

Roll No: -----



UNIVERSITY OF PETROLEUM AND ENERGY STUDIES

End Semester Examination, May 2018

Program: B.A. LLB (Energy Laws) (Batch 1 & 2) & B.Com. LLB (Taxation Laws) (Batch 1 & 2)

Subject (Course): Evidence Law

Course Code : LLBL 121

No. of page/s: 4

Semester : VI

Max. Marks : 100

Duration : 3 Hrs.

SECTION A: (2*5 = 10 marks)

Attempt any FIVE

1. Whether Child Witness is a competent witness? Explain
2. Who is an "Expert"? Is the opinion given by him relevant?
3. Discuss the admissibility of electronic evidence.
4. How can you impeach the credit of a witness?
5. Discuss oral and documentary evidence
6. Difference between Public and Private Document.
7. Differentiate between Admission and Confession

SECTION B: (2*10 = 20 marks)

1. A. There is no absolute rule of law that dying declaration can be the sole basis of conviction unless corroborated. Comment (5 marks)

B. George Clooney was a shareholder in a property and was called by his relatives to joint property to Pulga, Himachal Pradesh. On his arrival, he was given a heavy dosage of some dangerous drug. George died 5 days later because brain hemorrhage caused by consumption of drug. A statement in the nature of complaint was recorded by police officer

in the hospital where he breathed last. Discuss the relevance of the statement given to police officer in the light of relevant provision and case laws. (5 marks)

Or

What do you mean by Burden of Proof? As per the Indian Evidence Act on whom the does the burden of proof lie? Also state any exceptions if there are?

2. A. What are the circumstances when oral evidence can be given regarding documentary evidence? Discuss with reference to the provisions of Evidence Act. (5 marks)

- B. Under what circumstances is the secondary evidence of a document admissible? Discuss (5marks)

SECTION C: (2*10 = 20 marks)

1. Johnny Depp is a sub-inspector in Bihar Police and took Charlie Sheen under his custody for committing rape and murder. Upon interrogation, Mr. Sheen made following statements, which were duly recorder by Mr. Depp, "I will take you to the place where I raped and murdered the woman on 14th February." Mr. Sheen then led Mr. Depp to a place and pointed out at a Hut. How much of the statement of Mr. Sheen can be used in evidence? What inference the court would draw from the statement and the consequent recovery? (10 marks)

2. A. When is a witness said to have turned hostile? Is the evidence given by such a witness still relevant and admissible? (5 marks)

- B. What do you understand by leading questions in the examination of witness and when the parties are allowed to ask leading questions? (5 marks)

SECTION D: (10+ 20 + 20 = 50 marks)

1. “Reading these two enactments(Sec 133 and Illustration (b) of Sec 114)together, the courts in India have held that rule of prudence so universally followed as to amount almost to a rule of law that it is unsafe to act upon the evidence of an accomplice unless it is corroborated in material facts so as to implicate the accused.”

Critically analyze the above statement with special reference to the two enactments mentioned above and the decided cases pertaining to accomplice testimony. (10 marks)

Or

The presumption of legitimacy of Child under Indian Evidence Act can be displaced by a strong preponderance of evidence and not by mere balance of probabilities. Discuss in the light of decided cases. (10 marks)

2. A. Sean communicated to Catherine, his wife the whole episode as to how he misappropriated the money from the office and how he booked honeymoon package to New Zealand. Two years later, they were separated through a decree of divorce. Catherine is now married to Keanu Reeves. Income Tax authorities prosecuted Sean for possession of assets disproportionate to his income. Can court ask Catherine to testify against Sean? Also give exception to the rule if any. (10 marks)

B. You are an attorney and Paris Hilton comes to you for filing a case. She says, “I wish to obtain a possession of property by the use of a forged deed on which I request you to sue.” Is this communication protected from disclosure? As the Attorney understands only Hindi Language therefore he asked an Interpreter who was also present at the time of communication to translate the whole communication in Hindi. Whether later on Interpreter can be witness in this case? (10 marks)

