PAPER-5: BUSINESS LAWS AND ETHICS

SUGGESTED ANSWERS

SECTION-A

1.

(i) (B)

(ii) (A)

(iii) (B)

(iv) (C)

(v) (B)

(vi) (A)

(vii) (D)

(viii) (B)

(ix) (D)

(x) (B)

(xi) (C)

(xii) (D)

(xiii) (B)

(xiv) (A)

(xv) (D)

SECTION -B

2. (a):

Misrepresentation under the Indian Contract Act, 1872 is defined in Section 18,

It refers to an innocent or non-fraudulent false statement of a material fact made by one party that induces the other party to enter into a contract. Unlike fraud, which involves a deliberate intent to deceive, misrepresentation lacks this malicious intent.

Analysis of Misrepresentation

Misrepresentation can occur in three main ways:

1. **Positive Assertion of Untrue Facts:** A person makes a statement with confidence that it is true, even though their information does not warrant such an assertion. They believe the statement to be true, but in reality, it is false. For example, a car seller states that a vehicle has never been in an accident, genuinely believing this to be true, when in fact, it has been repaired after a major collision.
2. **Breach of Duty:** A person, without any intention to deceive, breaches a duty which, by misleading another, gains them an advantage. This can involve the concealment of a material fact without the intent to deceive.
3. **Inducing a Mistake about the Subject Matter**: A party, however innocently, causes the other party to an agreement to make a mistake concerning the substance of the contract. This leads the other party to enter the contract under a false assumption about the subject matter.

Effects of Misrepresentation

The primary effect of misrepresentation, as stated in Section 19 of the Indian Contract Act, is that the contract becomes voidable at the option of the party whose consent was caused by the misrepresentation.

The aggrieved party has the following options:

- **Rescind the Contract:** The misled party can choose to cancel the contract. Rescission aims to restore both parties to their original positions as if the contract had never been formed.
- **Insist on Performance:** The aggrieved party can also choose to uphold the contract and insist that they be placed in the position they would have been in if the representation made had been true. This is distinct from claiming damages.
- **Exceptions:** The contract is not voidable if the party whose consent was caused by misrepresentation had the means to discover the truth with ordinary diligence. This means if the truth was easily verifiable, and the party failed to exercise due diligence, they may not be able to void the contract on the grounds of misrepresentation.

2. (b):

Both a Contract of Indemnity and a Contract of Guarantee are special types of contracts under the Indian Contract Act, 1872, that deal with securing against a loss or a debt. While they share the common goal of providing financial security, their structure, purpose, and the nature of liability are fundamentally different.

Key Distinctions:

The most crucial difference lies in the number of parties and the nature of liability. In an indemnity, there's a direct, one-to-one relationship where one party protects another from a specific loss. In a guarantee, it's a three-party arrangement where the surety's role is to act as a backup, only becoming liable if the primary obligor fails to perform. A contract of indemnity is about a promise to "make good the loss," while a contract of guarantee is about a promise to "perform the promise of another if they default.

Comparison: Contract of Indemnity vs. Contract of Guarantee is tabulated below:

Feature	Contract of Indemnity	Contract of Guarantee
1. Parties	Two Parties: 1. Indemnifier (promisor) who promises to make good the loss. 2. Indemnity-holder (promisee) who is to be protected from the loss.	Three Parties: 1. Principal Debtor who is primarily liable. 2. Creditor to whom the guarantee is given. 3. Surety (guarantor) who promises to pay if the principal debtor defaults.
2.Nature of Liability	The liability of the indemnifier is primary and independent. It arises from a specific event causing a loss.	The liability of the surety is secondary and contingent. It arises only when the principal debtor defaults. The surety's liability is co-extensive with that of the principal debtor.
3 Number of Contracts	There is only one contract between the indemnifier and the indemnity-holder.	There are three contracts: 1. Between the creditor and the principal debtor. 2. Between the creditor and the surety. 3. An implied contract between the surety and the principal debtor.
4. Purpose	To compensate for a loss. The object is to protect a party from a potential loss.	To secure a debt or performance of a promise. The object is to enable a person to get a loan or goods on credit.
5.Right to Sue Third Party	The indemnifier cannot sue a third party in his own name. He must sue in the name of the indemnity-holder after discharging the liability.	The surety, upon fulfilling the principal debtor's obligation, gets the right of subrogation and can sue the principal debtor in their own name.

