

INTERMEDIATE EXAMINATION

GROUP - I

(SYLLABUS 2016)

SUGGESTED ANSWERS TO QUESTIONS

JUNE - 2019

Paper - 6 : LAWS & ETHICS

Time Allowed : 3 Hours

Full Marks : 100

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

This question paper has two Sections A and B.

Both the Sections are to be answered subject to instructions given against each.

Wherever necessary, candidates may make appropriate assumptions and clearly state them.

Please : (1) Answer all bits of a question at one place.

(2) Open a new page for answer to a new question.

SECTION – A

Section - A contains Question No. 1.

All parts of this question are compulsory.

1. Answer all the following questions:

(a) Choose the correct answer from the given alternatives (you may write only the Roman numeral and the alphabet chosen for your answer): 1x10=10

(i) Anu threaten to kidnap Binu's daughter if she does not sell her house worth ₹ 90 Lakh to her for ₹ 20 Lakh. This Contract is void due to—

- (A) inadequacy of Consideration
- (B) absence of Free Consent
- (C) incompetence of Parties
- (D) None of the above

(ii) The Latin Maxim "Nemo Dat Quod non Habet" means

- (A) no man can pass a better title than he has
- (B) let the Buyer beware
- (C) no consideration – No contract
- (D) ignorance of law is no excuse

(iii) As per the RBI Act, which of the following negotiable Instruments can be payable to the bearer on demand?

- (A) Cheque
- (B) Hundi
- (C) Bank Draft
- (D) Promissory Note

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- (iv) When a partnership firm is continued even after the expiry of fixed term, it is called
- (A) Partnership at Will
 - (B) Perpetual Partnership
 - (C) Fixed Partnership
 - (D) Particular Partnership
- (v) The amount of gratuity payable to an employee shall not exceed
- (A) Ten months' pay
 - (B) Twelve months' pay
 - (C) Twenty months' pay
 - (D) Twenty-five months' pay
- (vi) No female child shall be allowed to work in any factory except between
- (A) 8 AM to 7 PM
 - (B) 6 AM to 6 PM
 - (C) 6 AM to 7 PM
 - (D) 10 AM to 5 PM
- (vii) In case of a private company, mention the number of members personally present to form the quorum of a meeting of the company.
- (A) One member
 - (B) Two members
 - (C) Three members
 - (D) Four members
- (viii) Which of the following is not a valid medium of sending notice to all shareholders?
- (A) By registered post or speed post
 - (B) Through public advertisement
 - (C) Through registered email-id
 - (D) Through courier service
- (ix) If any default is made in filing refund of money, the company and every officer, who is in default shall be liable to a penalty maximum up to
- (A) ₹ 50,000
 - (B) ₹ 75,000
 - (C) ₹ 1,00,000
 - (D) ₹ 1,25,000
- (x) Value chain as a strategic framework for analysis of competitive advantage was promoted by
- (A) Peter Drucker
 - (B) F. W. Taylor
 - (C) Michael Porter
 - (D) Tom Peters

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(b) Match and pair:

1x5=5

	Column I		Column II
1.	Occupier	(A)	P purchases goods from S, he has no intention of paying for it.
2.	Section 92 of the Companies Act, 2013	(B)	Annual Return.
3.	Meta ethics	(C)	Person having ultimate control
4.	Fraud	(D)	Control of at least 20 per cent of total share capital
5.	Significant influence	(E)	Nature of moral judgement

(c) State whether the following statements are True or False:

1x5=5

- (i) An agreement which is impossible is void.
- (ii) In case of expulsion of a partner, the provisions of retired partners will be applicable to such expelled partner.
- (iii) Sickness benefit is paid up to a maximum day of 60 days in a year.
- (iv) A director in the whole time employment of the Company is called Whole Time Director.
- (v) Contribution to pension scheme is recoverable when employee crosses 58 year of age.

(d) Fill in the blanks:

1x5=5

- (i) When the consent is caused by _____, the agreement is voidable at the option of the party whose consent was so caused.
- (ii) All payments of wages shall be made on a _____ day.
- (iii) Whenever a company makes any allotment of securities, it shall file a return of allotment with the Registrar within _____ days of allotment.
- (iv) The application for the purpose of Alteration of Articles is to be filed in Form No. _____.
- (v) Business ethics must safeguard different rights of the _____.

