

LEGAL REASONING

Passage 1

In one of its most recent judgments, in the case of Padia Timber Company (P) Ltd. Vs The Board of Trustees of Visakhapatnam Port Trust Through its Secretary, the Hon'ble Supreme Court considered the issue of regarding formation of the contract between the parties, which was the bone of contention between the parties. The decision of the Apex Court in the above judgment is based on simply following the first principles of law of contract. Parties must agree on the same thing, in same sense is the *sin-qua-non* for formation of a valid contract. Without *consensus ad idem* no valid contract can be formed. Similarly, for examining at whether and when a valid contract was formed recourse should be taken to the principles of 'offer', 'acceptance' and 'revocation of acceptance' as mentioned in Chapter 1 of the Contract Act. Parties by agreement cannot deviate from the said principles, and yet contend that valid contract was formed. The offer, acceptance, revocation etc. should be well communicated to all the concerned parties. It is relevant to refer to saving to Section 1 of the Contract Act which reads as under: "Saving. - Nothing herein contained shall affect the provisions of any statute, Act or regulation not hereby expressly repealed, nor any usage or custom of trade, nor any incident of any contract, not inconsistent with the provisions of this Act." Therefore, only such contracts which were not inconsistent with the provision of the Contract Act were saved at the time when Contract Act was brought on statute book. Accordingly, it can be contended that all contracts must comply strictly with the principles enunciated in the Contract Act, to be adjudged as valid.

1. Anandi was a widow who lived in a huge Kothi outside the city. She offered her niece Brinda to buy her estate. Brinda said that if Anandi did not hear from her for the next 7 days then the offer on the estate would be deemed to have been accepted by Brinda. Anandi did not agree to this. In the course of those 7 days, Anandi's manager Chandu, mistakenly sold the estate to Dr.Oswal. Can Brinda bring a suit for breach of contract against Anandi?
 - (a) Yes. Since Anandi did not hear from Brinda in the course of 7 days, the offer was deemed to have been accepted by Brinda.
 - (b) No. Since Anandi did not agree to silent acceptance, the silence of Brinda for the course of 7 days is not considered as a valid acceptance.
 - (c) Yes. Anandi relied upon Brinda's acceptance and set aside the estate for her.
 - (d) No. There was no acceptance as in the course of those 7 days, the estate was already sold to Dr.Oswal.
2. Ross and Chandler have been friends for the last 10 years. Ross has a sister named Monica who is very intelligent but is suffering from lung cancer. Monica is fond of animals and wants a dog for herself. She is also tech-savy. Chandler has a female dog which recently gave births to two puppies named Bentley and Mercedes. Three days back Ross promised Monica to buy her Bentley if she gives her car Porsche (the car she got from her parents) to Ross. Monica thought that he is talking about the puppy named Bentley. Ross was talking about a car named Bentley. As Monica only had Ross and no one else to take care of her, she gave in and sign the contract. Is the contract valid?
 - (a) The contract is valid as the object was lawful and so is the consideration.
 - (b) The contract is not valid as it lacked *consensus ad idem* as Ross and Monica did not agree on the same thing when they entered into the contract.
 - (c) The contract is not valid as Monica is a strong independent woman and she doesn't need Ross to buy her things. Also, there was undue influence done by Ross.
 - (d) The contract is not valid as Chandler's consent was not taken.
3. Mamta read Sonu's mail and replied saying: "I humbly decline your offer." The mail automatically went to the 'Trash' folder in Sonu's email account. On 02.01.2021, Sonu's consignment reached Mamta's godown in a truck which bore the name "Sonu Fresh Fruits Pvt Ltd". Mamta mistook the consignment to have come from Katty, her long-time trading partner. She received the consignment but refused to make payment.

