



Association of Accounting Technicians of Sri Lanka

Level II Examination – January 2024

Suggested Answers

(203) BUSINESS LAW (BLA)

Association of Accounting Technicians of Sri Lanka

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THE ASSOCIATION OF ACCOUNTING TECHNICIANS OF SRI LANKA

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(203) BUSINESS LAW

SUGGESTED ANSWERS

(Total 25 Marks)

SECTION - A

Suggested Answers to Question One:

1.1 (4)

1.2 (3)

1.3 (4)

1.4 (2)

1.5 (2)

1.6 (2)



(02 marks each, 12 marks)

1.7 True

1.8 True

1.9 False

(01 mark each, 03 marks)

1.10

- Termination of the contract
- Refusal for further performance
- An order of specific performance
- An order of injunction
- Claim for damages

1.11

| Civil law | Criminal law |
|---|---|
| Cases regarding civil offences are instituted in civil courts. | Cases regarding criminal offences are instituted in Criminal courts. |
| The purpose of a civil case is indemnifying the affected persons. | The purpose of a criminal case is to penalize the criminals. |
| The parties of a civil case are the Plaintiff and the Defendant. | The parties of a criminal case are Prosecution and Defense. |
| A civil case is filed by the prejudiced party (Plaintiff). The case should be proceeded by an Attorney-at-Law appointed by him. | A criminal case is instituted by the state on behalf of the prejudiced party. The case is handled by the Police in the Magistrate's Court and by the Attorney General in the High Court on behalf of the prejudiced party |
| The burden of proof of a civil case is based on preponderance of the evidence. | The burden of proof of a criminal case is beyond reasonable doubt. |
| The offender of a civil case is ordered to pay compensation. | The offender of a criminal party is punished with imprisonment, fines, compensation or death penalty |

1.12 The main objective of Act is to provide necessary measures to combat and prevent money laundering and to provide form matters connected therewith and incidental thereto.

1.13

- A partner is found lunatic
- A partner is permanently incapable of performing his part of the partnership contract.
- A partner is guilty of conduct which is prejudicial to the partnership contract
- A partner breaches the partnership agreement
- A partnership can only be carried on at a loss
- The court thinks it is just and equitable to dissolve.

1.14

- Mediation
- Arbitration
- Chamber of commerce

(02 marks each, 10 marks)

(Total 25 marks)



End of Section A

Suggested Answers to Question Two:***Chapter 08 - Law of Insurance, Hire Purchase & Leasing***

(a) This issue is based on the principle of Indemnity of insurance law.

Indemnity can be defined as a contractual obligation to compensate an individual or business for damages or losses they experience. Put another way, an insurance company indemnifies a policyholder by restoring them to their prior financial status, or making them “whole” again, in the event of a covered event or peril. Accordingly, insurance companies do not pay compensation beyond the actual loss incurred.

Castallain v. Preston is a decided case which was very similar to the facts in the question. In that case it was decided that the compensation paid by the insurer can be reclaimed otherwise the insured would have made a profit on the insurance.

Hence, **ABC Insurance Ltd.** can claim the return of their payment under the policy from Mr. **Ginige** according to the applicable insurance principles.

(06 marks)

(b)

When a property has been insured in several insurance companies and if a damage has occurred to it, payment of compensation by all the insurance companies for it by contributing proportionately is known as contribution.

Calculation of compensation according to the principle of contribution

$$\text{Compensation} = \frac{\text{Value of the insurance policy issued by particular insurance Company}}{\text{Value of the insurance policies issued by insurance Companies}} \times \text{Loss occurred}$$

(04 marks)

(Total 10 marks)

Suggested Answers to Question Three:

(a)

- By Expression
- By Implied Agreement
- By Ratification
- By necessity
- By Estoppel

(02 marks)

(b)

- **Comply with the instructions given by Bhakthi.**

As a general rule, the Agent is expected to carry out the instructions given by the Principal which are not unreasonable and illegal, even if such compliance results in believe disadvantageous to the principal.

Turpin V Bilton (1843) 5Man & G 455

- **Duty of care**

Awanka is expected to exercise due care when acting on behalf of the Bhakthi. If a loss is caused to the Bhakthi due to the negligence of an Awanka, the agent should make good that loss to the Principal.

Keppel V Wheeler (1972) 1 KB 755

- **Not to divulge confidential information of the principal.**

This is the duty not to divulge the information acquired with regard to the Principal as a result of the relationship of agency, to other persons and not to use it for his own usage.

AG V Blake (2001) 1 AC 268

- **Submit the accounts when required.**

The Agent is expected to present a comprehensive income and expenditure statement in executing his authority, to the principal. However, the agent is expected to book keeping in double entry journal.

- **Refrain from engaging in conflict of interest**

It is the duty of an Agent to act only in the best interest of his principal and not in his own best interest. Accordingly, the agent should not enter into contracts on behalf of himself and should not complete with the principal.

Armstrong V Jackson (1917) 2KB 822

- **Not to delegate the authority**

This duty is embodied in the Latin maxim of 'delegare', which reads in English "one to whom power is delegated cannot himself further delegate that power". Accordingly, an agent is expected to render a personal service without appointing sub agents to perform the tasks of the principal.

