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## Free Mains Evaluation



# BIHAR JUDICIAL SERVICE EXAMINATION

## PAPER – V

### (LAW OF EVIDENCE AND PROCEDURE)

**Time: 03 Hours**

**Maximum Marks: 150**

#### ***Instructions:***

- (i) Answer six questions, taking two from Group-A, two from Group-B, and one each from Group-C and Group-D.
- (ii) Marks are indicated against each question.

#### **GROUP - A**

#### **Question No. 1**

(a) Write notes on the following:

(i) Mesne Profits

(ii) Preliminary Decree

(iii) Legal Representatives

**(5\*3 = 15 Marks)**

(b) What do you understand by Pecuniary Jurisdiction of court? Will a court be competent to hear a suit exceeding

its limit if the parties to the suit have given their consent?  
**(15 Marks)**

## **Question No. 2**

(a) How following decrees may be executed:

- (i) A decree for specific performance of immovable property
- (ii) A decree for Restitution of Conjugal Rights
- (iii) A decree for Injunction **(5\*3 = 15 Marks)**

(b) When trial of suit is stayed by court and what is doctrine of Res-Judicata? **(15 Marks)**

## **Question No. 3**

(a) State the duties and powers of appellate court with reference to -

- (i) Remand
- (ii) Framing of Additional issues
- (iii) Additional evidence



(iv) Modification of decree

(v) Second Appeal

**(3\*5 = 15 Marks)**

(b) What is doctrine of Restitution? Has Court inherent power to grant restitution? Is order granting restitution appealable? **(15 Marks)**

### **GROUP - B**

#### **Question No. 4**

(a) What is Confession? Discuss its evidentiary Value? Also distinguish between Judicial and Extra Judicial Confession. **(15 Marks)**

(b) Write a short note on following-

(i) Expert Evidence

(ii) Doctrine of confirmation of subsequent events

**(10 Marks)**

#### **Question No. 5**



(a) What is Dying Declaration? Can it be sole basis for conviction? Will Dying Declaration still hold good if person survives? **(15 Marks)**

(b) Explain the law related to confession of co-conspirator? **(10 Marks)**

### Question No. 6

(a) Write short notes on following-

(i) May Presume

(ii) Shall Presume

(iii) Conclusive Proof

**(5\*3 = 15 Marks)**

(b) Explain the circumstances in which secondary evidence is admissible? **(10 Marks)**

### GROUP - C

### Question No. 7

(a) Is an Arbitration Agreement discharged by death of party? What are the grounds to discharge an Arbitration Agreement? **(10 Marks)**



(b) Answer the following:

(i) Can the Court intervene in appointment of Arbitrator by a Party?

(ii) Grounds for removing an Arbitrator. **(10 Marks)**

### Question No. 8

(a) Explain the powers of arbitrators to make interim award. **(10 Marks)**

(b) Under what circumstances can the court-

(i) Modify the award

(ii) Remit the award **(10 Marks)**

### GROUP - D

### Question No. 9

(a) What is FIR? Discuss its evidentiary value. **(10 Marks)**

(b) Write notes on 'Charge' and 'Joinder of Charges'.

**(10 Marks)**



## Question No. 10

(a) Explain for what kind of offences can summary trial be conducted and how it is conducted. **(10 Marks)**

(b) When search warrant can be issued by court? **(10 Marks)**





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Ques 1

\* Rule of  
Convenience  
\* maxim  
vigilantibus  
non  
dormientibus  
jura subvertunt

Sec 21 (1), of Code of Civil procedure provides that, no objection as to place of suing will be allowed by an appellate or revisional court unless following conditions are satisfied:

Court of first Instance

1. The objection was taken at first instance in court
2. It was taken at earliest possible opportunity and in cases where issues are settled at or before settlement of issues; and
3. There has been consequent failure of justice

Ques 2.

\* provision  
rising  
Art. 16, 335,  
338, 340,  
341 & 342

Reservation of posts in government services is a broad and infamous subject. The basis of reservation was always to bring every class of people on equal footing majorly on financial and social aspects. So the basis and limit of reservation should still be the financial status as discrimination on caste and class level has been decreased but financial gap has been increased from past recent years.

\* Indira Sawhney case  
\* Balaji vs State of Mysore  
9

Ques 3

No, a remand order cannot confer jurisdiction on the subordinate court when such court originally do not have such power. It is settled principle that no appellate court can confer jurisdiction on a subordinate court, however high appellate court may be as, jurisdiction of a court is determined by statute. In case of Venkatarama & Angathayammal it is held that

(1)



an appellate court remanding a case to an inferior court cannot confer jurisdiction on court if it inherently lacked the same.

Ques 4

A suit is of civil nature if the principal question therein relates to the determination of a civil right and its enforcement.

It is subject matter of suit which determines whether it is suit of civil nature or not.

In a suit in which right to property or to an office is contested whether it is of civil nature or not, what needs to be determined is whether it entirely depends on religious rites or ceremonies or not?

If its decision does not entirely depend on religious rites or ceremonies it is a suit of civil nature.

(i) Right to take out religious procession is a suit of civil nature

(ii) Right of Pandanashen lady to observe parda is a suit of civil nature

(iii) Right to franchise is a suit of civil nature

11/5  
3

Ques 5

Doctrine of res judicata applies between co-defendant only if plaintiff claimed any relief and he cannot get his relief without trying and deciding a case between the co-defendants. However it has been stated that requisite conditions should be fulfilled to apply principle of res judicata as between defendant and that are:

Start with Sec 9 of CPC along with explanation  
Meaning of Civil Suit  
Kehar Singh  
Custodian  
General  
Shankar Narayan  
Potti  
K. Sreedevi

Provision  
Maxim



# Remarks:-



- ① Answer not in Answer format rather on notes format.
- ② Don't copy things from Internet.  
The Answer on Internal & External aid was exact copy.
- ③ Missed out on lot of Questions.
- ④ Next time copies won't be evaluated if they are not in Answer format.
- ⑤ Always mention the Section no. on top & not at last.





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