

MOCK TEST PAPER – 1
INTERMEDIATE (IPC): GROUP – I
PAPER – 2: BUSINESS LAWS, ETHICS AND COMMUNICATION
ANSWERS
DIVISION A

1. (A) (iii)
 (B) (iv)
 (C) (ii)
2. (A) (iii)
 (B) (iii)
 (C) (iv)

3	4	5	6	7	8	9	10	11	12
(c)	(d)	(b)	(c)	(d)	(b)	(b)	(c)	(c)	(b)
13	14	15	16						
(b)	(b)	(b)	(c)						

Division B
Descriptive questions

1. (a) According to section 103 of the Companies Act, 2013, unless the articles of the company provide for a larger number, the quorum for the meeting of a Public Limited Company shall be 5 members personally present, if number of members is not more than 1000.
 - (i) (1) S1, S2 and S3 will be counted as three members.
 - (2) If a company is a member of another company, it may authorize a person by resolution to act as its representative at a meeting of the latter company, then such a person shall be deemed to be a member present in person and counted for the purpose of quorum. Hence, S4 and S5 representing ABC Ltd. and DEF Ltd. respectively will be counted as two members.
 - (3) Only members present in person and not by proxy are to be counted. Hence, proxies whether they are members or not will have to be excluded for the purposes of quorum. Thus, S6 and S7 shall not be counted in quorum.

In the light of the provision of the Act and the facts of the question, it can be concluded that the quorum for Annual General Meeting of Alps Ltd. is 5 members personally present. Total 5 members (S1, S2, S3, S4 and S5) were present. Hence, the requirement of quorum is fulfilled.

- (ii) The section further states that, if the required quorum is not present within half an hour, the meeting shall stand adjourned for the next week at the same time and place or such other time and place as decided by the Board of Directors.

Since, S4 is an essential part for meeting the quorum requirement, and he reaches after 11:30 AM (i.e. half an hour after the starting of the meeting), the meeting will be adjourned as provided above.

- (iii) In case of lack of quorum, the meeting will be adjourned as provided in section 103.

In case of the adjourned meeting or change of day, time or place of meeting, the company shall give not less than 3 days' notice to the members either individually or by publishing an advertisement in the newspaper.

- (iv) Where quorum is not present in the adjourned meeting also within half an hour, then the members present shall form the quorum.

(b) **The Rights Approach (The Deontological Approach):** Some philosophers and ethicists suggest that the ethical action is the one that best protects and respects the moral rights of those affected. This approach starts from the belief that humans have a dignity based on their human nature per se or on their ability to choose freely what they do with their lives. On the basis of such dignity, they have a right to be treated as ends and not merely as means to other ends. The list of moral rights - including the rights to make one's own choices about what kind of life to lead, to be told the truth, not to be injured, to a degree of privacy, and so on is widely debated; some now argue that non-humans have rights, too. Also, it is often said that rights imply duties-in particular, the duty to respect others' rights.

(c) The importance of communication in the industrial organization has increased immensely in these days. The following factors are responsible for the growing importance of communication:

- (i) **Growth in the size and multiple locations of organizations:** Most of the organizations are growing larger and larger in size. The people are working in the country and abroad, of these organizations. Keeping in touch, sending directions across and getting feedback is possible only when communication lines are kept working effectively.
- (ii) **Growth of trade unions:** Over the last so many decades, trade unions have been growing strong. No management can be successful without taking the trade unions into confidence. Effective communication will create relationship between the management and the workers.
- (iii) **Growing importance of human relations:** Workers in an organization are not like machines. They have their own hopes and aspirations. Management has to recognize them and should work with the spirit of integration so that human relations may be maintained. This may only be achieved through effective communication.
- (iv) **Public relations:** Every organization has a social responsibility towards customers, government, suppliers and the public at large. Communication is the only way an organization can project a positive image of itself.
- (v) **Advances in behavioral sciences:** Modern management is deeply influenced by exciting discoveries made in behavioral sciences like psychology, sociology, transactional analysis etc. All of them throw light on suitable aspects of human nature and help in developing a positive attitude towards life and building up meaningful relationship. This is possible only through communication.
- (vi) **Technological advancement:** The world is changing very fast, owing to scientific and technological advancements. These advancements deeply affect not only the methods of

work but also the compositions of groups. In such a situation, proper communication between superiors and subordinates becomes very necessary.

