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21(8) LWEV 8.2

2019

LAW OF EVIDENCE

Paper : 8.2

Full Marks : 80

Time : Three hours

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

1. Choose the correct option : $1 \times 10 = 10$

(i) Indian Evidence Act, 1872 consists of _____ (167 sections and 10 chapters/167 sections and 11 chapters)

(ii) Law of Evidence is _____
(*Lex fori* // *Lex loci solutionis*)

Contd.

(iii) Plea of alibi is governed by _____ of the Indian Evidence Act, 1872. (section 11 / section 12)

(iv) Facts which are necessary to explain or introduce relevant facts of place, name, date, relationship and identity of parties are relevant under _____ of Evidence Act. (section 9/section 10)

(v) The maxim 'nemo moriturus praesumitur mentire, is applicable to _____. [section 32(2)/section 32(1)]

(vi) The term character as explained in section 55 of the Evidence Act, 1872 includes _____. (good and bad character / reputation and disposition of general nature).

(vii) A sues B for land of which B is in possession and which, as A asserts was left to A by the Will of C, B's father. The burden on proof is on _____. (A/B)

(viii) Presumption of death is contained in _____ of the Indian Evidence Act, 1872. (section 108 / section 107)

(ix) Examination-in-chief, cross-examination and re-examination have been defined in _____ of the Evidence Act. (section 138/section 137)

(x) An accomplice is a competent witness under _____ of the Indian Evidence Act. (section 133/section 134)

2. Answer **any five** questions : 2×5=10

(i) Is the Indian Evidence Act is a complete and exhaustive piece of legislation on Law of Evidence ? Explain.

(ii) Explain when facts not otherwise relevant become relevant.

(iii) Is the previous bad character of an accused relevant in criminal trial ? Explain.

(iv) A is charged with travelling on train without a ticket. On whom does the burden of proof lie ? Explain.

(v) What is a leading question in terms of section 141 of the Evidence Act. ?

(vi) Can dying declaration be acted upon without corroboration ? Explain.

3. Define the term Evidence. State the salient features of the Indian Evidence Act, 1872. Explain briefly the various kinds of Evidence.

3+5+4=12

Or

"The rules of evidence are in general the same in civil and criminal proceedings".— Explain the statement and point out the differences, if any between evidence in civil and criminal proceedings.

6+6=12

4. What is Confession ? Whether a confession made by an accused before a police officer is admissible in evidence. Write a brief note on extra judicial confession. Is there any situation under which an extra judicial confession can be the basis for conviction ?

2+3+4+3=12

Or

Elucidate the doctrine of 'Res Gestae' with the help of relevant case laws. Point out the relation between sections 6 and 7 of the Indian Evidence Act, 1872.

10+2=12

5. What is dying declaration ? Can a dying declaration be relied upon solely to base a conviction thereupon ? Is dying declaration admissible in civil cases ? Write few lines on cause of death and circumstances of the transaction, which resulted in his death.

3+3+3+3=12

Or

Explain the relevancy of character in civil and criminal proceedings. Write few lines on 'reputation' and 'disposition'. Is the previous good character of an accused relevant in criminal trial? Explain.

8+2+2=12

6. Write a short note on burden of proof. Under what circumstances the burden of proof shifts to other party? Are the rules relating to burden of proof in civil and criminal cases same? If not, state the differences.

5+2+5=12

Or

Write explanatory notes on : 4×3=12

- (a) Presumption as to Dowry death.
- (b) Estoppel
- (c) Privileged Communications.

7. Define witness, competency of witness and compellability of a witness. Whether a child is a competent witness. Discuss the provisions of law pertaining to child witness.

2+2+2+6=12

Or

'Cross-examination is an effective weapon to elicit truth' — Examine the correctness of this statement in the light of the provisions in the Evidence Act. 12