

## PAPER – 2 : BUSINESS LAWS, ETHICS AND COMMUNICATION

Question No. 1 is compulsory.

Attempt any **four** questions from the remaining **five** questions.

### Question 1

- (a) Mr. Jem, owner of Century Diamonds Ltd. delivered a parcel of two boxes of diamond jewellery to Quick Transports Ltd. to be sent from Netawal to Madurai, where he needed them for a festival to be held at Madurai. Mr. Jem did not disclose the purpose of delivery to the transporter. Owing to the delay of the transporter, the parcel reached only after the conclusion of the festival. Mr. Jem sued for the damages including the profits which he would have earned in the festival against Quick Transports Ltd. Decide whether Mr. Jem is entitled to claim damages and profits which would have been made. Examine with reference to the Indian Contract Act, 1872. **(3 Marks)**
- (b) Ashok, a director of Gama Electricals Ltd. gave in writing to the company that the notice for any general meeting and of the Board of Directors' meeting be sent to him only by registered post at his residential address at Kanpur for which he deposited sufficient money. The company sent notice to him by ordinary mail under certificate of posting. Ashok did not receive this notice and could not attend the meeting and contended that the notice was improper.
- Decide:
- (i) Whether the contention of Ashok is valid.
- (ii) Will your answer be the same if Ashok remains in U.S.A. for one month during the notice of the meeting and the meeting held? **(3 Marks)**
- (c) "Ethical programs help to manage values associated with quality management, strategic planning and diversity management". Explain. **(4 Marks)**
- (d) (i) Discuss the types of grapevine chains which facilitates the communication. **(2 Marks)**
- (ii) What are the demerits of grapevine phenomenon? **(2 Marks)**

### Answer

- (a) As per the provisions of the Contract Act, 1872, in cases where there is a breach of contract, the promisor who breaches is liable to pay compensation for damages suffered by the promisee. The compensation can be classified as:
- (i) those for damages that usually arise in the event of breach of contract and
- (ii) those for damages which parties know and anticipated at the time of entering into the contract called special damages. This kind of special damages can be claimed only on previous notice.

However, no compensation is payable for any remote or any indirect loss. While assessing the damage the inconvenience caused to the aggrieved party on account of non-

performance should be assessed carefully, as the party entitled for compensation, he has a duty to take steps to minimise the loss.

The rules relating to compensation were enunciated in detail in *Hadley vs. Baxendale*. In this case, the mill of the plaintiff had to be stopped because of a broken crank shaft. The plaintiff sent the crank shaft as a pattern for manufacturing a new one. Till the arrival of the new crank shaft, the mill could not be resumed. Hence mill incurred losses. However, this position was not properly conveyed to the defendant, the carrier. There were some delay on the part of the defendant in delivering the crank shaft to the manufacturer which in turn delayed the reopening of the mill. As a result of this, there were losses to the mill. The defendant claimed compensation for loss in profit of the mill. However, this was not accepted by court on the ground the plaintiff did not explain to defendant that delay in delivering the crank shaft would delay resumption of the mill and this would result in losses to the plaintiff. Similar principle was upheld by Madras High Court in *Madras Railway Company Vs. Govind Ram*.

In the given question, Mr. Jem did not disclose the purpose of delivery of jewellery (that it was needed for a festival to be held at Madurai) to Quick Transports Ltd. Thus, in the light of the provisions of the Act, the principle laid by the leading case law and the facts of the question, Mr. Jem is entitled to only those damages that usually arise in the event of breach of contract, and not special damages.

- (b) According to section 20(2) of the Companies Act, 2013, a document may be served on Registrar or any member by sending it to him by post or by registered post or by speed post or by courier or by delivering at his office or address, or by such electronic or other mode as may be prescribed.

Provided that a member may request for delivery of any document through a particular mode, for which he shall pay such fees as may be determined by the company in its annual general meeting.

Thus, if a member wants the notice to be served on him only by registered post at his residential address at Kanpur for which he has deposited sufficient money, the notice must be served accordingly, otherwise service will not be deemed to have been effected.

