

Chapter - 3 The Indian Partnership Act, 1932

Sec 1 The Indian Contract Act, 1872

239  
Sec 266

(-) Repeal

Revive

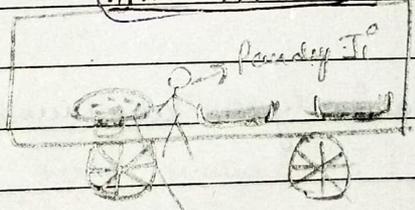
↓  
The Indian Partnership Act, 1932

- It applies to whole of India.
- It came in force w.e.f (with effect from) 1st Oct '1932

↓  
Exempt Sec 69 - 1st Oct 1933

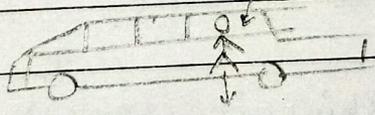
Anshu, Pandey Ji, Aditya

APA Tikki wala - Firm name



Anshu

Aditya



Lovely the Jamshed

Individually  
↓  
Partners

$$\begin{matrix} \text{A} & + & \text{P} & + & \text{A} & = & \text{Firm} \\ \text{A} & & \text{P} & & \text{A} & & \end{matrix}$$

Partnership is a relation b/w two or more persons who have agreed to share the profit of the business of the firm, conducted or by all or any of them acting for all.

\* Essential element of partnership (5)

(1) Association of 2 or more persons

- Minimum number of partners = 2
- Maximum number of partners = 50 (As per sec 464 of company Act, 2013)

Prescribed hai  
↓  
Par Abhi 50 hi  
prescribed hai

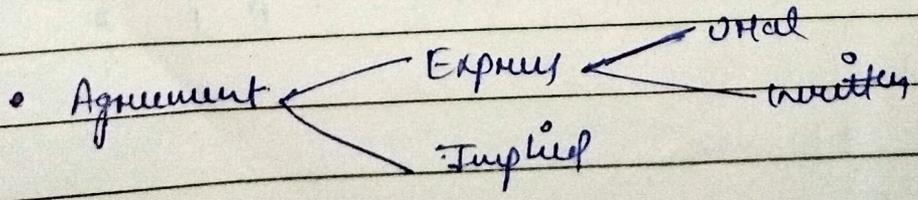
• EG chahi to Iss 50 wali  
limit ko 100 kar sakti hai

(2) Agreement

- Partnership always arises from agreement and not from status  
↓

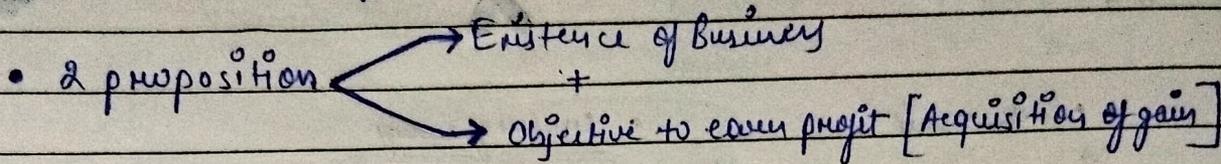
Status se to NO Banti Hai

- The nature of partnership is voluntary and contractual

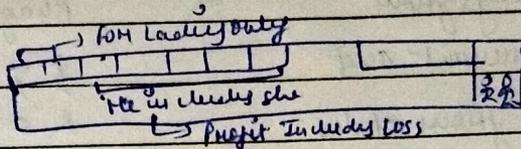


③ Business

- Include
  - O - Occupation
  - T - Trade
  - P - Profession



④ Agreement to share profit



• Profit share kamra Agar partner Tumhara Akhitar hai. To loss share kamra tumhari duty hai.



Sabhi partners ka profit share kamra essential hai par sabhi partners ka loss share kamra essential hai for the purpose of partnership.

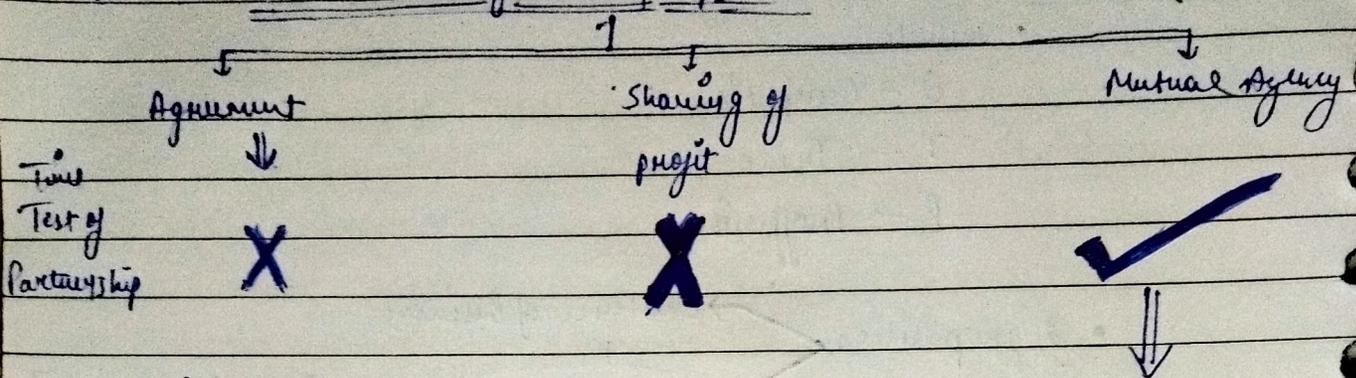
⑤ Business carried on by all or any of them acting for all

⇓  
Mutual agency

- Every partner is an agent as well as principal of other partners
- Cardinal principle of partnership law.
  - ↓
  - owner (मालिक)

↓  
Rule

\* True Test of Partnership



Partnership always from agreement and not from status

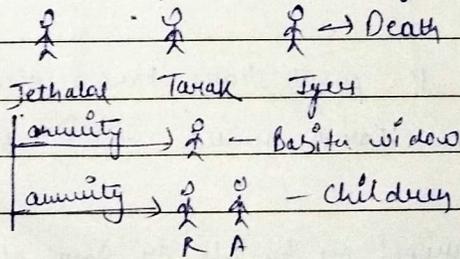
Partner

- HUF (member) X
- Business Buddhist X
- Husband & wife

Level of money  
 Bhag milkha Bhag  
 ₹ 10000 ₹ 10000  
 ₹ 50000 ₹ 50000  
 ₹ 100000 ₹ 100000

• By servant or agent receiving share of profit as remuneration [Fakir, sarojini]  
 ↓  
 Below Brothers

• By a widow or child of a deceased partner as annuity



• By seller of goodwill [Crackles]

• Sharing of profit is an essential element to constitute a partnership.

But, it is only a prima facie evidence and not conclusive evidence; in that regard

If the elements of mutual agency relationship exist between the parties constituting a group formed with a view to earn profit by running a business, a partnership may be deemed to exist.

