case, a member of a listed company who has casted his vote through electronic voting can attend general meeting of the company but cannot change his vote subsequently and is not permitted to appoint a proxy. }

Answer:

(b) (i) Mischieve Rule: Where the language used in a statute is capable of more than one interpretation, principle laid down in the Heydon's case is followed. This is known as 'purposive construction' or 'mischieve rule'. The rule then directs that the courts must adopt that construction which 'shall suppress the mischief and advance the remedy'. It has been emphasized by the Supreme Court that the rule in Heydon's case is applicable only when the words used are ambiguous and are reasonably capable of more than one meaning. It enables consideration of four matters in construing an Act: } {2^{1/2} M}

- (1) what was the law before the making of the Act;
- (2) what was the mischief or defect for which the law did not provide;
- (3) what is the remedy that the Act has provided; and
- (4) what is the reason for the remedy.

(ii) Dictionary Definitions: First we refer the Act in question to find out if any particular word or expression is defined in it. Where we find that a word is not defined in the Act itself, we may refer to dictionaries to find out the general sense in which that word is commonly understood. However, in selecting one out of the several meanings of a word, we must always take into consideration the context in which it is used in the Act. It is the fundamental rule that the meanings of words and expressions used in an Act must take their colour from the context in which they appear. Further, judicial decisions laying down the meaning of words in construing statutes in 'pari materia' will have greater weight than the meaning furnished by dictionaries. However, for technical terms, reference may be made to technical dictionaries. }

Answer:

(c) According to section 2(45) of the Companies Act, 2013, "Government company" means any company in which not less than 51% of the paid-up share capital is held by the Central State Government or Governments, or partly by the Central Government and partly by one or more State Governments, and includes a company which is a subsidiary company of such a Government company. } {2 M}

As per section 139(7), in the case of a Government company or any other company owned or controlled, directly or indirectly, by the Central Government, or by any State Government, or Governments, or partly by the Central Government and partly by one or more State Governments, the first auditor shall be appointed by the Comptroller and Auditor-General of India within 60 days from the date of registration of the company and in case the Comptroller and Auditor - General of India does not appoint such auditor within the said period, the Board of Directors of the company shall appoint such auditor within the next 30 days; and in the case of failure of the Board to appoint such auditor within the next 30 days, it shall inform the members of the company who shall appoint such auditor within the 60 days at an extraordinary general meeting, who shall hold office till the conclusion of the first annual general meeting.

In the given question, Shiv Limited is a government company as 58.20 (4.50+4.23) of the share capital is held by Central government and State Government (Punjab Government). Thus, the first auditor of Shiv Limited shall be appointed by the Comptroller and Auditor-General of India within 60 days from the date of registration. Thus, the appointment of first auditor by Board of Directors on 31.10.2020 is not valid. The Board of Directors can appoint the first auditor in case the Comptroller and Auditor-General of India does not appoint such auditor within the said period of period 60 days. The Board of Directors of the company shall appoint such auditor within the next 30 days.

In the case of failure of the Board to appoint such auditor within the next 30 days, it shall inform the members of the company who shall appoint such auditor within 60 days at an extraordinary general meeting, who shall hold office till the conclusion of the first annual general meeting. Thus, the contention of members that its only the members who can appoint the first auditor of the Government company, is not connect.

{2 M}

Answer 5:

(a) (i) According to Section 128(1) of the Companies Act, 2013, every company shall prepare "books of account" and other relevant books and papers and financial statement for every financial year.

These books of accounts should give a true and fair view of the state of the affairs of the company, including that of its branch office(s). These books of accounts must be kept on accrual basis and according to the double entry system of accounting.

Hence, maintenance of books of account under Singly Entry System of Accounting by Rakesh Limited is not permitted.

(ii) Persons responsible to maintain books

As per Section 128 (6) of the Companies Act, 2013, the person responsible to take all reasonable steps to secure compliance by the company with the requirement of maintenance of books of accounts etc. shall be:

(a) Managing Director,

(b) Whole-Time Director, in charge of finance

(c) Chief Financial Officer

(d) Any other person of a company charged by the Board with duty of complying with provisions of section 128.

