

UNIVERSITY OF PETROLEUM AND ENERGY STUDIES

End Semester Examination, May 2018

Program: BTech CS+LLB Cyber Law & BTech ET+LLB IPR

Subject (Course): Private International Law

Course Code : LLBL433

No. of page/s: 2

Semester – X

Max. Marks : 100

Duration : 3 Hrs

[Word limit for Section B,C,D: one page for each question.]

Section A (5x2=10)

1. Validity of marriage might be decided by which two connecting factors?
2. The Brussels Convention deals with civil matters only. True/False
3. The parties can choose the governing law in a contract. True/False
4. Rome II Regulation deals with Choice of law in Torts. True/False
5. A person cannot be without a domicile. True/False

Section B (10x2=20)

6. Explain Dual domicile and intended matrimonial home theory with help of case laws.
7. Explain the principle of forum non conveniences with the help of case laws.

Section C (10x2=20) [Attempt any two]

8. How are the rules of Jurisdiction different in Indian Law and Brussels I Regulation for contractual matters?
9. How is express choice of law different from implied choice of law and no choice of law? Explain with the help of case law.
10. Explain what is the proper law of the tort in Rome II Regulation and English Law with the help of some examples.

Section D (10 x 5=50)

The International Cricket Conference (ICC) organized a tournament in 2000 for which WSG Cricket (respondent) had the exclusive right to grant commercial rights relating to the Event pursuant to which an agreement was entered into granting exclusive licence to telecast the event on Doordarshan and to sell advertisement slots thereon which was further assigned to Modi Entertainment Limited (appellant). This agreement provided that the licence granted was

restricted to exhibiting the Feed by terrestrial free to air television on Doordarshan and the appellants were to pay a minimum guaranteed amount of USD 35 lakhs (Rs. 15 crores). Soon after the commencement of the telecast the respondent registered a complaint with the Doordarshan that the signal was being received in the Middle East which would amount to breach of contract and violation of the licence granted to Middle East licensee and threatened that the Feed to the Doordarshan would be discontinued. Doordarshan contended it to be a natural spill over. The appellants complained that on account of the open threats of the respondent the advertisers who had committed their advertisements on Doordarshan, pulled their advertisements out and switched them to ESPN and that cause tremendous loss of revenue to them. While the matter stood thus, the appellants received a notice from the solicitors of the respondent demanding full minimum guaranteed amount. On May 9, 2001, the appellants filed a suit in the Bombay High Court claiming, inter alia, damages for the loss of advertising revenue due to alleged illegal threats of the respondent. On November 22, 2001, the respondent filed an action in the High Court of Justice. Queen's Bench Division ('English Court'), praying for a money decree for the minimum guaranteed amount. Meanwhile, on January 15, 2002, the appellants took out motion in the Bombay High Court praying for anti-suit injunction against the respondent in regard to the action in the English Court on the ground that the Indian Court was a natural forum for the adjudication of the dispute and that continuance of the proceedings in the English Court would, on the facts of the case, be vexatious and oppressive.

The Jurisdiction clause read *“This agreement shall be governed by and construed in accordance with English law and the parties hereby submit to the non-exclusive jurisdiction of the English Courts (without reference to English Conflict of law rules).”*

Answer the following questions on the basis of these facts:

11. Which court has the appropriate jurisdiction? Justify
12. Which choice of law rules are applicable and why?
13. Had the parties agreed to be bound by rules of Rome I Regulation, what would have been the Choice of Law?
14. Redraft the jurisdiction clause according to the best of your ability assuming you are the advocate for Doordarshan.
15. If the judgment is passed in England, can it be recognized in India? What are the requirements for getting a foreign judgment enforced in India?

Roll No: -----



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Section A (5x2=10)

1. Validity of marriage might be decided by which two connecting factors?
2. What is the difference between domicile and residence?
3. What are connecting factors?
4. Rome II Regulation deals with Choice of law in Torts. True/False
5. A person cannot be without a domicile. True/False

Section B (10x2=20)

6. Explain Dual domicile and intended matrimonial home theory with help of case laws.
7. How are Public and Private International Law different?

Section C (10x2=20) [Attempt any two]

8. What are the various sources of Private International Law?
9. How is express choice of law different from implied choice of law and no choice of law?
Explain with the help of case law.
10. What is the proper law of the tort in English Law? Explain with the help of a case.

Section D (10 x 5=50)

Abba owns a piece of land in Spain. Bane agrees to buy it. During the negotiation of the contract, they are domiciled in England and Portugal respectively. They agree to conclude the contract on land, in Spain for sentimental reasons. While the contract is being signed, Abba's wife Mambo falls in love with Bane and decides to leave her first husband. The divorce petition is filed by Mambo in Spain immediately. Abba sues Bane in England for fraud and pleads the court to invalidate the contract. According to these facts, answer following questions:

1. What is the domicile of Mambo? How do you determine domicile? How is domicile difference from habitual residence? [5+5] [Word limit: 100+100 words]

2. What is the proper law of the contract in this case? How is proper law of contract different in English law from Rome I regulation? [10][Word limit: 200 words]
3. Can the court of Spain refuse jurisdiction? Justify. [10] [Word limit: 200 words]
4. Does the court in England have jurisdiction? Justify. [10] [Word limit: 200 words]
5. Draft an exclusive choice of court clause, so that a problem like above does not arise for Bane. [5]
6. What are the factors that need to be taken into account before drafting a jurisdiction and choice of law clause? [5] [Word limit: 100 words]