6.Existing Debt	There is no pre-existing debt or duty. The obligation to pay arises only on the happening of a contingent event (the loss).	There is an existing debt or duty that the principal debtor is bound to fulfill. The surety's promise is to guarantee this existing obligation.
7.Example	An insurance contract (fire, marine, etc.) where the insurer (indemnifier) promises to compensate the insured (indemnity-holder) for a loss due to a specific event.	A promises a bank that if his friend B fails to repay a loan, A will repay it. Here, A is the surety, B is the principal debtor, and the bank is the creditor.

3. (a):

Section13 of the Indian Partnership Act, 1932 provides that subject to the contract between the partners-

1. A partner is not entitled to receive remuneration for taking part in the conduct of the business;
2. The partners are entitled to share equally in the profits earned and shall contribute equally to the losses sustained by the firm;
3. Where a partner is entitled to interest on the capital subscribed by him, such interest shall be payable only out of profits;
4. A partner, making, for the purposes of the business, any payment or advance beyond the amount of capital he has agreed to subscribe, is entitled to interest thereon at 6% per annum;
5. The firm shall indemnify a partner in respect of payments made, and liabilities incurred, by him-

a. In the ordinary and proper conduct of the business, and

b. In doing such act in an emergency, for the purpose of protecting the firm from loss, as would be done by a person of ordinary prudence, in his own case, under similar circumstances; and

6. A partner shall indemnify the firm or any loss caused to it by his willful neglect in the conduct of the business of the firm.

When the profits are not shared equally, the losses are, in the absence of the agreement, to be borne in the same proportion as the profits are shares, regardless, whether one partner has put up more capital than another.

Section 16 provides that:

(1) if a partner derives any profit for himself-

- From any transaction of the firm; or
- From the use of the property; or
- business connection of the firm; or
- the firm name
- he shall account for that profit and pay it to the firm.

(2) If a partner carries on any business of the same nature as, and competing with, that of the firm, he shall account for and pay, to the firm, all profits made by him in that business.

3. (b):

Buyer's Remedies against Seller for Breach of Contract

A buyer also has certain remedies against the seller who commits a breach. These are:

1. **Suit for Damages for Non-Delivery [Section 57]:** When the seller wrongfully neglects or refuses to deliver the goods to the buyer, the buyer may sue the seller for damages for non-delivery. This is in addition to the buyer's right to recover the price, if already paid, in case of non-delivery.

2. **Suit for price:** Where the buyer has paid the price and the goods are not delivered to him, he can recover the amount paid.
3. **Suit for specific performance [Section 58]:** When the goods are specific or ascertained, a buyer may sue the seller for specific performance of the contract and compel him to deliver the same goods. The court orders for specific performance only when the goods are specific or ascertained and an order for damages would not be an adequate remedy. Specific performance is generally allowed where the goods are of special significance or value e.g. a rare painting, a unique piece of jewellery, etc.

4. **Suit for Breach of Warranty [Section 59]:** Where there is a breach of warranty by the seller, or where the buyer elects or is compelled to treat the breach of condition as breach of warranty; the buyer cannot reject the goods. The buyer may:

a. set up the breach of warranty in extinction or diminution of the price payable by him, or
b. sue the seller for damages for breach of warranty.

