

Mains: Questions & Model Answers

मुख्य परीक्षा: प्रश्न और आदर्श उत्तर

How to use • कैसे उपयोग करें

1. Write your own answer in the time you would get in the exam, then compare with the model answer.
पहले परीक्षा जितने समय में अपना उत्तर लिखें, फिर आदर्श उत्तर से मिलान करें।
2. Model answers show structure: issue, law, leading cases, application and conclusion.
आदर्श उत्तर संरचना दिखाते हैं: विवादक, विधि, प्रमुख निर्णय, अनुप्रयोग और निष्कर्ष।

Original questions and answers by Nyaya Pathshala faculty • not previous-year papers

M1. Explain the doctrine of res judicata. Is constructive res judicata a part of it? Illustrate.

Civil Procedure

प्राज्ञ्याय (res judicata) के सिद्धांत को समझाइए। क्या आन्वयिक प्राज्ञ्याय इसका भाग है? उदाहरण दीजिए।

Model answer

Introduction. Res judicata rests on two maxims: nemo debet bis vexari pro una et eadem causa (no one should be vexed twice for the same cause) and interest reipublicae ut sit finis litium (it is in the public interest that litigation ends). Section 11 CPC codifies it.

Essentials. (1) The matter directly and substantially in issue in the later suit was directly and substantially in issue in the former suit; (2) the former suit was between the same parties or those claiming under them; (3) they litigated under the same title; (4) the former court was competent to try the later suit; and (5) the matter was heard and finally decided.

Constructive res judicata. Explanation IV to Section 11 provides that any matter which might and ought to have been made a ground of attack or defence in the former suit is deemed to have been directly and substantially in issue. It prevents a party from splitting its pleas across suits. Example: A sues B for possession on the basis of a sale deed and loses. A cannot file a fresh suit on the basis of adverse possession that existed when the first suit was filed.

Case law. Satyadhyam Ghosal v. Deorajin Debi (1960) applied the principle between different stages of the same proceeding. Forward Construction Co. v. Prabhat Mandal (1986) explained "might and ought". The doctrine also applies to writ petitions (Daryao v. State of U.P., 1961), though not to habeas corpus.

Conclusion. Res judicata, including its constructive form, secures finality and prevents abuse of process, while exceptions such as fraud, lack of jurisdiction and pure questions of law on jurisdiction keep it fair.

M2. Discuss the changes introduced by the BNSS regarding registration of FIR, including Zero FIR, e-FIR and preliminary enquiry.

Criminal Procedure

एफआईआर दर्ज करने के संबंध में BNSS द्वारा किए गए बदलावों की चर्चा कीजिए, जिनमें ज़ीरो एफआईआर, ई-एफआईआर और प्रारंभिक जाँच शामिल हैं।



Model answer

Introduction. Section 173 BNSS replaces Section 154 CrPC. It retains the mandatory registration of cognizable offences affirmed in *Lalita Kumari v. Govt. of U.P.* (2014), while adding three changes.

1. Zero FIR. Information must be recorded “irrespective of the area where the offence is committed”. The station registers the FIR and transfers it to the station having jurisdiction. This codifies a practice recommended after 2012 and spares victims from being sent from station to station.

2. e-FIR. Information may be given by electronic communication. It must be signed by the informant within three days, after which it is taken on record.

3. Preliminary enquiry. Under Section 173(3), for cognizable offences punishable with three years or more but less than seven years, the officer may, with permission of an officer not below DSP, conduct a preliminary enquiry within 14 days to ascertain whether a prima facie case exists, or proceed with investigation.

Safeguards for women. Information about specified sexual offences by a woman is recorded by a woman officer, and for persons with disabilities at their residence or convenient place, with videography.

Remedies on refusal. Section 173(4) allows the informant to approach the Superintendent of Police, and thereafter a Magistrate under Section 175(3), now with an affidavit requirement following *Priyanka Srivastava v. State of U.P.* (2015).

Conclusion. The changes widen access to criminal justice. The preliminary-enquiry provision, however, must be applied narrowly so that it does not dilute *Lalita Kumari*.

M3. Distinguish between void agreements and voidable contracts with illustrations.

Contract

शून्य करार और शून्यकरणीय संविदा में उदाहरण सहित अंतर बताइए।

Model answer

Definitions. Under Section 2(g) of the Contract Act, an agreement not enforceable by law is void. Under Section 2(i), an agreement enforceable at the option of one party but not the other is voidable.

Points of distinction.

- **Validity:** a void agreement is a nullity from the start; a voidable contract is valid until avoided.
- **Cause:** voidness arises from defects such as minority (*Mohori Bibee*), unlawful object or consideration (Section 23), absence of consideration (Section 25), restraint of marriage or trade (Sections 26–27), or uncertainty (Section 29). Voidability arises from consent obtained by coercion, undue influence, fraud or misrepresentation (Sections 19 and 19A).
- **Rights of third parties:** no rights pass under a void agreement. A third party who acquires rights in good faith for value before a voidable contract is avoided is protected.
- **Restitution:** under Section 64, a party rescinding a voidable contract must restore benefits received; Section 65 applies when an agreement is discovered to be void or a contract becomes void.