-
- (a) There was no option of revoking through email. The only option of revocation was to refuse to receive the consignment. Since, consignment has been received payment must be made.
- (b) The revocation is valid since it has been put in the course of the transmission as to be out of the control of the person making the revocation.
- (c) The revocation is not valid since it has not come to the knowledge of Sonu.
- (d) Since Mamta received the consignment, her revocation cannot be considered valid.
4. Bank of Bhubaneswar, in its council meeting, decided to appoint Sharma as its Bank Director. Decision was made followed by an application for the post was received from Sharma by the Bank. Before the Council could communicate to Sharma, later was become aware of the Council decision by Suresh, a servant at Bank of India. Later, Council decided to revoke the appointment. Sharma challenged the revocation on the ground that proposal has already been received by him. Will he succeed?
- (a) Sharma will not succeed since there was no communication of acceptance of his job proposal.
- (b) Sharma will not succeed since there was no official confirmation made by the bank to Sharma.
- (c) Sharma will succeed since decision was communicated as soon as servant informed Sharma.
- (d) Sharma will succeed since decision was communicated as soon as Council made the decision.
5. Rahul promises to his two children that he will purchase for them a 'Seltos' car in case they stand first in the ensuing examinations. Both the children stood second and third in their respective classes. However, they claim that the examiner had some grudge against them and mendaciously deducted their marks. Rahul refused to purchase the cars as promised by him. Can the children sue Rahul in the court of law for breach of contract?
- (a) Yes, as there was offer by Rahul and acceptance by the children by doing the required act.
- (b) No, the condition for a valid contract is not met and therefore children will not succeed in their suit.
- (c) Yes, as this was a case of oral contract, and such contracts are honored in the court of law.
- (d) Both (a) and (c)
6. Sameer the owner of a dog, announces a reward to anyone who will bring back his lost dog, Rocky. Abhishek, a friend of Sameer, gives information which leads to recovery of the lost dog from Mr. Jain, who had no knowledge about the reward. Later when Abhishek comes to know about the announcement of the reward by Sameer, claims the reward. Decide.
- (a) No, as Abhishek had no knowledge of the offer before performing the required task.
- (b) Yes, as by performing the condition of the proposal, he gave acceptance to the general offer made by Sameer.
- (c) No, as Abhishek was only doing his duty as a friend.
- (d) Yes, as Sameer has a duty to reimburse Abhishek for helping him find his dog.

Passage 2

Contributory negligence means that when the immediate cause of the damage is the negligence of the plaintiff himself, the plaintiff cannot sue the defendant for damages and the defendant can use it as a defense. This is because the plaintiff in such a case is considered to be the author of his own wrong. It is based on the maxim *volenti non fit iniuria* which states that if someone willingly places themselves in a position which might result in harm, they are not entitled to claim for damages caused by such harm. The plaintiff is not entitled to recover from the defendant if it is proved that-

- The plaintiff by the exercise of ordinary care could have avoided the consequence of the defendant's negligence.

- The defendant could not have avoided the consequence of the plaintiff's negligence by an exercise of ordinary care
- There has been as much want of reasonable care on the plaintiffs part as on the defendants part and the former cannot sue the latter for the same.

The burden of proving contributory negligence rests on the defendant in the first instance and in the absence of such evidence, the plaintiff is not bound to prove its non-existence. In the case of *Shelton Vs L & W Railway (1946)*, while the plaintiff was crossing a railway line, a servant of the railway company who was in charge of crossing shouted a warning to him. Due to the plaintiff being deaf, he was unable to hear the warning and was consequently injured. The court held that this amounted to contributory negligence by him.

7. Evelyn had a farmhouse in the outskirts of the city of Delhi. Since he enjoyed spending his weekends writing at the farmhouse, he decided to employ a servant Roshan to take care of the house on a regular basis. A few months later, Evelyn adopted a ferocious dog named Tiger and asked Roshan to care for Tiger as well. A few days after bringing in the dog to the farmhouse, Evelyn asked Roshan to install a notice on the gate which read: Beware of the dog. However, the notice fell off from the gate to the ground due to the lack of proper installation. Despite Evelyn's reprimands, Roshan did not get around to installing the notice again. Meanwhile, a young couple who was passing by the farmhouse decided to enter inside and steal some mangoes for the journey. Unaware of the dog, both the husband and the wife climbed through the fence and went inside, only to be attacked seconds later by Tiger, the dog. The couple later sued Evelyn for negligence. Is Evelyn liable?
- (a) Yes, since Evelyn is responsible for the wrongful actions of his servant Roshan, which in this case, was the negligence to install a proper notice.
 - (b) Yes, as the owner of the property, Evelyn was responsible for putting up a notice to warn outsiders of the dangerous dog in the farmhouse.
 - (c) No, since Evelyn has the right to use all means necessary to protect his farmhouse.
 - (d) No, since this is a case of contributory negligence and Evelyn is only partially responsible for the harm caused to the couple.
8. The claimant, Dhram and Veer were friends. After going out for an evening and few drinks down, Veer gave lift to Dhram on his new motor bike. Veer had no expertise in driving a bike nor license to drive. This was very much known to Dhram yet he agreed to take a lift from his friend. They met with a brutal accident due to high speed driven by Veer. The eyewitnesses testified for the high speed and negligent driving by Veer. The accident had a brutal result as Veer died on the spot and Dhram suffered multiple grave injuries. In an action brought by Dhram against the representative of Veer, decide.
- (a) The defence of *Volenti non fit injuria* may be raised as Dhram was aware of the risk involved in sitting behind Veer in that intoxicated state.
 - (b) The defence of *ex turpi causa non oritur actio* can be raised as Dhram was aware of the illegality in Veer driving the bike at age 16 and being in an intoxicated state while doing so.
 - (c) The defence of contributory negligence may be raised as Dhram was also intoxicated and hence contributed to his injuries.
 - (d) Both (a) and b)
9. Iyer and Tiwari were neighbors. Iyer had a big Labrador named Nayyar. Tiwari hated dogs. But Tiwari's daughter Jaimal enjoys playing with Nayyar. Every evening she generally brought Nayyar over to their garden to play with him. One evening when Nayyar was playing in Tiwari's garden he went and chewed up Tiwari's prized roses. Tiwari wants to sue Iyer.
- (a) Iyer can be held liable because as the owner of the animal, he can be held responsible for all the wrongful acts of her dangerous animal.
 - (b) Iyer cannot be held liable because dogs are not inherently dangerous animals.
 - (c) Iyer cannot be held liable because Nayyar was brought on to Tiwari's premises by her daughter
 - (d) Iyer cannot be held liable because the plaintiff has not come with clean hands.

