

# Principles and Facts Situations

The Legal Aptitude section in Law entrances check your legal “reasoning”, not legal “knowledge”. Legal Reasoning is the most significant component of the legal aptitude section, in terms of marks allotted. The given principle has to be applied to the facts. The section aims at judging a student’s legal aptitude, research aptitude and problem solving ability.

## HOW TO THE SOLVE IT :

- It is should be reminded the central idea and legal principles established in case law that have studied .
- The points should be recognized in the decision made by the judges.

- The impact of judgments should be assessed on social behavior and relationships.
- Identification must be done for legal issues in hypothetical facts.
- An ethical view of nature of law must be adopted .
- One should develop the ability of critical thinking in place of emotional responses .
- One should do case analysis.

A few questions from the CLAT papers have been discussed here to give the CLAT aspirants an insight into the latest trend:

## EXERCISE

1. **Principle:** Mere silence as to the facts likely to affect the willingness of a person to enter into a contract is not a fraud, unless the circumstances of the case are such that, on close examination it is found to be the duty of the person keeping silent to speak, or unless his silence is, in itself, equivalent to speech.

**Facts:** X sells by auction to Y, a horse which X knows to be of unsound state of mind.

X says nothing to Y about the horse’s unsound state of mind. Give the correct answer.

- (a) X can be held liable for fraud.
  - (b) X can be held liable for misrepresentation.
  - (c) X cannot be held liable, because he did not say anything positive about the mental state of the horse.
  - (d) X cannot be held liable because it is the buyer who must be aware of the things.
2. **Principle:** If the consideration or object of an agreement is forbidden by law, or is of such a nature that would defeat the provisions of any law, or is fraudulent, or is injurious to the person or property of another or, the Court regards it as immoral, or opposed to public policy, then the object or consideration shall be deemed unlawful. Every agreement of which the object or consideration is unlawful is void.
- Facts:** Agni enters into a contract with Tanuj whereby Tanuj will supply Agni with 10 grams of cocaine for a specified amount. Is the contract void?

- (a) Yes, because the contract is for the sale of illegal drugs.
- (b) No, because Agni and Tanuj have entered into the contract out of their own free will, and being the citizens of a free country, they have the right to do so.
- (c) Yes, because drugs are harmful.
- (d) None of these.

### (For Question 3 and 4):

**Principle:** Nothing which is not intended to cause death, is an offence by reason of any harm which it may cause, or be intended by the doer to cause, or be known by the doer to be likely to cause, to any person for whose benefit it is done in good faith, and who has given a consent, whether express or implied, to suffer that harm, or to take the risk of that harm.

### Facts:

3. A fake doctor operated on a man for internal piles by cutting them out with a kitchen ordinary knife. The man died of haemorrhage.
- (a) Doctor is guilty of murder.
  - (b) Doctor is not guilty.
  - (c) Doctor is guilty of culpable homicide not amounting to murder
  - (d) None of these.
4. Dr. Mortimer performed a kidney operation upon James for removal of kidney stones. James was already affected by HIV. Dr. Mortimer had warned James of all the possible

risks. James, out of his own volition, decided to undertake the risks and signed a bond certifying the same. James died of haemorrhage as a result of the operation.

- (a) Doctor is guilty of murder.
- (b) Doctor is not guilty.
- (c) Doctor is guilty of culpable homicide not amounting to murder
- (d) None of these.

**(For Questions 5-9)**

**Principles:**

- A. Whoever intending to take any moveable property out of the possession of any person without that person's consent, moves that property out of his or her possession, is said to commit theft.
- B. A person who, without lawful excuse, damages any property belonging to another intending to damage any such property shall be guilty of causing criminal damage.
- C. Damage means any impairment of the value of a property.

**Facts:**

Draupadi, an old lady of 85 years, used to live with her granddaughter Subhadra. Draupadi was ill and therefore bedridden for several months. In those months, she could not tolerate any noise and it 'became quite difficult to clean her room. After she died, Subhadra hired a cleaner, Vinodji, to clean the room and throw away any rubbish that may be there. There was a pile of old newspapers which Draupadi had stacked in a corner of her room. Vinodji asked Subhadra if he should clear away the pile of old newspapers, to which she said yes, Vinodji took the pile to the municipality rubbish dump. While Vinodji was sorting and throwing away the newspapers, he was very surprised to find a beautiful painting in between two sheets of paper. He thought that Subhadra probably wouldn't want this old painting back, especially because it was torn in several places and the colour was fading. He took the painting home, mounted it on a wooden frame and hung it on the wall of his bedroom. Unknown to him, the painting was an old 'masterpiece, and worth twenty thousand rupees. Before mounting the painting, Vinodji pasted it on a plain sheet of paper so that it does not tear any more. By doing so, he made its professional 'restoration very difficult and thereby reduced its value by half. Vinodji's neighbour Champi discovered that the painting belonged to Subhadra. With the motive of returning the painting to Subhadra, Champi climbed through an open window into Vinodji's room when he was away one afternoon and removed the painting from his house.

5. Has Vinodji committed theft?
- (a) Yes, Vinodji has committed theft of the newspapers and the painting.
  - (b) No, Vinodji has not committed theft because he had Draupadi's consent.
  - (c) Yes, Vinodji has committed theft of the painting, but not of the newspapers
  - (d) No, Vinodji has not committed theft because he has not moved the painting out of Draupadi's possession.

