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Enrolment No:	

UNIVERSITY OF PETROLEUM AND ENERGY STUDIES
Online End Semester Examination, May 2021

Course: Arbitration and Conciliation & Alternative Dispute Resolution Mechanism	Semester: X
Program: B.Tech LLB (Cyber Law/IPR)	Time 03 hrs.
Course Code: LLBL 461	Max. Marks: 100

SECTION A

1. Each Question will carry 5 Marks
2. Instruction: Word limit- 200-300 words.

S. No.	Question	CO
Q 1	Distinguish between Mediation and Conciliation.	CO 1
Q2	Explain the scope of applicability of some sections of Part I of ACA 1996 on international commercial arbitration.	CO 1
Q3	Distinguish between Seat and Venue of the Arbitration and cite case laws.	CO 1
Q4	When a party for stay of legal proceedings has filed an application, the judicial authority may refuse to order stay on some grounds. Enumerate any four grounds.	CO 2
Q5	Quite often parties in international commercial arbitration provide a clause in their contract that all disputes arising in relation to said contract should be referred for arbitration to the exclusive jurisdiction of a foreign court. Such clause indicates intention of the parties that the law of that country shall govern their dispute. This is known as called Foreign Arbitration Clause. Discuss the conditions that shall guide the applicability of such foreign arbitration clauses in the contract in the jurisdiction of both the parties.	CO 2
Q6	Discuss the salient features of FastTrack Procedure inserted by Arbitration and Conciliation (Amendment) Act 2015.	CO 2

SECTION B

1. Each question will carry 10 marks
2. Instruction: Word limit-500-600

Q 7	Indian Courts have adopted different attitudes towards multiparty arbitration. In some leading cases, Supreme Court of India declined to refer non-signatory parties to arbitration on the ground that non-signatory parties have not signed principal agreement and therefore they cannot be bound to join arbitrations. In other cases Supreme Court of India has shown their inclination to allow non-signatory parties to arbitration in view of the complexities of modern businesses. Critically examine permissibility of multiparty arbitration in India and cite ratio in the	CO 2

	case Sukanya Holdings Pvt Ltd. v Jayesh H Pandya & another decided by Supreme Court.	
Q 8	<p>Geneva Convention on the execution of Foreign Arbitral Awards 1927 and the 1923 Geneva Protocol on Arbitration Clauses were not efficacious in providing relief to contesting parties due to certain defects. New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards 1958 succeeded these two international arbitral instruments. The Geneva Convention virtually ceased to serve any practical purpose following Article VII of New York Convention 1958.</p> <p>Enumerate the shortcomings in the Geneva Treaties relating to Execution of Foreign Arbitral Awards and Arbitration Clauses.</p>	CO3
Q 9	<p>With the passage of time, there is a complete paradigm shift in the ADR mechanism in India. Judicial system is over-burdened due to arrear of cases. Arbitral cases also end up in courts under the provisions contained in Arbitration and Conciliation Act 1996. Various committees set up by Government of India and Law Commission of India in their recommendations have suggested adoption of those means of ADR which are time and cost efficient in resolving disputes between parties.</p> <p>In view of the above, Explain salient features of composition, jurisdiction, procedures and powers of Lok Adalat.</p>	CO3
Q 10	<p>While the decision in BALCO case was a step in right direction, the Law Commission of India felt there were still a few areas that are likely to be problematic. Following the recommendations of the Law Commission of India, Arbitration and Conciliation Act 1996 was amended in 2015.</p> <p>Explain the problematic areas created by BALCO decision.</p>	CO3
Q 11	<p>There was a general trend to decline enforcement of Foreign Arbitral Awards by Indian Courts on grounds of violation of public policy of India. This had created disappointment among Foreign Arbitral Party and they slowly started moving away from investing in India due to its poor arbitral law and grievance redressal regime. This was adversely affecting India's economy. Government of India and Law Commission of India made several recommendations to alter India's Arbitration and Conciliation Act 1996.</p> <p>Critically examine the changes made in Arbitration and Conciliation Act 1996 relating to Public Policy and elucidate your answer with ratio of two appropriate cases decided by the Supreme Court of India on matters of Public Policy.</p>	CO4

Section C

- 1. Each Question carries 20 Marks.**
- 2. Instruction: Write long answer.**
- 3. Word limit-500-700**

Q12	<p>The Supreme Court in the case of Chloro Controls India Pvt. Ltd. v Severn Trent Water Purification Inc. (2013) mentioned five theories about reference of non-signatories to arbitration by a judicial determination (as part of the <i>obiter dicta</i>), which have been encapsulated in the matter of Thomson-csf, S.a., v. American Arbitration Association F.3d 773 (2d Cir.1994).</p> <p>1. Enumerate five theories mentioned by the Supreme Court of India in the above-cited case as part of <i>Obiter Dicta</i> contained in the judgment.</p> <p style="text-align: center;">OR</p> <p>The Appellant named Fox entered into a contract with the 1st Respondent named Mandal on 9th May, 1997. This contract contained an arbitration clause, which provided that arbitration was to be as per the rules of the International Chamber of Commerce (for short ICC). On 23rd October, 1997 the Mandal filed a request for arbitration with ICC. Parties agreed that the arbitration be held in Paris, France. ICC has appointed a sole arbitrator</p> <p>Mr. Mandal Respondent filed an application under Section 9 of the Arbitration and Conciliation Act, 1996 (hereinafter called the said Act) before the IIIrd Additional District Judge, Indore, M.P. against the Appellant and the 2nd Respondent Mulla. One of the interim reliefs sought was an order of injunction restraining these parties from alienating, transferring and/or creating third party right, disposing of, dealing with and/or selling their business assets and properties. The Appellant Fox raised the plea of maintainability of such an application. The Appellant contended that Part I of the said Act would not apply to arbitrations where the place of arbitration is not in India. The III Additional District Judge dismissed this application on 1 February 2000. It was held that the Court at Indore had jurisdiction and the application was maintainable. The Appellant filed a Writ Petition before the High Court of Madhya Pradesh, Indore Bench. The said Writ Petition has been dismissed by the impugned Judgment dated 10th October, 2000. The Appellant moved Supreme Court for relief.</p> <p>1. Discuss the ratio decided by the Supreme Court of India in the case of <u>Bhatia International</u> v Bulk Trading SA.</p> <p>2. Discuss the case law in brief in which the ratio of Bhatia International was modified.</p>	CO4
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