10. Chandu carelessly left a pole protruding across a public road. Mukesh, riding a motorcycle, saw the pole but, since he was driving at a speed substantially above the posted limit, he collided with the pole and was injured. In an action by Mukesh against Chandu.
- Mukesh will win because if it had not been for Chandu's carelessness, Mukesh would not have been injured.
 - Mukesh will win because Chandu had an opportunity to prevent the injury by putting up a warning.
 - Mukesh will lose because he was already breaking the law by driving too fast.
 - Mukesh will lose because if he had not been speeding, he would not have been injured.

Passage 3

The offence of bigamy or marrying again during lifetime of husband or wife is punishable under Section 494 of the Penal Code (Section. 494) and under Section 17 of the Hindu Marriage Act, 1955. The Sections reads as: Section 494. Marrying again during lifetime of husband or wife. — Whoever, having a husband or wife living, marries in any case in which such marriage is void by reason of it taking place during the life of such husband or wife, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Exception—This section does not extend to any person whose marriage with such husband or wife has been declared void by a Court of competent jurisdiction, nor to any person who contracts a marriage during the life of a former husband or wife, if such husband or wife, at the time of the subsequent marriage, shall have been continually absent from such person for the space of seven years, and shall not have been heard of by such person as being alive within that time provided the person contracting such subsequent marriage shall, before such marriage takes place, inform the person with whom such marriage is contracted of the real state of facts so far as the same are within his or her knowledge.

Hindu Marriage Act, 1955- Section 17. Punishment of bigamy —Any marriage between two Hindus (including Buddhist, Jain or Sikh) solemnized after the commencement of this Act is void if at the date of such marriage either party had a husband or wife living; and the provisions of Sections 494 and 495 of the Indian Penal Code (45 of 1860) shall apply accordingly. The offence of Bigamy is non-cognizable (except in State of Andhra Pradesh). Also, the offence is bailable (except in the State of Andhra Pradesh).

11. Sohini and Shyam are married for five years. Shyam is a seafarer. Once on board, he met Miss Julie. Keeping into account that they would stay on board for next 10 months, Miss Julie moved in with Shyam in his cabin. Shyam would always introduce Julie as his wife to everyone. When Sohini got to know about Shyam's another wife Julie, she filed a case against him for committing bigamy?
- Shyam will not be held liable as he did not marry Julie.
 - Shyam will not be charged for bigamy but will be held liable for committing adultery.
 - Shyam will be held liable under Section 17 of Hindu Marriage Act.
 - Both (a) and (b)
12. Mohini got lost in the stampede that happened during the rath yatra. Kamal tried looking for his wife everywhere but couldn't find her. He and his family members presumed her to be dead. After a month, Kamal married Radha according to Hindu religious ceremonies. Six months later Kamal got the news that Mohini is alive but has lost her memory. Decide.
- Kamal will be liable for committing bigamy as Mohini is still alive.
 - Kamal will not be liable as he didn't know the whereabouts of Mohini and it was presumed that she is no more.
 - Kamal can argue that he tried every possible act to locate Mohini but he couldn't.
 - Kamal will be liable and his second marriage will be considered as void.
13. Rose was married off by her parents when she was 14 years old. Rose never consummated her marriage with her adult husband and got a decree of nullity of marriage by the court of law when she turned 19 years of age. This has been kept secret from her family, fearing

pressure of the society. Rose married Jack when she was 24 years old and consummated her marriage. Rose's in-laws from her previous marriage have filed a case against her for committing bigamy.

