# CA IPCC – OLD SYLLABUS November 2018 Exam Solutions Available @ Youtube on below link

## https://youtu.be/wkNnZxzpYIU

with description (CA IPCC Nov 2018 Exam Solutions. Faculty : CA CS Ashish Gupta)

**Q1 (a) Ans : Section 59 in The Indian Contract Act, 1872.**
**Page 22 of Business law charts booklet.**

59. Application of payment where debt to be discharged is indicated.—Where a debtor, owing several distinct debts to one person, makes a payment to him, either with express intimation, or under circumstances implying, that the payment is to be applied to the discharge of some particular debt, the payment, if accepted, must be applied accordingly. —Where a debtor, owing several distinct debts to one person, makes a payment to him, either with express intimation, or under circumstances implying, that the payment is to be applied to the discharge of some particular debt, the payment, if accepted, must be applied accordingly.

**Section 34. Criminal liability for misstatements in prospectus.**

**Page 44 of Company law charts booklet.**

Where a prospectus, issued, circulated or distributed under this Chapter, includes any statement which is untrue or misleading in form or context in which it is included or where any inclusion or omission of any matter is likely to mislead, every person who authorises the issue of such prospectus shall be liable under section 447:

Provided that nothing in this section shall apply to a person if he proves that such statement or omission was immaterial or that he had reasonable grounds to believe, and did up to the time of issue of the prospectus believe, that the statement was true or the inclusion or omission was necessary.

**Question2 (a)(i)**

**Payment of Bonus Act, 1965**

**36. Power of exemption**

If the appropriate government, having regard to the financial position and other relevant circumstances of any establishment or class of establishments, is of opinion that it will not be in public interest to apply all or any of the provisions of this Act thereto, it may, by notification in the Official Gazette, exempt for such period as may be specified therein and subject to such conditions as it may think fit to impose, such establishment or class of establishments from all or any of the provisions of this Act.

**Question2 (a)(ii)**

Section: 10 Exemption of employer from liability in certain cases.

Where an employer is charged with an offence punishable under this Act, he shall be entitled, upon complaint duly made by him and on giving to the complainant not less than three clear days notice in writing of his intention to do so, to have any other person whom he charges as the actual offender brought before the court at the time appointed for hearing the charge; and if, after the commission of the offence has been proved, the employer proves to the satisfaction of the court –

(a) that he has used due diligence to enforce the execution of this Act, and

(b) that the said other person committed the offence in question without his knowledge, consent or connivance, that other person shall be convicted of the offence and shall be liable to the like punishment as if he were the employer and the employer shall be discharged from any liability under this Act in respect of such offence:

Provided that in seeking to prove as aforesaid, the employer may be examined on oath and his evidence and that of any witness whom he calls in his support shall be subject to cross examination on behalf of the person he charges as the actual offender and by the prosecutor:

Provided further that, if the person charged as the actual offender by the employer cannot be brought before the court at the time appointed for hearing the charge, the court shall adjourn the hearing from time to time for a period not exceeding three months and if by the end of the said period the person charged as the actual offender cannot still be brought before the court, the court shall proceed to hear the charge against the employer and shall, if the offence be proved, convict the employer.

**Question 3 (a)(i)**

**3. Variance in terms of contract (Sec. 133):**

"Any variance, made without the surety's consent in the terms of the contract between the principal debtor and the creditor, discharges the surety as to transactions subsequent to the variance."

Thus a surety is discharged from liability when, without his consent, the creditor makes any change in the terms of his contract with the principal debtor (no matter whether the variation is beneficial to the surety or is made innocently or does not materially affect the position of the surety) because a surety is liable only for what he has undertaken in the contract. "Surety has a right to say:

**Question 3 (a)(ii)**

**Conditional Acceptance**

- ✓ A conditional acceptance, sometimes called a qualified acceptance, occurs when a person towho m an offer has been made tells the offeror that he or she is willing to agree to the offer provided that some changes aremade in its terms or that some condition or event occurs.
- ✓ This type of acceptance operates as a counteroffer.
- ✓ A counteroffermust be accepted by the original offeror before a contract can be established betw een the parties.

