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ICSI - Intermediate New Syllabus

Economic, Labour and Industrial Laws

ICSI - Inter - December 2005

Answer 6 questions including Q No. 1 and 7, which are compulsory.

Q 1. With reference to the relevant legal enactments, write short notes on five of the following : (i) Bid rigging (ii) Scheduled industry (iii) Person resident of India (iv) Special Economic Zone (v) Environmental audit (vi) Restoration of lapsed patent (vii) Trade Effluent (3 x 5 = 15 marks).

Q 2. (a) Do the following amount to anti-competitive agreements? Give reasons in support of your answer: (i) An agreement requiring a distributor not to sell the goods of the manufacturer in the States other than Gujarat and Maharashtra (ii) A stipulation in An agreement that the dealer shall not sell the goods below the stipulated price (iii) An agreement containing a clause that there will be discontinuation in the supply of goods if the dealer is also dealing in the product of supplier's competitors (iv) An agreement stipulating the source of raw material for ensuring the quality of goods to be exported (b) What environmental clearances are required to be obtained for setting-up an industrial project or expanding and modernising existing projects? (c) How is the value of plant and machinery calculated for the purposes of small-scale and ancillary industrial undertakings under the Industries (Development and Regulation) Act, 1951? (8+4+3 = 15 marks)

Q 3 (a) With reference to the relevant provisions of the Foreign Exchange Management Act, 1999, advise on the following: (i) Mehta Chemicals Ltd., a listed Indian company, is interested in investing in the shares of an overseas company (ii) Jai Capital Ltd. desires to export plant and machinery from India towards equity contribution in a joint-venture in Trinidad and Tobago (iii) Arora & Co., a proprietary concern in India, wants to apply to authorities concerned for permission to accept shares of a company outside India *in lieu* of fees due to it for professional services rendered to the said company (iv) Jolly Ltd. wants to borrow a term loan of £ 5 million @ 6% per annum from its foreign collaborators to be repaid in 7 years (b) How would you deal with (i) transfer of securities by a person resident outside India to a person resident in India and (ii) purchase of shares by a person resident outside India? (c) Gurukul Vidyarthi Manch, a body formed for the purposes of imbibing patriotism and character-building among students, receives a grant of £ 1,500 from Stuarts, a British philanthropist. Does it violate the provisions of the Foreign Contribution (Regulation) Act, 1976? (8+4+3 = 15 marks)

Q 4. (a) What is meant by 'intellectual property'? Mention various kinds of intellectual property and the laws governing intellectual property rights in India (b) Do the following acts constitute infringement of

copyright? Give brief reasons in support of your answer: (i) Reproduction of a musical work by a teacher in the course of instructions to students (ii) Reproduction for research of an unpublished work kept in a public library (iii) Making a dozen copies of a book borrowed from a library when such book is available in the market (iv) Reproduction in a periodical of a write-up by an expert on a social subject of which the author has expressly retained his copyright (v) Making copies of a computer programme from a floppy disc bought from the market and using it for office work (c) What are the acts which are not considered as infringement of a patent as per the Patents Act, 1970? (5+5+5 = 15 marks)

Q 5. (a) Good Health Ltd., an Indian insurance company, did not settle a medical claim of Rs. 2 lakh of Mohan towards open heart surgery on the ground that the assured (Mohan) had not disclosed material facts, viz., hypertension and angina, at the time of submitting his proposal form. Mohan pleaded with the insurance company that there was no suppression of material facts and it is the insurer who has to prove material suppression; but did not succeed in his repeated pleas. Will Mohan succeed if he makes a complaint for the non-payment of medical claim under the Consumer Protection Act, 1986? Give reasons in support of your answer (b) What are the heads under which compensation for damages may be claimed under the National Environment Tribunal Act, 1995? (c) Mention the provisions of the Trade Marks Act, 1999 relating to registered users of trade marks (5 x 3 = 15 marks).

Q 6 (a) Discuss the restrictions on the discharge of sewage and trade effluents under the provisions of the Water (Prevention and Control of Pollution) Act, 1974 (b) Prudent Investments Ltd. was celebrating silver jubilee of its operations and in this connection sent invitations by post to 250 top businessmen for a special dinner at a 5-Star Hotel. Due to delay in delivery and /or non-delivery of invitation cards by the postal authorities, only 100 invitees attended the dinner. Advise the company whether it can make a complaint for compensation to the Consumer Disputes Redressal Forum against the postal authorities for deficiency in service (c) Explain the general powers of the Central Government for protecting and improving the quality of the environment and for preventing, controlling and abating environmental pollution under the Environment (Protection) Act, 1986 (5 x 3 = 15 marks).

Q 7 (a) Discuss any two of the following: (i) Grievance handling (ii) Benefits under the Employees' State Insurance Act, 1948 (iii) Unfair labour practices on the part of workmen and trade unions of workmen under the Industrial Disputes Act, 1947 (b) Attempt any five of the following stating the relevant legal provisions and case law, if any : (i) A licensed salt producer engaged workmen in open land in which work was done to convert sea water into crystals of salt. Whether the workmen working in open land are employed in the premises of the factory? (ii) Garuda Ltd. employed contract labour for doing some work in the company. Subsequently, the nature of work done by the contract labour was notified to be work of a perennial nature by the appropriate government. Can such contract labour claim automatic absorption as regular workmen in the company? (iii) Bhaskar, a school teacher, was dismissed from service for gross misconduct. He seeks reinstatement under the Industrial Disputes Act, 1947 on the ground that he is a 'workman' and that his dismissal amounts to an industrial dispute. Will he succeed? (iv) Kishore, President of Janta Mazdoor Union made speeches instigating workers to picket the factory. On one occasion when some women picketers were harassed by the police, he brought his wife to the factory gate and instructed her to beat with slippers anyone who interfered with her. Kishore who was prosecuted for instigating picketing, claimed immunity from criminal conspiracy. Will he succeed? (v) Goswami, a

graduate apprentice, could not complete the apprenticeship training due to strike in the establishment when he was undergoing training. Subsequently, the strike was withdrawn. He claims extension of the training period and stipend for the strike period. Will he succeed? (vi) During the accounting year 2003-04, Stingy Ltd. to which the Payment of Bonus Act, 1965 applies, suffered heavy losses. The Board of directors decided not to pay any bonus to its employees. The employees moved the court for relief. Will they succeed? (vii) Rakshit was suspended for an alleged act of misconduct and an inquiry was instituted against him. He did not appear before the inquiry officer on the ground that the allegations levelled against him were false. The inquiry could not be completed even after the lapse of six months. He files a case for grant of the subsistence allowance. Will he succeed? (10+15 = 25 marks).

June - 2005

Answer 6 questions including Q No. 1 and 7, which are compulsory.