6. Is Vinodji guilty of criminal damage?
- (a) No, Vinodji is not guilty of criminal damage as he did not intentionally impair the value of the painting.
  - (b) Yes, Vinodji is guilty of criminal damage as he intentionally stuck the paper on to the painting
  - (c) No, Vinodji is not guilty of criminal damage as he does not have the painting in his possession anymore.
  - (d) No, Vinodji is not guilty of criminal damage as he has not destroyed the painting.
7. If Vinodji had discovered the painting before leaving Subhadra's house rather than at the rubbish dump, would he have been guilty of theft in this case?
- (a) Yes, he would be guilty of theft of the newspapers and the paintings.
  - (b) No, he would not be guilty of theft.
  - (c) Yes, he would be guilty of theft of the painting.
  - (d) None of the above.
8. Is Champi guilty of theft?
- (a) No, Champi is not guilty of theft since the person she took the painting from (Vinodji) was not its lawful owner.
  - (b) No, Champi is not guilty of theft since she took the painting only with the motive of returning it to Subhadra.
  - (c) Yes, Champi is guilty of theft as she took the painting out of Vinodji's possession without his consent.
  - (d) None of the above.
9. Which of the following propositions could be inferred from the facts and the rules specified
- (a) Champi is guilty of criminal damage as the person she took the painting from (Vinodji) was not its lawful owner.
  - (b) Champi is guilty of criminal damage as she took the painting without Vinodji's consent.
  - (c) Champi is not guilty of criminal damage as the painting has not been completely destroyed.
  - (d) None of the above.
10. **Principle:** No Person shall be prosecuted for the same offence twice.
- Facts:** Rajiv Chanda was driving his BMW when he drove the car on the pathway and crushed three people to death. Due to lack of evidence he is acquitted, now the prosecution finds eye witness and evidence against him. They want to prosecute him again.
- (a) Rajiv Chanda cannot be prosecuted again.
  - (b) He can be prosecuted since there is fresh evidence against him.
  - (c) He cannot be prosecuted as his grandfather was the chief of Army.
  - (d) He can be prosecuted again as he was not punished at all.
11. **Facts:** Sajjan Singh, advanced money to his step-son, Ghantilal while Ghantilal was a minor. Ghantilal, however, looks upon Sajjan Singh as his own father. When Ghantilal

came of age, Sajjan Singh obtained, by misuse of parental influence, from Ghantilal, a bond for a greater amount than the sum due in respect of the advance. The contract clearly appears to be unconscionable. Upon whom will the burden of proof rest to prove the element of undue influence?

**Principle:** A contract is said to be induced by undue influence where the relations subsisting between the parties are such that one of the parties is in a position to dominate the will of the other and uses that position to obtain an unfair advantage over the other.

- (a) The burden of proof will rest on Ghantilal.
- (b) The burden of proof will rest on Sajjan Singh.
- (c) Undue influence has not been exercised at all because, in India, we consider it our duty to obey our parents.
- (d) Undue influence has been exercised because, though in India, we consider it our duty to obey our parents, we should not forget that Sajjan Singh was not Ghantilal's father.

12. **Facts:** The Government imposed a cap on the number of text messages sent per day, from every sim card, to 20, with immediate effect. These restrictions are to remain in force for 15 days. This action was taken against the backdrop of the exodus of north-eastern people from major cities of the country following a tide of rumours spread by text and multimedia messages that people hailing from the north-eastern states would be attacked to avenge a recent ethnic violence in one of the north-eastern states. Companies that were completely dependent upon this mode of communication for customer outreach protested against this cap on messages saying that it was infringing upon their freedom of speech and expression. Decide if it is an infringement on the freedom of speech and expression of the citizens.

**Principle:** All citizens shall have the right

- (i) to freedom of speech and expression;
- (ii) to assemble peacefully and without arms;
- (iii) to form associations or unions;
- (iv) to move freely throughout the territory of India;
- (v) to reside and settle in any part of the territory of India; and
- (vi) to practise any profession, or to carry on any occupation, trade or business.

However, the exercise of these rights is subject to reasonable restrictions imposed by the State.

- (a) Yes, because the trade of many companies are being affected.
  - (b) No, because the restrictions are reasonable and have been imposed due to internal security concerns.
  - (c) Yes, because the Government is imposing a ban on how much we can communicate.
  - (d) None of these.
13. **Facts:** Valkatamma was suffering from a health condition in her stomach which required her to go through a surgery that involved cutting her stomach open as per the advice of her doctor, Dr Chembunaryan. Though the operation was

successful, after a few weeks, she started suffering from an infection which was a result of her stomach being cut open for the surgery though all the reasonable precautions to avoid any such infection had been taken by the group of surgeons who operated upon her. She visited another doctor, Dr Kuttalalingam, after the development of this infection, and he told her that even a laser surgery could have cured her stomach ailment without exposing her to the risk of infection. However, as a matter of fact, there were many doctors in the country who supported the advice given by Dr Chembunaryan to cure her health condition, and there were many others who were of the same opinion as that of Dr Kuttalalingam. Nevertheless, Valkatamma sued Dr Chembunaryan. Decide.

**Principle:** A person is liable for the tort of negligence if he breaches a legal duty of care he owes to the plaintiff, and the plaintiff suffered a damage resulting from this breach.

