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4 SEM LLB CPC 2(N)

2017

(June)

LAW

Paper : 4·2

(Civil Procedure Code and Limitation Act)

(New Course)

Full Marks : 80

Time : Three hours

The figures in the margin indicate full marks for the questions.

1. Choose the correct answer : 1×10

(i) Which of the following deals with the power of court to issue commissions in the C.P.C. ?

(a) Section 75

(b) Section 59

(c) Section 72

(d) Section 78

(e) None of the above.

(ii) Which of the following deals with the power of court to request any pleader to address it in the Code of Civil Procedure ?

- (a) Order 9 Rule 1
- (b) Order 7A Rule 2
- (c) Order 3 Rule 9A
- (d) Order 1 Rule 10A

(iii) Section 32 of the C.P.C. contemplates interest payable :

- (a) From the date of institution of the suit to the date of decree
- (b) From date of decree to date of realisation
- (c) Both (a) & (b)
- (d) None of above

(iv) Documents which are meant for cross-examining witness of the other party or meant for refreshing the memory of the witness may be produced

- (a) at or before the settlement of issues
- (b) after the settlement of issues
- (c) at the time when they are required
- (d) none of the above

(v) The word person used in order 33 Rule 1 includes

- (a) A Company
- (b) An Official Receiver
- (c) Both (a) & (b)
- (d) None of these

(vi) Which of the following deals with amendment of judgement, decrees or orders in the C.P.C ?

- (a) Section 145
- (b) Section 152
- (c) Section 148
- (d) Section 153

(vii) Which of the following deals with the extinguishment of right to property in the Limitation Act 1963 ?

- (a) Section 25
- (b) Section 29
- (c) Section 27
- (d) Section 31

(viii) The Commissioner appointed under order XVIII of the C.P.C for recording evidence is not empowered to record

(a) re-examination of a witness

(b) decide objections raised during the recording of evidence

(c) both (a) & (b)

(d) neither (a) nor (b)

(ix) Can a fresh suit be filed on the same cause of action ? If so, state the provision.

(x) Admissions can be of which of the following kinds :

(a) Admission in Pleading

(b) Admission by Agreement

(c) Admission by Notice

(d) All of these.

2. Answer in short the following questions :
(any five) 2×5=10

(a) What do you mean by a Consent Decree ? Does the doctrine of Res-Judicate apply to such decree ?

- (b) What do you mean by the term 'first hearing of the suit' ? How is the term relevant ?
- (c) State the law relating to amendment of pleadings. What is the cardinal rule to be considered by the court at the time of allowing amendments ?
- (d) Under what provisions of law can a court take notice of subsequent events and it mould its relief ?
- (e) State the law relating to drafting of affidavits and cite the relevant provision relating to it.
- (f) Can a decree be transferred from one court to another for its execution ? If so, under what provision ?
3. Explain stating the provisions of law as to the meaning of the terms 'collaterally and incidentally in issue' and 'counts of concurrent jurisdiction' and discuss their relevance.

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Or

Discuss the law relating to joinder of parties, highlighting the provisions relating to substitution and transposition of parties.

4. Define the term 'summons' and discuss the different modes of service of summons. Does the court have the power to summon a person who is not called by any party as a witness ? State the provision. 12

Or

Define the term Issues and state the law relating to framing of issues as given in the C.P.C. Discuss the effect of non-framing of issues.

5. Discuss in details the provisions of filing of suit by or against firms and persons carrying on business in names other than their own. 12

Or

What do you mean by Summary Suit ? Discuss the provisions relating to Summary Suit.

6. Discuss the scope of section 47 of the C.P.C. in details and also of the statement that Section 47 should be liberally construed. 12

Or

Distinguish the terms Appeal and Review and discuss the provisions relating to Review.

7. Explain the statement 'where once time has begun to run, no subsequent disability or inability to institute a suit or make an application to stop it'. Discuss the exceptions to it with relevant provisions of the Limitation Act. 12

Or

Explain the various condition to be taken into account while computing the period of limitation as per the provisions of the Limitation Act.
