

## **DISCLAIMER**

The Suggested Answers hosted in the website do not constitute the basis for evaluation of the students' answers in the examination. The answers are prepared by the Faculty of the Board of Studies with a view to assist the students in their education. While due care is taken in preparation of the answers, if any errors or omissions are noticed, the same may be brought to the attention of the Director of Studies. The Council of the Institute is not in anyway responsible for the correctness or otherwise of the answers published herein.

## PAPER – 2 : BUSINESS LAWS, ETHICS AND COMMUNICATION

Question No. 1 is compulsory.

Attempt any **five** questions from the remaining **six** questions.

### Question 1

- (a) Mr. D started "Self-Service" system in his shop. Mr. A entered the shop, took a basket and after taking article of his choice into the basket reached the cashier for payments. The cashier refused to accept the price. Can Mr. D be compelled by Mr. A to sell the said article? Decide. (5 Marks)
- (b) Explain the provisions relating to powers and functions of an inspector under the Payment of Bonus Act, 1965. (5 Marks)
- (c) State with reasons whether the following statements are correct or incorrect:
  - (i) Issue of debenture with voting rights is not permissible.
  - (ii) If a registerable charge is not registered, the debt is not recoverable. (5Marks)
- (d) State suggested guidelines to handle communication ethics dilemmas. (5Marks)

### Answer

- (a) This problem is related to 'Invitation to Offer' given in the Indian Contract Act, 1872. The Act identify the difference between the 'Offer' and 'Invitation to Offer'.

An offer is the final expression of willingness by the offer or to be bound by his offer and the other party chooses to accept it, but where a party, without expressing his final willingness, proposes certain terms on which he is willing to negotiate, he does not make an offer, but invites only the other party to make an offer on those terms. This is the basic distinction between offer and invitation to offer.

Thus, on the basis of above explanation, the display of articles with a price in it in a self-service shop is merely an invitation to offer. It is in no sense an offer for sale, the acceptance of which constitutes a contract. In this case, Mr. A by selecting some articles and approaching the cashier for payment simply made an offer to buy the articles selected by him. If the cashier does not accept the price, the interested buyer cannot compel him to sell. [*Fisher V. Bell (1961) Q.B. 394 Pharmaceutical society of Great Britain V. Boots Cash Chemists*].

Thus, accordingly, Mr. A cannot compel Mr. D to sell the Articles.

- (b) **Powers and functions of the Inspectors:** Section 27 of the Payment of Bonus Act, 1965 provides that the Appropriate Government may, by notification in the Official Gazette, appoint such persons as it thinks fit to be inspectors for the purposes of this Act and may define the limits within which they shall exercise jurisdiction.

An inspector has to ascertain whether any of the provisions of the Act has been complied with. And for this purpose, he may:-

- (i) Require an employer to furnish any information as he may consider necessary;
- (ii) At any reasonable time and with assistance he may enter any establishment or any premises and require any one to produce before him for examination of any account books, register and other documents relating to the employment of persons or the payment of salary or wage or bonus in the establishment;
- (iii) Examine, with respect to any matter relevant to any of the purpose aforesaid, the employer, his agent or servant or any other person found in charge of the establishment or any premises connected therewith or any person whom the inspector has reasonable cause to believe to be or to have been reasonable cause to believe to be or to have been an employee in the establishment;
- (iv) Make copies of or take extract from, any book, register or other document maintained in relation to the establishment; and
- (v) Exercise such other powers as may be prescribed.

The inspector is deemed to be a public servant under the Indian Penal Code. Any person, whom an Inspector calls upon to produce any accounts, book, register or other document or to give information, shall be legally bound to do so.

However, the provision given under section 27 of the Act does not empower an inspector to require any banking company to furnish or disclose any statement or information or to produce or give inspection of, any of its books of accounts or other documents, which a banking company cannot be compelled to furnish, disclose, produce or give inspection of, under the specified section 34A of the Banking Regulation Act, 1949.

- (c) (i) The given statement is **Correct**.

**Reason:** As given under the section 117 of the Companies Act, 1956, no company can issue any debentures carrying voting rights at any meeting of the company, whether generally or in respect of any particular classes of business.

