

Paper-6: COMMERCIAL AND INDUSTRIAL LAWS AND AUDITING

Full Marks: 100

Time Allowed: 3 Hours

The figures in the margin on the right side indicate full marks.

- Please: (i) Answer all bits of a question at one place
(ii) Open a new page for answer to a new question
(iii) Attempt the required number of question only.

Answer Question No. 1 and Question No. 5 which are compulsory and attempt any two from the rest in Section-I and any two from the rest in Section-II.

Section-I
(50 Marks)
(Commercial and Industrial Laws)

Question 1: Answer all questions

2 X 7 = 14

Comment on the following:

- (i) A offered to purchase shares of XYZ Ltd on 1st May 2014. The company made allotment of shares on 30th November 2014. A refused to accept the shares. Can it do so?
- (ii) Ascertain the date of maturity of a bill payable hundred days after sight and which is presented for sight on 4th September, 2014.
- (iii) X is engaged in two types of job in a factory, that of a mechanic and watchman. The wage rates are different for two different jobs. The employer calculates his minimum wage at an average rate. State whether this is correct as per the Minimum Wages Act, 1948?
- (iv) The payment of contribution to provident fund of an employee, to be made by his employer, who has become insolvent. A preferential payment as per the provisions of the Employees Provident fund and Miscellaneous Provisions Act, 1952 is possible?
- (v) A contracts to sell B, by showing sample, certain quantity of lotion described as "Imported". The lotion when delivered matches with the sample, but is not "imported" but "Made in India" but of the same company. Referring to the provisions of Sale of Goods Act, 1930 advise the remedy, if any, available to B.
- (vi) When is a LLP not bound by act of its members?
- (vii) Who is a 'Holder for value'?

Question 2

- (i) X sent a consignment of mobile phones worth ₹60,000 to Y and obtained a railway receipt thereof. Later, he borrowed a loan of ₹40,000 from Star Bank and endorsed the railway receipt in favour of the Bank as security. In transit the consignment of mobile phones was lost. The Bank files a suit against the railway for a claim of ₹60,000, the value of the consignment. The railway contended that the Bank is entitled to recover the amount of loan i.e. ₹40,000 only. Examining

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the provisions of the Indian Contract Act, 1872, decide, whether the contention of the railway is valid.

(ii) TV is the holder of a bill of exchange made payable to the order of 'P'. The bill of exchange contains the following endorsements in blank:

First endorsement	'P'
Second endorsement	'Q'
Third endorsement	'R'
Fourth endorsement	'S'

'N' strikes out, without S's consent, the endorsements by 'Q' and 'R'. Decide with reasons whether 'N' is entitled to recover anything from 'S' under the provisions of Negotiable Instruments Act, 1881.

(iii) S retired from the services of PQR Limited, on 31st March, 2013. He had a sum of ₹5 lakh in his Provident Fund Account. It has become due for payment to S on 30th April, 2013 but the company made the payment of the said amount after one year. S claimed for the payment of interest on due amount at the rate of 15 percent per-annum for one year. Decide, whether the claim of S is tenable under the provisions of the Employee's Provident Funds and Miscellaneous Provisions Act, 1952.

(iv) Mr. D started "Self Service" system in his shop. Mr. A entered the shop, took a basket and after taking article of his choice into the basket reached the cashier for payments. The cashier refused to accept the price. Can Mr. D be compelled by Mr. A to sell the said article? Decide.

(v) Mr. A agreed to purchase 100 bales of cotton from 'B' from his large stock. 'A' sent his men to take delivery of cotton. On completion of packing of only 70 bales there was accidental fire and entire stock including packed 70 bales were destroyed. There was no insurance cover. Who will bear the loss?

[4+4+4+4+2= 18]

Question 3

(i) 'A' draws a bill of exchange payable to himself on X', who accepts the bill without consideration just to accommodate 'A'. A transfers the bill to 'P' for good consideration. State the rights of A' and 'P'. Would your answer be different if 'A' transferred the bill to 'P' after maturity?

(ii) Ramesh, aged 16 years, was studying in an engineering college. On 1st March, 2012 he took a loan of ₹1 lakh from Suresh for the payment of his college fee and agreed to pay by 30th May, 2014. Ramesh possesses assets worth ₹10 lakhs. On due date Ramesh fails to pay back the loan to Suresh. Suresh now wants to recover the loan from Ramesh out of his assets. Whether Suresh would succeed? Decide, referring to the Provisions of the Indian Contract Act, 1872.

