

HIGH COURT OF KERALA

KERALA STATE HIGHER JUDICIAL SERVICE (PRELIMINARY) EXAMINATION – 2021

QUESTION BOOKLET

Date of Examination: 20.02.2022

Roll Number:

Maximum Marks:150

Duration: 2 Hours (10 a.m. to 12.00 Noon)

INSTRUCTIONS TO THE CANDIDATES

1. Candidates should write their Roll Number in their Question Booklets at the space provided for the purpose.
2. This Question Booklet contains 75 Objective Type Multiple Choice questions carrying two marks each. **One mark will be deducted for each incorrect answer.**
3. Candidates **should not open** their Question Booklets before 10 a.m. After opening the Question Booklet at 10 am. ensure that it contains 75 questions in serial order from 1 to 75. If there is any missing or illegibly printed question, the matter should be brought to the notice of the invigilator immediately and the Question Booklet should be got replaced.
4. In each question, four options are given as (A), (B), (C) and (D). Answers to the questions should be marked in the separate OMR Answer Sheet by darkening the appropriate bubble/s against the question number in the OMR Answer Sheet. Generally one answer will be correct. In such cases, if more options are marked as correct, it will be treated as incorrect answer. Some questions have multiple correct answers. For such Questions, all the correct answers should be marked/indicated by darkening the appropriate bubbles. If any candidate darkens any of the wrong answer options or darkens only a part of the correct answer options, it will be treated as incorrect answer.
5. The candidates should use only **BLACK/BLUE Ballpoint** pen for filling the various entries and marking answers in the OMR Answer Sheet. Use of pencil, Gel pen or sketch pen and use of any colour ink other than black/blue is not permitted.
6. No candidate will be allowed to leave the examination hall without handing over the OMR Answer Sheet to the invigilator. Candidates can take the Question Booklet with them.
7. Answer Key will be published in the website www.hckrecruitment.nic.in after the examination.
8. Strict compliance of the instructions is essential. Any malpractice or attempt to commit any kind of malpractice in the examination will result in summary disqualification of the candidate.

1. Which among the following substantial changes were introduced by the Specific Relief Amendment Act 2018 ?
 - A) Retrospectivity in operation
 - B) Reliefs are no longer at the discretion of the Court
 - C) Special Courts for trial of the suits under the Act
 - D) Substituted performance

2. A gives his entire property to B, a living person, subject to the condition that from B, it will go to X, an unborn person absolutely, on X attaining the age of 18 years. Is this transfer valid?
 - A) Valid.
 - B) Hit by the Rule against perpetuity
 - C) Invalid. Being transfer of spes successionis
 - D) Invalid, being transfer to unborn person.

3. Which among the following is the meaning of the maxim "actus curiae neminem gravabit" ?
 - A) Act of court shall not prejudice any one.
 - B) Act of the court shall not affect the decision
 - C) For every wrong, there is a remedy
 - D) Every injury needs a cure

4. The concept of testimonial compulsion and the right against self incrimination was considered by the Constitution Bench of the Supreme Court in which among the following decisions?
 - A) P. Kottayya v. King Emperor
 - B) State of Karnataka v. Selvi
 - C) Mithu v. State
 - D) State of Bombay v. Kathi Kalu Oghad

5. Special Features of vested right are
- A) Alienable, heritable and not defeated by the death of transferee, before he acquires possession
 - B) Alienable, non heritable and not defeated by the death of transferee, before he acquires possession
 - C) Alienable, non heritable and defeated by the death of transferee before he acquires possession.
 - D) Non alienable, non heritable and defeated by the death of transferee before he acquires possession.
6. Principle of estoppel incorporated in S. 115 of the Indian Evidence Act is a.....
- A) Legal Presumption
 - B) A rule of convenience
 - C) Substantive Rule of Evidence
 - D) A legal fiction which can be called in aid to support a presumption
7. Resjudicata does not operate
- A) Between co-defendants
 - B) Between co-plaintiffs
 - C) Against a proforma defendant
 - D) Between legal heirs of plaintiffs and defendants
8. Onus of disproving the presumptions under S.29 and S.30 of the POCSO Act arises at which stage of trial ?
- A) Initial burden is on the accused
 - B) Duty of Prosecution is only to rebut the evidence of accused
 - C) Duty of the accused arises only when the foundational facts are established by the prosecution.
 - D) None of the above.

