

Paper 3 - Fundamentals of Laws and Ethics

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Full Marks :100

Time allowed: 3 hours

- I. Choose the correct answer from the given four alternatives: 10 x 1 = 10
1. The term “Quid Pro quo” is applied in connection with---
 - (a) consideration
 - (b) capacity of the parties
 - (c) free consent
 - (d) legality of object

 2. A agree to pay B ₹ 1000 if it rains today, otherwise B pays A ₹ 1500. This is a ____
 - (a) Gambling
 - (b) Wagering agreement
 - (c) speculation
 - (d) game of chance

 3. A enter into a contract with B a celebrated painter who agree to paint a picture for A for an agreed sum on the canvas and material supplied by A. This is a contract _____
 - (a) sales
 - (b) works and labor
 - (c) exchange of services and goods
 - (d) agreement of sales.

 4. If the words “not negotiable” are used with special crossing in a cheque, the cheque is _____
 - (a) not transferable
 - (b) transferable
 - (c) negotiable under certain circumstances
 - (d) none of the above.

 5. In the absence of specific provision in the partnership deed at what rate interest on advances given by the partners would be allowed
 - (a) @ 8%
 - (b) @10%
 - (c) @6%
 - (d) Nil

 6. A Industries Ltd. has more than five hundred workers ordinarily employed; one of the employee got injured while performing his duties, there should be provided by the management _____
 - (a) An ambulance room

- (b) A first-aid box
 - (c) A doctor
 - (d) An ambulance van
7. XYZ Ltd to which the payment of Wages Act, 1936 is applicable, fixes the wages period of 36 days. You as a Cost and Management Accountant of the Company, how would you advise the company.
- (a) There is no problem in the above act of the Company
 - (b) As per Section 4(2) of the Act, no wage period can exceed 30 days. So the company would be advised accordingly
 - (c) The wages period can be more than 30 days subject to approval of appropriate Government.
 - (d) The company should take permission of Inspector of the factory
8. As per the Minimum Wages Act, Adolescent means a person who has completed the age of 14 years but not completed age of _____
- (a) 15
 - (b) 14
 - (c) 21
 - (d) 18
9. The primary liability of paying employee's and employer's contribution is of—
- (a) Immediate employer
 - (b) The principal employer
 - (c) Central Government
 - (d) Appropriate Government
10. The relevance of ethics is in its:
- (a) Context
 - (b) Principles
 - (c) Application
 - (d) Understanding

Answer:

- 1. (a) consideration
- 2. (b) Wagering agreement
- 3. (b) works and labor
- 4. (a) not transferable
- 5. (c) @ 6%
- 6. (a) An ambulance room
- 7. (b) As per Section 4(2) of the Act, no wage period can exceed 30 days. So the company would be advised accordingly
- 8. (d) 18

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9. (b) The principal employer
10. (c) Application

II. Fill in the blanks:

10 x 2 = 20

1. Past consideration is valid in _____
2. _____ is a person who is employed by the seller to raise the price by fictitious bids.
3. A bearer instrument is negotiated by _____
4. _____ is the real test of existence of partnership.
5. A _____ means a person who is either a child or an adolescent.
6. No fine shall be imposed on any employed person who is under the age of _____ years according to Payment of Wages act.
7. A _____ worker is one who is capable of working efficiently and supervises efficiently the work of skilled employees.
8. Any contribution payable under ESI Act may be recovered as an arrear of _____
9. According to Child Labour (Prohibition and Regulation) Act, 1986 the Occupations listed in Part A of Schedule I are _____
10. The study of ethics is a _____ science.

Answer:

1. India only
2. Puffer
3. mere delivery
4. Mutual agency relationship
5. Young person
6. Fifteen years
7. Highly skilled
8. Land Revenue
9. Prohibited occupations
10. Systematic

III. Match the following

5 x 1 = 5

	Column 'A'		Column 'B'
1.	Anticipatory Breach of Contract	A	Sec. 20 of Factories Act, 1948
2.	Grace Days	B	Constructive Breach of Contract
3.	Spittoons	C	28 th March, 1937
4.	Payment of Wages Act	D	15 th March, 1948
5.	Minimum Wages Act	E	3 days

Answer:

1. B Constructive Breach of Contract
2. E 3 days
3. A Sec. 20 of Factories Act, 1948
4. C 28th March, 1937
5. D 15th March, 1948