- (ii) The given statement is **Incorrect**.

**Reason:** As per the section 125 of the Companies Act, 1956, if any charge required to be registered is not so registered, it is void as against subsequent encumbrances as well as against the liquidator and creditors. This does not mean that the debt is not recoverable. So long as the company does not go into liquidation, the mortgage or charge is good and may be enforced.

- (d) Following are the guidelines to handle communication ethics dilemmas:

- (i) **Maintain candour:** Candour refers to truthfulness, honesty, frankness and one should stick to these elements while communicating with others.

- (ii) **Keep message accurate:** At the time of relaying information from one source to another, communicate the original message as accurately as possible.
- (iii) **Secrecy:** One has to maintain secrecy and confidence in communication. So one should not divulge such information to others
- (iv) **Ensure timeliness of communication:** The timing of messages can be critical. Delay in sending messages can be assumed unethical.
- (v) **Avoid deception:** Ethical communicators are always vigilant in their quest to avoid deception, fabrication, intentional distortion or withholding of information in their communication.
- (vi) **Confront unethical behaviour:** One must confront an unethical behaviour in order to ensure a consistent ethical view point.

### Question 2

- (a) *X is employed in ABC Ltd., a seasonal establishment. The factory was in operation for four months during the financial year 2010-11. X was not in continuous service during this period. However, he has worked for sixty days. Referring to the provisions of the Payment of Gratuity Act, 1972 decide whether X is entitled to gratuity payable under the Act. Would your answer be the same in case X works for 100 days?* (4 Marks)
- (b) *Distinguish between "Negotiability" and "Assignability".* (4 Marks)
- (c) *Can a company limited by shares or guarantee and having share capital reduce its share capital?* (4 Marks)
- (d) *Distinguish between 'Moral' and 'Ethics'.* (4 Marks)

### Answer

- (a) (i) As per the provision given under the section 2A of the Payment of Gratuity Act, 1972, where an employee is employed in a seasonal establishment and is not in continuous service for any period of one year or six months, there such an employee shall be deemed to be in continuous service under the employer for such period if he has actually worked for not less than seventy-five percent of the number of days on which the establishment was in operation during such period.

In the given problem, as per the above provision of the Act, X has worked only for sixty days that are less than 90 days ( 75% of 4 months) therefore, X shall not be eligible for getting any gratuity in first case.

In the second case, since X has worked for 100 days that are more than 75% of number of days therefore, he is entitled for gratuity.

**(ii) Difference between Negotiability and Assignability**

| S.No. | Basis                        | Negotiability                                                                                                                                             | Assignability                                                                                                                         |
|-------|------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------|
| (i)   | <b>Transfer of Right</b>     | Transferee acquires all the rights of a holder in due course                                                                                              | Assignee (transferee) does not acquire the right of a holder in due course but has only the right, title and interest of his assignor |
| (ii)  | <b>Notice</b>                | In negotiation, notice of transfer is not necessary. Party shall be liable to pay even without such notice.                                               | Notice of assignment must be served by the assignee on his debtor. Otherwise such an assignment is incomplete and ineffective         |
| (iii) | <b>Consideration</b>         | In negotiation, consideration is presumed                                                                                                                 | In assignment, consideration must be proved as in the case of any other contract                                                      |
| (iv)  | <b>Mode of transfer</b>      | Instrument may be negotiated either by delivery only in the case of "bearer" instrument, or by endorsement and delivery in the case of "order instrument" | Instrument may be transferred by a document to be reduced into writing and signed by the transferor                                   |
| (v)   | <b>Payment of Stamp duty</b> | Negotiation requires payment of stamp duty                                                                                                                | Assignability do not require payment of stamp duty                                                                                    |

(c) The provision given under the section 100 of the Companies Act, 1956, provides that a company, limited by shares or guarantee and having share capital, if so authorised by the articles, may by special resolution and with the confirmation of the Court, reduce its share capital in any of the following way:

- (i) By extinguishing or reducing the liability of members in respect of the capital not paid up,
- (ii) writing off or cancelling any paid-up capital which is in excess of the needs of the company,
- (iii) paying off any paid-up share capital which is in excess of the needs of the company,

Reduction in (ii) and (iii) may be made either in addition or without extinguishing or reducing the liability of the members for uncalled capital. Reduction of share capital may in reality take place in three forms, namely, (1) reducing the value of shares in order to absorb the accumulated losses suffered by the company without any payment to the shareholders; (2) extinction of liability of capital not paid; (3) paying off any paid-up share capital. Only in the circumstances referred to in (2) and (3) the interest of creditors involved.

