

NEGOTIABLE INSTRUMENT ACT - 1881

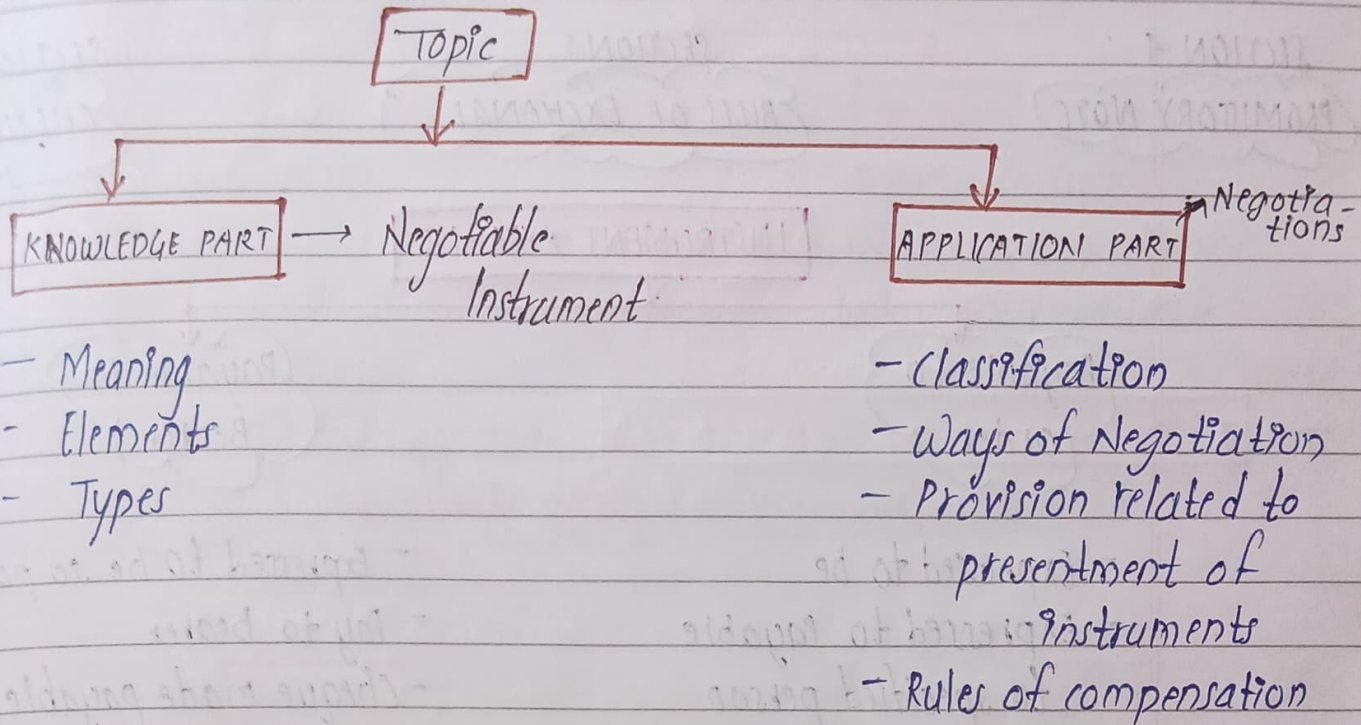
classmate

Date _____

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Negotiable Instrument

→ 1st March 1882 → first applicability



MEANING OF NEGOTIABLE INSTRUMENT :-

- written document → transferable $A \rightarrow B \rightarrow C \rightarrow D \rightarrow E$ (till maturity date mentioned)

EX: - CHEQUE X

- (1) Includes → Sec. 4 Promissory Note
Sec. 5 Bills of Exchange
→ Sec. 6 cheque

(2) Negotiable Instrument is an instrument (document) which is freely transferable (by custom of trade) from one person to another by mere delivery ^① or by indorsement and delivery ^②.

(3) The property in such an instrument pass to Bonafide transferee for a value (₹) money.