**Question 4(a)(i) – Sec 50 of companies act 2013. (Page 62 of Company law charts booklet).**
**Rights of shareholders in case of calls in advance –**

- ✓ **He is entitled to interest @12% pa.**
- ✓ **If AOA provides, dividend can be paid on calls in advance.**

**Liabilities of shareholder**

- ✓ **No extra voting right**
- ✓ **The amount received will not be refunded.**

**Question 4(a)(ii) – Sec 53 of companies act 2013. (Page 62 of Company law charts booklet).**

**Exception is sweat equity shares**

**Question 5 (a)(i)**

**Sec 28. Liability of agent signing.—An agent who signs his name to a promissory note, bill of exchange or cheque without indicating thereon that he signs as agent, or that he does not intend thereby to incur personal responsibility, is liable personally on the instrument, except to those who induced him to sign upon the belief that the principal only would be held liable.**

**Question 5 (a)(ii)**

**Sec 40. Discharge of indorser's liability.—Where the holder of a negotiable instrument, without the consent of the indorser, destroys or impairs the indorser's remedy against a prior party, the indorser is discharged from liability to the holder to the same extent as if the instrument had been paid at maturity. Illustration A is the holder of a bill of exchange made payable to the order of B, which contains the following indorsements in blank:— First indorsement, "B". Second indorsement, "Peter Williams". Third indorsement, "Wright & Co." Fourth indorsement. "John Rozario". This bill A puts in suit against John Rozario and strikes out, without John Rozario's consent, the indorsements by Peter Williams and Wright & Co. A is not entitled to recover anything from John Rozario**

**Question 5 (b) Small company**

2(85) "small company" means a company, other than a public company,—

i. paid-up share capital of which does not exceed fifty lakh rupees or such higher amount as may be prescribed which shall not be more than [ten crore rupees]; [3][and]
ii. turnover of which [as per profit and loss account for the immediately preceding financial year] does not exceed two crore rupees or such higher amount as may be prescribed which shall not be more than [one hundred crore rupees]:

Provided that nothing in this clause shall apply to—
(A) a holding company or a subsidiary company;
(B) a company registered under section 8; or
(C) a company or body corporate governed by any special Act; [Notified on 26-03-2014]

**Question 6(a) Sec 110. Postal ballot.**

**Question 6(b)**

**(i)** **Sec 100 – No minimum or maximum number of EGM is prescribed.**

**(ii)** **Sec 130. Cheque bearing "not negotiable".—A person taking a cheque crossed generally or specially, bearing in either case the words "not negotiable", shall not have, and shall not be capable of giving, a better title to the cheque than that which the person from whom he took it had**

**(iii)** **Yes**

**(iv)** **No**

**Question 7 (a)**

Sec 7B. Review of orders passed under Section 7A. –

- ✓ Any person aggrieved by an order made under sub-section 1 of section 7A, *but from which no appeal has been preferred under this Act, and who, from the discovery of new and important matter or evidence which, after the exercise of due diligence was not within his knowledge or could not be produced by him at the time when the order was made, or on account of some mistake or error apparent on the face of the record or for any other sufficient reason,* desires to obtain a review of such order may apply for a review of that order to the officer who passed the order:

- ✓ Provided that such officer may also on his own motion review his order if he is satisfied that it is necessary so to do on any such ground.

- ✓ Every application for review under sub-section 1 shall be filed in such form and manner and within such time as may be specified in the Scheme.

- where it appears to the officer receiving an application for review that there is no sufficient ground for a review, he shall reject the application.

- Where the officer is of opinion that the application for review should be granted, be shall grant the same: Provided that, -

  - no such application shall be granted without previous notice to all the parties before him to enable them to appear and be heard in support of the order in respect of which a review is applied for, and
  - no such application shall be granted on the ground of discovery of new matter or evidence which the applicant alleges was not within his knowledge or could not be produced by him when the order was made, without proof of such allegation.
- No appeal shall lie against the order of the officer rejecting an application for review, but an appeal under this Act shall lie against an order passed under review as if the order passed under review were the original order passed by him under section 7A.

**Question 7(b)**
**Types of irregular allotment**
- **Fails to get adequate minimum subscription**
- **Application money**
- **Fails to apply for lisitng of shares**
- **Fails to deliver securities**
- **Fails to issue propspectus.**