2. (a) In terms of section 20(2), the provisions of the Payment of Bonus Act, 1965 do not apply to an establishment in public sectors, except as provided under sub-section 1 of section 20.

Section 20 of the Payment of Bonus Act, 1965 provides that, if in any accounting year, an establishment in public sector sells any goods produced or manufactured by it or if it renders any services in competition with an establishment in private sector and if the income from such sale or service or both is not less than 20% of the gross income of such establishment, then the provisions of the Payment of Bonus Act, 1965 shall apply in relation to establishment in private Sector.

In the given problem therefore, the demand of the employees is tenable in first case but it is not tenable in second case.

- (b) According to Section 7Q of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952, the employer shall be liable to pay simple interest @ 12% per annum or at such higher rate as may be specified in the Scheme on any amount due from him under this Act from the date on which the amount has become so due till the date of its actual payment.

Provided that higher rate of interest specified in the Scheme shall not exceed the lending rate of interest charged by any scheduled bank.

As per above provision, Mr. Sukhi, can claim for the payment of interest on due amount @ 12% per annum or at the rate specified in the Scheme, whichever is higher, for one year. Here, in the absence of specified rate he (Mr. Sukhi) can claim only 12% per annum interest on the due amount.

Hence, claim of Mr. Sukhi for interest rate of 18% is not as per the laws, so, it is not valid.

- (c) **Factors which influence the ethical behaviour at work:** Ethical decisions in an organization are influenced by three key factors:

1. **Individual moral standards:** One may have great control over personal ethics outside workplace.
2. **The influence of managers and co-workers:** The activities and examples set by co-workers along with rules and policies established by the firm are critical in gaining consistent ethical compliance in an organization.
3. **The opportunity to engage in misconduct:** If a company fails to provide good examples and direction for appropriate conduct; confusion and conflict will develop and result in the opportunity for unethical behavior.

- (d) **Tips for improving interpersonal skills:** Lines of communication must be open between people who rely on one another to get work done. Poor interpersonal communication skills, which include active listening, result in low productivity simply because one does not have the tools needed to influence, persuade and negotiate which are necessary for workplace success. To get this success the following tips are suggested:

- (i) **Congruency in communication elements:** If the words used are incongruent with the other interpersonal communication dynamics interpersonal communication is adversely affected. Since communication is shared meaning, words must send the same message as the other interpersonal communication dynamics – body language, facial expression, posture, movement, tone of voice to help emphasize the truth, sincerity and reliability of the communication. A consistent message ensures effective communication.

- (ii) **Listening effectively:** Effective or active listening is very important skill to enhance interpersonal communication. Listening helps to build strong personal relationships. The process of communication completes when the message as intended by the sender is understood by the receiver. Most of the persons assume that listening is natural trait, but practically very few of us listen properly. One needs to give the communicator of the message sufficient attention and make an effort to understand his view point.

3. (a) **Doctrine of Indoor Management**

According to this doctrine, persons dealing with the company need not inquire whether internal proceedings relating to the contract are followed correctly, once they are satisfied that the transaction is in accordance with the Memorandum and Articles of Association.

Stakeholders need not enquire whether the necessary meeting was convened and held properly or whether necessary resolution was passed properly. They are entitled to take it for granted that the company had gone through all these proceedings in a regular manner.

The doctrine helps to protect external members from the company and states that the people are entitled to presume that internal proceedings are as per documents submitted with the Registrar of Companies.

The doctrine of indoor management is opposite to the doctrine of constructive notice. Whereas the doctrine of constructive notice protects a company against outsiders, the doctrine of indoor management protects outsiders against the actions of a company. This doctrine also is a safeguard against the possibility of abusing the doctrine of constructive notice.

- (b) **Forfeiture of gratuity:** Section 4(6) of the Payment of Gratuity Act, 1972 deals with cases in which gratuity payable to an employee may be forfeited.

According to clause (a) of the said sub section, the gratuity of an employee whose services have been terminated for any act, willful omission or negligence causing any damage or loss to, or destruction of property belonging to the employer, shall be forfeited to the extent of the damage or loss so caused.

