



Time Allowed: 3 Hours

Full Marks: 100

The figures in the margin on the right side indicate full marks.

SECTION – A (Compulsory)

1. Choose the correct option:

[15 × 2 = 30]

- i. What is the chief source of legal authority in India:
 - a. People.
 - b. Constitution of India.
 - c. Parliament.
 - d. President of India.
- ii. Competency to contract relates to:
 - a. Age of parties
 - b. Soundness of mind of the parties
 - c. Both age and soundness of mind
 - d. Intelligence of the parties
- iii. As per Sale of Goods Act, this is not included?
 - a. Growing crop.
 - b. Money.
 - c. Table.
 - d. Goodwill
- iv. The Negotiable Instruments Act, 1881 extends to:
 - a. Only to Capital cities of the States.
 - b. The whole of India
 - c. The whole of India except the State of Jammu and Kashmir
 - d. The whole of India except the Union Territories
- v. Where no provision is made by contract between the partners for the duration of their partnership, or for the determination of their partnership, the partnership is called as:
 - a. Particular partnership
 - b. Partnership for a fixed term
 - c. partnership at will
 - d. None of the above



- vi. What is the exact time limit under which a Limited Liability Partnership must file its annual return?
- A Limited Liability Partnership must file its annual return within 30 days from the closing of its financial year.
 - A Limited Liability Partnership must file its annual return within 45 days from the closing of its financial year.
 - A Limited Liability Partnership must file its annual return within 15 days from the closing of its financial year.
 - A Limited Liability Partnership must file its annual return within 60 days from the closing of its financial year.
- vii. The employer shall display an abstract of the Act and the Rules in Form No.
- U
 - H
 - O
 - N
- viii. The following cannot be nominated for the purposes of EPF Act-
- Wife;
 - Sons of a deceased sons who have attained majority;
 - Father in law
 - Unmarried daughter
- ix. An appeal shall lie to High Court from the orders of ESI within _____ days from the date of order of the ESI Court:
- 30.
 - 60.
 - 90.
 - None of the above.
- x. The minimum rate of wages on time work basis may be fixed in accordance with.
- by the hour; or
 - by the day; or.
 - by the month.
 - All of the above.



- xi. Which public company is required to appoint independent director”:
- The public company having turnover of ` 100 crores or more;
 - The public company having paid up share capital of ` 10 crores or more
 - The public companies which have, in aggregate, outstanding loans, debentures and deposits exceeding ` 50 crores;
 - Any of the above.
- xii. The following is the disadvantage of business ethics:
- Through increasing morale and trust business can increase their market share
 - Publicity due to well and ethical performance
 - Acceptance of products of the company by the public
 - Diversity in achievements
- xiii. When the consent is caused by undue influence, the contract under Section 19A is:
- Valid
 - Void
 - Voidable
 - Illegal
- xiv. The dissolution of partnership means:
- It means the dissolution of partnership between all the partners of a firm
 - It means the change in the relations of the partners
 - It means the reconstitution of the firm
 - None of the above
- xv. Contribution of 10% to PF is applicable to-
- Any establishment in which less than 20 employees are employed
 - Any establishment declared as sick industrial company;
 - Jute company;
 - All of the above.



SECTION - B

(Answer any 5 questions out of 7 questions given. Each question carries 14 marks.)

[5 x 14 = 70]

2. (a) “Contracts are legally enforceable but every agreement may not be enforceable under law” – Discuss with reason.
(b) Inspect, whether an agreement by way of wager is a voidable contract or not.
[7 + 7 = 14]
3. (a) Analyse the legal provision relating to modes of Dissolution of a firm under Sec. 39 of the Indian Partnership Act, 1932.
(b) Make a comparative study between contract of sale and agreement to sale with example?
[7 + 7 = 14]
4. (a) “Chapter V provides the welfare measures to be taken in a factory”-examine the measures prescribed in the Factory’s Act 1948 to be provided by the factory to their workmen .
(b) Analyze the provisions relating to exemption given to the employer from the liability in certain cases from payment of gratuity under Gratuity Act 1972.
[7 + 7=14]
5. (a) Describe about One Person Company(OPC) under sec. 2(62) of the Companies Act ,2013.
(b) Demonstrate the procedure for rotation of directors and re-appointment of directors under the Companies Act ,2013.
[7+7=14]
6. (a) Reconcile the responsibilities for the function by the financial controller and operational controller of an overall organisation.
(b) Demonstrate the rights of shareholders under sec 2(55) of the Companies Act 2013?
[7+7=14]
7. (a) Describe the concept of emotional intelligence.
(b) Explain what an internal code ethics and its relevance in business.
[7+7=14]
8. (a) M, a legal successor of N (a deceased person) signs a Bill of exchange in his own name admitted a liability of ₹ 50,000 i.e. the extent to which he inherits the assets from the deceased payable P after 3 months from 1st January 2024.



