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T.B.C: HPJS(P)/2019

TEST BOOKLET SERIES

**TEST BOOKLET
CIVIL LAW-I**



TIME ALLOWED: SIXTY MINUTES

MAXIMUM MARKS: 100

INSTRUCTIONS

1. IMMEDIATELY AFTER THE COMMENCEMENT OF THE EXAMINATION, YOU SHOULD CHECK THAT THIS TEST BOOKLET DOES NOT HAVE ANY UNPRINTED OR TORN OR MISSING PAGE(S) OR ITEM(S), ETC. IF SO, GET IT REPLACED BY A COMPLETE TEST BOOKLET.
2. *Please note that it is the candidate's responsibility to encode and fill in the Roll Number, application No. and Test Booklet Series A, B, C or D carefully and without any omission or discrepancy at the appropriate places in the OMR Answer Sheet. Any omission / discrepancy will render the Answer Sheet liable for rejection.*
3. You have to enter your Roll Number on the Test Booklet in the Box provided alongside. DO NOT write anything else on the Test Booklet.

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4. This Test Booklet contains 50 items (questions). Each item is printed in English. Each item comprises four responses (answers). You will select the response which you want to mark on the Answer Sheet. In case you feel that there is more than one correct response, mark the response which you consider the best. In any case, choose *ONLY ONE* response for each item.
5. You have to mark all you responses *ONLY* on the separate Answer Sheet provided. See directions in the Answer Sheet.
6. All items carry equal marks.
7. Before you proceed to mark in the Answer Sheet the response to various items in the Test Booklet, you have to fill in some particulars in the Answer Sheet as per instructions.
8. After you have completed filling in all your responses on the Answer Sheet and the examination has concluded, you should hand over to the invigilator *only the Answer Sheet*. You are permitted to take away with you the Test Booklet.
9. Sheet(s) for rough work are appended in the Test Booklet at the end.
10. There will be no penalty for wrong answers marked by the candidate.

DO NOT OPEN THIS TEST BOOKLET UNTIL YOU ARE TOLD TO DO SO

CIVIL LAW-I

TIME ALLOWED: 60 MINUTES

MAXIMUM MARKS: 100

1. If the suit is dismissed due to default of the plaintiff and if there is subsequent suit between same parties, then decision in the first suit_____.
(a) amounts to res judicata (b) amounts to res sub-judice
(c) does not amount to res judicata (d) amounts to stay of subsequent suit

2. Which of the following Order deals with suit against indigent person?
(a) Order XXXII (b) Order XXXIII (c) Order XXXIV (d) Order XXXV

3. The Code of Civil Procedure, 1908 defines 'Decree' under _____.
(a) Section 2 (2) (b) Section 2 (6) (c) Section 2 (8) (d) Section 2 (12)

4. As per Order XXXIX of Code of Civil Procedure, 1908 the Court is required to dispose of application for injunction within _____.
(a) Fifteen Days (b) Thirty Days (c) Two Months (d) Three Months

5. Provisions relating to Counter-claim is prescribed under_____ of Code of Civil Procedure, 1908.
(a) Order VII Rule 6 (b) Order VII Rule 6A
(c) Order VIII Rule 6 (d) Order VIII Rule 6A

6. Choose the true statement about propositions:
Propositions:
(I) No suit shall lie challenging the validity of a decree passed in a 'former suit' between the same parties, litigating under the same title, on any ground based on an objection as to the place of suing
(II) Former suit' means a suit which has been decided prior to the decision in the suit in which the validity of the decree is questioned
(III) Date of institution is material factor in deciding 'former suit'

Assertations:
(a) I and II are correct, III is incorrect (b) II and III are incorrect, I is correct
(c) I and III are correct, II is incorrect (d) All are correct

7. Choose the true statement about propositions:
Propositions:
(I) All objections with respect to the place of suing must be taken in the Court of first instance at the earliest possible opportunity and in all cases where issues are settled at or before such settlement
(II) Objections with respect to the place of suing cannot be allowed after settlement of issues

(III) Objection as to the competence of a Court with reference to the pecuniary limits of its jurisdiction may be allowed even after the settlement of issues if there has been a consequent failure of justice

Assertions:

- (a) I and II are correct, III is incorrect (b) II and III are incorrect, I is correct
(c) I and III are correct, II is incorrect (d) All are correct