5. **Repudiation of contract before the due date [Section 60]:** Section 60 provides that where either party to a contract of sale repudiates the contract before the date of delivery, the other may either treat the contract as subsisting or wait till the date of delivery, or he may treat the contract as rescinded and sue for damages for the breach.
6. **Suit for interest:** The buyer may recover such interest or special damages, as may be recoverable by law. He may also recover the money paid where the consideration for the payment of it has failed. In the absence of a contract to the contrary, the court may award interest, to the buyer, in a suit by him for the refund of the price in a case of a breach on the part of the seller, at such rate as it thinks fit on the amount of the price from the date on which the payment was made.

4. (a):

Social purpose of the Code

- There shall be no discrimination in an establishment or any unit thereof among employees on the ground of gender in matters relating to wages by the same employer, in respect of the same work or work of a similar nature done by any employee.
- No employer shall -

1) for the purposes of complying with the provisions of sub-section (1), reduce the rate of wages of any employee; and

2) make any discrimination on the ground of sex while recruiting any employee for the same work or work of similar nature and in the conditions of employment, except where the employment of women in such work is prohibited or restricted by or under any law for the time being in force.

The Code also lays down the various components of minimum wage that the appropriate Government shall fix. Under Section 7, the Code lays down that:

1. Any minimum rate of wages fixed or revised by the appropriate Government under section 8 may consist of:

a) a basic rate of wages and an allowance at a rate to be adjusted, at such intervals and in such manner as the appropriate Government may direct, to accord as nearly as practicable with the variation in the cost of living index number applicable to such workers (hereinafter referred to as "cost of living allowance"); or

b) a basic rate of wages with or without the cost of living allowance, and the cash value of the concessions in respect of supplies of essential commodities at concession rates, where so authorised; or

c) an all-inclusive rate allowing for the basic rate, the cost of living allowance and the cash value of the concessions, if any.

2. The cost of living allowance and the cash value of the concessions in respect of supplies of essential commodities at concession rate shall be computed by such authority, as the appropriate Government may by notification, appoint, at such intervals and in accordance with such directions as may be specified or given by the appropriate Government from time to time.

4. (b):

Withdrawal from the Employees' Provident fund:

Withdrawal from the fund is allowed for the following purposes-

1. For the purchase of a dwelling house/flat or for the construction of a dwelling house including the acquisition of a suitable site for this purpose;
2. For repayment of loans in special cases;
3. Withdrawal within one year before the retirement;
4. Withdrawal up to 75% of the balance, if not employed from one month or more, subject to approval of P.F. Commissioner or any officer authorized by him.
   Such withdrawals are not required to be repaid.

Advances from the Employees' Provident Fund:

Advances from the fund are paid for the following purposes-

1. For illness in certain cases;
2. For marriages or post matriculation education of children;
3. In abnormal conditions such as calamity of exceptional nature such as flood, earthquakes or riots– (non-refundable)
4. Granted to members affected by cut in the supply of electricity;(non-refundable)
5. Grant of advance to members who are physically handicapped;(non-refundable)

5. (a):

Notice by electronic mode

Rule 18 provides the procedure for issue of notice through electronic mode. The term 'electronic mode' shall mean any communication sent by a company through its authorized and secured computer program which is capable of producing confirmation and keeping record of such communication addressed to the person entitled to receive such communication at the last electronic mail address provided by the member.

The procedure of sending notice through electronic mode is discussed as detailed below:

1. A notice may be sent through email as a text or as an attachment to email or as a notification providing electronic link or Uniform Resource Locator for accessing such notice;
2. The email shall be addressed to the person entitled to receive such email as per the records of the company or as provided by the depository;
3. The subject shall state the name of the company, notice of the type of meeting, place and date on which the meeting is scheduled;
4. The attachment shall in a PDF or in a non-editable form at together with a link or instructions for recipient for downloading relevant version of the software;
5. The company should ensure that it uses a system which produces confirmation of the total number of recipients mailed and a record of each recipient to whom the notice has been sent and copy of such record and any notices of any failed transmissions and subsequent re-sending shall be retained by or on behalf of the company as 'proof of sending';
6. The company is not responsible for the failure in transmission beyond its control;
7. If a member fails to provide or update relevant e-mail address to the company or to the depository participant, the company shall not be in default for not delivering notice via e-mail;

8. The company may send e-mail through in-house facility or its registrar and transfer agent or authorize any third party agency providing bulk e-mail facility;
9. The notice made through electronic mode shall be readable and the recipient should be able to obtain and retain copies and the company shall give the complete Uniform Resource Locator or address of the website and full details of how to access the document or information;
10. The notice of the general meeting of the company shall be simultaneously placed on the website of the company, if any and on the website as may be notified by the Government.