Accordingly, the questions asked may be answered as under:

- (i) The contention of Ashok shall be tenable, for the reason that the notice was not properly served.
- (ii) In the given circumstances the company is bound to serve a valid notice to Ashok by registered post at his residential address at Kanpur and not outside India.
- (c) **Ethics programs help to manage values associated with quality management, strategic planning and diversity management.**

Ethics programs help identifying preferred values and ensuring that organizational behaviors are aligned with those values. This includes recording the values, developing

policies and procedures to align behaviours with preferred values, and then training all personnel about the policies and procedures. This overall effort is very useful for several other programs in the workplace that require behaviors to be aligned with values, including quality management, strategic planning and diversity management. For example, Total Quality Management initiatives include high priority on certain operating values, e.g., trust among stakeholders, performance, reliability, measurement, and feedback.

- (d) (i) The types of grapevine chains which facilitates the communication are:
- (a) **Single Strand Chain:** In this type of chain, 'A' tells something to 'B' who tells it to 'C' and so on. This type of chain is the least accurate in passing on the information or message.
  - (b) **Gossip Chain:** In it, a person seeks out and tells everyone the information he has obtained. This chain is often used when information or a message regarding a 'not-on-job' nature is being conveyed.
  - (c) **Probability Chain:** In it, individuals are indifferent to the persons to whom they are passing some information. This chain is found when the information is somewhat interesting but not really significant.
  - (d) **Cluster Chain:** In this type of chain, 'A' tells something to a few selected individuals and then some of these individuals inform a few other selected individuals.
- (ii) **Demerits of the grapevine phenomenon:**
- (a) It is less credible. It cannot always be taken seriously.
  - (b) It does not always carry the complete information.
  - (c) It often distorts the picture or often misinforms.

### Question 2

- (a) *Kamal, a wholesaler of cotton garments, entered into a contract with Nikhil for sale of a certain number of cotton garments to be made by a specified company who was manufacturing such cotton garments and to be delivered as and when the cotton garments are manufactured at prescribed time. The company failed to perform the contract as they were engaged in fulfilling certain Government contracts. Mr. Nikhil pleaded frustration. State whether the doctrine of frustration is applicable to this case under the Indian Contract Act, 1872.* **(3 Marks)**
- (b) *The directors of Smart Computers limited borrowed a sum of money from Mr. Tridev. The company's articles provided that the directors may borrow on bonds such sums as may, from time to time, be authorized by resolution passed at a general meeting of the company. The shareholders claimed that there had been no such resolution authorizing the loan, and therefore, it was taken without their authority. Hence, the company is not bound to repay*

*the loan to Mr. Tridev, In the light of the contention of shareholders, decide whether the company is bound to pay the loan.* **(3 Marks)**

- (c) *M/s. Sun Flowers Ltd., a leading oil manufacturer in Eastern India, wants to enter into an agreement with another emerging manufacturer, M/s Coconut Ltd. in that area for not selling the products below the price of its own products. Please comment on the legality of such agreement considering the parameters of Competition Law.* **(4 Marks)**
- (d) *"A key element in any communication activity is the values of the organization." What do you understand by term "Organizational values"?* **(4 Marks)**

### Answer

- (a) **Supervening impossibility:** The law under section 56 of the Indian Contract Act, 1872 provides that when the performance of a contract becomes impossible or unlawful subsequent to its formation, the contract becomes void, this is termed as 'supervening impossibility' (i.e. impossibility which does not exist at the time of making the contract, but which arises subsequently).

But impossibility of performance is, as a rule, not an excuse from performance. It means that when a person has promised to do something, he must perform his promise unless the performance becomes absolutely impossible. Whether a promise becomes absolutely impossible depends upon the facts of each case.