TYPES OF NEGOTIABLE INSTRUMENT

SECTION 4
PROMISSORY NOTE

SECTION 5
BILLS OF EXCHANGE

SECTION 6
CHEQUE

INSTRUMENT PAYABLE

Payable to
order

Payable to
Bearer

- Expressed to be
- Expressed to payable to specified person

pay to Mr. X

- Expressed to be so payable
- Pay to bearer
- Cheque made payable to specified person and that cheque is endorsed by signing on the back side of the cheque.

pay to

Backside

Dattesh

BEARER

who holds the cheque during payment

ESSENTIALS CHARACTERISTICS OF NEGOTIABLE INSTRUMENT -

(1) Written and signed

Ex:-

cheque

X

- ① without writing
- ② without signed

(2) **Transferable** - Any number of time till its satisfaction

TRANSFERABLE

ENDORSEMENT ↓

↳ written form
↳ Name from (mentioned)
specified person
Ex: Bills of Exchange

DELIVERY

↳ Bearer Instrument
↳ Name not mentioned
Ex: cheque without mentioning the name (self cheque).

(3) **Holder title is free from defect**

↳ OWNERSHIP

EXCEPTION →

NEMO DAT QUAM NON HABET

HOLDER

(No one can transfer a better title than what he does not have)

TRANSFEROR

↳ who transfer the negotiable instrument

TRANSFEEE

↳ Transfer in favour of

EFFECTIVE TITLE

↳ valid Bill of exchange

DEFECTIVE TITLE

↳ fraud in Bills of Exchange

ENDORSE

(4) **Instrument must be certain**

- Certainty regarding amount payable

Ex: → 40000 - 50000 lpa 10000 gap

- Certainty regarding time of payment

Ex: → 15 Feb - 20 Feb 5 days (gap)

- Certainty regarding the payee → To whom

↳ faiana
↳ Mr. Hasmukhiar
↳ Mr. X

- Right to sue
↳ who hold the instrument legally
- Instrument should be delivered ⇒ 😊
↳ Transfer → To specific person

↓
CREATE LIABILITY

- DRAWING OF INSTRUMENT DOES NOT CREATE LIABILITY
making

→ PROMISSORY NOTE (SECTION 4)

- Promissory Note = is an instrument in writing
- Signed by the maker → promise to pay
- Promise to pay → It must be unconditional
- To pay a certain sum of money
↳ Certain Person
↳ Certain money
- Other than bank note & currency note.

parties to promissory note

MAKER
↳ DRAWER

- Person who make the promissory note
- maker must signed the instrument → promissory note

PAYEE
↳ DRAWEE

- Who receives the money
- To whom the amount is payable

essential characteristics of promissory note

- In writing and signed by the maker.

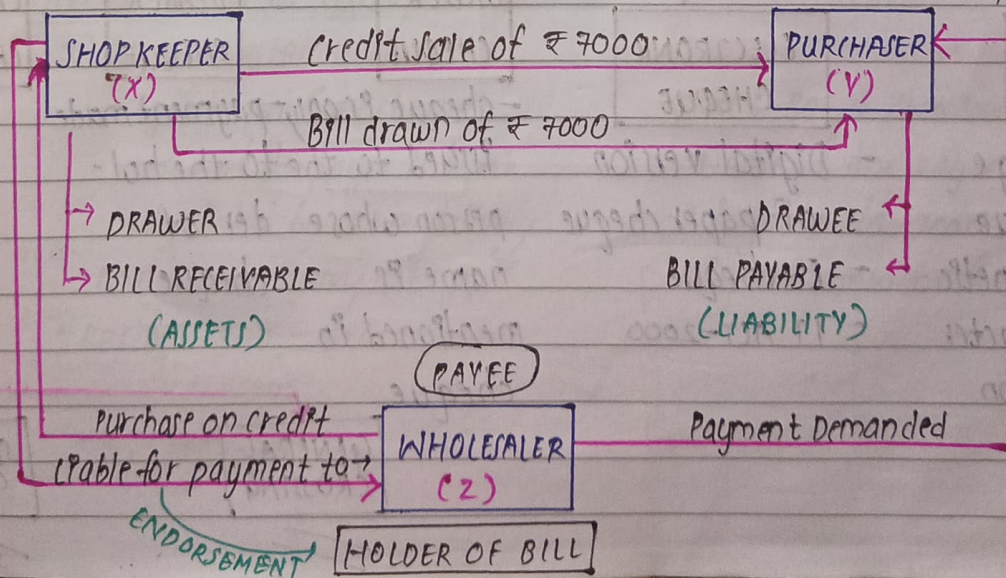
- Promise / undertaking to pay (express promise to pay)
- Promise to pay —
 - DEFINITE — ① Amount ② Person
 - UNCONDITIONAL — ① After father's death X
② After marriage X
③ After clearance of exams X
- Certainty of Parties —
 - MAKER
 - PAYEE
- Promise to pay money only not in kind.
- Other than a bank note or currency note.
- Stamping (INDIAN STAMP ACT - 1899) - Promissory note must be stamped.

