

Devi Ahilya Vishwavidyalaya ,Indore, M.P.

B.A.LL.B. (Hons) Revised Syllabus

B.A.LL.B. (HONS) PART –IV SEMESTER - VIII

PAPER 1 : Law Of Evidence

Unit – I :

Introductory 1. The main features of the Indian Evidence Act 1861 2. Applicability of Evidence Act 3. Administrative Tribunals 4. Industrial Tribunals 5. Commissions of enquiry 6. Court- Martial Central Conceptions in Law of Evidence 1. Facts: section 3 definition: distinction - relevant facts/facts in issue 2. Evidence: oral and documentary 3. Circumstantial evidence and Direct evidence 4. Presumption 5. "Proving" "not proving" and "disproving" 6. Witness 7. Appreciation of evidence

Unit – II :

Facts: Relevancy 1. The Doctrine of res gestae 2. The problems of relevancy of "otherwise" irrelevant facts (section ii) 3. Facts concerning bodies and mental state Admission and Confessions 1. General principles concerning admission 2. Differences between "admission" and "confession" 3. Non- admissibility of confessions caused by "any inducement, threat or promise" 4. Inadmissibility of confession made before a police officer 5. Admissibility of custodial confessions 6. Admissibility of "information" received from accused person in custody; with special reference to discovery based on "joint statement" 7. Confession by co-accused 8. The problems with the judicial action based on a "retracted confession"

Unit – III :

Dying Declarations 1. The justification for relevance of dying declarations 2. The judicial standards for appreciation of evidentiary value of dying declarations 3.

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Conclusive Evidence Relevance of Judgments 1. Admissibility of judgments in civil and criminal matters 2. "Fraud" and "Collusion". Expert Testimony 1. Who is an expert? : types of expert evidence 2. Opinion on relationship especially proof of marriage 3. Judicial defence to expert testimony

Unit – IV :

Oral Documentary Evidence 1. General principles concerning oral evidence, Primary / Secondary evidence. 2. General principles concerning documentary evidence. 3. General principles regarding exclusion of oral by documentary evidence, public & private documents. 4. Special problems: re-hearing evidence 5. Estoppel Witness Examination and cross Examinations 1. Competency to testify 2. State privilege 3. Professional privilege 4. Approval testimony 5. General principles of examination and Cross examination 6. Leading questions 7. Lawful questions in Cross-examination 8. Reexamination 9. Compulsion to answer questions put to witness 10. Hostile witness 11. Impeaching of the standing or credit of witness

Unit – V :

Burden of Proof 1. General principles conception of onus-probans and onus-probandi 2. General and special exceptions to onus probandi 3. The justification of presumption and of the doctrine of judicial notice 4. Justification as to presumption as to certain offences 5. Presumption as to dowry 6. The scope of the doctrine of judicial notice Estoppel 1. Why estoppel? The rationale 2. Tenomacy Estoppel 3. Estoppel, res-judicial and waiver and presumption 4. Question of corroboration 5. Improper admission and of witness in civil and criminal cases.

Texts & References

1. Sarkar and Manohar, Sarkar on evidence (1999), Wadhwa & Co. Nagpur
2. Indian Evidence Act, (Amendment up to date)
3. Ratanlal, Dhirajlal: Law of Evidence (1994), Wadhwa Nagpur
4. Polein Murphy, Evidence (51h Reprint 2000), Universal Delhi
5. Albert S. Osborn, The Problem Proof (First Indian Reprint 1998). Universal Delhi
6. Avtar Singh, Principles of Law of evidence (1992), Central Law Agency, New Delhi

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Devi Ahilya Vishwavidyalaya ,Indore, M.P.