The court also, in a decided case law, identified a situation which would not constitute impossibility. In the said case, the defendant agreed to procure cotton goods manufactured by Victoria Mills to plaintiff as soon as they were supplied to him by the Mills. It was held by Supreme Court that the contract between defendant and plaintiff was not frustrated because of failure on the part of Victoria Mills to supply goods.

In the given question, Mr. Kamal, could not deliver the cotton garments as promised to Nikhil, due to failure of supply of garments by the specified manufacturing company. This difficulty in performance cannot be considered as supervening impossibility and hence Kamal is liable to Nikhil for non- performance of the contract.

- (b) **Doctrine of Indoor Management**

According to this doctrine, persons dealing with the company need not enquire 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.

Thus,

1. What happens internal to a company is not a matter of public knowledge. An outsider can only presume the intentions of a company, but not know the information he/she is not privy to.
2. If not for the doctrine, the company could escape creditors by denying the authority of officials to act on its behalf.

In the given question, Mr. Tridev being a person external to the company, need not enquire whether the necessary meeting was convened and held properly or whether necessary resolution was passed properly. Even if the shareholders claim that no resolution authorizing the loan was passed, the company is bound to pay the loan to Mr. Tridev.

- (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 M/s Sun Flowers Ltd. may enter into with M/s 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.

### Question 3

- (a) *Evergreen Pharma Ltd. was established in Chennai in the year 2015 employing 110 workers. Since then the company suffered losses but the minimum bonus was paid in the accounting year 2016 and 2017. In the accounting year 2018 the company earned huge profits. After adjusting its previous years' losses, the company is having surplus profits and wants to pay bonus to its workers more than the minimum bonus. Evergreen Pharma Ltd. seeks your advice on the following issues:*
- (i) *How much minimum and maximum bonus that may be paid to the workers?*
- (ii) *The company wants to give some life saving medicines instead of cash in lieu of bonus. Can the company do so? (3 Marks)*
- (b) *Sudarshan Exports Ltd. was dealing in export of rubber to specified foreign countries. The company was willing to purchase rubber trees in A.P. State. The prospectus issued by the company contained some important extracts of the expert report and number of trees in A.P. State. The report was found untrue. Mr. Alok purchased the shares of Sudarshan Exports Ltd. on the basis of the expert report published in the prospectus. Will Mr. Alok have any remedy against the company? State also the circumstances where an expert is not liable under the Companies Act, 2013. (3 Marks)*
- (c) *What do you mean by discrimination in employment? State the basic elements involved in discrimination in employment. (4 Marks)*
- (d) *Write short notes on:*
- (i) *Group think*
- (ii) *Persuasion (4 Marks)*

### Answer

- (a) **Payment of bonus:** In accordance with the provisions of Section 10 of the Payment of Bonus Act, 1965, every employer shall be bound to pay to every employee in respect of any accounting year, a minimum bonus which shall be 8.33 percent of the salary or wage earned by the employee during the accounting year or hundred rupees, whichever is higher, whether or not the employer has any allocable surplus in the accounting year. Therefore, even in the case of loss, the minimum bonus has to be paid.

Further, in accordance with the provisions of Section 11(1) the maximum bonus payable to an employee is 20% of the salary or wage earned by him in any accounting year. Bonus at a rate higher than the minimum bonus of 8.33% is payable only when the allocable surplus computed in accordance with the provisions of the Payment of Bonus Act, 1965 exceeds the amount of minimum bonus payable subject to the maximum limit of 20%.

As per section 19 of the Payment of Bonus Act, 1965, all amounts payable to an employee by way of bonus under this Act shall be paid in cash by his employer.

