

Sectional Based Questions on Presumptions under Evidence Law for CLAT PG

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A presumption is an inference drawn by the court with regards to the existence or non- existence of a fact based on the facts or circumstances of the case. It is defined under section 4 of the Indian Evidence Act, 1872.

It is categorised in 3 types; such as may presume, shall presume and conclusive proof. It serves as a practical purpose as they ease the burden of proof and promote judicial efficiency. They are based in the common course of events and human conduct under section 114 of Indian Evidence Act, 1872. The balance of presumptions promotes fairness between parties while ensuring justice.”

1) What is the difference between ‘may presume’ and ‘shall presume’?

- a) May presume is irrebuttable and shall presume is rebuttable
- b) May presume depends upon the discretion of the court whereas shall presume is mandatory
- c) Both depends on the discretion of the court
- d) May presume is used in civil proceedings whereas shall presume is used in criminal proceedings

2) What is the position of presumption under section 139 of the Negotiable Instruments Act?

- a) It is rebuttable and the burden shifts on the complainant
- b) It is irrebuttable
- c) It is rebuttable and the drawer has to raise the probable defense in order to the shift the burden on the complainant
- d) The concept of presumption does not apply in this case

3) Which of the following conditions is not required when it comes to presumption under section 113A of the Indian Evidence Act, 1872?

- a) The woman should have committed suicide
- b) The suicide should occur within 7 years of marriage
- c) The husband or his relative must subject the woman to cruelty
- d) A formal complaint needs to be filed prior to her death

4) The presumption of continuance of life applies when a person is known to be alive for how many years under section 107 of Indian Evidence Act, 1872?

- a) Section 30
- b) Section 20
- c) Section 10
- d) Section 15

5) If a document is 35 years old and was produced from proper custody, it appears to be genuine. Then what is its position under section 90 of the Indian Evidence Act, 1872?

- a) The court shall presume its execution and attestation
- b) The court may presume its execution and attestation
- c) The court will mandatorily authenticate the document through witnesses relying on it
- d) The court shall presume only its execution and not its attestation

6) When does the presumption of legitimacy is conclusive under section 112 of Indian Evidence Act, 1872?

- a) When the DNA test established paternity
- b) When the child is born during a valid marriage
- c) When the child is born within 280 days of dissolution of marriage
- d) Both 2 and 3 options

7) What was held in the case of Nandlal Wasudeo Badwaik v. Lata Nandlal Badwaik?

- a) DNA evidence cannot be rebutted as presumption under section 112 of Indian Evidence Act, 1872
- b) DNA evidence being a conclusive proof can override presumption under section 112 of Indian Evidence Act, 1872
- c) Section 112 of Indian Evidence Act, 1872 applies to civil matters and DNA evidence governs criminal matters
- d) The court needs to consent both the parties for DNA evidence

8) Which of the following is the conclusive proof under Indian Evidence Act, 1872?

- a) Presumption of marriage
- b) Certified copy of foreign judgement
- c) A child born out of lawful marriage
- d) Proof of official acts of judicial officers

9) Under section 114 of Indian Evidence Act, 1872, the presumption is based on which events?

- a) Common course of natural events and human conduct
- b) Statutory mandate irrespective of facts
- c) Presumptions enumerated in the schedule to the act
- d) Directions issued by High Courts under supervisory jurisdiction

10) Under section 111A of Indian Evidence Act, 1872, the presumption is related to what events?

- a) Offences related under the Terrorist and Disruptive Activities
- b) Presumption of person found in possession of arms in a notified area
- c) Persons arrested in disturbed areas and are presumed to have committed the offences mentioned under Chapter VI of IPC
- d) Presumption that a confession is made during emergency period

11) Which section of the POCSO Act, 2012 states that once the prosecution establishes the commission of an offence, the special court shall presume that the accused committed the offence. Thus, reversing the presumption of innocence?

- a) Section 29
- b) Section 31
- c) Section 33
- d) Section 35

12) What is the standard of proof required from the accused under section 105 of Indian Evidence Act, 1872?

- a) It should be beyond reasonable doubt
- b) It should be clear and convincing evidence
- c) There should be preponderance of probabilities

d) It is for prosecution to disprove exceptions

13) What was decided in the case of Tulsa v. Durghatiya, with regards to presumption with respect to marriage and cohabitation?

- a) Cohabitation should be continuous , open and the parties need to present them as couple in the society
- b) Cohabitation should be for 7 years
- c) Cohabitation should be made out of registered agreement
- d) None of the Above

14) What the court shall presume under section 113B of the Indian Evidence Act, 1872?

- a) May presume that the husband or relatives caused dowry death
- b) Shall presume that the husband or relatives caused dowry death
- c) May draw adverse inference and not a statutory presumption
- d) All of the Above as it depends on the discretion of the court and circumstances of the case

15) Which of the following is incorrect regarding presumptions under the Indian Evidence Act, 1872?

- a) A presumption cannot be rebutted by any evidence
- b) The presumption under section 108 is a shall presume and is not irrebuttable
- c) Under section 79, the court shall presume genuineness of certified copies of official documents
- d) All of the Above

Answers

1. Option b
2. Option c
3. Option d
4. Option a
5. Option b
6. Option d
7. Option b
8. Option c

- 9. Option a
- 10. Option c
- 11. Option a
- 12. Option c
- 13. Option a
- 14. Option b
- 15. Option b