5. (b):

Section 134 of the Companies Act , 2013 lays down provisions relating to Board's report, Directors Report- Financial Statement etc.

It says that the financial statement, including consolidated financial statement shall be approved by the Board of Directors before they are signed on behalf of the Board by the chairperson of the company where he is authorised by the Board or by two directors out of which one shall be managing director, if any, and the Chief Executive Officer, the Chief Financial Officer and the company secretary of the company, wherever they are appointed, or in the case of One Person Company, only by one director, for submission to the auditor for his report thereon.

To this board's report, the auditors' report would be attached to every financial statement where by the contents would include: a report by its Board of Directors, which shall include: the web address, number of meetings of the Board; Directors' Responsibility Statement; details in respect of frauds reported by auditors under sub- section (12) of section 143 other than those which are reportable to the Central Government; a statement on declaration given by independent directors under sub-section (6) of section 149; in case of a company covered under sub-section (1) of section 178, company's policy on directors' appointment and remuneration including criteria for determining qualifications, positive attributes, independence of a director and other matters provided under sub-section (3) of section 178; explanations or comments by the Board on every qualification, reservation or adverse remark or disclaimer made by the auditor in his report; and by the company secretary in practice in his secretarial audit report; particulars of loans, guarantees or investments under section 186; particulars of contracts or arrangements with related parties referred to in sub-section (1) of section 188 in the prescribed form; the state of the company's affairs; the amounts, if any, which it proposes to carry to any reserves; the amount, if any, which it recommends should be paid by way of dividend; material changes and commitments, if any, affecting the financial position of the company which have occurred between the end of the financial year of the company to which the financial statements relate and the date of the report; the conservation of energy, technology absorption, foreign exchange earnings and out go, in such manner as may be prescribed; a statement indicating development and implementation of a risk management policy for the company including identification there in of elements of risk, if any, which in the opinion of the Board may threaten the existence of the company; the details about the policy developed and implemented by the company on corporate social responsibility initiatives taken during the year; in case of a listed company and every other public company having such paid-up share capital as may be prescribed, a statement indicating the manner in which formal annual evaluation of the performance of the Board, its Committees and of individual directors has been made, among other things.

6. (a):

As per second provision to section 149(1) read with Rule 3 of the Companies (Appointment and Qualification of Directors) Rules, 2014, any vacancy in the office of women director shall be filled by the board at the earliest but not later than-

(i) Immediately in the next board meeting; or
(ii) 3 months from the date of such vacancy whichever is later.

In the given case, vacancy in the office of women director arose on 15th July, 2025 and vacancy was filled by the Board in the board meeting held on 16th September, 2025. The period of three months will expire on 15th October, 2025. The Board has filled the vacancy well before the expiry of three months i.e., 15th October, 2025. Thus, appointment of Sharmi as a women director is as per the provision of the Companies Act, 2013.

If, Sharmi is appointed as a women director in the board meeting held on 1st October, 2025, then also her appointment is within the provisions of the Companies Act, 2013, as her appointment is before the expiry of 3 months i.e., 15th October, 2025.