Q 1 With reference to the relevant legal enactments, write short notes on any five of the following: **(i)** Current account transactions **(ii)** Concept of sustainable development **(iii)** Assignment of a trade mark **(iv)** Cartels **(v)** Hazardous substance **(vi)** Objectives of the Foreign Contribution (Regulation) Act, 1976 (3 x 5 = 15 marks).

Q 2 (a) "The Industries (Development and Regulation) Act, 1951 has lost its sting as the Licence Raj was given a decent burial by the liberalisation policy of the Government." Discuss. **(b)** Write an exhaustive note on the functions of the Competition Commission of India. **(c)** Dasgupta Publishers Ltd. had entered into a contract with Sun Papers Ltd. for purchase of paper for publication of a journal. The allegation of Dasgupta Publishers Ltd. was that the paper supplied by the company was inferior in quality and different from the sample shown before the contract was entered into. Will Sun Papers Ltd. be liable for indulging in an unfair trade practice? **(d)** Sapna bought a computer from the manufacturer. She did not enter into an annual maintenance contract with the manufacturer. The computer developed some fault and she sought assistance of manufacturer for its repair. The manufacturer charged exorbitant fee for repairing, thereby compelling her to enter into an annual maintenance contract. State with reasons whether Sapna can sue the manufacturer for indulging in a monopolistic or restrictive trade practice (5+6+2+2 = 15 marks).

Q 3 (a) With reference to the relevant provisions of the Foreign Exchange Management Act, 1999, advise on the following: **(i)** Rani, an Indian national, failed to realise and repatriate foreign exchange amounting to Rs. 50 lakh. She is interested in compounding the said offence. **(ii)** Vaibhav, an Indian resident, invites Keshav, an NRI in the USA, to stay as his guest while he is in India on a business trip. Does Vaibhav violate the law while incurring expenditure on his friend's hospitality? **(iii)** Rekha, a person resident in India, desires to make a gift of \$200 to her brother, a person resident outside India, on the occasion of his marriage **(iv)** Vijay, a person resident outside India, wants to repatriate outside India the sale proceeds of the immovable property in India **(b)** Ananda Swar Mondal, a cultural association in Kolkata formed for the sole purpose of promoting Rabindra Sangeet, has been offered gift of \$5,000 by a society in USA. Can

the association receive it without violating the provisions of the Foreign Contribution (Regulation) Act, 1976? **(c)** Two persons applied for registration of the same trade mark at the same time. In such a case, how will the proprietorship of the trade mark be decided? (8+3+4 = 15 marks)

Q 4 (a) State the procedure relating to restoration of a lapsed patent under the Patent Act, 1970. **(b)** Explain the functions of environmental laboratories under the Environment (Protection) Act, 1986 **(c)** Rajan had taken an insurance policy on his life. While he was travelling in the car of a friend, the vehicle caught fire and all the occupants including the driver, sustained serious injuries. Later on, Rajan died in the hospital. His wife filed a claim which was refused on the ground that the driver did not have a valid licence. She filed a case with the Consumer Disputes Redressal Forum. Will she succeed? Decide with reasons and relevant case law, if any (5+5+5 = 15 marks).

Q 5 (a) Mention the provisions of the Trade Marks Act, 1999 regarding removal of a trade mark for non-use. **(b)** State the provisions of the Air (Prevention and Control of Pollution) Act, 1981 and the rules made thereunder relating to control of noise pollution **(c)** In February, 1999, Dharendra opened an account under the national savings scheme in the General Post Office in Nagpur. In March, 2000, he opened a similar account in another Post Office in Pune. On his retirement from service, he got both the accounts transferred to a branch of the Post Office in Bhopal. When he sought to close the accounts by withdrawing the amount together with interest, the Post Office pointed out that under the National Savings Scheme Rules, he could have opened only one account and thus would not be entitled to receive any interest on the second account opened in Pune. Dharendra wants to file a complaint with the Consumer Disputes Redressal Forum. Will he succeed? Decide giving reasons and citing case law, if any (5+5+5 = 15 marks).

Q 6 (a) Explain the provisions of the Copyright Act, 1957 regarding administration of rights of an owner by a copyright society **(b)** Write a note on liability for pollution referring to pronouncements by the Supreme Court of India **(c)** An insurance company did not settle the insurance claim amounting to Rs. 2 lakh on the plea that Shambhu, the assured, had not disclosed material facts about his illnesses, i.e. high blood pressure and history of diabetes, at the time of submitting the proposal. Shambhu denies the allegations and pleads that he had not concealed anything. The insurer contended that the onus of proof lies on the assured to prove beyond doubt that he had not misrepresented about the material facts. Will the contention of the insurance company be given credence by the Consumer Disputes Redressal Forum? Give reasons in support of your answer and refer to relevant case law, if any (5+5+5 = 15 marks).

Q 7(a) Discuss any two of the following: (i) Collective bargaining (ii) Special provisions of the Factories Act, 1948 relating to hazardous processes (iii) Retrenchment compensation [10 marks] **(b)** Attempt any five of the following stating the relevant legal provisions and case law, if any: (i) A workman was suspended for an act of misconduct. The certified standing orders of the establishment provided that the workman has to mark attendance to be eligible for subsistence allowance. The workman argued that he could not be compelled to attend office during the period of suspension. Will he succeed? (ii) Raman, an apprentice, discharged his obligations conscientiously as per the terms and conditions of contract of apprenticeship. The employer was also very happy with his performance. He, however, did not offer job to Raman on the successful completion of apprenticeship training. Can the employer be so compelled?

(iii) Is the principal employer liable to absorb contract labour where engagement of labour force through the contractor to do work of a perennial nature has been abolished? (iv) Adarsh was a primary school teacher in a private school. He was dismissed from service after an inquiry. He wants to institute a suit in the Labour Court challenging the order of dismissal. Will he succeed? (v) Kutumb Ltd. has a factory in a sub-urban place near Chennai. The company nominated the works manager at the factory as its occupier. There was a fire in the factory premises resulting in injuries to workmen. The enquiry revealed that the accident occurred due to the negligence of supervisory personnel. Will the works manager be held liable? (vi) A worker was injured by his negligent act while knocking the belt of a moving pulley. Does it amount to an employment injury under the Employees' State Insurance Act, 1948? (vii) Sham accidentally damaged the testing instrument during the course of his work. The employer deducted the cost of repair of the instrument from his wages. Was the action of the employer justified? (viii) Kabir was a member of a trade union. Subsequently, he resigned from its membership following differences with the leadership. The union officials prevailed upon the management and got his services terminated. Can Kabir bring an action for unlawful intimidation against the union officials concerned? (15 marks).

Economic, Labour and Industrial Laws

December - 2004

Answer 6 questions including Q No. 1 and 7, which are compulsory.

