

CHANAKYA 2.0

For CA Foundation

ONE SHOT

Business Laws

The Negotiable Instruments Act, 1881

By- Kunal Mandhania Sir





CA FOUNDATION JUNE 2024

CHANAKAYA 2.0

15 दिन - Law in

DATE	CHAPTER NAME	FACULTY
WEDNESDAY, APRIL 17, 2024	THE NEGOTIABLE INSTRUMENTS ACT, 1881	KUNAL SIR
FRIDAY, APRIL 19, 2024	THE COMPANIES ACT, 2013	KUNAL SIR
SUNDAY, APRIL 21, 2024	THE SALE OF GOODS ACT, 1930	KUNAL SIR
WEDNESDAY, APRIL 24, 2024	THE INDIAN PARTNERSHIP ACT, 1932	KUNAL SIR
FRIDAY, APRIL 26, 2024	THE LIMITED LIABILITY PARTNERSHIP ACT, 2008	KUNAL SIR
SUNDAY, APRIL 28, 2024	THE INDIAN CONTRACT ACT, 1872 - PART-1, 2 & 3	KUNAL SIR
TUESDAY, APRIL 30, 2024	THE INDIAN CONTRACT ACT, 1872 - PART-4, 5 & 6	KUNAL SIR
THURSDAY, MAY 2, 2024	THE INDIAN CONTRACT ACT, 1872 - PART-7, 8 & 9	KUNAL SIR

TIME - 7PM



CA WALLAH BY PW

Negotiable Instrument Act, 1881

By Kunal Sir



Basics

- **Negotiable** → **Transferable**
- **Instrument** → **Document in writing**
- **It is a instrument in writing which can be transferred from one person to another.**
- **Came into force from 1st Mar. 1882**
- **Act applies to whole of India.**
- **Main Objective** → **To legalise system**

↓

By which instruments made under it

↓

Could pass from hand to hand

↓

By negotiation like any other goods

Essential Characteristic of N.I

Shortcut

Characteristics

Negotiable

- 1) **Transferable** from one person to another
- 2) Can be **transferred** any no of times

Instrument

- 3) Has to be in **writing**

Of SUM

- S → 4) **Signed** by drawer
- U → 5) Contains **unconditional** promise / order
- M → 6) Promise/ order to pay **money** only

