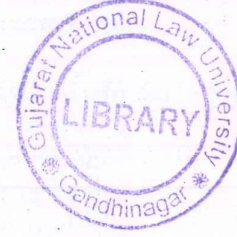


**GUJARAT NATIONAL LAW UNIVERSITY
GANDHINAGAR**

Course: Labour Law-II
Semester-VIII (Batch: 2012-17)

Mid Semester Test: Feb-Mar. 2016



Date: 1st March, 2016

Duration: 2 hours

Max. Marks: 30

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 anything 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.

Part-A

(Answer all the question)

Marks
(5x2=
10)

State true or false with the appropriate reasons (word limit: maximum 50 words)

- Q.1 It is the employment in the regular course of business of the establishment alone which attracts the provisions of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952.
- Q.2 Contribution towards provident fund can only be on basic wage, it is not at all necessary that the workman must actually be on duty and should actually have worked.
- Q.3 Tailoring of clothes is a 'manufacturing process'.
- Q.4 Injury sustained by a workman must be a physical injury on account of accident under The Employee's Compensation Act, 1923.
- Q.5 The word '*workman*' defined in section 2(1) (n) of The Employee's Compensation Act, 1923 includes his legal heirs and legal representatives.
Note: '*Employee*' as per the Amendment in 2010.

Part-B

(Answer any four questions)

- Q.6 What do you understand by social security? Discuss in brief, how ILO core conventions have influenced the Indian Labour Laws. (05)
- Q.7 (a) The Christian College, Indore has a department called the Equipment Maintenance Department. This department maintains the equipments in the hospital such as X-Ray, ECG, Radiation equipment etc. In effect this department repairs the equipment which is being used in the hospital. Whether the Employees' State Insurance Act, 1948 will be applicable to the department? (2.5+
2.5=5)
- (b) The Suruchi Restaurant was catering to the needs of the customers to serve them food. At the time of checking by the vigilance officer 71 persons were found working in the restaurant including its kitchen. It was found that no contribution was being paid in respect of 37 persons who were found working in the restaurant. The explanation of the employer about these 37 persons was that they were the relatives of the employees of the restaurant and were undergoing training there. They were allowed to learn the work and were given free food and accommodation and were not paid any wages in

cash. Whether the employer is liable to contribute under the Employees' State Insurance Act, 1948 in respect of these 37 persons?

Q.8 (a) Mr. Kuldeep was entrusted with the work of writing accounts on the contract basis in a factory. He had the option to take the employment with some other employer as well and had the option of work at his own residence. He was being paid Rs. 500 per month in connection with the work entrusted to him on contract basis. Whether Mr. Kuldeep is an 'employee' within the meaning of Section 2(f) of The Employees' Provident Fund and Miscellaneous Provisions Act, 1952? (2.5+ 2.5=5)

(b) A factory situated at Ujjain was engaged in manufacturing of organic chemicals and fertilizers. The management established another factory at Ratlam to manufacture other chemicals. The management transferred few experienced employees from old factory to new. The two factories have separate registration rules, they were registered separately, maintaining separate profit and loss account, having separate works manager and plant superintendents, separate and independent set of employees. Not only this, there was no supervisory control by one factory over the other, no connection between them in the matters of supervision, finance or managerial control. Whether the two factories constitute distinctly different entities or they can be clubbed together for the applicability of The Employees' Provident Fund and Miscellaneous Provisions Act, 1952?

Q.9 Discuss the provisions relating to the distribution of compensation under the Employees' Compensation Act, 1923. (05)

Q.10 Mr. Amin Shah, a *coolie*, was working for M/s Rahim Construction Company, in Ahmedabad, The Punjab bank having its main office at Ahmedabad wanted to expand its activity which led to construction of a new branch office building. In furtherance of this the Bank entered into a contract with the construction company requesting to construct a branch office at Ahmedabad. The company involved all its *coolies* including Mr. Amin Shah for the construction site. Mr. Amin Shah was struck by lightning resulting in the death on the spot. All the dependents of Mr. Amin Shah claimed compensation from the Punjab Bank as well as Construction Company. The bank has denied paying compensation on the ground that it was not the principal employer and the Construction Company refused to pay the compensation on the ground that the death had not occurred "arising out of and in the course of employment". (2.5+ 2.5=5)

(a) Whether the death as mentioned above, "Arise out of and in the course of employment"?

(b) Who is liable to pay compensation in the above mentioned case?