(d) **Moral vs. Ethics:** Following are the points of difference between Moral and Ethics:

| S.No. | Moral                                                                    | Ethics                                                                                                                                                                                                                 |
|-------|--------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| (i)   | The word 'moral' is derived from Latin term 'mos' meaning custom         | The word 'Éthics' is derived from Ancient Greek term 'éthikos' meaning character                                                                                                                                       |
| (ii)  | Moral is defined as relating to principles of right and wrong            | Ethics defines the 'character' which is the essence of values and habits of a person or group. It covers the analysis and employment of concepts such as right and wrong, good and evil and acting with responsibility |
| (iii) | Morals are accepted from an authority (such as cultural, religious etc.) | Ethics are the personally accepted principles.                                                                                                                                                                         |
| (iv)  | Morals work on smaller scale than ethics and more reliably               | Ethics has a much wider scope                                                                                                                                                                                          |

### Question 3

- (a) Discuss in detail the guidelines for managing ethics in workplace. (8 Marks)
- (b) To remove the Managing Director, 49% members of A Ltd. submitted requisition for holding extra-ordinary general meeting. The company failed to call the said meeting and hence the requisitionists held the meeting. Since the Managing Director did not allow the holding of meeting at a registered office of the company, the said meeting was held at some other place and a resolution for removal of the Managing Director was passed. Examine the validity of the said meeting and resolution passed therein, in the light of the Companies Act, 1956. (4 Marks)
- (c) K is the wife of A. She purchased a saree on credit from B. B demanded the amount from A. A refused to make the payment. B filed a suit against A for the same amount. Decide in the light of provisions of the Indian Contract Act, 1872 whether B would succeed. (4 Marks)

**Answer****(a) Guidelines for Managing Ethics in Workplace:**

For the long term effectiveness of governance structures, employers, provide their work force with an effective framework and guiding principles of identity and address ethical issues as they arise. These guidelines for managing ethics in the work place may be summarized as follows:-

- (i) **Codes of conduct and ethics:** A code of ethics specifies the ethical rules of operation in an organization. It specify actions in the workplace and are general guides to decisions about those actions. *Examples* preferred style of dress, avoiding illegal drugs, following instructions of superiors, being reliable and prompt, maintaining confidentiality, not accepting personal gifts and so on
- (ii) **Establish open communication:** Instead of just creating and distributing an ethics policy, it is important that take the time to explain the reasons for the policy and review the guidelines and conduct formal or informal training to further sensitize employees to potential ethical issues.
- (iii) **Make ethics decisions in groups,** and make these decisions public. This usually produces better quality decisions by including diverse interests and perspectives, and increases the credibility of the decision process and outcome by reducing suspicion of unfair bias.
- (iv) **Integrate ethics management with other management practices:** When developing the values statement during strategic planning, include ethical values preferred in the workplace.
- (v) **Use of cross-functional teams:** When developing and implementing the ethics management program. It's vital that the organization's employees feel a sense of participation and ownership in the program if they are to adhere to its ethical values.
- (vi) **Appointing an ombudsperson:** The ombudsperson is responsible to help coordinate development of the policies and procedures to institutionalise moral values in the workplace.
- (vii) **Creating an atmosphere of trust** is also critical in encouraging employees to report ethical violations they observe. This function might best be provided by an outside consultant, e.g., lawyer, clergyperson, counsellor etc.
- (viii) **Regularly update policies and procedures** to produce behaviours preferred from the code of conduct, job descriptions, performance appraisal forms, management-by-objectives expectations, standard forms, checklists, budget report formats, and other relevant control instruments to ensure conformance to the code of conduct.
- (ix) **Include a grievance policy for employees** to use to resolve disagreements with supervisors and staff.

