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Question & Answer for Practice

Question-1 Sachin bought 1000 Kg rice from Saurabh for Rs.1,50,000 on three months credit. For this purpose, Sachin issued a promissory note to Saurabh on the same date payable after 3 months. On the date of maturity, the promissory note was dishonoured. Saurabh filed suit for the recovery of the amount plus fees of advocate paid by him for defending the suit. Referring to the provisions of the Negotiable Instruments Act, 1881, what amount could be recovered by Saurabh from Sachin ? **[RTP MAY 2024]**

Answer-1 According to section 117 of the Negotiable Instruments Act, 1881, the compensation payable in case of dishonour of promissory note, bill of exchange or cheque, by any party liable to the holder or any endorsee, shall be determined by the following rules:

a) The holder is entitled to the amount due upon the instrument, together with the expenses properly incurred in presenting, noting and protesting it.

b) When the person charged resides at a place different from that at which the instrument was payable, the holder is entitled to receive such sum at the current rate of exchange between the two places.

c) An endorser who, being liable, has paid the amount due on the same is entitled to the amount so paid with interest at 18% per annum from the date of payment until tender or realisation thereof, together with all expenses caused by the dishonour and payment.

On the basis of the above provisions of law and facts of the case, Saurabh has right to claim price of rice plus fees of advocate plus interest @18% p.a. from the date of payment until tender or realisation thereof.

Question-2 A purchased a watch from B. He issued a promissory note to B which was payable on demand but no specific place for payment was mentioned on it. On maturity, B did not present the promissory note for payment. As the promissory note was not duly presented for payment, whether A would be discharged from liability under the provisions of the Negotiable Instruments Act, 1881 ? **[RTP MAY 2024]**

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Answer -2

Section 64 of the Negotiable Instruments Act, 1881 provides, Promissory notes, bill of exchange and cheques must be presented for payment to the maker, acceptor or drawee thereof respectively, by or on behalf of the holder as hereinafter provided. In default of such presentment, the other parties thereto are not liable thereon to such holder. Provided that where a promissory note is payable on demand and is not payable at a specified place, no presentment is necessary in order to charge the maker thereof.

On the basis of the above law provisions and facts of the case, although non-presentment of promissory note for payment results in discharge of maker from liability but the given case is covered under the exception to section 64. Hence, A would not be discharged from liability even if the non-presentment by B as the promissory note was payable on demand and no specific place for payment was mentioned.

Question-3

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

Give your answer in reference to the Provisions of Negotiable Instruments Act, 1881. **[RTP MAY 2019]**

Answer-3

The question arising in this problem is whether the making of promissory note is complete when one half of the note was delivered to Umesh. Under Section 46 of the Negotiable Instruments Act, 1881, the making of a promissory note is completed by delivery, actual or constructive. Delivery refers to the whole of the instrument and not merely a part of it. Delivery of half instrument cannot be treated as delivery of the whole. So, the claim of Umesh to have the other half of the promissory note sent to him is not maintainable. Manoj 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 promissory note.

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Question-4 'Anjum' drew a cheque for Rs. 20,000 payable to 'Babloo' and delivered it to him.

'Babloo' indorsed the cheque in favour of 'Rehansh' but kept it in his table drawer. Subsequently, 'Babloo' died, and cheque was found by 'Rehansh' in 'Babloo's table drawer. 'Rehansh' filed the suit for the recovery of cheque. Whether 'Rehansh' can recover cheque under the provisions of the Negotiable Instrument Act 1881 ?

[RTP MAY 2022]

Answer -4 According to section 48 of the Negotiable Instrument Act 1881, a promissory note, bill of exchange or cheque payable to order, is negotiable by the holder by indorsement and delivery thereof.

The contract on a negotiable instrument until delivery remains incomplete and revocable. The delivery is essential not only at the time of negotiation but also at the time of making or drawing of negotiable instrument. The rights in the instrument are not transferred to the indorsee unless after the indorsement the same has been delivered. If a person makes the indorsement of instrument but before the same could be delivered to the indorsee the indorser dies, the legal representatives of the deceased person cannot negotiate the same by mere delivery thereof.

In the given case, cheque was indorsed properly but not delivered to indorsee i.e.'Rehansh', Therefore, 'Rehansh' is not eligible to claim the payment of cheque.

Question-5 Explain the meaning of 'Negotiation by delivery' with the help of an example. Give your answer as per the provisions of the Negotiable Instruments Act, 1881. **[MTP MAY 2019]**

Answer -5 **Negotiation by delivery :** According to section 47 of the Negotiable Instruments Act, 1881, subject to the provisions of section 58, a promissory note, bill of exchange or cheque payable to bearer is negotiable by delivery thereof.

Exception : A promissory note, bill of exchange or cheque delivered on condition that it is not to take effect except in a certain event is not negotiable (except in the hands of a holder for value without notice of the condition) unless such event happens.

Example : A, the holder of a negotiable instrument payable to bearer, delivers it to B's agent to keep for B. The instrument has been negotiated.

