

SET.1

1. Astha, who is a very good painter, is also a patient in a mental asylum, who, at intervals, is of sound mind. During one of these intervals, she entered into a relationship with Lopamudra to paint a picture of her for a specified amount. She, however, asked Lopamudra to pay her the entire amount in advance. One month later, on the day of delivery of the painting, Astha refused to perform the contract saying that she suffers from insanity. Can Lopamudra force performance?

Principle: A person is said to be of sound mind for the purpose of making a contract if, at the time when he makes it, he is capable of understanding it and of forming a rational judgment as to its effect upon his interests.

- (a) Yes, because Astha was of sound mind when she entered into the contract.
- (b) No, because Astha had been of unsound mind even while the contract was signed which is proved by the fact that she was admitted in an asylum.
- (c) Yes, because a good painter can paint irrespective of his/her mental stability.
- (d) No, because it was silly on Lopamudra's part to enter into a contract with a mental patient admitted in an asylum.

2. Principle: Mere silence as to the facts likely to affect the willingness of a person to enter into a contract is not a fraud, unless the circumstances of the case are such that, on close examination it is found to be the duty of the person keeping silent to speak, or unless his silence is, in itself, equivalent to speech.

Facts: X sells by auction to Y, a horse which X knows to be of unsound state of mind. X says nothing to Y about the horse's unsound state of mind. Give the correct answer.

- (a) X can be held liable for fraud.
- (b) X can be held liable for misrepresentation.
- (c) X cannot be held liable, because he did not say anything positive about the mental state of the horse.
- (d) X cannot be held liable because it is the buyer who must be aware of the things.

3. Agni enters into a contract with Tanuj whereby Tanuj will supply Agni with 10 grams of cocaine for a specified amount. Is the contract void?

Principle: If the consideration or object of an agreement is forbidden by law, or is of such a nature that would defeat the provisions of any law, or is fraudulent, or is injurious to the person or property of another or, the Court regards it as immoral, or opposed to public policy, then the object or consideration shall be deemed unlawful. Every agreement of which the object or consideration is unlawful is void.

- (a) Yes, because the contract is for the sale of illegal drugs.
- (b) No, because Agni and Tanuj have entered into the contract out of their own free will, and being the citizens of a free country, they have the right to do so.
- (c) Yes, because drugs are harmful.
- (d) None of these.

Principle (For Question 4 and 5): Nothing which is not intended to cause death, is an offence by reason of any harm which it may cause, or be intended by the doer to cause, or be known by the doer to be likely to cause, to any person for whose benefit it is done in good faith, and who has given a consent, whether express or implied, to suffer that harm, or to take the risk of that harm.

4. A fake doctor operated on a man for internal piles by cutting them out with an kitchen ordinary knife. The man died of haemorrhage.

- (a) Doctor is guilty of murder.
- (b) Doctor is not guilty.
- (c) Doctor is guilty of culpable homicide not amounting to murder
- (d) None of these.

5. Dr Mortimer performed a kidney operation upon James for removal of kidney stones. James was already affected by HIV. Dr Mortimer had warned James of all the possible risks. James, out of his own volition, decided to undertake the risks and signed a bond certifying the same. James died of haemorrhage as a result of the operation.

- (a) Doctor is guilty of murder.
- (b) Doctor is not guilty.
- (c) Doctor is guilty of culpable homicide not amounting to murder
- (d) None of these.

Answers

1a 2c 3a 4c 5b