(x) **Set an example from the top:** Executives and managers not only need to endorse strict standards of conduct, but should also ensure that they follow it themselves. They must stress to employees that dishonest or unethical conduct will not be tolerated.

(b) **Extraordinary meeting:** Every shareholder of a company has a right to requisition for an extraordinary general meeting. He is not bound to disclose the reasons for the resolution to be proposed at the meeting. [*Life Insurance Corporation of India vs. Escorts Ltd.*, (1986) 59 Comp. Cas. 548].

Section 169 of the Companies Act, 1956 contains provisions regarding holding of extraordinary general meetings. It provides that if directors fail to call a properly requisitioned meeting, the requisitionists or such of the requisitionists as represent not less than 1/10<sup>th</sup> of the total voting rights of all the members (or a majority of them) may call a meeting to be held on a date fixed within 3 months of the date of the requisition.

Where a meeting is called by the requisitionists and the registered office is not made available to them, it was decided in *R. Chettiar v. M. Chettiar* there the meeting may be held any where else.

Further, resolutions properly passed at such a meeting, are binding on the company.

Thus, in the given case, since all the above mentioned provisions are duly complied with, the meeting with the resolution removing the Managing Director shall be valid.

(c) **Agency:** Problem asked in the question is based on the provisions related with the modes of creation of agency relationship under the Indian Contract Act, 1872. Agency may be created by a legal presumption in a case of cohabitation by a married woman (i.e. wife is considered as an implied agent, of her husband). If wife lives with her husband, there is a legal presumption that a wife has authority to pledge her husband's credit for necessities. But the legal presumption can be rebutted in the following cases:

- (i) Where the goods purchased on credit are not necessities.
- (ii) Where the wife is given sufficient money for purchasing necessities.
- (iii) Where the wife is forbidden from purchasing anything on credit or contracting debts.
- (iv) Where the trader has been expressly warned not to give credit to his wife.

If the wife lives apart for no fault on her part, wife has authority to pledge her husband's credit for necessities. This legal presumption can be rebutted only in cases (iii) and (iv).

Applying the above conditions in the given case 'B' will succeed. He can recover the said amount from 'A' if sarees purchased by 'K' are necessities for her.

#### Question 4

- (a) Discuss various steps required for e-filing. (8 Marks)
- (b) What do you understand by 'Quasi-Contract' ? Discuss. (4 Marks)

(c) Define material alteration under Negotiable Instruments Act, 1881 and give examples.

(4 Marks)

**Answer**

**(a) Various steps required for e-filing:**

1. Select a category to download an e-Form from the MCA portal i.e. [www.mca.gov.in](http://www.mca.gov.in)
2. Read the related instruction kit to familiarize with the procedures
3. Fill the downloaded e-Form.
4. Attach the necessary documents as attachments.
5. Use the Pre-fill button in e-Form to populate the greyed out portion by connecting to the Internet.
6. The applicant or a representative of the applicant needs to sign the document using a digital signature.
7. Click the Check Form button available in the e-Form. System will check the mandatory fields, mandatory attachment(s) and digital signature(s).
8. Upload the e-Form for pre-scrutiny. The system will verify (pre-scrutinise) the documents. In case of any inadequacies, the user will be asked to rectify the mistakes before getting the document ready for execution (signature).
9. The system will calculate the fee, including late payment fees based on the due date of filing, if applicable.
10. Payments may be made through appropriate mechanisms - electronic (credit card, Internet banking) or traditional means (at the bank counter through challan). The MCA through General Circular dated 9<sup>th</sup> March, 2011 has decided to accept payments of value upto ₹ 50,000 only in electronic mode w.e.f 27<sup>th</sup> March, 2011
  - (a) Electronic payments can be made at the Virtual Front Office (VFO) or at Physical Front Office (PFO)
  - (b) If the user selects the traditional payment option, the system will generate 3 copies of pre-filled challan in the prescribed format. Traditional payments through cash, cheques can be done at the designated network of banks using the system generated challan. There will be five banks with estimated 200 branches authorised for accepting challan payments.
11. The payment will be exclusively confirmed for all online (Internet) payment transactions using payment gateways.
12. Acceptance or rejection of any transaction will be explicitly communicated to the applicant (including facility to print a receipt for successful transactions).