IV. State whether the following statement is True (or) False.

10 x 1= 10

1. In case of quasi contracts the essential elements for formation of contracts are absent.
2. Symbolic delivery is also called as delivery by attornment.
3. When documents of title or other documents relating to goods are attached, it is clean bill.
4. The sharing of profit is prima facie evidence but not conclusive evidence of Partnership.
5. The Factories Act, 1948 applies to the whole of India except to the State of Jammu and Kashmir.
6. Central Government has power to make rules under the Payment of Wages Act, 1936.
7. The term wages under the Minimum Wages Act, 1948 excludes Dearness Allowance.
8. Chairman of ESI Corporation is appointed by the Central Government.
9. Offences under Child Labor (Prohibition and Regulation) Act, 1986 are tried by a court inferior to that of a Metropolitan Magistrate or a Magistrate of first class.
10. Ethics and morals are used as synonyms.

Answer:

1. True
2. False
3. False
4. True
5. False
6. False
7. False
8. True
9. False
10. False

V. Define any Five of the following:

5 x 3 = 15

1. Contingent Contract

Answer:

Section 31 of the Indian Contract Act, 1872 defines a contingent contract as "a contract to do or not to do something if some event, collateral to such contract, does or does not happen".

2. Document of Title to Goods under Sale of Goods Act, 1930

Answer:

Document of Title to goods: [Sec. 2(4)] of Sale of Goods Act, 1930

It includes bill of lading, dock warrant, warehouse keeper's certificate, wharfinger's certificate, railway receipt, warrant or order for the delivery of goods and any other document used in the ordinary course of business as proof of the possession or control of goods, or authorising or purporting to authorise, either by endorsement or by delivery, the possessor of the document to transfer or receive goods thereby represented.

3. Ambiguous Instrument

Answer:

When an instrument due to faulty drafting may be interpreted either as bill or note, it is an ambiguous instrument. It is for holder to decide how he wants the bill to be treated. Ambiguity may also arise when the amount is stated differently in words and figures. In such case the amount stated in words will be taken into account.

4. Sub-Partner

Answer:

When a stranger share the profits derived from the firm by a partner he is regarded as a sub-partner. A sub-partner is in no way connected with the firm or he is not a partner of the firm. He is simply a partner's partner. Therefore, he has no rights against the firm nor he is liable for the debts of the firm. He only shares profits from a partner.

5. Young Person under Factories Act, 1948

Answer:

Young Person: [Sec. 2(d)] of Factories Act, 1948

"Young person" means a person who is either a child or an adolescent.

6. Confinement under ESI Act, 1948

Answer:

According to Sec. 2(3) of ESI Act, 1948 "Confinement" means labour resulting in the issue of a living child or labour after twenty-six weeks of pregnancy resulting in the issue of a child whether alive or dead;

7. Family under Child Labour (Prohibition and Regulation) Act, 1986

Answer:

Family: Sec. 2(v) of Child Labour (Prohibition and Regulation) Act, 1986

"Family", in relation to an occupier, means the individual, the wife or husband, as the case may be, of such individual, and their children, brother or sister of such individual.

8. Business Ethics

Answer:

According to Andrew Crane " Business ethics is the study of business situations, activities and decisions where issues of right and wrong are addressed"

Thus, Business Ethics (also called corporate ethics) is a form of applied ethics or professional ethics that examines ethical principles and moral or ethical problems that arise in a business environment. It applies to all aspects of business conduct, and is relevant to the conduct of individuals and the entire organizations.

Business ethics concerns itself with adhering to the social principles of the situations in which business takes place.

VI. Answer any four of the following questions.

4 x 10 = 40

1. What is meant by Revocation? Explain the modes of Revocation of offer.

10

Answer:

Revocation means taking back; revocation can be of both offer/proposal as well as acceptance. Para 3 of section 4 of Indian Contract Act, 1872 states, "the communication of a revocation is complete"- against the person

- (i) who makes it, when it is put into a course of transmission to the person to whom it is made, so as to be out of the power of the person who makes it;
- (ii) as against the person to whom it is made, when it comes to his knowledge.

Section 6 of the Act provides the modes for revocation of an offer or acceptance.