9. "In pari delicto" means.....
- A) Where the plaintiff is at fault
 - B) When defendant is at fault.
 - C) When both parties to a dispute are at fault
 - D) When neither party to a dispute is at fault.
10. A right to recover a time bound debt is a
- A) civil right
 - B) imperfect right
 - C) invalid right
 - D) illegal right
11. Which among the following is an example of a contract uberrimae fidei ?
- A) Contract of agency
 - B) Contract of guarantee
 - C) Contract of insurance
 - D) Contract of sale.
12. Which among the following is an inchoate crime ?
- A) Attempt to commit rape
 - B) Attempt to commit forgery
 - C) Right of self defence
 - D) None of the above
13. Which among the following is correct in relation to the term "servant of Government" under section 14 of IPC and "Public Servant" under section 21 of IPC ?
- A) "Public servant " is wider than " servant of Government" and also include persons in service of local authority, Corporation or Companies.
 - B) "Servant of Government" is wider than " Public Servant" and include persons appointed by Central or State Government, Municipality or local authority.

- C) Both terms are synonymous
- D) Both groups function in totally different fields and there is no overlapping

14. Which among the following is true ?

- A) Writ jurisdiction of Supreme Court under Article 32 of the Constitution of India is wider than any other writ jurisdiction
- B) Writ jurisdiction of supreme Court under Article 32 and the writ jurisdiction of High Court under Article 226 are same.
- C) Writ Jurisdiction under Article 32 exercised by the Supreme Court is superior, being exercised by the top court in India.
- D) Under Article 32, the Supreme Court can issue writ whenever there is a breach of Fundamental Right. Under Article 226, High Court can invoke writ jurisdiction whenever there is a breach of a Fundamental Right or any other statutory right . Hence, the latter is wider.

15. A driver of a loaded bus while driving along a Highway finds that the break cable is snapped. In emergency, to stop the vehicle, he tried to avoid hitting against an auto and swerved the vehicle to left side. It jumped the pedestrian's pathway and stopped. However, in the meanwhile, it hit against the auto and the passengers were seriously injured. What, if any, are the offences committed by the driver ?

- A) Offences under section 279 & 337 IPC.
- B) He is entitled to the protection of private defence.
- C) He is entitled to protection under section 81 of IPC. Hence, no offence committed.
- D) He is entitled to protection under section 82 of IPC. Hence, no offence committed.

16. Which among the following conditions must be fulfilled for conviction on circumstantial evidence?
- A) The circumstances from which the conclusions can be drawn, must be proved.
 - B) The entire chain of circumstances should be established in a convincing manner, without any missing link
 - C) It should exclude all possible hypothesis, except guilt of accused.
 - D) All the above.
17. Insanity as a defence means that a person at the time of doing an act by reason of unsoundness of mind was incapable of knowing....
- A) that what he was doing was wrong
 - B) the nature of the act
 - C) what he was doing was contrary to law
 - D) All or any one or two of the above
18. The Right guaranteed under Article 32 of the Constitution of India can be suspended.....
- A) Only in accordance with the Constitution
 - B) By the State Legislature
 - C) When proclamation of emergency is in operation
 - D) None of the above.
19. Which among the following is correct?
- A) The burden of proof that the accused was not insane at the time of commission of offence is on the prosecution.
 - B) The burden of proving that the accused was insane at the time of commission of offence is on the accused.

- C) There is a rebuttable presumption of fact that the accused was insane at the time of commission of offence.
- D) Insanity is a matter of inference to be drawn by the court on the facts proved by the prosecution.
20. A & B were standing on the road side talking to each other. C came and abused A, whereupon A took out a stick from the roadside and hit C. B took out a knife from his pocket and stabbed C thrice. Each of the three stab injuries was sufficient enough to cause death. Which among the following is correct ?
- A) B is guilty of culpable homicide.
- B) A & B are guilty of culpable homicide.
- C) A & B are guilty of culpable homicide and of voluntarily causing hurt.
- D) A is guilty of voluntarily causing hurt and B is guilty of culpable homicide.
21. A sues B, to recover one of the two properties left by C, claiming A to be only legal heir of C. After the written statement is filed, A filed an application to amend the plaint to incorporate the second item of property. The application was opposed by the defendant. Accepting the objection, the application was dismissed. Will another suit for recovery of the second property by A be barred under Order II Rule 2, CPC ?
- A) Yes. On the ground that A omitted to sue for the second property in the first suit.
- B) On the ground that A attempted to include the second item in the earlier suit, which was declined by the court.