Crores

- C → 7) Amt/ Time / Payee → **Certain**

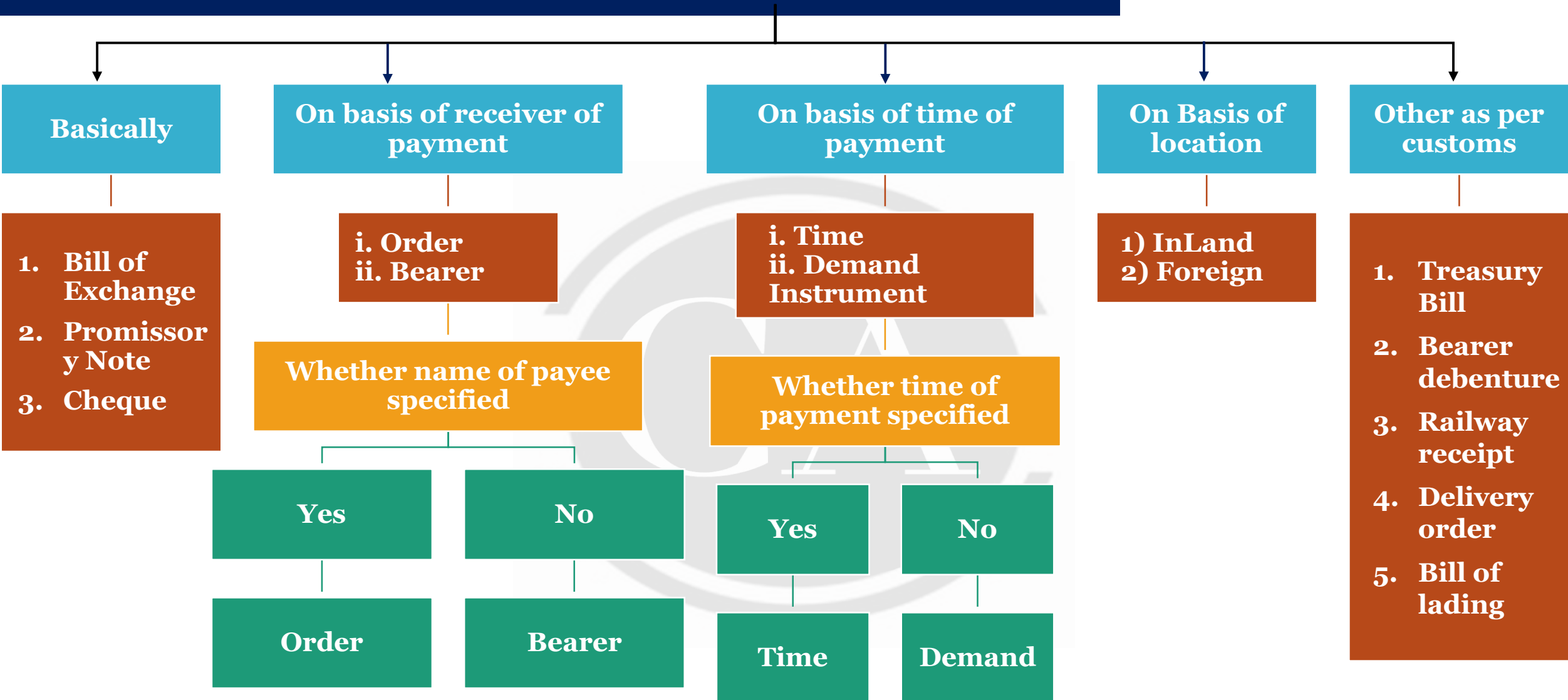
Delivered

- 8) Instrument made should be **delivered**

For Free

- 9) Holder in due course (HDC) gets title **FREE** from defect

Types of N.I



Note : 1) If last /only endorsement is blank, it is bearer instrument

Question

As per Negotiable Instruments Act, 1881,

Negotiable Instruments means(module)

- a. Promissory Note
- b. Bills of Exchange
- c. Cheque
- d. All the above





Question

On which of the followings, even not defined in Negotiable Instruments Act 1881, provisions of Act are applicable: **(module)**

- a. Hundies
- b. Treasury Bills
- c. Bearer Debentures
- d. All of the above





Promissory Note [Sec. 4]

Meaning

Instrument in writing

Containing a unconditional undertaking

Signed by maker

To pay certain sum of money only

To order of certain person or bearer

Parties

(1) Maker

→ who promise to pay
→ Debtor

(2) Payee

To whom amt. payable

Note : P.N cannot be bearer at all only RBI/ C.G can make bearer P.N. e.g. currency note.

Essential Characteristics

Shortcut → **WE – US – CM**

W → **Writing** → oral not allowed

E → **Express** Promise to pay (mere acknowledgement not sufficient)