Accordingly, following advice may be given to the Evergreen Pharma Ltd.:

- (i) **As regards minimum and maximum bonus:** The company has surplus profits after setting off past losses. It appears therefore, that the allocable surplus is higher than the minimum bonus payable under the Act which is 8.33%. Hence, the company is bound to pay bonus at a rate higher than the minimum bonus rate but up to a maximum of 20%. Therefore, Evergreen Pharma Ltd. is bound to pay bonus at a rate higher than 8.33% depending on its allocable surplus but up to a maximum of 20%.
  - (ii) The amount payable to an employee by way of bonus under the Payment of Bonus Act, 1965, shall be paid only in cash by the employer. Therefore, Evergreen Pharma Ltd. cannot distribute lifesaving medicines, instead of cash, as bonus. It is against the statutory provisions.
- (b) Under section 35 (1) of the Companies Act 2013, where a person has subscribed for securities of a company acting on any statement included in the prospectus which is misleading and has sustained any loss or damage as a consequence thereof, the company and every person including an expert shall, be liable to pay compensation to the person who has sustained such loss or damage.

In the present case, Mr. Alok purchased the shares of Sudarshan Exports Ltd. on the basis of the expert report published in the prospectus. Mr. Alok can claim compensation for any loss or damage that he might have sustained from the purchase of shares, which has not been mentioned in the given case.

Hence, Mr. Alok will have no remedy against the company.

**Circumstances when an expert is not liable:** An expert will not be liable for any mis-statements in the prospectus under the following situations:

- (i) Under section 26 (5), that having given his consent, but withdrew it in writing before delivery of the copy of prospectus for registration, or
- (ii) Under section 35 (2), that the prospectus was issued without his knowledge / consent and that on becoming aware of it, he forthwith gave a reasonable public notice that it was issued without his knowledge or consent;
- (iii) An expert will not be liable in respect of any statement not made by him in the capacity of an expert and included in the prospectus as such;
- (iv) that, as regards every misleading statement purported to be made by an expert or contained in what purports to be a copy of or an extract from a report or valuation of an expert, it was a correct and fair representation of the statement, or a correct copy of, or a correct and fair extract from, the report or valuation; and he had reasonable ground to believe and did up to the time of the issue of the prospectus believe, that the person making the statement was competent to make it and that the said person

had given the consent required by section 26(5) to the issue of the prospectus and had not withdrawn that consent before delivery of a copy of the prospectus for registration or, to the defendant's knowledge, before allotment thereunder.

- (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 of 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.

**Concerns:** The first problem one faces while communicating is getting someone's undivided attention. One must grab the attention of the people and get it focused on what to communicate.

Secondly, when attention of someone has been drawn, how do you keep them there? This can be achieved through a statement, a group of statements or a question that create curiosity.

The third technique is by using something called 'emotional word pictures' (EWPs). These can simultaneously communicate with a person's heart and mind, to convey understanding and emotional feelings.

#### Question 4

- (a) *Mr. Rohit was an employee of "Green Tea Limited". Later on Green Tea Ltd. was taken over by a new company named "Herbal Tea Limited". The services of Mr. Rohit remained continuous in the new company. After serving for one year Mr. Rohit met with an accident and became permanently disabled. Mr. Rohit applied to Herbal Tea Ltd. for the payment of gratuity. The company refused to pay gratuity and contended that Mr. Rohit has served only for a year in the new company and he is not entitled for gratuity. Examine the validity of the contention of the company in the light of the Payment of Gratuity Act, 1972.*

**(3 Marks)**

- (b) *Mr. A was having 500 equity shares of Open Sky Aircrafts Limited. Mr. B acquired these shares of the company from Mr. A but the signature of Mr. A, the transferor on the transfer deed was forged. The company registered the shares in the name of Mr. B by issuing share certificate. Mr. B sold 100 equity shares to Mr. C on the basis of share certificate issued by Open Sky Aircrafts Ltd. Mr. B and Mr. C are not having the knowledge of forgery. State the rights of Mr. A, Mr. B and Mr. C under the Companies Act, 2013.*

**(3 Marks)**

- (c) *Familiarity threats may occur when a finance and accounting professional develops a close relationship at the time of working as a consultant making it difficult to impart selfless attitude towards work. Describe the circumstances.* (4 Marks)
- (d) *"Innovation" is the key to success and survival. What are the elements which are required by a company to be more innovative?* (4 Marks)

### Answer

- (a) **Entitlement to Gratuity:** According to Section 4 (1) of the Payment of Gratuity Act, 1972, gratuity shall be payable to an employee on the termination of his employment after he has rendered continuous service for not less than five years on his superannuation, or, on his retirement or resignation or on his death or disablement due to accident or disease.