\* Types of partners

① Active partner  
OH

Actual partner  
OH  
Ostensible partner

② Slipping partner  
OH

Demanded  
Partner

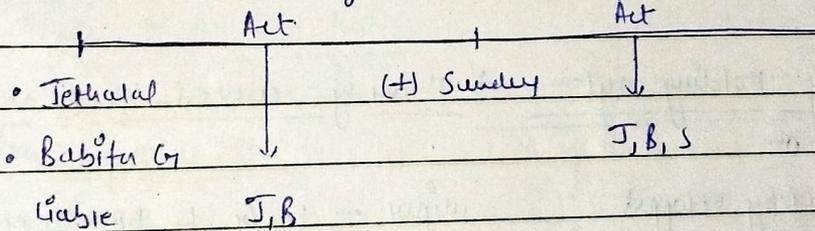
③ Nominal partner  
[ gives his name against some lump and some amt ]

• Actively participate	✓	X	X
• Capital contribution	✓	✓	X
• Sharing of profit	✓	✓	X
• Liable to 3rd party	✓	✓	✓
• Liable	Unlimited	Unlimited	Unlimited
• Public Notice on retirement	✓	X	✓

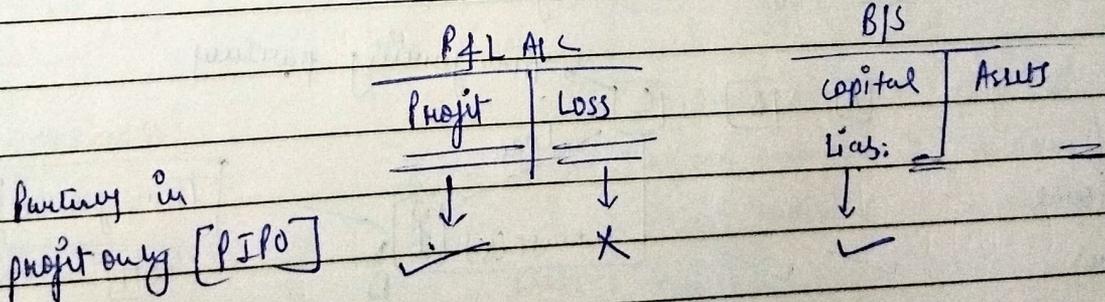
④ Incoming partner



• Admission of a partner in a firm

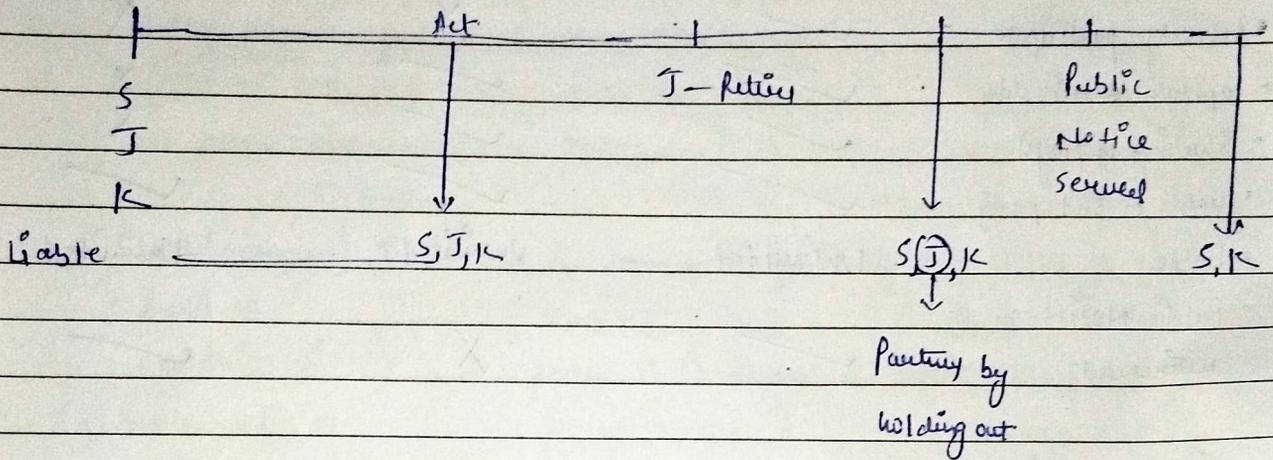


⑤ Partner in profit only



⑥ Outgoing party  
↓  
Retirement

3 shoes	Tatt	De
Shoe	Tatten	Kau
versace	ne pake	walya ni



If 'J' is a sleeping party

S, J, K

S, K

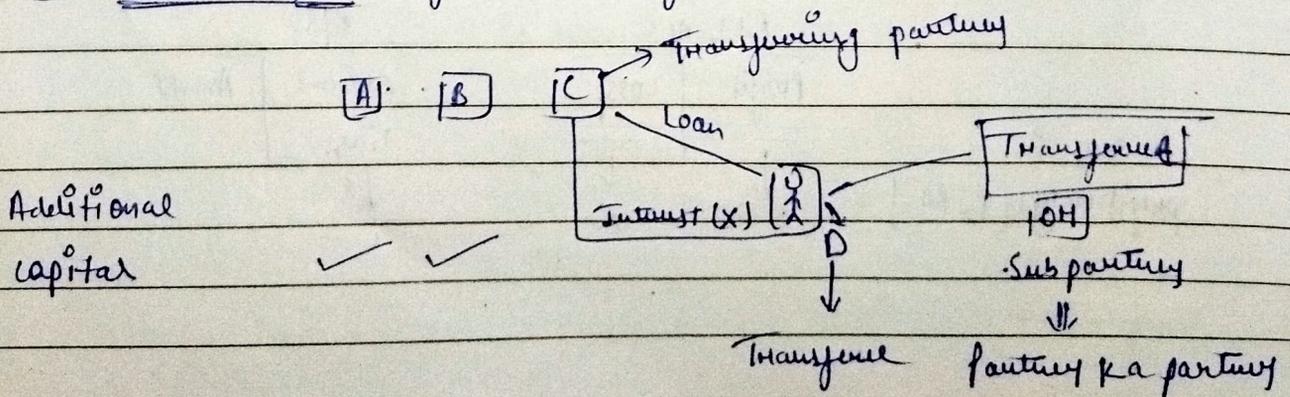
S, K

⑦ Party by holding out → already covered on pg NO 213

Party by estoppel

wilya - K, G, L know name

⑧ Sub Party e- Ryan's Sec 29 [Pg No 176]



Right of a transferee [D | sub partner]

During the continuance of partnership

- Interference (X)
- access to A/c (X)
- Inspection of BOA (X)

(D) He is entitled to receive share of profit of transferring partner [C]

A/c - challenge (X)

On Dissolution of firm [OH]

On Retirement of transferring partner

to receive the share of assets of transferring partner [C]

'D' ke paas Adhikar Hoga

to access the dissolution A/c for the purpose of ascertaining the share of 'C'.

\* Types of partnership

with regards to Duration

Partnership at will

fixed period (X)

By giving notice to the other partner

Dissolve

Partnership for fixed period

2 + 2 = firm  
K G

Must

5 years

with regards to extent of business

General Partnership

• Aisi partnership

Jaha par partnership

ki lias. unlimited

Hoti hai

• particular partnership (X)

Particular partnership

A/B Building 1

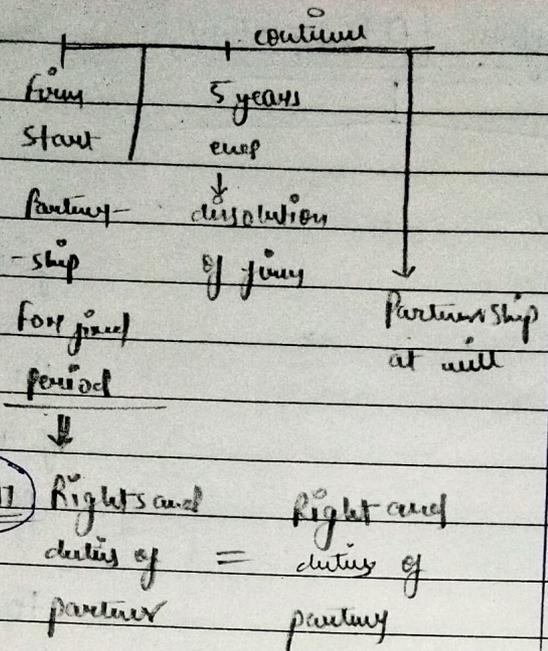
Building 2

Particular partnership

advt. under taking

completing Right completion of venture and duties of partner

Dissolution



Sec 17(c) Right of duties = and rights of partner of partnership

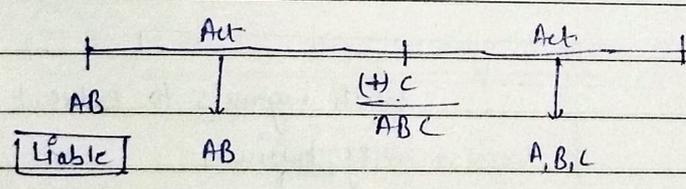
Sec-17 Rights and duties of partner = Right and duties of partner

