

Paper 6- LAWS AND ETHICS

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Full Marks: 100

Time allowed: 3 hours

Section - A

1. Answer the following questions

(a) Multiple choice questions:

[10x1=10]

- (i) Which is not the circumstance in which the transit of the goods is at end?
- (a) If the buyer or his agents obtains delivery of the goods before their arrival at the appointed destination;
 - (b) Where the earlier or other bailee wrongfully refuses to deliver the goods to the buyer or his agents in that behalf;
 - (c) If the goods are rejected by the buyer and the carrier or other bailee continues in possession of them;
 - (d) Where the carrier or other bailee wrongfully refuses to deliver the goods to the buyer or his agents in that behalf.
- (ii) Intimation of the reconstitution of change in a registered partnership is to be given to the Registrar of firms-
- (a) No time limit;
 - (b) Within 30 days;
 - (c) Within 60 days;
 - (d) Within 90 days.
- (iii) A firm shall not contain any name-
- (a) King;
 - (b) Queen;
 - (c) Empire;
 - (d) All the above.
- (iv) The breach of contract may be-
- (a) Actual;
 - (b) Anticipatory;
 - (c) None of the above;
 - (d) Either of the above.
- (v) At every AGM, not less than _____ of the total number of directors shall retire by rotation.
- (a) One third;
 - (b) Two third;
 - (c) Three fourth;
 - (d) Half.
- (vi) Holder in due course means any person-
- (a) Drawing the instrument;
 - (b) Who for consideration became the possession of a promissory note;
 - (c) Named in the instrument to whom or to whom order the money is directed to be paid;
 - (d) None of the above.

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- (vii) Find out the right of the unpaid seller from the following-
- (a) A lien on the goods for the price while he is in possession of them;
 - (b) A right of resale as limited by the Act;
 - (c) In case of the insolvency of the buyer a right of stopping the goods in transit after he has parted with the possession of them.
 - (d) All the above.
- (viii) Schedule II of this act relates to an employment of –
- (a) State government;
 - (b) Central government;
 - (c) Agriculture;
 - (d) Local authority.
- (ix) Which one of the following documents is required to keep for more than 5 years?
- (a) Copies of Government order relating to LLP;
 - (b) All papers, registers, refund orders and correspondence relating to the LLP liquidation accounts;
 - (c) Copies of statistical returns furnished to Government;
 - (d) Annual return of a LLP.
- (x) A cheque shall be deemed to
- (a) On addition of the name
 - (b) Drawing two lines parallel;
 - (c) Any of (a) or (b);
 - (d) None of (a) and (b).

Answer:

(i)	(ii)	(iii)	(iv)	(v)	(vi)	(vii)	(viii)	(ix)	(x)
b	a	d	d	b	b	d	c	b	a

- (b) Match the following: [5x1=5]

	Column 'A'		Column 'B'
1.	Pvt. company to OPC	A	Moral judgmental.
2.	Recovery of wages	B	Donation
3.	Meta ethics	C	Bar of suits
4.	ESI Fund	D	MGT - 14
5.	Cancellation	E	Rescission

Answer:

	Column 'A'		Column 'B'
1.	Pvt. company to OPC	D	MGT - 14
2.	Recovery of wages	C	Bar of suits
3.	Meta ethics	A	Moral judgmental.
4.	ESI Fund	B	Donation
5.	Cancellation	E	Rescission

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(c) Fill in the blanks: [5×1=5]

- (i) Immediate payment is required in case of _____. No grace days are allowed.
- (ii) Substitution of a new contract in place of the existing contract is known as _____.
- (iii) The claim for minimum wages shall be made in _____.
- (iv) _____ is the principles and standards that determines acceptable conduct in business organizations.
- (v) A company may issue _____ in any foreign currency.