- (a) In-laws will succeed as dilution of her first marriage was kept as secret and according to the society, she is still married to her first husband.
 - (b) In-laws will succeed as child marriages are valid in India.
 - (c) In-laws will not succeed as her first marriage is nullified by the court of law.
 - (d) In-laws will not succeed as her first marriage was a child marriage which is prohibited in the country.
14. Soham married Seema in 2010. In 2014, Seema got to know that Soham cheated on her as he was already married. His first marriage took place in 1998, his first wife and his two children reside in village with his parents whom he provides financial assistance while working as an IT professional in Vijayawada. When charged with bigamy, Soham wishes to file bail application through his advocate?
- (a) Soham will fail as he committed bigamy and should serve his punishment.
 - (b) Soham will succeed only if Seema agrees for bail in the court of law.
 - (c) Soham will fail as bigamy is a non-bailable offence.
 - (d) Soham will succeed as bigamy is a non-cognizable, bailable offence.
15. Which among the following is an exception for the case of bigamy as mentioned in the above passage?
- (a) Person marrying another while his spouse is in a vegetative state and is in no position to cohabit in the marriage.
 - (b) Person marrying another while her spouse is unheard for nine years.
 - (c) Person marrying another while his spouse met in an accident and her survival is uncertain.
 - (d) Person marrying another while deserting the spouse from his child marriage, which he never consummated.

Passage 4

The distinction between the two sections of IPC (i.e., section 299 and 300) was made clear in *Reg. vs Govinda* [1876 ILR Bom 342] by Melvil J. (In this case the accused had knocked down his wife, put one knee on her chest, and struck her two or three violent blows on the face with the closed fist, which caused excessive bleeding of blood on the brain and she died in consequence, there being no intention to cause death and therefore the bodily injury not being sufficient within the ordinary course of nature to cause death. The accused was liable for culpable homicide not amounting to murder.)

According to Sir J. Stephen, the definition of both the sections are the weakest part of the IPC, as they are closely and very relatively formed and there is a very thin line difference between the two, and sometimes it is difficult to distinguish between them because the occurrence of death is common to both. However, the difference between them is based upon a very subtle distinction of the intention and knowledge involved in these crimes. The true difference lies in the degree of the act, the greater the intention and the knowledge, the greater are its consequences that are to be faced by the guilty person.

Culpable homicide is a term wider than murder. Therefore, Culpable homicide is considered as the genus while murder is regarded as a species. Murder is an aggravated form of culpable homicide. In culpable homicide the knowledge is not so definite, while in murder the offender has a definite knowledge that the act would be resulting in death. Thus, the probability of causing death is higher in murder than in culpable homicide.

In the case of *Kusa Majhi v. State of Orissa*, wherein the accused, infuriated, brought an axe and struck blows on the victim's shoulder causing her death. The court held it to be a case of culpable homicide since the offence wasn't planned prior to the commission—it was in the spur of the moment. Furthermore, the blows weren't on the neck or head region i.e., likely to cause bodily injury which was likely to cause death. In the case of *B.N. Srikantiah v. Mysore State*, wherein there were more than 24 injuries on the victim with 21 wounds incised on vital parts of the body—head, neck and shoulder. The 'intention of causing bodily injury' was established, bringing it in the ambit of S. 300. It was held to be a case of murder.