Q 1 With reference to the relevant legal enactments, write short notes on any five of the following **(i)** Director General of Investigation and Registration **(ii)** Authorised person **(iii)** Leasing of capital goods **(iv)** Certification trade mark **(v)** money laundering **(vi)** Trade practice **(vii)** Air pollutant (3 x 5 = 15 marks).

Q 2 (a) Mention briefly the procedure for the registration of agreements relating to restrictive trade practices under the Monopolies and Restrictive Trade Practices Act, 1969 **(b)** (i) What do you understand by 'industrial entrepreneurs memorandum'? (ii) Dwarka Residents Welfare Association is a society of the residents of the complex registered under the Societies Registration Act, 1860. It wants to file a complaint against the builder company for tampering with the green area provided in the original lay-out plan for creating public facilities like gardens, schools, community centres, health centers, etc. Discuss whether the society falls under the definitions of 'consumer' or 'registered consumers association' under the Monopolies and Restrictive Trade Practices Act, 1969 (iii) An insurance company is not settling a claim in relation to a Maruti car on some ground or the other. Does it amount to deficiency in service? Can the aggrieved party claim relief under the Monopolies and Restrictive Trade Practices Act, 1969? (iv) A leading newspaper is bringing out a new edition of its newspaper from Lucknow without obtaining permission from the Central Government under the section 22 of the Monopolies and Restrictive Trade Practices Act, 1969. It is alleged that small newspapers published from Lucknow would not be able to compete with the big newspapers. Is it unfair to the small newspapers? Discuss (v) A finance company invited deposits from the public with interest rates of 8% , 9%, 10% and 11% for 1,2,3 and 5 years(s) respectively. It was further stated that deposits of Rs. 50,000 and above would fetch an additional interest of 1% besides attractive gifts. Does it amount to a restrictive trade practice under the

Monopolies and Restrictive Trade Practice Act, 1969? [5+10 = 15 marks]

Q 3 (a) With reference to the relevant provisions of the Foreign Exchange Management Act, 1999, advise on the following: (i) Ramesh, a person resident in India, receives information that Suresh, an NRI, will be on a business trip to India for 15 days. He wants to invite Suresh as his guest and incur expenditure on his hospitality (ii) Mrs. Swapna wants to draw foreign exchange for attending a conference in Bangladesh. How much foreign exchange can she draw? Are there any purposes for which foreign exchange drawal is not allowed for current account transactions? (iii) Hari, a person resident in India, is being offered foreign security as a gift by his cousin living in England (iv) Mark Well Ltd., having its registered office in Kolkata, wants to issue rights shares to a person residing in Kuwait at the rate of Rs. 12 per share. The company had earlier issued shares to the Indian public at the rate of Rs. 15 (a share having a nominal value of Rs.10). **(b)** Mention briefly the Indian initiatives in preventing money laundering **(c)** Modern Educational Institute, New Delhi is a non-profit organisation engaged in building students' careers. Four of its brilliant students are in receipt of scholarships directly from a US-based educational foundation. Discuss whether there has been any violation of the provisions of the Foreign Contribution (Regulation) Act, 1976. (8+3+4 = 15 marks)

Q 4 (a) Explain the nature and scope of the concept of 'intellectual property'. **(b)** Mention briefly the provisions of the Patents Act, 1970 relating to 'exclusive marketing rights'. **(c)** Discuss the provisions of the Trade Marks Act, 1999 regarding assignment and transmission of registered trade marks (5 x 3 = 15 marks)

Q 5 With reference to the provisions of the Consumer Protection Act, 1986, decide the following giving reasons in support of your answer **(i)** Babul entered into a contract with a share broker for the sale of shares. The share broker, after having sold the shares, issued him a cheque, but the cheque was dishonoured. Despite repeated reminders, the share broker did not pay him the money. He took up the matter with the Consumers Forum for redressal. Will he be regarded as a 'consumer' and will he succeed? **(ii)** Madan submitted certain documents before the Sub-Registrar for registration claiming these as will. These documents were found to be a deed of conveyance and also improperly stamped. The Sub-Registrar impounded the documents and forwarded these to the Collector of Stamps. The Collector of Stamps asked Madan to appear before him. He neither appeared before the Collector of Stamps nor submitted any other documents. Madan has instead filed a complaint before the Consumer Forum that he has been harassed for three years and that there has been deficiency in service on the part of the Sub-Registrar and the Collector of Stamps. Will he succeed? **(iii)** The management of Nalanda School owned a swimming pool and offered swimming facilities to the public on payment of certain fee. The management had engaged an experienced coach for coaching people how to swim. One day, a boy of 14 years got drowned and died while learning swimming. The school management denied responsibility by stating that it had requisitioned the services of a qualified and experienced coach. The coach also denied responsibility claiming that he had taken all possible precautions, taken the boy out of water and removed water from his stomach. Will the father of the deceased succeed in his claim for relief? (5 x 3 = 15 marks)

Q 6 (a) Explain the liability of a company and its directors for offences under the pollution control laws

(b) Discuss briefly the provisions of the Environment (Protection) Act, 1986 and the rules thereunder regarding environmental clearances and location of industries **(c)** Mention the emergency powers of the State Boards in case of pollution of streams or wells under the Water (Prevention and Control of Pollution) Act, 1974 (5 x 3 = 15 marks).

Q 7 (a) Discuss any two of the following: (i) The concept of 'industrial relations'. (ii) Difference between an 'award' and 'settlement' under the Industrial Disputes Act, 1947 (iii) 'Occupier' under the Factories Act, 1948 **(b)** Attempt any five of the following stating the relevant legal provisions and case law, if any: (i) Raman, while working in a factory, died a natural death following a cardiac arrest. The fellow workers refused to work until his family members are summoned and dead body is sent to his native place. Does it amount to strike on their part? (ii) Sonu and Raju are working as 'gardeners' to look after the garden attached to the bungalow provided by the company to the managing director. Can they be treated as 'workmen'? (iii) The management without holding any inquiry terminated the services of certain workmen who had merely participated in an illegal strike. Is the action of the management justified? (iv) Bhushan, who had put in 10 years of continuous service, was dismissed on the ground of misconduct and the amount of gratuity payable to him under the Payment of Gratuity Act, 1972 was forfeited in full. He was not given an opportunity of being heard and no show cause notice was served on him. He wants to institute a suit against the management. Will he succeed? (v) Whether an employee as a result of cessation of employment would automatically lose his right to continue as a member of a trade union registered under the Trade Unions Act, 1926? Decide. (vi) As per the provisions of the Industrial Employment (Standing Orders) Act, 1946, a workman was entitled to subsistence allowance on suspension. However, the certified standing orders provided that the workman has to mark his attendance during the suspension to claim subsistence allowance. The workman argued that he could not be compelled to attend the office during the period of suspension. Decide (vii) Bahadur was appointed as an apprentice under the Apprentices Act, 1961. After the successful completion of training, he asked the employer to provide him a regular job in the industrial establishment. The employer refused. Can Bahadur seek intervention of the court to obtain relief? (viii) Zenith Industries Ltd., terminated the services of five workmen on account of retrenchment. Their names were displayed on the notice board of the company. Does the action of the management amount to a valid retrenchment under the Industrial Disputes Act, 1947? (10 + 15 = 25 marks)

June - 2004

Answer 6 questions including Q No. 1 and 7, which are compulsory.