Answer:

- (i) Cheque,
- (ii) "Navigation of Contract".
- (iii) Duplicate,
- (iv) Business Ethics,
- (v) Depository Receipts

(d) State whether the following statements are true or false: [5x1=5]

- (i) Listed company 'as a company which has any of its securities listed on any recognised stock exchange.
- (ii) An unregistered firm can file a suit to enforce a right, arising from a contract, in any court against any third party.
- (iii) An unpaid seller, who is in possession of goods sold, may exercise his lien on the goods.
- (iv) The cancellation of shares shall not be deemed to reduction of share capital.
- (v) The ethical operation of a company is directly related to profitability in both short and long term.

Answer:

(i)	(ii)	(iii)	(iv)	(v)
True	False	True	True	True

Section - B

Answer any five from the following. Each question carries 15 marks

(5×15=75)

2. (a) Under what circumstances the agreement becomes void? [10]
- (b) What are the rights of the finder of goods? [5]

Answer:

- (a) According to Section 2(g), an agreement not enforceable by law is said to be void. The following agreements are considered to be void-

1. If considerations and objects are unlawful in part – Section – 24;
2. Agreements without consideration – Section 25;
3. Agreement in restraint of marriage – Section 26;
4. Agreement in restraint of trade – Section 27;
5. Agreements in restraint of legal proceedings – Section 28;
6. Agreements void for uncertainty – Section 29;
7. Agreements by way of wager – Section 30;

1. If considerations and objects are unlawful in part – Section – 24:

Section 24 provides that if any part of a single consideration for one or more objects or any one or any part of any one of several considerations for a single object is unlawful, the agreement is void.

Example – A promises to superintend, on behalf of B, a legal manufacture of indigo and an illegal traffic in other articles, B promises to pay to A salary of ` 10,000/- a year. The agreement is void, the object of A's promise, and the consideration for B's promise, being in part unlawful. This section has no application to a contract which is a single contract and has no contingent part.

2. Agreements without consideration – Section 25:

Section 25 provides that an agreement made without consideration is void unless-

- (1) it is in writing and registered – It is expressed in writing and registered under the law for the time being in force for the registration of documents and is made on account of natural love and affection between parties standing in a near relation to each other; or unless
- (2) it is a promise to compensate for something done – It is a promise to compensate, wholly or in part, a person who has already voluntarily done something for the promisor, or something which the promisor was legally compellable to do; or unless
- (3) it is a promise to pay a debt, barred by limitation law – It is a promise, made in writing and signed by the person to be charged herewith, or by his agent generally or specially authorized in that behalf, to pay wholly or in part a debt of which the creditor might have enforced payment but for the law for the limitation of suits. In any of these cases, such an agreement is a contract.

3. Agreement in restraint of marriage – Section 26:

Section 26 provides that every agreement by which any one is restrained of the marriage of any person, other than a minor is void.

4. Agreement in restraint of trade – Section 27:

Section 27 provides that every agreement by which any one is restrained from exercising a lawful possession, trade or business of any kind, is to that extent void. The exception to this section is saving of agreement not to carry on business of which goodwill is sold. One who sells the

goodwill of a business may agree with the buyer to refrain from carrying on a similar business, within specified local limits, so long as the buyer, or any person deriving title to the goodwill from him, carries on a like business therein. Provide that such limits appear to the Court reasonable, regard being had to the nature of business.

5. Agreements in restraint of legal proceedings under Section 28

Section 28 provides that every agreement-

- (a) by which any party thereto is restricted absolutely from enforcing his rights under or in respect of any contract, by the usual legal proceedings in the ordinary tribunals, or which limits the time within which he may thus enforce his rights; or
- (b) which extinguishes the rights of any party thereto, or discharges any party thereto, from any liability, under or in respect of any contract on the expiry of a specified period so as to restrict any party from enforcing his rights, is void to that extent. Agreements void for uncertainty.