→ BILLS OF EXCHANGE (SECTION - 5)

- A Bill of Exchange is an instrument in writing and signed and containing an unconditional order.
- Signed by the maker (DRAWER)
- Directing a certain person to pay a certain sum of money
 - Only to Order of, a certain person
 - to the bearer of the instrument
(HOLDER)

Bill of Exchange is Double Secured Document

- Liability —
- PRIMARY — DRAWEE
 - SECONDARY — DRAWER



CHEQUE (SECTION - 6)

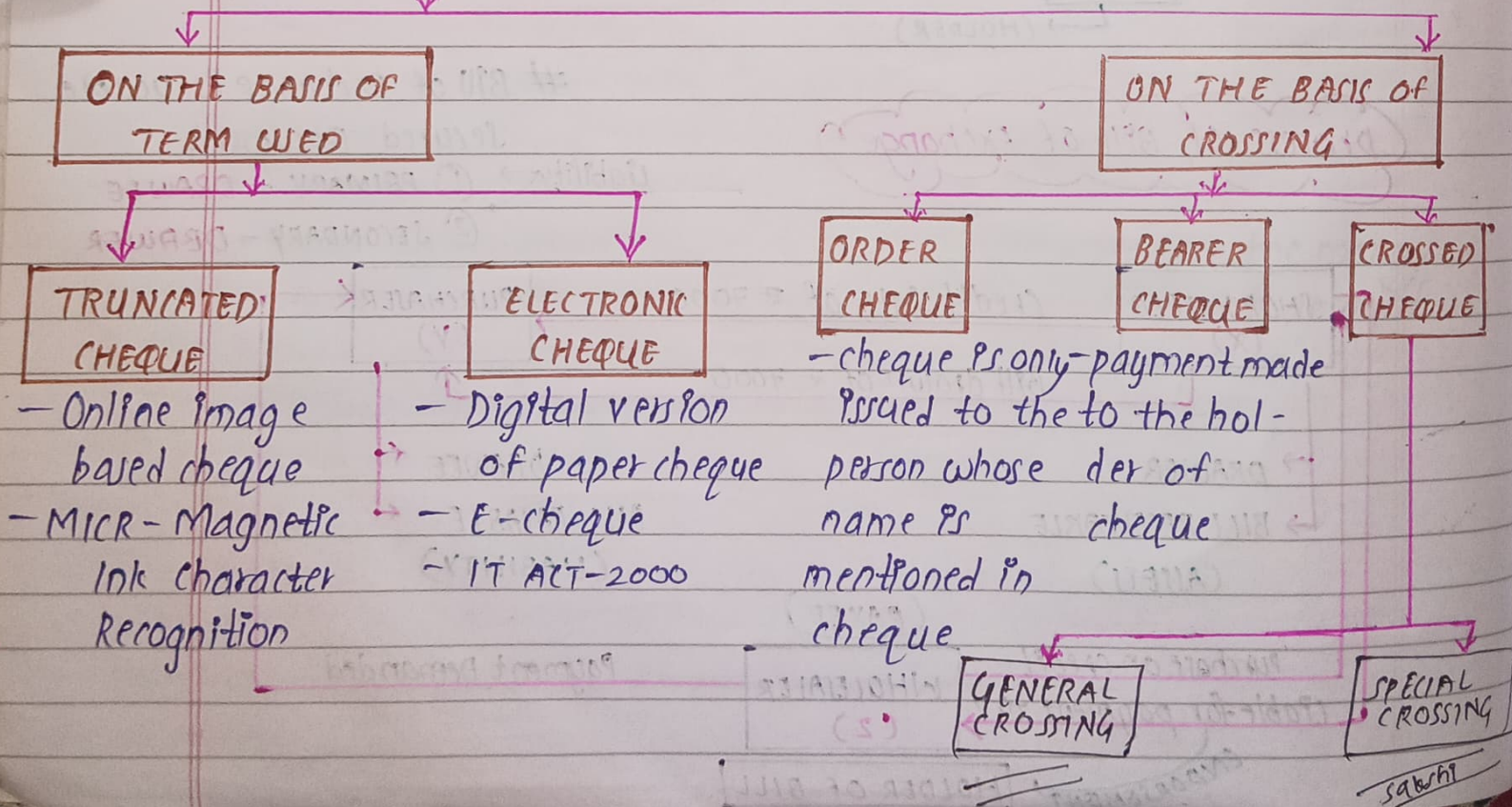
- A cheque is a Bill of Exchange drawn on specified banker and **NOT** expressed to payment otherwise on Demand.
- Cheque includes the electronic image of truncated cheque and a cheque in the electronic form.