- (a) Dr. Chembunaryan will win because he had followed an accepted and established medical procedure. Moreover, reasonable precautions had been taken during the surgery.
- (b) Dr. Chembunaryan will win because the only operation was his responsibility and the operation was successful. What happens post the operation is not his responsibility.
- (c) Dr. Chembunaryan will lose unless he is able to prove that the practice he chose was better than the other practice in this case.
- (d) Dr. Chembunaryan will lose because being a doctor, he owes a greater duty of care and it was his responsibility to ensure that his patients do not have to deal with such consequences.

14. **Facts:** Nitin started to drive his Tata Nano in the highway after gulping down two bottles of whiskey. Isaac was driving his Reva NXR with the headlights turned off. They collided resulting in an injury on Isaac's head. Nitin, who was highly intoxicated, had only a narrow chance to avoid the collision, but because of the high levels of alcohol in his blood, he was unable to do so. Isaac sued Nitin for negligence. Will he succeed?

**Principle:** A person is liable for the tort of negligence if he breaches a legal duty of care he owes to the plaintiff, and the plaintiff suffered a damage resulting from this breach.

- (a) Yes, because Nitin should be taught a lesson.
  - (b) Yes, because Nitin breached the duty of care that he owes to the other people commuting on the highway.
  - (c) No, because Isaac provided Nitin with only a narrow window of time to avoid the collision.
  - (d) No, because they had no business driving on the highway late into the night.
15. **Facts:** During the Freshers' Party of Beliaghata Law College, Saanchi pulled Aurobind's shots. Aurobind started crying because his shots had been snatched away and decided to sue Saanchi for battery. Will Aurobind succeed in his claim?

**Principle:** The intentional use of force against another person without lawful justification constitutes the tort of battery.

- (a) No, because Aurobind could easily have helped himself to another glass.
- (b) Yes, because Saanchi had used force against Aurobind without lawful justification.
- (c) No, because law does not take note of trifles.
- (d) Yes, because Saanchi had infringed upon Aurobind's right to the shots.

16. **Facts:** Ranveer, a con-man by profession, was sitting in his lawn with some stolen books by William Shakespeare. Suddenly, his neighbour, Anushka, entered and tried to snatch away those books from him saying that they belong to her. As it turns out, she was right. Still, Ranveer sues Anushka for trespass to goods. Will he succeed?

**Principle:** Interference with someone's possession or enjoyment of movable property constitutes the tort of trespass of goods.

- (a) Yes, because the books were in Ranveer's possession, and trespass is a tort against possession and not against ownership.
- (b) Yes, because she shouldn't snatch things just like that. It is bad manners.
- (c) No, because she was the rightful owner of the books.
- (d) No, because the books do not belong to Ranveer, and no matter who they belong to, Ranveer cannot sue.

17. **Principle:** A principal is liable for all the acts of the agent which he does in his capacity as an agent.

**Facts:** A Bollywood actor turned producer Balwan Khan makes a movie 'MAA ONE', he takes loan from a money lender Mr. Danjay Sutt, the film releases and as expected is a flop, the producer could not return the money, Danjay Sutt does not go through the legal channel but asks Kancha Cheena to recover the debt on his behalf. In the process of recovery Kancha Cheena damages the property and manhandles Balwan Khan. Balwan Khan files case against Danjay Sutt. The money lender says he was ignorant of the collection tactics of Kancha Cheena, Is he liable in case?

- (a) No he is not liable, as the act was done without the permission of Danjay Sutt.
- (b) No as Kancha Cheena was not an agent, and was a goon.
- (c) Yes as Kancha Cheena was appointed to recover money by Danjay Sutt.
- (d) No as Balwan Khan has defaulted by not paying back and he deserved such a treatment.

18. **Facts:** Prateek, who is Prakha's younger brother, under the influence of madness, attempts to kill Sachan, who is Prakha's boyfriend. Prakha, not knowing how to react, and seeing Sachan helpless and on the verge of being murdered, hits on Prateek's head with an antique metal vase. Prateek dies on the spot. Can Prakha claim the right of private defence of body?

**Principle 1:** Every person has a right to defend his own body, and the body of any other person, against any offence affecting the human body. Nothing is an offence which is done in the exercise of the right of private defence.

**Principle 2:** The right of private defence of the body extends to the voluntary causing of death or of any other harm to the assailant, if the offence reasonably causes the apprehension that death, or grievous hurt will otherwise be the consequence of such assault. Also, if the assault is with the intention of committing rape, gratifying unnatural lust, kidnapping or abducting, or wrongfully confining a person under circumstances which may reasonably cause him to apprehend that he will be unable to have recourse to the public authorities for his release, he will have the right of private defence of the body extending to causing of death.

**Principle 3:** Nothing is an offence which is done by a person who, at the time of doing it, by reason of unsoundness of mind, is incapable of knowing the nature of the act.

- (a) No, because Prateek is guilty of no offence since he was of unsound mind.
- (b) Yes, because she was under the apprehension that Prateek will murder Sachan.
- (c) No, because Sachan was being killed, and not Prakha herself. And since this "private" defence and not "public" defence, only the victim can avail of this defence, and no one else.
- (d) No, because a mentally-unsound person was punished despite the fact that he had no knowledge of what he was doing. One cannot simply kill innocent people, and then claim private defence.

**(For Questions 19 and 20)**

**Principle:** Whoever, intending to take dishonestly any movable property out of the possession of any person without that person's consent, moves that property in order to such taking, is said to commit theft. The consent mentioned in the definition may be express or implied, and may be given either by the person in possession, or by any person having for that purpose authority either express or implied.