U → **Unconditional** → Promise → If condition then should be certain to happen

S → **Signed** by maker

S - Stamped

C → **Certain**

- Sum
- Maker
- Payee

M → **Money** → Promise to pay **money** only

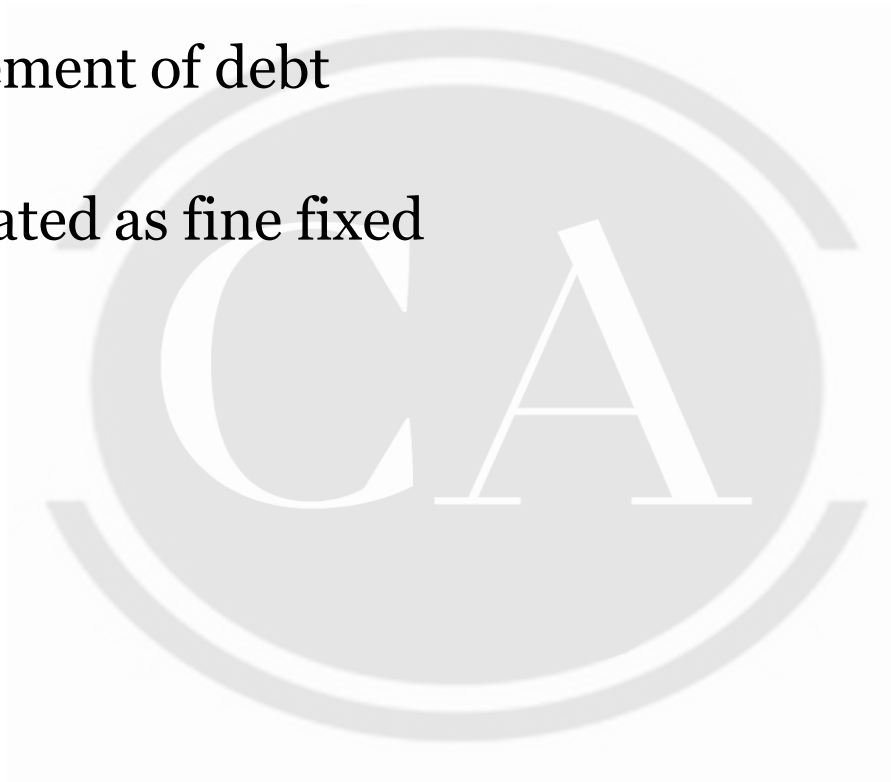
Question

State whether the following statements are promissory notes or not?

1. “I promise to pay B or order Rs. 500”
2. “Mr. B, I owe you Rs. 500”
3. “I acknowledge myself to be indebted to B in Rs. 1,000 to be paid on demand, for value received”.
4. “I am liable to B, in a sum of Rs. 500 to be paid by instalments.
5. “I am bound to pay the sum of Rs. 500 which I received from you”.
6. “I promise to pay B Rs. 500 and all other sums which shall be due to him”.
7. “I promise to pay B Rs. 1000 and the fine according to the rules”.
8. “I promise to pay B Rs. 500, first deducting there out any money which he may owe me”.
9. “I promise to pay B Rs. First deducting there out any money which he may owe me”.
10. “I promise to pay B a sum of Rs. 500 when convenient or able”.
11. “I promise to pay B Rs. 500 when he delivers the goods”.
12. “I promise to pay B Rs. 500 seven days after my marriage with C”.
13. “I promise to pay B Rs. 500 on D’s death
14. “I promise to pay B Rs. 500 on D’s death, provided D leaves me enough to pay that sum”.
15. “I promise to pay B Rs. 500 and to deliver to him my black horse on 1st January next”
16. “I promise to pay B in 20 shares and 10 bonds of XY Ltd.

Solution

1. Yes.
2. No , only acknowledgement of debt
3. Yes
4. No , conditional
5. No , mere acknowledgement of debt
6. No , sum uncertain
7. Yes , sum can be calculated as fine fixed
8. No , sum uncertain
9. No , sum uncertain
10. No , conditional
11. No , conditional
12. No , conditional
13. Yes as death is certain
14. No , conditional
15. No. Promise to pay money only
16. No. Promise to pay money only



Rama executes a promissory note in the following form, 'I promise to pay a sum of `10,000 after three months'. Decide whether the promissory note is a valid promissory note.
(module)

Hint - The promissory note is an unconditional promise in writing. In the above question the amount is certain but the date and name of payee is missing, thus making it a bearer instrument. As per Reserve Bank of India Act, 1934, a promissory note cannot be made payable to bearer - whether on demand or after certain days. Hence, the instrument is illegal as per Reserve Bank of India Act, 1934 and cannot be legally enforced.

Bills of Exchange (Sec. 5) [BOE]

Meaning

Instrument in writing

Containing a unconditional undertaking

Signed by maker

Directing a certain person

To pay certain sum of money only

to certain person or his order

Parties

(1) **Drawer**
maker of BOE

(2) **Drawee**
→ Who is directed to pay
→ On acceptance he become acceptor
→ Liability primary & unconditional

(3) **Payee**
To whom money paid

Essential Characteristics

Shortcut → WE – US – CM

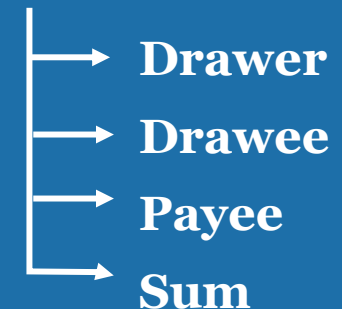
W → Writing

E → Express → **order to pay**

U → Unconditional and definite

S → Signed by drawer

C → Certain



(Note : BOE cannot be made payable to bearer on demand)

M → Money → order to pay money only

Question

How many parties in Bills of exchange:
(module)

a.2

b.3

c.4

d.5





Question

Which is not the essential characteristic of Bill of exchange: **(module)**

- a. Must be in writing
- b. Must contain an express promise to pay
- c. Instrument must be signed
- d. Must be stamped



Distinguish Between BOE & P.N

Shortcut → Jisko **Definition** Yaad hogi → I **Accept** My **liability** And **Promise** To give **Party** to **Bearer**