\* Legal consequences of partner coming in and going out [Sec 31-35]

Reconstitution of firm (5)

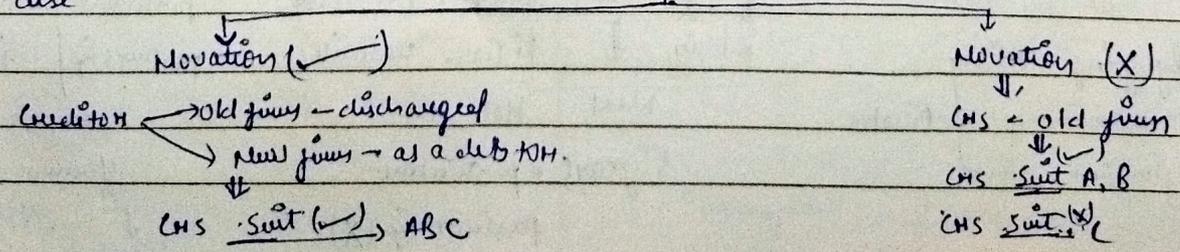
(1) Introduction

Admission of a partner [Sec 31]



Novation - Purane ki jagah par new contract huan or ye new contract b/w the same parties. bhi ho sakta hai aur b/w different parties bhi ban sakti hai.

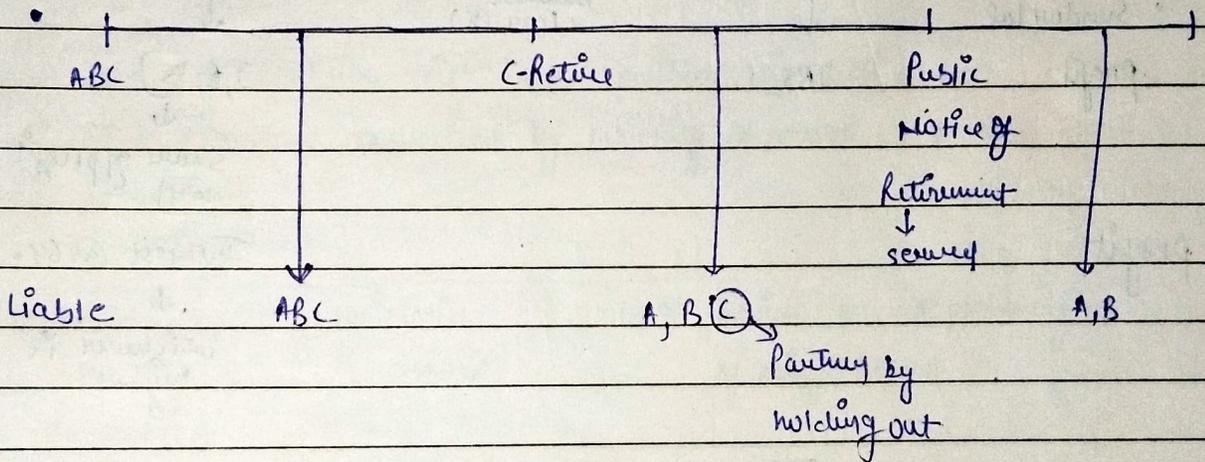
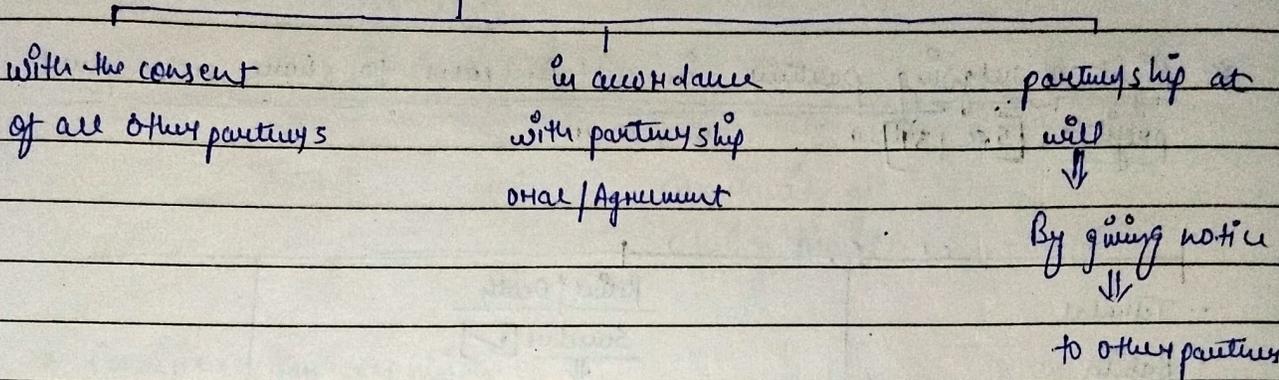
However, if incoming partner agrees to share the prior debts, in that case



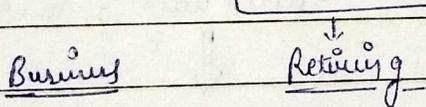
- No person shall be introduced as a partner into a firm without the consent of all the existing partners.

② Retirement of a partner [Sec 32]

- A partner may retire from the firm



\* Right of outgoing partner to carry on competing business [Sec 36]



General Rule

- Competing Business
- Advertisement

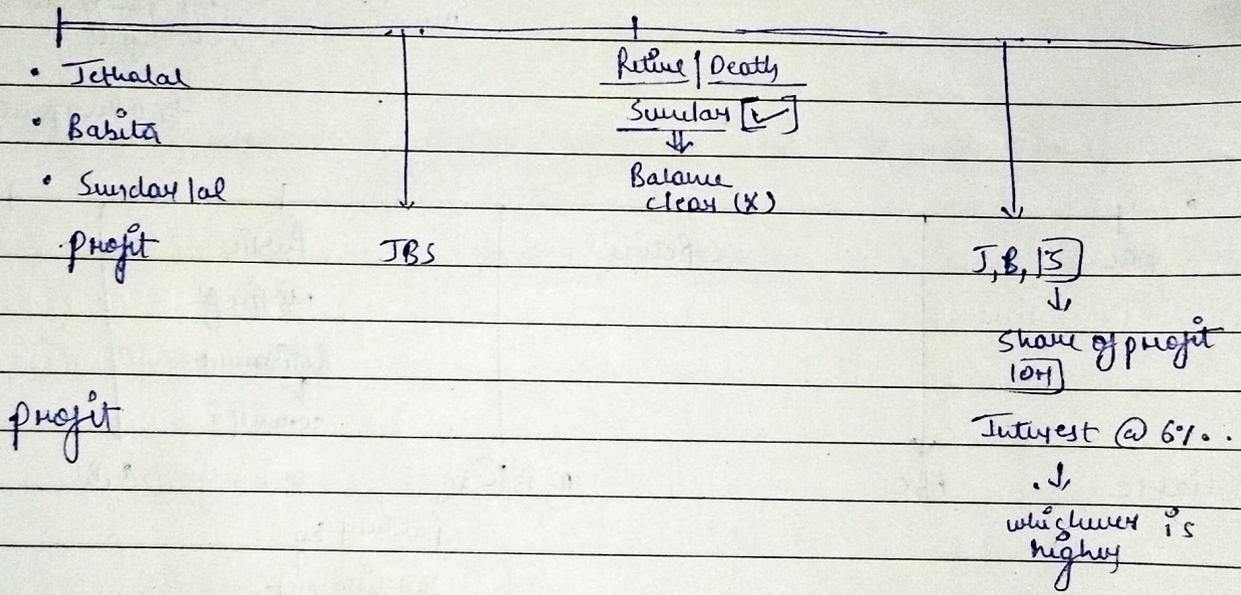
Retiring partner

- Firm Name (X)
- Represent (X)
- Solicit X

Exception - However partners may decide among themselves through partnership deeds that outgoing partners shall not carry on any competing business for a specified period or within in the specified limit

↓  
Sec 27 of ICA Bhaad Mani jae.