B.A.LL.B. (Hons) Revised Syllabus

B.A.LL.B. (HONS) PART –IV SEMESTER - VIII

PAPER II : Intellectual Property Law

Unit – I :

Introduction 1. The meaning of intellectual property 2. Forms of intellectual property: copyright, trademarks, patents and designs 3. New forms as plant varieties and geographical indications 4. Introduction to the leading international instruments concerning intellectual property rights: the Berne Convention, Universal Copyright, Convention, the Paris Convention, Trips, the World Intellectual Property Rights Organization (WIPO) and the UNESCO

Unit – II :

Selected aspects of the Law of copyright in India 1. Historical evolution of the copyright law 2. Meaning of copyright 3. Copyright in literacy, dramatic and musical works 4. Copyright in sound records and cinematograph films 5. Ownership of copyright 6. Assignment and licence 7. Copyright authorities 8. Infringement of Copy right and remedies including Anton Pillor injunctive relief in India

Unit – III :

Trademarks 1. The rationale of protection of trademarks as an aspect of commercial and of consumer rights, Dilution Theories of trade mark 2. Definition and concept of trademarks 3. Registration of trademark-authorities under the trademark Act 4. Passing off and infringement 5. Remedies

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Unit – IV :

Patents 1. Concepts and Historical view of the patents 98 2. Process of obtaining a patent, authorities 3. Procedure for filling patents: patent co-operation treaty 4. Prior publication or anticipation 5. Rights and obligations of a patentee 6. Compulsory licences 7. Infringement - defences 8. Injunctions and related remedies

Unit – V :

Geographical indication Act 2. New plant culture and breeds Act

Selected Bibliography

1. Cornish W.R. Intellectual Property, Patents, Trade Marks, Copy Right and Allied Right (1999), Asia Law House, Hyderabad.
2. Vikas Vashishth, Law and practice of Intellectual Property 1999 Bharat Law House Delhi.
3. P. Narayanan, Intellectual Property Law (1999), (ed) Eastern Law House, Calcutta
4. Bibeck Debroy (ed). Intellectual Property Right (1998), Rajiv Gandhi Foundation, Delhi
5. U.I.F. Anderfelt, International Patent Legislation and Developing Countries (1971)
6. W.R. Cornish, Intellectual Property (3rd ed) (1996) Sweet and Maxwell
7. K. Thairani, copyright: The Indian Experience (1987)
8. W.R. Cornish, Para and Materials on Intellectual Property (1999) Sweet and Maxwell.

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B.A.LL.B. (Hons) Revised Syllabus

B.A.LL.B. (HONS) PART –IV SEMESTER - VIII

PAPER III : Labour And Industrial Law – II

Unit - I

Minimum Wages Act , 1948 a. Concept of minimum wage, fair wage, living wage and need based minimum wage a. Constitutional validity of the Minimum wages Act, 1948 b. Procedure for fixation and revision of minimum wages c. Fixation of minimum rates of wage by time rate or by piece rate d. Procedure for hearing and deciding claims

Unit - II

Payment of Wages Act, 1936 a. Object, scope and application of the Act b. Definition of wage c. Responsibility for payment of wages d. Fixation of wage period e. Time of payment of wage f. Deductions which may be made from wages g. Maximum amount of deduction

Unit - III

Workmen's Compensation Act, 1923 a. Definition of dependant, workman, partial disablement and total disablement b. Employer's liability for compensation - Scope of arising out of and in the course of employment - Doctrine of notional extension - When employer is not liable c. Employer's Liability when contract or is engaged d. Amount of compensation e. Distribution of Compensation f. Procedure in proceedings before Commissioner g. Appeals

Unit - IV

Factories Act, 1948 a. Concept of "factory", "manufacturing process" "worker" and "occupier" b. General duties of occupier c. Measures to be taken in factories for health, safety and welfare of workers d. Working hours of adults e.

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Employment of young person and children f. Annual leave with wages g. Additional provisions regulating employment of women in factory.