13. MCA 21 will provide a unique transaction number, the Service Request Number (SRN) which can be used by the applicant for enquiring the status pertaining to that transaction.
14. Filing will be complete only when the necessary payments are made.
15. In case of a rejection, helpful remedial tips will be provided to the applicant.
16. The applicants will be provided an acknowledgement through e-mail or alternatively they can check the MCA portal.

**(b) Quasi – Contracts**

Even in the absence of a contract, certain social relationships give rise to certain specific obligations to be performed by certain persons. In such circumstances the law presumes the existence of contract even though no agreement was made between the parties. These are known as quasi contracts as they create same obligations as in the case of regular contract.

Quasi contracts are based on principles of equity, justice and good conscience.

A quasi or constructive contract rests upon the maxims, “No man must grow rich out of another persons loss”.

**Salient features of quasi contracts are:**

- (i) In the first place, such a right is always a right to money and generally, though not always, to a liquidated sum of money.
- (ii) Secondly, it does not arise from any agreement of the parties concerned, but it imposed by the law; and
- (iii) Thirdly, it is a right which is available not against all the world, but against a particular person or persons only, so that in this respect it resembles a contractual right.

**(c) Material Alteration:**

As per the provision given under section 87 of the Negotiable Instruments Act, 1881, an alteration can be called a material alteration if it alters or attempts to alter the character of the instrument and affects or is likely to affect the contract which the instrument contains or is evidence of. Thus, it totally alters the business effect of the instrument. It makes the instrument speak a language other than that was intended.

The following materials alterations have been authorised by the Act and do not require any authentication:

- (a) Filling blanks of inchoate instruments
- (b) Conversion of a blank endorsement into an endorsement in full
- (c) Crossing of cheque
- (d) Alteration of payable amount

**Question 5**

- (a) What do you understand by "Lease deed"? Draft a lease deed assuming necessary facts. (8 Marks)
- (b) Article of a public company clearly stated that Mr. L will be the Solicitor of the company. The company in its general meeting of the shareholders resolved unanimously to appoint Mr. M in place of Mr. L as the Solicitor of the company by altering the articles of association. State with reasons, whether the 'company can do so ? If L files a case against the company for removal as a Solicitor, will he Succeed? (4 Marks)
- (c) XYZ Ltd. issued a prospectus inviting the public for subscription of its equity shares stating in it that company possesses good financial health and paying dividends to its equity shareholders consistently and regularly @ 20 percent over the last five years. The fact was, company was running in loss since last three years and it was paying dividends to its shareholders out of accumulated profits. Mr. Amit read the prospectus and bought 500 shares from the company. Discovering the mis-statement made, by the company in the prospectus, he wants to rescind the contract and claim the damages from the company. Referring the provisions of The Companies Act, 1956, decide, whether Mr. Amit will succeed. (4 Marks)

**Answer**

- (a) **Lease Deed:** Section 105 of the Transfer of Property Act, 1882 defines the term 'Lease'. It is a transfer of enjoyment of immovable property by one person called the lesser to another person called the lessee in consideration of a premium which means a price paid or promised or rent which may be periodical payment of money, share of crops or rendering of services.

In order to constitute the valid lease, there must be a transfer of right to enjoyment of immovable property though delivery of possession of the property is not a condition preceded for operation of a lease.

The terms of lease including the period of lease, amount of rent etc. are contained in a leased agreement or deed duly executed and signed by both the lesser and lessee.