\* Right of outgoing partner in certain cases to share subsequent profit [Sec 37]



Guarantee

Specific guarantee  
 ↓↓  
 Guarantee for single transaction

Continuing guarantee  
 ↓↓  
 Guarantee for series of transactions

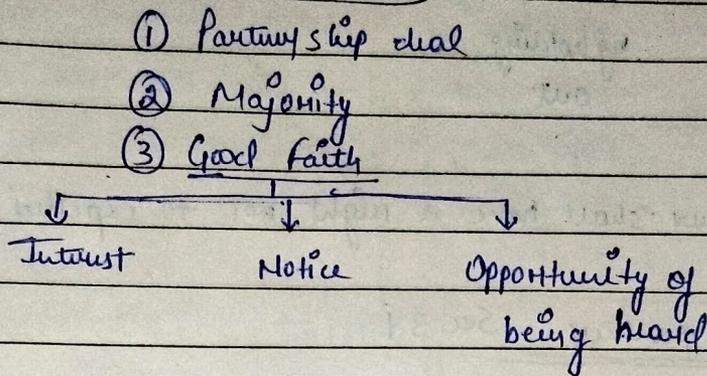
③ Expulsion of a partner Sec 33

3 + 3

Shree  
versare

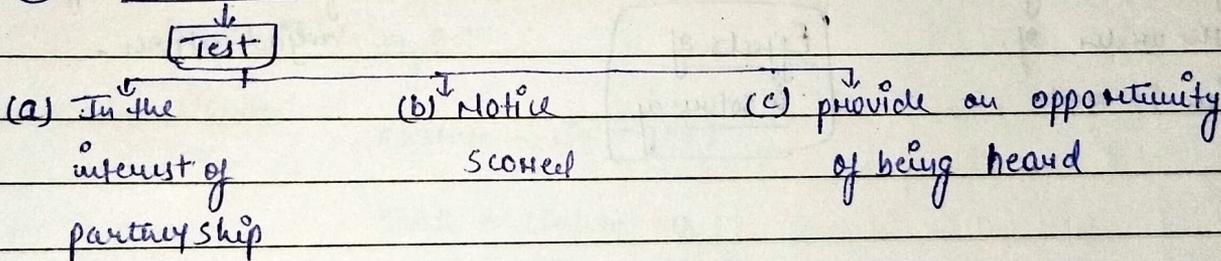
Tatte de  
kake

Kamli waliya  
ni



• Conditions for expulsion

- ① Power of expulsion exist in the partnership deed.
- ② Such power is exercised by majority of power
- ③ Good faith



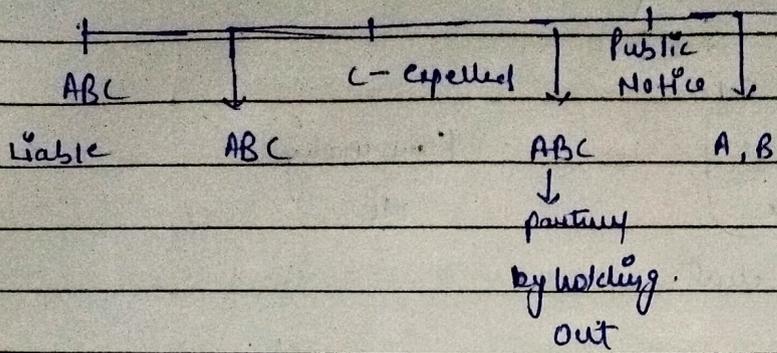
Above 3 conditions

Satisfied (✓)  
↓

Regular Expulsion  
↓  
Expelled partner  
is also required  
to give public notice

Satisfied (X)  
↓

Irregular Expulsion  
- Null and void  
- Re-instatement  
- Expelled partner shall  
have no right to claim  
damages for irregular  
expulsion.



**NOTE** :- Every partner shall have a right not to be expelled.

#### (4) Insolvency of a partner Sec 34

(1) He will be ceased to be a partner from the very date on which the order of adjudication is made

(4) The estate of the insolvent partner is not liable for the acts of the firm done after the date of order of adjudication

(5) The firm is also not liable for any act of the insolvent partner after the date of the order of adjudication.

#### Effects of insolvency

(2) The insolvent partner cannot be continued as a partner

(3) Ordinarily but not invariably, the insolvency of a partner results in dissolution of a firm; but the partners are competent to agree among themselves that the adjudication of a partner as an insolvent will not give rise to dissolution of the firm

Insolvency of partner

Act of firm

Estate of insolvent partner - Mahi Kogi

~~Insolvency of partner~~

~~Act of insolvent partner~~

Insolvency of partner

Act of insolvent partner

Firm liable (X)

(5) Death of a partner Sec 35

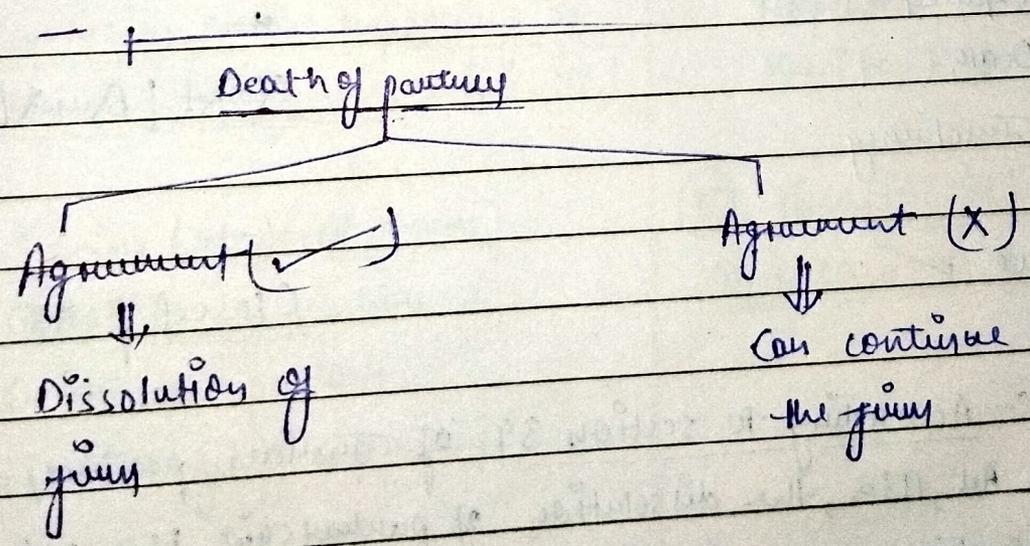
- Public Notice (X)