BUSINESS LAWS AND ETHICS

On maturity, when P presents the bill to M, he (M) refuses to pay for the bill and the liability was that of N, the limit in the bill and the liability is more than the assets he inherits from N (the deceased) – what do you infer from the case let.

- (b) X, was appointed as a Director by the Articles of Association of a public company incorporated on 1st June, 1970. The Managing Director Empowered X to appoint a successor. X appointed Y as his successor after his death. Inspect whether Y succeed X as the director of the company? [7+7=14]



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**BUSINESS LAWS AND ETHICS**

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Answer:

i	ii	iii	iv	v	vi	vii	viii	ix	x
b	c	b	d	c	a	a	b	b	d
xi	xii	xiii	xiv	xv					
d	d	c	b	d					



SECTION - B

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2. (a) “Contracts are legally enforceable but every agreement may not be enforceable under law” – Discuss with reason.
- (b) Inspect, whether an agreement by way of wager is a voidable contract or not.

[7 + 7 = 14]

Answer:

2. (a)

The Indian Contract Act was enacted in 1872 which enlists provisions that could help the adjudicating authority in deciding the rights and liabilities of the parties. Section 10 provides that all agreements are contracts if they are made by the free consent of parties competent to contract, for a lawful consideration and with a lawful object, and are not otherwise expressly declared to be void. The following are the requirements for a valid contract

- ⊙ There shall be an offer or proposal by one party and acceptance of the proposal by the other party which results in an agreement.
- ⊙ There shall be an intention to create legal relations or an intent to legal consequences.
- ⊙ The agreement shall be supported by lawful consideration.
- ⊙ The parties to the contract shall be competent to contract.
- ⊙ There shall be free consent between the parties to the contract.
- ⊙ The object and consideration of the contract shall be legal and the same shall not be opposed to public policy.
- ⊙ The terms of the consent shall be certain.
- ⊙ The agreement is capable of being performed and it is not impossible of being performed.

Examples:

A proposes, by letter, to sell a house to B at a certain price. B accepts A's proposal by a letter sent by post. The communication of the acceptance is complete, as against A when the letter is posted and as against B, when the letter is received by A.

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Contracts minimize the risk of commercial transactions by a great deal. The laws relating to contract enforce clarity between parties and helps in increasing productivity.

Section 2(h) of the Act states that “an agreement enforceable by law is a contract”. To constitute an agreement, it is essential that there exists an offer. Such offer when accepted, gives rise to an agreement. However, to conclude a contract the fulfilment of other pre-requisites of consideration, legality of object, competence of parties and so on, is required. Contracts are legally enforceable. However, every agreement may not be enforceable under law.

According to Section 2(g), an agreement not enforceable by law is said to be void. The following agreements are considered to be void:

- ⊙ If considerations and objects are unlawful in part – Section – 24;
- ⊙ Agreements without consideration – Section 25;
- ⊙ Agreement in restraint of marriage – Section 26;
- ⊙ Agreement in restraint of trade – Section 27;
- ⊙ Agreements in restraint of legal proceedings – Section 28;
- ⊙ Agreements void for uncertainty – Section 29;
- ⊙ Agreements by way of wager – Section 30;

Section 24 provides that if any part of a single consideration for one or more objects or any one or any part of any one of several considerations for a single object is unlawful, the agreement is void.

