

Semester - VIII

BCL – 406 Law of Evidence

1. Introductory :

- 1.1 The main features of the Indian Evidence Act, 1861.
- 1.2 Other acts which deal with evidence (special reference to CPC, Cr. P.C)
- 1.3 Problem of applicability of Evidence At
 - 1.3.1 Administrative
 - 1.3.2 Administrative Tribunals
 - 1.3.3 Industrial Tribunals
 - 1.3.4 Commissions of Enquiry
 - 1.3.5 Court Martial
- 1.4 Disciplinary authorities in educational institutions.

2. Central Conceptions in Law of Evidence

- 2.1 Facts: Section 3 definition : distinction relevant facts / facts in issue
- 2.2 Evidence : Oral and documentary
- 2.3 Circumstantial evidence and direct evidence
- 2.4 Presumption (section 4)
- 2.5 "Proving", "not providing" and "disproving"
- 2.6 Witness
- 2.7 Appreciation of evidence

3. Facts : relevancy

- 3.1 The Doctrine of res gestae (Section 6,7,8,10)
- 3.2 Evidence of common intention (Section 10)
- 3.3 The problems of relevancy of "Otherwise" irrelevant facts (Section 11)
- 3.4 Relevant facts for proof of custom (Section 13)
- 3.5 Facts concerning bodies & mental state (Section 14,15)

4. Admissions and confessions

- 4.1 General principles concerning admission (Section 17, 23)
- 4.2 Differences between "admission" and "confession"

- 4.3 The problems of non-admissibility of confessions caused by "any inducement, threat of promise" (Section 24)
- 4.4 Inadmissibility of custodial made before a police officer (Section 25)
- 4.5 Admissibility of custodial confessions (Section 26)
- 4.6 Admissibility of "information" received from accused person in custody; with special reference to the problem of discovery based on "joint statement"(Sec.27)
- 4.7 Confession by co-accused (Section 30)
- 4.8 The problem with the judicial action based on a "retracted confession"
- 5. Dying Declarations**
 - 5.1 The justification for relevance on dying declarations (Section 32)
 - 5.2 The judicial standards for appreciation of evidentiary value of dying declarations.
- 6 Other Statements by Persons who cannot be called as Witnesses**
 - 6.1 General principles.
 - 6.2 Special problems concerning violation of women's rights in marriage in the law of evidence
- 7. Relevance of Judgments**
 - 7.1 General principles
 - 7.2 Admissibility of judgments in civil and criminal matters (Section 43)
 - 7.3 "Fraud" and "Collusion" (Section 44)
- 8. Expert Testimony**
 - 8.1 General principles
 - 8.2 Who is an expert? : types of expert evidence
 - 8.3 Opinion on relationship especially proof of marriage (Section 50)
 - 8.4 The problem of judicial defence to expert testimony.
- 9. Oral and Documentary Evidence**
 - 9.1 General principles concerning oral evidence (Section 59-60)
 - 9.2 General principles concerning Documentary Evidence (Section 67-90)
 - 9.3 General Principles Regarding Exclusion of Oral by Documentary Evidence
 - 9.4 Special problem: re-hearing evidence
 - 9.5 issue estoppel
 - 9.6 Tenancy estoppel (Section 116)
- 10 Witnesses, examination and Cross Examination**
 - 10.1 Competency to testify (Section 118)
 - 10.2 State privilege (Section 123)
 - 10.3 Professional privilege (Section 126, 127, 128)
 - 10.4 Approval testimony (Section 133)
 - 10.5 General principles of examination and cross examination (Section 135-166)

- 10.6 Leading questions (Section 141-143)
- 10.7 Lawful questions in cross-examination (Section 146)
- 10.8 Compulsion to answer questions put to witness
- 10.9 Hostile witness (Section 154)
- 10.10 Impeaching of the standing or credit of witness (Section 155)

11. Burden of Proof

- 11.1 The general conception of onus probandi (Section 101)
- 11.2 General and special exceptions to onus probandi
- 11.3 The justification of presumption and of the doctrine of judicial notice
- 11.4 Justification as to presumptions as to certain offences (Section 111A)
- 11.5 Presumption as to dowry death (Section 113-B)
- 11.6 The scope of the doctrine of judicial notice (Section 114)

12 Estoppel

- 12.1 Why estoppel? The rationale (Section 115)
- 12.2 Estoppel, res judicata and waiver and presumption
- 12.3 Estoppel by deed
- 12.4 Exstoppel by conduct
- 12.5 Equitable and promissory estoppel
- 12.6 Questions of corroboration (Section 15-157)
- 12.7 Improper admission and of witness in civil and criminal cases.

