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4 SEM LLB LoE 1 (N)

2017

(June)

LAW

Paper : 4.1

(Law of Evidence)

(New Course)

Full Marks : 80

Time : Three hours

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

1. Choose the correct answer : $1 \times 10 = 10$
- (i) A person booked a consignment with railways. He declared its value to be Rs.100/-. The consignment was lost. Can he claim that the value of the consignment was much more ?
- (a) Yes, because the claim has nothing to do with the declared value,
- (b) No, because the Doctrine of Estoppel is attracted and he is stopped from denying what he had declared earlier,

- (c) No, because the Doctrine of *Res Judicata* is attracted and he cannot raise the claim in respect of Lost Consignment,
- (d) Yes, because the amount of claim shall be subject to oral and documentary evidence led by the claimant before the court.
- (ii) The facts, which are so connected with a fact in issue as to form part of the same transaction, are called —
- (a) Proved facts,
- (b) Facts not proved,
- (c) Relevant facts,
- (d) Facts in issue.
- (iii) Which statement is true in relation to a child witness ?
- (a) A child of tender age can be allowed to testify if he has intellectual capacity to understand questions and give rational answers thereto,
- (b) A child witness may be easy prey of tutoring and when it is established that he is under the influence of tutoring it is not safe to solely rely on his evidence,

- (c) The law recognizes the child as a competent witness but a child of a tender age of six years is not considered by the court to be witness whose sole testimony can be relied without other corroborative evidence,
- (d) All the above statements are true.
- (iv) 'C' is accused of a crime. The fact that after commission of alleged crime, he was in possession of property or proceeds of property acquired by crime is relevant.
- (a) True
- (b) False.
- (v) Identify the fact which is relevant in the given circumstances —
- (a) That the accused 'A' has previously shot at 'B' where 'A' is tried for shooting at 'B' with intent to kill him,
- (b) That the accused 'Y' said something indicating an intention to commit the crime of which he is charged,

- (c) The expressions of feeling of husband 'X' towards wife 'Y' shortly before the alleged cruelty, where 'X' is alleged to be guilty of committing cruelty towards his wife.
- (d) All above.
- (vi) Admissions cannot be proved by the person who makes them, except when —
- (a) it is of such a nature that, if the person making it were dead, it would be relevant as between third persons,
- (b) it relates to existence of any state of mind or body, relevant or in issue, and is accompanied by conduct rendering its falsehood improbable,
- (c) it is relevant otherwise than as an admission,
- (d) *Any one* of the above.
- (vii) Things said or done by conspirator in reference to common design is not a relevant fact —
- (a) Correct
- (b) Incorrect.

(viii) Secondary evidence is permissible when —

- (a) the original is not easily movable,
- (b) the original is public document,
- (c) the originals consist of numerous accounts or other documents which cannot conveniently be examined in court, and the fact to be proved is the general result of the whole collection,
- (d) Any of the above.

(ix) When the terms of a contract, or of a grant, or of any other disposition of property have been reduced to the form of a document —

- (a) No evidence shall be given in proof of such terms, except the document it-self, or secondary evidence of its contents,
- (b) Evidence shall be given in proof of such terms,
- (c) Both (a) and (b) above.

(x) When the opponent declines to cross-examine a witness, the effect is that court —

- (a) accepts the evidence tendered on that issue,

- (b) refuses to accept the evidence tendered on that issue,
- (c) compels the opponent to conduct the cross-examination,
- (d) directs the party to conduct the examination-in-chief again.

2. (a) Explain the term 'Competent to testify'. State whether a dumb is competent witness to testify and if so, when.

6

(b) What are privileged communications? State the circumstances under which the privilege can be claimed?

6

Or

(a) When many witnesses be called Hostile? What is the evidentiary value of such a witness?

6

(b) What are leading questions? When leading questions must not be asked?

6

3. What is meant by Oral Evidence? Which facts may be proved by oral evidence? Discuss with exception to the rule that 'oral evidence' must be direct.

12

Or

Explain and illustrate the general rule of estoppel. What are its essential ingredients ? Also state the different kinds of estoppels.

12

4. What is meant by 'Dying declaration' ? What evidentiary value does it possess ? How is it proved ? Can a dying declaration form the sole basis of conviction ?

12

Or

Critically examine the relevancy of the statement made by persons who cannot be called as witnesses.

12

5. Define Admission, by whom admission can be made in relation to a suit ? When are oral admissions as to contents of documents are relevant ? Whether admissions are considered as conclusive proof of a fact ? Illustrate your answer.

12

Or

What do you understand by 'Confession' ? What is the principle for discovery of a fact as a result of confession by accused in police custody ?

12

6. Define the terms 'facts' and 'facts in issue'. Why are facts necessary to explain or to introduce relevant facts ? Discuss and illustrate your answer. 12

Or

Can a witness be excused from answering any question in civil or criminal proceedings on the ground that the answer will criminate him ? 12

7. Write briefly on the following : $2 \times 5 = 10$
- (i) Corroborated testimony of an accomplice.
 - (ii) Evidentiary value of retracted confession.
 - (iii) Differentiate between Proof and Evidence.
 - (iv) Presumption of fact and presumption of law.
 - (v) When witness may use Copy of Document to refresh his memory.
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