Q 1 With reference to the relevant legal enactments, write notes on any five of the following: **(i)** Powers of the MRTP Commission with respect to trying of suits. **(ii)** Misleading advertisements **(iii)** Foreign security **(iv)** Restrictions on the acceptance of foreign hospitality **(v)** Environmental clearances for setting up industrial projects **(vi)** Rights of co-owners of patents (3 x 5 = 15 marks).

Q 2 (a) What is meant by 'effective steps' under the Registration and Licensing of Industrial Undertakings Rules, 1952? **(b)** A contract entered into by an industrial undertaking prior to taking over its management and control by the Central Government with a third party is found detrimental to the interests of the

undertaking. What is the remedy against such a contract? **(c)** The complainants, husband and wife, kept Rs. 20 lakh in a fixed deposit with a nationalized bank. The complainants exercised their right to take back the amount before the expiry of the period of deposit. The bank declined to allow them to withdraw the amount stating that the husband was a guarantor on behalf of Regent Ltd. for the repayment of outstanding dues to the tune of Rs. 2 crore and that he was jointly and severally bound and liable to pay the outstanding dues to the bank. Examine the stand taken by the bank. **(d)** Ram Lakhan & Co. entered into an agreement relating to a restrictive trade practice with a dealer. It is exempt from compulsory registration under the Monopolies and Restrictive Trade Practices Act, 1969. Both parties were, however, interested in getting the said agreement registered. Their application was not entertained by the Director General of Investigation and Registration. Advise the applicants (2+5+4+4 = 15 marks).

Q 3 (a) With reference to the relevant provisions of the Foreign Exchange Management Act, 1999, advise on the following : (i) A person resident in India proposes to retain foreign currency notes acquired during a visit to a place outside India. (ii) A partnership firm, registered in India, is intending to invest in foreign concerns engaged in similar professional activities (iii) A public limited company interested to send machinery outside India on lease terms (iv) A person resident outside India intends to seek remittance of sale proceeds of a security of a company incorporated in India **(b)** Write a brief note on the impact of money laundering on the economic development of a country. **(c)** Gabbar is a local level leader of a regional political party in Haryana. He received a sum of US \$ 5,000 as an agent of a foreign source in relation to a transaction made by the foreign source with the Government of Haryana. Did he contravene the provisions of the Foreign Contribution (Regulation) Act, 1976? Refer to relevant provisions (8+4+3 = 15 marks).

Q 4 (a) State the absolute grounds for refusal of registration of trade marks under the Trade Marks Act, 1999 **(b)** What are the acts, which are not considered to be amounting to infringement under the Patents Act, 1970? **(c)** Mention the powers of the Copyright Societies under the Copyright (Amendment) Act, 1994 (5 x 3 = 15 marks).

Q 5. With reference to the provisions of the Consumer Protection Act, 1986, decide the following, giving reasons in support of your answer: **(i)** Anju boarded an Express Train at a station in Tamil Nadu to go to Delhi on some professional work. She was carrying with her a suitcase in which there were some research material and cash of Rs. 10,000. She complained to the travel ticket examiner that a stranger without reservation had entered into the compartment and despite protest from her and other co-passengers, the stranger occupied the berth and the travel ticket examiner did not do anything to de-train the stranger. When Anju woke up at 2.00 a.m. the next day, to her surprise, she found that her suitcase was ransacked, and important documents and cash were missing. She alleged that both travel ticket examiner and the guard were unwilling to receive her complaint and, therefore, she had registered an FIR with the police at Delhi. And afterwards she filed a case before the District Consumer Forum, Delhi. Whether the railways are liable to pay the damages to Anju? **(ii)** A dealer in precious stones and gems had sent four parcels of gems by registered post duly insured to a consignee in America, but the parcels did not reach the destination. The investigation revealed that the parcels were either lost in transit or were stolen. The postal authorities admitted their liabilities and made payment of postal charges in respect of each parcel. The insured agreed to settle the claim. However, he insisted that the payment of the insured amount should

be made in US dollars. The insurer denied their liability to pay in dollars to the dealer. The dealer proceeded against the insurance company before the National Consumers Disputes Redressal Commission. Will he succeed? **(iii)** After Ranjit, a passenger of air-travel, occupied his seat in the air-craft, an announcement was made that his luggage was lying on the ground unidentified and that he should disembark to identify it. According to Ranjit, he moved towards the rear door, and finding that the step ladder was attached to the rear door, he stepped out onto the stair case, but before he could put his entire body weight on the stair case, the ladder was suddenly removed and as a result, he fell down on the ground and sustained bodily injuries. He filed a case for compensation of Rs. 10 lakh but the airlines was willing to pay only Rs. 40,000 under its rules framed under the Carriage by Air Act, 1972. Will he succeed for the higher amount? (5 x 3 = 15 marks)

Q 6 (a) State the provisions of the National Environment Tribunal Act, 1995 relating to compensation for death, injury to a person and damage to property and environment. **(b)** Discuss the offences and penalties prescribed under the Environment (Protection) Act, 1986 **(c)** Mention the salient features of the Water (Prevention and Control of Pollution) Cess Act 1977 (5 x 3 = 15 marks).

Q 7 (a) Discuss any two of the following : (i) Industrial discipline (ii) 'Temporary partial disablement' and 'permanent partial disablement' under the Workmen's Compensation Act, 1923. (iii) Voluntary reference of disputes to arbitration **(b)** Attempt any five of the following stating the relevant legal provisions and case law, if any: (i) Sam, an employee of Saurabh Ltd., tendered his resignation from the services of the company with effect from 1st July, 2003. The management of the company immediately accepted his resignation and this fact was known to Sam. But the communication of acceptance of his resignation was sent to Sam after 13 days from the date of receipt of his resignation. Meanwhile, on 9th July, 2003, Sam sent a fax message to Saurabh Ltd. withdrawing his resignation (1) What is the date of acceptance of Sam's resignation letter? (2) Whether the employer should take cognizance of the withdrawal letter of Sam and he be allowed to resume his duties in Saurabh Ltd.? (ii) An employed person has taken a loan of Rs. 2 lakh from a co-operative society approved by the government. The employer makes a deduction of 80% of wages payable to him in a wage period towards repayment of the loan. Is the action of the employer valid? (iii) Raghav was retrenched from service and the reason assigned to him was that he had become an economic surplusage. Is the action of the employer justified? (iv) A cart-man was engaged by a rice mill to carry rice bags from the mill to railway station. The cart-man met with an accident on a public road while returning back and died. The rice mill owner claimed that there was no need to pay compensation as per section 12, 12(1) and 12(4) of the Workmen's Compensation Act, 1923. Will he succeed? (v) Gomzi was working as a contract labour in an undertaking. The contractor is very erratic in making payment of wages to him. Can Gomzi ask the owner of the undertaking to make payment of wages in full and within the prescribed period? (vi) Raju is an employee in an establishment governed by the Employees' State Insurance Act, 1948. His principal employer defaults in making his contribution to the ESI Fund resulting in Raju becoming disentitled to the benefits under the Act. What is the remedy available to him? (vii) There is an industrial dispute pending before the conciliation officer. The employer makes changes in the conditions of service of the workmen in respect of the matters connected with the pending industrial dispute, without the permission of the conciliation officer but the alterations are not to the prejudice of the workmen. Is the action of the employer justified and legal? (viii) Sonu is a member of a trade union registered under the Trade Unions Act, 1926. He resigns from the said trade union to join