6. (b):

The primary roles and responsibilities of the Key Managerial Personnel are:

1. Financial statement to be signed by CEO, if any, if director & by CFO & by CS.
2. Prohibited from insider trading/forward dealing in securities.
3. Included in officer/officer in default/related party along with relatives
4. Sign document/ proceedings/contract on behalf of company.
5. Disclosure in annual return about Key Managerial Personnel.
6. Names fall under register of Key Managerial Personnel & their shareholding in holding/subsidiary/associate.
7. Disclose interest/concern & changes to company within 30 days of appointment/relinquishment.
8. Key Managerial Personnel has right to be heard in Audit Committee meetings when the committee considers auditor's report, but Key Managerial Personnel shall not have right to vote.
9. Nomination & Remuneration Committee to recommend policy for remuneration of Key Managerial Personnel.
10. Disgorgement of asset/personal liability, if undue benefit proved in inspection of company.

Statement annexed to notice of general meeting to contain items of special business to show financial/ other interest. If such item relates to other company & Key Managerial Personnel holds more than 2% shares in other company, disclosure of shareholding to be made. In case of Non-disclosure, Key Managerial Personnel has to compensate to the company for the benefit received. Default punishable with Rs 50,000 or 5 times of benefit, whichever is higher.

Alternative:

As per the Companies Act, 2013, Key Managerial Personnel (KMP) are responsible for core management and compliance functions within a company. Their primary roles include strategic decision-making, operational management, compliance with statutory provisions, and ensuring good corporate governance.

1. **Specific Responsibilities According to the Companies Act, 2013**
   Management of Company Affairs: KMPs, such as the Managing Director, CEO, or Manager, are responsible for the overall management and administration of the company's affairs.

   Corporate Governance and Compliance: Ensuring adherence to provisions of the Act, including statutory filings, meetings, and disclosure obligations.

   Strategic and Operational Decisions: Implementing policies, planning, and overseeing daily operations to meet organizational objectives.

2. **Appointment and Fiduciary Duties**
Appointment of KMPs: They are appointed by the Board of Directors through resolutions, and their appointments are regulated by specific provisions of the Act, including limits on tenure.

Fiduciary Responsibilities: KMPs are liable for lapses in compliance, mismanagement, and any act contrary to the company's legal obligations, highlighting their fiduciary duties towards the organization.

3. **Role in Company Performance**
KMPs influence the financial health, operational efficiency, and strategic growth of the company, making their role crucial for sustainable success.

In summary, the key responsibilities of KMPs under the Companies Act, 2013, encompass management, compliance, decision-making, and accountability for the company's lawful functioning and performance.

7. (a)

Introduction: -

Several factors play a role in the success of a company that is beyond the scope of financial statements alone. Organizational culture, management philosophy and ethics in business each have an impact on how well a business performs in the long term. No matter the size, industry or level of profitability of an organization, business ethics are one of the most important aspects of long-term success.

Ethics- Nature & relevance for business:

The management team sets the tone for how the entire company runs on a day-to-day basis. When the prevailing management philosophy is based on ethical practices and behavior, leaders within an organization can direct employees by example and guide them in making decisions that are not only beneficial to them as individuals, but also to the organization as a whole. Building on a foundation of ethical behavior helps create long lasting positive effects for a company, including the ability to attract and retain highly talented individuals and building and maintaining a positive reputation within the community. Running a business in an ethical manner from the top down builds a stronger bond between individuals on the management team, further creating stability within the company.

When management is leading an organization in an ethical manner, employees follow in those footsteps. Employees make better decisions in less time with business ethics as a guiding principle; this increases productivity and overall employee morale. When employees complete work in a way that is based on honesty and integrity, the whole organization benefits. Employees who work for a corporation that demands a high standard of business ethics in all facets of operations are more likely to perform their job duties at a higher level and are also more inclined to stay loyal to that organization.

The importance of business ethics reaches far beyond employee loyalty and morale or the strength of a management team bond. As with all business initiatives, the ethical operation of a company is directly related to profitability in both the short and long term. The reputation of a business from the surrounding community, other businesses and individual investors is paramount in determining whether a company is a worthwhile investment. If a company's reputation is less than perfect based on the perception that it does not operate ethically, investors are less inclined to buy stock or otherwise support its operations. With consistent ethical behavior comes increasingly positive public image, and there are few other considerations as important to potential investors and current shareholders. To retain a positive image, businesses must be committed to operating on an ethical foundation as it relates to treatment of employees, respect to the surrounding environment and fair market practices in terms of price and consumer treatment, business ethics is an applied ethics.