Question-6 Mina owes money to Nina. Therefore, she makes a promissory note for the amount in favor of Nina, for safety of transmission she cuts the note in half and posts one half to Nina. She then changes her mind and calls upon Nina to return the half of the note which she had sent. Nina requires Mina to send the other half of the promissory note. Decide how rights of the parties are to be adjusted. Give your answer with respect to the provisions of the Negotiable Instruments Act, 1881. **[MTP MAY 2021]**

Answer -6 The question arising in this problem is whether the making of promissory note is complete when one half of the note was delivered to Nina. Under Section 46 of the Negotiable Instruments Act, 1881, the making of a promissory note is completed by delivery, actual or constructive. 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 Nina to have the other half of the promissory note sent to her is not maintainable. Mina is justified in demanding the return of the first half sent by her. She can change her mind and refuse to send the other half of the promissory note.

Question-7 What are the essential characteristics of Negotiable Instruments. **[MTP NOV 2021]**

Answer -7 Essential Characteristics of Negotiable Instruments

i. It is necessarily in writing.

ii. It should be signed.

iii. It is freely transferable from one person to another.

iv. Holder's title is free from defects.

v	It can be transferred any number of times till its satisfaction.
vi	Every negotiable instrument must contain an unconditional promise or order to pay money. The promise or order to pay must consist of money only.
viii	The sum payable, the time of payment, the payee, must be certain.
viii	The instrument should be delivered. Mere drawing of instrument does not create liability.
Question-8	What are the parties to a bill of exchange. **[MTP NOV 2021]**
Answer -8	The parties to a bill of exchange are
1.	**Drawer:** The maker of a bill of exchange
2.	**Drawee:** The person directed by the drawer to pay is called the 'drawee'. He is the person on whom the bill is drawn. On acceptance of the bill, he is called an acceptor and is liable for the payment of the bill. His liability is primary and unconditional.
3.	**Payee:** The person named in the instrument, to whom or to whose order the money is, by the instrument, directed to be paid.

Question-9 State with reasons whether each of the following instruments is an Inland Instrument or a Foreign Instrument as per The Negotiable Instruments Act, 1881:

i. Ram draws a Bill of Exchange in Delhi upon Shyam a resident of Jaipur and accepted to be payable in Thailand after 90 days of acceptance.

ii. Ramesh draws a Bill of Exchange in Mumbai upon Suresh a resident of Australia and accepted to be payable in Chennai after 30 days of sight.

iii. Ajay draws a Bill of Exchange in California upon Vijay a resident of Jodhpur and accepted to be payable in Kanpur after 6 months of acceptance.

iv. Mukesh draws a Bill of Exchange in Lucknow upon Dinesh a resident of China and accepted to be payable in China after 45 days of acceptance. **[NOV 2020,4 Marks]**

Answer -9 **"Inland instrument" and "Foreign instrument"** [Sections 11 & 12 of the Negotiable Instruments Act, 1881]

A promissory note, bill of exchange or cheque drawn or made in India and made payable in, or drawn upon any person resident in India shall be deemed to be an inland instrument.

Any such instrument not so drawn, made or made payable shall be deemed to be foreign instrument.

Following are the answers as to the nature of the Instruments:

i. In first case, Bill is drawn in Delhi by Ram on a person (Shyam), a resident of Jaipur (though accepted to be payable in Thailand after 90 days) is an Inland instrument.

ii. In second case, Ramesh draws a bill in Mumbai on Suresh resident of Australia and accepted to be payable in Chennai after 30 days of sight, is an Inland instrument.

iii. In third case, Ajay draws a bill in California (which is situated outside India) and

accepted to be payable in India (Kanpur), drawn upon Vijay, a person resident in India (Jodhpur), therefore the Instrument is a Foreign instrument.

iv. In fourth case, the said instrument is a Foreign instrument as the bill is drawn in India by Mukesh upon Dinesh, the person resident outside India (China) and also payable outside India (China) after 45 days of acceptance.

Question-10 (i) Are the following instruments signed by Mr. Honest is valid promissory Notes? Give the reasons

a. I promise to pay D's son Rs.10000 for value received (D has two sons).

b. I promise to pay Rs.5000/- on demand at my convenience

Your answers shall be in accordance with the provisions of the Negotiable Instruments Act, 1881. **[NOV 2020,3 Marks]**

Answer-10 **(i) Promissory Note:** As per the provisions of Section 4 of the Negotiable Instruments Act, 1881, a promissory note is an instrument in writing (not being a bank-note or a currency note) containing an unconditional undertaking, signed by the maker, to pay a certain sum of money to or to the order of a certain person, or to the bearer of the instruments.

a. This is not a valid promissory note as D has two sons and it is not specified in the promissory note that which son of D is the payee.

b. This is not a valid promissory note as details of the payee are not mentioned in it and it is not an unconditional undertaking.

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Question-11 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?

[Study Mat]

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)

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Question-12 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. **[Study Mat]**

Answer-12 The question arising in this problem is whether the making of promissory note is complete when one half of the note was delivered to N. Under Section 46 of the N.I. Act, 1881, the making of a Promissory Note (P/N) is completed by delivery, actual or constructive. 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.