6. Section 29 provides that agreements, the meaning of which is not certain, or capable of being made certain are void.

Examples –

- (i) A agrees to sell to B, 'a hundred tons of oil'. There is nothing whatever to show what kind of oil was intended. The agreement is void for uncertainty;
- (ii) A agrees to sell to B, 'One hundred tons of oil of specified description known as an article of commerce. There is no uncertainty here to make to agreement void;
- (iii) A who is a dealer in coconut oil only, agrees to sell to B 'One hundred tons of oil'. The nature of A's trade affords an indication of the meanings of the words, and A has entered into a contract for the sale of one hundred tons of coconut oil.
- (iv) A agrees to sell to B, 'all the grain in my granary at Ramnagar'. There is no uncertainty here to make the agreement void;
- (v) A agrees to sell to B 'One thousand maunds of rice at a price to be fixed by C'. As the price is capable of being made certain, there is no uncertainty here to make the agreement void;
- (vi) A agrees to sell to B 'my white horse for `500/- or `1000/-. There is nothing to show which of the two prices was to be given. The agreement is void. Agreement by way of wager.

7. Section 30 provides that agreements by way of wager are void; and no suit shall be brought

for recovering anything alleged to be won on any wager, or entrusted to any person to abide the result of any game or other uncertain event on which any wager is made. Exception in favor of certain prizes for horse-racing – This section shall not be deemed to render unlawful a subscription, or contribution, or agreement to subscribe or contribute, made or entered into for or toward any plate, prize, or sum of money, of the value or amount of `500/- or upwards, to be awarded to the winner or winners of any horse-race.

Section 294A of the Indian Penal Code not affected – Nothing in this section shall be deemed to legalize any transaction connected with horse-racing to which the provisions of Section 294A of the Indian Penal Code, apply.

- (b) Section 168 provides that the finder of goods has no right to sue the owner for compensation for trouble and expense voluntarily incurred by him to preserve the goods and to find out the owner; but he may retain the goods against the owner until he receives such compensation; and, where the owner has offered a specific reward for the return of goods lost, the finder may sue for such reward, and may retain the goods until he receives it.

Section 169 provides that when a thing which is commonly the subject of sale is lost, if the owner cannot,

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with reasonable diligence, be found or if he refuses, upon demand, to pay the lawful charges of the finder, the finder may sell it-

- when the thing is in danger of perishing by or of losing the greater part of its value; or
- when the lawful charges of the finder, in respect of the thing found, amount to two thirds of its value.

In 'MJR Steels (P) Limited V. Chrisomar Corporation' –AIR 2007 (NOC) 234 (Cal.) it was held that it is not always necessary that sale should be by owner himself; sale by agent or anyone with the consent of owner is valid. Finder of asset can also sale and give good title. There can also sale by estoppels.

3. (a) **What are the remedies available for breach of warranty?** [7]
- (b) **Discuss the provisions relating to the negotiable instrument in international law.** [8]

Answer:

- (a) Section 13 provides that where a contract of sale is-
- subject to any condition to be fulfilled by the seller, the buyer may waive the condition or elect to treat the breach of the condition as a breach of warranty and not as a ground for treating the contract as repudiated.
 - if severable and the buyer has accepted the goods or part thereof, the breach of any condition to be fulfilled by the seller can only be treated as a breach of warranty and not as a ground for rejecting the goods and treating the contract as repudiated, unless there is a term of the contract, express or implied, to that effect.

Nothing in this section shall affect the case of any condition or warranty fulfilment of which is excused by law by reason of impossibility or otherwise.

Remedies Available to the Buyer for Breach of Conditions:

- (a) Affected party may claim refund of price and reject the goods;
- (b) Elect to treat breach of condition as breach of warranty and claim damages or compensation;
- (c) When the affected party treat, breach of condition as breach of warranty he cannot repudiate the contract but claim damages only;
- (d) No remedy is available when the fulfilment of condition is excused by law by means of impossibility or otherwise 13(3).

