

MAINS EXAMINATION PRACTICE SET

INDIAN EVIDENCE ACT, 1872

1:30 HR

Instructions: Attempt all the questions. The questions are of 10 marks each.

1. On a dreadful night, two brothers B₁ and B₂ who were also partners in a LLP firm, were returning from office. Suddenly, about 50 meters from their residence, some unknown miscreants appeared at the spot and attacked both of them. On hearing their screams, B₁ W, the wife of B₁ rushed to the spot where B₁ narrated about the incident to her and succumbed to injuries. Within a minute, F, the Father of B₁ and B₂ also rushed to the spot and B₂ made similar statements to F as were made by B₁. Thereafter B₂ also died.

It was contended that since B₁W and F were close relatives of the deceased, and thus the dying declaration made before them should not be made the basis of conviction as there is paucity of any independent corroboration.

Decide.

2. Genuineness of a signature on a document was in dispute. Parties produced evidence on the point but did not examine the handwriting expert. The Trial Court Judge himself compared the disputed signature with the admitted signature of the alleged executant. He held the disputed signature to be forged. In appeal, this finding was assailed. Decide.
3. In the trial for the offence of murder, the father of the deceased is produced as an eye-witness for prosecution. The accused objects the admissibility of his statement on the ground that he is partisan witness as he is the Father of the deceased and hence an incompetent witness. Decide. Also state the case law(s), if any, on this point.
4. Discuss the legality of the under-mentioned statement. Quote relevant case law, if any, in relation to the law underlying the said statement.

“The testimony of the man of the very lowest character who has thrown to the wolves the erstwhile associates and friends in order to save his own skin and who is a criminal and has purchased his liberty by betrayal, must be received with great caution.”

5. 'A' filed a suit against her maternal uncle 'B' seeking partition of her share in land measuring about ten acres left behind by A's Father. B resisted the suit on the ground that A's Mother who was old, blind, tribal woman and was living with 'B' had executed a sale deed in favour of 'B'.

'A' challenged the sale on the ground that it was obtained by exercising undue influence on her Mother, who was blind, illiterate, tribal woman living at the mercy of 'B' till her death. 'B' led no evidence to show that any consideration had actually passed at the time of registration of sale deed. In these circumstances, whether 'A' can be said to have discharged the onus of proof that the sale transaction was vitiated because of undue influence? How would you decide the question of onus of proof in these circumstances?

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