

GUJARAT NATIONAL LAW UNIVERSITY
GANDHINAGAR
Course: Clinical-IV:
Litigation Management and Alternative Dispute Resolution
Semester-X (Batch: 2011-16)

End Semester Examination: April-May 2016

Date: 28th April, 2016

Duration: 2 hours

Max. Marks: 40

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.

Q.1 Read the below problem and answer the following:

Marks
(4x1=
04)

Geetha is negotiating the purchase of a home from her neighbor Reegan. She is willing to acquire it for Rs. 15 lakhs. She has begun the negotiation by offering 12 lakhs. If Geetha cannot negotiate at a price of 16 lakhs or less for the home, she will purchase a new home from a builder for 20 lakhs. Reegan intends to sell the home for 17.5 lakhs. He has countered Geetha's initial offer by 19 lakhs. If Reegan cannot get at least Rs. 14.5 lakhs from Geetha for the home, he will sell it to a builder for 10 lakhs.

(A) the reservation prices of both Geetha and reegan are

- (a) 15 lakhs and 17.5 lakhs
- (b) 12 lakhs and 19 lakhs
- (c) 16 lakhs and 14.5 lakhs
- (d) 10 lakhs and 20 lakhs

(B) the stretch goals of Geetha and Reegan are

- (a) 15 lakhs and 17.5 lakhs
- (b) 12 lakhs and 19 lakhs
- (c) 16 lakhs and 14.5 lakhs
- (d) 10 lakhs and 20 lakhs

(C) the ZoPA is

- (a) 12 lakhs-16 lakhs
- (b) 15 lakhs-17.5 lakhs
- (c) 15 lakhs-17 lakhs
- (d) 14.5 lakhs-16 lakhs

(D) the most likely prices of Geetha and Reegan are

- (a) 15 lakhs and 17.5 lakhs
- (b) 12 lakhs and 19 lakhs
- (c) 16 lakhs and 14.5 lakhs
- (d) 10 lakhs and 20 lakhs

Q.2 Choose the Correct answer/answers:

(4x1=
04)

- (A) Which of the following is not a type of mediation?
- (a) Facilitative
 - (b) Evaluative
 - (c) Baseball
 - (d) Adjudicative
- (B) Many Indian Acts contain prior notice provisions before the initiation of the disputes in a forum, which indirectly asked the parties to settle the dispute through
- (a) power
 - (b) mediation
 - (c) negotiation
 - (d) avoidance
- (C) A deal making negotiation is not a
- (a) problem solving
 - (b) look to the past
 - (c) interest based
 - (d) Position based
- (D) Choose the wrong statements:
- (a) RCT is having the jurisdiction to hear the accidental death and accidental injury claims.
 - (b) The complainant can't file his complaint directly to the banking ombudsman without giving prior notice to the concerned bank.
 - (c) Patent illegality is also one of the ground for challenging the domestic and international arbitral award.
 - (d) The "arbitrator fee" schedule under Arbitration Act is applicable to domestic arbitration only.

Q.3 Match the following:

(5x2=
10)

- (A)
- | | |
|------------------------------------|-----------------|
| i. No provision | a. Conciliation |
| ii. Section 89 of CPC | b. Lok Adalat |
| iii. Industrial Disputes Act | c. Mini trial |
| iv. Legal Services Authorities Act | d. Mediation |
- (B)
- | | |
|-------------------|---|
| i. Delhi | a. First mediation training |
| ii. Chennai | b. First court annexed mediation center |
| iii. Ahmedabad | c. ISDLS |
| iv. San Francisco | d. ICADR |
- (C)
- | | |
|----------------|-----------------------|
| i. Review | a. section 115 of CPC |
| ii. Revision | b. section 114 of CPC |
| iii. Reference | c. section 116 of CPC |
| iv. Cost | d. section 114 of CPC |
| | e. section 35 of CPC |

(D)

- | | |
|--------------------|-----------------|
| i. DAB | a. domain names |
| ii. WIPO | b. construction |
| iii. Blind bidding | c. ODR |
| iv. UDRb | d. IPR disputes |

