

# Paper: Mercantile Law (100 Marks)

## I. Law of Contract, 1872

- Definitions
- Essentials of a valid contract (Proposal, Acceptance, Consideration, Free consent, Capacity of Parties, Not hereby declared to be Void)
- Kinds of Contracts (Valid, Void, Voidable, Not Voidable)
- Variety of Contracts (Contingent, Quasi, Bailment, Pledge, Indemnity, Agency)
- Performance of Contract, contracts that need not to be performed.
- Breach of contract, consequences of breach, damages for breach of contract.

## II. Sales of Goods Act, 1930

- Definitions
- Differences: Sale & agreement to sell, conditions and warranties, express & implied conditions.
- Doctrines: Caveat emptor, Nemo dat
- Right and duties of seller & buyer, rights of unpaid seller.

## III. Partnership Act, 1932

- Definitions
- Essentials of partnership
- Kinds of partnership (partnership at will, particular partnership, limited partnership)
- Rights and duties of Partners
- Relation of partners to third persons (implied authority of partner, doctrine of holding out)
- Incoming and outgoing partners (minor)
- Dissolution of firms (compulsory, by agreement, by court, by notice on happening of contingencies)

## IV. Negotiable Instrument Act, 1881

- Definitions
- Types of negotiable instruments (Cheque, bill of exchange, promissory note)
- Parties to instruments, holder & holder in due course
- Rules (as to negotiation, presentment, payment & interest, discharge, noting and protest, compensation, acceptance, payment for honour)
- Special rules of evidence
- Special provisions relating to cheques & bills of exchange (dishonor, duties of banker)
- Provisions as to foreign instruments

V. *Competition Act, 2010*

- Definitions
- Prohibition and abuse of (dominant position, certain agreements, discipline, marketing practices)
- Approval of mergers
- Competition commission of Pakistan (established, composition, term)
- Functions and powers of commission
- Provisions as to penalty and appeals.

VI. *Electronic Transaction Ordinance, 2002*

- Definitions
- Recognition and presumption of electronic transactions (writing, signature, stamp duty, attestation etc.)
- Electronic documents (attribution, acknowledgement, time and place of dispatch)
- Certification of service providers
- Application to acts done outside Pakistan
- Offences & Nature (false information, false certificates, damage to information system etc.)

VII. *The Arbitration Law in Pakistan*

- Definitions
- Appointment, number and removal of arbitrator
- Award by arbitrator
- Powers of court upon award (remittance, modification and setting aside of award)
- Types of arbitration (with or without intervention of court)
- Stay of legal proceedings in presence of arbitration agreement

VIII. *Consumer's Protection Act, 2006*

- Definitions
- Consumer Commission (establishment, powers and functions, complaints before commission and disposal)
- Provisions as to compulsory recall of goods
- Duties and liabilities of provider of goods (return and refund of goods)
- Offences and penalties
- Contract between consumer and provider

**IX. Companies Ordinance, 1984**

- Definitions
- Types of Companies
- Fundamental papers of company (Memorandum of association, articles of association, prospectus)
- Transfer of shares and debentures
- Management and administration (promoters, shareholders, directors, Chief executive, auditors)
- Meetings and proceedings (statutory, general, annual general meeting)
- Winding up (voluntary, by court)

**X. Electronic Fund Transfer Act, 2007**

- Definitions
- Payment system and their operation (designation of payment system & revocation, real time gross settlement system, governance & operation arrangement)
- Payment instruments (designation, issuing and prohibition of instruments)
- Clearing and other obligations
- Supervisory Control of state bank
- Documentation of transfers
- Notification of error and liabilities of parties
- Law relating to action before court.

## **SUGGESTED READINGS**

<b>S.No.</b>	<b>Title</b>	<b>Author</b>
1.	<b>Law of Contract</b>	Agarwala, M. Mehmood
2.	<b>Sales of Goods Act</b>	Pollock & Mulla
3.	<b>Bare Acts:</b>	Government of Pakistan
i)	Contract Act, 1872	
ii)	Negotiable Instrument Act, 1881	
iii)	Sale of Goods Act, 1930	
iv)	Companies Ordinance, 1984	
v)	Arbitration Act, 1940	
vi)	Competition Act, 2010	
vii)	Electronic Transactions Ordinance, 2002	

viii)	Consumers' Protection Act, 2006
ix)	Electronic Fund Transfer Act, 2007
4.	<b>Case Law Reading</b>
i)	Carlil vs. Carbolic Smoke Ball Co. (1893) 1 QB 256
ii)	Pharmaceutical Society of Great Britain vs. Boots Cash Chemicals Ltd.(1952) 2 QB 795
iii)	Curie vs. Misa (1875) LR 10 Ex 153
iv)	Byrne & Co. vs. Van Tienhaven & Co. (1880) 5 CPD 344
v)	Mohri Bibi vs. Dharmodas Ghose (1903) 30 IA 114
vi)	Derry vs. Peeks (1889) 14 App. Cas 337
vii)	Mannu Singh vs. Umadat Panday (1890) 12 ALL 523
viii)	Coggs vs. Bernard (1703) 2Ld Raym 909
ix)	Lumley vs. Wanger (1852) EW HC (Ch)J 96
x)	Manni Devi vs. Ramayan Singh AIR 1985 Pat. 35
xi)	Lachhman Joharimal vs. Bapu Khandu (1869) 6 Bombay High Court Reports241
xii)	Mischeff vs. Springett (1942) 2 KB 331
xiii)	Watson vs. Coupland (1945) 1 All ER 217
xiv)	Ashbury Railway Carriage & Iron Co. Ltd. Vs. Riche (1875) LR 7HL 653
xv)	Lee vs. Lee's Air Farming (1960) 3 All ER420
xvi)	Salomon vs. A. Salomon & Co. Ltd. (1897) AC 22
xvii)	Royal British Bank vs. Turqnand (1856) 6 E&B 327
xviii)	Ram Raja Ram vs. Dhirba Charan Jen AIR 1982 Ori 264
xix)	Badridas Kothari vs. Megraj Kothari AIR 1967 Cal 25
xx)	Hitachi Ltd. & others vs. Rupali Polyester & others (1998 SCMR 1618)
xxi)	Marflower Theatre Trust Ltd. Vs. HMRC (2007) STC 880
xxii)	Pickering vs. Bux (1812) 15 East 38
xxiii)	Liaqat Islam vs. State (2011 YLR 2280)
xiv)	Alamgir Khalid Chughtai vs. State (PLD 2009 Lahore 259)
xv)	United States vs. Forty Barrels and Twenty Kegs of Coca Cola, 241 U.S. 265(1916)
xvi)	Hedley Byrne & Co. Ltd. Vs. Hella & Partners Ltd. (1964) AC 465