- (i) By the communication of notice of revocation by the proposer to the other party. The offeror may revoke his proposal any time before the letter of acceptance is posted to him and not afterwards. Similarly acceptance can be revoked any time before the letter of acceptance is received by the offeror.
- (ii) By the lapse of the time prescribed in such proposal for its acceptance, or, if no time is so prescribed, by the lapse of a reasonable time, without communication of the acceptance; What is a reasonable time is a question of fact in each case.
- (iii) By the failure of the acceptor to fulfill a condition precedent to acceptance.
- (iv) By the death or insanity of the proposer, if the fact of the death or insanity comes to the knowledge of the acceptor before acceptance. Where an offeree writes his acceptance but dies before posting, the offer lapse and posting of the letter after his death will not create a contract.
- (v) If a counter offer is made to it. Where the offer is accepted with some modification in terms of the offer or with some other condition not forming part of the offer, such qualified acceptance amounts to a counter offer.
- (vi) If an offer not accepted according to prescribed or usual mode. However, the offeror gives notice to the offeree within the reasonable time that the acceptance is not according to the prescribed or usual mode of acceptance.
- (vii) An offer comes to an end if the law is changed so as to make the contract contemplated by the offer illegal or incapable of performance

2. Explain the Doctrine of Caveat Emptor. State the exceptions to it.

10

Answer:

Doctrine of Caveat Emptor

The term Caveat Emptor is a Latin word which means 'let buyer be aware'. This principle underlines the concept that it is for the buyer to satisfy himself that the goods which he is purchasing are of the quality required by him. It is a fundamental principle of law of sale of goods and implies that the seller is under no obligation to point out the defects in his own goods. The buyer must take care while purchasing the goods and if he makes a wrong selection he cannot blame the seller if the goods turn out to be defective or do not serve his purpose. This principle was applied in the case of Ward v Hobbs. However the doctrine of Caveat Emptor does not mean that the buyer must take a chance, it only means he must take care. However this rule is not without any exception. With the passage of time this doctrine has been considered to be too unreasonable to the buyers. Hence the law in section 16 recognized certain exception to the rule.

The doctrine is however subject to following exceptions as provided in section 16 of the Act.

- (i) Where the buyer expressly or by implication makes known to the seller the particular purpose for which the goods are required and relied upon the skill and judgment of the

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seller and the goods are of description which it is the course of the sellers business to supply, there is an implied condition that the goods shall be reasonably fit for such purpose. Accordingly the seller cannot get any immunity on the grab of Caveat Emptor.

- (ii) Implied condition as to Merchantability where the goods are bought by description from the seller in goods of that description.
- (iii) Condition as to Wholesomeness in case of foodstuffs and other goods meant for human consumption.
- (iv) When the seller commits fraud.
- (v) When there is a usage of trade.

3. (a) Write a comparative analysis of Promissory Note, Bill of Exchange and Cheque. 6

Answer:

Comparative analysis of Promissory Note, Bill of Exchange and Cheque:

Points	Promissory Note	Bill of Exchange	Cheque
Parties	2 Parties - maker & payee	3 parties - drawer, drawee and Payee	3 parties - drawer, banker and payee
Nature	Contains an unconditional promise by maker to pay the payee	Contains an unconditional order to the drawee to pay the payee	Drawn on specified banker to pay on demand.
Acceptance	Not necessary	Necessary if the bill is payable after sight.	Not necessary.
Liability	Liability of maker is primary and absolute.	Liability of drawer is conditional and secondary upon nonpayment by drawee.	Liability of drawer is conditional and secondary upon non-payment by banker
Notice of dishonor	Not necessary	Necessary	Not necessary
Payable	On demand or after a specified time. Cannot be made payable to bearer on demand or even after certain period.	On demand or after a specified time. Cannot be made payable to bearer on demand.	On demand even to bearer if so made.
Crossing	Not possible	Not possible	Can be crossed.

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Noting and protesting in case of dishonour	Not required	Required to establish the fact of dishonour.	Not required
Grace period	Available if payable after specified time	Available if payable after specified time (usance bill)	Not available.
Other features	Number, date, place not essential. Must be stamped.	Number, date, place not essential. Must be stamped.	Number, date, place, essential. Need not be stamped.

3. (b) Explain the difference between Dissolution of Partnership and Dissolution of firm. 4

Answer:

The dissolution of a partnership between all the partners of a firm is called the “dissolution of the firm”. There is a difference between dissolution of partnership and dissolution of firm.