Further, clause (b) provides that the gratuity payable to an employee may be wholly or partially forfeited if the services of such employee have been terminated for –

- (i) his riotous or disorderly conduct or any other act of violence on his part, or
- (ii) any act which constitutes an offence involving moral turpitude, provided that such offence is committed by him in the course of his employment.

Computation of Gratuity of a disabled employee: According to Section 4 (4) of the Payment of Gratuity Act, 1972, when an employee becomes disabled due to any accident or disease and is not in a position to do the same work and re-employed on reduced wages on some other job, the gratuity will be calculated in two parts :-

- **For the period preceding the disablement:** On the basis of wages last drawn by the employee at the time of his disablement.
- **For the period subsequent to the disablement:** On the basis of the reduced wages as drawn by him at the time of the termination of services.

- (c) The Competition Act, 2002 has established a Commission to prevent practices having adverse effect on competition, to promote and sustain competition in markets, to protect the interests of consumers and to ensure freedom of trade carried on by other participants in markets, in India, and for matters connected therewith or incidental thereto.

The Act deals with the following:

- **Prohibition of certain agreements**, which are considered to be anti-competitive in nature. Such agreements [namely tie in arrangements, exclusive dealings (supply and distribution), refusal to deal and resale price maintenance] shall be presumed as anti-competitive if they cause or are likely to cause an appreciable adverse effect on competition within India.
- **Abuse of dominant position** by imposing unfair or discriminatory conditions or limiting and restricting production of goods or services or indulging in practices resulting in denial of market access or through in any other mode are prohibited.
- **Regulation of combinations** which cause or likely to cause an appreciable adverse effect on competition within the relevant market in India.

In light of the above points, any agreement that Sun Flowers Ltd. may enter into with Coconut Ltd. to tie-up the price at a certain level is prohibited. Such agreements would also amount to abuse of dominant position.

- (d) **Organizational Values:** A key element in any communication activity is the values of the organization. Values are the principles and ideas that people or organizations strongly believe in and consider important. When people are in doubt about decisions, they frequently rely on deep-seated values to help them make the right choice. In organizations, reliance on shared values makes setting goals easier in the face of the competing ideas, desires, and objectives of individual employees.

One can get a good idea about the values of an organization by examining its vision and mission statement. These statements are short descriptions of the purpose of organizations and the directions they try to take to achieve success. Many organizations post their vision and mission statements in several places so that employees know what the organization values.

4. (a) As per the provisions of Section 133 of the Indian Contract Act, 1872, if the creditor makes any variance (i.e. change in terms) without the consent of the surety, then surety is discharged as to the transactions subsequent to the change.

In the instant case, Mr. Pawan is liable as a surety for the loss suffered by ABC Constructions company due to misappropriation of cash by Mr. Chetan during the first six months but not for misappropriations committed after the reduction in salary.

Hence, Mr. Pawan will be liable as a surety for the act of Mr. Chetan before the change in the terms of the contract i.e., during the first six months. Variation in the terms of the contract (as to the reduction of salary) without consent of Mr. Pawan will discharge Mr. Pawan from all the liabilities towards the act of the Mr. Chetan after such variation.

- (b) **Capacity to make, etc., promissory notes, etc.** (Section 26 of the Negotiable Instruments Act, 1881): Every person capable of contracting, according to the law to which he is subject, may bind himself and be bound by the making, drawing, acceptance, endorsement, delivery and negotiation of a promissory note, bill of exchange or cheque.

However, a minor may draw, endorse, deliver and negotiate such instruments so as to bind all parties except himself.

As per the facts given in the question, Mr. S Venkatesh draws a cheque in favour of M, a minor. M endorses the same in favour of Mrs. A to settle his rental dues. The cheque was dishonoured when it was presented by Mrs. A to the bank on the ground of inadequacy of funds. Here in this case, M being a minor may draw, endorse, deliver and negotiate the instrument so as to bind all parties except himself. Therefore, M is not liable. Mrs. A can, thus, proceed against Mr. S Venkatesh to collect her dues.

