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5 SEM LLB LoE 2 (N)

2014

(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.

1. State whether the following statements are true *or* false : 1×10=10
 - (a) Relevancy and admissibility are co-extensive and synonymous terms.
 - (b) Evidence can be given of facts-in-issue, but not of relevant facts.
 - (c) A conduct to be relevant under section 8 of the Indian Evidence Act may be either previous or subsequent.

- (d) A retracted confession cannot be made solely the basis of conviction under any circumstances.
- (e) In civil cases, character evidence is inadmissible unless the character of a party is a fact in issue.
- (f) List of facts of which the judicial notice has to be taken under section 57 of the Indian Evidence Act is exhaustive.
- (g) Secondary evidence is admissible irrespective of the fact that the non-production of primary evidence has been accounted for or not.
- (h) Burden of introducing evidence under section 102 of the Indian Evidence Act remains constant.
- (i) A person is competent to testify only if he understand the question put to him, though he may not be able to give rational answer to it.
- (j) A new matter can be introduced as a matter of right during re-examination of a witness.

2. Answer briefly within 3/4 lines each of the following questions : 2×5=10

- (a) 'A' is accused of the murder of 'B'. At A's trial, what facts may be in issue ?
- (b) How far facts, showing the existence of a state of mind are relevant, when the existence of such state of mind is in issue ?
- (c) When confession is said to be irrelevant in a criminal proceeding ?
- (d) When a document is said to be ambiguous ?
- (e) How can a witness refresh his memory ?

3. What do you mean by evidence ? Discuss the various kinds of evidence citing relevant illustrations. 5+10=15

OR

(a) Who are the persons entitled to make admissions ? 5

(b) 'Admissions are relevant and may be proved against the person who makes them, but they cannot be proved by or on behalf of the person who makes them'.

Explain and state the exceptions to this rule with illustrations. 10

4. What do you understand by 'dying declaration' ?
Can a conviction be based solely on the basis of a dying declaration ? To what extent the dying declaration of a person who happens to survive be taken into consideration by the Court ?

4+8+3=15

OR

(a) 'Opinion evidence is generally excluded'.
Examine the statement and state the exceptions to it. 10

(b) When is a person said to be acquainted with the handwriting of another person ? 5

5. 'Writing shall only be proved by the writing itself'.
Elucidate the statement laying emphasis upon the exceptions to this rule in light of the relevant provisions of the Indian Evidence Act, 1872. 15

OR

(a) Discuss the applicability of the doctrine of estoppel with reference to its principle and essential conditions. 10

(b) Is it open to a tenant of immovable property to show that his landlord had no title at a date previous to the commencement of the tenancy ? 5

6. Who is an accomplice ? Can an accomplice be a competent witness against an accused ? Discuss with the aid of relevant case-laws. 5+10=15

OR

- (a) How can a party impeach the credit of —
- (i) Its own witness, and
 - (ii) A witness produced by the opposite party ? 4+6=10
- (b) Whether evidence given by such witness relevant and admissible ? Discuss. 5
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