16. There was a long-standing dispute between the deceased and the appellants over a certain piece of land. On one night, the appellants (Sushil and Sanskar) in pursuance of a conspiracy to commit murder of the deceased, Shyam set fire to the single room hut in which he was sleeping after locking the door from outside. When the servants of the deceased and other villagers tried to rescue the deceased, they were kept at bay by the superior force of the accused and their associates. Consequently, death of the deceased occurred. Decide:
- It is not a murder. Because the facts and circumstances are not sufficient.
 - It is not culpable homicide too because it is nowhere evident that the very action of the accused to set the house of the deceased on fire, resulted in to his death.
 - It is murder because in the pursuance of the conspiracy to commit murder of M, the accused locked the deceased and set the room on fire and stopped the servants and villagers to come to his rescue.
 - It will depend on the discretion of the court.
17. About a year before the date of occurrence, Vishal, son of the deceased, had caused a severe injury on the leg of one, Atul, resulting in the amputation of leg of one appellant. Father of Atul harboured a grudge against Vishal and his father. On one day, the appellant and his associate caught hold of the deceased (father of Vishal) and inflicted as many as 18 injuries on the arms and legs of the deceased with a gandasa. Decide:
- It is culpable homicide not amounting to murder.
 - It is murder.
 - It is neither murder nor culpable homicide.
 - It is a case of grievous hurt.
18. Pankhuri was a young woman married to Kunal. They had a six months old baby. Kunal did not treat his wife well. Pankhuri desired to go to visit her parents but Kunal had objected to it and on the day of occurrence they had quarreled with each other and Kunal had threatened to beat her. Late that night Kunal woke up and found his wife and baby missing. He went out in pursuit of them and close to the railway line he saw her making her way along the path. When she heard him coming after her, Pankhuri turned around in a panic, ran a little distance, and then jumped into a well with the baby girl in her arms. The result was that the baby died while the woman was eventually rescued. She was charged with the murder of her baby and with attempt to commit suicide. Decide:
- Pankhuri is guilty neither of murder or culpable homicide.
 - It is case of self-defense so Pankhuri can't be charged with any offence.
 - Pankhuri is guilty of culpable homicide not amounting to murder.
 - Pankhuri is guilt free.
19. Ekta, her husband and her mother-in-law, Komolika used to reside together. There were constant quarrels between the appellant and her mother-in-law and very often the appellant was slapped by her husband for such quarrelling. One day, a quarrel took place and her mother-in-law asked Ekta to leave the house. Thereupon, the appellant left the house and jumped into a well along with her three children, in order to escape harassment at the hands of her mother-in-law. She survived but the three children died. Decide:
- Ekta should be charged with offence of murder.
 - Ekta is guilty of culpable homicide.
 - It is neither murder nor culpable homicide.
 - The Mother-in-law should be charged with the offence of culpable homicide.
20. Keiron gave a lathi blow on Mitchell's head with such a force that his head was badly fractured. Mitchell became unconscious and was rushed to the hospital where he died after 12 days. The postmortem report showed that Mitchell had died because of septic infection. When Keiron is charged with murder, he pleads that the death was caused because of septic infection and not because of head injury. Will he succeed in his plea? Decide:
- Keiron is guilty of murder as a blow of lathi on the head is sufficient to prove the intension of the accused and the cause of death.
 - Keiron is not guilty of murder. As post mortem report shows he died of septic infection.
 - Keiron is guilty of culpable homicide.
 - Keiron is neither guilty of culpable homicide nor murder. He is guilty of grievous hurt.

Passage 5

Millions of children around the world are trapped in child labour, depriving them of their childhood, health, and education, and condemning them to a life of poverty and want. Of course, there is work that children do to help their families in ways that are neither harmful nor exploitative. But many children are stuck in unacceptable work for children – a serious violation of their rights.

According to the reports published by UNICEF, the ILO, and the World Bank, around 168 million children worldwide between the ages of 5 to 17 are engaged in child labour. Millions among them are suffering in the worst possible forms of child labour that include slavery of slavery like practices such as bonded or forced labour, child soldiers, sexual exploitation and more. Many of them are used by the adults in illegal activities such as drug trafficking. Due to the seriousness of drug trafficking and strict laws against it, most of the children that are apprehended in such cases are treated as criminals. The reality is that they are often among those who need immediate legal assistance.

There has been notable decline in child labour but the progress is much slower than required. At the current rates, it is expected that by 2020 there will more than 100 million children still trapped in child labour. Child labour is a major threat to the national economies and pose severe short term and long term consequences as it fails to fulfill the children's rights that are guaranteed by the United Nations Convention on the Rights of the Child (CRC). It results in denial of education and continuous exposure to violence.

Child labour occurs in different sectors including manufacturing, agriculture, mining, quarrying, and domestic service. It is often not visible to the public eye. For example, there are around 15.5 million child domestic workers across the world. Majority of them are girls. They are often hidden from the outside world and face many hazards. Many factors lead to child labour including poverty, lack of decent work opportunities for adults and adolescents, socially acceptance, migration and financial emergency.

According to the Child and Adolescent Labour (Prohibition and Regulation) Act, 1986, amended in 2016 ("CLPR Act"), a "Child" can be defined as a person who is under 14 years of age. The CLPR Act prohibits anyone to employ a child under the age of 14 for any work including domestic help. As per the law it is a cognizable criminal offence to employ a child for any job. Children between the ages of 14 and 18 are considered to be "Adolescent" as per the law. They are allowed to be employed, except for cases where any particular job is listed as hazardous occupation and processes that include mining, inflammable, and explosives related work and any other hazardous process as per the Factories Act, 1948.