Example – A promises to superintend, on behalf of B, a legal manufacture of indigo and an illegal traffic in other articles, B promises to pay to A salary of ` 10,000 a year. The agreement is void, the object of A’s promise, and the consideration for B’s promise, being in part unlawful.

2.(b)

Section 30 provides that agreements by way of wager are void; and no suit shall be brought for recovering anything alleged to be won on any wager, or entrusted to any person to abide the result of any game or other uncertain event on which any wager is made.

Exception in favour of certain prizes for horse-racing – This section shall not be deemed to render unlawful a subscription, or contribution, or agreement to subscribe or contribute, made or entered into for or toward any plate, prize, or

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sum of money, of the value or amount of ` 500 or upwards, to be awarded to the winner or winners of any horse-race.

Section 294A of the Indian Penal Code not affected – Nothing in this section shall be deemed to legalize any transaction connected with horse-racing to which the provisions of Section 294A of the Indian Penal Code, apply.

Example: Mr. X had an agreement with Mr. Y regarding the outcome of India Pakistan match. If Pakistan won, he would pay to Mr. Y ` 1 Crore. These kind of agreements are wafering agreements and not enforceable in India.

3. (a) Analyse the legal provision relating to modes of Dissolution of a firm under Sec. 39 of the Indian Partnership Act, 1932.
- (b) Make a comparative study between contract of sale and agreement to sale with example? [7 + 7 = 14]

Answer:

3.(a)

Section 39 provides that the dissolution of partnership between all the partners of a firm is called the ‘dissolution of the firm’.

Modes of Dissolution of a firm:

1. Dissolution without the order of the court or voluntary dissolution:

i) Dissolution by agreement [Section 40]: a firm may be dissolved with the consent of all partners or in accordance with a contract between the parties. A deed of dissolution, signed by five out of six partners cannot amount to a deed of dissolution with the consent of all the partners. Dissolution and winding up are two different concepts. Realization of the assets is a part of winding up and not of dissolution, unless, perhaps, it was, expressly or by necessary implication, agreed upon by the parties that the life of the partnership should be co-terminus with the collection of the last debt.

ii) Compulsory dissolution [Section 41]:

Section 41 provides that a firm is dissolved-

- By the adjudication of all the partners or of all the partners but one as insolvent; or
- By the happening of any event which makes it unlawful for the business of the firm to be carried on or for the partners to carry it on in partnership.
- Where more than one separate adventure or undertaking is carried on by the firm, the illegality of one or more shall not cause the dissolution of the firm in respect of its lawful adventures and undertakings.

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iii) Dissolution on the happenings of certain contingencies [Section 42]:

Section 42 provides that subject to the contract between the partners, a firm is dissolved-

- if constituted for a fixed term, by the expiry of that term;
- if constituted to carry out one or more adventures or undertakings, by the completion thereof;
- by the death of a partner; and
- by the adjudication of a partner as an insolvent.

iv) Dissolution by notice of partnership at will [Section 43]:

Section 43 provides that where the partnership is at will, the firm may be dissolved by any partner giving notice, in writing, to all the other partners, of his intention to dissolve the firm. The firm is dissolved as from the date mentioned in the notice as the date of dissolution or, if no date is mentioned, as from the date of the communication of then notice.

2. Dissolution by the court [Section 44]:

Section 44 prescribes the grounds on which the Court may direct dissolution of a firm in a suit as discussed below:

- if a partner has become of unsound mind;
- if a partner has become permanently incapable of performing his duties as partner;
- if a partner is guilty of conduct which is likely to affect prejudicially the carrying on of business, regarding being had to the nature of business;
- if a partner willfully or persistently commits breach of agreements relating to-
the management of the affairs of the firm or the conduct of its business; or
the conduct of its business; or
otherwise so conducts himself in matters relating to the business that it is not reasonably practicable for the other partners to carry on the business in partnership with him;
- If a partner has in any way-
 - transferred the whole of his interest in the firm to a third party; or
 - has allowed his share to be charged; or
 - has allowed it to be sold in the recovery of the arrears of land revenue; or
 - of any dues recoverable as arrears of land revenue due by the partner;
 - the business of the firm cannot be carried on save at a loss; or
 - on any other ground which renders it just and equitable that the firm should



be dissolved.

