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**2 SEM LLB SC 3 (N)**

**2016**

(June)

**SPECIFIC CONTRACT**

**(New Course)**

Paper : 2·3

Full Marks : 80

Time : Three hours

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

1. Choose the correct answers :  $1 \times 10 = 10$ 
  - (i) Section 130 of the Indian Contract Act, 1872 dealing with revocation of continuing guarantee contemplates —
    - (a) Notice to the creditor
    - (b) Notice to the principal debtor

- (c) Notice to creditor as well as principal debtor
  - (d) None of the above
- (ii) The surety is entitled to recover from the principal debtor —
- (a) Whatever sums he has rightfully paid under the guarantee
  - (b) Whatever sums he has wrongfully paid under the guarantee
  - (c) both (a) and (b)
  - (d) only (a), but not (b)
- (iii) A bailor is liable for damages arising to the bailee from the faults in the goods, if he did not disclose to the bailee his awareness of all —
- (a) the faults which partially interfere with the use of the goods.

- (b) the faults which materially interfere with the use of the goods.
- (c) the faults which make them variable for some other use.
- (d) none of the above.
- (iv) Where a person pledges goods in which he has only a limited interest, the pledge is —
- (a) Valid
- (b) Void
- (c) Voidable
- (d) Valid to the extent of that interest.
- (v) Where an agent without having authority to do so, has appointed a person to act as a sub-agent —
- (a) the agent stands towards such person in relation of a principal to an agent.

- (b) the agent is not responsible for his acts both to the principal and to third persons.
  - (c) the principal is responsible for the acts of the person so employed.
  - (d) the sub-agent is responsible to the principal.
- (vi) Where an agent himself has an interest in the property which forms the subject matter of the agency —
- (a) the agency can be terminated in every circumstances at the will of the principal.
  - (b) the agency cannot in the absence of an express contract, be terminated to the prejudice of such interest.
  - (c) the agency cannot be terminated under any circumstances, irrespective of question of prejudice.
  - (d) none of the above.

(vii) Persons who have entered into partnership with one another are collectively called —

- (a) Partners
- (b) Directors
- (c) Firm
- (d) Co-owners

(viii) The implied authority of a partner does not empower him to —

- (a) open a banking account on behalf of the firm in his own name
- (b) withdraw a suit or proceeding filed on behalf of the firm
- (c) enter into partnership on behalf of the firm
- (d) all of the above.

- (ix) Delivery under the Sale of Goods, Act, 1930 means —
- (a) gratuitous transfer of possession from one person to another
  - (b) involuntary transfer of possession from one person to another
  - (c) voluntary transfer of possession from one person to another
  - (d) transfer of possession, irrespective of gratuitous, involuntary or voluntary from one person to another
- (x) Which of the following rights of an unpaid seller can be exercised only when the buyer has become insolvent and not otherwise —
- (a) right of lien
  - (b) right of stoppage in transit
  - (c) right of re-sale
  - (d) right to withhold delivery of goods.

2. Answer the following problems stating reasons and relevant provision of law :

2×5=10

- (a) 'A' stands as a surety for the good conduct of 'B' who is employed in a bank. 'B' misappropriates some money, but the bank excuses him without informing 'A' of 'B's' misconduct. 'B' again misappropriates.  
Is 'A' liable to the bank ?
- (b) 'X' lends his motor car to 'P' for a drive by him only. 'P' allows his son 'S', an expert car driver to drive the motor car. 'S' drives the car carefully, but its axle suddenly breaks and the car is damaged.  
Is 'P' liable for the damage ?
- (c) 'A' instructs 'B' a merchant, to buy a ship for him. 'B' employs a ship surveyor of good reputation to choose a ship for 'A'. The surveyor makes the choice negligently and the ship turns out to be unseaworthy and is lost.  
Is 'B' liable to 'A' for damages ?

(d) 'X' and 'Y' are partners in a business, the term having agreed for 10 years.

After 5 years 'X' is convicted of travelling on a train without a ticket with intent to defraud.

Can the court dissolve the firm on the application of 'Y' before the expiry of 10 years ?

(e) 'A' sells to 'B' a horse, which is to be delivered to 'B', the next week.

'B' is to pay the price on delivery. 'A' asks his servant to keep the horse separately from the other horses. The horse, dies before it is delivered and paid for.

Who shall suffer the loss ?

3. (a) Explain with illustrations the nature of contract of indemnity. 6

(b) What are the rights available to an indemnity holder against the indemnifier ? 6

**Or**

Discuss citing relevant illustrations the modes of discharge of a surety from liability. 12



4. (a) State the rights of a bailor against a bailee when the latter mixes his own goods with those bailed to him — (i) with consent and (ii) without consent of the bailor. 3+3=6

(b) 'A person who finds goods belonging to another and takes them into his custody is subject to the same responsibility as a bailee'. Discuss. 6

**Or**

(a) Discuss the law regarding bailment by way of pledge or pawn. 7

(b) Distinguish between bailment and pledge. 5

5. (a) Enumerate the various circumstances under which an agency can be terminated. 8

(b) When does such termination take effect —

(i) as regards the agent, and

(ii) as regards a third party? 2+2=4

**Or**

(a) Discuss the liability of the principal and agent in relation to the appointment of a sub-agent and a substituted agent in a contract of agency. 8

(b) Distinguish between sub-agent and co-agent. 4

6. What do you understand by 'implied authority' of a partner? What are the limitations on the implied authority of a partner in a firm? Can the implied authority of a partner be extended or restricted and to what extent? 4+4+4=12

**Or**

(a) Discuss the procedure relating to registration of a firm. 8

(b) Can a partner of an unregistered firm sue other partner or the firm for enforcing his rights arising out of the partnership agreement? 4

7. (a) What are the various implied conditions in a contract of sale of goods ? Discuss with illustrations. 8

(b) Can a buyer reject the goods for breach of condition after the goods have been accepted by him ? 4

**Or**

Discuss the various rights and duties of a seller as well as a buyer of goods.

6+6=12

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