Consequences of Breach of Warranty:

- (a) The breach of warranty gives right to a claim for damages but not to reject the goods and treat the contract as repudiated.
 - (b) Buyer may sue for damages.
 - (c) No remedy is available if the fulfilment of warranty becomes impossible by law.
- (b) The law relating to negotiable instruments is contained in the negotiable Instruments Act, 1981. It is an act to define and amend the law relating to promissory note, bills of exchange and cheques. This Act is applicable to the whole of India. Generally, an instrument, under legal parlance, denotes a piece of paper by which rights or liabilities of a person is created, satisfied, diminished, enhanced in relation to any other person. Section 13 of the Act defines the terms 'negotiable instrument' as a promissory note, bill of exchange or either payable either to order or to bearer. A promissory note, bill of exchange or cheque-
- is payable to order which is expressed to be so payable or which is expressed to be payable to particular person and does not contain words prohibiting transfer or indicating an intention that it shall not be transferable;

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- is payable to the bearer which is expressed to be so payable or on which the only or last endorsements an endorsement in blank;
- either originally or by endorsement, is expressed to be payable to two or more payees jointly, or it may be made payable in the alternative to one of two, or one or some of several payees.

Essential Features of a Negotiable Instrument:

1. It must be in writing.
2. It should be signed by the maker or drawer.
3. There must be a promise or order to pay.
4. The promise or order must be unconditional.
5. It must call for payment in money and money only.
6. It should call for payment of a certain sum.
7. The property in the instrument may be passed in two ways:
 - (a) by mere delivery; and
 - (b) by indorsement and delivery.
8. The consideration is also presumed to have been passed.

4. (a) **What are the kinds of deductions that can be made from the wages?** [7]
- (b) **What is employees' state insurance fund and for what purposes the fund may be expanded?** [8]

Answer:

- (a) Section 7 gives the details of deduction from wages. The wages of an employed person shall be paid to him without deductions of any kind except those authorized by or under this Act. Section 7(2) provides that Deductions from the wages of an employed person shall be made only in accordance with the provisions of this Act and may be of the following kinds only namely:
- fines;
 - deductions for absence from duty;
 - deductions for damage to or loss of goods expressly entrusted to the employed person for custody, or for loss of money for which he is required to account, where such damage or loss is directly attributable to his neglect or default;
 - deductions for house-accommodation supplied by the employer or by government or any housing board set up under any law for the time being in force or any other authority engaged in the business of subsidizing
 - deductions for such amenities services supplied by the employer as the Appropriate Government or any officer specified by it in this behalf may by general or special order authorize;
 - deductions for recovery of advances of whatever nature and the interest due in respect thereof, or for adjustment of over-payments of wages;
 - deductions for recovery of loans made from any fund constituted for the welfare of labour in accordance with the rules approved by the appropriate Government and the interest due in respect thereof;
 - deductions for recovery of loans granted for house-building or other purposes approved by the appropriate Government and the interest due in respect thereof;
 - deductions of income-tax payable by the employed person;
 - deductions required to be made by order of a court or other authority competent to make such order;
 - deductions for subscriptions to and for repayment of advances from any provident fund to which the Provident Funds Act 1952