Illustrations. A agrees to pay B ₹10,000 to beat C: void, as the object is unlawful. A induces B by threat to sell his car: voidable at B’s option.

Conclusion. The difference lies in the source of the defect: a defect in the agreement itself makes it void, while a defect in free consent makes it voidable.



M4. State the law on admissibility of electronic records under the Bharatiya Sakshya Adhiniyam, 2023. How far does it change the earlier position?

Evidence

भारतीय साक्ष्य अधिनियम, 2023 के तहत इलेक्ट्रॉनिक अभिलेखों की ग्राह्यता का क़ानून बताइए। यह पहले की स्थिति को कितना बदलता है?

Model answer

Earlier position. Under Sections 65A and 65B of the Evidence Act, secondary electronic evidence required a certificate. Anvar P.V. v. P.K. Basheer (2014) made the certificate mandatory; Shafhi Mohammad (2018) relaxed it; and Arjun Panditrao Khotkar (2020) restored the mandatory rule, except where the original device is produced.

Under the BSA.

- **Electronic records as documents:** Section 2 treats electronic and digital records as documents.
- **Primary evidence:** Explanations to Section 57 treat electronic records stored or created simultaneously, or in multiple storage spaces, as primary evidence. This narrows the cases where a certificate is needed.
- **Certificate:** Section 63 (old 65B) continues the certificate requirement for secondary electronic evidence, now in a prescribed form in the Schedule with two parts, one by the person in charge and one by an expert.
- **Wider devices:** the provision expressly covers semiconductor memory and communication devices such as smartphones.

Assessment. The BSA codifies the Khotkar position and adds clarity on primary electronic evidence. The requirement of an expert's certificate may cause practical difficulty in district courts, where certified experts are few.

Conclusion. Courts will need to read Sections 57 and 63 together so that genuine digital evidence is not excluded on technicalities.

M5. "Bail is the rule and jail the exception." Discuss with reference to the BNSS and recent Supreme Court judgments.

Bail

"ज़मानत नियम है और जेल अपवाद।" BNSS और सुप्रीम कोर्ट के हाल के निर्णयों के संदर्भ में चर्चा कीजिए।

Model answer

Origin. The phrase comes from State of Rajasthan v. Balchand (1977), and flows from Article 21 and the presumption of innocence.

Statutory framework. Section 478 BNSS (bailable offences) makes bail a right. Section 480 governs bail in non-bailable offences before a Magistrate, and Section 483 the special powers of the Sessions Court and High Court. Section 479 enlarges the undertrial provision: a first-time offender who has undergone one-third of the maximum sentence must be released on bond. Section 187(3) preserves default bail.

Judicial guidance. Arnesh Kumar v. State of Bihar (2014) restrained routine arrests in offences punishable up to seven years. Satender Kumar Antil v. CBI (2022) classified offences, laid down timelines, and called for a separate Bail Act. Courts have also held that bail conditions must not be onerous or impossible to meet.

Special statutes. Under UAPA, PMLA and NDPS, twin conditions restrict bail, but in Union of India v. K.A. Najeeb (2021) the Court held that prolonged incarceration can justify bail even under such statutes.



Conclusion. The principle is constitutional, but over 70% of prisoners are undertrials. Its success depends on trial courts applying it consistently.

M6. Frame the issues in the following suit: A sues B for permanent injunction restraining B from interfering with A's possession over a plot, claiming title under a registered sale deed. B denies A's possession and claims the plot under an unregistered agreement to sell with part payment, pleading Section 53A TPA.

Judgment Writing

निम्न वाद में विवादक तैयार कीजिए: A, पंजीकृत विक्रय विलेख के आधार पर स्वत्व का दावा करते हुए, B के विरुद्ध एक भूखंड पर A के कब्जे में हस्तक्षेप रोकने हेतु स्थायी निषेधाज्ञा का वाद लाता है। B, A के कब्जे से इनकार करता है और अपंजीकृत विक्रय करार तथा आंशिक भुगतान के आधार पर, धारा 53A TPA का अभिवचन करते हुए, भूखंड पर दावा करता है।

Model answer

Issues (under Order 14 Rule 1 CPC):

1. Whether the plaintiff proves that he was in lawful possession of the suit plot on the date of filing the suit? OPP
2. Whether the plaintiff proves that he is the owner of the suit plot under the registered sale deed dated ... ? OPP
3. Whether the defendant is entitled to the protection of Section 53A of the Transfer of Property Act on the basis of the agreement to sell dated ... ? OPD
4. Whether the suit is barred for want of a prayer for declaration of title? OPD
5. Whether the suit is properly valued and adequately stamped? OPD
6. Relief.

Notes for examinees. "OPP" and "OPD" mark the onus of proof on the plaintiff or defendant. Frame issues only on material propositions affirmed by one party and denied by the other. Keep a preliminary issue on law or jurisdiction where it may dispose of the suit. Note the 2001 amendment to Section 53A: the agreement must be registered for the defence to be available, which the defendant's plea must overcome. Where title is seriously disputed, a bare injunction suit may not lie (Anathula Sudhakar v. P. Buchi Reddy, 2008).

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