another registered trade union in the same factory. He writes to the secretary of the trade union that the amounts contributed to the general funds of the union may be refunded to him. Will he succeed? (10+15 = 25 marks)

ICSI - Intermediate New Syllabus

Economic, Labour and Industrial Laws

December - 2003

[Paper of re-examination. The re-examination was conducted on 18-1-2004]

Q 1. With reference to the relevant legal enactments, write notes on any five of the following: **(i)** Tie-up arrangements **(ii)** Repatriation of sale proceeds **(iii)** Powers of the Central Government to revoke registration of an industrial undertaking **(iv)** Money laundering **(v)** Surrender of patents **(vi)** Control of noise pollution [3 x 5 = 15 marks].

Q 2 (a) What is an 'ancillary industrial undertaking'? **(b)** How is the value of plant and machinery including the imported machinery calculated? State briefly the items to be excluded in calculating the value of plant and machinery for an ancillary industrial undertaking. **(c)** On the basis of facts mentioned below, state whether the following amount to restrictive trade practices or unfair trade practices. Refer to relevant case law in support of your answer: (i) A firm of builders widely advertised for the sale of plots of land claiming that all urban facilities are available and inviting prospective buyers to visit the plots on Wednesdays and Fridays whereas the builders did not actually own any piece of land. (ii) Mrs. Swapna made an application for allotment of 200 equity shares in a limited company in response to the public issue made by the company. However, she neither got any allotment of shares nor the refund of the application money. A number of reminders were sent to the company which remained unattended [2+5+8 = 15 marks]

Q 3. (a) with reference to the relevant provisions of the Foreign Exchange Management Act, 1999, advise on the following: (i) A request has been received from a shareholder informing that she has shifted from Mumbai to London and that her latter address is to be recorded in the Register of Members maintained by the company. (ii) A non-resident shareholder of an Indian company wants to transfer his shares to another non-resident (iii) Ismile Bank Ltd., a banking company registered in Bangladesh, wants to establish a branch office in Kolkata. (iv) Sonali, a resident outside India, wants to transfer some of her foreign securities to Sadhna, who is a person resident in India. **(b)** State the salient features of the Competition Act, 2002. **(c)** A society engaged in educational programme for imparting knowledge of political nature has been offered foreign contribution by an NRI association in U.K. State with reasons whether the society can accept the offer under the Foreign Contribution (Regulation) Act, 1976 [8+4+3 = 15 marks]

Q 4. (a) Your client wants to know whether he can register 'Darjeeling' as a trade mark on soaps manufactured by him. Advise. **(b)** Manchanda, a publisher wants to obtain a license to translate and publish a literary work and seeks your advice about the relevant provisions of the Copyright Act, 1957.

Advise. (c) State the rights of co-owners under the Patents Act, 1970. Can a co-owner assign his rights on the patent? [5 x 3 = 15 marks]

Q 5. With reference to the provisions of the Consumer Protection Act, 1986, decide the following giving reasons in support of your answer: (i) Rosy made a deposit of Rs. 5 lakh with a cooperative housing society for the purchase of a flat to be built by it at a given site on the commitment to deliver completed flat in two years' time. On expiry of this period, the society offered her the option of money back without interest or booking of a flat of the same size on another plot situated at a distance of 2 km. The reason given for the fresh offer was some litigation on the title of the land which had hampered the progress of construction. She demanded money back with interest @ 12%. The society refused and Rosy approached the appropriate consumer forum for relief. Will she succeed? (ii) Could the parents of a minor child be regarded as 'consumer' under the Consumer Protection Act, 1986 for filing a complaint for 'deficiency in service' on behalf of a minor child who collapsed for wrong treatment by an untrained nurse in a nursing home? (iii) An income-tax payer went to a Government hospital for treatment where treatment is rendered free of charges. Being not satisfied with the treatment, he lodged a complaint with the Consumer Disputes Redressal Forum alleging deficiency in service and claiming compensation contending that the income-tax paid by him has been appropriated in providing the 'so-called free service' by the hospital. Will he succeed? [5 x 3 = 15 marks]

Q 6. (a) Discuss the powers of the Central Government to prevent, control and abate environmental pollution. **(b)** What are the restrictions on use of industrial plants under the Air (Prevention and Control of Pollution) Act, 1981? **(c)** Discuss the powers of the National Environment Appellate Authority [5 x 3 = 15 marks].

Q 7. (a) Discuss any two of the following: (i) Bonus linked with production or productivity. (ii) Payment of subsistence allowance. (iii) Lock-out. **(b)** Attempt any five of the following stating the relevant legal provisions and case law, if any: (i) Can the gratuity be withheld for non-vacation of service quarters by the retiring employees? (ii) Ace Ltd. notified its vacancies to the employment exchange and a list of 20 candidates was sent by the employment exchange. However, the company did not recruit them. Daisy, one of the candidates, filed a suit against the company for not recruiting her, even though her name was in the list sent by the employment exchange. She stated that it was obligatory for the company to make recruitment from the candidates sponsored by the employment exchange. Will she succeed? (iii) Are the workmen entitled to wages for the strike period? (iv) A workman was dismissed from service on 15th February, 2000 after a departmental inquiry for an act of misconduct. No bonus was paid to him for the accounting year during which he was dismissed. Subsequently, he was reinstated by the court with full back wages. Will he be entitled to claim bonus along-with full back wages? (v) Can the provident fund dues of an employee be attached in execution of a decree or order of the court in respect of any debt or liability incurred by him? (vi) Have the Government employees a fundamental or statutory right to go on strike? (vii) There is a cycle stand run by a private contractor in a public theatre premises. Whether the theatre owner will be liable as 'principal employer' for the payment of the ESI contributions in respect of cycle stand attendants? (viii) Whether a car driver engaged by the area manager of a bank for which allowance was given to him is a 'workman' under the Industrial Disputes Act, 1947 if the car was maintained at the bank's expenses?