3. A. What is basis of the rule of Estoppel? What is the evidentiary value of the rule of estoppel under the Evidence Act(5 marks)

B. Christian Bale obtained a mark-sheet from Rajasthan Board, showing that he had passed in biology, physics and chemistry with good marks. Christian Bale, as a matter of fact had never opted or appeared for biology. However, he remained silent and sought admission in 1st year of MBBS course at Darbhanga, Medical College. When he had to appear for his first semester examination at medical college, Rajasthan Board realized its error and served a notice to Christian Bale for wrong mark-sheet and because of this reason Darbhanga, Medical College cancelled his admission. Christian Bale comes to you for using Estoppel against the Medical College. In your opinion will he succeed or not. (15 marks)

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SECTION A: (2*5 = 10 marks)

Attempt any FIVE

1. Differentiate between May Presume and shall presume.
2. Examine the evidentiary value of the Opinion of Expert?
3. Discuss the admissibility of hearsay evidence.
4. What is a Leading question?
5. Discuss oral and documentary evidence
6. Define a Public Document.
7. Discuss the scope of sec. 124 of Indian Evidence Act, 1872.

SECTION B: (2*10 = 20 marks)

3. A. Examine the admissibility of dying declaration (5 marks)

B. Examine the evidentiary value of the following dying declaration-

1. Dying declaration given to a Doctor

2. dying declaration given to a Family Member

4. A. Examine the rule of exclusion of Oral Evidence by Documentary Evidence(5 marks)

B. Under what circumstances is the secondary evidence of a document admissible? Discuss (5marks)

SECTION C: (2*10 = 20 marks)

3. “A conspiracy is hatched in secrecy and executed in darkness. Naturally, therefore, it is not possible for the prosecution to connect each isolated act of statement of one accused with the acts and statements of others, unless there is a common bound linking all of them together”. Explain with the help of relevant statutory provisions and case law. **(10 Marks)**

4. A. When is a witness said to have turned hostile? Is the evidence given by such a witness still relevant and admissible? (5 marks)

B. What is a Leading question and when it cannot be asked? (5 marks)

SECTION D: (10+ 20 + 20 = 50 marks)

4. “Reading these two enactments together, the courts in India have held that rule of prudence so universally followed as to amount almost to a rule of law that it is unsafe to act upon the evidence of an accomplice unless it is corroborated in material facts so as to implicate the accused.”

Critically analyze the above statement with special reference to the two enactments mentioned above and the decided cases pertaining to accomplice testimony. (10 marks)

Or

The presumption of legitimacy under Indian Evidence Act can be displaced by a strong preponderance of evidence and not by mere balance of probabilities. Discuss in the light of decided cases. (10 marks)

5. A. Sean communicated to Catherine, his wife the whole episode as to how he misappropriated the money from the office and how he booked honeymoon package to New Zealand. Two years later, they were separated through a decree of divorce. Catherine is now married to Keanu Reeves. Income Tax authorities prosecuted Sean for possession of assets disproportionate to his income. Can court ask Catherine to testify against Sean? Also give exception to the rule if any. (10 marks)

B. You are an attorney and Paris Hilton comes to you for filing a case. She says, "I wish to obtain a possession of property by the use of a forged deed on which I request you to sue." Is this communication protected from disclosure? (10 marks)

6. A. What is basis of the rule of Estoppel? How is it different from Promissory Estoppel? (5 marks)

B. Christian Bale obtained a mark-sheet from Rajasthan Board, showing that he had passed in biology, physics and chemistry with good marks. Christian Bale, as a matter of fact had never opted or appeared for biology. However, he remained silent and sought admission in 1st year of MBBS course at Darbhanga, Medical College. When he had to appear for his first semester examination at medical college, Rajasthan Board realized its error and served a notice to Christian Bale for wrong mark-sheet and because of this reason Darbhanga, Medical College cancelled his admission. Christian Bale comes to you for using Estoppel against the Medical College. In your opinion will he succeed or not. (15 marks)