Select bibliography

- Sarkar and Manohar : Sarkar on Evidence(1999), Wadhawa & Co; Nagour
- Indian Evidence Act (Amendment up to date)
- Ratanlal-Dhirajlal : Law of Evidence (1994), Wadhawa & Co;Nagpur
- Polein Murphy: Evidence (5th Edn. Reprint 2000) Universal, Delhi
- Alberts, Osborn: The Problem of Proof (First Indian Reprint 1998) Universal, Delhi
- Avtar Singh: Principal of the Law of Evidence(1992), Central Law Agency, New Delhi.

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Semester - VIII

BCL – 407 Insurance Law

Objectives:

The insurance idea is an old-institution of transactional trade. Even from olden days merchants who made great adventures gave money by way of consideration, to other persons who made assurance, against loss of their goods, merchandise ships and things adventured. The rates of money consideration were mutually agreed upon. Such an arrangement enabled other merchants more willingly and more freely to embark upon further trading adventures. The operational framework of insurance idea is provided by the general principles of contract. The insurance policy, being a contract, is subject to all the judicial interpretative techniques of rules of interpretation as propounded by the judiciary. Besides, the insurance idea has a compensatory justice component. This course is designed to acquaint the students with the conceptual and operational parameters, of insurance law.

Course contents:

UNIT - I

Introduction: Nature- Definition- History of Insurance- History and development of Insurance in India- Insurance Act, 1938- (main sections) Insurance Regulatory Authority Act, 1999: Its role and functions.

UNIT - II

Contract of Insurance: Classification of contract of Insurance- Nature of various Insurance Contracts- Parties there to- Principles of good faith - non disclosure - Misrepresentation in Insurance Contract- Insurable Interest- Premium: Definition method of payment, days of grace, forfeiture, return of premium, Mortality; The risk -
Meaning and scope of risk, Causa Proxima, Assignment of the subject matter.

UNIT - III

Life Insurance: Nature and scope of Life Insurance- Kinds of Life Insurance.

The policy and formation of a life insurance contract- Event insured against Life Insurance contract- Circumstance affecting the risk- Amount recoverable under the Life Policy- Persons entitles to payment- Settlement of claim and payment of money- Life Insurance Act, 1956- Insurance against third party rights- General Insurance Act, 1972- The Motor Vehicles Act, 1988 - Sec. (140-176), Nature and scope- Absolute or no fault liabilities, Third party or compulsory insurance of motors vehicles- Claims Tribunal Public Liability Insurance -Legal aspects of Motor Insurance -Claims - Own Damages Claims - Third Party Liability Claims.

UNIT - IV

Fire Insurance: Nature and scope of Fire Insurance -Basic Principles - Conditions & Warranties - Right & Duties of Parties - Claims - Some Legal Aspects. Introduction to Agriculture Insurance - History of Crop Insurance in India - Crop Insurance

Underwriting, Claims, Problems associated with Crop Insurance - Cattle Insurance in India.

UNIT - V

Marine Insurance: Nature and Scope- Classification of Marine policies- Insurable interest- Insurable values- Marine insurance and policy- Conditions and express warranties- Voyage deviation- Perils of sea- Loss- Kinds of Loss- The Marine Insurance Act, 1963 (Sections 1 to 91).

Prescribed Books:

K. S. N. Murthy and K. V. S. Sharma - Modern Law of Insurance in India.

M. H. Srinivasan - Principles of Insurance Law.

Reference Books:

E. R. Hardy Ivamy - General Principles of Insurance Law, relevant Chapters.

Insurance Act, 1938.

The Marine Insurance Act, 1963.

General Insurance (Business) (Nationalization) Act, 1972.

The Life Insurance Corporation Act, 1956.

Motor Vehicle Act, 1988.