Answer:

1. (a)
- (i) (B) Absence of free consent
 - (ii) (A) No man can pass a better title than he has
 - (iii) (A) Cheque
 - (iv) (A) Partnership at will
 - (v) (C) Twenty months' pay
 - (vi) (A) 8 AM to 7 PM
 - (vii) (B) Two members
 - (viii) (B) Through public advertisement
 - (ix) (C) ₹ 1,00,000
 - (x) (C) Michael Porter

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(b)

	Column I		Column II
1.	Occupier	(C)	Person having ultimate control
2.	Section 92 of the Companies Act, 2013	(B)	Annual Return
3.	Meta ethics	(E)	Nature of moral judgement
4.	Fraud	(A)	P purchases goods from S, he has no intention of paying for it.
5.	Significant influence	(D)	Control of at least 20 per cent of total share capital

- (c)
- (i) True
 - (ii) True
 - (iii) False
 - (iv) True
 - (v) False

- (d)
- (i) under influence
 - (ii) working
 - (iii) 30
 - (iv) INC - 27
 - (v) consumers

SECTION – B

**Answer any five questions from question numbers 2 to 8
Each question carries 15 marks.**

2. (a) Sunil, aged 16 years, was studying in a Medical College. On 1st March, 2017 he took a loan of ₹ 3 lakhs from Anil for the payment of his college fee and agreed to pay by 31st May, 2018. Sunil possesses assets worth ₹ 15 lakhs. On due date Sunil fails to pay back the loan to Anil. Anil now wants to recover the loan from Sunil out of his assets. Whether Anil would succeed? Decide, referring to the provisions of the Indian Contract Act, 1872.

(b) State the essential elements of a contract of bailment. Distinguish between the contract of bailment and contract of pledge. 6+9=15

Answer:

2. (a) According to Section 11 of the Indian Contract Act, 1872, a person who is of the age of majority to the law to which he is subject is competent to enter into any contract. A person who has completed the age of 18 years is a major and otherwise he will be treated as minor. Thus Sunil who is a minor is incompetent to contract and any agreement with him is void [Mohori Bibi Vs Dharmodas Ghose 1903, 30 Cal, 539 (PC)].

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Section 68 of the Indian Contract Act, 1872 however, prescribes the liability of a minor for the supply of the things which are the necessities of life to him. It says that though minor is not personally liable to pay the price of necessities supplied to him or money lent for the purpose, the supplier or lender will be entitled to claim the money/price of goods or services which are necessities suited to his condition of life provided that the minor has a property. The liability of minor is only to the extent of the minor's property. This type of contract is called a Quasi-contract and the right of the supplier/lender is based on the principle of equity. Thus, according to the above provision, Anil will be entitled to recover the amount of loan given to Sunil for payment of the college fees from the property of the minor.

(b) Essential elements of a contract of bailment:

1. **CONTRACT** – The first condition is that there must be a contract between the two parties for the delivery of goods. Such contract may be express or implied written or oral.
2. **DELIVERY OF GOODS** – This contract is for the delivery of some movable goods from one person (bailor) to another person (bailee) or to his authorized agent. If the goods are immovable the contract will not be a contract of bailment.
3. **CHANGE OF POSSESSION** – The possession of goods must be affected by such contract. Mere custody without possession is not a contract of bailment.
4. **PURPOSE OF DELIVERY** – The delivery of the goods is for temporary purposes. It may be for safe-custody, repair, carriage or for gratuitous use by the bailee.
5. **NUMBER OF PARTIES** – There is two parties tender such contract e.g., the bailor and bailee. The person delivering the goods is called the bailor and the person to whom the goods are bailed is called the bailee.
6. **RIGHT OF OWNERSHIP** – In a contract of bailment, the right of ownership remains with an owner (bailor) and is not changed. If the ownership is transferred, the contract will be a contract of sale and is not of bailment.
7. **CHANGE OF FORM** – If the goods bailed are altered in form by the bailee, such as cloth is converted into a shirt still, the contract is one of bailment.
8. **GOODS IN POSSESSION OF BAILEE** – The delivery of the goods is not essential if the goods are already in the possession of the person who enters into the contract as bailee.
9. **REDELIVERY OF GOODS** – Under such contract, the goods are redelivered to the bailor or according to his directions upon the fulfillment of the purpose by the bailee.
10. **RIGHT OF REWARD** – In a contract of bailment, both the parties bailor and the bailee can get a reward but it depends on the nature of the transaction.

