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# UPSC

## Main Exam 2010

### **Question Paper -II**

(In English)

Subject: **LAW**

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## SECTION—A

Answer any **THREE** of the following (answer to each question must not exceed 200 words). Support your answer with the help of legal provisions and decided cases :— 20×3=60

(a) Distinguish common intention from abetment and criminal conspiracy.

(b) “Right of private defence is available only against offences” Discuss.

(c) “Defence of ‘Volenti-non-fit injuria’ is not available when the rescuer is injured in an act of rescuing.” Discuss.

(d) Discuss the principle of Res-ipsa-Loquitur. Refer to recent cases.

(a) “In order to constitute a public nuisance there must be an act or an illegal omission, and it is not necessary that the act should be illegal.” Explain the offence of public nuisance with the help of decided cases. 20

(b) 'A' and 'B' were both security guards posted outside the home of a senior army officer, Mr. X. They often used to exchange hot words with each other in context to the other. On the day of Holi festival both of them had a verbal exchange due to the fact that both wanted to go to home early for festival, that led to altercation between the two, both of them instantaneously aimed their revolvers at each other respectively. 'C' who was also on duty with them intervened and pacified both of them. Both lowered their weapons respectively. The moment 'B' noted that 'A' had lowered his revolver, he immediately fired at 'A' and killed him. On being tried 'B' was awarded death sentence. However, on appeal the High Court acquitted 'B' on the plea of self-defence. The State intends to go in for appeal in the Supreme Court against the decision of the High Court. Advise in the light of the case law on the subject. 20

(c) Discuss the law relating to criminal intimidation. Refer to case law. In what way is extortion different from criminal intimidation? ✕ 10+10=20

✓ (a) What test has the Supreme Court prescribed to understand 'the rarest of the rare cases theory' while inflicting Capital Punishment? Can one argue that Capital Punishment in any case is against society? 20



- (b) Do you find it is necessary to convict the accused both under Section 304-B and Section 498-A of Penal Code? Refer to recent cases. — 20
- (c) Mr. A, a chronic heart-patient was drawn into a political debate and in the course of arguments his adversary looked at him fiercely and said that "people like him should be hit till they are dead". Hearing this 'A' suffers a heart attack and dies on the spot. Discuss the liability of his adversary. Argue for the State also. 10
- (d) 'A', a minor girl leaves her parents House because of ill treatment and lives with 'B', her friend. Can he (B) be prosecuted for kidnapping? — 10
- (e) The editor of a weekly published a series of articles directed against the business of the plaintiff alleging how the wealth of the vast empire was built up by having recourse to the unlawful and questionable means involving tax-evasion, import-export rackets, foreign exchange violations and how the investigations into the operations of the organisation were bogged down. In an action for defamation, the defendant put up the defence of fair comment on a matter of public interest. The plaintiff brought evidence to show that the defendant had to tender an apology to the plaintiff in an earlier defamation case and that the present publication was motivated by malice. Discuss the defence of fair comment in the light of the facts of the case. — 20

- (b) We must use our property so as not to cause discomfort to another's use of property. Yet a temporary discomfort is not actionable. Explain the law. — Nuisance 20
- (c) Discuss the liability of hospitals under the Consumer Protection Act, 1986. Refer to decided cases also. — 20

## SECTION—B

- (a) On breach of contract only such loss can be recovered as was in the contemplation of both the parties at the time of entering into the contract. Discuss. — S. 73. 15
- (b) The very object of taking a surety is defeated, if the creditor is required to postpone his remedies against the surety. Explain the liability of the surety. — is extensive 15
- (c) What do you understand by a Promissory Note? Discuss. — 15
- (d) Mere cessation of trading does not result in dissolution of a partnership. Rights and liabilities need to be settled between the partners. Explain. 15



- (a) The Competition Act is designed to prevent monopolies and unfair trade practices against smaller competitors and consuming public.  
Elucidate. ✕ 30
- (b) Public Interest Litigation has been a significant tool in protecting the environment. Discuss with the help of cases. — 30
- (a) An impartial and independent conciliator assists the parties in resolving their dispute amicably. Discuss the provisions of law relating to conciliation. — 30
- (b) Distinguish between 'Foreign Award' and 'Conventional Award'. Discuss the procedure for the enforcement of 'Foreign Award' with the help of case law. — 30
- (a) Examine the legal recognition of 'Digital Signature' and explain the procedure for its registration under the Information Technology Act. 30
- (b) The principle of 'passing off' in an action has been extended to the use of 'false trade description'. Explain the conditions for a successful passing off action and the defences available to the opposite party. 30