Basis	BOE	P.N
1) Definition	‘Refer previous slides’	“Refer Previous Slides’
2) Acceptance	Requires acceptance	Do not require acceptance
3) Primary Liable	Drawee/Acceptor	Maker
4) Promise /Order	Order to pay	Promise to Pay
5) Parties	3 Parties (1) Drawer (2) Drawee (3) Payee	2 Parties Maker and payee
6 Bearer	Cannot be bearer on demand	Cannot be bearer at all

Cheque → Sec. 6

Meaning

↓
Cheque is BOE
↓
Drawn on specified banker
↓
Not expressed to be payable otherwise than demand
↓
Includes
a) Electronic image of truncated cheque
b) Cheque in electronic form

Parties to cheque

- ↓
- (1) **Drawer**
- Who draws cheque
 - Debtor
 - liability is primary and conditional
- (2) **Drawee**
- Bank who makes payment
 - Always banker
- (3) **Payee**
- Named in N.I to whom money is paid or his order

Essential Elements

- ↓
- 1) All essentials of BOE
 - 2) Drawee always banker
 - 3) Always a demand instrument
 - 4) All cheque are bill all bill are not cheque

Dishonor of cheque (Sec. 138)

↓

Punishment → 2x amt of cheque or 2 years imprisonment or both

↓

Conditions

- 1) Cheque issued for discharge of debt
- 2) Cheque presented within validity period (3 months)
- 3) Reason for Dishonour –
Insufficient fund or stop payment

↓

Within 30 days → Give notice to demand payment

↓

15 days → Time to pay

↓

Within 1 month → File complaint with court

Question

Where any cheque drawn by a person is dishonoured due to insufficiency of funds, such person shall be punished with:

(module)

- a. imprisonment for a term which may extend to two years,
- b. with fine which may extend to twice the amount of the cheque,
- c. imprisonment for a term which may extend to two years, or with fine which may extend to twice the amount of the cheque, or with both,
- d. No punishment

Answer



Bholenath drew a cheque in favour of Surendar. After having issued the cheque; Bholenath requested Surendar not to present the cheque for payment and gave a stop payment request to the bank in respect of the cheque issued to Surendar. Decide, under the provisions of the Negotiable Instruments Act, 1881 whether the said acts of Bholenath constitute an offence? **(module)**

Hint - the act of Bholenath, i.e., his request of stop payment constitutes an offence under the provisions of the Negotiable Instruments Act, 1881.

* Inland Instrument or Foreign Instrument [Sec. 11 & 12]

➤ Foreign Instrument → which is not inland

➤ Inland Instrument → (1) Drawn in India



+

(2) Payable in India

or

(3) Drawn upon Indian resident

Condition no. (1) Should always satisfy & atleast 1 condition should satisfy out of (2) & (3)

➤ Inland remains inland even if endorsed in foreign country

➤ Foreign bill → liability of (Sec. 134)

Maker/ Drawer

Acceptor / indorser

Place where instrument made

Where instrument is payable

Example

A bill of exchange is drawn by A in Berkley where the rate of interest is 15% and accepted by B payable in Washington where the rate of interest is 6%. The bill is indorsed in India and is dishonoured. An action on the bill is brought against B in India. He is liable to pay interest at the rate of 6% only. But if A is charged as drawer, he is liable to pay interest at 15%.

Question

Which is not an Inland Instrument: **(module)**

- a. P/N made in India + payable in India + drawn upon person resident in India
- b. P/N made in India + payable in India + drawn upon person resident outside India
- c. P/N made in India + payable outside India + drawn upon person resident in India
- d. P/N made in India + payable outside India + drawn upon person resident outside India



Question

State with reasons whether each of the following instruments is an Inland Instrument or a Foreign Instrument:

1. A bill drawn in Delhi upon a merchant in Agra and accepted payable in London.
2. A bill drawn in Delhi upon a merchant in London and accepted payable in Agra.
3. A bill drawn in Delhi upon a merchant in London and accepted payable in London.
4. A bill drawn in London upon a merchant in Agra and accepted payable in Delhi.
5. A bill drawn in Delhi on a merchant in Agra but endorsed in London.
6. A bill drawn in London on a merchant in Agra and endorsed in Delhi.