Unit - V

Law relating to retirement benefits a. Employees Provident Fund and Miscellaneous Provisions Act, 1952; Family Pension Scheme 1971 and Employees Pension Scheme 1995; a.1 The changing rules regarding Employees Provident Fund and Pension Schemes; b. Payment of Gratuity Act, 1972 – Concept of gratuity; Eligibility for payment of gratuity; Determination of gratuity; Forfeiture of gratuity

Selected Bibliography

1. S.C. Srivastava, Commentaries on factories Act, 1948, Universal Law Publishing House, Delhi
2. H.L. Kumar, Workmen's Compensation Act, 1923
3. Dr. G V Goswami, Labour Industrial Laws, 8th Edn. – 2004, Central Law Agency, Allahabad, Part VI
4. K M Pillai, Labour and Industrial Law, 10th Edn- 2005, Allahabad Law Agency, Allahabad, Chapter's 4-6
5. O.P. Malhotra, Industrial Disputes Act, Vol. I & II
6. Indian Law Institute – Cases and Materials on Labour Law and Labour Relations

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B.A.LL.B. (Hons) Revised Syllabus

B.A.LL.B. (HONS) PART –IV SEMESTER - VIII

PAPER IV :ALTERNATE DISPUTE RESOLUTION

Unit - I

I Concept 1. Arbitration : Meaning scope and types 2. Arbitration Agreement- Essentials, Kinds 3. Who can enter into arbitration agreement ? 4. Validity 5. Reference to arbitration 6. Interim measures by court

Unit - II

Arbitration Tribunal Composition 2. Jurisdiction 3. Grounds of challenge 4. Powers 5. Procedure 6. Court assistance 7. Award, Rules of guidance, Form and content, Correction and interpretation 66 8. Grounds of setting aside an award- Want of proper notice and hearing, Contravention of composition and procedure. 9. Impartiality of the arbitrator 10. Bar of limitations, res judicata 11. Consent of parties 12. Enforcement 13. Appeals

Unit – III

Conciliation 1. Distinction between “conciliation”, “mediation”, and “arbitration”. 2. Appointment of conciliator 3. Interaction between conciliator and parties 4. Communication, disclosure and confidentiality 5. Suggestions by parties 6. Settlement agreement and its effect 7. Resort to judicial proceedings, legal effect 8. Costs and deposit

Unit – IV

International Arbitration 1. Enforcement of Foreign Award 2. New York convention Award 3. Geneva Convention Award

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Devi Ahilya Vishwavidyalaya ,Indore, M.P.

B.A.LL.B. (Hons) Revised Syllabus

B.A.LL.B. (HONS) PART –IV SEMESTER - VIII

OPTIONAL PAPER V : Law On Corporate Finance

Unit – I

Introduction 1. Meaning, importance and scope of corporate finance. 2. Capital Needs, capitalization, working capital, securities, borrowings, deposits, debentures. 3. Objectives of corporate finance – profit maximization and wealth maximization. 4. Constitutional perspectives – The following entries 37, 38, 43, 44, 45, 46, 47, 52, 82, 85 and 86 of List I (Union List); entry 24 of List II (State List).

Unit – II

Equity finance 1. Share Capital 2. Prospectus – information disclosure. 3. Issue and allotment. 4. Shares without monetary consideration. 5. Non-opting equity shares. **Debt Finance** 1. Debentures. 2. Nature, issue and class. 3. Deposits and acceptance. 4. Creation of charges. 5. Fixed and floating charges. 6. Mortgages. 7. Convertible debentures.

Unit – III

Conservation of corporate finance 1. Regulation by disclosure. 2. Control on payment of dividends. 3. Managerial remuneration. 4. Payment of commissions and brokerage. 5. Inter- corporate loans and investments. 6. Pay-back of shares. 7. Other corporate spending. 111

Unit – IV

Protection of creditors 1. Need for creditor protection 2. Preference in payment. 3. Rights in making company decisions affecting creditor interests. 4. Creditor self-protection. 5. Control over corporate spending.

Protection of Investors 1. Individual share holder right. 2. Corporate membership right. 3. Derivative actions. 4. Qualified membership right 5. Conversion, Consolidation and Re-organisation of shares. 6. Transfer and transmission of securities. 7. Dematerialisation of securities Corporate

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Fund Raising 1. Depositories – IDR (Indian Depository Receipts), ADR (American Depository Receipts), GDR(Global Depository Receipts). 2. Public financing institution – IDBI, ICICI, IFC, and SFC. 3. Mutual fund and other collective investment schemes 4. Institutional investments – LIC, UTI and Banks. 5. FDI and NRI investment – Foreign institutional investments (IMF and World Bank).