The model form of lease deed is given below:

**LEASE OF LAND FOR LIMITED PERIOD**

THIS DEED OF LEASE of land made on.....day of.....between  
.....S/o.....R/o.....(hereinafter called the 'lessor') and .....  
S/o..... R/o..... (hereinafter called the 'lessee')

**Whereas both the lessor and the lessee agree to the following terms and conditions:**

1. That the lessor agrees to lease out the land located in ..... to the lessee with effect from.....for a period of ..... years on payment of monthly rent of ₹.....payable on the fifth day of each month in advance.

2. That the lessee agrees to take the aforesaid piece of land on lease. He shall pay the rent hereby reserved in the manner hereinbefore stated.
3. That the responsibility to pay all rates, taxes and charges which are payable or may so become at a future date in respect with the leased land, shall rest upon the lessor.
4. That the lessee shall deliver the peaceful vacant possession of the leased land to the lessor at the termination of the period of lease.
5. Lessee intending to vacate the leased land at an early date, shall give notice to the lessor to vacate the leased land at the expiry of the period stated in the notice.
6. Default in payment of rent for four consecutive months shall entitle the lessor to enter upon the said land and determine the lease.

IN WITNESS WHEREOF, the lessor and the lessee have signed this deed on the day and year first above stated.

Witness.....

Lessor.....

Witness.....

Lessee.....

**(b) Appointment of Solicitor by altering Articles of Association:**

According to Section 36(1) of the Companies Act, 1956, the memorandum and articles shall, when registered, bind the company and the members thereof to the same extent as if they respectively had been signed by the company and by each member and combined covenants on its and his part to observe all the provisions of the memorandum and articles. Section 36 creates an obligation binding on the company in its dealings with the members but the word “members” in this Section means members in their capacity as members, that is, excluding any relationship which does not flow from the membership itself. Therefore even a member cannot enforce the provisions of articles for his benefit in some other capacity than that of a member.

Section 31 also provides that the company may by special resolution alter its articles. In the given problem, the company has changed its articles by passing resolution unanimously. The provision of Memorandum and Articles will bind the members but in the capacity of a member only and even a member may be treated as an outsider. Therefore, a member cannot enforce the provisions of Articles for his benefit in some other capacity than that of a member.

In the given case,

- (i) The company is empowered to appoint Mr. M as a solicitor in place of Mr. L of the company and may change the articles accordingly. [ *Eley vs. Positive Govt. Security Life Assurance Co. (1876)* ]

- (ii) If Mr. L files a case against the company for removal as a Solicitor, he will not succeed.
- (c) XYZ Ltd. issued a prospectus containing the statement that dividends was regularly paid @ 20 percent over the last five years but did not disclose that they were paid out of accumulated profit and to that extent the prospectus contained a material misrepresentation of a fact giving a false impression that the company was a profitable one.

Section 65 of the Companies Act, 1956, provides for Interpretation of provision relating to Prospectus. According to which any person who takes shares on the faith of statement of facts contained in a prospectus can rescind the contract if those statements are false or untrue. A statement included in a prospectus shall be deemed to be untrue, if the statement is misleading in the form and context in which it is included.

On the basis of the above misstatement of material information in a prospectus, Mr. Amit bought 500 shares from the company.

Thus,

- (i) Mr. Amit can rescind the contract, and
- (ii) Claim the damages from the company whether the statement is fraudulent or an innocent one.

#### Question 6

- (a) *K Ltd. was in the process of incorporation. Promoters of the company signed an agreement for the purchase of certain furniture for the company and payment was to be made to the suppliers of furniture by the company after incorporation. The company was incorporated and the furniture was received and used by it. Shortly after incorporation, the company went into liquidation and the debt could not be paid by the company for the purchase of the above furniture. As a result supplier sued the promoters of the company for the recovery of money.*

*Examine whether promoters can be held liable for the payment under the following situations:*

- (i) *When the company has already adopted the contract after incorporation?*
- (ii) *When the company makes a fresh contract with the suppliers in substitution of pre-incorporation contract?* (8 Marks)
- (b) *What is "critical thinking"? Define* (4 Marks)
- (c) *Explain five sources of ethical standards.* (4 Marks)

#### Answer

- (a) The promoters remain personally liable on a contract made on behalf of a company which is not yet in existence. Such a contract is deemed to have been entered into

personally by the promoters and they are liable to pay damages for failure to perform the promises made in the company's name, (*Scot v. Lord Ebury*) even though the contract expressly provided that only the company shall be answerable for performance.

