

Roll No.....

Time allowed : 3 hours

Maximum marks : 100

Total number of questions : 8
Total number of printed pages : 6

PART—A

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

1. Answer briefly the following with reference to case law, wherever applicable :
 - (a) Hardik purchased a plant from Vijay Textiles Ltd. (VTL). Since the plant was not working upto the expectations, Hardik filed a compensation application under section 12B of the Monopolies and Restrictive Trade Practices Act, 1969 alleging certain unfair practices on the part of VTL. He alleged that VTL intentionally withheld true information regarding the plant and furnished wrong information which induced Hardik to purchase the said plant, thus causing wrongful losses to Hardik. He claimed the damages to the tune of Rs.1.31 crore. VTL contended that the contract contains an arbitration clause and, therefore, the dispute should be referred to arbitration and not to the MRTP Commission. Comment in light of the decided case law whether Hardik is justified in approaching the MRTP Commission for claiming relief under the provisions of the Act.

(5 marks)
 - (b) A co-operative housing society had a current account with a commercial bank. It found from the bank statement that a sum of Rs.50 lakh was debited by the bank by honouring cheques bearing forged signatures. The society complained to the consumer forum under the Consumer Protection Act, 1986 for deficiency in service. The bank defends that this is a matter requiring

detailed trial in a civil court and, therefore, the consumer forum should refuse any remedy. Decide.

(5 marks)

- (c) With a view to promote the sale of their motor vehicles, Majestic Motors Ltd. (MML), manufacturers of the vehicles, paid incentives/ discounts to the dealers on the basis of targets fixed by it. Dealings between MML and their dealers fully established that the former is manufacturing the motor vehicles and selling them through the latter. No gateway was either pleaded or proved during enquiry. Discuss, citing case law, if any, whether the practice followed by MML was a restrictive trade practice.

(5 marks)

- (d) Mrs. & Mr. J A Fernandez (respondents) wanted to go on tour in response to advertisement of "2-Night and 3-Day Cruise" on a cruise ship to Malaysia starting from and ending in Singapore. Allured by the advertisement of M/s. ABC Tours & Travels, the couple bought the "2-Night and 3-Day Cruise" by paying the requisite charges. Reaching Singapore, it transpired that the cruise was practically of 2-Night and $1\frac{1}{2}$ -Day only because the cruise ship was to leave at 23.59 hours, *i.e.*, counting the one minute as one full day and come back after cruising for 2-Night and $1\frac{1}{2}$ -Day. The District Consumer Forum upheld their complaint alleging shortage of $1\frac{1}{2}$ -Day cruise and ordered the opposite party to pay them compensation of Rs.50,000. State Commission reduced the compensation amount to Rs.25,000 with 25% interest per annum. In the revision petition before the National Commission, the petitioner conceded that the cruise lasted only for 2-Night and $1\frac{1}{2}$ -Day. It argued that the description of "2-Night and $1\frac{1}{2}$ -Day" was a 3-Day

Cruise" was in vogue as a practice throughout. Discuss the findings of the National Commission and state whether the revision petition will succeed.

(5 marks)

2. (a) Under the FEMA regulations, an Indian party may make foreign direct investment in a joint venture or wholly owned subsidiary outside India. Enumerate the conditions to be fulfilled for such direct investment.

(5 marks)

- (b) What is an 'industrial licence' ? List out the industries which are covered under the compulsory licensing at present.

(5 marks)

- (c) A person resident in India, being an individual or a listed Indian company or a mutual fund registered in India, may be permitted to directly invest in equity of companies registered overseas. State the provisions under the FEMA Regulations governing the above direct investment.

(5 marks)

3. (a) Explain briefly the salient features of the Public Liability Insurance Act, 1991.

(5 marks)

- (b) Discuss the functions of the Central Electricity Authority.

(4 marks)

- (c) Explain briefly —

(i) Six important functions of the Development Council constituted under the Industries (Development and Regulation) Act, 1951.

(ii) Terms 'hazardous substances' and

'environmental pollution' under the Environment (Protection) Act, 1986.
(3 marks each)

4. (a) State the important measures taken by the Central Government to attract private investment in roads/highways.
(5 marks)
- (b) Mention the legal and regulatory framework relating to environmental pollution.
(5 marks)
- (c) Explain the term 'combination' under the Competition Act, 2002 and specify how it is sought to be regulated.
(5 marks)

PART—B

(Answer Question No.5 which is compulsory and any two of the rest from this part.)

5. (a) The parties had specifically chosen to settle any dispute through arbitration under the provisions of the Arbitration and Conciliation Act, 1996 even though the dispute had arisen prior to the commencement of the new Act. The arbitrator appointed by the Supreme Court made the award under the new Act. The appellants challenged the order and wanted the award to be modified under the provisions of the old Act, *i.e.*, the Arbitration Act, 1940. Do you agree ? Give your comments.
(5 marks)
- (b) A disciplinary action is contemplated against Bharat for an act of misconduct. Draft a specimen 'suspension order' that may be issued by the appointing authority.
(5 marks)

- (c) Deep entered into an agreement of sale of certain land with Vipul and upon payment of consideration, Vipul took the possession of the suit land. However, Deep did not execute the sale deed. Further, Deep and his family members obstructed Vipul from cultivating the suit land. Can Vipul file a suit for permanent injunction restraining Deep from disturbing the possession of the suit land ? Discuss in the light of provisions of the Transfer of Property Act, 1882 and decided case law.

(5 marks)

- (d) Ramesh gifted a piece of land to each of his three daughters with the condition that they should construct their houses and reside there. The daughters did not take possession of the said land and no houses were built. Therefore, later on, their father revoked the gift by paying monetary consideration to the daughters. Then the property was partitioned between his two sons.

After the demise of the father, a dispute arose between the brothers and sisters over the gifted land. The daughters had mutated the land in their names in a fraudulent manner. The dispute was referred to a sole arbitrator. The arbitrator gave an award conveying its decision that the partition should be given effect to. It was presented to the court for making it a rule of court by the brothers. Sisters objected about the admission of award since it was not registered. Whether the unregistered award can be made a rule of court ? Give your comments and arguments in support of your answer.

(5 marks)

6. (a) Distinguish between the following :

- (i) 'Fixed charge' and 'floating charge'.
 - (ii) 'Enquiry' and 'investigation'.
 - (iii) 'Public trust' and 'private trust'.
(3 marks each)
- (b) Write short notes on *any three* of the following :
- (i) Testimonium clause
 - (ii) Indenture
 - (iii) *Deed Escrow*
 - (iv) *Habendum*.
(2 marks each)
7. (a) Mention important guidelines for entering into foreign collaboration agreements.
(5 marks)
- (b) Draft an agreement of sale of immovable property.
(10 marks)
8. (a) On behalf of Rana Ltd., draft a specimen general power of attorney authorising Vivek, Vice-President to carry out day-to-day business of the company, including legal matters.
(5 marks)
- (b) Explain what is 'appeal' in the context of the Code of Civil Procedure, 1908. What are the different kinds of appeals under the Code of Civil Procedure, 1908 ?
(5 marks)
- (c) Explain 'supplemental deed'.
(5 marks)

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