- Firm Act

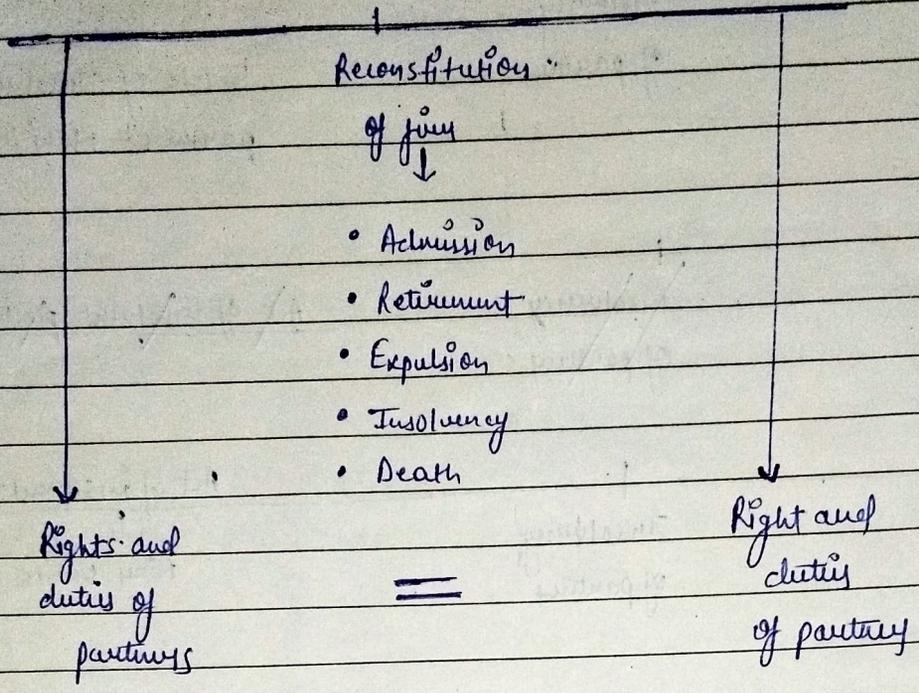
Death

o Estate - Liable (X)

o LR - Liable (X)



Types of partnership



\* Dissolution of firm [Sec 39-49]

Dissolution of partnership  
↓  
Re constitution  
- R - Retirement  
- E - Expelled  
- D - Death  
- I - Insolvency

Dissolution of firm  
↓  
Sab ka hissa  
Tut gaya aapas main  
\*  
Wastel / Bunch [96]  
(-+)  
Closeed / 96

Business Continue ✓

Dissolution of firm :- According to section 39 of Indian partnership Act, 1932, the dissolution of partnership b/w all partners of a firm is called the dissolution of the firm.

Modes of dissolution of firm Sec 40-44

without the order of court

with the order of court

① Dissolution by agreement Sec 40

By mutual consent [OH] In accordance with the consent of all the partners  
 In accordance with partner-ship / agreement / deed

② Compulsory dissolution Sec 41

when all [OH] Business becomes Unlawful  
 all except 1 Business becomes Unlawful  
 partner becomes insolvent Business becomes Unlawful  
 KO Business becomes Unlawful  
 Continues X ✓ ✓

③ Dissolution on the happening of certain contingencies [Sec 42]

- Expiry of fixed term
- Completion of venture
- Death of a partner
- Insolvency of a partner

① Insanity / unsound mind [Sec 44]

- Sleeping partner X
- Temporary sickness X

② Permanent incapacity of a partner

③ Misconduct

• Related to business (✓)  
 ↓  
 Adverse effect on the business (X)

④ Persistent breach of agreement

- Embezzlement
- Keeping erroneous accounts
- Holding more cash than allowed
- Refusal to show accounts despite repeated request to show accounts despite repeated request etc.

⑤ Transfer of interest without the consent of all partners

④ Dissolution by Notice [Sec 43]

Partnership at will

If date of dissolution is

Mentioned

W.e.f mentioned date

Not Mentioned

W.e.f Date of Notice

⑥ Just and equitable ground

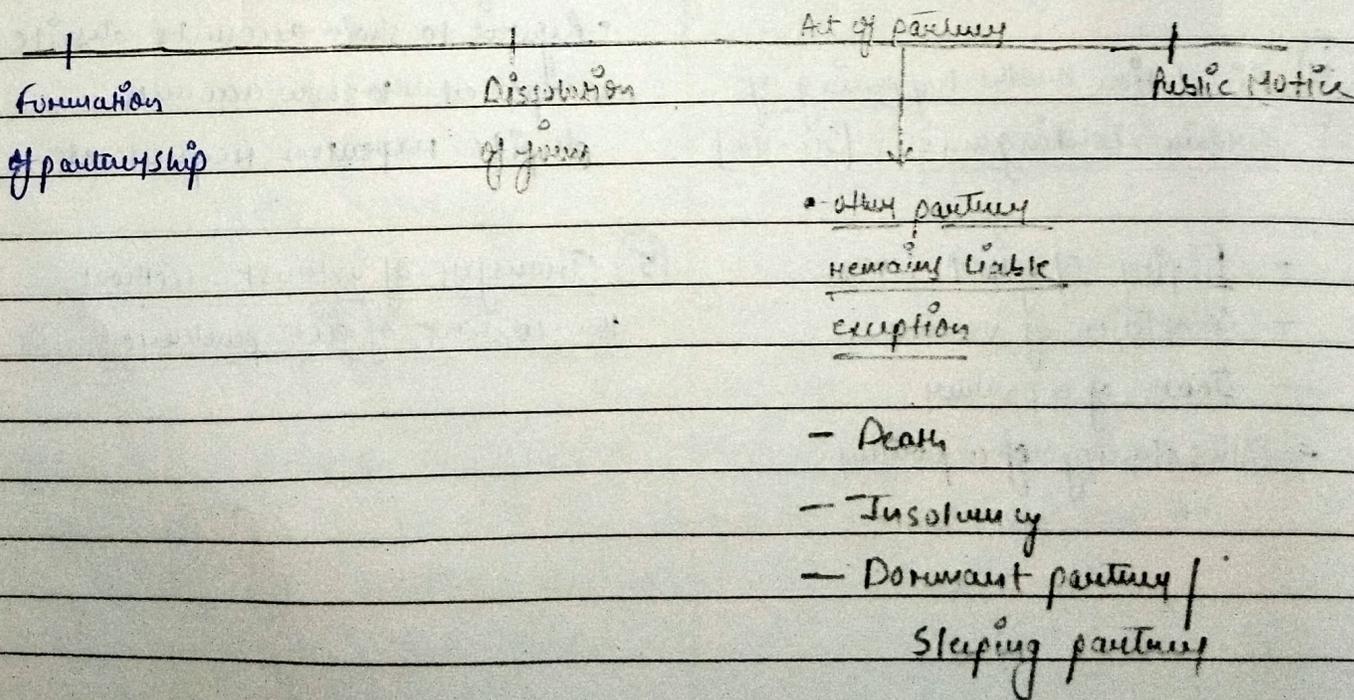
- (i) Deadlock in the management.
- (ii) where the partners are not in talking terms b/w them.
- (iii) Loss of substratum. Substratum ↓ Basis
- (iv) Gambling by a partner on a stock exchange

⑦ Continuous loss / Perpetual loss

Where the business of the firm cannot be carried on except at a loss in future also, the court may order for its dissolution.

\* Consequences of dissolution

① Liability for acts of partners done after dissolution [Sec 45]



② Right of partners to have business wound up after dissolution [Sec 46]

Sale of fixed Assets    xxx  
 (-) Payment of liability    (xxx)  
 Surplus    xxx → Distribute in PSR amongst the partners and their legal representative.

③ Continuing authority of partners for the purpose of winding up [Sec 47]

• Pending  
 Transaction Dissolution of firm  
 ↳ complete kama ke liye  
 ↓

Partners will get necessary right and duties

• Partners will get necessary right and duties for winding up the affairs of the firm

• Act of Insolvent partners  
 Insolvent  
 ↓  
 firm liable (x)

④ Mode of settlement of partnership A/c    sec 48

Utilisation of Assets  
 ↓

Payment of outside liability  
 ↓

Partners loan  
 ↓

Partners capital  
 ↓

PSR

Payment of losses  
 ↓

out of the profits of the firm  
 ↓

out of the partners capital  
 ↓

paid by the partners in PSR.