7. (b)

General Business Ethics

- Ethics of human resource management
- Ethics of sales and marketing
- Ethics of production
- Ethics of intellectual property, knowledge and skills

Business ethics deals with morality in the business. It is a system of moral principles and values applied to business activities. Therefore, business activities should be conducted according to ethics or moral standards.

But, now a days, due to various work pressure of achieving defined high targets, some executives are following different types of unethical practices.

Common unethical practices in the corporate world are as under;

a) Corruption – financial/ non-financial
b) Greed for profit/ turnover
c) Accommodating a group, may be employee, vendors, customer etc.
d) Leak of knowledge
e) Leak of professionalism
f) External pressure
g) Ego and dominance of top management ignoring right things

8. (a)

Facts of the case:

Section 154 of the Indian Contract Act, 1872, states below:

If a bailee makes any use of goods bailed, which is not according to the conditions of the bailment, he is liable to make compensation to the bailor for any damage arising to the goods from or during such use of them.

In the present case, Mr. X lent his car to Mr. Y strictly for his personal use. However, during the period of the bailment, Mr. Y permitted his wife, Mrs. Y, to drive the car. Unfortunately, while she was driving, the vehicle met with an accident, causing damage amounting to ₹45,000.

Analysis & Interpretation:

Although Mrs. Y may have acted responsibly and the accident was unforeseen, Mr. Y had no authority to allow any third party to operate the car. This unauthorized use clearly violates the terms of the bailment agreement. Therefore, Mr. X's assertion that Mr. Y breached the conditions of use is legally valid.

As the bailee, Mr. Y was responsible for ensuring that the vehicle was used only in accordance with the agreed terms. By allowing someone else to drive the car, he failed to uphold that obligation. The fact that the third-party driver was his wife does not exempt him from liability under Section 154, as the key issue is unauthorized use, not intent or conduct.

Judgement:

Accordingly, Mr. Y is liable to compensate Mr. X for the full amount of the damage, ₹45,000, caused during the unauthorized use of the vehicle. His defense citing his wife's responsible behaviour is irrelevant in light of the breach of the bailment terms.

8. (b):

Roles and Responsibilities of the Audit Committee under Section 177:

Every Audit Committee shall act in accordance with the terms of reference specified in writing by the Board which shall, inter alia, include, –

i) The recommendation for appointment, remuneration and terms of appointment of auditors of the company;

ii) Review and monitor the auditor's independence and performance, and effectiveness of audit process;

iii) Examination of the financial statement and the auditors' report there on;

iv) Approval or any subsequent modification of transactions of the company with related parties;

Provided that the Audit Committee may make omnibus approval for related party transactions proposed to be entered into by the company subject to such conditions as may be prescribed;

Provided further that in case of transaction, other than transactions referred to in section 188, and where Audit Committee does not approve the transaction, it shall make its recommendations to the Board;

Provided also that in case any transaction involving any amount not exceeding one crore rupees is entered into by a director or officer of the company without obtaining the approval of the Audit Committee and it is not ratified by the Audit Committee within three months from the date of the transaction, such transaction shall be voidable at the option of the Audit Committee and if the transaction is with the related party to any director or is authorised by any other director, the director concerned shall indemnify the company against any loss incurred by it;

Provided also that the provisions of this clause shall not apply to a transaction, other than a transaction referred to in section 188, between a holding company and its wholly owned subsidiary company.

v) Scrutiny of inter-corporate loans and investments;

vi) Valuation of undertakings or assets of the company, wherever it is necessary;

vii) Evaluation of internal financial controls and risk management systems;

viii) Monitoring the end use of funds raised through public offers and related matters.