19. Anjali, embarking on a one-month trip to Venice, entrusts her Pomeranian to Tina, the owner of a kennel, till Anjali returns from her vacations. Anjali pays Tina to take care of her Pomeranian. Tina carries the Pomeranian to a pet-shop owner, and sells it. Has Tina committed theft?
- (a) Yes, because Tina sold it off without the consent of Anjali.
  - (b) No, because the Pomeranian could not be taken out of Anjali's possession because it was not in Anjali's possession at that time.
  - (c) No, because the Pomeranian was in Tina's possession, and therefore, Tina had absolute right over it.
  - (d) None of these.

20. Avantik gives his gold chain to Nikhil, a jeweller, for repairs. Nikhil carries it to his shop. After the gold chain have been repaired, Avantik defaults on the payment. Nikhil refuses to deliver back the gold chain, retains them lawfully as a security for the debt. Avantik, who was aware that Nikhil was retaining the gold chain as a security for his debt, enters the shop openly, and takes the gold chain by force out of Nikhil's possession, and takes it away. Has Avantik committed theft?

- (a) Yes, because he, with dishonest intention, takes the gold chain out of Nikhil's possession, with the intention of depriving Nikhil of the property as a security for his debt.
- (b) Yes, because the gold chain are in Nikhil's possession, therefore, Nikhil is their rightful owner.
- (c) No, because the gold chain belong to Avantik.
- (d) None of these.

21. **Principle:** When one person signifies to another his willingness to do or abstain from doing anything, with a view to obtaining the assent of that person to such an act or abstinence, he is said to have made a proposal.

**Fact:** Ramchandra telegraphed to Shyam Sunder, writing: "Will you sell me your Rolls Royce car? Telegram the lowest cash price." Shyam Sunder also replied by telegram: "Lowest price for car is Rs. 20 lakh." Ramanuj immediately sent his consent through telegram stating: "I agree to buy the car for Rs. 20 lakh asked by you." Shyam Sunder refused to sell the car.

- (a) He cannot refuse to sell the car because the contract has already been made.
- (b) He can refuse to sell the car because it was only invitation to offer and not the real offer.
- (c) It was not a valid offer because willingness to enter into a contract was absent.
- (d) None of these.

22. **Principle:** Any direct physical interference with goods in somebody's possession without lawful justification is called trespass of goods.

**Facts:** Z purchased a car from a person who had no title to it and sent it to a garage for repair. X believing wrongly that the car was his, removed it from the garage.

- (a) X cannot be held responsible for trespass of goods as he was under a wrong belief.
- (b) X can be held responsible for trespass of goods.
- (c) X has not committed any wrong.
- (d) None of the above.

23. **Fact:** Chameli's flat. Chameli suffered from migraine and the constant thud of people's feet from the ceiling of her house gave her severe headaches. Chameli decided to sue Jalebi Bai for nuisance. Will she succeed?

**Principle:** Whoever causes unreasonable interference to the right of another over his property and space is causing nuisance.

- (a) Yes, because Jalebi Bai should consider Chameli's illness. They are neighbours, after all, and should be considerate to each other.
- (b) Yes, because Chameli is getting disturbed, and her health is deteriorating because of the dance lessons being conducted by Jalebi Bai.
- (c) No, because Jalebi Bai's interference is not unreasonable. It is just that Chameli is a sensitive plaintiff.
- (d) No, because India is a free country and Jalebi Bai can do whatever she chooses to.

24. **Fact:** Tanvi and Ashrita were residents of Jahnvi Devi Society. Ashrita has been into the habit of practising Nitinnatyam before sunrise each morning since the past 25 years. She plays loud dance beats in her music system each morning to help her practice. The loud noise emanating from her music system disturbs Tanvi who is woken up each morning due to the sound. After putting up with this for 25 years, Tanvi finally decides she can take it no more and decides to sue Ashrita for nuisance.

**Principle:** Whoever causes unreasonable interference to the right of another over his property and space is causing nuisance.

- (a) Ashrita is liable because her dance practice cause unreasonable interference with Tanvi's sleep.
- (b) Ashrita is liable because she could easily choose some other time of the day.
- (c) Ashrita is not liable because she has been doing this for over 20 years, and has now acquired a prescriptive right to continue with it unchallenged.
- (d) Ashrita is not liable because it is her wish as to what she wants to do inside her house.

25. **Principle:** Only Parliament or State Legislatures have the authority to enact laws on their own. No law made by the State can take away a person's fundamental right.

**Facts:** Parliament enacted a law, which according to a group of lawyers is violating the fundamental rights of traders. A group of lawyers files a writ petition challenging the Constitutional validity of the statute seeking relief to quash the statute and further direct Parliament to enact a new law.

- (a) No writ would lie against Parliament, as the court has no authority to direct Parliament to enact or re-enact a law.
- (b) The court can quash existing law if it violates fundamental rights and can direct Parliament to make a new law.
- (c) The court can quash the existing law if it violates fundamental rights but cannot direct Parliament to make a new law.
- (d) None of these.

26. **LEGAL PRINCIPLE :** Only Parliament or State Legislatures have the authority to enact laws on their own. No law made by the State can take away a person's fundamental right.

**FACTUAL SITUATION :** Parliament enacted a law, which according to a group of lawyers is violating the fundamental rights of traders. A group of lawyers files a writ petition challenging the Constitutional validity of the statute seeking relief to quash the statute and further direct Parliament to enact a new law.