(iii) A Company have has the option of keeping such books of account or other relevant papers in electronic mode as per Rule 3 of the Companies (Accounts) Rules, 2014. According to such Rule,

(a) Such books of accounts or other relevant books or papers maintained in electronic mode shall remain accessible in India so as to be usable for subsequent reference.

{1^{1/2} M}{1^{1/2} M}

{1 M}

- (b) There shall be a proper system for storage, retrieval, display or printout of the electronic records as the Audit Committee, if any, or the Board may deem appropriate and such records shall not be disposed of or rendered unusable, unless permitted by law. }
- (c) The back-up of the books of account and other books and papers of the company maintained in electronic mode, including at a place outside India, if any, shall be kept in servers physically located in India on a periodic basis. Hence, a company cannot keep books of Account in electronic mode accessible only outside India. } {1 M}

Answer:

- (b) As per the provisions of section 142 of the Indian Contract Act 1872, where the guarantee has been obtained by means of misrepresentation made by the creditor concerning a material part of the transaction, the surety will be discharged. Further according to provisions of section 134, the surety is discharged by any contract between the creditor and the principal debtor, by which the principal debtor is released, or by any act or omission of the creditor, the legal consequence of which is the discharge of the principal debtor. } {3 M}
- In the given question, Priyanka wants to purchase air conditioner whose compressor should be of copper, on credit from Rahul. Mr. Arvind has given the guarantee for payment of price. Rahul sold the air conditioner of a particular brand on misrepresenting that it is made of copper while it is made of aluminium of which both Priyanka & Mr. Arvind were unaware. After being aware of the facts, Priyanka denied for payment of price. Rahul filed the suit against Mr. Arvind for payment of price. On the basis of above provisions and facts of the case, as guarantee was obtained by Rahul by misrepresentation of the facts, Mr. Arvind will not be liable. He will be discharged from liability. } {2 M}

Answer:

- (c) As per section 139(6) of the Companies Act, 2013, the first auditor of a company, other than a Government company, shall be appointed by the Board of Directors within thirty days from the date of registration of the company and such auditor shall hold office till the conclusion of the first annual general meeting. } {2 M}
- Whereas Section 139(1) of the Companies Act, 2013 states that every company shall, at the first annual general meeting (AGM), appoint an individual or a firm as an auditor of the company who shall hold office from the conclusion of 1st AGM till the conclusion of its 6th AGM and thereafter till the conclusion of every sixth AGM. } {2 M}
- As per section 139(2), no listed company or a company belonging to such class or classes of companies as may be prescribed, shall appoint or re-appoint an individual as auditor for more than one term of five consecutive years. As per the given provisions following are the answers:
- (i) Appointment of Mr. Tel by the Board of Directors is valid as per the provisions of section 139(6). } {1/2 M}
- (ii) Appointment of Mr. Tel at the first Annual General Meeting is valid due to the fact that the appointment of the first auditor made by the Board of Directors is a separate appointment and the period of such appointment is not to be considered, while Mr. Tel is appointed in the first Annual General Meeting, which is for the period from the conclusion of the first Annual General Meeting to the conclusion of the sixth Annual General Meeting. } {1 M}
- (iii) As per law, auditor appointed shall hold office from the conclusion of 1st AGM till the conclusion of its 6th AGM i.e., for 5 years. Accordingly, here appointment of Mr. Bell, which is for 4 years, is not in compliance with the said legal provision, so his appointment is not valid. } {1/2 M}

Answer 6:

- (a) Yes, the Director shall be held liable for the false statements made in the prospectus under sections 34 and 35 of the Companies Act, 2013. Whereas section 34 imposes a criminal punishment on every person who authorises the issue of such prospectus, section 35 more particularly includes a director of the company in the imposition of liability for such misstatements. **{1 M}**
- The only situations when a director will not incur any liability for mis-statements in a prospectus are as under:
- (1) No criminal liability under section 34 shall apply to a person if he proves that such statement or omission was immaterial or that he had reasonable grounds to believe, and did up to the time of issue of the prospectus believe, that the statement was true or the inclusion or omission was necessary. **{1 M}**
- (2) No civil liability for any mis-statement under section 35 shall apply to a person if he proves that:
- (i) having consented to become a director of the company, he withdrew his consent before the issue of the prospectus, and that it was issued without his authority or consent; or **{1 M}**
- (ii) the prospectus was issued without his knowledge or consent, and that on becoming aware of its issue, he forthwith gave a reasonable public notice that it was issued without his knowledge or consent. **{1 M}**
- (iii) that, as regards every misleading statement purported to be made by an expert or contained in what purports to be a copy of or an extract from a report or valuation of an expert, it was a correct and fair representation of the statement, or a correct copy of, or a correct and fair extract from, the report or valuation; and he had reasonable ground to believe and did up to the time of the issue of the prospectus believe, that the person making the statement was competent to make it and that the said person had given the consent required by sub-section (5) of section 26 to the issue of the prospectus and had not withdrawn that consent before filing of a copy of the prospectus with the Registrar or, to the defendant's knowledge, before allotment thereunder. **{1 M}**
- Therefore, in the present case the director cannot escape the liability by stating that he had relied on the promoters for making correct statements in the prospectus. He will be liable for misstatements in the prospectus.

Answer:

- (b) Rule of Literal Construction
- Normally, where the words of a statute are in themselves clear and unambiguous, then these words should be construed in their natural and ordinary sense and it is not open to the court to adopt any other hypothetical construction. **{2 M}**
- This is called the rule of literal construction. This principle is contained in the Latin maxim "absoluta sententia expositore non indeget" which literally means "an absolute sentence or preposition needs not an expositor". In other words, plain words require no explanation.
- Sometimes, occasions may arise when a choice has to be made between two interpretations - one narrower and the other wider or bolder. In such a situation, if the narrower interpretation would fail to achieve the manifest purpose of the legislation, one should rather adopt the wider one. When we talk of disclosure of the nature of concern or interest, financial or otherwise of a director or the manager of a company in the subject matter of a proposed motion (as referred to in section 102 of the Companies Act, 2013), we have to interpret in its broader sense of referring to any concern or interest containing any information and facts that may enable members to understand the meaning scope and implications of the items of business and to take decisions thereon. What is required is a full and frank disclosure without **{2 M}**

reservation or suppression, as, for instance where a son or daughter or father or mother or brother or sister is concerned in any contract or matter, the shareholders ought fairly to be informed of it and the material facts disclosed to them. Here a restricted narrow interpretation would defeat the very purpose of the disclosure.

In the given question, Shikhar (a director) did not disclose his interest in a matter placed before the Board Meeting (in which his sister has interest), as he is not personally interested or concerned in the proposal. Here, he ought to have considered broader meaning of the provision of law; and therefore, even though he was personally not interested or concerned in the proposal, he should have disclosed the interest.

{1 M}

Answer:

(c) Section 83 of the Companies Act, 2013 empowers the Registrar to make entries with respect to the satisfaction and release of charges even if no intimation has been received by him from the company. Accordingly, with respect to any registered charge if an evidence is shown to the satisfaction of Registrar that the debt secured by charge has been paid or satisfied in whole or in part or that the part of the property or undertaking charged has been released from the charge or has ceased to form part of the company's property or undertaking, then he may enter in the register of charges a memorandum of satisfaction that:

- the debt has been satisfied in whole or in part; or
- the part of the property or undertaking has been released from the charge or has ceased to form part of the company's property or undertaking.

This power can be exercised by the Registrar despite the fact that no intimation has been received by him from the company.

Information to affected parties: The Registrar shall inform the affected parties within 30 days of making the entry in the register of charges.

Issue of Certificate: As per Rule 8 (2), in case the Registrar enters a memorandum of satisfaction of charge in full, he shall issue a certificate of registration of satisfaction of charge in Form No. CHG-5. Therefore, Ranjit can approach the Registrar and show evidence to his satisfaction that the charge has been duly settled and satisfied and request the Registrar to enter a memorandum of satisfaction noting the release of charge.