Jhon McCann & Col V Paw (1975) AER 129

- **Not to make secret profits or to take bribes**

An agent is under a duty not to make secret profit while acting for the principal.

- At the time of termination of agency, the agent must return all Principal's assets and documents in his possession.

(04 marks)

- (c) One of the main duties of an agent is that the agent must follow the principal's instructions and the agent must not exceed the authority vested in him. The losses arising from non-compliance with such instructions renders the agent personally liable.

Turpin V Bilton

In this case an Agent was authorized to insure a vessel which belonged to the Principal. The Agent did not insure the Vessel in pursuance of such instructions. The Vessel was ship-wrecked. The Court held that the Agent must compensate the Principal of the loss suffered by him.

In the given scenario, Awanka (the agent) was instructed not to sell any of the garments less than 75% of the price displayed and not to purchase any stock for the shop under any circumstances. However, Awanka sold sarees to Salu-Sala Ltd at 70% of the price displayed. Awanka also purchased 100 bathik sarongs from a local supplier as the stock of sarongs were

finished sooner than expected. Since, it seems Awanka override given instructions and breach her duties as an agent. So, if Bhakthi has been incurred any loss because of the actions of Awanka as an agent, the loss should be borne by Awanka.

(04 marks)

(Total 10 marks)

Suggested Answers to Question Four:

| |
|---|
| <i>Chapter 10 - Offences related to the business environment</i> |
|---|

(a)

- Protect consumers against the marketing of goods or providing services, which are harmful to life and property of consumers.
- Protect consumers against unfair trade practices, and guarantee that consumers interest shall be given due attention.
- To ensure that wherever possible, consumers have sufficient access to goods and services at competitive prices.
- Seek damages against unfair trade practices, restrictive trade practices or any other form of manipulation of consumers by traders.

(04 marks)

(b) The given scenario should be analyzed together with consumer protection law. A perusal of the given facts shows that Sadun's Store has hidden stocks of rice to avoid the disadvantage of imposing minimum price and pretend scarcity of rice in the market.

According to the section 16 of the Consumer Affairs Authority act, No 09 Of 2003, No trader who has in his possession or custody or under his control any goods for purpose of trade within Sri Lanka, shall deny the possession of such goods.

If Sadun's Store has hidden the stocks it has, get rid of the price control and claimed that the goods are not available and pretend scarcity of rice in the market, it becomes a criminal offence under the aforesaid act.

Mayura can complain to the Consumer Affairs Authority in this regard and after an investigation, the authority will take legal action against the Sadun's Store.

(06 marks)

(Total 10 marks)

Suggested Answers to Question Five:

Chapter 06- Company Law

Chapter 06- Negotiable Instruments

(a)

- In fraud cases done under the corporate veil
- In national emergency cases
- In tax evasion
- When directors breach duty to prepare financial statements.
- Regarding Directors who breached duties in case of insolvency
- Making of documents that create or is evidence of a legal obligation of a company incorrectly.

(04 marks)

(b) The legal principles of Wilson and Meeson v Pickering, a famous decided case which analyzed the effect of the crossing of non-negotiability, can be applied to the event in question.

In this case of Wilson and Meeson v Pickering, "A" signed cheque in blank and wrote 'not negotiable' on the face of the cheque. Thereafter it was given to the secretary to fill the information necessary to pay monthly electricity bill. The secretary has borrowed money from "C" and therefore the secretary filled the balance information to settle the loan borrowed and gave it to "C". "A" who knew about this stopped the payment. The court held that the wording "not negotiable" written on the cheque has excluded the negotiability of the cheque and therefore "C" receives the defective title which was with the Secretary. That means "C" is not a holder in due course. Accordingly, the court decided that "C" has no legal right to obtain the value indicated in the cheque.

Similarly, in this matter Manisha has no legal right to cash the cheque. When the cheque was presented to the bank, the bank has a duty of care to find out how Maneesha received the check and Maneesha's right over the cheque. Maneesha received a defective title from Sumudu.

The bank has the discretion to refuse payment of the check after ascertaining the facts.

(06 marks)

(Total 10 marks)

Suggested Answers to Question Six:

Chapter 07- Labor Law

(a) In order to determine whether **Madhusa** is an employee of **Content.lk** or not, various tests identified by the Labor Law should be carried out. Based on the given facts, a conclusion can be reached by carrying out the following tests.

The Control Test

When an employer can control the discipline whilst a certain person is engaged in providing a service, he is identified as an employee. Discipline means the resolution of the time of commencing work, Leave, duties to be performed by the employee, intervals, time of finishing work, promotions and demotions of the employees.

Madusha was a known relative of the owner, she did not sign any contract with content.lk. Madusha did not go to the office daily. She worked from home. Content.lk appears to have no control over Madhusa.

The Equipment Test

Where equipment required for the provision of services are provided by the Employer. At such instance, he is considered as an employee.

Madusha used her own laptop and graphic designing software she purchased from her own money.

The Integration Test

If an employee is connected with the business in an inseparable manner or is considered as a part of the business, he is considered as an employee of the business. That means, the service provided by that person to the business should not be an accessory, but should be a main function of the business.