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- deductions for payments to co-operative societies
 - deductions, made with the written authorisation of the person employed for payment of any premium
 - deductions made with the written authorization of the employed person, for the payment of his contribution to any fund constituted by the employer or a trade union registered under the Trade Unions Act, 1926 for the welfare of the employed persons or the members of their families, or both, and approved by the appropriate Government or any officer specified by it in this behalf, during the continuance of such approval;
 - deductions made, with the written authorisation of the employed person, for payment of the fees payable by him for the membership of any trade union registered under the Trade Unions Act, 1926;
 - deductions, for payment of insurance premium on Fidelity Guarantee Bonds;
 - deductions for recovery of losses sustained by a railway administration on account of acceptance by the employed person of counterfeit or base coins or mutilated or forged currency notes;
 - deductions for recovery of losses sustained by a railway administration on account of the failure of the employed person to invoice, to bill, to collect or to account for the appropriate charges due to that administration.
 - deductions for recovery of losses sustained by a railway administration on account of any rebates or refunds incorrectly granted by the employed person where such loss is directly attributable to his neglect or default;
 - deductions, made with the written authorization of the employed person, for contribution to the Prime Minister's National Relief Fund or to such other Fund as the Central Government may, by notification in the Official Gazette specify;
 - deductions for contributions to any insurance scheme framed by the Central Government for the benefit of its employee.
- (b) Section 26 of the Act provides for the creation of Employees' State Insurance Fund held and administered by the Corporation. All contributions paid under this Act and all other moneys received on behalf of the corporation shall be paid into this fund. The grants, donations and gifts received from the Central Government or any State Government, local authority or any individual or body whether incorporated or not, are also paid into this Fund Purposes for which the fund may be expended Section 28 of the Act provides the Central Government may utilize the State Insurance Fund only for the following purposes:
1. payment of benefits and provision of medical treatment and attendance to insured persons and, where the medical benefit is extended to their families, the provision of such medical benefit to their families in accordance with the provisions of this Act and defraying the charges and costs in connection therewith;
 2. payment of fees and allowances to members of the Corporation, the Standing Committee and the Medical Benefit Council, the Regional Boards, Local Committees and Regional and Local Medical Benefit Councils;
 3. payment of salaries, leave and joining time allowances, travelling and compensatory allowances, gratuities and compassionate allowances, pensions, contributions to provident or other benefit fund of officers and servants of the Corporation and meeting the expenditure in respect of offices and other services set up for the purpose of giving effect to the provisions of this Act;
 4. establishment and maintenance of hospitals, dispensaries and other institutions and the provision of medical and other ancillary services for the benefit of insured persons and, where the medical benefit is extended to their families;
 5. payment of contributions to any State Government, local authority or any private body or individual, towards the cost of medical treatment and attendance provided to insured persons and,

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- where the medical benefit is extended to their families, including the cost of any building and equipment, in accordance with any agreement entered into by the Corporation;
6. defraying the cost (including all expenses) of auditing the accounts of the Corporation and of the valuation of its assets and liabilities;
 7. defraying the cost (including all expenses) of the Employees' Insurance Courts set up under this Act;
 8. payment of any sums under any contract entered into for the purpose of this Act by the Corporation or the Standing Committee or by any officer duly authorized by the Corporation or the Standing Committee in that behalf;
 9. payment of sums under any decree, order or award of any Court or Tribunal against the Corporation or any of its officers or servants for any act done in the execution of his duty or under a compromise or settlement of any suit or other legal proceeding or claim instituted or made against the Corporation;
 10. defraying the cost and other charges of instituting or defending any civil or criminal proceedings arising out of any action taken under this Act;
 11. defraying expenditure, within the limits prescribed, on measures for the improvement of the health, welfare of insured persons and for the rehabilitation and re-employment of insured persons who have been disabled or injured; and
 12. such other purposes as may be authorized by the Corporation with the previous approval of the Central Government.

5. (a) **Write a short note on red herring prospectus.** [10]
- (b) **Describe the conditions to issue preference shares?** [5]

Answer:

- (a) The Explanation to Section 32 defines the term 'red herring prospectus' as a prospectus which does not include complete particulars of the quantum or price of the securities included therein. Section 32 provides that a company proposing to make an offer of securities may issue a red herring prospectus prior to the issue of a prospectus. The same shall be filed with the Registrar at least three days prior to the opening of the subscription list and the offer. It shall carry the same obligations as are applicable to a prospectus and any variation between the red herring prospectus and a prospectus shall be highlighted as variations in the prospectus. At the time of closing of the offer, the prospectus stating the total capital raised, whether by way of debt or share capital and the closing price of the securities and any other detail as are not included in the red herring prospectus shall be filed with the Registrar and the SEBI.

For the purposes of this section, the expression "red herring prospectus" means a prospectus which does not include complete particulars of the quantum or price of the securities included therein.