**DECISION:** [AILET 2015]

- (a) The court can quash the existing law if it violates fundamental rights but cannot direct Parliament to make a new law.
- (b) The court can quash existing law if it violates fundamental rights and can direct Parliament to make a new law.
- (c) No writ would lie against Parliament, as the court has no authority to direct Parliament to enact or re-enact a law.
- (d) The court cannot quash the law as reasonable restrictions can be put on the fundamental rights.

27. **LEGAL PRINCIPLES:** The state shall make special laws for the upliftment of citizens of the country, and these laws can be made for the benefit of any specific caste, class or sex of people living in the society.

**FACTUAL SITUATION :** The state of Hindu Pradesh comes out with a law, which provided for reservation to Muslims in all government and government aided institutions. This law is challenged in the High Court of Hindu Pradesh, as being arbitrary and contrary to the established laws. Can the challenge be successful?

**DECISION :** [AILET 2015]

- (a) Yes, since people from other religions would also start making such demands, which would jeopardize the unity and integrity of the country.
- (b) No, since the state has the right to make special laws for the upliftment of the citizens of the country.
- (c) Yes, since the state has not been mandated to make reservation, based on a person's religion.
- (d) No, since the Government cannot neglect the minorities.

28. **LEGAL PRINCIPLES :**

1. Everyone has a right to defend their life and property against criminal harm provided it is not possible to approach public authorities and more harm than is necessary has been caused to avert the danger.
2. Nothing is an offence which is done in the exercise of the right of private defence.

**FACTUAL SITUATION:** The accused found the deceased engaged in sexual intercourse with his 15 year old daughter. The accused assaulted the deceased on the head with a spade which resulted in his death. Accused claimed private defence and the prosecution claimed that the sexual intercourse was with the consent of the daughter. Here,

**DECISION:** [AILET 2015]

- (a) Accused is entitled to the right of private defence since the girl was only 15 years old.
- (b) Accused exceeded the right of private defence.
- (c) Accused is not entitled to private defence as the intercourse was consensual.
- (d) Accused is not entitled to private defence as the right of private defence is available for defending one's life and property only.

**DIRECTIONS (Qs. 29-30):** Consists of legal proposition(s)/ principle(s) (herein after referred to as 'principle') and facts. Such principles may or may not be true in the real and legal sense, yet you have to conclusively assume them to be true for the purposes of this Section. In other words, in answering these questions, you must not rely on any principle except the principles those are given herein below for every question.

Further, you must not assume any facts other than those stated in the question. The objective of this section is to test your interest towards study of law, research aptitude and problem solving ability, even if the 'most reasonable conclusion' arrived at may be absurd or unacceptable for any other reason. It is not the objective of this section to test your knowledge of law.

Therefore, to answer a question, principle is to be applied to the given facts and to choose the most appropriate option.

[CLAT 2016]

29. **Principle:** The Constitution of India guarantees certain fundamental rights to its citizens. The Constitution also provides that these rights cannot be taken away by state even by a law. For violation of this, the person adversely affected by the law may approach the High Court or the Supreme Court for the issuance of an appropriate writ. One of these rights includes the freedom to form association that implies the right to join an association or not to join such an association.

**Facts:** Owing to some industrial disturbances created by XATU, one of the several trade unions in AB Chemicals (Pvt) Ltd., the Company issued a circular to all its employees that as far as possible the employees may disassociate with XATU. Navin is an employee of AB Chemicals and the current General Secretary of XATU. Aggrieved by this circular, which affected the fundamental rights of his and other members of the Union, approaches the High Court of the state for a relief. Identify the most reasonable legal proposition.

- (a) The Company's circular is illegal and has to be quashed by the Court.
- (b) Circular issued by a Company amounts to law in the constitutional sense and hence the High Court can issue a writ as pleaded for by Navin.
- (c) The prohibition against any imposition of restriction against a fundamental right is not applicable to anybody other than the state and hence Navin will not get any relief from the High Court.

(d) The circular interferes with the freedom guaranteed by the Constitution and hence the High Court can issue an appropriate writ.

30. **Principle:** Under the Employees Compensation Act, 1923, an employer is liable to pay compensation to his workmen for injuries sustained by them by an accident arising out of and in the course of employment.

**Facts:** M, the Manager of SRK Industries asked his secretary S to submit a report at the Government Labour Office. 'S' submitted the report as directed. On his way back S met one of his class mates. He then decided to have a cup of tea together on a way side restaurant. Sometime later, 'S' got a message from his office to report back as it was long time since he left the office. 'S' rushed back on his Motor Cycle. On his way back a Truck which was coming from a side road hit 'S'. He was admitted in a nearby hospital with multiple injuries. He claims compensation under the Employees Compensation Act from his employer.

- (a) The Employer is liable as S had to rush back to the office, because of the message from the office.  
(b) The Employer is not liable as the truck driver was negligent.  
(c) The Employer is not liable as he was admitted in a private hospital and not a Government Hospital.  
(d) The Employer is liable to pay compensation as the accident took place arising out of and in the course of employment.

31. **Legal Principle:** The doctrine of basic structure in Constitutional jurisprudence means that the Constitution of India has certain basic features that cannot be taken away through amendments by the Parliament. The power of judicial review is a part of the basic structure and it helps the constitutional Courts to determine whether an amendment is against the basic structure or not.