The proviso to the said section states that the condition of the completion of five years of continuous service is not essential in case of the termination of the employment of any employee due to death or disablement for the purpose of this section.

Disablement has been explained as such disablement which incapacitates an employee for the work which he was capable of performing before the accident or disease resulting in such disablement.

Further, by the change of ownership, the relationship of employer and employees subsists and the new employer cannot escape from the liability of payment of gratuity to the employees; it was held in the case of *Pattathurila K. Damodaran Vs M. Kassim Kanju*

The given problem fulfils all the above requirements as stated. Therefore, Mr. Rohit is entitled to recover gratuity after becoming permanently disabled and continuous service of five years is not required in this case. Hence, the company cannot refuse to pay gratuity on the ground that he has served only for a year.

- (b) According to Section 46(1) of the Companies Act, 2013, a share certificate once issued under the common seal, if any, of the company or signed by two directors or by a director and the Company Secretary, wherever the company has appointed a Company Secretary, specifying the shares held by any person, shall be prima facie evidence of the title of the person to such shares. Therefore, in the normal course the person named in the share certificate is for all practical purposes the legal owner of the shares therein and the company cannot deny his title to the shares.

However, a forged transfer is a nullity. It does not give the transferee (Mr. B) any title to the shares. Similarly any transfer made by Mr. B (to Mr. C) will also not give a good title to the shares as the title of the buyer is only as good as that of the seller.

Therefore, if the company acts on a forged transfer and removes the name of the real owner (Mr. A) from the Register of Members, then the company is bound to restore the name of Mr. A as the holder of the shares and to pay him any dividends which he ought to have received (*Barton v. North Staffordshire Railway Co.*).

In the above case, therefore, Mr. A has the right against the company to get the shares recorded in his name. However, neither Mr. B nor Mr. C have any rights against the company even though they are bona fide purchasers.

However, since Mr. A seems to be the perpetrator of the forgery, he will be liable both criminally and for compensation to Mr. B and Mr. C.

- (c) Circumstances when there is a familiarity threats for finance and accounting professionals working as consultants or auditors are:
- (i) A member of the engagement team having a close or immediate family relationship with a director or officer of the client.
  - (ii) A member of the engagement team having a close or immediate family relationship with an employee of the client who is in a position to exert direct and significant influence over the subject matter of the engagement.
  - (iii) A former partner of the firm being a director or officer of the client or an employee in a position to exert direct and significant influence over the subject matter of the engagement.
  - (iv) Accepting gifts or preferential treatment from a client, unless the value is clearly insignificant.
  - (v) Long association of senior personnel with the assurance client.
- (d) There are specific elements that help a company to be more innovative. It is a blend of culture, methodologies, infrastructure, and work practices. A sustainable innovation organization should have:
- Vision and strategy for innovation
  - Culture supporting innovation
  - Processes, practices and systems supporting innovation
  - Top management team leading innovation
  - Effective Cross-functional teams
  - Empowered employees driving innovation.
  - Finding the Right Balance Between Bureaucracy and Chaos

Successful organizations must balance bureaucratic processes at one extreme with the fluid creative chaos of relationships, interests and transactions, which enable it to be innovative and alive, at the other.