.Unit – V

Administrative regulation on Corporate Finance 1. Inspection of accounts. 2. Central government control. 3. Control by Registrar of companies. 4. RBI control. 5. SEBI control, status of SEBI

Texts & References

1. Alastair Hundson : The Law on Financial Derivatives (1998), Sweet & Maxwell.
2. Ell's Ferran, Company Law and Corporate Finance (1999), Oxford.
3. Jonathan Charkham : Fair Shares : The Future of Shareholder Power and Responsibility (1999), Oxford. 112
4. Ramaiya A. : Guide to the Companies Act (1998), Vol. I, II and III.
5. H.A.J. Ford and A.P. Austen : Ford's Principle of Corporations Law (1999) Butterworths.
6. 1. J.P.S. Sirohi : Professional Ethics, Lawyer's Accountability, Bench- Bar Relationship.

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Devi Ahilya Vishwavidyalaya ,Indore, M.P.

B.A.LL.B. (Hons) Revised Syllabus

B.A.LL.B. (HONS) PART –IV SEMESTER - VIII

OPTIONAL PAPER V : INSURANCE LAW

Unit - I

Introduction: 1. Definition nature and history of insurance 2. Concept of insurance and law of contract and law of torts future of insurance in globalized economy. 3. History and development of insurance in India. 4. Insurance Regulatory Authority - role and functions.

Unit – II

General principles of law of Insurance: 1. Contract of Insurance - classification of contract of insurance, nature of various Insurance contracts parties thereto 2. Principle of good faith, non-disclosure, misrepresentation in insurance contracts 3. Insurable interest 4. The risk 5. The policy, classification of policies-its form and contents, its commencement, duration, cancellation, alteration, rectification, renewal, assignment, construction 6. Conditions of the policy 7. Alteration of the risk 8. Assignment of the subject matter

Unit – III

Insurance: 1. Nature and scope of life insurance, definition kinds of life insurances, the policy and formation of a life insurance contract 2. Event insured against life insurance contract 3. Circumstances affecting the risk 4. Amounts recoverable under life policy 5. Persons entitled to payment 6. Settlement of claim and payment of money.

Unit – IV

Marine Insurance: 1. Nature and scope 2. Classification of marine policies 3. The Marine Insurance Act 1963 4. Insurable interest, insurable value 5. Marine insurance policy-conditions, express-warranties, construction of terms of Policy 6. Voyage – deviation 7. Perils of the sea 8. Partial loss of ship and of freight, salvage, general average, particular charges 9. Measure of indemnity, total valuation, liability to third parties.

Unit – V

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Social Insurance in India: 1. Important elements in social insurance, its need. 2. Commercial insurance and social insurance 3. Workmen's compensation- scope, risks covered, industrial accidents, occupational diseases, cash benefits, incapacity, amount of compensation, nature of injuries, dependents, schedule 4. Sickness insurance, Adarkar scheme, Stack and Rao scheme for wage earners and others, risks covered, maturity and other benefits 5. Old age, premature death and invalidity insurance or pension insurance, public provident fund. 6. Fire Insurance 7. Social insurance for people like seamen, circus workers and agricultural, workers 8. Public Liability Insurance 9. The scheme 10. Authorities.

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1. Singh, Bridge Anand, New Insurance Law (2000) Union Book Publishers, Allahabad.
2. Ivamy, Case Book on Insurance Law(1984), Butterworths.
3. Jvamy, General Principles of insurance Laws (1993), Butterworths
4. John Birds, Modern Insurance Law(1988), Sweet and Maxwell
5. Sreenivasan. M.N., Principles of insurance Law (1 997), Ramaniya Publishers,Bangalore.
6. M.N. Mishra – Law of Insurance – Central Law Agency, Allahabad.

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