



## Mercantile Law

Foundation Examinations – Autumn 2010  
Module B

August 30, 2010  
100 marks - 3 hours

- Q.1 (a) Based on the Legal System of Pakistan, identify the correct answer of the following:
- (1) District Magistrate is appointed by the:
    - (i) President
    - (ii) chief justice
    - (iii) federal government
    - (iv) provincial government
  - (2) The Civil Court does **NOT** have jurisdiction over:
    - (i) contract and tort claims
    - (ii) disputes concerning land
    - (iii) blackmailing cases
    - (iv) bankruptcy cases
  - (3) Choose the **INCORRECT** statement:  
Following must be considered when examining a precedent before it can be applied to a case:
    - (i) the precedent must be a proposition of law
    - (ii) the precedent must form part of the obiter dicta of the case
    - (iii) the material facts of each case must be the same
    - (iv) the preceding court must have had a superior status to the later court, such that its decisions are binding on the later court **(03 marks)**
- (b) Briefly explain the following terms as used in the Courts in Pakistan.
- (i) Juveniles
  - (ii) Decision reversed **(04 marks)**
- Q.2 Explain the term “Quasi contract”. Briefly describe different types of relationships commonly referred to as quasi contracts under the Contract Act, 1872. **(10 marks)**
- Q.3 In view of the provisions of Contract Act, 1872 identify the correct answer:
- (1) Wasi, with intent to deceive Tipu, falsely represented that twenty thousand motorcycles are manufactured annually at his factory and induced him to buy the factory. The contract is:
    - (i) void
    - (ii) Voidable
    - (iii) illegal
    - (iv) Valid
  - (2) The term “*Quid pro quo*” means:
    - (i) something in return
    - (ii) something important
    - (iii) something of value
    - (iv) something relevant
  - (3) Which of the following is not an essential element of a valid contract:
    - (i) adequacy of consideration
    - (ii) capacity to contract
    - (iii) free consent
    - (iv) none of the above
  - (4) If a contract provides for the payment of a certain amount on breach of a contract, such payment is termed as:
    - (i) special damages
    - (ii) nominal damages
    - (iii) liquidated damages
    - (iv) compensatory damages

- (5) Choose the **INCORRECT** statement:  
To constitute a wager, following elements should be present in the agreement:
- (i) uncertain event
  - (ii) each party must be in a win or lose situation
  - (iii) neither party should have any control over the event
  - (iv) there should be a promise to pay money only
- (6) Aamir has proposed to sell a car to Parkash at a certain price by sending a letter. The communication of the proposal is complete when :
- (i) Aamir posts the letter
  - (ii) Parkash receives the letter
  - (iii) Aamir comes to know that Parkash has received the letter
  - (iv) Parkash posts his acknowledgment to Aamir

*(06 marks)*

Q.4 In the light of the provisions of Partnership Act, 1932 select the correct answer:

- (1) Public notice is **NOT** required to be given in case of:
- |                              |  |
|------------------------------|--|
| (i) insolvency of a partner  | (ii) retirement of a partner           |
| (iii) expulsion of a partner | (iv) dissolution of a registered firm. |
- (2) X and Y formed a partnership firm to undertake construction of a shopping plaza. Such a partnership is called:
- |                           |                             |
|---------------------------|-----------------------------|
| (i) limited partnership   | (ii) particular partnership |
| (iii) partnership at will | (iv) implied partnership    |
- (3) The implied authority of a partner does **NOT** empower him to:
- (i) submit a business dispute to arbitration
  - (ii) withdraw a suit filed on behalf of the firm
  - (iii) open a banking account on behalf of the firm
  - (iv) all the above
- (4) Choose the **INCORRECT** statement:  
In the absence of a contract to the contrary,
- (i) a partner is not entitled to receive remuneration for taking part in the conduct of the business
  - (ii) the partners are entitled to share profits equally
  - (iii) the partners are entitled to interest on capital subscribed by them
  - (iv) a partner shall indemnify the firm for any loss caused to it by his willful neglect
- (5) Where a partner has paid a premium on entering into partnership for a fixed term and the firm is dissolved before the expiration of that term, such partner shall **NOT** be entitled to repayment of the premium if the dissolution is :
- (i) mainly due to his own misconduct
  - (ii) in pursuance of an agreement between all the partners, containing no provision for the return of the premium
  - (iii) caused by the death of the partner
  - (iv) all the above
- (6) On dissolution of a firm, where there are joint debts due from the firm and also separate debts due from any partner, the separate property of a partner:
- (i) shall be applied proportionately in the payment of the firm's debts and his separate debts
  - (ii) cannot be used in the payment of the firm's debts
  - (iii) shall be applied, in the first instance, in payment of the firm's debts and the surplus, if any, in payment of his separate debts
  - (iv) shall be applied first in the payment of his separate debts and the surplus, if any, in the payment of the firm's debts

*(06 marks)*

- Q.5 (a) Explain the following as described under the Contract Act, 1872.
- (i) Undue influence **(04 marks)**
  - (ii) Contract of guarantee **(04 marks)**
- (b) Behram employed Thaseen to sell his car to Asad for Rs. 500,000 and invest the proceeds in Government Bonds. Thaseen invested Rs. 400,000 in Government Bonds and Rs. 100,000 in a blue chip company expecting a high return on such investment. Consequently, Behram lost Rs. 50,000 on the blue chip investment.