[10 +15 (3 x5) = 25 marks].

ICSI - Intermediate New Syllabus

Economic, Labour and Industrial Laws

December - 2003

[This is old paper for which examination was held on 1-1-2004. This paper was cancelled and fresh examination was held on 18-1-2004. This old paper is given for information as, in any case, this paper is also based on the syllabus and will be useful to students for guidance].

Answer 6 questions including question Nos. 1 and 7 which are compulsory.

Q 1. Write notes on any five of the following: **(i)** 'Carry on business' (COB) licence to small-scale business. **(ii)** 'Organisations of political nature' under the Foreign Contribution (Regulation) Act, 1976. **(iii)** 'Person resident in India' under the Foreign Exchange Management Act, 1999. **(iv)** Powers of the MRTP Commission to order preliminary investigation **(v)** 'Well-known trade mark' under the Trade Marks Act, 1999. **(vi)** Agreements relating to restrictive trade practices which are not required to be registered under the Monopolies and Restrictive Trade Practice Act, 1969 [3 x 5 = 15 marks].

Q 2 (a) Is serving of a notice on an industrial undertaking necessary before taking over its management by the Central Government under section 18AA of the Industries (Development and Regulation) Act, 1951? Discuss. **(b)** "The decision whether a trade practice is restrictive or not has to be arrived at by applying the rule of reason and not on the doctrine that any restrictions as to area or price will *per se* be a restrictive trade practice" – Discuss. **(c)** State, with reasons, whether the following practices are prohibited under the Monopolies and Restrictive Trade Practices Act, 1969 - (i) Nescafe shake contest requires that the entry form should be accompanied with inner seal of the fifty grams jar or any empty fifty grams refill pack (ii) A cinema theatre depicted obscene posters outside the hall, but the film screened did not have those obscene scenes (iii) A clause in the agreement provided that the distributor shall not export or resell for export the products manufactured by the manufacturer without the latter's written permission [4+5+6 = 15 marks]

Q 3(a) Rohit is a correspondent with a vernacular newspaper in Delhi. He is in receipt of \$ 500 from a New York magazine towards remuneration for having contributed an article on tourism industry in India. Has he violated the provisions of the Foreign Contribution (Regulation) Act, 1976 ? Discuss. **(b)** With reference to the provisions of the Foreign Exchange Management Act, 1999, advise on the following: (i) ABC Ltd. wants to make direct investment in a joint venture in England. (ii) Rama Ltd. issues shares to its employee Ganesh, a person resident outside India, under the Employees Stock Option Scheme. (iii) Maha Lakshmi Bank Ltd. wants to remit the sale proceeds of shares to the seller of shares resident outside India (iv) Damodaran, a person resident outside India, is interested in establishing branch office of his company in India. (v) Romeo intends to export goods on deferred payment terms [5+10 = 15 marks].

Q 4. (a) Mention the provisions of the Trade Marks Act, 1999 regarding infringement of registered trade

marks. **(b)** What are the grounds under which High Court can revoke a patent sealed under the Patents Act, 1970? **(c)** Enumerate the conditions for copyright protection to the works of international organisations under the Copyright Act, 1957 [5+6+4 = 15 marks]

Q 5. (a) A company was to allot debentures on or before 31st January, 2002. However, for certain reasons the company could not do so. The debentures were in fact allotted on 30th June, 2002. One of the debenture holders, who intended to borrow from a bank by pledging these debentures, could not do so. He wants to claim the compensation for delayed allotment. Will he succeed? **(b)** Prabhu entrusted goods worth Rs. 10 lakh to a carrier for being transported to the consignee. The goods were not delivered to the consignee. These goods were, however, insured. The insurer paid to Prabhu the cost of the goods and took a letter of consignment from the consignor and also the special power of attorney. On the basis of these documents, can the insurer lodge a complaint before the consumer forum for recovering the cost of the goods paid by him from the transporter? **(c)** Sudarshan purchased a power tiller on 21st April, 1988 from Swasthik Agro Machinery Corporation through its dealer in Chennai. The machinery gave trouble within the warranty period itself. Despite his repeated requests for repair and replacement of certain parts, the seller did not respond. Sudarshan then filed a complaint for relief in the consumer forum on 16th June, 1994. The corporation did not specifically deny its liability to repair and replace the machine. It, however, pleaded that the complaint was barred by limitation by virtue of section 24A of the Consumer Protection Act, 1986 and that the consumer forum did not have power to admit the complaint. Will Sudarshan succeed in his complaint against the corporation? [5+5+5 = 15 marks]

Q 6. (a) Mention the provisions relating to environmental clearance and location of industries contained in the Environment (Protection) Rules, 1986. **(b)** Enumerate the salient features of the Noise Pollution (Regulation and Control) Rules, 2000. **(c)** Mention the provisions of the Water (Prevention and Control of Pollution) Act, 1974 relating to State Pollution Control Board's powers to make application to courts and give directions. [5+4+6 = 15 marks]

Q 7. (a) Discuss any two of the following: (i) Unfair labour practices on the part of workmen under the Industrial Disputes Act, 1947. (ii) Annual leave with wages under the Factories Act, 1948. (iii) Concept of 'industrial discipline'. **(b)** Attempt any five of the following stating the relevant legal provisions and case law: (i) Two workers were employed on daily wage basis as night watchmen. As per the contract, their employment was to come to an end on completion of work. When their services were not required, their services were terminated and they were not paid any retrenchment compensation. Are the workers entitled to it under the Industrial Disputes Act, 1947? (ii) An agricultural company employed 10 persons about 2 years back without notifying the vacancies under the Employment Exchanges (Compulsory Notification of Vacancies) Act, 1959. Is the employer liable for contravention? (iii) Two partners of a partnership firm are taking salaries from the firm. Will they be treated as 'employees' under the Employees' Provident Funds and Miscellaneous Provisions Act, 1952? (iv) A company recruits trainees who will not be paid anything in cash. However, the company will provide for their board and lodging. Will they be covered under the Employees' State Insurance Act, 1948? (v) Gopal, an accountant in a factory for the last 8 years, was dismissed from the service as he was found involved in misappropriation of money. The employer forfeited full gratuity payable to him. Is the action of employer valid? (vi) Raju, aged 17 years, is a member of a registered trade union. He is very popular with his colleagues who want

to put up his candidature for secretary's post of the trade union. Can Raju contest the trade union's elections? (vii) A contractor, having a valid license under the Contract Labour (Regulation and Abolition) Act, 1970, supplies 20 persons to Gamma Ltd. for completion of a project work spread over 20 days. Who is liable to make them payment of wages? (viii) Ramu was working as a carpenter in an establishment. His left arm got amputated from elbow in an injury arising out of and in the course of employment. Is he entitled to compensation for total disablement under the Workmen's Compensation Act, 1923? [10+15 = 25 marks]

ICSI - Intermediate New Syllabus

Economic, Labour and Industrial Laws

June - 2003

Answer 6 questions including question Nos. 1 and 7 which are compulsory.