[CLAT 2018]

**Fact Situation:** Parliament proposes an amendment to limit the power of appeal against conviction for the offence of Sedition, to be exercised only by the Supreme Court of India.

Which of the following statements is the most appropriate in relation to the legal principle stated above?

- (a) The proposed amendment is against the doctrine of basic structure.  
(b) The proposed amendment is unconnected to the doctrine of basic structure.  
(c) The proposed amendment can be reviewed and struck down by the Constitutional Courts.  
(d) The proposed amendment is beyond the power of the Parliament.

32. **Legal Principle:** Article 20(3) of the Constitution of India states that no person accused of any offence shall be compelled to be a witness against himself. [CLAT 2018]

**Fact Situation:** Ubaid refuses to give a sample of his blood after he is stopped by the police for driving over the speed limit. The police suspect him to be driving under the influence of alcohol, which is prohibited under the law.

Which of the following statements is the most appropriate in relation to the legal principle stated above?

- (a) Ubaid is protected by Article 20(c) in his refusal to give a blood sample.  
(b) Ubaid is not protected by Article 20(c) as he was under the influence of alcohol.  
(c) Ubaid is not protected by Article 20(c) in his refusal to give a blood sample since he is not accused of any offence yet.  
(d) Refusal to give a blood sample is a crime and Ubaid must be punished for the same.

33. **Principle:** The court has power to issue an injunction to prohibit a child marriage from being performed.

**Factual Situation:** A marriage is performed between A and B. A is of 14 years of age and B of 17 years of age. X is a public spirited person filed a suit to declare the said marriage void. Is the suit maintainable? [CLAT 2015]

**DECISION:**

- (a) No, because court has power to issue injunction and not to declare the marriage as valid and void  
(b) No, because the marriage is performed with the consent of their parents  
(c) Yes, because the policy of the law is to prevent the child marriages  
(d) None of the above

34. **LEGAL PRINCIPLES :** [AILET 2015]

1. Bigamy is not permitted under Hindu law.
2. A Hindu of sound mind can adopt a child of the gender they don't already have a child of.
3. Only the child's father, mother or guardian has the capacity to give the child up in adoption, under Hindu law.

**FACTUAL SITUATION :** Ramesh comes from a family where from the past two generations; all male members have had two wives. He also wants to continue this tradition and thus he married Suman first and then Tania. Ramesh has a son, Gunjan with Suman. However, with Tania, he is childless. He thus wishes to adopt some children. Rajat is the child of Ramesh's brother. However, Rajat's parents decide to go off to Dubai for 5 years and they leave their son under the care of Ramesh's sister. Ramesh and Tania ask for Rajat in adoption from his sister who agrees and Rajat is adopted. Later, Ramesh and Suman want to adopt a daughter as well and they do adopt a girl - Sara -from an orphanage. However, at the time of signing the adoption deed, Ramesh was dead drunk. Ramesh and his entire family member are Buddhists. Keeping in mind the given principles and facts, solve the questions Is Rajat's adoption a valid adoption ?

**DECISION :**

- (a) No, because Ramesh already has a son.  
(b) No, because Ramesh's sister has no authority to give Rajat up in adoption.  
(c) Yes, it is a valid adoption because Ramesh has no child with Tania and Ramesh's sister is Rajat's guardian for 5 years at least.  
(d) Both (a) and (b)

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**Question numbers 35-42) consists of legal proposition(s)/ principle(s) (herein after referred to as 'principle') and facts. Such principles may or may not be true in the real and legal sense, yet you have to conclusively assume them to be true for the purposes of this Section. In other words, in answering these questions, you must not rely on any principle except the principles those are given herein below for every question.**

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Further, you must not assume any facts other than those stated in the question. The objective of this section is to test your interest towards study of law, research aptitude and problem solving ability, even if the 'most reasonable conclusion' arrived at may be absurd or unacceptable for any other reason. It is not the objective of this section to test your knowledge of law.

Therefore, to answer a question, principle is to be applied to the given facts and to choose the most appropriate option.

**35. Principle:** According to Sec. 2 of the Industrial Disputes Act, 1947, 'Industrial dispute means any dispute or difference between employers and employees or between employers and workmen or between work men and workmen, which is connected with the employment or non-employment or the terms of employment or with the conditions of labour of any person'.

**Facts:** The employees of DK Enterprises met the management and requested half a day leave to allow them to celebrate a lunar eclipse, which was going to happen two days later. The management refused the request. Does this situation amount to an 'industrial dispute'?

- (a) As the difference of opinion between the employees and employer is on declaration of holiday it amounts to an issue connected with employment or with the terms of employment and hence, an industrial dispute.
- (b) No as Lunar eclipse is unconnected with employment.
- (c) Yes, because there is some difference of opinion it would be an industrial dispute.
- (d) No as declaring holidays is a prerogative of the employer. So no industrial dispute.

**36. Principle:** According to law, a person is deemed to have attained the age of majority when he completes the age of 18 years, except in the case of a person where a guardian of a minor's person or property has been appointed under the Guardians and Wards Act, 1890 or where the superintendence of a minor's property is assumed by a Court of Wards. Indian law expressly forbids a minor from entering into a contract. Hence, any contract entered into by a minor is void-ab-initio regardless of whether the other party was aware of his minority or not. Further, though a minor is not competent to contract, nothing in the Contract Act prevents him from making the other party bound to the minor.