(b) Difference between contract of bailment and contract of pledge:-

1. Right of sale - In case of pledge, the pawnee (pledgee) can sell the goods and recover his debt, if pawnor (pledger) does not pay while in bailment the bailee can retain the goods and sue for damages, but he has no authority to sell the goods.
2. Purpose - Pledge is specifically for securing a debt, while bailment may be for any purpose e.g. for repairs, safe custody etc.,
3. Right to use the goods - In case of pledge, pawnee cannot use the goods pledged but bailee can use the bailed goods if contract so provides.

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3. (a) Himadri sells 400 Kgs. of tea to Rahul and sends 200 Kgs. by lorry and 200 Kgs. By Railway. Rahul receives delivery of 200 Kgs. sent by lorry, but before he receives the delivery of the tea sent by railway, he becomes bankrupt. Himadri being still unpaid, stops the goods in transit. The official receiver, on Rahul's insolvency claims the goods. Decide the case with reference to the provisions of the Sale of Goods Act, 1930.
- (b) Ajay draws a bill on Anoop. Anoop accepts the bill without any consideration. The bill is transferred to Udit without consideration. Udit transferred it to Vicky for value.
- Decide-
- (i) Whether Vicky can sue the prior parties of the bill?
- (ii) Whether the prior parties other than Vicky have any right of action intense? 7+8=15

Answer:

3. (a) Section 50, of Sale of Goods Act, states that, subject to the provisions of this Act, when the buyer of goods becomes insolvent, the unpaid seller who has parted with the possession of the goods has the right of stopping them in transit, that is to say, he may resume possession of the goods as long as they are in course of transit and retain them until payment of tender of the price.

Stoppage in transit (Sections 50-52)

The right of stoppage in transit is a right of stopping the goods while they are in transit, resuming possession of them and retaining possession until payment or tender of the price.

The right to stop goods is available to an unpaid seller

- (i) when the buyer becomes insolvent; and
- (ii) the goods are in transit.

The buyer is insolvent if he has ceased to pay his debts in the ordinary course of business, or cannot pay his debts as they become due. It is not necessary that he has actually been declared insolvent by the court.

The goods are in transit from the time they are delivered to a carrier or other bailee like a wharfinger or warehouse keeper for the purpose of transmission to the buyer and until the buyer takes delivery of them.

The transit comes to an end in the following cases:

- (i) If the buyer obtains delivery before the arrival of the goods at their destination;
- (ii) If, after the arrival of the goods at their destination, the carrier acknowledges to the buyer that he holds the goods on his behalf, even if further destination of the goods is indicated by the buyer;
- (iii) If the carrier wrongfully refuses to deliver the goods to the buyer.

Applying the above provisions in the given case, we may conclude that Himadri being unpaid, can stop the 200 Kgs. of tea sent by railway as these goods are still in transit and Rahul has become insolvent.

- (b) Section 43 of Negotiable Instrument Act, 1881, provides that an instrument made, drawn, accepted, indorsed or transferred without consideration, or for a consideration which fails,

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creates no obligation of payment between the parties to the transaction. But if any such party has transferred the instrument with or without endorsement to a holder for consideration, such holder, and every subsequent holder deriving title from him, may recover the amount due on such instrument from the transferor for consideration or any prior party thereto.

