

7. The Negotiable Instrument Act, 1881

Date ___/___/___



- Came into force \Rightarrow 1st March 1882

* Meaning of Negotiable Instruments

- Written document \longrightarrow transferrable
eg. Cheque, BDE (A \rightarrow B \rightarrow C \rightarrow D) [till Maturity date]

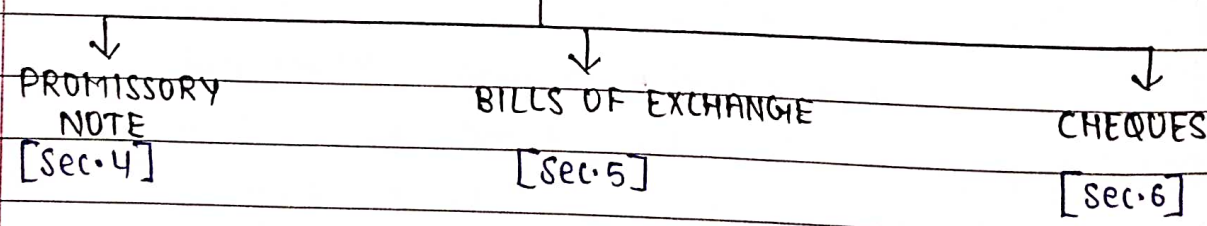
- Negotiable Instrument includes \rightarrow Sec. 4 \rightarrow Promissory Note
 \rightarrow Sec. 5 \rightarrow Bills of Exchange
 \rightarrow Sec. 6 \rightarrow Cheque

• NEGOTIABLE INSTRUMENT [DOCUMENT] is an instrument which is freely transferrable [by custom of Trade] from one person to another by mere Delivery^① or by Endorsement and Delivery^②.

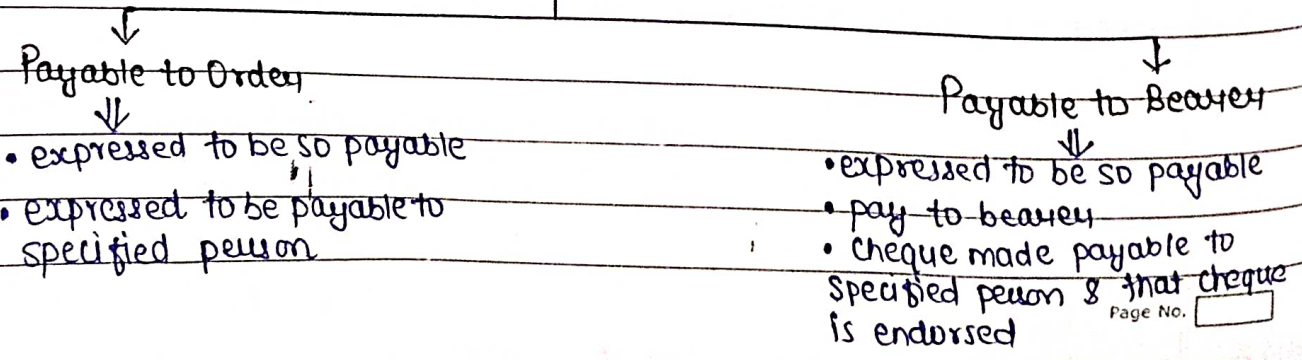
\rightarrow The property in such an instrument pass to BONAFIDE TRANSFEREE for a money value (₹)

BONAFIDE TRANSFEREE \Rightarrow Someone who exchange value for property
OR
BONAFIDE PURCHASER Without any reason to suspect irregularities in the transaction.