- (c) The term discriminate means “to distinguish one object from another”. Employment discrimination is treating one person better than another because of their age, gender, race, religion or other protected class or status. Discrimination in employment is against the basic principle of equality. Discrimination is to treat people differently. It is usually intended to refer to the wrongful act of making a difference in treatment or favour on a basis other than individual merit.

Elements of Discrimination: The elements which are involved or create discrimination in employment may be summarized as follows:

- (i) decision taken against one or more employees which is not based on individual merit, such as the ability to perform a given job, seniority or other morally legitimate qualification.
 - (ii) decision derived solely from racial or sexual prejudice, false stereotypes and other kind of morally unjustified attitude against members of which the employee belongs.
 - (iii) decision which has a harmful or negative impact on the interests of the employees, perhaps costing their jobs, promotions or better pay.
- (d) (i) **Groupthink:** Groupthink is the tendency of group members to seek agreement solely for agreement's sake. A group gripped by groupthink fails to be creative, explore alternative solutions, problems, or concerns in an effort to present a united or cohesive front to outsiders. Group members must question themselves and their actions to ensure high-quality decision making.

There are several ways to reduce the tendency toward groupthink.

- One technique that encourages open discussion is to have the group leader ask each member to assume the role of critical evaluator. It should be stressed that the role is that of constructive rather than destructive questioner.
 - Another technique is to have the group from time to time divide into subgroups with similar tasks leading to fresh perspectives.
 - A third technique conducive to warding off groupthink is to have each group member discuss the group's communications and actions with trusted outsiders to obtain an objective viewpoint.
 - A fourth way to avoid groupthink is to have the group hold a special meeting where all misgivings, second-guessing, and objections are aired. At such a meeting, each member is encouraged to express any doubts she or he may have, about any phase of the group's deliberation.
 - A special method of minimizing groupthink is to have a measure of cultural diversity within a group leading to emergence of diverse ideas, opinions, and arguments which can counteract the effects of groupthink.
- (ii) **Persuasion** is one dimension of influence. It is a direct communication when benefits are stated in a reasoned arguments and competent views dealt with in a respectful manner. The two principles of persuasion are:
- **Honour and Respect:** These are communicated in various ways-You can respect people's time by being sensitive about the timing of your communication.
 - **Understanding the other person's Frame of Reference:** Each of us have a unique personality but one can get to know a great deal about the other person by approaching things from their point of reference, asking questions and listening.

5. (a) **Deposit:** According to section 2 (31) of the Companies Act, 2013, the term 'deposit' includes any receipt of money by way of deposit or loan or in any other form, by a company, but does not include such categories of amount as prescribed in the Rule 2 (1) (c) of the *Companies (Acceptance of deposit) Rules, 2014*, in consultation with the Reserve bank of India.

Amounts received by the company will not be considered as deposit: In terms of Rule 2 (1) (c) of the *Companies (Acceptance of deposit) Rules, 2014*, following shall be the answers-

- (i) In the first case, where Rs. 5,00,000 raised by the Rishi Ltd. through issue of non-convertible debenture not constituting a charge on the assets of the company and listed on recognised stock exchange as per the applicable regulations made by the SEBI, will not be considered as deposit in terms of sub-clause (ixa) of the said rule.
 - (ii) In the second case, Rs. 2,00,000 was received from Mr. T, an employee of the company drawing annual salary of Rs. 1,50,000 under a contract of employment with the company in the nature of non-interest bearing security deposit. This amount received by company from employee, Mr. T will be considered as deposit in terms of sub-clause (x) of the said rule, as amount received is more than his annual salary under a contract of employment with the company in the nature of non-interest bearing security deposit.
 - (iii) In the third case, amount of Rs.3,00,000 received by a private company from a relative of a Director, declaring details of the amounts so deposited as out of gift received from his mother. This amount received by the private Company will not be considered as deposit in terms of sub-clause (viii) of the said rule. Here as per the requirement, the relative of the director of the private company, from whom money is received, furnished the declaration in writing to the effect that the amount is given out of gift received from his mother and not being given out of funds acquired by him by borrowing or accepting loans or deposits from others.
- (b) **Correct:** The success of the business depends very much on fairness and honesty in the business. Fairness and honesty are at the heart of the business ethics and relate to the general values of decision makers. At a minimum, business professionals and persons are expected to follow all applicable laws and regulation. Even then, they are expected not to harm customers, employees, clients or competitors knowingly through deception, misrepresentation, coercion or discrimination.