3.(b)

Chapter II of the Sale of Goods Act, 1930 talks about formation of contract. In this section, the legislation lays down the provisions relating to contract of sale. Section 4 of the Act contemplates Sale and agreement to sell:

1. A contract of sale of goods is a contract whereby the seller transfers or agrees to transfer the property in goods to the buyer for a price. There may be a contract of sale between one part-owner and another.
2. A contract of sale may be absolute or conditional.
3. Where under a contract of sale the property in the goods is transferred from the seller to the buyer, the contract is called a sale, but where the transfer of the property in the goods is to take place at a future time or subject to some condition thereafter to be fulfilled, the contract is called an agreement to sell.
4. An agreement to, sell becomes a sale when the time elapses or the conditions are fulfilled subject to which the property in the goods is to be transferred.

Difference between Contract of Sale and Agreement to Sell:

Basis	Contract of sale	Agreement to sell
Transfer of property	The property of the goods passes from the buyer to the seller.	The transfer of property takes place at a future time or subject to certain conditions to be fulfilled.
Type of contract	It is an executed contract.	It is an executory contract.
Type of goods	Sales takes place only for existing and specific goods.	Future and contingent goods.
Risk of loss	If the goods are destroyed, the loss falls on the buyer despite the goods are in the possession of the seller.	If the goods are destroyed, the loss falls on the seller despite the goods are in the possession of the buyer.
Breach of contract	The seller can sue the buyer for price and for damages in case of breach by the buyer.	The seller can sue for damages only in case of breach by the buyer.
General and particular property	It gives buyer to enjoy the goods as against the world at large including the seller.	It gives a right to the buyer against the seller to sue for damages.
Insolvency of the	In the absence of lien over	The seller is not bound to



buyer	the goods the seller is to return the goods to the Official receiver or assignee. He is entitled to get the dividend declared by the Official receiver which will be at the reduced rate.	part with the goods until the price is paid to him.
Insolvency of the seller	The buyer, becoming the owner, is entitled to recover the same from the Official receiver or assignee.	The buyer cannot claim the goods but the dividend declared by the Official receiver or assignee.

4. (a) “Chapter V provides the welfare measures to be taken in a factory”-examine the measures prescribed in the Factory’s Act 1948 to be provided by the factory to their workmen .
- (b) Analyze the provisions relating to exemption given to the employer from the liability in certain cases from payment of gratuity under Gratuity Act 1972. [7 + 7=14]

Answer:

4.(a)

Chapter V provides the welfare measures to be taken in a factory for the workmen employed in the factory.

The following are the welfare measures prescribed in the Act to be provided by the factory to their workmen-

- ⊙ washing facilities;
- ⊙ facilities for storing and drying clothing;
- ⊙ facilities for sitting;
- ⊙ first aid appliances;
- ⊙ canteens;
- ⊙ shelters, rest rooms and lunch rooms;
- ⊙ crèches;
- ⊙ appointment of welfare officers.

- Washing facilities:

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Section 42 provides that in every factory adequate and suitable facilities for washing shall be provided and maintained for the use of the workers. Separate and adequately screened facilities shall be provided for the use of male and female workers. The washing facility shall be conveniently accessible and shall be kept clean.

- Facilities for storing and drying clothing:

Section 43 provides that the State Government may, in respect of any factory or class or description of factories, make rules requiring the provision therein of suitable places for keeping clothing not worn during working hours and for the drying of wet clothing.

- Facilities for sitting:

Section 44 provides that suitable arrangements for sitting shall be provided and maintained for all workers obliged to work in a standing position, in order that they make take advantage of any opportunities for rest which may occur in the course of their work.

- First aid appliances:

Section 45 provides that first aid appliances shall be provided and maintained so as to be readily accessible during all working hours or cupboards equipped with the prescribed contents and the number of such boxes or cupboards to be provided and maintained shall not be less than for every 150 workers at any one time in the factory. Each first aid box or cupboard shall be kept in charge of a separate reasonable person who holds a certificate in the first aid treatment recognized by the State Government and he should always be readily available during the working hours of the factor. In a factory where more than 500 workers are employed an ambulance of the prescribed size containing the prescribed equipment, nursing staff etc., shall be provided and made readily available at all times.