- C) Will not be barred since A had not voluntarily abandoned the claim
- D) Both (A) & (B)

22. A and three of his friends decided to inflict grievous hurt on X. They proceeded to the place of residence of X and knocked the door of a house. A hit the person who opened the door with a sword, which injured him. In fact, by mistake they had gone to the house of neighbour of X. Which among the following is the legal consequence?

- A) Every other member is vicariously liable for the act committed by A.
- B) A alone is liable for the offence. Others are not liable for any offence.
- C) A is liable for the act committed by him and others are vicariously liable.
- D) None of the above.

23. A, claiming himself to be the owner of an extensive land, sued B, C and D for recovery of possession. The defendants claimed that they are the owners of one half of the property and that the remaining property belonged to X, Y and Z. Court held that A is not the owner and dismissed the Suit. A then sued X, Y, Z and B,C & D for declaration that he is the owner of the property and for possession. In the above situation, which among the following is correct?

- A) Question of 'A' s title is resjudicata to bar suit against B,C and D, who were parties to earlier suit but is not resjudicata, so as to bar suit against X, Y & Z, who were not parties to former suit.

- B) Question of 'A' s title is resjudicata to bar suit against B, C and D who were parties to suit and against X, Y and Z on whose behalf, B, C and D litigated.
- C) The second suit is not hit by resjudicata, since the previous suit was one for recovery and the second one was for declaration of tittle, and further that all the parties to the second suit were not parties to the first suit
- D) None of the above.
24. Which among the following is the common feature of simple mortgage and English mortgage ?
- A) Both do not require registration
- B) Both are possessory mortgages
- C) In both, there is a personal undertaking to pay mortgage money.
- D) There is no common feature among both
25. Which among the following are the essential features of easement by prescription ?
- A) Open and uninterrupted user as of right for twenty years and also absolute necessity
- B) Open, uninterrupted and continuous user as of right for 12 years
- C) Open, uninterrupted and continuous user as of right for 20 years or more
- D) Open, notorious, continuous user for more than 20 years and absolute necessity
26. Appellate court while hearing a civil appeal found that additional evidence is to be let in. Which among the following modes can be resorted to by the appellate court for the purpose?

- A) The appellate court can take such additional evidence.
- B) Direct the Court which passed the impugned decree to take additional evidence.
- C) Appoint a staff of the appellate court to take additional evidence.
- D) Direct any subordinate court other than the Court passed the impugned decree to take additional evidence.
27. A taxing statute provides that, cosmetics, toiletries and perfumery are taxable. Question is whether "Agarbathi" is taxable under the heading perfumery. Which principle of interpretation should the court resort to ?
- A) Harmonious interpretation B) Noscitur a Sociis
- C) Golden rule of interpretation D) Mischief Rule
28. What is the evidentiary value of dying declaration ?
- A) A dying declaration is a weak piece of evidence.
- B) Dying declaration can be accepted, if it is corroborated by other evidence.
- C) Dying declaration can be the sole basis for conviction, even without a corroboration. However, as a matter of prudence, it may be safe to seek some confirmation from the available materials.
- D) None of the above.
29. A, a contractor, undertakes to construct a residential building for B. It was agreed that it would be completed before January 2021, in the light of agreement of B to let out the proposed building for rent to C. Before completion of building, it falls down due to inferior quality

of materials used. B had to get it rebuild and also had to pay compensation to C. What are the reliefs available to B ?