In *Kelner v. Baxter* also it was held that the persons signing the contracts viz. Promoters were personally liable for the contract.

Further, a company cannot ratify a contract entered into by the promoters on its behalf before its incorporation. Therefore, it cannot by adoption or ratification obtain the benefit of the contract purported to have been made on its behalf before it came into existence as ratification by the company when formed is legally impossible.

The company can, if it desires, enter into a new contract, after its incorporation with the other party. The contract may be on the same basis and terms as given in the pre-incorporation contract made by the promoters. The adoption of the pre-incorporation contract by the company will not create a contract between the company and the other parties even though the option of the contract is made as one of the objects of the company in its Memorandum of Association. It is, therefore, safer for the promoters acting on behalf of the company about to be formed to provide in the contract that: (a) if the company makes a fresh contract in terms of the pre-incorporation contract, the liability of the promoters shall come to an end; and (b) if the company does not make a fresh contract within a limited time, either of the parties may rescind the contract.

Thus applying the above principles, the answers to the questions as asked in the paper can be answered as under:

- (i) the promoters in the first case will be liable to the suppliers of furniture. There was no fresh contract entered into with the suppliers by the company. Therefore, promoters continue to be held liable in this case for the reasons given above.
  - (ii) in the second case obviously the liability of promoters comes to an end provided the fresh contract was entered into on the same terms as that of pre-incorporation contract.
- (b) Critical Thinking:** Critical thinking is the discipline of rigorously and skillfully using information, experience, observation and reasoning to guide your decisions, actions and beliefs. Critical thinking means questioning every step of your thinking process: Have you considered all the facts? Have you tested your assumptions? Is your reasoning sound? Can you be sure your judgment is unbiased? Is your thinking process logical, rational and complete?

By developing the skills of critical thinking, and bringing rigour and discipline to your thinking processes, you stand a better chance of being "right", likely to make good judgments, choices and decisions in all areas of your life. This is an important part of "success" and "wisdom".

**(c) Five Sources of Ethical Standards**

**The Utilitarian Approach:** The ethical corporate action is the one that produces the greatest good and does the least harm for all who are affected. The utilitarian approach deals with consequences; it tries both to increase the good done and to reduce the harm done.

**The Rights Approach (The Deontological Approach):** This approach suggests the ethical action that best protects and respects the moral rights of those affected. This approach starts from the belief that humans have a dignity based on their human nature per se or on their ability to choose freely what they do with their lives.

**The Fairness or Justice Approach:** This approach contributed the idea that all equals should be treated equally. Today we use this idea to say that ethical actions treat all human beings equally-or if unequally, then fairly based on some standard that is defensible.

**The Common Good Approach:** This approach calls attention to the common conditions that are important to the welfare of everyone. This may be a system of Laws, effective police and fire departments, health care, a public educational system, or even public recreational areas.

**The Virtue Approach:** A very ancient approach to ethics is that ethical actions ought to be consistent with certain ideal virtues that provide for the full development of our humanity. Honesty, courage, compassion, generosity, tolerance, love, fidelity, integrity, fairness, self-control, and prudence are all examples of virtues.

**Question 7**

Answer any **four** of the following:

- (a) State reasons for selecting "oral mode of communication". (4 Marks)
- (b) "Corporate governance is about promoting corporate fairness." Discuss. (4 Marks)
- (c) Discuss various elements that can be used to describe or influence organizational culture. (4 Marks)
- (d) Explain the Employees' Deposit Linked Insurance (Amendment) Scheme, 2011 under the Employees' Provident Funds and Miscellaneous Provisions Act, 1952. (4 Marks)
- (e) Discuss the concept of "Realty Competition" and "Protecting Consumer's Interest" (4 Marks)

**Answer****(a) Reasons for selecting "oral mode of communication":**

Oral Communication is a face to face communication with others. Oral communication is characterized by seven Cs – Candidness, Clarity, Completeness, Conciseness, Concreteness, Correctness, and Courtesy. These act as principles for selecting the

mode of oral communication. In addition to above seven principles it has its own benefits as under:

- (i) More personal and informal.
- (ii) Make immediate and impact.
- (iii) Provides opportunity for interaction and feedback.
- (iv) Helps us to correct ourselves
- (v) Better for conveying feelings and emotions.
- (vi) More effective because one can understand the message better by observing facial expressions, eye contact, tone of voice, gestures, postures etc of the sender.