It has to be noted that the Constitution of India does not allow child labour in hazardous industries (but not in non-hazardous industries) as a Fundamental Right under Article 24. Also, Section 82 of the Indian Penal Code says that "Nothing is an offence which is done by a child under seven years of age".

21. The Inspector General of Police Mr. "Mile High" is tough on drugs and wants to remove this menace from society. He receives an anonymous tip-off about a drug deal at the river side and arrives with his entire team of police to find a ten-year-old boy "Raj" selling packets of drugs to the drug users. Mr. High arrests Raj in the drug bust and files a case of drug trafficking on him. Decide.
- (a) Raj is just a child and cannot be held guilty
 - (b) Raj is guilty of drug trafficking
 - (c) Raj wasn't selling the drugs, he was buying them therefore he is not guilty
 - (d) Mr. High was just upset that Raj wouldn't sell him any drugs
22. Mr. Mehta is the finest tailor in his town. One day an employee approaches him saying, "My ten year old son is a big fan of yours and would love to help you around the studio". Mr. Mehta replied, "Why certainly, I will pay him INR 100 per day to run my errands for me". What do you think of this arrangement?
- (a) it is illegal
 - (b) it is legal
 - (c) it is legal only if the work is not hazardous
 - (d) it is legal if the son is an "adolescent"

23. Radhika works privately as a seamstress in a lady's house. The lady is very kind to her. She is good at her job and enjoys it. She is ten years old. Is this illegal?
- (a) no because she is not being coerced into it and enjoys her work
 - (b) yes because she is not being paid for it
 - (c) yes because although it is hidden from the public eye it is still child labour
 - (d) no because it is not hazardous work
24. Five year old Gopi has been abducted from his home by a kidnapper who wants to sell him for a hefty price. One night, Gopi finds the kidnapper's gun and shoots him. Decide.
- (a) Gopi is guilty of murder
 - (b) Gopi is not guilty of murder
 - (c) Gopi is guilty if the mala fide intention can be proved
 - (d) Gopi is not guilty as it was an accident
25. In Sivakasi, Ramu was involved in a very dangerous job of making crackers and naturally he hated it. One day, a week before he was to be an adult, a social worker came visiting and offered to free him by having his employer arrested. Will the social worker succeed?
- (a) yes, because Ramu is a child.
 - (b) yes, because the work is hazardous.
 - (c) no because Ramu is an adolescent.
 - (d) no because Ramu is above 14 years of age.

Passage 6

The Constitution is intended to be permanent and, therefore, it cannot be amended in a way which would injure, maim or destroy its indestructible character. The word "amendment" implies such an addition or change within the lines of the original instrument as will effect an improvement or better carry out the purpose for which it was framed and it cannot be so construed as to enable the Parliament to destroy the permanent character of the Constitution. The fundamental rights are a part of the basic structure of the Constitution and, therefore, the said power can be exercised only to preserve rather than destroy the essence of those rights. The limits on the power to amend are implied in Art. 368, for the expression "amend" has a limited meaning. The wide phraseology used in the Constitution in other Articles, such as "repeal" and "re-enact" indicates that art. 368 only enables a modification of the Articles within the framework of the Constitution and not a destruction of them. The debates in the Constituent Assembly, particularly the speech of Mr. Jawahar Lal Nehru, the first Prime Minister of India, and the reply of Dr. Ambedkar, who piloted the Bill disclose clearly that it was never the intention of the makers of the Constitution by putting in Art. 368 to enable the Parliament to repeal the fundamental rights; the circumstances under which the amendment moved by Mr. H. V. Kamath, one of the members of Constituent Assembly, was withdrawn and Art. 368 was finally adopted, support the contention that amendment of Part III is outside the scope of Art. 368. Part III of the Constitution is a self-contained Code and its provisions are elastic enough to meet all reasonable requirements of changing situations. The power to amend is sought to be derived from three sources, namely, (i) by implication under Art. 368 itself; the procedure to amend culminating in the amendment of the Constitution necessarily implies that power, (ii) the power and the limits of the power to amend are implied in the Articles sought to be amended, and (iii) Art. 368 only lays down the procedure to amend, but the power to amend is only the legislative power conferred on the Parliament under Arts. 245, 246 and 248 of the Constitution. (8) The definition of "law" in Art. 13(2) of the Constitution includes every branch of law, statutory, constitutional, etc., and therefore, the power to amend in whichever branch it may be classified, if it takes away or abridges fundamental rights would be void thereunder. (9) The impugned amendment detracts from the jurisdiction of the High Court under Art. 226 of the Constitution and also the legislative powers of the States and therefore it falls within the scope of the proviso to Art. 368.