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Semester - VIII

BCL – 408 Indirect Taxation Law

Unit I: Indirect Taxes

Introduction, Meaning, Features, Merits and Demerits, Concepts of Indirect Tax, Difference between Direct and Indirect Tax, Indirect tax structure in India.

Unit II: Central Excise Act 1944:

Central Excise - Meaning, Features, Nature, Kinds, Important definitions, General procedure for excisable goods and obtaining registration, Provisions regarding Central Excise Duty, Exemptions to small scale industries.

Unit III: Central Sale Tax Act 1956 & Value Added Tax:

Meaning, Growth, Objects and Important definitions, Principles for determining different categories of sales, Collection of Tax, Registration of Dealers, Procedure for obtaining registration certificate, Amendment in certificate of registration, Cancellation of certificate of registration, VAT.

Unit IV: Customs Act 1962:

Customs Duty - Important definitions, Types, Importance, Documents required for Import and Export procedure, Export Promotion Scheme, Customs Authority and their powers.

Unit V: Service Tax 2007

Historical development, Features, Scope, Taxable services and Exempted services, Service Tax Hrs, Administrative mechanism of service tax, Procedure regarding valuation of taxable services, Compensation of tax of different services, Provisions regarding registration and Furnishing the returns of service tax.

Suggested Readings:

1. *Datey, V.S., Indirect Taxes, Taxmann's Publications Pvt. Ltd. New Rohtak Road, New Delhi.*
2. *Mehrotra, H.C., Indirect Taxes Law and Practice, Sahitya Bhawan Publications, Hospital Road, Agra.*
3. *Singhania, V.K. & Singhania, Kapil, Direct Tax Law & Practice, Taxman's Publication, New Delhi.*
4. *Kumar, Sanjeev, Systematic Approach to Indirect Taxes, Bharat Publication.*

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Semester - VIII

BCL – 409 Foreign Trade

Course Objectives: The objective of this course is to familiarize the student with the various laws regulating the foreign trade of India and exchange and management of foreign exchange in India.

Unit -1: Foreign Trade Development and regulation Act, 1992

Preliminary

1. Definitions
2. Power of central government to make orders and announce EXIM policy

Unit -2: Search and Seizures

1. Search, seizures, penalty
2. Confiscation
3. Appeal and revision

Unit -3: Foreign exchange management Act, 1999

Preliminary

1. Definitions
2. Regulation and management of foreign exchange
3. Authorised person

Unit -4: Contraventions, Penalties

1. Contravention
2. Penalties
3. Directorate of enforcement

Unit -4: Appeals

1. Adjudication
2. Appeals

Suggested readings:

1. *Bare Act of foreign trade Development and regulation Act, 1992*
2. *Bare Act of foreign Exchange and Management Act, 1999.*
3. Government of India, Handbook of Import Export Procedures, (2009)
4. Government of India Import and Export Policy (2009-2014)
5. *Luis A. Rivera-Batiz & Maria A. Oliva, International Trade: Theory, Strategies, and Evidence.*

Semester - VIII

BCL – 410 Information Technology Law

Course Objective: The underlying objective of this course is to provide the student an insight into the legal regime governing information technology and e-governance.

Unit -1: The Information technology Act, 2000

Preliminary

1. Extent
2. Definitions
3. Authentication of electronic records
4. Electronic signature

Unit -2: E-Governance

1. Electronic governance(section 4,5,6,7,10)
2. Attribution, acknowledgement and dispatch of electronic records(section 11,12,13)
3. Secure electronic records and electronic signature(section 14,15,16)
4. Appointment of controller and functions

Unit -3: Licensing

1. License to issue electronic signature certificate
2. Procedure of grant and rejection of certificate(section 17-34)
3. Electronic signature certificate(section 35-39)

Unit -4: Penalties and compensation

1. Penalties, compensation, adjudication
2. The cyber appellate tribunal(section 48-64)

Unit -5: Offences

1. Offences under the Act
2. Punishments under the Act
3. Power of controller
4. Miscellaneous powers(section 65-90)

Suggested readings:

1. *Bare Act of information technology Act,2000*
2. *Nandan Kamath Law relating computers Internet & E-Commerce, Universal Law Publishing Co. Pvt. Ltd. Delhi.*
3. *M. K. Saxena,Information Technology Law: Concepts, Evolution & Enactments, Mangal Deep Publ.*