- (i) In the problem, as asked in the question, Ajay has drawn a bill on Anoop and Anoop accepted the bill without consideration and transferred it to Udit without consideration. Later on in the next transfer by Udit to Vicky is for value. According to provisions of the aforesaid Section 43, the bill ultimately has been transferred to Vicky with consideration. Therefore, Vicky can sue any of the parties i.e. Ajay, Anoop or Udit, as Vicky arrived a good title on it being taken with consideration.
- (ii) As regards to the second part of the problem, the prior parties before Vicky i.e. Ajay, Anoop and Udit have no right of action inter se because first part of Section 43 has clearly lays down that a negotiable instrument, made, drawn, accepted, indorsed or transferred without consideration, or for a consideration which fails, creates no obligation of payment between the parties to the transaction prior to the parties who receive it on consideration.

4. (a) Describe the procedures for an employee to claim the short payment of wages or non-payment of wages under Minimum Wages Act, 1948.

(b) What are the basic features of the national pension system as contained in the Pension Fund Regulatory and Development Authority Act, 2013? 7+8=15

Answer:

- 4. (a)** If there is any short payment of wages or wages at the over time etc., may be claimed by the employee himself or through any legal practitioner or any official of a registered trade union authorized by him or any Inspector or any person acting with the permission of the Authority by applying to the concerned authority. For this purpose the appropriate Government may appoint any commissioner for workmen's Compensation; or any Officer of the central Government exercising functions as a Labour Commissioner for any region; or any Officer of the State Government not below the rank of Labor Commissioner; or any other officer with experience as a Judge of a Civil Court or as a stipendiary Magistrate to be the authority to hear and decide for any specified area for all claims.

The claim shall be presented to the authority by the employee within six months from the date on which the minimum wages or other amount became payable. The Authority may a claim beyond the six months if he is satisfied that the applicant had sufficient cause for not making the application within the prescribed period. Rule 27 provides that a single application in respect of a number of employees may be field before the authority. The application shall be made in duplicate in Forms VI, VIA or VII, one copy of which shall bear the prescribed court fee. The authorization shall be given in Form VIII.

The Authority shall serve the copy of the application to the employer by registered post a notice in Form IX to appear before him on a specified date. He shall hear the applicant and the employer and after such further inquiry, if any, as it may consider necessary may, without prejudice of any other penalty to the employer, direct the payment to the employee of the amount by which the minimum wages payable to him exceed the amount actually paid, together with

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compensation as the authority may think fit, not exceeding 10 times the amount of such excess; in any other case, the payment of the amount together with the payment of such compensation as the Authority may think fit, not exceeding Rs.10.

If the employer fails to appear on the specified date the Authority may hear and determine the application ex-parte. If the applicant fails to appear on the specified date the application will be dismissed. Any such order may be set aside on sufficient cause being shown by the defaulting party within one month of the date of the said order and the application shall be re-heard.

If the Authority finds the application is a vexatious one he may impose penalty on the employees not exceeding Rs.50/- to the employer.

The amount due may be recovered as if it were a fine imposed by the Authority as a Magistrate. Every direction of the Authority shall be final.

(b) The National Pension System shall have the following basic features, namely:--

- every subscriber shall have an individual pension account under the National Pension System;
- withdrawals, not exceeding twenty-five per cent of the contribution made by the subscriber, may be permitted from the individual pension account subject to the condition's, such as purpose, frequency and limits, as may be specified by the regulations;
- the functions of record keeping, accounting and switching of options by the subscriber shall be effected by the central recordkeeping agency;
- there shall be a choice of multiple pension funds and multiple schemes: Provided that—
 - (a) the subscriber shall have an option of investing up to hundred per cent of his funds in Government Securities; and
 - (b) the subscriber, seeking minimum assured returns, shall have an option to invest his funds in such schemes providing minimum assured returns as may be notified by the Authority;
 - (c) there shall be portability of individual pension accounts in case of change of employment;
 - (d) collection and transmission of contributions and instructions shall be through points of presence to the central record keeping agency
 - (e) there shall not be any implicit or explicit assurance of benefits except market-based guarantee mechanism to be purchased by the subscriber;
 - (f) a subscriber shall not exit from the National Pension System except as may be specified by the regulations; and
 - (g) at exit, the subscriber shall purchase an annuity from a life insurance company in accordance with the regulations.

