

Roll No.....

Time allowed : 3 hours

Maximum marks : 100

Total number of questions : 8

Total number of printed pages : 7

PART — A

*(Answer Question No.1 which is compulsory
and any three of the rest from this part.)*

1. With reference to the relevant legal enactments, write short notes on the following. Attempt **any five** :
 - (i) Basic rights of consumers
 - (ii) Conditions conducive to cartelisation
 - (iii) Principle of 'no fault liability'
 - (iv) Inherently distinctive marks
 - (v) Person of Indian origin
 - (vi) Competition advocacy
 - (vii) Control of noise pollution.

2. State, with reasons in brief, whether the following statements are true or false. Attempt **any five** :
 - (i) There is no positive relationship between competition and innovation, productivity and economic growth.
 - (ii) Indian parties are prohibited from making investment in a foreign entity engaged in real estate or banking business.
 - (iii) Importer-Exporter Code (IEC) number once issued cannot be surrendered by the recipient.
 - (iv) Foreign direct investment (FDI) regulations are not covered by the penal provisions of the Foreign Exchange Management Act, 1999.
 - (v) Under the Copyright Act, 1957 moral rights are available to the authors even after the economic rights are assigned.
 - (vi) A patent obtained in India provides protection to the patent worldwide.

(3 marks each)

(3 marks each)

3. (a) Distinguish between the following. Attempt *any two* :
- (i) 'Contract of service' and 'contract for service'.
 - (ii) 'Depository receipt' and 'foreign currency convertible bond'.
 - (iii) 'Relevant geographic market' and 'relevant product market'.
 - (iv) 'Trade mark' and 'certification trade mark'.
- (5 marks each)*
- (b) Re-write the following sentences after filling-in the blank spaces with appropriate word(s)/figure(s) :
- (i) Know your customer (KYC) procedures enable banks to know/understand their customers and their _____ better to manage their risks prudently.
 - (ii) Under foreign trade policy 2009-14, _____ new countries have been included within the ambit of focus market scheme.
 - (iii) No court inferior to that of a _____ shall try any offence punishable under the Industries (Development and Regulation) Act, 1951.
 - (iv) The process of _____ is classified into three stages namely placement, layering and integration.
 - (v) The Consumer Disputes Redressal Forum, the State Commission or the National Commission shall not admit a complaint unless it is filed within _____ year(s) from the date on which the cause of action has arisen.
- (1 mark each)*
4. (a) With reference to the relevant provisions of the Foreign Exchange Management Act, 1999 and the rules and regulations made thereunder, advise on the following :
- (i) Zenith Ltd., a foreign company is interested in purchasing its shares issued to some of its employees, who are residents in India, under the ESOP scheme.
 - (ii) A Malaysian diplomat entered into an agreement with a real estate company in India to purchase non-agricultural land near New Delhi to establish a laboratory.
 - (iii) ABC Ltd., a company incorporated in India, is eligible to issue shares to persons resident outside India under the FDI policy and intends to retain the share subscription amount in a foreign currency account.
 - (iv) Dr. Sukant, who is permanently resident in India, retains foreign currency notes of US \$5,000 which he had acquired during his visit to USA by way of expert medical advice rendered to patients there.
 - (v) Jay, a person resident in India, desires to take a life insurance policy from a foreign insurance company, the yearly premium of which is US \$25,000.

(1 mark each)

: 3 :

(b) Ashok, a director of a public limited company, was on a business trip to USA. Suddenly, he developed chest pain there and was provided medical treatment in a hospital, the funds for which were provided by one John, a US national, who happened to be his friend. Did Ashok violate the provisions of the Foreign Contribution (Regulation) Act, 2010 ? Give reasons.

(5 marks)

(c) What are the factors which the Competition Commission of India will take into consideration in determining whether an agreement has an appreciable adverse effect on competition ?

(5 marks)

5. (a) Do the following amount to infringement under the Copyright Act, 1957 ? Give reasons in brief :

- (i) Prof. Ajay recited in public an extract from a poem by Rabindranath Tagore.
- (ii) ABC Publishers published a compilation of speeches of Atal Bihari Vajpayee, former Prime Minister, delivered in public without permission.
- (iii) A newspaper publishes a copy of masterpiece painting of Ganesh Pyne while carrying a story on his death.
- (iv) A book is not available in India. A librarian makes 10 copies of the book for the use of the public library.
- (v) A magazine reproduces an article on a political topic by Kuldeep Nayar.

(1 mark each)

(b) Ramesh, an industrial employee contributing to ESI Fund was treated in an ESI hospital. Due to negligent diagnosis at the hospital, his condition deteriorated and he had to be shifted to a private hospital. He filed a complaint before the Consumer Disputes Redressal Forum seeking compensation from the ESI hospital. His complaint was dismissed on the ground that medical service rendered by the ESI hospital was gratuitous in nature. The State Commission and the National Commission upheld the decision of the District Forum. Ramesh intends to prefer an appeal before the Supreme Court. Will he succeed ? Give reasons.

(5 marks)

(c) Healthy Foods gave an advertisement in the daily newspaper for its pre-packed snacks mentioning retail sale price of the package. However, in the advertisement, neither the net quantity nor the number of snacks contained in the package was given. What are the legal provisions in this regard and whether the advertisement given by Healthy Foods is appropriate and sufficient as per relevant law ?