**Facts:** Lal executed a promissory note in favour of Gurudutt, aged 16 years stating that he would pay Gurudutt a sum of Rs. 2 Lakhs when he attains the age of majority. On attaining the age of 18, Gurudutt demanded the amount from Lal, who refused to pay. Gurudutt wants to take legal

action against Lal. Identify the most appropriate legal position from the following:

- (a) Lal was not aware of the fact that Gurudutt was a minor.
- (b) Gurudutt should not have entered into a contract with Lal when he was a minor.
- (c) A promissory note duly executed in favour of a minor is not void and can be sued upon by him, because he though incompetent to contract, may yet accept a benefit.
- (d) Lal argues that as per the Guardians and Wards Act, 1890, Gurudutt can claim the money only after he attains the age of 21

**37. Principle:** Under the Employees Compensation Act, 1923, an employer is liable to pay compensation to his workmen for injuries sustained by them by an accident arising out of and in the course of employment.

**Facts:** M, the Manager of SRK Industries asked his secretary S to submit a report at the Government Labour Office. 'S' submitted the report as directed. On his way back S met one of his class mates. He then decided to have a cup of tea together on a way side restaurant. Sometime later, 'S' got a message from his office to report back as it was long time since he left the office. 'S' rushed back on his Motor Cycle. On his way back a Truck which was coming from a side road hit 'S'. He was admitted in a nearby hospital with multiple injuries. He claims compensation under the Employees Compensation Act from his employer.

- (a) The Employer is liable as S had to rush back to the office, because of the message from the office.
- (b) The Employer is not liable as the truck driver was negligent.
- (c) The Employer is not liable as he was admitted in a private hospital and not a Government Hospital.
- (d) The Employer is liable to pay compensation as the accident took place arising out of and in the course of employment.

**38. Legal Principle:** The law states that a food business operator must be registered with or licensed by the Food Safety and Standards Authority of India (FSSAI) to run a food business. **[CLAT 2018]**

**Fact Situation:** Kavita's neighbours suffer food poisoning after consuming sweets gifted by her on the occasion of a celebration at her home. Kavita does not have a registration or license from the FSSAI.

Which of the following statements is the most appropriate in relation to the legal principle stated above?

- (a) Kavita is in violation of the law since she does not have a FSSAI registration or license.
- (b) Kavita is not in violation of the law since she did not make the sweets she gave by way of gift.
- (c) Law does not apply in cases like this where transactions happen between neighbours.
- (d) Kavita need not take a license or register with FSSAI since she is not running a food business.

39. **Principle:** Decision of Court is Null and Void, if it is given by court which does not have jurisdiction over the subject matter. [CLAT 2019]

**Facts:** A obtains decision from a court which did not have jurisdiction to deal with the subject matter.

- (a) Decision can be enforced because both the parties were present
- (b) Decision cannot be enforced because decision is null and void
- (c) Decision can be enforced because it is given a court
- (d) Decision can be enforced

40. **Principle:** Civil Suit can be filed where defendant resides or carries on business or where cause of action arises.

**Facts:** 'A' carries on business in Gurgaon, 'B' carries on Business in Mumbai. 'B' through his agent in Gurgaon purchases goods in Gurgaon and takes delivery through agent in Gurgaon. Where can Civil Suit for payment of price be filed by 'A'? [CLAT 2019]

- (a) Gurgaon only where cause of action arises
- (b) At Mumbai where B carries on Business
- (c) At either of the places i.e. Mumbai or Gurgaon
- (d) Anywhere in India

41. **Principle:** Civil Suit can be filed where defendant resides or carries on business or where cause of action arises.

**Facts:** An agreement is signed and executed in New Delhi between A and B for supply of goods wherein B is to supply goods to be delivered at New Delhi to client of A. A

carries on business at Haryana and B carries on Business in UP. Civil suit by 'B' for payment of consideration can be filed against 'A' at [CLAT 2019]

- (a) Only at New Delhi, where cause of action arises
- (b) Only at Haryana where 'A' carries on business
- (c) Only at UP where 'B' carries on business
- (d) At Haryana or at New Delhi

42. **Principle:** No court can execute the decisions unless it is having territorial jurisdiction over the property or the person against whom decision is to be executed. The Court which gave the decision can transfer the matter to the court which has the territorial jurisdiction over the person or property. [CLAT 2019]

**Facts:** A decision is given by court at New Delhi on a contractual matter against X in a suit between X and Y. X is resident of Maharashtra and he has properties in Maharashtra and Gujarat.

- (a) New Delhi court can transfer the proceedings to Court at Maharashtra only
- (b) New Delhi court can execute the decision because it had the jurisdiction to decide the matter so it can execute also
- (c) New Delhi court can transfer the proceedings to court at Gujarat only
- (d) New Delhi court can transfer the proceedings to either of the courts i.e. Maharashtra or Gujarat

## Hints & Solutions

1. (c) 2. (a) 3. (c) 4. (b) 5. (b) 6. (a)

7. (c) 8. (c) 9. (b) 10. (a) 11. (b) 12. (b)

13. (a) 14. (b) 15. (b) 16. (a) 17. (c) 18. (b)

19. (b) 20. (a) 21. (c) 22. (b) 23. (c) 24. (c)

25. (c)

26. (a) The power of judicial review make the Supreme Courts' role in our government vital. It gives power to court to declare a law unlawful and squash it however it cannot direct government to make new law.

27. (c) Option (c) is correct. Yes challenge will be successful as State does not have authority to make special laws for the upliftment of the citizen of the country. On the basis of religion.