parties to a cheque

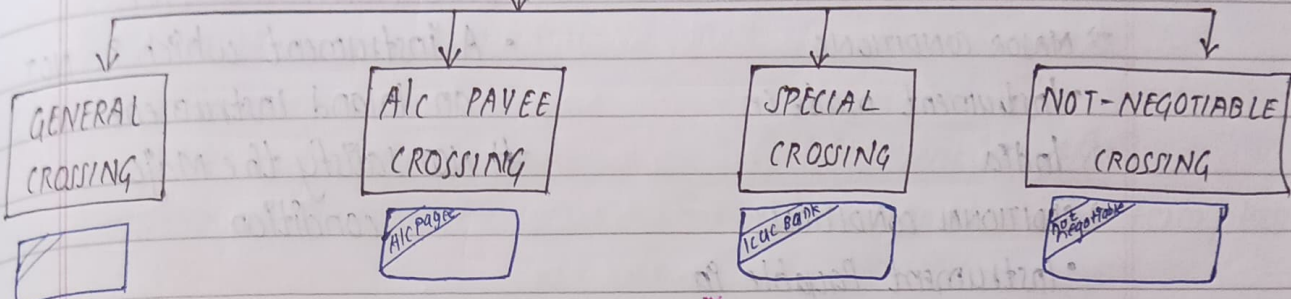
- DRAWER → who signs (Bill / cheque draft)
- DRAWEE → Bank Name (Pable to pay on behalf of Bill / cheque)
- PAVEE → In favour of (who receives the amount)

- NOTE** → cheque is always payable on demand
- cheque is payable to Bearer (Holder of Bill / cheque) sign on the backside of the cheque

Classification of cheque



CROSSING ON CHEQUE



- This type of cheque crossing needs two parallel transverse line

- A/c Payee is also known as "RESTRICTIVE CROSSING".

- This is not a bearer cheque.

* - Deposit in any Bank a/c

* - Only deposited into the bank

→ name mentioned

→ not need the name of the bearer

- A cheque that cannot be deposited, transferred or exchanged in cash

- The person who obtain the cheque has no greater rights to it

then the person who gave it.

CLASSIFICATION OF NEGOTIABLE INSTRUMENT

(1) ON THE BASIS OF PAYEE -

a) BEARER INSTRUMENT

- Eg: cheque (self cheque)
- Name of the payee is blank
- Negotiated by mere delivery

ques. • BOE & promissory note → *

real. • RBI ACT 1949 → SEC. 31

↳ CHEQUE

• By delivery

b) ORDER INSTRUMENT

- Eg: BOE & Promissory note
- Name of the payee is mentioned
- Payable to order of a person
- By Endorsement & Delivery

(2) ON THE BASIS OF LOCATION -

a) INLAND INSTRUMENT

→ MAJOR CONDITIONS

- Instrument made in India

→ ADDITIONAL CONDITIONS

- Instrument Payable in India OR
- Instrument drawn upon a person resident in India

* for Inland bill
→ satisfy condition no. 1

& any one of additional condition

b) FOREIGN INSTRUMENT

- A instrument which is NOT an Inland Instrument.
- # NOT satisfy the Major condition