- Canteens:

Section 46 provides that if more than 250 workers are employed in a factory a canteen or canteens shall be provided and maintained by the occupier for the user of the workers. The items of expenditure in the running of the canteen which are not to be taken into account in fixing the cost of foodstuffs shall be borne by the employer.



- Shelters, rest rooms and lunch rooms:

Section 47 provides that if more than 150 workers are employed adequate and suitable shelters or rest rooms and a suitable lunch room with provision for drinking water shall be provided and maintained for the use of the workers. The same shall be sufficiently lighted and ventilated and shall be maintained in a cool and clean condition.

- Crèches:

Section 48 provides that if more than 30 women workers are employed there shall be provided and maintained a suitable room for the use of children under the age of 6 years of such women. The same shall be adequately ventilated and shall be maintained in clear and sanitary conditions and under the charge of women trained in the care of children and infants.

- Welfare Officers:

Section 49 provides that if 500 or more than workers are employed in a factory, the occupier shall employ in the factory such number of welfare officers as may be prescribed.

4.(b)

Section 10 provides that where an employer is charged with an offence punishable under this Act, he shall be entitled, upon complaint duly made by him and on giving to the complainant not less than three clear days' notice in writing of his intention to do so, to have any other person whom he charges as the actual offender brought before the court at the time appointed for hearing the charge; and if, after the commission of the offence has been proved, the employer proves to the satisfaction of the court-

- that he has used due diligence to enforce the execution of this Act, and
- that the said other person committed the offence in question without his knowledge, consent or connivance, that other person shall be convicted of the offence and shall be liable to the like punishment as if he were the employer and the employer shall be discharged from any liability under this Act in respect of such offence;

In seeking to prove as aforesaid, the employer may be examined on oath and his evidence and that of any witness whom he calls in his support shall be subject to cross-examination on behalf of the person he charges as the actual offender and



by the prosecutor.

If the person charged as the actual offender by the employer cannot be brought before the court at the time appointed for hearing the charge, the court shall adjourn the hearing from time to time for a period not exceeding three months and if by the end of the said period the person charged as the actual offender cannot still be brought before the court, the court shall proceed to hear the charge against the employer and shall, if the offence be proved, convict the employer.

5. (a) **Describe about One Person Company (OPC) under sec. 2(62) of the Companies Act, 2013.**
- (b) **Demonstrate the procedure for rotation of directors and re-appointment of directors under the Companies Act, 2013.** [7+7=14]

Answer:

5.(a)

Section 2(62) of the Companies Act, 2013 states that a One Person Company means a company which has only one person as a member. It is classified as a kind of private company. The one-person company is a feature that was proposed for the first time in the Companies Act, 2013. This company has been described under Section 3(1)(c) of the Companies Act, 2013. It was the J.J. Irani Expert Committee that recommended the formation of such types of companies. In a one-person company, there is only one person appointed as its member. An OPC may be registered as 'limited by shares' or 'limited by guarantee'. However, the memorandum of OPC shall indicate the name of the other person. The title to all the shares in a one-person company vests in that one member and upon his death transfers completely to the person nominated by such promoter member who shall now be entitled to receive all the dividends and rights and liabilities to which the sole promoter was hitherto entitled or liable.

Conditions:

The following are the conditions in formation of a OPC:

- No natural person shall be eligible to incorporate more than a OPC or become nominee in more than a OPC;
- Where a natural person, being a member of OPC in accordance with this rule becomes a member in another such company by virtue of his being a nominee in that OPC, such person shall meet the eligibility criteria within

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a period of 182 days;

- No minor shall become member or nominee of OPC or can hold share with beneficial interest;
- Such company cannot be incorporated or converted into Section 8 company;
- Such company cannot carry out Non-Banking Financial Investment activities including investment activities in securities of anybody corporate;
- No such company can convert voluntarily into any kind of company unless two years have expired from the date of incorporation of OPC, except threshold limit of paid up share capital is increased beyond ` 50 lakh or its average annual turnover during the relevant period exceeds ` 2 crore rupees.