26. Parliament has enacted the Farmers' Protection Act 2020, which according to a group of activists is violating the fundamental right of freedom of trade of the farmers. The group of activists files a public interest litigation 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 right 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.
27. Fundamental Rights are enshrined under which part of the constitution?
- (a) Part IV (b) Part II
- (c) Part III (d) None of these
28. AJP Party won the majority of votes in the Parliament against the CPS Party. The main agenda of the AJP party was to chuck out the freedom of press, which was counted as one of the fundamental rights under the constitution. As they had majority in Parliament, they could easily amend the provision. Now a public-spirited person filed a suit in the Supreme Court against this amendment.
- (a) The amendment was valid and was done using lawful power enshrined in article 368
- (b) The amendment was invalid as it destroyed the main essence of the fundamental right, which is the basic structure.
- (c) The amendment was valid as it was prorogued by majority party having the most public support.
- (d) Both (a) and (c)
29. Article 14, 19, 21 is cumulatively called-
- (a) Diamond Triangle
- (b) Silver Triangle
- (c) Golden Triangle
- (d) Crystal Triangle
30. Article 14 does not encompass
- (a) Equality before law
- (b) Equal protection of law
- (c) Protection against arbitrary action
- (d) protection of life and liberty.

Passage 7

In the late 20th century and early 21st century, the phrase “trial by media” became popular. It describes the impact of newspaper and television coverage on the reputation of a person. The news channels and newspapers create a widespread perception of innocence or guilt before, or after, a verdict in a court of law. In India, media is considered to be one of the pillars of democracy. Media plays many roles in society. It has an impact on molding the opinion of the general public. In many cases, it proved to have the capacity to change the whole viewpoint of society about various events. Thus it is important to have a free and healthy press so that democracy can function properly. In a democratic setup, the general public participates in all the community’s affairs as well as the state. It is their right to stay informed about the current political, social, economic, and cultural events and important issues so that they can form a broad opinion about the way every issue is being managed, tackled, and administered by the government and its functionaries.

Article 19 of the constitution ensures the right to freedom of speech and expression. However, as per the sub-clause (2) of the same article, the freedom is not absolute. The right to freedom of speech and expression does not give the right to commit contempt of court i.e., make statements that can lower the dignity of the court or defame another person by making unsubstantiated claims against him or her. The truth is considered as a defense to defamation in the court of law.

Justice Markandey Katju (former Judge, Supreme Court of India and former Chairman, Press Council of India) once said in a statement that in today’s time, the press had been commercialized to a large extent. In this business, there should be a balance between profit and

social responsibility. If media houses fail to do so, society will not accept the media for long. It is the responsibility of the PCI as an independent and statutory body that there is a balance between profit-making and social responsibility. The tendency to profit from some media owners and contractual-basis hiring of journalists is downgrading journalism's quality.

31. Nayak, a famous journalist, wrote in the newspaper that Mrs. Meera, an opposition leader had committed theft worth billions of dollars. When Mrs. Meera sued him, he took the defence of freedom of the press. Decide.
- (a) Nayak is guilty of defaming Mrs. Meera
 - (b) Nayak is not guilty as his line of defence is correct.
 - (c) Nayak would have been guilty if he was not a journalist but they get special privileges
 - (d) None of the above
32. The above case was decided against Mrs. Meera and infuriated, she said, "The judge is corrupt." What will happen next?
- (a) she will be celebrated for exposing the judiciary
 - (b) Nayak will apologise and say she is miles ahead of him
 - (c) she is exercising her freedom of speech
 - (d) she will be held for contempt
33. A biographer working on a famous writer's biography discovered an incident in the writer's past where he had exchanged formal letters with a controversial starlet. The biographer published an article detailing the letters and saying that the writer and starlet had an affair many years ago. The writer and the starlet filed a case against the biographer.
- (a) the biographer is not guilty as he is exercising his constitutional right under Article 19
 - (b) the biographer is not guilty as the affair happened many years ago
 - (c) the biographer is guilty as he did not take the writer's permission to publish details of the affair
 - (d) the biographer is guilty as there is no basis for the allegation (the letters were formal in nature) and this amounts to defamation
34. A judge was accused of sexual harassment by a staffer. This news was reported by a leading daily. The judge hauled up the editor of the newspaper for contempt of court. Decide.
- (a) the editor was exercising the freedom of the press.
 - (b) the judge was right in hauling up the editor.
 - (c) the editor has committed contempt of court
 - (d) the judge cannot haul up the editor as no man can be judge in their own cause
35. Princess Laila was always hounded by the paparazzi no matter where she went, so much so that her death in a car crash was a result of trying to avoid them. According to Justice Katju, is the paparazzi at fault here?
- (a) yes, because it amounts to defamation by the paparazzi
 - (b) yes, because it amounts to contempt of court by the paparazzi
 - (c) yes, because there was no social responsibility shown by the paparazzi
 - (d) no, because there was a profit making tendency shown by the paparazzi