**(b) Corporate Governance is about promoting corporate fairness:**

“Corporate governance is about promoting corporate fairness, transparency and accountability”. It is concerned with structures and processes for decision-making, accountability, control and behavior at the top level of organizations. It influences how the objectives of an organisation are set and achieved, how risk is monitored and assessed and how performance is optimized.

The term governance relates to a process of decision making and implementing the decisions in the interest of all stakeholders. It basically relates to enhancement of corporate performance and ensures proper accountability for management in the interest of all stakeholders. It is a system through which an organisation is guided and directed.

Benefits of goods Corporate Governance:

- 1. Protection of investor interests and strong capital markets,
- 2. Good governance is rewarded with a higher market valuation.
- 3. Ensure commitment of the board in managing the company in a transparent manner.

Thus corporate Governance can also be defined as “ the formal system of accountability and control for ethical and socially responsible organizational decisions and use of resources”. Corporate governance arrangements are key determinants of an organization's relationship with the world.

**(c) A number of elements that can be used to describe or influence Organizational Culture:**

- (i) The Paradigm:** What the organization is about; what it does; its mission; its values.
- (ii) Control Systems:** The processes in place to monitor what is going on.
- (iii) Organizational Structures:** Reporting lines, hierarchies, and the way that work flows through the business.
- (iv) Power Structures:** Who makes the decisions and how power is distributed across the organization.

- (v) **Symbols:** These include the logos and designs, but would extend to symbols of power, such as car parking spaces and executive washrooms.
- (vi) **Rituals and Routines:** Management meetings, board reports and so on may become more habitual than necessary.
- (vii) **Stories and Myths:** build up about people and events, and convey a message about what is valued within the organization.

**(d) Employees' Deposit Linked Insurance (Amendment) Scheme, 2011**

Through vide Notification No. G.S.R. 9(E), dated 8th January, 2011, the Central Government revised the benefits provided to the employees under the Employees' Deposit Linked Insurance (Amendment) Scheme, 2010 by amending the same with the Employees' Deposit Linked Insurance (Amendment) Scheme, 2011. Under the revised scheme, the benefit provided in case of death of an employee who was member of the Fund or of a Provident fund exempted under Section 17 of the Act at the time of the death, their family will get 20 times of the average wages of the last 12 months of the member (subject to a maximum of rupees six thousand five hundred)

Thus, according to the revised scheme, maximum benefits under the scheme will now be ₹ 1,30,000, as the wage ceiling upto which contribution can be paid under the scheme is ₹ 6500/-.

This amendment has changed the methodology of computation by introducing a new and additional method for computation of benefit that has to be paid to the nominee of the deceased along with existing method of computation i.e., as per the EDLI (Amendment) Scheme, 2010, whichever is higher.

- (e) Healthy Competition and Protecting Consumer's Interest:** Competition means rivalry in the marketplace, which is regulated by a set of policies and laws to achieve the goals of economic efficiency and consumer welfare, and to check on the concentration of economic power. All these goals have an interactive relationship and, when in harmony, deliver total welfare. Indeed, it is the consumers who are supposedly the biggest beneficiaries of competition.

At the macro level, the design and implementation of a competition policy promotes the advancement and increased welfare of the poor. At the micro level, an effective competition regime or consumer law (covering competition distortions) can prevent consumer abuses, both at industry level as well as in a village or locality where one shopkeeper can cheat the whole community.

An appropriate and dynamic competition policy and law are imperative to support the economic development, control the corruption, reduce wastage and arbitrariness, improve competitiveness and provide relief to the poor.