It seems Madusha is not connected with the business in an inseparable manner. She provide graphic design service only.

The Economic Reality Test

According to this test, if a person serves for himself, that means if the final direct consequence is attained by him, he is an independent contractor and if the final consequence is attained by the company to which the service is provided, he is an employee working for that company. Madusha is always quoting her prices for her services.

Based on the above tests, it can be concluded that Madhusha is not an employee of the content.lk.

(06 marks)

(b)

- On reaching the age of retirement
- A woman leaving employment on grounds of marriage
- Cessation of employment due to total incapacitation
- Leaving to a foreign country for permanent residency
- When appointed for a permanent pensionable post in Government or Local Government service
- On the death of a member of the fund here, a person nominated by the member can obtain the benefits.

(04 marks)

(Total 10 marks)

End of Section B

Suggested Answers to Question Seven:***Chapter 03- The Law of Sale of Goods*****(A)****(a)**

- Seller must have a right to sell.
- Where the goods are sold by description, such goods shall correspond with the description.
- The goods supplied must fit for the purpose.
- Goods must be of Merchantable Quality
- Where the goods are sold by Sample, the goods shall be corresponded with the sample.

(03 marks)**(b)**

The cardinal element of a contract for sale of good is transfer of ownership of the subject matter from seller to buyer. However, the transfer of ownership can be of present or future.

If the ownership of the subject matter is transferred from seller to buyer immediately after the entering into the contract, such contract is called “contract of sale”.

If the ownership of the subject matter is intended to be transferred from seller to buyer on a date subsequent the making of the contract, such is defined as ‘Agreement to sell’. According to the judicial perceptions, whether a particular contract is a contract of sale or agreement to sale of good will depend upon the conduct of the parties, the facts of each case and the intention of the parties.

In a contract of sale of good, when the seller breach the contract the buyer has remedies against both the seller and the goods. Nevertheless, in the case of agreement to sale of good, the remedies are confined to against the seller in default.

Case Law - Jayasena Perera V Ratnadasa

(05 marks)**(c)**

This is based on the implied conditions of the sale of goods ordinance.

In terms of Section 14 of the sale of goods ordinance, where there is a sale of goods by description the goods sold must correspond with the description. Even minor discrepancies

between the delivered goods and their description may entitle the purchaser to reject the goods.

Case Laws –

Beale V Taylor

Moore V Landaure

Acros Ltd V Ronaason Sons

In the matter of Beale V Taylor , A Triumph Herald 1200 (1961 made) had been sold by description advertised on a paper. After the purchase the buyer had learnt that the vehicle was not a Triumph Herald 1200. Accordingly, the Court held this implied condition that the goods should correspond with the description have been infringed.

The luxury racing car sold by the **Mr. Deal** is not corresponded with his description as it was not “1976 Model C, Black Colour” car.

As such, **Mr. Deal** had breached an implied conditions of the sale of goods ordinance. There for **Mr. Keells** can activate remedies available for a buyer against the seller. Mr. **Keells** could claim his money back from Mr. Deal.

(07 marks)

Chapter 02 – Law of Contracts

(B)

(a) As a general rule, minors are recognized as parties without contractual capacity and contracts entered into by them are therefore not considered as valid contracts. The minors are those who are below 18 years old. Accordingly, the agreement entered into by 17-year-old **Nayani** can be identified as an agreement entered into by a minor.

However, beneficial service contracts entered into by a minor are an exception to the above rule. If the minor by a contract receive education, training, apprenticeship or an employment etc required for the minors future life adjustment. The minor is bound by it

AG V Costa

A minor had entered into a contract to undergo training in a teacher training college for a period of three years and further agreed to serve in a government school for a period of five

years after the completion of the training. The minor who completed the training refused to work in a government school. The court held that the minor is bound by the unassisted contract because it was beneficial service contract of minor.

Here also, **Nayani** entered in to a contract with **Shanthi Academy** to study advanced piano lessons. It can be seen as a contract for her future development that will develop her musical skills. Accordingly, even though **Nayani** is a minor, the agreement entered into by her can be recognized as a binding agreement entered into by her.

(06 marks)

(b)

- The exemption clauses are introduced after entering into the contract.

Case : *Olley V Marlborough court*

- If the exemption clause is not clearly communicated to the other party before entering into the contract.

Case : *Chapelton V Barry UDC*

- If it is a signed document, every signatory will be bound by the exemption clause, even if anyone of them fails to read the clause. However, if the other party is misled by a misrepresentation then the exemption clause is not valid.

Case : *Curtis v chemical Cleaning Company*

- According to the Unfair Contract terms Act no 26 of 1997, exemption clauses in relation to the following will have no effect in law:
 - Clauses excluding the fundamental obligation of the contract.
 - Exclusion of liability for a death or personal injury resulting from negligence.
 - In contract of sales of goods or distribution, exclusion of liability for any loss that can result from consumption of goods by consumers.
 - Exclusion of liability of sellers in a contract governed under Sales of Goods Ordinance and Consumer credit act.

(04 marks)

(Total 25 marks)

End of Section C

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