- A) A is bound to compensate B for the cost of reconstructing the house.
 - B) A must pay compensation to B for the rent lost.
 - C) A must pay compensation to B for the damages paid to C
 - D) All the above.
30. During trial of 'A' for an offence of murder, it has come out in evidence that 'X' has committed an offence of forgery on a different date. The Sessions Judge issued summons to 'X' invoking S.319 of the Code of Criminal Procedure, 1973. The order is
- A) Correct, since the Sessions Judge is bound to invoke S.319 Cr.P.C.
 - B) Incorrect, since forgery is an offence triable only by a Magistrate.
 - C) Incorrect, since both 'A' and 'X' cannot be tried together at one trial.
 - D) Correct, since the trial of both together will be convenient for the reason that the witnesses would be common.
31. Passive Euthanasia was considered by the Supreme Court in which among the following decisions.....
- A) Aruna Shaubag v. Union of India
 - B) State of Karnataka v. Selvi
 - C) Olga Tellis v. Union of India
 - D) PUDR v. Union of India

32. A entices B, the wife of C, away from C, with the intent to commit adultery with her. He commits adultery. Invoking section 220 Cr.P.C,
- A) A may be separately charged with and convicted of offences under S.494 and Section 495 IPC.
 - B) A may be separately charged with and convicted of offences under section 495 and 496 of IPC.
 - C) A may be separately charged with and convicted of offences under Section 496 and s. 497 IPC.
 - D) A may be separately charged with and convicted of offences under section 497 and 498 of IPC
33. A agrees to sing in 'B's theatre every day evening, for two months at a fixed rate, per day. A fails to perform on the 5th day without any reason. A performs on 6th day with the consent of B. What is legal consequence ?
- A) Since B has acquiesced, he cannot cancel the contract. But he is entitled for damages for not singing on the 5th day.
 - B) Since B has acquiesced, he can neither cancel contract nor recover damages.
 - C) Though B has acquiesced, he can cancel the contract, but cannot recover damages.
 - D) Though he had acquiesced, he can both cancel the contract and recover damages also.
34. Pick the odd one out ?
- A). Code of civil procedure
 - B). Criminal Rules of Practice
 - C). Civil Rules of Practice
 - D). High Court Rules.

35. The distinction between mortgage by conditional sale and sale with a condition for re purchase is that ?
- A) Former is an ostensible sale, whereas latter is ostensible mortgage.
 - B) Former is an ostensible mortgage and the latter is an ostensible sale.
 - C) Former is a mortgage and the latter is a sale.
 - D) Former is a sale and the latter is a mortgage.
36. Which among the following is correct ?
- A) FIR is not a substantive piece of evidence and could only be used to corroborate its maker.
 - B) FIR is not a substantive piece of evidence and cannot be used to corroborate its maker.
 - C) FIR is a substantive piece of evidence and can be used to contradict the maker.
 - D) None of the above
37. An accused who is called upon to give specimen handwriting by a Magistrate is not entitled to take up a contention that it will offend his right against self incrimination, by virtue of which among the following ?
- A). Section 311A Cr.P.C.
 - B). State of Bombay v. Kathi Kalu Oghad.
 - C). Section 310 A Cr.P.C.
 - D). Aruna Shaunbag v. Union of India

38. A covenant that runs with land is ?
- A) A covenant which should exist regardless of the transfer of land.
 - B) A covenant which restricts the covenantee from altering the nature of land.
 - C) A covenant which is personal in nature.
 - D) None of the above.
39. In which among the following offences under the POCSO Act, proof regarding sexual intent is statutorily required?
- A) Aggravated sexual assault
 - B) Penetrative sexual assault
 - C) Sexual Assault
 - D) Sexual harassment
40. Which among the following can be considered as the special feature(s) of Right to fair compensation and transparency in Land Acquisition, Rehabilitation and Resettlement Act 2013?
- A) Prior consultation for acquisition.
 - B) Compulsory nature of acquisition, but payment of fair compensation
 - C) Rehabilitation and resettlement package
 - D) Landless farmers, whose interest are affected, are taken note of
41. In a suit relating to genuineness of will, the propounder sought permission of court to examine a person conversant with signature of the testator on the ground that the sole living attesting witness was abroad, who could not return to India due to Covid – 19. Can the relief be granted ?
- A) No. since one attesting witness is living
 - B) No. Since Section 69 of the Evidence Act can be invoked only if both attesting witnesses are not living