- (b) Rule 9 of Companies (Share Capital and Debentures) Rules, 2014, provides that a company having a share capital may, if so authorized by articles, issue preference shares subject to the following conditions:
- the issue should be authorized by passing a special resolution in the general meeting of the company;
 - the company, at the time of such issue of preference shares, has no subsisting default in the redemption of preference shares issued earlier either before or after the commencement of this Act or in payment of dividend due on any preference shares. In the resolution, the company shall set out the following:

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- the priority with respect to payment of dividend or repayment of capital vis-à-vis equity shares;
- the participation in surplus fund;
- the participation in surplus assets and profits, on winding up which may remain after the entire capital has been repaid;
- the payment of dividend on cumulative or non-cumulative basis;
- the conversion of preference shares into equity shares;
- the voting rights;
- the redemption of preference shares. The explanatory statement to be annexed to the notice of the general meeting shall provide the complete material facts concerned with and relevant to the issue of such shares, including-
 - the size of the issue and number of preference shares to be issued and nominal value of each share;
 - the nature of such shares i.e., cumulative or non-cumulative, participating or non-participating, convertible or non-convertible;
 - the objectives of the issue;
 - the manner of issue of shares;
 - the price at which such shares are proposed to be issued;
 - the basis on which the price has been arrived at;
 - the terms of issue, including terms and rate of dividend on each share, etc.,
 - the terms of redemption, including the tenure of redemption, redemption of shares at premium and if the preference shares are convertible, the terms of conversion;
 - the manner and modes of redemption;
 - the current shareholding pattern of the company;
 - the expected dilution in equity share capital upon conversion of preference shares. The particulars of the issue of the preference shares shall be noted in the Register of Members. If a company wants to list its preference shares on a recognized stock exchange, it shall issue the preference shares in accordance with the regulations made by SEBI

6. (a) State the disqualification for appointment of directors. [8]

(b) Which will not form part of the remuneration of a Director? [7]

Answer:

- (a)** Section 164 of the Act details the disqualification of a person for the appointment as a Director. A person shall not be eligible for appointment as a Director of a company, if-
- (a) he is of unsound mind and stands so declared by a competent court;
 - (b) he is an undischarged insolvent;
 - (c) he has applied to be adjudicated as an insolvent and his application is pending;
 - (d) he has been convicted by a Court of any offence, whether involving moral turpitude or otherwise and sentenced to imprisonment for not less than 6 months and a period of 5 years has not elapsed from the date of expiry of the sentence; If a person has been convicted of any offence and sentenced in respect thereof to imprisonment for a period of 7 years or more, he shall not be eligible to be appointed as a director in any company;
 - (e) an order disqualifying him for appointment as a director has been passed by the Court or Tribunal and the order is in force;
 - (f) he has not paid any calls in respect of any shares of the company held by him, whether alone or jointly with others and six months have elapsed from the last day fixed for the payment of the

call;

- (g) he has been convicted of the offence dealing with related party transactions under Section 188 at any time during the last preceding five years; or
- (h) he has not obtained DIN. A private company may by its articles provide for any disqualifications for appointment as a director in addition to the above disqualifications.

The disqualifications referred under (d), (e) and (g) above shall continue to apply even if the appeal or petition has been filed against the order of conviction or disqualification.

- (b) Section 197 (1) provides that the total managerial remuneration payable by a public company to its directors, including Managing Director and a Whole time director in respect of any financial year shall not exceed 11% of the net profits of the company. The company, in general meeting may, authorize the payment of remuneration exceeding 11% of the net profits of the company. Where the company has defaulted in payment to bank/PFI or NCD or any secured creditor, prior approval of the bank/PFI shall be obtained before the special resolution.

If any director draws or receives, directly or indirectly, by way of remuneration any such sums in excess of the limit prescribed or without approval required under this section, he shall refund such sums to the company and until such sum is refunded hold it in trust for the company.

Remuneration to MD or WTD

The second proviso to Section 197(1) provides that the remuneration payable to any one Managing Director or whole time director or manager shall not exceed 5% of the net profits of the company. If there are more than one whole time director remuneration shall not exceed 10% of the net profits to all such directors and manager taken together.

Remuneration payable to directors

The remuneration payable to directors, who are neither Managing Directors nor Whole Time directors, shall not exceed 1% of the net profits, if there is a Managing Director or Whole time director or manager. In other cases, it shall not exceed 3% of the net profits.