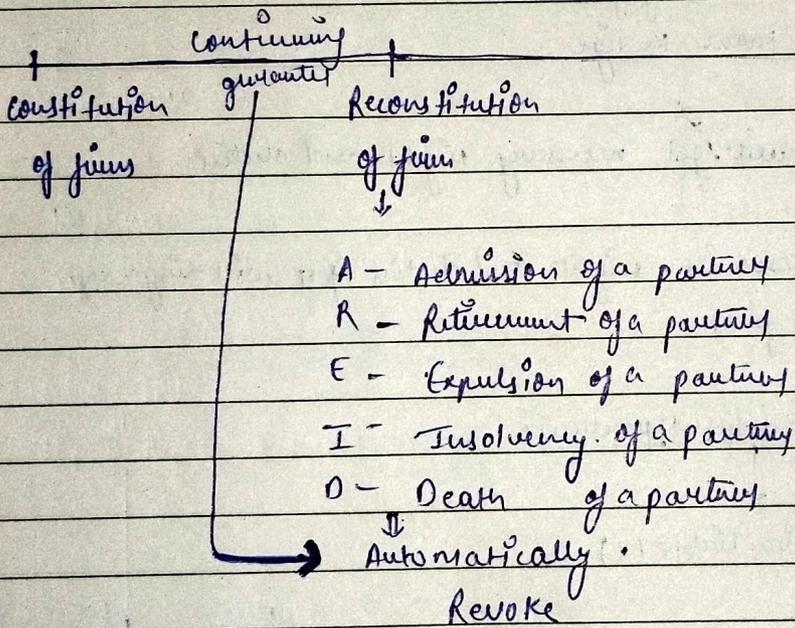
⑤ Payment of firm debts and separate debts Sec 49

	1st	2nd
Private-personal Assets	Personal Liability	Firm Liability

Firm Assets      Firm Liability      Surplus - If any

Distribute in PSA amongst partners.

\* Revocation [cancellation] of continuing guarantee by change sec 39

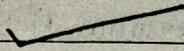


J. Imp

\* Minor admitted to the benefits of partnership Sec 30

New firm

♂   ♂  
ma   ma



♂   ♂  
ma   mi



♂   ♂  
mi   mi



New firm with minor formed  
Ho nahi Sakta

♂   ♂   ♂   ♂  
ma   ma   mi   ya



However, A minor can be admitted as a partner in the firm with consent of all other partners and only the benefit.

(A) Position of minor before attaining majority

(i) Rights

(a) Right to receive share of profit and property of the firm

(b) Rights to have

- access to,

- inspect and

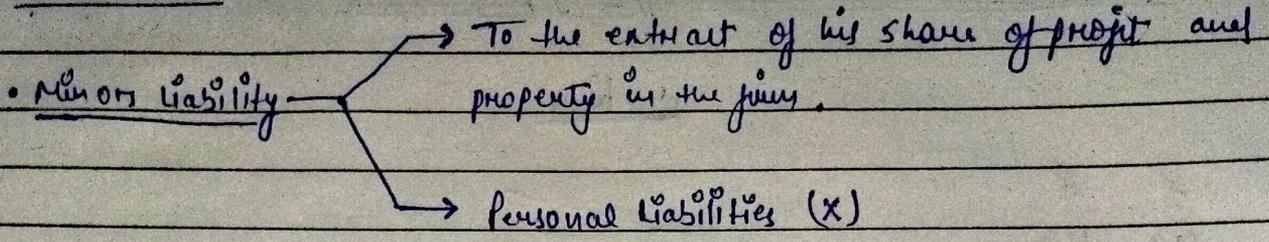
- copy

the books of AC of the firm

(c) Right to file suit against the other partner

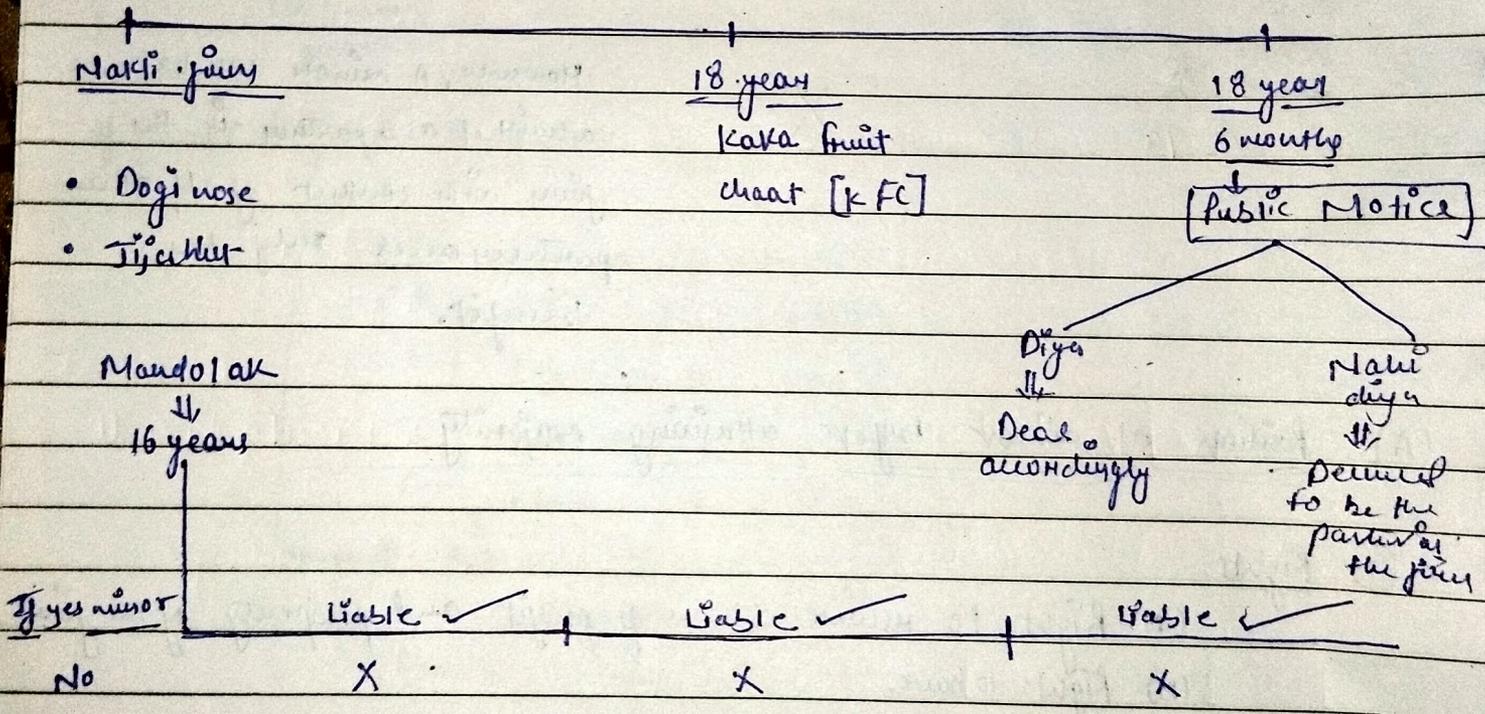
This rights can be exercised only when minor secures his consent with the firm.

(A) Liability



• Minor cannot be declared insolvent, but if firm is declared insolvent his share in the firm vests in the official receiver/ assignee.

