CLAT PG

MOCK TEST – 25

SUBJECT – FAMILY LAW

Full marks – 15 Time – 15 minutes

Negative marking – 0.25

1. A person who has an adopted son living

(1) can adopt another son

(2) cannot adopt another son

(3) can adopt another son with the consent of the adopted son

(4) can adopt another son with the prior permission of the court

2. Which of the following cases relate to mental cruelty and decided by the Supreme Court?

(1) Sayal v. Sarla

(2) Dastane v. Dastane

(3) Rita Nijhawan v. Bal Kishan Nijhawan

(4) Roop Lai v. Kartaro

3. In which of the following case, the Supreme Court of India held that "if a Hindu husband converts into Islam and marries again, he will be guilty of bigamy?

(1) Bhaurao Shankar Lokhande Maharashtra AIR 1965 SC 1564 V. State of

(2) Bharatha Matha v. Vijaya Renganathan AIR 2010 SC 2685

(3) Revanasiddappa v. Mallikarjun AIR 2011 SC (Supp) 155

(4) Sarla Mudgal v. Union of India AIR 1995 SC 1531.

4. A married couple has adopted a son under the provisions of the Hindu Adoptions and Maintenance Act, 1956. While the adopted son is alive, the couple is willing to adopt another son as the said adopted son was not medically fit to produce a child. The couple:

(1) can adopt another son

(2) cannot adopt another son

(3) can adopt another son with the consent of the adopted son

(4) can adopt another son with the permission of the Court.

5. In execution of a decree for the maintenance, salary of a person can be attached to the extent of:

(1) one fourth

(2) one third

(3) two third

(4) one half.

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The Hon'ble Supreme Court in the case of 'Nil Ratan Kundu and another v. Abhijit Kundu' 2008 (3) Apex Court Judgements 232 (SC), while granting the custody to the maternal grandparents observed: In our judgement, the law relating to custody of a child is fairly well settled and it is this. In deciding a difficult and complex question as to custody of minor, a Court of law should keep in mind relevant statutes and the rights flowing therefrom. But such cases cannot be decided solely by interpreting legal provisions. It is a humane problem in live in relationship and is required to be solved with human touch. A Court while dealing with custody cases, is neither bound by statutes nor by strict rules of evidence or procedure nor by precedents. In selecting proper guardian of a minor, the paramount consideration should be the welfare and well-being of the child. In selecting a guardian, the Court sexercising parens patriae jurisdiction and is expected, may bound, to give due weight to a child's ordinary comfort, contentment, health,

education, intellectual development and favorable surroundings. But over and above physical comforts, moral and ethical values cannot be ignored. They are equally, or we may say, even more Important, essential and indispensable consideration. If the minor is old enough to form an intelligent preference or judgement, the Court must consider such preference as well, though the final decision should rest with the Court as to what is conducive to the welfare of the minor. The Hon'ble Supreme Court in the case of 'Gaurav Nagpal v. Semedha Nagpal'-(2009)1 SCC 42, while giving paramount importance to the welfare of the child, which should include moral and ethical values, besides ethical well-being, observed as under: When the court is confronted with conflicting demands made by the parents, each time it has to justify the demands. The Court has not only to look at the issue on legalistic basis, in such matters human angles are relevant for deciding those issues. The Court then does not give emphasis on what the parties say, it has to exercise a jurisdiction which is aimed at the welfare of the minor. As observed recently in Mausami Moitra Ganguli case, the Court has to give due weightage to the child's ordinary contentment, health, education, intellectual development and favorable surroundings, but over and above physical comforts, the moral and ethical values have also to be noted. They are equal if not more important than the others.

Extracts from Jaswinder Singh and Another vs Surjit Singh, AIR 2010 (NOC) 425 (P. & H.))

6. According to the passage, which is the most indispensable consideration in deciding the matters of custody of the child?

(1) Financial ability of the parents

(2) Sex of the child and its age at the relevant time

(3) Physical Comfort, possibility of recreational activities of the child

(4) Environment conducive to development of moral and ethical values

7. The provision of custody of child under the Hindu Minority and Guardianship Act, 1956 gives:

(1) Right of custody to mother, if child is below five years of age

(2) Preferential custody right to father

(3) Custody right to any close relative who is found suitable

(4) Preferential consideration to mother, in case the child is below five years of age

8. The sensitivity in judicial decision making is manifest in this passage from the court's observation that:

(1) custody of child can be given to grandparents

(2) welfare of child is paramount consideration.

(3) ethical and moral wellbeing is given priority

(4) custody cases cannot be decided solely by interpreting legal provisions but is required to be solved with human touch

9. What does the passage state about the opinion of a child who is old enough to state its preference regarding custody?

(1) the child has a right to get custody order according to his preference

(2) the child's preference in relation to his custody is immaterial

(3) the child's preference must be considered but the court is the final deciding authority regarding the custody

(4) court is bound by the child's preference in relation to custody even if it differs in its opinion about whom to grant the custody

10. The considerations for the decision in relation to custody of child, is subject to which of the following basis as mentioned in Sec.13 of the Hindu Minority and Guardianship Act, 1956?