5. (a) What is meant by Lifting of Corporate Veil? In which circumstances the corporate veil can be lifted by court?

(b) State the procedure for shifting of a registered office of the company from one state to another state under the provisions of the Companies Act, 2013. 8+7=15

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Answer:

5. (a) The separate personality of a company is a statutory privilege and it must be used for legitimate business purposes only. Where a fraudulent and dishonest use is made of the legal entity, the individuals concerned will not be allowed to take shelter behind the corporate personality. The Court will break through the corporate shell and apply the principle/doctrine of what is called as "lifting of or piercing the corporate veil". The Court will look behind the corporate entity and take action as though no entity separate from the members existed and make the members or the controlling persons liable for debts and obligations of the company.

In the following circumstances, different courts found it necessary to lift the corporate veil and punish the actual persons who did wrong or unlawful acts under the name of the company

Protection of Revenue: The Court may ignore the Separate Legal Entity status of a Company, where it is used for tax invasion or circumventing tax obligation.

Determination of enemy character of the Company: Company being an artificial person cannot be enemy or friend. But during war, it may become necessary to lift the corporate veil and see the persons behind it to determine whether they are friends or enemy. This is due to the reason that though a company enjoys Separate Legal Entity but its affairs are run by individuals.

Prevention of fraud: Where a Company is used for committing frauds or improper conduct, the Court may lift the corporate veil and look at the realities of the situation.

Protection of public policy: The Court shall lift the Corporate Veil without any hesitation to protect the public policy and prevent transaction opposed to public policy.

Company mere sham or cloak: Where the Company is a mere sham and was really a ploy used for committing illegalities and to defraud people, the Court shall lift the Corporate Veil.

Where a Company acts as an agent of its shareholders: If there is an arrangement between the shareholders and a Company to the effect that the Company will act as agent of shareholders for the purpose of carrying on the business, the business is essentially of that of the shareholders and will have unlimited liability.

Avoidance of Welfare Legislation: Where a Company tries to avoid its legal obligations, the corporate veil shall be lifted to look at the real picture.

To punish for contempt of Court: Company being an artificial person cannot disobey the orders of the Court. Therefore, the persons at fault should be identified.

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(b) The steps involved in changing the registered office from one state to another state:

1. Call for a board meeting to decide on the change in the domicile clause.
 2. In the board meeting fix up the date, time, place of the general meeting and approve the notices for this purpose, send the notices, hold the meeting and pass special resolutions.
 3. After taking the approval of the members, file a certified copy of the special resolution along with the explanatory statement in **Form 23** with ROC.
 4. Publish a general notice in at least one regional language newspaper and one English language newspaper circulated in the area in which registered office of the company is situated clearly stating the substance of the petition.
 5. Send individual notices to all creditors/debenture holders of the company.
 6. After a gap of one month from the date of sending notices as above, file petition with the Company Law Board (CLB) pursuant to the CLB Regulations, 1991. The petition has to be filed with the Regional Bench of the CLB at which the existing registered office is situated.
 7. Serve a copy of the petition on the ROC.
 8. Serve a copy of the notice along with a petition to the **Chief Secretary to the Government of the State** where the registered office of the company is situated or to the **Administrator / Lt. Governor of the Union Territory** where the registered office is situated in the Union Territory.
 9. A hearing may take place at the CLB office at which creditors, if any, and the representatives of the company are heard before making any order.
 10. After receiving the CLB order for shifting the registered office, the company is required to file certified copy of the order with the ROC along with **Form No. 21** within 3 months of receipt of certified copy along with the printed copy of the memorandum of association.
 11. A certified copy of the order from the ROC **within one month** of the date of filing must be obtained.
 12. The certified copy of the order should be filed with the ROC of the new state within one month of the date of the filing along with the certified copy of the memorandum of association.
 13. The ROC of the new state i.e. at which registered office will be shifted will issue a fresh certificate of incorporation which will be conclusive evidence of the shift of registered office.
 14. File Form No. 18 with the new ROC for the situation of the registered office.
 15. Necessary changes are required to be made in the letter heads, books, records etc. of the company.
 16. Arrange to adopt new common seal of the company.
- 6. (a) Describe the procedure for the resignation of Director under the Companies Act, 2013.**

(b) Discuss the rules of appointment of director elected by small shareholders in a company.