- C) Can be allowed. Since section 69 of the Evidence Act can be invoked when both attesting witnesses are not available
- D) None of the above
42. Which among the following transfers is exception to the principle of "Nemo dat Quod non habet"?
- A) Doctrine of election, transfer to unborn person and transfer by ostensible owner.
- B) Doctrine of election, transfer by ostensible owner, transfer by a part owner.
- C) Doctrine of election, Doctrine of feeding the grant by estoppel and transfer by ostensible owner.
- D) Transfer by ostensible owner, Doctrine of election and transfer by a person with defective title.
43. Which one is incorrect in relation to alibi evidence ?
- A) If defence of alibi is established, it is a strong ground to acquit the accused.
- B) Defence of alibi leaves no other defence for accused.
- C) Once defence of alibi fails, it gives a very strong suspicion regarding guilt of accused.
- D) Alibi is a strong type of defence.
44. Under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act 2013, which among the following shall be the minimum compensation ?
- A) Multiple of total ascertained market value, plus value of assets attached to the property, plus a solatium equal to 100% market

value of property

- B) Multiple of total ascertained market value, plus value of assets with 12 % interest plus 50% solatium
- C) Multiple of total ascertained market value, plus value of assets attached to the property plus solatium equal to 30% of market value with 15% interest.
- D) None of the above.

45. Three propositions under the Evidence Act are:

- 1). In civil cases character evidence is inadmissible unless the character of a party is a fact in issue. In criminal cases, evidence of good character is admissible generally.
- 2). In criminal proceedings, evidence of bad character of accused is admissible when evidence of good character has been given.
- 3). In criminal proceedings, evidence of good character of accused is irrelevant.

In relation to the above propositions, which one is correct ?

- A) All three are correct.
- B) 1 and 3 are correct.
- C) 1 and 2 are correct
- D) 2 & 3 are correct

46. A Will is required to be proved by calling at least one attesting witness , not withstanding which among the following?

- A) Whether it is registered.
- B) When it is not admitted.
- C) Whether it is unregistered ?
- D) All the above.

47. An advertisement inviting tender is.....?

- A) an offer
- B) an invitation to offer
- C) quasi contract.
- D) none of the above.

53. Hindu Succession Act, 1956 abolished, which among the following?
- A) Joint Family system
 - B) Doctrine of acquisition of right by birth
 - C) Doctrine of Right by survivorship
 - D) None of the above.
54. A Muslim marriage is void on which among the following grounds...
- A) Consanguinity
 - B) Affinity
 - C) Fosterage
 - D) All the above.
55. Who among the following is not entitled to inherit under Hindu Succession Act?
- A) child born in a voidable marriage
 - B) child born in a void marriage
 - C) Adopted child
 - D) Step son or step daughter
56. Which among the following document is a compulsorily registerable document?
- A) Lease deed for a period of 10 months.
 - B) Gift of an immovable property worth Rs.90
 - C) Sale of a vehicle worth Rs.2 lakhs
 - D) Sale of an immovable property worth Rs.90/-
57. Which among the following is incorrect in relation to Lis Pendens?
- A) It commences on the date of institution of plaint in a competent court.
 - B) Any sale effected of a property covered by Lis Pendens is void.
 - C) Lis Pendens will not be attracted, if it is effected with the

permission of Court.

D) Lis Pendens will continue till the final decree is passed by the last court of competent jurisdiction and till the decree is satisfied or satisfaction of decree becomes impossible by lapse of time.

58. Sessions Judge, while perusing records to decide whether to take cognizance of the alleged offence of murder, realised that the order of committal was wrong. The Sessions Judge therefore initiated suo moto revision, set aside the order of committal and sent the records back to the Magistrate for fresh consideration. The Sessions Judge is -

A) Correct, since S.397 of Cr.P.C invests such a power on the

Sessions Judge

B) Correct, since the order of committal is a final order amenable to revision.

C) Wrong, since the order of committal is only an interlocutory order.

D) Wrong, since a Sessions Court has no power to initiate revision on the basis of the facts that comes to his knowledge from the records already before him.

59. In which among the following circumstances, the Motor Accident Claims Tribunal is competent to direct the impleadment of the insurer?

A) When there is a collusion between the person making claim and the person against whom the claim is made.