(1) Welfare of the child is the paramount consideration

(2) Wishes of the child form the primary basis in custody cases

(3) Child's health and educational needs are primary considerations

(4) Suitability of the person claiming custody is the basic consideration a Protection Order has a time limit of six months, while a Residence Order is permanent

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Live-in relationship, as such, as already indicated, is a relationship which has not been socially accepted in India, unlike many other countries. In Lata Singh v. State of U.P. [(2006) 5 SCC 475: (2006) 2 SCC (Cri) 478] it was observed that we-in relationship between two consenting adult of heterosexual sex does not amount to any offence even though it may be perceived as Immoral. However, in order to provide a remedy in civil taw for protection of women, from being victims of such relationship, and to prevent the occurrence of domestic violence in the society, first time in India, the DV Act has been enacted to cover the couple having relationship in the nature of marriage, persons related by consanguinity, marriages, etc. We have few other legislations also where reliefs have been provided to woman placed in certain vulnerable situations. Section 125 Cr.P.C. of course, provides for maintenance of a destitute wife and Section 498-A IPC is related to mental cruelty inflicted on women by her husband and in-laws. Section 304-B IPC deals with the cases relating to dowry death. The Dowry Prohibition Act, 1961 was enacted to deal with the cases of dowry demands by the husband and family members. The Hindu Adoptions and Maintenance Act, 1956 provides for grant of maintenance to a legally wedded Hindu wife, and also deals with rules for adoption. The Hindu Marriage Act, 1955 refers to the provisions dealing with solemnisation of marriage also deals with the provisions for divorce. For the first time, though, the DV Act, Parliament has recognised a "relationship in the nature of marriage" and not a live-in relationship simpliciter. We have already stated, when we examine whether a relationship will fall within the expression "relationship in the nature of marriage" within the meaning of Section 2(f) of the DV Act, we should have a close analysis of the entire relationship invariably, it may be a question of fact and degree, whether a relationship between two unrelated persons of the opposite sex meets the tests judicially evolved.

(This extract is taken from Indra Sarma v. V.K.V. Sarma, (2013) 15 SCC 755)

11. What is the scope of analysis required to determine if a relationship falls within the expression "relationship in the nature of marriage" under Section 2(f) of the DV Act?

(1) Considering the number of children born in a live in relationship

(2) Considering only the cohabitation period of the relationship and there emotional connectivity

(3) Conducting a close analysis of the entire interpersonal relationship, taking into account all facets

(4) Evaluating only the financial aspects and mutual agreements of the relationship, and if there is any written agreement between the partner

12. In which of the following case, the Supreme Court read down the word "adult male" in Section 2(g) of the Protection of Women from Domestic Violence Act, 20057

(1) Indra Sarma v. V.K.V. Sarma

(2) Hiral P. Harsora v. Kusum Harsora

(3) Uma Narayan v. Priya Krishna Prasad

(4) All of the above

13. As per Section 20 of the Protection of Women from Domestic Violence Act, 2005, while disposing of an application under Section 12(1), the Magistrate may direct the respondent to pay monetary relief to the aggrieved person so that the aggrieved person can:

(1) Live a life that meets at least the bare minimum needs for survival and basic well-being

(2) Live a life that is consistent with her standard of living which she is accustomed

(3) Live a life that is consistent with her parent's standard of living

(4) Live a life which can cover her medical expenses and expenses incurred due to litigation of domestic violence

14. In which case, the three-judge bench of the Hon'ble Supreme Court has recently interpreted the term "shared household" and has held that "...lives or at any stage has lived in a domestic relationship..." have to be given its normal and purposeful meaning The living of woman in a household has to refer to a living which has some permanency. Mere fleeting or casual living at different places shall not make a shared household?

(1) Satish Chander Ahuja v. Sneha Ahuja

(2) Rupa Ashok Hurra v. Ashok Hurra

(3) S.R. Batra v. Tarun Batra

(4) B.R. Mehta v. Atma Devi

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15. Under Indian Law, can a woman in a live in relationship claim maintenance under S. 125, Cr.P.C. despite not being a legally wedded wife?

(1) No, as per the interpretation of statute 'wife' means legally wedded wife and includes who has been divorced by, or has obtained a divorce from her husband

(2) Yes, a woman in a live in relationship can claim maintenance u/s 125, Cr.P.C. as strict proof of marriage is not necessary and maintenance cannot be denied if evidence suggests cohabitation

(3) A woman in live in relationship can only claim maintenance if she has been cohabiting for more than five years and dependent children from the relationship

(4) A woman in live in relationship can claim maintenance only through a civil suit as the Protection of Women from Domestic Violence Act, 2005 (PWDVA) does not apply to live in relationships