10+5=15

Answer:

6. (a) Resignation of Director

Section 168 of the Companies Act 2013, provides the procedure for the resignation of a director as detailed below:

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- A director may resign from his office by giving a notice in writing to the company;
- He shall within 30 days from the date of resignation, forward to the Registrar a copy of his resignation along with the reasons for the resignation, in Form No. DIR - 11 along with the fee;
- A foreign director may authorize in writing a practicing Chartered Accountant or Cost Accountant in practice or Company Secretary in practice or any other resident director of the company to sign the Form No. DIR - 11 and file the same on his behalf intimating the reasons for the resignation;
- The Board shall on receipt of such notice take notice of the same;
- The company shall intimate the Registrar in Form No. DIR-12 within one month from the date of receipt of such notice;
- The said information is to be posted on the website of the company;
- The fact of the resignation shall be included in the report of directors laid in immediately following general meeting by the company;
- The resignation of a director shall take effect from the date on which the notice is received by the company or the date, if any, specified by the director in the notice, whichever is later;
- The director who has resigned shall be liable even after his resignation for the offences which occurred during his tenure;

Where all directors of a company resign from their offices the promoter or, in his absence, the Central Government shall appoint the required number of directors, who shall hold the office till the directors are appointed by the company in general meeting.

(b) Process of appointment of director elected by small shareholders:

'Small shareholder' means a shareholder holding shares of nominal value of not more than ₹ 20,000 or such other sum as may be prescribed. A listed company may have one director elected by small shareholders.

Rule 7 requires that a listed company, may upon notice of not less than 1000 small shareholders or one tenth of the total number of such shareholders, whichever is lower, have a small shareholders' director elected by small shareholders.

Such director shall not be liable to retire by rotation. The tenure shall not exceed a period of three consecutive years and on the expiry of the tenure such director shall not be eligible for reappointment. A disqualified person for the appointment of director shall not be eligible for such appointment. No person shall hold the position of small shareholder's director in more, than two companies at the same time. A small shareholders' director shall not, for a period of 3 years from the date on which he ceases to hold office as a small shareholders' director in a company, be appointed in or be associated with such company in any other capacity either directly or indirectly.

7. (a) "Ethics is the first line of defence against corruption, while law enforcement is remedial and reactive. However, both fail to achieve the desired aim in the Indian

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set-up." Do you agree? Give reasons in support of your answer.

- (b) Deepak is employed in Assam Coffee Estate Ltd., a seasonal establishment. The factory was in operation for four months only during the financial year 2018-19. Deepak was not in continuous service during this period. However, he has worked only 60 days. Referring to the provisions of The Payment of Gratuity Act, 1972, decide whether Deepak is entitled to gratuity payable under the Act. Would your answer be the same in case Deepak works for 100 days? 10+5=15

Answer:

7. (a) It is, absolutely correct to say that ethics is the first line of defense against corruption. What prevents corruption in the first place is ethics. The enforcement of law is a reaction to the occurrence of the corruption.

While the law can only lay down the do's and don'ts and the consequences of doing or not doing something.

The compliance to law in letter and spirit can be achieved only through ethical practices being followed.

An act may be perfectly legal but totally unethical. Therefore, the statement law enforcement is remedial and reactive is also true.

However, ethics is not absolute and is open to the influence of time, place and situation. Certain unethical practice on account of the fact that is widely prevalent is apparently justified.

The following are some of the factors that have contributed to the prevalence of corruption in India:

- (i) **Cultural ethos:** Putting a premium on materialism, profiteering, power play and casual attitude for ethical values Myopic concern overriding long-term considerations and values.
- (ii) **Institutional failures:** Procedural formalities in-built obstacles, bureaucratic red-tapism etc.
- (iii) **Poor enforcement of law:** delay injustice.
- (iv) Erosion of values in politicians, entrepreneurs political lobbying etc.