(iii) Mr. X was serving in Popular Company Limited. After serving for four years X met with an accident and became permanently disabled. X applied to the company for the payment of gratuity. The company refused to pay the gratuity on the ground that X has served only for four years. Decide, whether the contention of the company is valid?

(iv) State the rights and liabilities of 'A' in the following cases;

A. 'A' is owner of the factory building and also product. 'A' authorizes 'B' to take an insurance policy on factory building for ₹2 lacs.'B' procures a policy for ₹2 lacs on factory and another policy for ₹2,000 on products. 'A' refused to reimburse to 'B'

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- B. 'A' authorizes 'B' to buy 500 pieces of sunlight soap for him but 'B' buys 500 pieces Henko at a price of ₹5,000. 'A' refused to pay to 'B'
- C. An Auctioneer advertised in a newspaper that sale of office furniture will be held at Kolkata on 29.10.2014. 'A' came from New Delhi to buy the furniture but the auction was cancelled. Whether 'A' can file a suit against the auctioneer for his loss of time and cost.

[4+4+4+6=18]

Question 4

(i) State with reasons whether the following persons are entitled to receive bonus under the Payment of Bonus Act, 1965:

- A. An apprentice under the Apprentice Act.
- B. A probationer
- C. An employee employed through contractors on building operations
- D. A retrenched employee
- E. A dismissed employee reinstated with back wages

(ii) When an employee becomes disabled due to any accident or disease and is unable to do the same work and re-employed on the reduced wages, how the gratuity of such employee shall be computed under the provisions of the payment of Gratuity Act, 1972?

(iii) X agreed to become an assistant for 5 years to Y who was a doctor practicing at Chennai. It was also agreed that during the term of agreement X will not practice on his own account in Chennai. At the end of one year, X left the assistantship of Y and began to practice on his own account. Referring to the provisions of the Indian Contract Act, 1872, decide whether X could be restrained from doing so?

(iv) Comment on the following :

- A. Daily working hours in a factory cannot be more than 8 hours on any day considering ceiling of 48 working hours in a week as per the Factories Act 1948.
- B. An individual dispute is not an industrial dispute under the Industrial Disputes Act, 1947.
- C. W, a heart patient worked for four hours in a factory premises. He profusely sweated during the recess and died of heart failure which resulted on account of severe stress and strain inside the factory premises. Is the employer liable to pay compensation under the Employees Compensation Act, 1923?

[5+4+3+6=18]

Section-II (50 Marks) (Auditing)

Question 5: Answer all questions

2 X 7 = 14

Comment on the following:

- (i) Ratio analysis only highlights symptoms.-Comment.
- (ii) Automated data Processing Audit and Information Technology Audit are same.
- (iii) Vouching can be avoided.

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- (iv) Year end stock ready for exports are proposed to be valued at realisable value.
- (v) Practising Cost Accountant cannot be Internal Auditor as Internal Audit is related to financial accounting.
- (vi) Test checks may be applied to all transactions.
- (vii) Dividend has been declared out of profit on re-issue of forfeited shares.

Question 6

- (i) What are the main sources of GAAP in India?
- (ii) How will you verify 'Development of Property'?
- (iii) What do you understand by Computer Information System (CIS) environment?
- (iv) "An auditor must select his sample carefully because the results of a representative and unbiased sample can be mathematically interpreted." – Explain this statement.
- (v) Briefly state the basis and types of liability of auditors.

[3+4+2+4+5 = 18]

Question 7

- (i) Write short notes on – Teaming and Lading.
- (ii) How will you verify 'Goods in Bond'?
- (iii) State with reasons whether you, as an auditor, would approve the payment of dividend out of capital?
- (iv) How will you verify imported plant & machinery?
- (v) S Ltd. is the subsidiary of H Ltd. Ram owes S Ltd. ₹10,000, Laxman has given guarantee for the same. Can Laxman be appointed as statutory auditor of H Ltd.? Give reasons for your answer.

[4+4+5+3+2 = 18]

Question 8

- (i) What are the major phases in the audit of computerized accounts?
- (ii) Distinguish between – Negative Opinion and Disclaimer of Opinion.
- (iii) How would the remuneration of an auditor fixed as per Companies Act, 1956.
- (iv) As per Companies Act, 2013, how should application forms for securities be issued.
- (v) An auditor requires more reliable evidence to reach the conclusion regarding materiality. Comment.

[5+4+3+4+2 = 18]