Q 1. Write notes on any five of the following: **(i)** Restrictions on the acceptance of foreign hospitality under Foreign Contribution (Regulation) Act, 1976. **(ii)** Trade practice **(iii)** Powers of the MRTP Commission to punish for contempt under the Monopolies and Restrictive Trade Practices Act, 1969. **(iv)** Environmental clearances for setting up an industrial project under the Industries (Development and Regulation) Act, 1951 **(v)** Powers of the central government for the protection of security of India under the Patents Act, 1970 **(vi)** 'Certification trade mark' under the Trade Marks Act, 1999. [3 x 5 = 15 marks]

Q 2. (a) Write a brief note on 'special economic zones'. **(b)** What is the effect of 'notified order' issued by the central government authorizing the taking over of the management of an industrial undertaking under the Industries (Development and Regulation) Act, 1951? **(c)** Rajeev suffered a loss of Rs. 10,000 on account of an unfair trade practice indulged by Bigie Ltd. He instituted proceedings under the Monopolies and Restrictive Trade Practice Act, 1969 and the MRTP Commission granted the compensation prayed for. The company wants to prefer an appeal against the MRTP Commission's order. Advise the company as to how it should proceed **(d)** On the basis of facts mentioned below, state whether these amount to restrictive trade practices or unfair trade practices : (i) A shoe manufacturer is offering its products to its customers at price less than its cost of production (ii) A pharmaceutical company producing certain health care products also market anti-typhoid capsules manufactured by another company under its own brand name. It maintains that the manufacture by the other company was strictly in accordance with the technical know-how and quality control laid down by it. [3+4+4+4 = 15 marks]

Q 3 (a) Help Line, a voluntary organisation providing succour to the destitutes, has been offered a grant of US \$ 5,000 by a trust in the USA. What are the circumstances under which the central government can prohibit Help Line from receiving the said contribution? Is the central government required to serve a show-cause notice before issuing the order? **(b)** Advise on the following with reference to the relevant provisions of the Foreign Exchange Management Act, 1999: (i) Ramesh, a person resident outside India, has sold shares in India and is interested in repatriating the sale proceeds. (ii) Suresh, a person resident in India, wants to acquire immovable property outside India. (iii) Mega Ltd. has contravened the provisions of the Foreign Exchange Management Act, 1999. The company secretary has been held liable for the

contravention. (iv) Rama Ltd., a company incorporated in India, is required to issue shares on rights basis to Dharmendra, a person resident outside India. (v) Jamil and Co., a partnership firm, registered under the Indian Partnership Act, 1932 and engaged in rendering professional services, is interested in making investment in a foreign partnership concern engaged in similar professional services. [5+10 = 15 marks]

Q 4. (a) Describe the provisions of the Patents Act, 1970 relating to the grounds for opposition to the grant of a patent. **(b)** Mention the provisions of the Trade Marks Act, 1999 regarding the assignment and transmission of registered trade marks. **(c)** What are the circumstances under which a copyright is deemed to be infringed under the Copyright Act, 1957? [5+5+5 = 15 marks]

Q 5. With reference to the provisions of the Consumer Protection Act, 1986, decide the following giving reasons in support of your answer: **(i)** Sohan sent all relevant documents in an envelope regarding consignment of goods to a buyer in the USA through Fast Service Couriers. The documents did not reach the buyer, as a consequence of which the buyer could not take delivery of the goods. By the time the duplicate copies of the documents had been received by the buyer, the season of the goods was over. He claimed that he had suffered a loss of US \$ 5,000 as a result of the negligence of the courier. The State Commission ordered the payment to be made by the Fast Service Couriers, but the National Commission in appeal reversed the order and ordered payment of US \$ 100 only as per the receipt issued by the Fast Service Couriers to the consignor at the time of the dispatch of the letter. Advise Sohan. **(ii)** Mahesh purchased a machine from Astute Ltd. to operate it himself for earning his livelihood. He took the assistance of a person to assist him in operating the machine. The machine developed fault during the warranty period. He filed a claim in the consumer forum against the company for deficiency in service. Astute Ltd. alleged that Mahesh did not operate the machine himself but had appointed a person exclusively to operate the machine. Will Mahesh succeed? **(iii)** Pillai purchased a car by taking a loan from Kerala Cooperative Bank Ltd. and gave post-dated cheques to the bank not only in respect of repayment of loan installments but also of premium of insurance policy for two succeeding years. On the expiry of the policy, the bank failed to get the policy renewed. In the meantime, Pillai's car met with an accident. Will Pillai succeed in getting a claim against the bank? [5+5+5 = 15 marks]

Q 6. (a) Mention the provisions relating to environmental audit contained in the Environment (Protection) Rules 1986. **(b)** A major leakage of a poisonous gas in an industrial plant caused death of 5 workmen besides injuring 15 others. The 'occupier' of the industrial plant pleaded that he had exercised all due diligence to prevent the escape of the gas and that the leak was attributable to an act of God. Will he succeed? Refer to decided case law in support of your answer **(c)** Mention the provisions of the Water (Prevention and Control of Pollution) Act, 1974 relating to restrictions on new outlets and new discharges [4+6+5 = 15 marks].

Q 7 (a) Discuss any two of the following : (i) Procedure for certification of draft standing orders under the Industrial Employment (Standing Orders) Act, 1946. (ii) 'Allocable surplus' under the Payment of Bonus Act, 1965. (iii) Workers participation in management. **(b)** Attempt any five of the following stating the relevant legal provisions and case law : (i) An employer orders *ex parte* dismissal of a workman for unauthorized absence without leave for more than 8 days. Is the order valid? (ii) A laboratory assistant consumes a chemical during his night shift and dies. The chemical was not used in the laboratory. Will

his wife succeed in claiming compensation? (iii) The increment of an employee was due in April. He would have received an additional amount of Rs. 100 in the wages to be paid in May. The employer withheld the increment. Does it amount to deduction from wages under the Payment of Wages Act, 1936? (iv) Sun-cured tobacco leaves are subjected to processes of moistening, stripping, breaking up, adaption, packing, etc., with a view to transporting them to company's main factory for their use in manufacturing cigarettes. Does it amount to a 'manufacturing process' under the Factories Act, 1948? (v) Mohan meets with an accident on a public road on his way to the place of employment. Does it amount to 'employment injury' entitling him to benefits under the Employees' State Insurance Act, 1948? (vi) Sambha is the President of a registered trade union in a factory. He is a very influential leader and has the support of a majority of the workers in espousing trade disputes. He is in the habit of reporting late for duty and picking up quarrels with the supervisor. The management punishes him for breach of discipline. He files a suit claiming immunity under the Trade Unions Act, 1926. Will he succeed? (vii) The services of a bus conductor were terminated on the ground of weak eye-sight. Does it amount to a valid ground for retrenchment under the Industrial Disputes Act, 1947? (viii) Raju, a contract labour, engaged for keeping industrial premises clean, has been engaged for 270 days in a year. He approaches the employer to absorb him in the establishment. Is the employer under an obligation to absorb the contract labour under the Contract Labour (Regulation and Abolition) Act, 1970? [10+15 = 25 marks].