Passage 8

In the fight against illiteracy in the United States, the catchphrase "Each one, teach one" became an important symbol. In India, the Right to Education Act (RTE) or The Right of Children to Free and Compulsory Education Act that was enacted on 4th August 2009 made it possible to add the Right to Education in the Fundamental Rights. It states that the children between the age of 6 to 14 should have access to free and compulsory education in India under Article 21A of the Constitution.

The Act emphasis Free Education that means no child should be asked to pay any kind of fee or charges or expenses that may prevent him or her from pursuing and completing elementary education. It does not include children who are admitted by their parents to a school that is not supported by the appropriate Government. Compulsory education holds the appropriate

Government and local authorities responsible for providing and ensuring admission, attendance and completion of elementary education by all children in the age group of 6-14 years.

As per the law, all private schools excluding the minority institutions are bound to reserve 25% of seats for the poor and other categories of children. The Act also makes provisions for no donations or capitation fees. It also suggests that the school should not take an interview of the child or the parent for admission. The Act prohibits the school from taking any examination or expelling the child before completion of elementary education.

Our Constitution fathers did not intend that we just set up hovels, put students there, give untrained teachers, give them bad textbooks, no playgrounds, and say, we have complied with Article 45 and primary education is expanding... They meant that real education should be given to our children between the ages of 6 and 14 – M.C. Chagla, 1964.

36. Rohan doesn't want to go to school. His mother reminds him that education is not only free but also "compulsory", and therefore he must go as the government has made it mandatory to attend.
- (a) The word compulsory refers to the obligation on the government to provide free education and not on the citizen to attend
 - (b) his mother is right and Rohan must attend school as attendance is compulsory
 - (c) Rohan's mother must also attend school as it is compulsory
 - (d) if Rohan doesn't want to, he shouldn't be forced to.
37. In Riverdale High School, 25% government reservations are complete. All the general seats are filling as well, save one, which is being contested by Ramesh (general category) and Suresh (reserved category). Suresh is selected and Ramesh files a case stating that a general category seat is reserved for those who are not from reserved category.
- (a) this is true, if general category cannot get reserved seats, then vice versa must also be true.
 - (b) this is not true, a person who is eligible for a reserved category seat may also apply for a general seat. Reserved category status is no bar in applying through general category.
 - (c) in this case, both candidates can be taken
 - (d) none of the above.
38. Raman and Shaman are two bitter enemies, both from reserved category and fighting for a seat in the famous school of their hometown, Bunking Class School. The school principal who is a kind gentleman awards the seat to Raman as he is more needy after interviewing both of them. Shaman challenges his decision.
- (a) shaman must accept the decision of the principal
 - (b) the principal did the right thing by giving the seat to the more needy
 - (c) Raman had bribed the principal and this is prohibited, therefore Shaman must get the seat
 - (d) the granting of seat is invalid as interviewing is prohibited
39. It is Mohan's very first day of playschool. He accidentally pokes a sharp pair of scissors into his neighbour's leg. He is taken to the principal and asked to leave the school. His parents file a case against the school.
- (a) Mohan is a small child, he did it accidentally and it is too harsh a step by the school
 - (b) Mohan cannot be expelled before completion of elementary education
 - (c) Mohan did it deliberately, he is an evil child who must be removed
 - (d) Normally Mohan could not be expelled, but this is an exception as he is a danger to others
40. Article 45 of the Constitution is a Directive Principle of State Policy dealing with the Right to Education. Which of the following statements would Justice Chagla likely agree with?
- (a) the printing quality of the textbook matters the most – no bad textbooks should be given.
 - (b) the playground is the most important part of the school
 - (c) training teachers was the biggest challenge facing the education system in India
 - (d) food for the soul is what schools should provide the students.