Benefits of One Person Company

- It gives the individual entrepreneurs all the benefits of a company, which means they will get credit, bank loans, and access to market, limited liability, and legal protection available to companies.
- Prior to the new Companies Act, 2013 coming into effect, at least two shareholders were required to start a company. But now the concept of One Person Company would provide tremendous opportunities for small businessmen and traders, including those working in areas like handloom, handicrafts and pottery
- Further, the amount of compliance by a one-person company is much lesser in terms of filing returns, balance sheets, audit etc. Also, rather than the middlemen usurping profits, the one-person company will have direct access to the market and the wholesale retailers. The new concept would also boost the confidence of small entrepreneurs.

Nominee:

The proviso to Section 3(1) provides that the memorandum of OPC shall indicate the name of the other person as nominee in Form No. INC.-32 (SPICe). The prior written consent of the other person shall be obtained in the Form No. INC.3. The other person in the event of the subscriber's death or his incapacity to contract shall become the member of the company and the written consent of such person shall also be filed with the Registrar at the time of incorporation of OPC along with Memorandum and Articles of the Company.

Penalty:

Rule 7A (with effect from 01.05.2015) provides that if a OPC or any Officer of such company contravenes any of the provisions of these rules, the OPC or any other officer of such company shall be punishable with fine which may extend to ` 5,000 and with a further fine which may extend to ` 500 for every day after the first offence during which such contravention continues.

5.(b)

If the articles of association provided for retirement of all directors in the annual general meeting, then all the directors are liable to retire. According to sec 152(6) of the Companies Act, 2013, 2/3rd of the total number of directors are liable to retire by rotation and those directors are called as retiring directors. Out of the retiring directors (2/3rd of total number of directors) 1/3rd of directors is liable to vacate the office. The directors who were in the office for the longer period is liable to retire first. However, if the two or more directors have been appointed on the same day then directors will retire based on the mutual understanding between them and when mutual understanding is not available then they retire based on draw by lots.

Section 152(6) provides that unless the articles provides otherwise for the retirement of all directors at every annual general meeting, not less the two-third (2/3rd) of the total number of directors (excluding independent directors, whether appointed under this act or under any other law) of a public company shall:

1. be persons whose period of office is liable to determination by retirement of directors by rotation; and
2. save as otherwise expressly provided in this Act, be appointed by the company in general meeting.

The remaining directors (i.e. non-rotational/non-retiring/permanent directors) in the case of public company shall be appointed as per provisions contained in the articles of the company.

Where a director retires by rotation at the annual general meeting of a company, the company at the same meeting may appoint:

- i. the retiring director; or
- ii. some other person in the vacancy.



6. (a) Examine the applicability of Audit Committee under section 177.
(b) Demonstrate the rights of shareholders under sec 2(55) of the Companies Act 2013? [7+7=14]

Answer:

6.(a)

1. The Board of Directors of every listed public company and such other class or classes of companies, as may be prescribed, shall constitute an Audit Committee.
2. The Audit Committee shall consist of a minimum of three directors with independent directors forming a majority:
Provided that majority of members of Audit Committee including its Chairperson shall be persons with ability to read and understand, the financial statement.
3. Every Audit Committee of a company existing immediately before the commencement of this Act shall, within one year of such commencement, be reconstituted in accordance with sub-section (2).
4. Every Audit Committee shall act in accordance with the terms of reference specified in writing by the Board which shall, inter alia, include, –
 - i) the recommendation for appointment, remuneration and terms of appointment of auditors of the company;
 - ii) review and monitor the auditor's independence and performance, and effectiveness of audit process;
 - iii) examination of the financial statement and the auditors' report thereon;
 - iv) approval or any subsequent modification of transactions of the company with related parties;
 - v) scrutiny of inter-corporate loans and investments;
 - vi) valuation of undertakings or assets of the company, wherever it is necessary;
 - vii) evaluation of internal financial controls and risk management systems;
 - viii) monitoring the end use of funds raised through public offers and related matters.
5. The Audit Committee may call for the comments of the auditors about internal control systems, the scope of audit, including the observations of the auditors and review of financial statement before their submission to the Board and may also discuss any related issues with the internal and statutory auditors and the management of the company.