ICSI - Intermediate New Syllabus

Economic, Labour and Industrial Laws

December - 2002

Answer 6 questions including question Nos. 1 and 7 which are compulsory.

Q. 1 Write notes on the following : **(i)** 'Current account transactions' under the Foreign Exchange Management Act, 1999. **(ii)** 'Undertakings' and 'associations' outside the purview of the Monopolies and Restrictive Trade Practices Act, 1969. **(iii)** Impact of noise pollution on the health of people. **(iv)** 'Basic rights of consumers' as provided under the Consumer Protection Act, 1986. **(v)** 'Liability for compensation' under the National Environment Tribunal Act, 1995. [3 marks each]

Q. 2 (a) Write a short note on 'Industrial Entrepreneurs Memorandum' (IEM). **(b)** Explain whether it is necessary for the central government to serve a notice for takeover of an industrial undertaking before passing an order of takeover without investigation. **(c)** On the basis of facts mentioned below, state whether these amount to restrictive trade practices or unfair trade practices. Refer to relevant case law in support of your answer: (i) A company manufacturing adhesives approached the principals of some schools to arrange a contest among the school students for making toys. The participating students were required to use only adhesives manufactured by that company. The company had offered attractive prizes and there was no price increase in its product. (ii) Superfine Ltd. was engaged in the manufacture, sale and distribution of refrigerators and washing machines. The agreement with the dealer provided that he would sell these products only to consumers and shall not knowingly re-sell them to any person/company who was not a consumer and was purchasing them for the purpose of resale. It also

provided that a dealer should re-sell the products directly to consumers (end users) residing in the areas mentioned in the agreement. [3+4+8 = 15 marks]

Q. 3 (a) Two persons applied for registration of the same trade mark at the same time. In such a case, how will the proprietorship of the trade mark be decided? **(b)** An organisation of a political nature is interested in receiving foreign contribution from a trust in England. How should it proceed? **(c)** Advise on the following with reference to relevant provisions of the Foreign Exchange Management Act, 1999: (i) Rekha, an NRI, is interested in purchasing shares of an Indian company. (ii) XYZ Ltd., a company incorporated in India, issues shares to persons resident outside India under the Employees Stock Option Scheme. (iii) Vaibhav, an Indian citizen, is keen to possess foreign coins. (iv) Rohit, a person resident in India, inherits immovable property situated outside India from a person who was resident outside India. [3+4+8 = 15 marks]

Q. 4 (a) Write a note on the concept of 'intellectual property rights'. **(b)** Explain the meaning of 'collective trade mark'. **(c)** State, with reason, whether the following acts amount to infringement: (i) Importation of patented products by any person from a person duly authorized by the patentee to sell or distribute the product. (ii) where a trade mark is registered subject to conditions or limitations, the use of that trade mark in a manner outside the scope of registration. (iii) where any person, without a license granted by the owner of the copyright or Registrar of Copyrights, does anything for which the exclusive right is conferred upon the owner of the copyright. [5+4+6 = 15 marks]

Q. 5 With reference to the provisions of the Consumer Protection Act, 1986, decide the following giving reasons in support of your answer: **(i)** Sukh Dukh Ltd. dispatched certain consignments of goods by road through Fastrack Roadways Ltd. The goods were unloaded and stored in a godown en-route on the suggestion of consignee. A fire broke out in the neighbouring godown spread to the godown and goods were destroyed. The Fastrack Roadways Ltd. claimed that there was neither negligence nor deficiency in service on their part and goods were being carried at 'owner's risk' and since no special premium was paid, they were not responsible for the loss caused by fire. Whether Fastrack Roadways Ltd. is liable to pay damages to consignor? **(ii)** Life Insurance Corporation (LIC) formulated a scheme called 'salary saving scheme' under which employees of an organisation could buy an insurance policy. Premium due on each policy was collected by the employer from the salary of the employee and sent to LIC. The LIC did not issue any separate receipt to employees nor did it issue any premium notice. When the widow of the deceased employee made a claim to LIC on the death of her husband, the LIC repudiated the claim on the ground that four instalments of premium had not been paid. The widow has approached the consumer forum for redressal. Is the LIC liable for deficiency in service? **(iii)** Raman booked a ticket from Delhi to New York by Lufthansa Airlines. The airport authorities in New Delhi did not find any fault in his visa and other documents. However, at Frankfurt airport, authorities instituted proceedings of verification because of which Raman missed his flight to New York. After necessary verification, Raman was able to reach New York by the next flight. The airline authorities tendered apology to Raman for the inconvenience caused to him and also paid as goodwill gesture a sum of Rs. 5,000. Raman intends to institute proceedings under the Consumer Protection Act, 1986 against the Lufthansa Airlines for deficiency in service. Will he succeed? [5 marks each].

Q. 6 (a) Briefly explain the major provisions of the Public Liability Insurance Act, 1991. **(b)** Discuss briefly the functions of environmental laboratories. **(c)** Is an application for compensation in a pollution case maintainable under Article 32 of the Constitution of India? Refer to decided case law. [5 marks each]

Q. 7 (a) Discuss any two of the following: (i) 'Occupier' in the case of a company under the Factories Act, 1948. (ii) 'Lay-off' and 'lock-out'. (iii) Immunity from criminal proceeding to an office-bearer of a registered trade union. **(b)** Attempt any five of the following stating the relevant legal provisions and case law: (i) When does subsistence allowance become payable to an employee? (ii) Under what circumstances can provident fund payable to an employee be attached in execution of a decree of the court? (iii) When do the model standing orders become applicable? (iv) Contributory service of Prasanna is 33 years. His pensionable salary is Rs. 5,000 per month. Calculate his pension amount as per the provisions of the Employees Provident Funds and Miscellaneous Provisions Act. 1952. (v) Sanjay, a private contractor, runs a canteen and a cycle stand in Asha Theatre. Decide if theatre owner is liable as principal employer for the payment of ESI contribution in respect of workers employed in canteen/cycle stand. (vi) Are the workers entitled to wages for the strike period which is declared to be legal? (vii) Can an apprentice be engaged under another employer for the unexpired period of apprenticeship? [10+15 = 25 marks]