8. Choose the true statement about propositions:

Propositions:

- (I) Where on the fixed day it is found that summons has not been served upon the defendant in consequence of the failure of the plaintiff to pay the court-fee the Court may dismissed the suit
(II) Where neither party appears when the suit is called on for hearing, the court may make an order that the suit be dismissed
(III) Where a suit is dismissed under any of the above case, the plaintiff will be barred bring a fresh suit

Assertions:

- (a) I and II are correct, III is incorrect (b) II and III are incorrect, I is correct
(c) I and III are correct, II is incorrect (d) All are correct

9. Choose the true statement about propositions:

Propositions:

- (I) A suit in which the right to property or to an office is contested is a suit of a civil nature
(II) A suit dealing with right to an office is of civil nature notwithstanding that such right may depend entirely on the decision of questions as to religious ceremonies
(III) A suit dealing with right to an office would be of civil nature only when fees are attached with such office

Assertions:

- (a) I and II are correct, III is incorrect (b) II and III are incorrect, I is correct
(c) I and III are correct, II is incorrect (d) All are correct

10. Choose the true statement about propositions:

Propositions:

- (I) Issues arise when a material proposition of fact or law is affirmed by the one party and denied by the other
(II) Issues arise when a material proposition of fact or law is affirmed by the one party and denied by the other
(III) Distinct issue is not necessary to be framed for each material proposition even though the same was affirmed by one party and denied by the other

Assertions:

- (a) I and II are correct, III is incorrect (b) II and III are incorrect, I is correct
(c) I and III are correct, II is incorrect (d) All are correct

11. As per Section 46 of Code of Civil Procedure, 1908 the 'precept' means an order issued by the court which passed the decree and addressed to _____.
(a) the District Collector to effect partition of property
(b) another court to arrest the judgement debtor
(c) the other court to attach the property of the judgement debtor, specified in the precept
(d) the revenue court to sell the property attached by the court
12. Under Section 47 of Code of Civil Procedure, 1908, the Execution Court has to decide _____.
(a) all the questions raised between the parties to the suit
(b) all the questions between the parties to the suit relating to execution, discharge and satisfaction of the decree
(c) all the questions between the parties to suit and the third party
(d) all the questions between the parties except those relating to delivery of property to the auction purchaser

13. Choose the true statement about propositions:

Propositions:

- (I) Code of Civil Procedure, 1908 permits substituted service of summon
(II) Substituted service can be done by affixing a copy of summon in some conspicuous place in the Court-house, and also upon some conspicuous part of the house in which the defendant is known to have last resided
(III) Mere publishing the summon in newspaper is not a substituted service of summon

Assertions:

- (a) I and II are correct, III is incorrect (b) II and III are incorrect, I is correct
(c) I and III are correct, II is incorrect (d) All are correct

14. For the purpose of filing suit against Government a mandatory notice of not less than _____ is required to be given under Section 80 of Code of Civil Procedure, 1908.
(a) Fourteen Days (b) Thirty Days (c) Two Months (d) Three Months
15. In a civil suit, parties are required to submit the list of witnesses whom they propose to call either to give evidence or to produce documents on or before such date as the Court may appoint, and _____.
(a) not later than fifteen days from the date of settlement of issues
(b) not later than thirty days from the date of settlement of issues
(c) not later than two months from the date of settlement of issues
(d) not later than three months from the date of settlement of issues

16. It appears to a Court that the evidence of Mr. X, a person confined in a prison outside the state is material in a suit. The Court may_____.
- make an order requiring the District Magistrate in charge of District to produce that person before the Court to give evidence
 - make an order requiring the DGP of state in charge of the prison to produce that person before the Court to give evidence
 - make an order requiring the officer in charge of the prison to produce that person before the Court to evidence
 - constitute a commission to record the statement
17. Choose the true statement about propositions:
- Propositions:
- Section 11 Explanation IV provides provisions for Constructive Res Judicata
 - Any matter which might and ought to have been made ground of defence or attack in former suit shall not constitute *res judicata*
 - Any relief claimed in the plaint, which is not expressly granted by the decree, shall be deemed to have been refused
- Assertions:
- I and II are correct, III is incorrect
 - II and III are incorrect, I is correct
 - I and III are correct, II is incorrect
 - All are correct
18. Where a suit is to obtain relief respecting immovable property situate within the jurisdiction of different Courts, the suit may be instituted_____.
- in any Court within the local limits of whose jurisdiction substantial portion of the property is situate
 - in any Court within the local limits of whose jurisdiction any portion of the property is situate
 - in any Court within the local limits of whose jurisdiction defendants resides or work for gain
 - None of the above
19. In which of the following case, judgment debtor cannot be send to civil prison in execution of a Decree for the payment of money?
- Where the total amount of the decree does not exceed two thousand rupees
 - Where the total amount of the decree does not exceed three thousand rupees
 - Where the total amount of the decree does not exceed five thousand rupees
 - Where the total amount of the decree does not exceed ten thousand rupees
20. Which of the following property can be attached while executing a decree?
- cooking vessels
 - tools of artisans
 - shares in a corporation