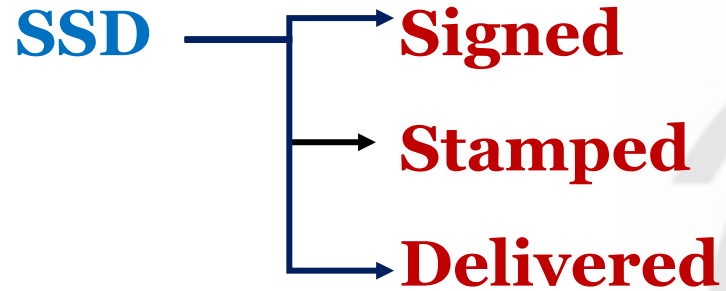
Solution

1. Inland
2. Inland
3. Foreign
4. Foreign
5. Inland
6. Foreign



*Inchoate Instrument [Sec. 20]

➤ Valid + Wholly Partially Blank



➤ Effect

- 1) Holder / original parties can recover only upto consideration between parties i.e. amount intended to be paid when made.
- 2) Holder in due course (HDC) can claim any amt. mentioned in instrument subject to stamp duty

Question of Inchoate Instrument



Note:

- 1) Holder in Due Course (HDC) means
- 2) If not HDC then holder
- 3) Holder gets title of transferor
- 4) HDC gets better title than transferor

- (1) Against Consideration
- (2) Before Maturity
- (3) In good faith

Solution of Inchoate Instrument

If Instrument held by following till maturity

They can recover

Hardik Pandya

- Original party
- Can recover to amt of consideration between immediate party
- 50 cr

Ishan

- Gift so holder only
- Gets title of transferor Hardik
- 50 Cr.

Rishabh

- Gift so Holder only
- Gets Title of transferor Ishan
- 50 Cr.

Rohit

- HDC
- Can Recover amt mentioned
- 60 Cr.

Ritika

- Holder
- Gets Title of Transferor Rohit
- 60 Cr.

***Ambiguous Instrument [Sec. 17]**

- **An instrument which is vague and cannot be clearly identified either as a bill of exchange, or as a promissory note**
- **Holder as to assume one and transferred accordingly**

Question

An instrument which is vague and cannot be clearly identified either as a bill of exchange, or as a promissory note, is called as: (module)

- a) bearer instrument
- b) Ambiguous instrument
- c) Order instrument
- d) Inland instrument



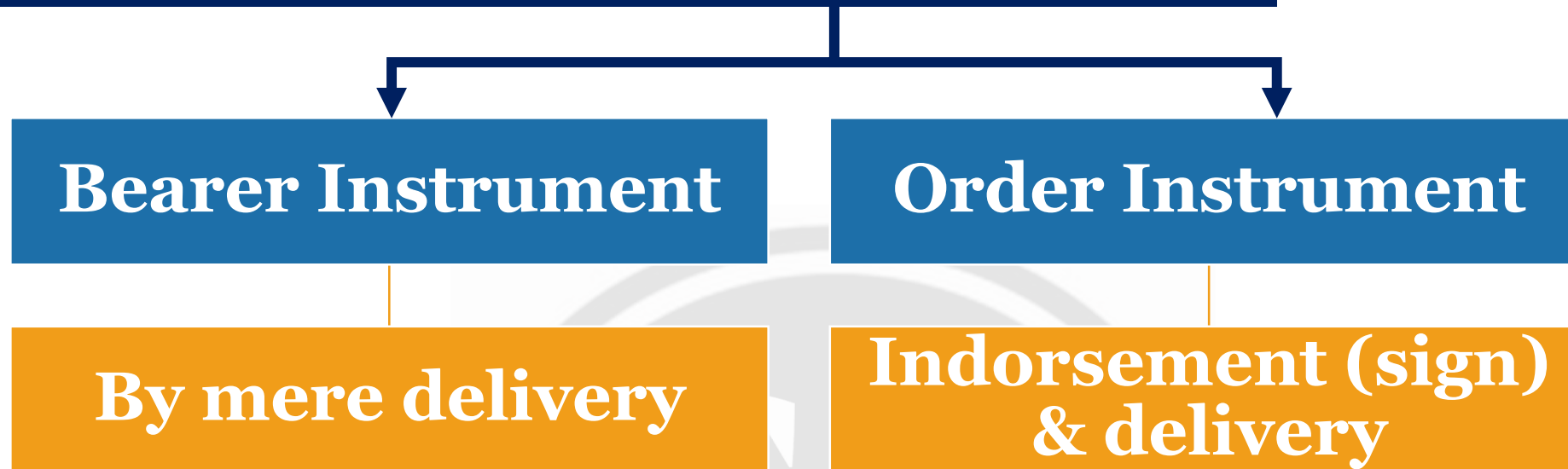
Question

Negotiable Instrument which can be treated either P/N or BOE, is known as: **(module)**