#### Question 5

- (a) *Annie retired from the service of Modern Cosmetics Ltd. on 31<sup>st</sup> March, 2017. She had a sum of 5 lacs in her provident fund account. It became due for payment to Annie on 30<sup>th</sup> April, 2017 but the company made the payment of the said amount after two years. Annie claimed interest on the amount due to her, at the rate of 15% p.a. for two years. Decide*

*whether the claim of Annie is tenable under the provisions of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952.* **(3 Marks)**

- (b) *Rashi Computers Limited was incorporated in the year 2018 having paid up share capital of ₹ 10 crores. Now the company wants to convert its share capital into stock. Can the company do so?*

*State also whether the company may create stock as its capital at the time of incorporation.*

**(3 Marks)**

- (c) *State with reasons whether the following statements are correct or not.*

(i) *Ethics helps to promote a strong public image.* **(2 Marks)**

(ii) *Economic growth has to be environmentally sustainable.* **(2 Marks)**

- (d) *Hearing is through ears and listening is by mind. If one does not learn how to listen, a great deal of matters that people are trying to tell you would be missed.*

*Explain the guidelines for "Active Listening".* **(4 Marks)**

#### **Answer**

- (a) According to Section 7Q of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 the employer shall be liable to pay simple interest @ of 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.

However 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, Annie can claim for the payment of interest on due amount @ 12 percent per annum or at the rate specified in the Scheme, whichever is higher, for two years. Here, in the absence of specified rate Annie can claim only 12 percent per annum interest on the due amount.

Hence, claim of Annie for interest rate of 15% is not tenable.

- (b) According to section 61(1)(c) of the Companies Act, 2013, a limited company having a share capital may, if so authorised by its articles, alter its memorandum in its general meeting to convert all or any of its fully paid-up shares into stock, and reconvert that stock into fully paid-up shares of any denomination.

Hence, Rashi Computers Limited incorporated in the year 2018 having paid up share capital of ₹ 10 Crores can convert its share capital into stock by provision under section 61(1)(c) of the Act.

No, the company cannot create stock as its capital at the time of incorporation as in the Memorandum of Association, the number of shares has to be written along with the

subscribers name. The shares can be converted into stock on a later date but the company cannot be incorporated with stock.

(c) (i) **Ethics helps to promote a strong public image**

This statement is correct. An organization that pays attention to its ethics can portray a strong and positive image to the public. People see such organizations as valuing people more than profit and striving to operate with integrity and honour.

(ii) **Economic growth has to be environmentally sustainable**

This statement is Correct. Economic growth has to be environmentally sustainable. There is no economic growth without ecological costs. Industrialization and rapid development have affected the environment. Everybody should realize that such development is related to environmental damage and resource depletion.

(d) **Active Listening:** Active listening is said to be made when hearing is through ears and listening is by mind. Listening happens when we understand a message as intended by the sender.

**Guidelines for Active Listening**

- (i) Look at the person and suspend doing other things in order to understanding the other person's concerns and intentions.
- (ii) Be interested in what the person is saying. Try taking notes. Doing so will keep one's body and mind active.
- (iii) Listen to the tone of voice and inflections; look at gestures and body language.
- (iv) Restate what the person said. Restating their meaning make sure the person of your clear understanding of the same.
- (v) Ask questions once in a while to clarify meaning. Doing so will let the other person know that one has been listening and is interested in getting all the facts and ramifications.
- (vi) Be aware of own feelings and opinions.

**Question 6**

- (a) *Ayush borrowed money from Pratik to be refunded within a certain period. But due to some unavoidable circumstances Ayush neither paid the principal nor the interest within the stipulated period of time. On continuous chasing for payment of interest, Ayush agrees to render manual labour for certain period failing which he agrees to pay exorbitant interest. Explain the meaning of unlawful consideration and also comment whether the agreement is valid under the Indian Contract Act, 1872. (3 Marks)*
- (b) *Mehul executed a promissory note in favour of Nirav for ₹ 10 crore. The said amount was payable four days after sight. Nirav, on maturity, presented the promissory note on 16<sup>th</sup> February, 2019 to Mehul. Mehul made the payment on 21<sup>st</sup> February, 2019. Nirav wants to*

recover the interest for two days from Mehul. Advise Mehul, in the light of the provisions of the Negotiable Instruments Act, 1881, whether he is liable to pay interest for two days.

**(3 Marks)**

- (c) While resolving the ethical conflicts in a business organization, what are the issues to be considered specifically? **(4 Marks)**
- (d) The 18th annual general meeting of Ramya Ltd. was held on 29th September, 2018 at its registered office at Chennai. 65 shareholders in person and 5 shareholders in proxy attended the meeting.

Draft a specimen of minutes of annual general meeting covering the agenda of passing ordinary resolution for declaration of dividend by a company in the meeting. **(4 Marks)**

OR

XYZ Limited wants to engage the services of Mr. A, CA., to appear before the Income Tax Authorities. Draft the Power of Attorney to be given by the company to Mr. A. **(4 Marks)**

#### Answer

- (a) **Unlawful consideration** is a clause in an agreement that is prohibited by law. As per the Indian Contract Act, 1872, section 23 states the circumstances which would make consideration and the object of an agreement unlawful. Such an agreement is void in nature.

As per the facts stated in the question, Ayush agrees to render manual labour in lieu of his failure to pay the loan, for certain period and failing of which he agrees to pay exorbitant interest. Here, Ayush's promise to repay the loan by rendering of manual labour is the consideration, and this consideration is illegal as it imposes what, in substance, amounts to slavery on part of Ayush. In other words, the said consideration involves injury to the person, so the consideration is illegal. Here, the object too is illegal, as it seeks to impose slavery which is opposed to public policy.

Hence, the agreement is invalid i.e., it is void.

- (b) **Claim of Interest:** Section 24 of the Negotiable Instruments Act, 1881 states that where a bill or note is payable after date or after sight or after happening of a specified event, the time of payment is determined by excluding the day from which the time begins to run.

As per the stated facts, Nirav presented the Promissory Note on 16<sup>th</sup> February, 2019 and Mehul made payment on 21<sup>st</sup> February, 2019. As per the terms of the execution of Promissory note it was payable four days after sight. According to the above provision, since the bill was presented on 16<sup>th</sup> February 2019, so Mehul was required to pay by 20<sup>th</sup> February, 2019 and not on 21<sup>st</sup> February, 2019.

Therefore, Nirav's claim to recover the interest for two days is invalid. Mehul is liable to pay interest for one day only.

- (c) While resolving the ethical conflicts in a business organization, the following issues need to be considered specifically:
- (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) **Minutes of the 18th Annual General Meeting of Ramya Ltd.**

Eighteenth Annual General Meeting held at

Place: XYZ Apartment, Chennai

Date: 29<sup>th</sup> September 2018

Time: At 11 A. M.

Present

1. Shri M, M. D. in the chair
2. Shri X Director.
3. Shri Y Director.
4. Shri Z Director.
5. Shri T Director.
6. Shri R Director.
7. Shri C, representative of PQR and Co., Chartered Accountants.
8. Shri S., Secretary of the company.

65 shareholders attended the meeting in person and 5 shareholders in proxy.

1. **Notice:** The notice convening the meeting was read by the Secretary of the company.
2. **Directors' Report and Accounts:** With the consent of the members present, the Director's Report and Accounts having already been circulated to the members were taken as read.
3. **Auditors' Report:** The Auditors' Report was read.

**4. Dividend:**

Proposed by Shri M, M.D

Seconded by Shri X and Y Directors

“Resolved that the Dividend as recommended by the Board of Directors for the year ended 31<sup>st</sup> March, 2018 at the rate of ₹ 5/- per share on the equity share capital of the company, subject to deduction of tax at source be and is hereby declared for payment to those shareholders whose names appeared on the Register of Members as on ..... 2018.”

Carried unanimously

The meeting closed with a vote of thanks to the Chair.

Dated: October, 2018

Sd/-  
Chairman

OR

**Power of Attorney to appear before Income Tax Authorities**

BY THIS POWER OF ATTORNEY, XYZ Limited (full details), hereby appoints Mr. A, CA. (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 at .....this.....day of.....20.....

Witness: 1 \_\_\_\_\_  
2 \_\_\_\_\_

Signature  
(Executant)