Dissolution of Partnership: Dissolution of partnership refers to the change in the existing relations of the partners. The firm continues its business after being reconstituted. This may happen on admission, retirement or death of a partner or change in profit sharing ratio in the firm:

Dissolution of Firm : Dissolution of a firm means the dissolution of partnership between all the partners of a firm. In such a situation, the business of the firm is discontinued, its assets are realised, the liabilities are paid off and the surplus (if any) is distributed among the partners according to their rights.

Difference between Dissolution of Partnership and Dissolution of Firm:

Dissolution of partnership and Dissolution of firm are two different terms. *Dissolution of partnership* means termination of existing partnership agreement and the formation of a new agreement which can be due to any reason like admission of a new partner or death or retirement of an old partner. In the case of dissolution of partnership the remaining partners may agree to carry on the business under a new agreement.

Whereas *Dissolution of Partnership* firm means that the firm is closing down its business. In the case of dissolution of firm the Assets of the business are sold, Liabilities are paid off and the accounts of the partners are settled out of the remaining amount.

4. (a) Explain the provisions relating to Health under the Factories Act, 1948.

7

Answer:

Sec. 11 to 20 deals with provisions ensuring health of the workers.

1. Cleanliness. [Sec. 11]

Shall be kept clean and free from effluvia arising from any drain, privy or other, nuisance, and in particular—

- ❖ Accumulations of dirt and refuse shall be removed daily
- ❖ shall be cleaned at least once in every week by washing, using disinfectant
- ❖ effective means of drainage shall be provided
- ❖ All inside walls and partitions, all ceilings, doors and window frames shall be painted and varnished every 5 years

2. Disposal of Wastes and Effluents. [Sec. 12]

Effective arrangements shall be made in every factory for the treatment of wastes and effluents The State Government may make rules prescribing the arrangements to be made.

3. Ventilation and Temperature. [Sec. 13]

- ❖ Effective and suitable provision shall be made for
- ❖ Adequate ventilation by the circulation of fresh air
- ❖ Maintain such a temperature as reasonable conditions of comfort and prevent injury to health
- ❖ The State Government may prescribe a standard of adequate ventilation and reasonable temperature
- ❖ The Chief Inspector may serve on the occupier, an order in writing specifying the measures which should be adopted to control temperature

4. Dust and Fume. [Sec. 14]

- ❖ Every factory in which dust or fume or other impurity of such a nature is given off effective measures shall be taken to prevent its inhalation and accumulation in any workroom and exhaust appliance shall be applied as near as possible to the point of origin
- ❖ In any factory no stationary internal combustion engine shall be operated unless the exhaust is conducted into the open air

5. Artificial Humidification. [Sec. 15]

State Government may make rules,—

- ❖ Prescribing standards of humidification
- ❖ Regulating the methods used
- ❖ Directing prescribed tests for determining the humidity
- ❖ Prescribing methods to be adopted for securing adequate ventilation

- ❖ The water used for humidification shall be taken from a public supply and be effectively purified

6. Overcrowding. [Sec. 16]

- ❖ No room in any factory shall be overcrowded to an extent injurious to the health of the workers employed therein
- ❖ A factory built after the commencement of this Act at least 14.2 cubic metres or space for every worker employed therein, and for the purposes of this sub-section no account shall be taken of any space which is more than 4.2 metres above the level of the floor of the room
- ❖ If the Chief Inspector by order in writing, may or may not post a notice specifying the maximum number of workers who may be employed in the room

7. Lighting. [Sec. 17]

In every part of a factory where workers are working or passing there shall be provided and maintained sufficient and suitable lighting, natural or artificial, or both.

8. Drinking Water. [Sec. 18]

- ❖ In every factory effective arrangements shall be made to provide a sufficient supply of wholesome drinking water and shall be legibly marked "drinking water"
- ❖ Shall be situated within six metres of any washing place, urinal, latrine, spittoon, open drain carrying sullage or effluent
- ❖ Wherein more than two hundred and fifty workers are ordinarily employed provisions shall be made for cooling drinking water during hot weather

9. Latrines and Urinals. [Sec. 19]

- ❖ Sufficient latrine and urinal accommodation shall be provided
- ❖ Separate enclosed accommodation shall be provided for male and female workers and shall be adequately lighted and ventilated
- ❖ Shall be maintained in a clean and sanitary condition at all times

10. Spittoons. [Sec. 20]

In every factory there shall be provided a sufficient number of spittoons in convenient places and they shall be maintained in a clean and hygienic condition.

4. (b) Define Wage according to Payment of Wages Act, 1936.

