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5 SEM LLB(N) LoEV 2

2013

(December)

LAW OF EVIDENCE

Paper : 502

Full Marks – 80

Pass Marks – 32

Time – Three hours

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

Answer *all* questions of Part-A.

PART - A

1. Choose and write down the correct answer.
1×10=10

(a) Under the law of evidence, as a general rule

(i) Opinion on a matter of fact is relevant, but not on a matter of law.

(ii) Opinion on a matter of law is relevant, but not on a matter of fact.

- (iii) Opinion on a matter of fact and law both are relevant.
 - (iv) Opinion whether on a matter of fact or law is irrelevant.
- (b) A fact forming part of the same transaction is relevant under Section 6 of the Evidence Act
- (i) if it is in issue and have occurred at the same time and place.
 - (ii) if it is in issue and have occurred at different times and places.
 - (iii) though not in issue and may have occurred at the same time and place or at different times and places.
 - (iv) though not in issue, must have occurred at the same time and place.
- (c) Section 13 of the Indian Evidence Act
- (i) is confined to public rights and does not cover private rights.
 - (ii) is not only confined to public rights but also covers private rights.
 - (iii) is confined to private rights and does not cover public rights.
 - (iv) None of the above.

(d) Admission to be relevant

(i) must be made to the party concerned and not to a stranger.

(ii) is immaterial as to whom admission is made and an admission made to a stranger is relevant.

(iii) is immaterial to whom the admission is made but must be to someone intimately connected and not a stranger.

(iv) None of the above.

(e) Declaration which relates to existence of relationship are admissible under

(i) Section 32(1) of the Indian Evidence Act

(ii) Section 32(3) of the Indian Evidence Act

(iii) Section 32(5) of the Indian Evidence Act

(iv) Section 32(7) of the Indian Evidence Act

(f) Section 79 of the Indian Evidence Act contains

(i) an irrebuttable presumption of law

(ii) a rebuttable presumption of law

(iii) a presumption of fact

(iv) no presumption either of fact or law.

(g) Oral evidence of a fact invalidating the document is admissible under

(i) proviso 1 to section 92 of the Indian Evidence Act

(ii) proviso 2 to section 92 of the Indian Evidence Act

(iii) proviso 4 to section 92 of the Indian Evidence Act

(iv) proviso 6 to section 92 of the Indian Evidence Act.

(h) Admissibility of evidence under section 122 of the Indian Evidence Act has to be adjudged

(i) in light of the status on the date when the communication was made

(ii) in light of the status on the date when the communication is sought to be tendered in the court

(iii) in light of the status on the date when the evidence is to be given in the court

(iv) None of the above.

(i) It is a well settled law that the rule of prudence requires that evidence of an accomplice should ordinarily be corroborated by some other evidence. This was held by the Supreme Court in

(i) Francis Stanly Vs. Intelligence Officer

(ii) Youaraj Rai Vs. Chander Bahadur Karki

(iii) Kamla Devi Vs. Khushal Kanwar

(iv) Bablu Vs. State of Rajasthan.

(j) Under section 145 of the Indian Evidence Act, a witness may be cross-examined as to previous statement in writing

(i) without proving the same, and without showing the same to the witness

(ii) only after proving the same, but without showing the same to the witness

(iii) without proving the same but only after showing the same to the witness

(iv) only after proving the same and showing the same to the witness. |

2. State whether the following statements are true or false : 1×10=10

- (a) Statements in an affidavit amounts to evidence within the meaning of section 3 of the Indian Evidence Act.
- (b) Result of a Test Identification Parade conducted during the investigation of an offence of robbery is a substantial piece of evidence.
- (c) Dying declaration is admissible only in criminal proceedings and not in civil proceedings.
- (d) In civil cases, character evidence is inadmissible under the character of the party is a fact in issue.
- (e) Admissibility of electronic records are prescribed under section 65B of the Indian Evidence Act.
- (f) Burden of proof under section 101 of the Indian Evidence Act goes on shifting as the trial proceeds.
- (g) For presumption of death under section 108 of the Indian Evidence Act, the person must not be heard of for a period of 7 years.

- (h) Section 112 of the Indian Evidence Act applies when there is a dispute regarding both paternity and maternity of a child.
- (i) Re-examination of a witness can be done after examination-in-chief but before cross-examination.
- (j) Evidence of a hostile witness is totally inadmissible in trial.

PART – B

Answer any *four* questions.

3. (a) Explain and illustrate the terms 'fact', 'fact in issue' and 'relevant fact'. $3+3+3=9$
- (b) Distinguish between 'fact in issue' and relevant fact'. 6
4. 'Evidence must be confined to the matter in issue.' Explain and state briefly the exceptions to this rule. $5+10=15$
5. 'A confession contains both exculpatory and inculpatory parts or statements'. Elucidate the law relating to admissibility of such confessional statements citing relevant case laws and illustrations. 15

6. 'Judgments whether previous or subsequent are not relevant in any case or proceeding.'

Examine the veracity of the above statement in light of the relevant provisions of the Indian Evidence Act, 1872.

5+10=15

7. The phrase 'hearsay evidence' is not at all traceable, so far as the Indian Evidence Act, 1872 is concerned.

Does that mean 'hearsay evidence rule' has no application in the Indian context? Elucidate by citing relevant case laws.

5+10=15

8. (a) What do you mean by documentary evidence? Whether a tape recorded conversation falls under oral evidence or documentary evidence?

3+1=4

- (b) Can certified copies of public documents be produced in proof of contents of public documents? If so, under what circumstances a copy of such document be accepted in evidence?

2+3=5

- (c) Is it necessary to call an attesting witness in proof of the execution of a document required by law to be attested? How would a document be proved if no attesting witness is available?

3+3=6

9. Discuss the law relating to disclosure of privileged communications by referring to their limits and extents. 15

10. State in a comparative manner five points of distinction between 'examination-in-chief', 'cross-examination' and 're-examination'. 5+5+5=15

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