28. (a) Even though the sexual intercourse between the deceased and the girl is consensual but the age of girl is 15, it means she is minor and consent of her parent or guardian is required. Here, a private defence can be taken on her behalf to protect/ defend her from any wrong which is against her body. Therefore, accused can take a plea of private defence to protect her daughter.

29. (c)

30. (c)

31. (c) Supreme Court has declared that the basic structure/ features of the constitution is resting on the basic foundation of the constitution. The basic foundation of the constitution is the dignity and the freedom of its citizens which is of supreme importance and can not be destroyed by any legislation of the parliament. Article 136 of the constitution stipulates for special leave petition. Meaning, any person aggrieved of any violation may without any restriction (whether the case is pending in some court, decided or whatever) can approach Supreme Court under SLP. In addition, if SC finds substance in the SLP then it can hear and dispose the case.

Hence option (c) is most appropriate and the proposed amendment can be reviewed and struck down by the constitutional courts .

32. (c) Central Government Act Article 20(3) in The Constitution of India 1949 states that , no person accused of any offence shall be compelled to be a witness against himself. The above stated legal

statement consist of the following three components:

1. It is a right pertaining to a person accused of an offence
2. It is a protection against compulsion to be a witness; and
3. It is a protection against such compulsion resulting in his giving evidence against himself.

However in the case presented before us first point itself is not fulfilled as Ubaid till now is just a suspect and not an accused . So this right under section20(3) cannot be exercised by him . Hence option(3) is most appropriate

33. (c) Option(c) is correct as the main purpose behind the power given to court to issue an injunction to prohibit child marriage from being performed is to prevent and stop child marriages.

Option (a) is not correct as the whole motive of power given to the court will be lost . Child marriages are illegal from the very inception so there is no question of their validity.

Option(b)isincorrectbecausechildmarriagesareillegal whether or not performed with the consent of parents . Option (d) is not applicable.

34. (d) There are two condition in the present scenario ie; a couple can adopt a child of either gender if the couple does not have a any child, or when a couple has a child like in the above case, then they can have a child of another gender (not same gender) but they Can't adopt same gender child. As Ramesh already has a male child he cannot adopt a child of same gender. Secondly, Ramesh's sister does not have right to give Rajat in adoption because Rajat's parents are alive and he is given in care of his Aunt. Therefore, her Aunt doesn't have authority to give Rajat in adoption in whatsoever.

35. (a) As the difference of opinion between the employees and employer is on declaration of holidays it amounts to an issue connected with employment or with the terms of employment and hence, an industrial dispute.

According to the principle given stating Section 2 of the Industrial Disputes Act 1947, if the nature of a dispute which arises between employers and employees or employees and workmen and workmen or between workmen and employers is related to employment or non- employments or terms of employment or labour conditions of any person will be considered as an Industrial Dispute.

According to the facts given, the dispute between the employees and employer was related to the declaration of a holiday which is an issue related to employment of employees or terms of employment and thus that is the nature of the dispute. (M.M. Wadia Charitable Hospital vs Dr. Umakant Ramchandra Warerkar 1997 (75) FLR 814, (1997) IILLJ 549 Bom)

36. (c) A promissory note duly executed in favour of a minor is not void and can be sued upon by him, because he though incompetent to contract, may yet accept a benefit.

A minor by law is incompetent to contract but can accept a benefit on reaching maturity.

37. (d) The Employer is liable to pay the compensation as the accident took place arising out of and in the course of employment.

'S' had gone to the Government Labor Office to submit a report and after receiving a message to return back to the office, he suffered from an accident. This happened during the course of employment as he had gone to the Labor Office on direction of the Manager and was returning back to SRK Industries. (Ramrao Zingraji Shende vs Indian Yarn Manufacturing 1994 ACJ 916, (1992) 94 BOMLR 596, 1992 (65) FLR 1055, (1993) ILLJ 442 Bom, 1993 (1) MhLj 23)

38. (d) FSSAI issues three types of license based on nature of food business and turnover:

1. Registration: For Turnover less than ₹12 Lakh
2. State License: For Turnover between ₹12 Lakh to ₹20 Crore
3. Central License: For Turnover above ₹20 Crore

However these licenses are required to be taken by people who are running food business and in the given case Kavita is not running any food business so she is not required to take the license. Hence option (d) is the correct option.

39. (b) Decision cannot be enforced because decision is null and void. It is null and void because the decision was obtained by A from a court which did not have the jurisdiction over the subject matter. This fact clearly complies with the principle that decision given by a court is null and void, if it is given by court which does not have jurisdiction over the subject matter.

40. (c) A can file the civil suit for payment either at Mumbai or at Gurgaon. This is evident from the principle that civil suit can be filed where defendant resides or carries on business. In this case the defendant is B, who carries on business in Mumbai. The cause of action has arisen in Gurgaon. Therefore, the civil suit can be filed either at Mumbai or at Gurgaon.

41. (d) Civil suit can be filed either at Haryana or New Delhi. This is based on the principle that Civil Suit can be filed where defendant resides or carries on business or where cause of action arises. The defendant resides or does business in Haryana and the cause of action has arisen in New Delhi. Therefore, civil suit can be filed at either of the places.

42. (d) New Delhi court can transfer the proceedings to either of the courts i.e. Maharashtra or Gujarat. This is according to the principle that the Court which gave the decision can transfer the matter to the court which has the territorial jurisdiction over the person or property.