One aspect of fairness and honesty is related to disclosure of potential harm caused by product use.

Another aspect of fairness relates to competition. Although numerous laws have been passed to foster competition and make monopolistic practices illegal, companies sometimes gain control over markets by using questionable practices that harm competition.

Fairness and honesty pay in the long run; they secure the stability of the business and overall reputation in the business world. Therefore, we may say that fairness and honesty are the pillars of success in the business.

- (c) Notice is hereby given that the Annual General Meeting of the members of ABC Ltd. will be held on Monday the day of 20.... at the registered office of the Company at 10 a.m. to present the following business:

Ordinary Business:

- (i) To Receive, consider and adopt the Audited Balance sheet of the company as on 31st March, 2020 and the Profit and Loss account for the year ended on that date and Auditor's and Director's response thereon.
- (ii) To declare dividend for the year ended 31st March, 2020

(iii) To appoint a director in place of Mr.....

(iv) To appoint Statutory Auditors of the Company.

NOTE: A member entitled to attend and vote is entitled to appoint a proxy to attend and vote instead of himself and proxy need not be a member of the company.

For and on behalf of the Board of Directors.....

Registered Office.....

6. (a) **Order of the Tribunal:** According to section 7(7) of the Companies Act, 2013, where a company has been got incorporated by furnishing false or incorrect information or representation or by suppressing any material fact or information in any of the documents or declaration filed or made for incorporating such company or by any fraudulent action, the Tribunal may, on an application made to it, on being satisfied that the situation so warrants—

- (a) pass such orders, as it may think fit, for regulation of the management of the company including changes, if any, in its memorandum and articles, in public interest or in the interest of the company and its members and creditors; or
- (b) direct that liability of the members shall be unlimited; or
- (c) direct removal of the name of the company from the register of companies; or
- (d) pass an order for the winding up of the company; or
- (e) pass such other orders as it may deem fit.

However before making any order-

- (i) the company shall be given a reasonable opportunity of being heard in the matter; and
- (ii) the Tribunal shall take into consideration the transactions entered into by the company, including the obligations, if any, contracted or payment of any liability.

- (b) **Pledge by person in possession under voidable contract** [Section 178A of the Indian Contract Act, 1872]: When the pawnor has obtained possession of the goods pledged by him under a contract voidable under section 19 or section 19A, but the contract has not been rescinded at the time of the pledge, the pawnee acquires a good title to the goods, provided he acts in good faith and without notice of the pawnor's defect of title.

Therefore, the pledge of diamond by Srushti with Mr. VK is valid.

- (c) While resolving the ethical conflicts in a business organization, the following issues needs to be considered specifically are:

- (a) Relevant facts;
- (b) Ethical issues involved;
- (c) Fundamental principles related to the matter in question;
- (d) Established internal procedures; and
- (e) Alternative courses of action.

Having considered these issues, a finance and accounting professional should determine the appropriate course of action that is consistent with the fundamental principles identified.

- (d) **Power of Attorney to appear before Income Tax Authorities**

BY THIS POWER OF ATTORNEY, XYZ Limited (full details), hereby appoints Mr. A, Chartered Accountant. (full details) as attorney of the company above named and authorize him for the purpose hereinafter mentioned:

1. That said attorney shall be handed over the judgement of the tribunal of Income Tax and instruct him to file the appeal against the order, for the Assessment Year
2. That said attorney shall execute and shall sign all the related papers under the supervision of the Board.
3. That specimen signature of said attorney is given below of this deed.
4. That said attorney shall generally do all other lawful acts necessary for the conduct of the said case.

AND, XYZ Limited DO HEREBY AGREE to ratify all acts, things, deeds or proceedings lawfully done by Mr. A on behalf of the XYZ Limited and in the name of the XYZ Limited by virtue of this power of attorney and the same shall be binding on XYZ Limited in full force or effect.

IN WITNESS WHEREOF the XYZ Limited have executed this power atthis.....day of.....20.....