Remuneration when there is no profit

Section 197(3) provides that if, in any financial year, a company has no profits or its profits are inadequate, the company shall not pay to its directors including Managing Directors or whole time director by way of remuneration any sum exclusive of any fees payable. Remuneration may be payable in such a situation in accordance with the provisions of Schedule V.

Sitting fees

A director may receive fee for attending the meetings of the Board or Committee thereof or for any other purpose whatsoever as may be decided by the Board. Such fees shall not exceed one lakh rupees per meeting of the Board or Committee thereof. The independent directors and women directors may receive the fees not less than the fee payable to other directors.

Professional fee

Any remuneration for services rendered by any such director in other capacity shall not be included if the services rendered are of a professional nature and in the opinion of the Nomination and Remuneration Committee or the Board of Directors, the director possesses the requisite qualification for the practice of the profession.

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Periodicity of payment

Section 197(6) provides that a director may be paid remuneration either by way of monthly payment or at a specified percentage of the net profits of the company or partly by one way and partly by other.

Insurance premium

Section 197 (13) provides that where any insurance is taken by a company on behalf of its managing director, whole time director for indemnifying any of them against any liability in respect of any negligence, default, misfeasance, breach of duty or breach of trust for which they may be guilty in relation to the company, the premium paid on such insurance shall not be treated as part of the remuneration payable to such director. If such person is proved to be guilty, the premium paid on such insurance shall be treated as part of remuneration.

7. (a) **What are the advantages and disadvantages of the principles of business ethics.** [8]
- (b) **What is allocable surplus? Describe 'set on' and 'set off' of allocable surplus.** [7]

Answer:

(a) **Advantages of business ethics**

The following are the advances for following the principles of business ethics-

1. It offers a company a competitive advantage;
2. Goodwill of the firm hikes depending on its responds towards its ethical issues;
3. Productivity through rigid, firm and sincere workers as well as other business chain members;
4. Through increasing morale and trust business can increase their market share;
5. Publicity due to well and ethical performance;
6. Acceptance of products of the company by the public;
7. Overall growth of the society;
8. Makes change management easy;
9. Value integration with quality, strategy and pende;

Disadvantage of business ethics

1. It negatives the object of the business concerns in maximizing the profits;
2. Diversity in achievements;
3. The company has to incur extra expenditure.

8. **Write short notes on any three of the following:** [3×5=15]

- (a) **Distinction between Indemnity and Guarantee.**
- (b) **Write a short note on 'Doctrine of ultra vies'.**
- (c) **Value and attitudes of Professional Accountants.**
- (d) **Write a short note on 'Hazardous processes'.**

Answer:

- (a) **Distinction between Indemnity and Guarantee –**

Contract of Indemnity	Contract of Guarantee
In this contract there are two parties – the indemnifies and the indemnified	n this contract three parties are involved – principal debtors, surety and creditor

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The primary liability is on the indemnifier	The principal liability is on the principal debtors. Secondary liability is on the surety
The indemnifier is not acting at the request of the debtor.	The surety gives contract at the request of the principal debtor.
The possibility of any loss happening is the only contingency against which the indemnifier undertakes to indemnify.	There is an existing debt for which the surety gives guarantee to the creditor on behalf of the principal debtor.
The indemnifier cannot sue the third party in his own, unless there is an assignment.	The surety is entitled to proceed against the principal debtor when he is obliged to perform the guarantee
The contract is between the indemnifier and indemnified.	The contract is between the principal debtor creditor; surety – creditor; principal debtor- surety