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6. The Audit Committee shall have authority to investigate into any matter in relation to the items specified in sub-section (4) or referred to it by the Board and for this purpose shall have power to obtain professional advice from external sources and have full access to information contained in the records of the company.
7. The auditors of a company and the key managerial personnel shall have a right to be heard in the meetings of the Audit Committee when it considers the auditor's report but shall not have the right to vote.
8. The Board's report under sub-section (3) of section 134 shall disclose the composition of an Audit Committee and where the Board had not accepted any recommendation of the Audit Committee, the same shall be disclosed in such report along with the reasons therefor.
9. Every listed company or such class or classes of companies, as may be prescribed, shall establish a vigil mechanism for directors and employees to report genuine concerns in such manner as may be prescribed.
10. The vigil mechanism under sub-section (9) shall provide for adequate safeguards against victimization of persons who use such mechanism and make provision for direct access to the chairperson of the Audit Committee in appropriate or exceptional cases

6.(b)

Section 2(55) of the Companies Act, 2013 defines a member as:

1. The Subscribers to the Memorandum of a company shall be deemed to have agreed to become members of the company, and on its registration, shall be entered as member in its register of members.
2. Every other person who agrees in writing to become a member of a company and whose name is entered in its register of members, shall be a member of the company.

In *Herdilia Unimers Ltd. v. Renu Jain* [1995], it was held that the moment the shares were allotted and share certificate signed and the name entered in the Register of members, the allottee became the shareholder irrespective of the allottee receiving the shares or not.

A person whose name is not entered into register of members of company cannot be treated as member or deemed member-*Sant Chemicals (P) Ltd. v Aviat Chemicals (P.) Ltd.* [2000].

3. Every person holding shares of the company and whose name is entered as beneficial owner in the records of a depository.



A person who is a shareholder of a company has many rights under the Act.

Some of them are:

- i. The right to vote at all meetings [Sec.47];
- ii. The right to requisition an extraordinary general meeting of the company [Sec.100];
- iii. The right to receive notice of a general meeting [Sec.101];
- iv. The right to appoint proxy and inspect proxy register [Sec.105]
- v. In the case of a body corporate which is a member, the right to appoint a representative to attend a general meeting on its behalf [Sec.113]; and
- vi. The right to require the company to circulate resolution [Sec.111].
- vii. To have certificate of share held ready for delivery to him within two months from the date of allotment[Sec.56]
- viii. To Transfer shares subject to the provisions of the Act and Article of Association [Sec.44].
- ix. To inspect the Register of members and Register of debenture-holders and get extracts therefrom [Sec.94].
- x. To obtain, on request, minutes of proceedings at general meetings as also to inspect the minutes [Sec.119].
- xi. To apply to the Tribunal to have any variation of shareholders rights set aside [Sec.48].
- xii. To participate in the removal of directors by passing an ordinary resolution [Sec.169]

7. (a) Describe the concept of emotional intelligence.

(b) Explain what an internal code of ethics and its relevance in business.

[7+7=14]

Answer:

7.(a)

Emotional intelligence also known as emotional quotient or EQ, is the ability to understand, use, and manage your own emotions in positive ways to relieve stress, communicate effectively, empathize with others, overcome challenges and defuse conflict. Emotional intelligence helps you build stronger relationships, succeed at school and work, and achieve your career and personal goals. It can also help you to connect with your feelings, turn intention into action, and make informed decisions about what matters most to you.

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Emotional intelligence is commonly defined by four attributes:

1. Self-management – You're able to control impulsive feelings and behaviors, manage your emotions in healthy ways, take initiative, follow through on commitments, and adapt to changing circumstances.
2. Self-awareness – You recognize your own emotions and how they affect your thoughts and behavior. You know your strengths and weaknesses, and have self-confidence.
3. Social awareness – You have empathy. You can understand the emotions, needs, and concerns of other people, pick up on emotional cues, feel comfortable socially, and recognize the power dynamics in a group or organization.
4. Relationship management – You know how to develop and maintain good relationships, communicate clearly, inspire and influence others, work well in a team, and manage conflict.