3

Answer:

Wages: [Sec. 2(vi)]

"wages" means all remuneration (whether by way of salary allowances or otherwise) expressed in terms of money or capable of being so expressed which would, if the terms of employment, express or implied, were fulfilled, be payable to a person employed in respect of his employment, or of work done in such employment and includes—

- (a) any remuneration payable under any award or settlement between the parties or order of a court;
- (b) any remuneration to which the person employed is entitled in respect of overtime work or holidays or any leave period;
- (c) any additional remuneration payable under the terms of employment (whether called a bonus or by any other name);
- (d) any sum which by reason of the termination of employment of the person employed is payable under any law, contract or instrument which provides for the payment of such sum, whether with or without deductions, but does not provide for the time within which the payment is to be made;
- (e) any sum to which the person employed is entitled under any scheme framed under any law for the time being in force,

The expression 'wages' does not include:-

- (1) any bonus (whether under a scheme of profit sharing or otherwise) which does not form part of the remuneration payable under the terms of employment or which is not payable under any award or settlement between the parties or order of a court;
- (2) the value of any house-accommodation, or of the supply of light, water, medical attendance or other amenity or of any service excluded from the computation of wages by a general or special order of the State Government;
- (3) any contribution paid by the employer to any pension or provident fund and the interest which may have accrued thereon;
- (4) any travelling allowance or the value of any travelling concession;
- (5) any sum paid to the employed person to defray special expenses entailed on him by the nature of his employment; or
- (6) any gratuity payable on the termination of employment in cases other than those specified in subclause (d) above.

5.(a) Explain the minimum rates fixed by the appropriate government as per Minimum Wages Act, 1948, 5

Answer:

Minimum rates [Section 3(2)]

The appropriate government may fix

- (a) A minimum rate of wages for time work (hereinafter referred to as "a minimum time rate");
- (b) A minimum rates of wages for piece work (hereinafter referred to as "a minimum piece rate");
- (c) A minimum rate of remuneration to apply in the case of employees employed on piece work for the purpose of securing to such employees a minimum rate of wages on a time work basis (hereinafter referred to as "a guaranteed time rate");

- (d) A minimum rate (whether a time rate or a piece rate) to apply in substitution for the minimum rate which would otherwise be applicable in respect of overtime work done by employees (hereinafter referred to as "overtime rate").

In fixing or revising minimum rates of wages under this section—

- (a) Different minimum rates of wages may be fixed for—
- (i) Different scheduled employments;
 - (ii) Different classes of work in the same scheduled employment;
 - (iii) Adults, adolescents, children and apprentices;
 - (iv) Different localities;
- (b) Minimum rates of wages may be fixed by any one or more of the following wage periods; namely:
- (i) By the hour
 - (ii) By the day
 - (iii) By the month, or
 - (iv) By such other larger wage-period as may be prescribed;

and, where such rates are fixed by the day or by the month the manner of calculating wages for a month, or for a day, as the case may be may be, indicated :

Provided that where any wage-periods have been fixed under section 4 of the Payment of Wages Act, 1936 (4 of 1936) minimum wages shall be fixed in accordance therewith.

5. (b) What happens when the number of employee falls below 10? Can the factory or establishment escape from the application of ESI Act, 1948. 5

Answer:

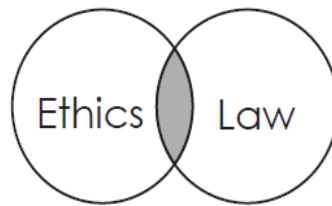
During the operation of the provision of this Act in a factory or establishment to which this Act applies, if the number of persons employed therein at any time falls below the limit specified by or under this Act or the manufacturing process therein ceases to be carried on with the aid of power, the provision of this Act continues to be applicable. Accordingly in the instant case the factory or establishment will continue to comply with the provision of this Act, despite the number of employees falling below 10.

6. Explain the interface between Law and Ethics. 10

Answer:

Ethics and Law - The Interface

Law is essentially an institutionalisation or codification of ethics into specific social rules, regulations and prescriptions. Perhaps the best way of visualizing ethics and law is in terms of two intersecting domains as depicted in the following figure:



Thus, in one sense, business ethics can be said to begin where law ends. Business ethics is primarily concerned with those issues not completely covered by law, or where there is no definite consensus on whether something is right or wrong. Hence, it is often remarked, that business ethics is about the “grey areas” of business where values are in conflict.