- B) When the Tribunal is satisfied that the claimant is not properly prosecuting the claim.
- C) If the Tribunal feels that the claim petition is not legally sustainable.
- D) When the person against whom claim is made fails to contest the claim.
60. S.54 of the NDPS Act creates a legal presumption that possession of an illicit item under the Act by the accused is established, the accused had
- A) attempted to commit offence B) illegal possession of contraband
- C) committed the offence D) None of the above.
61. Force majeure is.....
- A) act of God B) vis major
- C) wider than vis major D) narrower than act of God
62. In a multifarious suit, plaint shall be chargeable with court fee on?
- A) the value of the main relief sought
- B) the value of the aggregate value of reliefs
- C) the value of all the ancillary reliefs together
- D) advalorem court fee prescribed.
63. In which among the following cases, court fee paid can be refunded?
- A) Court fee is paid by mistake or inadvertence

- B) Whenever appeal is allowed by the appellate court
 - C) Whenever judgment is set aside and remanded by the appeal Court
 - D) None of the above
64. Under Section 19 of the Guardian and Wards Act, no one else other than the father or mother, if they are alive, can be appointed as guardian unless;
- A) Court finds that they are not suitable to be appointed as a guardian.
 - B) Court finds that they are insolvent.
 - C) Court is of the opinion that they are unfit to be the guardian.
 - D) None of the above.
65. Which among the following will not fall within the jurisdiction of family court ?
- A) A suit relating to declaration of validity of marriage.
 - B) A claim for maintenance.
 - C) A suit for declaration of paternity.
 - D) A suit for declaration of legitimacy of any person.
66. A guardian appointed by a court cannot be removed by the court, for which among the following reasons ?
- A) For ill treatment of the ward.
 - B) For abuse of his trust.
 - C) For ceasing to reside within the jurisdiction of the court.
 - D) On the remarriage of the guardian.

67. Which among the following is not appealable under S.19 of the Family courts Act ?
- A) Every Judgment of Family Court. B) Interlocutory orders.
C) Decree or order passed with consent of parties. D) None of the above
68. On which among the following grounds, an arbitral award cannot be set aside under S.34 of Arbitration and Conciliation Act ?
- A) A party to the award was under some incapacity.
B) A party making application was not given proper notice about appointment of arbitrator.
C) Arbitration agreement was not valid under law applicable to parties.
D) Arbitrator committed a serious error in the appreciation of evidence.
69. Find out the odd pair ?
- A) Shared household and domestic violence.
B) Loss of amenities and loss of consortium
C) Sexual assault and aggravated penetrative sexual assault
D) Substituted security and substituted performance.
70. A settlement agreement arrived at in the course of conciliation proceedings will have the same status and effect as that of an.....?
- A) arbitral award under Section 33 of Arbitration and Conciliation Act.
B) mediation Settlement.
C) judicial settlement.
D) award of the Lok Adalath.

71. Privileged Will is executed by a--?
- A) Soldier engaged in actual warfare.
 - B) A soldier posted at the border.
 - C) A soldier posted for patrol duty
 - D) None of the above.
72. In computing 15 days remand period of an accused under S. 167 (2) Cr.P.C. which among the following is correct under Rule 22 of Criminal Rules of Practice ?
- A) Date of remand order and date of production of accused shall be reckoned.
 - B) Date of remand order alone to be reckoned.
 - C) Date of remand order not to be reckoned.
 - D) Date of production alone to be reckoned
73. 'Codicil' in relation to a Will means an instrument made for
- A) cancelling the Will
 - B) substituting the Will
 - C) explaining, adding or altering to its disposition
 - D) none of the above.
74. A person who has been granted pardon under section 306 Cr.P.C. fails to comply with conditions for pardon. He may be.....
- A) tried for giving false evidence.
 - B) tried for offence in respect of which pardon was tendered.
 - C) tried for any offence of which he appears to have been guilty in connection with the offence for which pardon was granted.
 - D) All or any one or two of the above

75. The authority which can commute the sentence of death or life imprisonment is

- | | |
|-----------------------|---------------------------|
| A) Central Government | B) appropriate Government |
| C) State Government | D) Chief Minister |

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