

**GUJARAT NATIONAL LAW UNIVERSITY
GANDHINAGAR**

Course: **CBL-II: Law of Banking and Insurance**
Semester-I (Batch: 2013-14)

End Term LL.M. Examination: November-2013

Date: 20th November, 2013

Duration: 3 hours

Max. Marks: 70

Instructions:

- Read the questions properly and write the answers in the given answer book.
- The respective marks for each question are indicated in-line.
- Do not write any thing on the question paper.
- Indicate correct question numbers in front of the answers.
- No questions or clarifications can be sought during the exam period, answer as it is, giving reason, if any.

Answer all the questions

Marks

- Q.1 Mr. NMN deposited a sum of Rs2.00 Lakhs in the savings bank account maintained at Bharatpur branch of DUCB Bank on 18/08/2012 and the same was entered in the pass-book issued by the branch to Mr. NMN. As per the rules of the bank, whenever withdrawals are to be made, pass book has to be presented for necessary entries. (10)

In the meantime, Mr. KMN, who is a minor and brother of Mr. NMN, issued a notice to the banker that there had been a partition in the family and that the amount lying in the SB A/c of Mr. MNM has been allotted to his share and bank should not repay the amount to Mr. NMN. Accordingly Bank refused to pay Mr. NMN the amount lying in his SB A/c maintained with it.

In view of the dispute between the parties regarding the ownership of the amount (lying in the SB A/c), Bank filed an interpleader suit before the District Munsif of Bharatpur. The suit was dismissed on the preliminary issue that in regard to this deposit the relationship between the bank and the defendant Mr. NMN was that of Principal and Agent and that Order XXXV, Rule 5 of CPC lays down that nothing in Order XXV shall be deemed to enable agents to sue their principals.

While deciding the subsequent Appeal preferred by Bank, the Subordinate District Judge set aside the order of District Munsif as bad in law and remitted the case back to the District Munsif for fresh adjudication. The reason cited by the Subordinate District Judge for holding the judgment as bad in law as he was of the view that the relationship between the bank and the defendant Mr. NMN was that of Debtor and Creditor, not that of Principal and Agent.

In view of the foregoing, critically discuss whether the Subordinate District Judge has erred in his findings?

Support your answer by citations from relevant authorities in the subject matter and appropriate case laws.

- Q.2 Critically analyze the jurisprudence of dishonour of cheque under the Negotiable Instruments Act, 1881. Support your answer by citations from relevant authorities in the subject matter and appropriate case laws. (10)

- Q.3 “Cause of fire is immaterial to claim damage in fire insurance, and it is equally immaterial, whether the fire is caused by the negligence of servants or strangers or even by the negligence of the insured himself”-Elucidate with the help of decided cases. (10)
- Q.4 Sarita and Venkat are married couple living happily. Mr.Venkat died due to heart attack on 17-05-2013. The deceased Venkat had obtained a policy on his life commencing from 16-05-2010, before the marriage and in which he had nominated his father Rama Rao as his nominee. Wife claimed the amount as a legal heir according the Hindu Succession Act, and the Rama Rao claimed the amount as nominee. Insurance Company informed both of them that the policy was assigned in favour of the Bank in discharge of the surety amount and moreover he was not disclosed his heart ailment in his proposal form and hence not entered the contract with utmost good faith. Both the Sarita and the Rama Rao filed a separate case as a legal heir and nominee respectively against the LIC before District Consumer Forum and in both the cases Bank was also impleaded as a respondent. Advance your arguments on behalf of both Sarita and Ram Rao with the help of provisions of the Insurance Act, 1938 and decided case laws. (10)
- Q.5 Explain the claim procedure, assessment of compensation based on the principle of No-fault liability and fault liability enshrined under the Motor Vehicles Act, 1988. What are the defences available to the insurance company as per the law. (10)
- Q.6 Short Notes: (4x5= 20)
- (a) Castellein V Preston
 - (b) Holder in due course
 - (c) Cheque
 - (d) Promissory Note
