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NATIONAL LAW UNIVERSITY JODHPUR

End Term Examination October-November 2023

Semester: UG I Semester

Subject: Legal Methods and Legal Systems

Time: 3Hrs

Marks: 100

**Instructions:**

1. *Sixth Question needs to attempted mandatorily.*
2. *Out of the remaining five question attempt any four.*
3. *No use of electronic device is allowed.*

Q.1) Differentiate between question of law and question of fact while dealing with the appellate jurisdictions of courts in civil matter in India? (Marks 20)

Q.2) Under Common Law principles of equity historically arose out of the court of Chancery. However, the Judicature Act merged the dual court system into a single system of adjudication. Determine the relevance of equity in modern legal system with the help of examples? Does equity still exist as a source of law in India given that most of the equitable principles have now been incorporated under our legislative framework? (Marks 20)

Q.3) Differentiate between subordinate and supreme legislation? Discuss the role of executive in promulgation of rules and orders in Indian legal system? (Marks 20)

Q.4) With the help of relevant examples discuss the importance and meaning of Legal Presumptions? Elucidate upon the relation between legal presumptions and legal fictions? (Marks 20)

Q.5) Discuss the role of precedents in Indian Legal System? Elucidate various circumstances wherein a decision would not be covered under Article 141 of the Indian Constitution? (Marks 20)

Q.6) Refer to the judgment attached in the paper. Find the ratio and obiter of the judgment? In its judgment the judge referred to the opinion given by Justice Kennedy in *Dulieu v. White & Sons* but refused to accept the limitation imposed therein. Does it render the opinion given in *Dulieu v White & Sons per incuriam*? Give your reasons for the same. (Marks 20)

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## Chadwick vs British Railway Board

WALLER J- On December 4, 1957, just before six o'clock in the evening, there occurred at Lewisham a very serious railway accident. In bad weather conditions two trains collided, as a result of which 90 persons were killed. Mr. and Mrs. Chadwick lived about 200 yards from the scene of the accident and Mr. Chadwick went to the scene to do what he could to help. He worked there all night. The plaintiff's case is that whereas before the accident he was a cheerful, busy man carrying on a window-cleaning business and with many sparetime activities, after the accident, by reason of the shock of his experiences that night, he became psychoneurotic, he no longer took the interest in life which he had taken and he was unable to work for a considerable time. Damages are claimed for the shock he sustained and for the consequences. The defendants, whilst admitting that the train collision was caused by their negligence, deny liability and I must therefore determine the facts before dealing with the difficult issues involved. Mr. and Mrs. Chadwick lived at 161, Albyn Road, Lewisham. They had lived there since December, 1945. Mr. Chadwick was a window cleaner and carried on a window-cleaning business. He was a public-spirited person who used to help with whist drives, he was a governor of three local schools and was a member of the local Chamber of Commerce. On December 4, 1957, at about six o'clock in the evening, there was a railway accident at Lewisham some 200 yards from the Chadwick's house, when in poor visibility a moving train ran into the back of a stationary train and 90 persons were killed. Mr. Chadwick was told of the accident by his wife and he immediately ran out of the house to help. Mrs. Chadwick did not see him again until three o'clock in the morning, when he came in, covered with mud, with blood on his hands and clutching a small golliwog brooch, which he gave to Mrs. Chadwick to look after. He went out again and did not return until six o'clock in the morning. He was in a mess with blood and the like. He would not go to bed and he was upset and shaking. The golliwog brooch belonged to a small boy aged three who had been killed in the accident.

Mr. Chadwick, before the accident, had been running a successful window-cleaning business together with his wife. They had started that business in 1945. He took an interest in social and charitable activities and was, as one witness said, "a hard-working little man." He had a happy disposition and got on extremely well with people. After the accident, he started sleeping badly, waking up in the night and talking of the little boy he had seen. Mrs. Chadwick found he was not sleeping and about Christmastime, that is to say, four or five weeks after the accident, he stopped working. He was shaking. Mrs. Mills, another witness, whom Mr. Chadwick had helped with whist drives, also described how she saw him change. She first noticed him shaking about five weeks after the accident and there is no doubt that a marked change was noticed within a few weeks of the accident. Mr. Chadwick consulted his doctor, who prescribed tablets, but eventually in May, 1957, he went to the Miller General Hospital. By October 2 Dr. Grace was describing his condition as anxiety neurosis, mentioning the Lewisham train disaster and noting that "the effects of the incident have been considerable as regards his psychological state." On January 8, 1959, Mr. Chadwick was admitted to Belmont Hospital as an in-patient. The diagnosis was anxiety neurosis and that can be seen from the case summary which is part of the hospital notes of the Belmont Hospital, and he remained in the Belmont Hospital until July 27, 1959, when he was discharged; he was feeling much better, according to the notes. Dr. Conway, Mr. Chadwick's own doctor, who is now dead, said in a memorandum dated December 18, 1959, that Mr. Chadwick's nervous condition was "directly due to his rescue work at the time of the [Lewisham train disaster]." This memorandum would not be of much evidential value by itself; it is simply a sheet of paper with that information written on it, but it is completely consistent with the other documents which have been put in evidence. The only

Mid Term Examination  
Subject- Legal Methods and Legal System  
UG- Semester I

Duration- 90 min

Max Marks- 50 Marks

1. Explain the role of legislation as a source of law in the Indian Legal System?  
Differentiate between delegated legislation and conditional legislation? (15 Marks)
2. Article 366 is a definition clause under the Constitution of India. Article 366(17) states thus-

*"pension means a pension, whether contributory or not, of any kind whatsoever payable to or in respect of any person, and includes retired pay so payable; a gratuity so payable and any sum or sums so payable by way of the return, with or without interest thereon or any other addition thereto, of subscriptions to a provident fund"*

Explain the scope of the definition of "pension" provided under the Article? (10 Marks)

3. Explain how precedent is a source of law? Compare the concept of precedential value to the concept of persuasive value with examples? (15 Marks)
4. Section 1(3) of Competition Act, 2002 allows the Central Government to bring into force certain provision of the act through a separate notification. Thus, on 4<sup>th</sup> March, 2011 the Central Government issued the following notification-

*Notification*

*4<sup>th</sup> March, 2011*

*S.O 479(E)- In exercise of the power conferred by sub section 3 of Section 1 of the Competition Act 2002. The Central Government hereby appoints the 1<sup>st</sup> day of June 2011 as the date on which Section 5,6,20,29,30 and 31 of the said Act shall come into force.*

Explain the legal nature of such notification issued by the Central Government in the present case? How would one identify which department of the government has issued the above mentioned notification? (10 Marks)