- (d) one-third of the salary in execution of any decree for maintenance
21. Under Code of Civil Procedure, 1908 'Letter of Request' may be issued to_____.
- (a) examine a witness (b) to make a local investigation
(c) to make a partition (d) to conduct sale of property
22. Choose the true statement about propositions:
Propositions:
- (I) Section 6 of Specific Relief Act, 1963 provides that If any person is dispossessed without his consent of immovable property otherwise than in due course of law, he may, by suit, recover possession thereof
- (II) Under Section 6, 'possession' actual possession only
- (III) No suit under Section 6 shall be brought after the expiry of six months from the date of dispossession
- Assertions:
- (a) I and II are correct, III is incorrect (b) II and III are incorrect, I is correct
(c) I and III are correct, II is incorrect (d) All are correct
23. An order passed under Section 6 of the Specific Relief Act, 1963 is_____.
- (a) Appealable (b) Reviewable
(c) Neither appealable nor reviewable (d) Both appealable and reviewable
24. In which of the following case specific performance of a contract is not permitted?
- (a) where a party to the contract has obtained substituted performance of contract
(b) a contract, the performance of which involves the performance of a continuous duty which the court cannot supervise
(c) a contract which is so dependent on the personal qualifications of the parties
(d) All of the above
25. Where the contract is a settlement on marriage, which of the following is entitled to obtain specific performance?
- (a) Husband (b) Wife
(c) any person beneficially entitled thereunder (d) All of the above
26. No substituted performance of contract under Section 20 of Specific Relief Act, 1963 shall be undertaken unless_____
- (a) the party who suffers such breach has given a notice in writing
(b) not less than thirty days' notice
(c) the party in breach of contract has refused or failed to perform after the notice
(d) All of the above
27. Choose the true statement about propositions:

Propositions:

- (I) Evidence must be confined to the matters in issue
- (II) The best evidence must be given in all cases
- (III) Circumstantial evidence cannot be admitted

Assertions:

- (a) I and II are correct, III is incorrect
- (b) II and III are incorrect, I is correct
- (c) I and III are correct, II is incorrect
- (d) All are correct

28. Choose the true statement about propositions:

Propositions:

- (I) Evidence Act 1872 is applicable to judicial inquiries
- (II) Evidence Act 1872 is strictly inapplicable quasi-judicial inquiries
- (III) In judicial proceeding, the evidence is taken on oath

Assertions:

- (a) I and II are correct, III is incorrect
- (b) II and III are incorrect, I is correct
- (c) I and III are correct, II is incorrect
- (d) All are correct

29. Which of the following is evidence though not covered by the definition of Evidence under Section 3 of Evidence Act, 1872?

- (a) Admission
- (b) Confession
- (c) Demeanour
- (d) Judicial Notice

30. Which of the following is a question of law as per Evidence Act 1872?

- (a) Relevancy
- (b) Admissibility
- (c) Both of these
- (d) None of these

31. *Falsus in uno falsus in omnibus* is a-

- (a) Rule of Law
- (b) Rule of Caution
- (c) Rule of Evidence
- (d) Rule of Estoppel

32. Choose the true statement about propositions:

Propositions:

- (I) Section 6 prescribes rule for relevancy of an evidence which is 'part of same transaction'
- (II) Proximity of time, place and continuity of action are suggestive of part of same transaction
- (III) Psychological acts may also form part of same transaction

Assertions:

- (a) I and II are correct, III is incorrect
- (b) II and III are incorrect, I is correct
- (c) I and III are correct, II is incorrect
- (d) All are correct

33. 'X' is prosecuted for the murder of 'Y'. During trial, evidence is adduced that 'X' and 'Y' had verbal altercation, in which accused 'X' had threatened to kill 'Y'. The fact

that, soon after the threatening statement, 'X' had purchased the same knife which was used to stab 'Y', is admissible under _____ of Evidence Act, 1872.