(5 marks)

PART — B

(Answer ANY TWO questions from this part.)

6. Write notes on the following. Attempt *any four* :

- (i) Provisions relating to employment of women under the Factories Act, 1948.
- (ii) Employees Insurance Court under the Employees' State Insurance Act, 1948.
- (iii) Responsibility of the contractor under the Contract Labour (Regulation and Abolition) Act, 1970.
- (iv) Procedure to be followed for certification of standing orders under the Industrial Employment (Standing Orders) Act, 1946.
- (v) Unfair labour practices on the part of workmen and trade unions of workmen under the Industrial Disputes Act, 1947.

(5 marks each)

7. (a) Distinguish between the following. Attempt *any two* :

- (i) 'Arising out of employment' and 'arising in the course of employment' under the Employees' Compensation Act, 1923.
- (ii) 'Permanent total disablement' and 'permanent partial disablement' under the Employees' State Insurance Act, 1948.
- (iii) 'Young person' and 'adult' under the Factories Act, 1948.

(5 marks each)

(b) Re-write the following sentences after filling-in the blank spaces with appropriate word(s)/figure(s) :

- (i) _____ was the first enactment that dealt with settlement of an industrial dispute.
- (ii) _____ has been exempted from attachment in execution of any decree or order of a civil, revenue or criminal courts.
- (iii) A minimum of _____ years contributory service is required for entitlement of pension under the Employees' Pension Scheme.

: 5 :

- (iv) Where any workman is suspended by the employer pending investigation or inquiry into complaints or charges of misconduct against him, the employer shall pay to such a workman the subsistence allowance at the rate of _____% of the wages which the workman was entitled to, immediately preceding from the date of such suspension, for the first _____ days of suspension.
- (v) For the purposes of calculation of bonus, an employee shall be deemed to have worked in an establishment in any accounting year also on the days on which he has been absent due to _____ caused by accident arising out of and in the course of his employment.

(1 mark each)

- (c) Write the most appropriate answer from the given options in respect of the following :
- (i) Bonus should be paid to the employees within how many months from the close of the accounting year —
- (a) 2 Months
 - (b) 6 Months
 - (c) 8 Months
 - (d) 10 Months.
- (ii) What is the minimum number of employees required in an establishment for it to come under the purview of the Payment of Gratuity Act, 1972 —
- (a) 10
 - (b) 15
 - (c) 20
 - (d) 25.
- (iii) Under the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 what percentage of the basic wage, dearness allowance and retaining allowance of an employee is paid as 'contribution' by the employer —
- (a) 8%
 - (b) 10%
 - (c) 12%
 - (d) 13%.

- (iv) What is the period within which an employer must make a deposit with the Commissioner for Employees' Compensation if he is liable to pay compensation under the Employees' Compensation Act, 1923 —
- (a) Within 10 days of being served the notice
 - (b) Within 20 days of being served the notice
 - (c) Within 30 days of being served the notice
 - (d) Within 40 days of being served the notice.
- (v) Which of the following type of strike is not called a primary strike —
- (a) Stay in strike
 - (b) Tool down strike
 - (c) Pen down strike
 - (d) Go slow.

(1 mark each)

8. Attempt **any five** of the following stating relevant legal provisions and decided case law, if any :
- (i) Sangeeta acquired a suitable plot of land from an authorised agency in Jaipur for the construction of a dwelling house. Can Amit, husband of Sangeeta, withdraw money from his provident fund being administered under the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 for the construction of the house ?
 - (ii) An employer failed to pay his contribution under the Employees' State Insurance Act, 1948 for six years. After the lapse of six years, the ESI Corporation issued a demand notice for payment of arrears of contribution. The employer contended that the arrears of contribution beyond 5 years are not recoverable. Will the employer succeed ?
 - (iii) The employer wants to modify standing orders duly certified by the Certifying Officer just after the expiry of 3 months from the date on which the standing orders came into operation. Give suitable advice to the employer.
 - (iv) Five persons were employed as *malis* (gardeners) in the private houses of senior functionaries of a company. They were looking after the garden attached to bungalows provided by the company to its officers and directors. Are these *malis* 'employees' and 'employed in an industry' under the Industrial Disputes Act, 1947 ?

: 7 :

- (v) The President and General Secretary of a registered trade union were dismissed from service for having instigated workers to go on a strike for the acceptance of their justified demands. Challenging the dismissal in the court of law, they contended that it was unjust on the part of the employer and that going on strike was their fundamental and statutory right. Will they succeed ?
- (vi) Some workers were engaged in the processes of moistening, stripping, breaking-up and packing of sun-cured tobacco leaves with a view to transporting these to company's main factory for their use in manufacturing cigarettes. Do these processes amount to 'manufacturing process' under the Factories Act, 1948 ?
- (vii) The services of a bus conductor of a state roadways corporation were terminated on the ground of weak eyesight which was below the standard requirement. Does the termination amount to being due to continued ill-health under the Industrial Disputes Act, 1947 ? Give reasons.

(4 marks each)

—————0—————