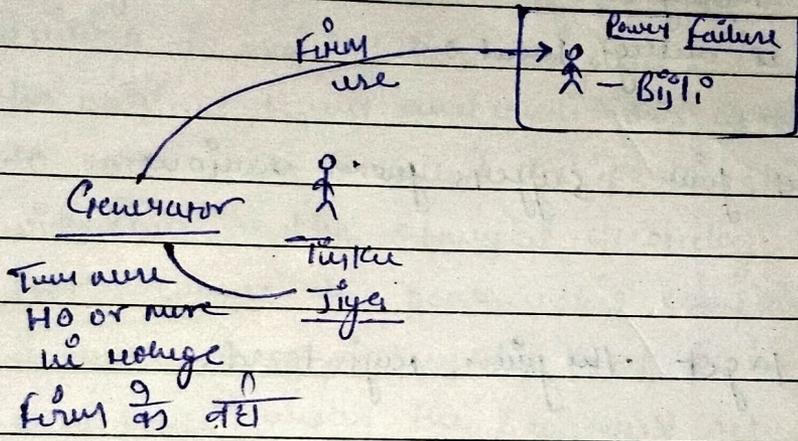
(B) Position of minor on attaining majority



\* Legal consequences of partner coming in and going out Sec 11-135

\* Partnership Property Sec 14-15

Property of the firm = Asset contributed by the partners + Assets acquired [Purchased by the firm] + Goodwill [Goodwill]



(b) Application of the property of the firm Sec 15

Subject to contract b/w the partners, the property of the firm shall be held and used by the partners exclusively for the purposes of the business.

\* Registration of firms

- optional

- unregistered firm

Penalty (X)

Transaction incurred by the firm shall not considered void merely due to that firm is unregistered one

- However, an unregistered firm suffers from various disabilities.

- It is always advisable to get the firms registered.

- Under English law, registration of partnership firms is compulsory.

1) Application for registration [Sec 58] + Registration [Sec 59]

Partners

- fee
- forms
- statement

Registry of firms

Entry in the register of firm  
certificate of registration

Firm's Name

Principal place of business

any other place [branches]

Date of joining of partners

Name and address of partners

Duration of any

- Crown
- Emperor
- Empress
- Empire
- Imperial
- King
- Queen
- Royal

→ Sec 58  
Particulars

- at any time and verified
- Signed by all the partners

The firm when registered

shall use the bracket and word

(Registered) immediately after its name.

- penalty for late registration = 100/year

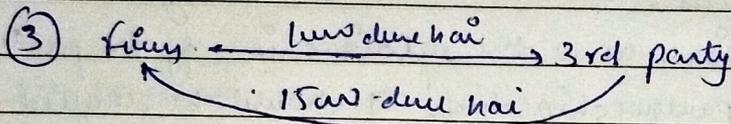
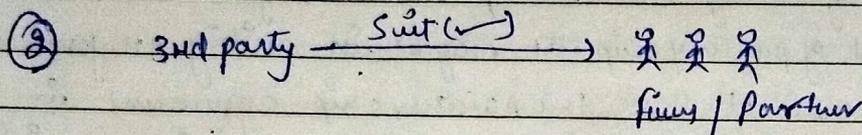
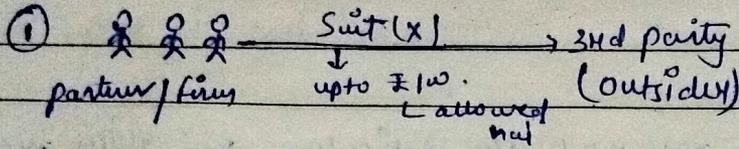
## \* Partnership Deed

Partnership is the result of an agreement. No particular formalities are required for an agreement of partnership. It may be in writing or formed verbally. But it is desirable to have the partnership agreement in writing to avoid future disputes. The document in writing containing the various terms and conditions as to the relationship of the partners to each other is called the 'partnership deed'. It should be drafted with care and be stamped according to the provisions of the Stamp Act, 1899. Where the partnership comprises immovable property, the instrument of partnership must be in writing, stamped and registered under the Registered Act, 1908.

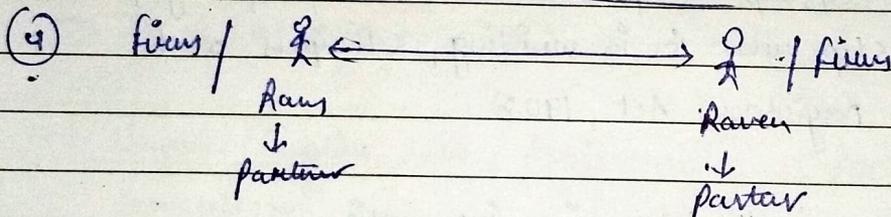
• Partnership deed may contain the following information

- (1) Name of the partnership firm
- (2) Names of all the partners
- (3) Nature and place of the business of the firm
- (4) Date of commencement of partnership.
- (5) Duration of the partnership firm
- (6) Capital contribution of each partner
- (7) Profit sharing ratio of the partners
- (8) Admission and Retirement of a partner
- (9) Rates of interest on capital, Drawing and loans
- (10) Provisions for settlement of accounts in the case of dissolution of the firm.

pgc-185

\* Consequences of Non Registration Sec 69

after set off - ₹100,000 due hai — Allowed (X)  
 upto ₹100,000 - allowed



Exception: Non-registration of a firm does not, however effect the following rights:

- (1) 3rd party [The rights of third party to sue the firm on any partner.]
- (2) The rights of partners for
  - the dissolution of the firm
  - for the settlement of A/c b/w the partners
  - for realisation of property of the dissolved firm.
- (3) The power of an official Assignee, Receiver of court to release the property of the insolvent partner and to bring an action.

(4) The right to sue on claims a set-off if the value of suit does not exceed ₹10 in value.

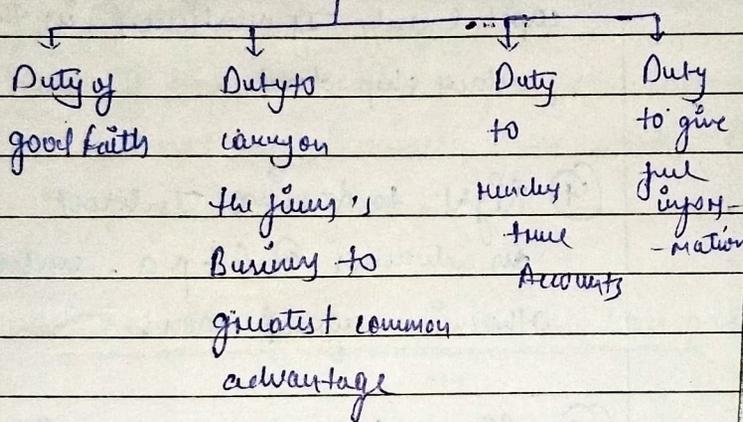
(5) The right on suit and proceeding instituted by legal representatives on behalf of the deceased partner of a firm for accounts of the firm on to realise the property of the firm.

\* Relation of partners to one another

Duties of a partner

Rights of a partner

① General duties of a partner [Sec 9]



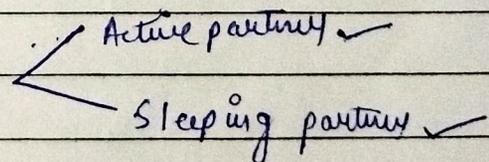
Sec 12

① Right to take part in the conduct of the business of the firm

② Right to be consulted [sahi decision - no opinion]

dhare ka adhikar hai. Even though decisions are taken on the basis of Majority

③ Right to have access to Books



④ Right of legal heirs / Representative / his authorised agent shall have a right  
 - to access  
 - inspect and

② Duty to indemnify for loss by fraud to the firm [Sec 10]

③ Determination of Rights and Duties of partners by contract between the partners

- Mutual right and duties may be determined through partnership deed

- Variation can be done in partnership deed only with the consent of all the partners.