- (a) Section 6 (b) Section 7 (c) Section 8 (d) Section 10

34. Test Identification Parade is admissible under _____.

- (a) Section 7 (b) Section 8 (c) Section 9 (d) Section 10

35. 'X', 'Y' and 'Z' entered into conspiracy on December 26, 2017 to explode a bridge. In accordance with the conspiracy, the bridge was to be exploded on January 26, 2018. However, Mr. Y was arrested on January 24, 2018. He made statement to police about the conspiracy. However, remaining two conspirators successfully executed the conspiracy. Later on, the remaining two conspirators were also arrested, and all were charged under various provisions of Indian Penal Code, 1860.

During trial, prosecution reasonably established the fact of conspiracy between X, Y and Z to explode the said bridge. In this reference, which of the following fact is relevant under Section 10 of Evidence Act 1872?

- (a) A letter written by 'X' to 'Y' on December 20, 2017 inquiring the possibility of a meeting
(b) Confession made of 'Y' to the police officer on January 24, 2018
(c) Confession made of 'Z' to the police officer on January 30, 2018
(d) An email sent by Y, dated January 16, 2018 to the supplier of explosives

36. Choose the true statement about propositions:

Propositions:

- (I) Section 11 of Evidence Act provides residuary clause for relevancy of facts
(II) Section 11 is based on general theory of relevancy
(III) Section 11 is independent one, and not controlled by other provisions of Evidence Act

Assertions:

- (a) I and II are correct, III is incorrect (b) II and III are incorrect, I is correct
(c) I and III are correct, II is incorrect (d) All are correct

37. 'X' is tried for committing murder of 'Y' by intentionally shooting at him. With reference to his 'intention', prosecution adduced the fact that 'X' had attempted to shoot 'Y' at an earlier occasion. The fact is relevant under _____ of Evidence Act, 1872.

- (a) Section 6 (b) Section 11 (c) Section 14 (d) Section 15

38. Choose the true statement about propositions:

Propositions:

- (I) Judicial confession is substantive piece of evidence
(II) Extra judicial confession is not a substantive piece of evidence
(III) Confession of co-accused is admissible against others as well

46. Choose the true statement about propositions:

Propositions:

- (I) Under Indian Stamp Act, 1899 the expression 'Conveyance' includes conveyance on sale
- (II) 'Conveyance' does not include an instrument by which movable property is transferred
- (III) through 'conveyance' property is transferred *inter vivos*

Assertions:

- (a) I and II are correct, III is incorrect
- (b) I and II are incorrect, III is correct
- (c) I and III are correct, II is incorrect
- (d) All are correct

47. Which of the following provision was inserted by Indian Stamp (Himachal Pradesh Amendment) Act, 1952 to prescribe provision for stamp duty on counter-parts when duty is not paid on original instrument?

- (a) Section 6
- (b) Section 6A
- (c) Section 19
- (d) Section 19A

48. Under Indian Stamp Act 1899, all instrument chargeable with duty and executed by any person in India shall be stamped_____.

- (a) before the execution
- (b) at the time of execution
- (c) (a) & (b) both
- (d) Neither (a) nor (b)

49. Choose the true statement about propositions:

Propositions:

- (I) Under the Himachal Pradesh Courts Act, 1976 the High Court may, in consultation with state government, fix the place at which the Court is to be held
- (II) The place so fixed must always be within the local limits of the jurisdiction of the Court
- (III) A Court under Himachal Pradesh Courts Act, 1976 may be held at any place within the local limits of its jurisdiction

Assertions:

- (a) I and II are correct, III is incorrect
- (b) I and II are incorrect, III is correct
- (c) II and III are correct, I is incorrect
- (d) All are correct

50. As per the Himachal Pradesh Courts Act, 1976, the local limits of the jurisdiction of a Civil Judge shall be decided by_____.

- (a) the High Court
- (b) the high court in consultation with State
- (c) the high court in consultation with Law Governor
- (d) None of the above

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