- a. Inland Instrument
- b. Inchoate Instrument
- c. Ambiguous Instrument
- d. Foreign Instrument



Negotiation (transfer)



- **Delivery can be actual or constructive**
- **If delivered to transferee's agent → delivery ✓**
- X drew a cheque for Rs. 50,000 payable to Y and delivered it to him. Y indorsed the cheque in favour of Z but kept it in his table drawer. Subsequently, Y died, and cheque was found by Z in Y's table drawer. In this case, Z does not become the holder of the cheque as the negotiation was not completed by delivery of the cheque to him.

Question

A negotiable instrument is an instrument which is freely transferable from one person to another by: (module)

- a. Simple delivery
- b. Indorsement and delivery
- c. Indorsement
- d. Registered post





Question

Order Instrument can be negotiated by: **(module)**

- a. By delivery only
- b. By endorsement only
- c. By endorsement & delivery
- d. None of above





M drew a cheque amounting to ₹ 2 lakh payable to N and subsequently delivered to him. After receipt of cheque N indorsed the same to C but kept it in his safe locker. After sometime, N died, and P found the cheque in N's safe locker. Does this amount to Indorsement under the Negotiable Instruments Act, 1881? **(module)**

- No, P does not become the holder of the cheque as the negotiation was not completed by delivery of the cheque to him. (Section 48, the Negotiable Instruments Act, 1881)

M owes money to N. Therefore, he makes a promissory note for the amount in favor of N, for safety of transmission he cuts the note in half and posts one half to N. He then changes his mind and calls upon N to return the half of the note which he had sent. N requires M to send the other half of the promissory note. Decide how rights of the parties are to be adjusted. **(module)**

Hint - Delivery refers to the whole of the instrument and not merely a part of it. Delivery of half instrument cannot be treated as constructive delivery of the whole. So, the claim of N to have the other half of the P/N sent to him is not maintainable. M is justified in demanding the return of the first half sent by him. He can change his mind and refuse to send the other half of the P/N.

**Presentment for acceptance
(Only for BOE)**

BOE payable after sight must	Must be presented within a reasonable time & in business hours on a business day. (Note : 48 hours, excluding public holidays, are given to drawee for acceptance)	
In default of such presentment	No party liable thereto	If Drawee not found after reasonable search, BOE is dishonored .
If BOE is directed to drawee at a particular place	Must be presented at that place	

Presentment of Promissory Note for sight

P/N payable at a certain period after sight	Must be presented within a reasonable time & in business hours on a business day.
In default of such presentment	No party liable thereto

Rules regarding presentment for payment (P/N, BOE, CH)

To whom	Maker (P/N), Acceptor (BOE), Drawee (CH)
If default in presentment	No party liable thereto
Exception	If P/N is payable on demand and is not payable at a specified place, no presentment is necessary.
Time	During usual business hours
If instrument payable after date or sight	Must be presented for payment at maturity
P/N payable by instalments	Must be presented for payment on 3rd day after date fixed for payment of each instalment.
Instrument payable at specified place	Must be presented for payment at that place.
Where no exclusive place specified	Must be presented for payment at the place of business (if any) or at the usual residence
No known place of business or residence	Presentment may be made to him in person wherever he can be found
Instrument payable on demand	Must be presented for payment within a reasonable time after it is received by the holder.

Note: Delay in presentment for acceptance or payment is excused if the delay is caused by circumstances beyond the control of the holder.

* When Presentment for payment unnecessary [Sec. 76]

Instrument dishonored on due date

CA → FEW → KID → Unnecessary

C → **Closed** POB during business day / hrs → if payable at POB.

A → **Absent** from place → if instrument payable at some place.

F → If cannot be **Found** after due search → place not specified

E → **Expressed** to pay → notwithstanding non presentment

W → **Waives** to Present

K → **Knowledge** of Non-Presentment

I → Party **Intentionally** prevents presentment

D → No **Damages** suffered → By Drawer → due to non Presentment

Part payment

Promise to pay on future date

Rules as to Compensation (Sec. 117)

In case of dishonor of NI, holder can claim:

- 1) Amount due on NI**
- 2) Expenses incurred in presenting, noting & protesting.**
- 3) Interest 18% p.a. from due date of payment to date of realization.**

Note: In case of foreign currency, current rate of exchange.



THANK YOU