(b) Write a short note on ‘Doctrine of ultra-vies’-

The meaning of the term ultra vires is simply “beyond (their) powers”. The legal phrase “ultra vires” is applicable only to acts done in excess of the legal powers of the doers. This presupposes that the powers are in their nature limited. To an ordinary citizen, the law permits whatever does the law not expressly forbid. It is only when the law has called into existence a person for a particular purpose or has recognised its existence- such as in the case of a limited company - that the power is limited to the authority delegated expressly or by implication and to the objects for which it was created. In the case of such a creation, the ordinary law applicable to an individual is somewhat reversed, whatever is not permitted expressly or by implication, by the constituting instrument, is prohibited not by any express prohibition of the legislature, but by the doctrine of ultra vires. It is a fundamental rule of Company Law that the objects of a company as stated in its memorandum can be departed from only to the extent permitted by the Act - thus far and no further [Ashbury Railway Company Ltd. vs. Riche]. In consequence, any act done or a contract made by the company which travels beyond the powers not only of the directors but also of the company is wholly void and inoperative in law and is therefore not binding on the company. On this account, a company can be restrained from employing its fund for purposes other than those sanctioned by the memorandum.

The impact of the doctrine of ultra vires is that a company can neither be sued on an ultra vires transaction, nor can it sue on it. Since the memorandum is a “public document”, it is open to public inspection. Therefore, when one deals with a company, one is deemed to know about the powers of the company. If in spite of this you enter into a transaction which is ultra vires the company, you cannot enforce it against the company.

(c) Value and attitudes of Professional Accountants- The roles, professional accountants take on a vast array of other roles in businesses of all sorts including in the public sector, not-for-profit sector, regulatory or professional bodies, and academia. A competent professional accountant in business is an invaluable asset to the company. Cost management is an activity of managers related to planning and control of costs. Managers have to take decisions regarding use of materials, processes, product designs and have to plan costs or expenses to support the operating plan for their department or section Cost management is not cost reduction alone. It is much broader. Organization increase advertising expenditure to increase sales, increase research and development expenditures to promote new products. The role of management accounting is also described as problem solving, score keeping and attention directing.

- **Problem solving:** The role of accounting in problem solving is to provide information useful in evaluating alternatives.

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- Scorekeeping: Scorekeeping records the results of various actions of the managers and helps in assessing whether the results expected from the various actions are realized or not.
 - Attention directing: The scorekeeping function in combination with expected results, and comparative analysis of scores of various companies, divisions and departments, comparative analysis of present period scores or results with previous periods show opportunities of focusing attention of managers to improve things.
- (d) **‘Hazardous processes’**- Section 2(cb) defines the expression ‘hazardous process’ as any process or activity in relation to an industry specified in the First Schedule where, unless special care is taken, raw materials used therein the intermediate or finished products, bye-products, wastes, or effluents thereof would-
- cause material impairment to the health of the persons engaged in or connected therewith, or
 - result in the pollution of the general environment. The State Government may, by notification in the Official Gazette, amend the First Schedule by way of addition, omission or variation of any industry, specified in the said Schedule Chapter IVA which provides for making provisions relating to hazardous process.

The State Government may, for purposes of advising it to consider applications for grant of permission for the initial location of a factory involving a hazardous process or for the expansion of any such factory, appoint a Site Appraisal Committee.

The Site Appraisal Committee shall examine an application for the establishment of a factory involving hazardous process and make its recommendation to the State Government within 90 days of the receipt of such application.

The Committee has the power to call for any information from the person making an application. When the application is got approved by the State Government, it shall not be necessary to obtain a further approval from the Central Board of the State Board of pollution authorities.

The occupier has to follow the procedure-

- to lay down a detailed policy with respect to the health and safety of the workers;
- to disclose all the information regarding dangers including health hazards and the measures to overcome such hazards arising from the exposure to or handling of the materials or substances in the manufacture, transportation, storage and other processes to the workers employed in the factory;
- to draw up an onsite emergency plan and detailed disaster control measures for the factory and make known to the workers and to the general public living in the vicinity of the factory, the safety measures required to be taken in the event of accident taking place.
- to lay down measures for the handling usage, transportation and storage of hazardous substances inside the factory premises and the disposal of such substances outside the factory premises and publicize them in the manner prescribed among the workers and the general public living in the vicinity.

Section 41C provides that the occupier is having specific responsibilities in relation to hazardous processes. He has to maintain the health records of the employees. He is to appoint experienced persons who possess specified qualifications in handling hazardous substances and competent to supervise such handling within the factory.