With reference to the provisions of Contract Act, 1872 describe the rights and obligations, if any, of Thaseen under the circumstances. **(04 marks)**

- Q.6 (a) Ramla borrowed Rs. 100,000 from Ovais for a period of three months and kept her jewellery with Ovais as a security. On due date, Ramla defaulted in repayment. In view of the provisions of Contract Act, 1872 describe the remedies available to Ovais under the circumstances. **(04 marks)**
- (b) Raheel leased a building from Atif, on five years term, for a rent of Rs. 200,000 per annum and the payment was guaranteed by Kamal. Raheel defaulted in payment of the rent in the third year. Atif sued Kamal and recovered the rent from him. Later, Kamal gave a notice to Atif for revoking his guarantee for the remaining period of lease.

Under the Contract Act, 1872 discuss whether Kamal is justified in doing so. **(04 marks)**

- Q.7 (a) Aziz, Zohair and Ikram are partners in Moon Enterprises, an unregistered firm, engaged in trading business. Ikram contracted on behalf of the firm to supply two tons of sugar to Mohsin in special bags of eight kg each. However, Ikram packed the sugar in bags of ten kg each. Consequently, Mohsin accepted the sugar but refused to pay the full amount resulting in a loss of Rs. 52,000 to the firm.

In the light of the provisions of Partnership Act, 1932 explain the following:

- (i) Can Zohair file a suit against Ikram for the recovery of the loss as it was caused due to Ikram's mistake? **(03 marks)**
- (ii) Can Moon Enterprises file a suit against Mohsin for the recovery of the full amount? **(03 marks)**

- (b) Advise Aziz, Zohair and Ikram about the procedure they should follow for the registration of Moon Enterprises, as enumerated under the Partnership Act, 1932. **(08 marks)**

- Q.8 (a) Under the provisions of Sale of Goods Act, 1930 briefly explain the terms "Condition" and "Warranty". Briefly describe the circumstances in which a "Condition" can be treated as a "Warranty" under the above Act. **(07 marks)**

- (b) When is a buyer deemed to have accepted the goods under the Sale of Goods Act, 1930? **(03 marks)**

- (c) Arif contracted to purchase from Talib 100 containers of cooking oil in special size containers of 15 liters each. When ready and packed, Talib informed Arif. Before Arif could reach the premises, fire broke out and the entire stock was destroyed. Arif contended that Talib should bear the loss as the goods were not delivered to him.

Who in your opinion should bear the loss? Discuss with reference to the Sale of Goods Act, 1930? **(03 marks)**

Q.9 (a) Based on the provisions of Negotiable Instruments Act, 1881 briefly explain whether the following are promissory notes or not.

- (i) I promise to pay Rahat on demand Rs. 5,000 at my convenience.
- (ii) On demand, I promise to pay Sonu or order Rs. 5,000, for value received.
- (iii) I promise to pay Adil or order Rs. 5,000 and 500 shares of Sigma Limited.
- (iv) I promise to pay Mahi or order Rs. 5,000 with interest calculated at quarterly rests.
- (v) I promise to pay you or your successors on demand Rs. 10,000.
- (vi) I promise to pay Rafi or order Rs. 10,000 seven days after Salik's death.
- (vii) I am liable to pay Ahmad Rs. 5,000. *(07 marks)*

(b) Haris drew a bill of exchange on Idress which was payable three months after sight. The bill passed several hands before Ali became its holder. Ali presented the bill to Idress for payment who dishonoured the bill by non-payment. Fouad, in turn, paid the bill to Ali without any consideration.

Under the Negotiable Instruments Act, 1881 enumerate the rights available to Fouad on the bill and the conditions he must fulfill to enforce such rights. *(05 marks)*

Q.10 (a) Under the Carriage of Goods by Sea Act, 1925 list various circumstances under which a carrier shall not be responsible for loss or damage to the cargo. *(08 marks)*

(b) Ashok, Ravi and Meher were partners. Ashok bequeathed all his property in the partnership business to Ravi in trust for Mazen. Ashok died. Ravi and Meher continued with the partnership business without settling the account of Ashok.

In the light of the Trust Act, 1882 discuss the rights available to Mazen against Ravi and Meher. *(04 marks)*

**(THE END)**