(3) ON THE BASIS OF VALIDITY -

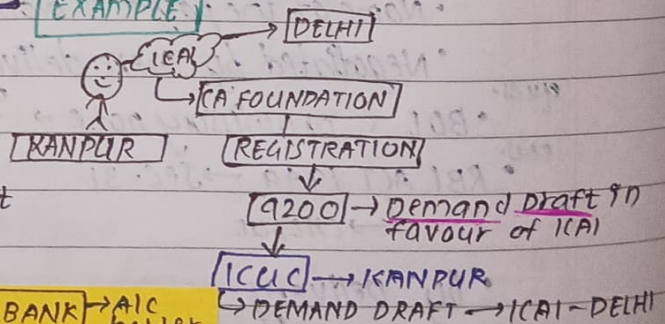
a) INCHOATE INSTRUMENT

- Incomplete Instrument
- Instrument wholly blank or written word incomplete
- Holder make it complete by writing amount
- Limit specified by stamp duty

b) AMBIGUOUS INSTRUMENT

- Complete Instrument
- CONDⁿ • something which is not clear.
- BOE (OR) P. Note
- Holder may at his election
- After exercising the option the holder cannot change

EXAMPLE

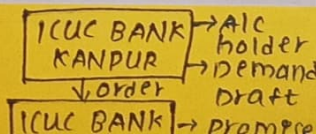
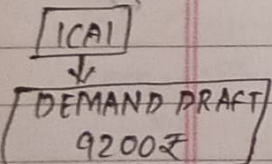


DEMAND DRAFT

↳ (9200)

- ORDER
- WRITTEN
- NEGOTIABLE
- TRANSFERABLE

Instrument ✓



* ATLAST NOTE
↳ understanding

(4) ON THE BASIS OF PAYMENT

a) Demand Instrument

eg: CHEQUE

- payable at sight
- payable on Demand
- payable on Presentment

b) Time Instrument

eg LOAN, TERM INSURANCE

- Time specified (or)
- Certain event specified

* Mr. Dulchmohanlal take a term plan of ₹ 10 crore

Insurance company → Promise to pay to nominee of Mr. Dulchmohanlal

→ After the death of Mr. Dulchmohanlal

→ NEGOTIATION OF NEGOTIABLE INSTRUMENT [SECTION 14] :-

↳ (transfer)

↳ (freely transferable)

- Negotiation means transfer of ownership ^{of instrument} from one person to another.
- Negotiation by delivery → payable to bearer (holder)
- Negotiation by endorsement and delivery → payable to order

→ MODES OF NEGOTIATION :-1) BY DELIVERY

↳ BEARER

- If the instrument is payable to bearer, ^{Palana} ^{Dhimpana} ^{chirhana} it may be transfer by delivery to the transferee

2) BY ENDORSEMENT AND DELIVERY

↳ ORDER (specified person)

- If the instrument is payable to the specified (identified) payee
- Or to his order
- It must be endorsed

CONDITIONS

- (1) It must be in writing
- (2) Must be signed by the Holder

ENDORSEMENT

(SPECIFIED PERSON)

When a maker or holder of the instrument write the person name on the face or the back of the instrument and put his signature there to for the purpose of negotiation

• PERSON NAME

BACK SIDE

FACE SIDE

• SIGNATURE

• PURPOSE OF NEGOTIATION (freely transferable)

ENDORSER → Person who sign

ENDORSEE → to whom it is endorsed

CLASSIFICATION OF ENDORSEMENT

1] GENERAL OR BLANK :-

- No payee is specified

• incomplete

- The person who possess it can demand payment

- If the endorser sign the name only (incomplete)

2] SPECIAL OR FULL :-

- Payable to an identified payee (person)

• complete

- to whom → make the ~~payment~~ instrument payable.

3] RESTRICTIVE ENDORSEMENT :-

- limitation

- limiting payment to a particular person.

- further transfer of instrument.

negotiation is not effective X

4] PARTIAL ENDORSEMENT :-

- It is invalid
- Endorsement which allow transferring to the endorsee a part of the amount payable

5] SANS RECOURSE ENDORSEMENT :-

↳ conditional endorsement

- Receiver can't file a case against endorser
(in case of dishonour)
- The endorser waive their liability for the completion of the endorsement.