{2 M}

{2 M}

Answer 7:

(a) As per Second Proviso to Section 123 (1), in the event of inadequacy or absence of profits in any financial year, a company may declare dividend out of the accumulated profits of previous years which have been transferred to the free reserves. However, such declaration shall be subject to the following conditions as per Rule 3 of Companies (Declaration and Payment of Dividend) Rules, 2014.

{1 M}

(i) The rate of dividend declared shall not exceed the average of the rates at which dividend was declared by the company in the immediately preceding three years. As per facts of the question the present rate of dividend is 20% and average dividend declared in the last three years is 25%. So, this condition is fulfilled.

{1 M}

(ii) The total amount to be drawn from free reserves shall not exceed one-tenth i.e., 10% of its paid-up share capital and free reserves as per the latest audited financial statement.

Amount of dividend proposed: Rs. 2 Crores (20% of Rs. 10 Crore i.e. on paid up capital) 10% of paid up share capital and free reserves: 10% of (10 crore + 50 crore) = Rs. 6 Crore.

{1 M}

This condition is fulfilled as amount of dividend is not exceeding 10% of its paid-up share capital and free reserves.

- (iii) The amount so drawn shall first be utilized to set off the losses incurred in the financial year in which dividend is declared and only thereafter, any dividend in respect of equity shares shall be declared. {1 M}
- (iv) After such withdrawal from free reserves, the residual reserves shall not fall below 15% of its paid-up share capital as per the latest audited financial statement. {1 M}
- Balance of reserves after payment of dividend: Rs. 48 crore (50 crore - 2 crore)
- 15% of paid up share capital: 1.5 crore (15% of 10 crore)
- This condition is fulfilled.
- Taking into account all the conditions, it can be said that declaration of dividend by MNP Limited is valid.

Answer:

- (b) Forgery confers no title and a holder acquires no title to a forged instrument. Thus, where a signature on the negotiable instrument is forged, it becomes a nullity. Therefore, cheque further endorsed to Mi. Z, is not valid. {2 M}
- Since a forged instrument is a nullity, therefore the property in the such instrument remains vested in the person who is the holder at the time when the forged signatures were put on it. Forgery is also not capable of being ratified. In the case of forged endorsement, the person claiming under forged endorsement even if he is purchaser for value and in good faith, cannot acquire the rights of a holder in due course. Therefore, Mr. Z, acquires no title on the cheque. {3 M}

Answer:

- (c) Deposit: According to section 2 (31) of the Companies Act, 2013, the term 'deposit' includes any receipt of money by way of deposit or loan or in any other form, by a company, but does not include such categories of amount as prescribed in the Rule 2 (1) (c) of the Companies (Acceptance of deposit) Rules, 2014, in consultation with the Reserve bank of India. {1 M}
- Amounts received by the company will not be considered as deposit: In terms of Rule 2 (1) (c) of the Companies (Acceptance of deposit) Rules, 2014, following shall be the answers
- (i) In the first case, where Rs. 5,00,000 raised by the Rishi Ltd. through issue of non-convertible debenture not constituting a charge on the assets of the company and listed on recognised stock exchange as per the applicable regulations made by the SEBI, will not be considered as deposit in terms of sub-clause (ixa) of the said rule. {1 M}
- (ii) In the second case, Rs. 2,00,000 was received from Mr. T, an employee of the company drawing annual salary of Rs. 1,50,000 under a contract of employment with the company in the nature of non-interest-bearing security deposit. This amount received by company from employee, Mr. T will be considered as deposit in terms of sub-clause (x) of the said rule, as amount received is more than his annual salary under a contract of employment with the company in the nature of non-interest-bearing security deposit. {1 M}
- (iii) In the third case, amount of Rs. 3,00,000 received by a private company from a relative of a director, declaring details of the amounts so deposited as out of gift received from his mother. This amount received by the private Company will not be considered as deposit in terms of sub-clause (viii) of the said rule. Here as per the requirement, the relative of the director of the private company, from whom money is received, furnished the declaration in writing to the effect that the amount is given out of gift received from his mother and not being given out of funds acquired by him by borrowing or accepting loans or deposits from others. {1 M}