Emotional intelligence affects:

- Your performance at school or work: High emotional intelligence can help you navigate the social complexities of the workplace, lead and motivate others, and excel in your career. In fact, when it comes to gauging important job candidates, many companies now rate emotional intelligence as important as technical ability and employ EQ testing before hiring.
- Your physical health: If you're unable to manage your emotions, you are probably not managing your stress either. This can lead to serious health problems. Uncontrolled stress raises blood pressure, suppresses the immune system, increases the risk of heart attacks and strokes, contributes to infertility, and speeds up the aging process. The first step to improving emotional intelligence is to learn how to manage stress.
- Your mental health: Uncontrolled emotions and stress can also impact your mental health, making you vulnerable to anxiety and depression. If you are unable to understand, get comfortable with, or manage your emotions, you'll also struggle to form strong relationships. This in turn can leave you feeling lonely and isolated and further exacerbate any mental health problems.

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- better able to express how you feel and understand how others are feeling. This allows you to communicate more effectively and forge stronger relationships, both at work and in your personal life.

7.(b):

A code of ethics in business is a set of guiding principles intended to ensure a business and its employees act with honesty and integrity in all facets of its day-to-day operations and to only engage in acts that promote a benefit to society. All companies will have a different code of ethics with different areas of interest, based on the industry they are involved in, but the five areas that companies typically focus on include integrity, objectivity, professional competence, confidentiality, and professional behavior. Many firms and organizations have adopted a Code of Ethics.

According to the CFAI's website, Members of CFA Institute, including CFA, and candidates for the CFA designation must adhere to the following Code of Ethics:

- Act with integrity, competence, diligence, respect, and in an ethical manner with the public, clients, prospective clients, employers, employees, colleagues in the investment profession, and other participants in the global capital markets.
- Place the integrity of the investment profession and the interests of clients above their own personal interests.
- Use reasonable care and exercise independent professional judgment when conducting investment analysis, making investment recommendations, taking investment actions, and engaging in other professional activities.
- Practice and encourage others to practice professionally and ethically that will reflect credit on themselves and the profession.
- Promote the integrity and viability of the global capital markets for the ultimate benefit of society.
- Maintain and improve their professional competence and strive to maintain and improve the competence of other investment professionals.

8. (a) **M, a legal successor of N (a deceased person) signs a Bill of exchange in his own name admitted a liability of ₹ 50,000 i.e. the extent to which he inherits the assets from the deceased payable P after 3 months from 1st**



January 2024. On maturity, when P presents the bill to M, he (M) refuses to pay for the bill and the liability was that of N, the limit in the bill and the liability is more than the assets he inherits from N (the deceased) – what do you infer from the case let.

- (b) X, was appointed as a Director by the Articles of Association of a public company incorporated on 1st June, 1970. The Managing Director Empowered X to appoint a successor. X appointed Y as his successor after his death. Inspect whether Y succeed X as the director of the company? [7+7=14]

Answer:

8.(a)

P is entitled to recover Rs 50,000 from M. M cannot refuse to pay the amount since he has inherited the assets of deceased. He will be liable to the extent of the full amount of the bill, even if he has inherited the property valued less than the amount of the bill. Thus in the first case he will be liable to full amount of Rs 50,000. In the second case since he has made a limit in the instrument itself before signing on it. His liability will be only to the extent of Rs. 50,000 and not to the extent of the full amount as given on the instrument through he might have inherited the property valued for greater amount than that of the instrument. (Sec. 29 of N.I. Act)

8.(b)

No director shall assign his office to any other person. If he does, the assignment shall be void. The articles of a company empowered X by the Managing Director to appoint a successor. Y was appointed as successor of X after his death. The Court observed that a director is prohibited from assigning his office. The word 'his' used in section 312 indicates that the prohibition applies only when an office held by a director is assigned to any other person. Where a director dies, the office held by him becomes vacant and therefore such office cannot be assigned to any other person. Therefore, appointment of a new person in such office does not amount to an assignment within the meaning of section 312. [Oriental Metal Pressing Pvt. Ltd. v B.K. Thakoor (1961) 31 Comp Case 143]. The facts of the given case are identical to the facts discussed in the above case. Accordingly, it can be said that appointment of 'Y' is valid and it does not amount to an assignment of office by 'X'.