- (b) For entitlement of gratuity one must work for at least 75% of the days on which the establishment was open and in operation. The factory was in operation for 120 days.

One must work for 75% of 120 i.e. 90 days to claim gratuity. Deepak is not entitled to gratuity, since he has actually worked for less than 75% of the number of days on which the establishment was in operation during such period.

If Deepak had worked for 100 days, then he would have been entitled to gratuity since the number of days on which he would have worked, in that case, would have been 75% or more of the number of days on which the establishment was in operation.

8. Write short notes on any three of the following terms:

5×3=15

- (a) Agreement without consideration
- (b) Red herring prospectus

(c) Importance of ethics

(d) Annual Leave under the Factories Act, 1948

Answer:

8. (a) Agreement without consideration

Section 25 provides that an agreement made without consideration is void unless-

- (1) it is in writing and registered - It is expressed in writing and registered under the law for the time being in force for the registration of documents and is made on account of natural love and affection between parties standing in a near relation to each other; or unless
- (2) if is a promise to compensate for something done - It is a promise to compensate, wholly or in part, a person who has already voluntarily done something for the promisor, or something which the promisor was legally compellable to do; or unless
- (3) it is a promise to pay a debt, barred by limitation law - It is a promise, made in writing and signed by the person to be charged herewith, or by his agent generally or specially authorized in that behalf, to pay wholly or in part a debt of which the creditor might have enforced payment but for the law for the limitation of suits.

In any of these cases, such an agreement is a contract.

(b) Red herring prospectus

The Explanation to Section 32 defines the term 'red herring prospectus' as a prospectus which does not include complete particulars of the quantum or price of the securities included therein,

Section 32 provides that a company proposing to make an offer of securities may issue a red herring prospectus prior to the issue of a prospectus. The same shall be filed with the Registrar at least three day prior to the opening of the subscription list and the offer. It shall carry the same obligations as are applicable to a prospectus and any variation between the red herring prospectus and a prospectus shall be highlighted as variations in the prospectus.

At the time of closing of the offer, the prospectus stating the total capital raised, whether by way of debt or share capital and the closing price of the securities and any other detail as are not included in the red herring prospectus shall be filed with the Registrar and the SEBI.

(c) Importance of Ethics

Ethics is a requirement for human life. It is our means of deciding a course of action. Without it, our actions would be random and aimless. There would be no way to work towards a goal because there would be no way to pick between a limitless numbers of goals. Even with an ethical standard, we may be unable to pursue our goals with the possibility of success. To the degree which a rational ethical standard is taken, we are able to correctly organize our goals and actions to accomplish our most important values. Any flaw in our ethics will reduce our ability to be successful in our endeavours.

A proper foundation of ethics requires a standard of value to which all goals and actions can be compared to. This standard is our own lives, and the happiness which makes them liveable. This is our ultimate standard of value, the goal in which an ethical man must always aim. It is arrived at by an examination of man's nature, and recognizing his peculiar needs. A system of ethics must further consist of not only emergency situations, but the

day to day choices we make constantly. It must include our relations to others, and recognize their importance not only to our physical survival, but to our well - being and happiness. It must recognize that our lives are an end in themselves, and that sacrifice is not only not necessary, but destructive.

(d) Annual leave

Section 79 of The Factories Act, 1948 provides that every worker who has worked for a period 240 days or more in a factory during a calendar year shall be allowed leave with wages for a number days calculated at the rate of-

if an adult, one day for every 20 days of work performed by him during the previous calendar year;

if a child, one day for every 15 days of work performed by him during the previous calendar year.

The following shall be deemed to be days on which the worker has worked for the purpose of computation of the period of 240 days or more-
any days of lay off, by agreement or contract or as permissible under the standing orders;

in the case of a female worker, maternity leave for any number of days not exceeding 12 weeks;

and the leave earned in the year prior to that in which the leave is enjoyed

But the above shall not be entitled for a worker to earn leave. The leave admissible shall be exclusive of all holidays whether occurring during or at either end of the period of leave.

In calculating the leave fraction of leave of half a day or more shall be treated as one full day's leave and fraction of less than half a day shall be omitted.