(E)

- | | |
|--|-----------------------------------|
| i. Manju Gupta V National Insurance Company | a. mini trial |
| ii. State of M.P Vs Madanlal | b. mediator's report to the court |
| iii. Bawa masala co v Bawa masala co pvt ltd | c. mediation in rape cases |
| iv. Moti Ram (d) v. Ashok Kumar & anr | d. lok adalat |

Q.4 Chose the true or false statement:

(12x0.5
=06)

- (a) Enhancing the pie is known as “distributive negotiation
- (b) Permanent Lok Adalat can pass an award on merits in case of no compromise has arisen between the parties in a dispute.
- (c) Indian people begin their business negotiation immediately and don't want to take time to get to know the other side
- (d) Indian judiciary hasn't adopted any code of conduct.
- (e) As per the negotiation problem in the question number 1 both Geetha and Reegan's BATNAs are strong.
- (f) EU consumer ADR directive encourages mandatory arbitration clause.
- (g) As per the amended Arbitration Act, parties of international commercial arbitration seated outside India can avail interim measures under section 9.
- (h) As per the Judicial accountability Bill, “Empower committee” is a body which hear the complaints against judges.
- (i) The arbitration matters should be heard by the commercial courts.
- (j) Remedy of “revision” is not allowed against the order of a commercial court.
- (k) Complying the stipulated timeline of arbitral proceedings is the biggest problem faced by the existing arbitral tribunal due to the retrospective implementation of Arbitration amendment Act.
- (l) The compliance of the award of Ombudsman always the discretion of the banker.

Q.5 Read the set of facts and answer the questions below: (word limit 250)

(4x4=
16)

- (a) After completing the IPL match with Mumbai Indians, Bashwin has offered a dinner party to Sohita at Mumbai Taj hotel. Bashwin has used his credit card for paying the bill. However, the payment couldn't be made out due to insufficient fund in the credit card. Sohita has come forward and paid the bill. Later, he teased Bashwin because of not having money in his account. Two weeks later, he checked the credit card account details and he found that his card is having sufficient balance. Finally, he decides to file claim against the bank who issued the credit card. Due to busy match schedule and maintaining his reputation with the banker he thought of settling his dispute in an amicable manner. Bashwin got his credit card from SBI bank Chennai. Whereas, now he is settled at Pune because of change of IPL franchise from CSK to RPS.
 - I. Can Bashwin approach Mumbai banking Ombudsman?
 - II. Can Bashwin get compensation for mental agony?
- (b) Venus and Sarina are having partition dispute and which is pending before the Ahmedabad City Civil court. The judge Martina after considering the pleadings of both the parties has referred the same dispute to Lok Adalat for the settlement without the consent of the parties.
Whether Judge Martina's act is permissible or not?

- (c) Tamtung and Orange are two big mobile companies and they are having various IPR disputes between themselves. Each party had won in their respective countries and lost other jurisdiction. Meanwhile, other mobile companies are taking advantage of this situation and gaining more profit. Considering the adverse effects of these disputes, both Tamtung and Orange have decided to settle their dispute through mediation. Mr. Bogle has been appointed as mediator and he has started the mediation proceedings immediately. During caucus, Tamtung CEO has told that one of the former employee of Orange has given the disputed technologies to Tamtung; he also asked to Bogle not to disclose this information to the Orange. After caucus, the Bogle observed that the Orange is in unequal bargaining situation and to help them he has disclosed the information which has been told by the Tamtung CEO to the Bogle during caucus.

Whether the mediator has committed any wrong or not?

- (d) Ramesh Raina is the player of Gujarat Lions team and had travelled in Rajdani express from Ahmedabad to Delhi on 10/4/2016 for playing IPL match between Gujarat Lions and Delhi Daredevils. During the journey, he had been served Railway food by the Railway. After having the food, he suffered stomach problem and due to which he was unable to play the IPL match on the very next day; because of which his team had lost that match. He would like to claim compensation from Railway. Please advise the proper forum and place for filing to Ramesh Raina.