- Firm can imposed restriction  
like ↓

not to carry on the other  
Business while you are a  
continuing partner.

any books of firm

Sec 13

- ① Right to Receive remuneration only if mentioned in the partnership deed.
- ② Right to share profit equally unless otherwise agreed
- ③ Right to Receive Interest on capital only if mentioned in the partnership deed.
- ④ Right to Receive Interest on advances @ 6% p.a. unless otherwise agreed upon.
- ⑤ Right to be Indemnified
- ⑥ Right to Indemnify the firm  
↓

Intellul Neglect  
↓  
La parvati

\* Personal profits earned by the partners Sec 16

① If any partner derives any profit for himself from

— any transaction of the firm

OR

— with the use of property of the firm

OR

— through business connection of the firm

OR

— with the use of firm's name.

then he shall account and pay to the firm.

② If any partner's partner earns only profits from competing business, then such profit shall account and pay to the firm.

\* Relation of partner to the 3rd party:

OR

Authority of a partner

① Partner to be the agent of firm Sec 18

↓

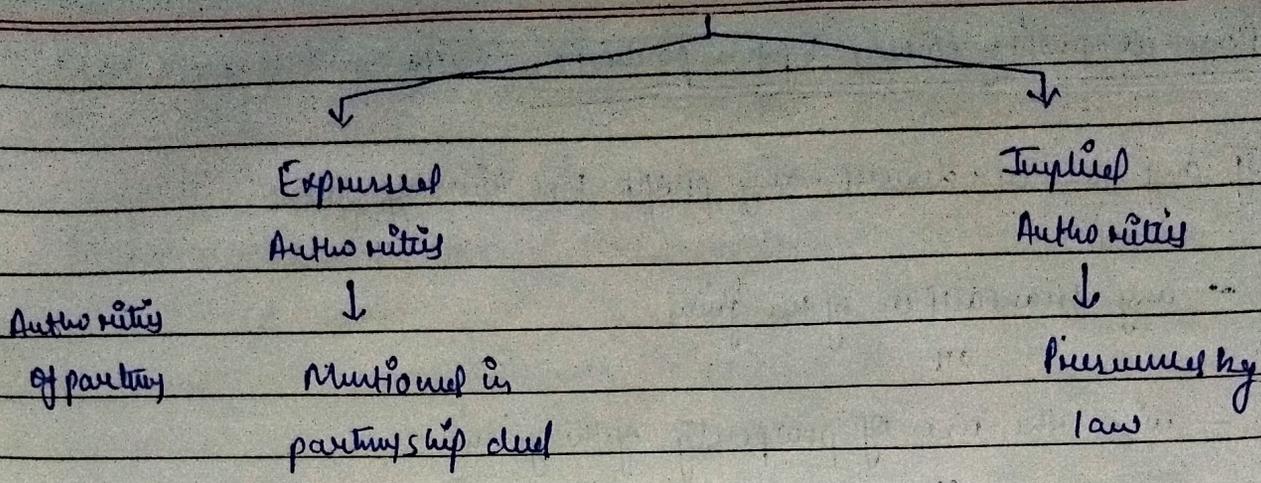
Every partner is the agent of firm for the purposes of business of the firm.

② Authority of a partner

↓

It means capacity of a partner to bind the firm by his own





### ③ Implied Authorities of partner

(i) He may pledge or sell the partnership property → Movable

Generally commercial  
Nature

↓  
trading

(ii) He may buy goods on account of the partnership

(iii) He may borrow money, contract debts and pay debts on account of the partnership.

~~(iv)~~ He.

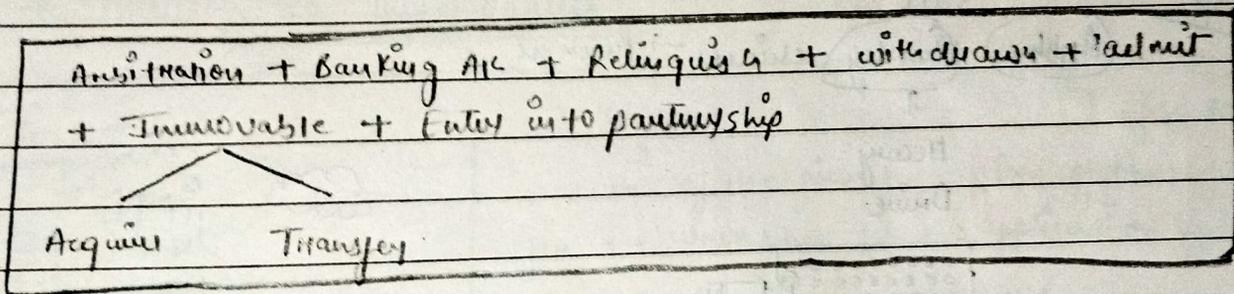
(iv) He may draw, make, sign, endorse, transfer, negotiate and procure to be discounted, promissory notes, bills of exchange, cheques and other negotiable papers in the name and on account of the partnership.

### Imp ④ No Implied Authorities

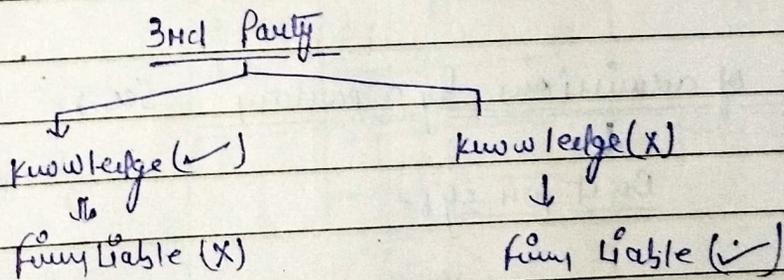
(a) Submit a dispute relating to the business of the firm to arbitration.

(b) Open a banking account on behalf of the firm in his own name.

- (c) Compromise or relinquish any claim or portion of a claim by the firm
- (d) Withdraw a suit or proceedings filed on behalf of the firm
- (e) admit any liability in a suit or proceedings against the firm
- (f) Acquire immovable property on behalf of the firm
- (g) transfer immovable property belonging to the firm; and
- (h) Enter into partnership on behalf of the firm.



⑤ Extension<sup>(A)</sup> and Restriction<sup>(B)</sup> of partner's Implied Authority



• Extension (A) and Restriction (B) of partner's implied authority can be done only after consent from all the partners.

⑥ Partner's authority in an emergency [Sec 21]

Act within the authority of a partner

Authority of a partner

Act beyond the authority of a partner

firm liable

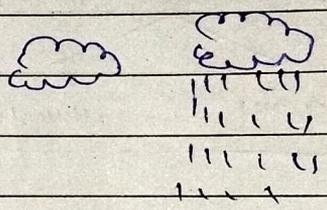
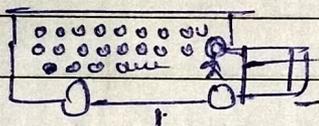
firm liable

- Generally ✓
- Emergency ✓

X  
 ↓  
 provided this is done in order to protect the firm from the losses.

eg Arshu Pandey Sale chinnu → Purchase

Heavy Drive



Village

High rate of sale - firm liable

\* Effect of admissions by a partner Sec 23

Do it for eg-

- Sabhi partners dusre partner ki representation ke liye liable hote even though they are ignorant of such representation.

\* Effect of notice to acting partners Sec 24

Knowledge  
 Notice to acting partners = Notice to firm

Exception - Fraud  
 ↓  
 Notice to acting partners ≠ Notice to firm

active  
 Tacit - Silent

\* Liability to Third parties

Sec 25	Sec 26	Sec 27
↓ Contractual liability	↓ Liab. of the firm for the wrongful act of the partners in the ordinary course of Business	↓ Liab. of firm for mis application by partner
B/S		• Property → Bank A B C → Consulting firm ↑ Property + Manager's Sutar D
↓ (creditor) Bank loan		firm liable
↓ Every partner is jointly and severally liable.		

firm - liable

Date.....

\* Difference between partnership and co-ownership:

