

April 2011

Con. 1760-11.

Conflict of laws

MT-6257

(3 Hours)

[Total Marks : 100

1. Answer in one or **two** sentences :—

20

- (a) Distinguish between Lex Patrie and Lex Domicile ?
- (b) Which law governs legitimacy of the child ?
- (c) Give two grounds when Foreign Law is excluded ?
- (d) What do you mean lis alibi pendens ?
- (e) What does the clause (b) of Section 13 C.P.C. lay down regarding Foreign Judgement ?
- (f) Distinguish between Recognition and Enforcement of Foreign Judgement.
- (g) Vita Food Case ?
- (h) What principle was enunciated in Boys Vs. Chaplin ?
- (i) What is capacity to marriage ?
- (j) What do you mean by mutua marriage ?

2. Short notes (any **four**) :—

20

- (a) Foreign Court Theory.
- (b) Rome Convention.
- (c) Capacity to Marry.
- (d) Proper Law of Torts.
- (e) Kinds of Jurisdiction.

3. Solve the following (any **two**) :—

12

- (a) The husband and wife were first cousins. They were presumed to be domiciled in Portugal by whose Law Marriage between first cousin was prohibited in the absence of papal dispensation. They married in England and lived together in same house, though without consummating the marriage for 6 years :
 - (i) Comment on viability of marriage with reason and cite relevant case-law.
 - (ii) To what extent is the Lex loci celebration relevant to capacity to marry ?
- (b) 'A' a jeweler, delivered a diamond in England, to B, a broker for the purpose of sale on the terms that no title was passed to B. 'B' took the diamond to Paris and pledged it there to 'C'. Under the English Law, a person entrusted with the possession of a chattel for the purpose of sale was deemed to be the true owner thereof by the law of England, 'A's reservation of title was good against third parties.
 - (i) Which law will you apply ?
 - (ii) State reason for your answer ?
- (c) Langley, domicile in England, made a settlement. The proper law of settlement was English. Subsequently, he was domiciled in California. A California Court declared him incompetent because of his physical disability and appointed his wife as his guardian. The wife alone was authorised to exercise the power. The court of appeal held that the exercise was valid according to the English Law.
 - (i) Is the Court of Appeal correct in upholding the Californian Court's Order ? Why ?
 - (ii) Does this case attract the doctrine of universality of status ? What is the doctrine of universality of status ?

[TURN OVER

Con. 1760-MT-6257-11.

2

4. Answer the following in detail (any four) :—

48

- (a) Discuss the approach of the English Court towards the problem of classification. Cite Case Law.
 - (b) What is conflict of law ? Trace the origin and development of the conflict of law.
 - (c) What do you understand by status ? discuss universality of status with exceptions to it.
 - (d) How is domicile of choice acquired and lost ? Discuss with reference to Case Law.
 - (e) Doctrine of Renvoi ?
-