Types of Negotiable Instrument



INSTRUMENT PAYABLE



Essential Characteristics of Negotiable Instrument :-

- (i) Written and signed
- (ii) Transferable (any no. of time till maturity) or satisfaction

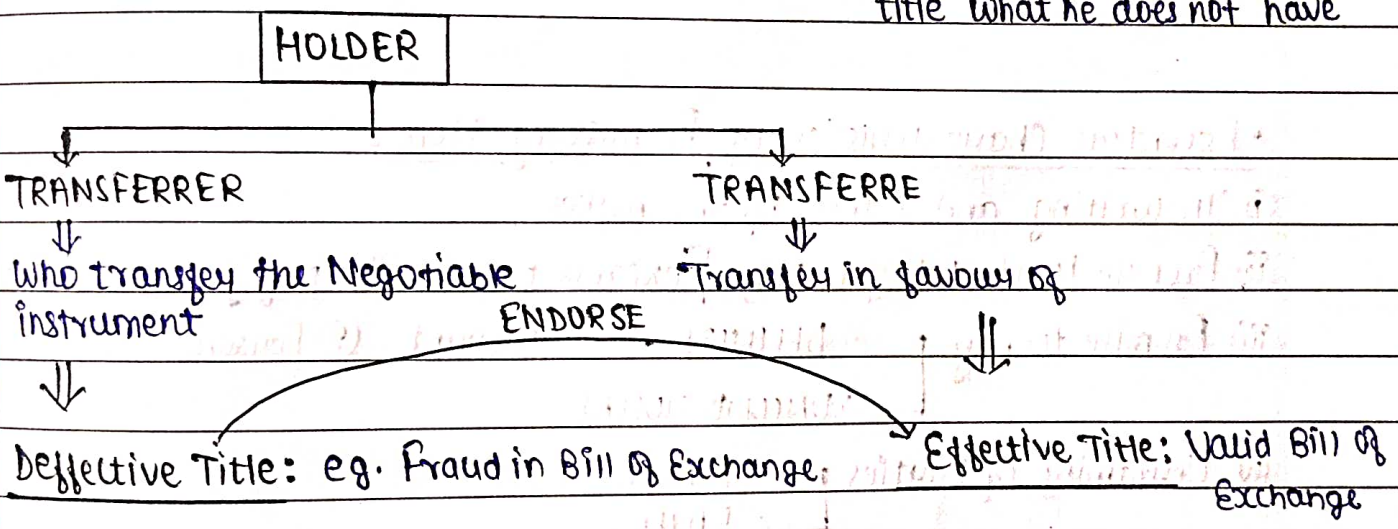
TRANSFERRABLE

- Endorsement → • Written form ⇒ eg. Bills of Exchange
 - name mentioned
 - Specified person
- Delivery → • Bearer instruments ⇒ eg. Cheque without mentioning the name (Self cheque)
 - name not mentioned

(Sale of Goods Act, 1930)

(iii) Holder's title is free from defects [Exception: **NAMO DAT QUOD NON HABET**]
 ↳ (ownership)

↓
 No one can transfer a better title what he does not have



(iv) Instrument must be certain → (a) Amount (b) Payment time (c) Payee

(v) Right to Sue → who holds the instrument → LEGALLY
 ↓
 (petition filing in court)

(vi) Instrument should be delivered
 ↓
 Transfer → to specific Person ⇒ CREATE LIABILITY

→ Mere drawing of Instrument DOES NOT create Liability.

* Promissory Note [Sec. 4]

- Promissory Note → is an instrument → in writing
- Signed by the maker → promise to pay
- Promise to pay → must be UNCONDITIONAL
- to pay a certain sum of money → to Certain Person
- EXCEPTIONS: Bank Note and Currency Note

• Parties to Promissory Note :-

(a) Maker / Drawer



- person who make the promise
- maker must sign the instrument

(b) Payee / Drawee



- who received the money
- to whom the amount is payable

• Essential Characteristics of Promissory Note :-

(i) In writing and signed by the maker

(ii) Promise / undertaking to pay [express promise to pay]

(iii) Promise to pay → DEFINITE → ① Amount ② Person
→ UNCONDITIONAL

(iv) Certainty of Parties → MAKER
→ PAYEE

(v) Promise to pay money only → not in kind

(vi) Other than Bank Note or Currency Note

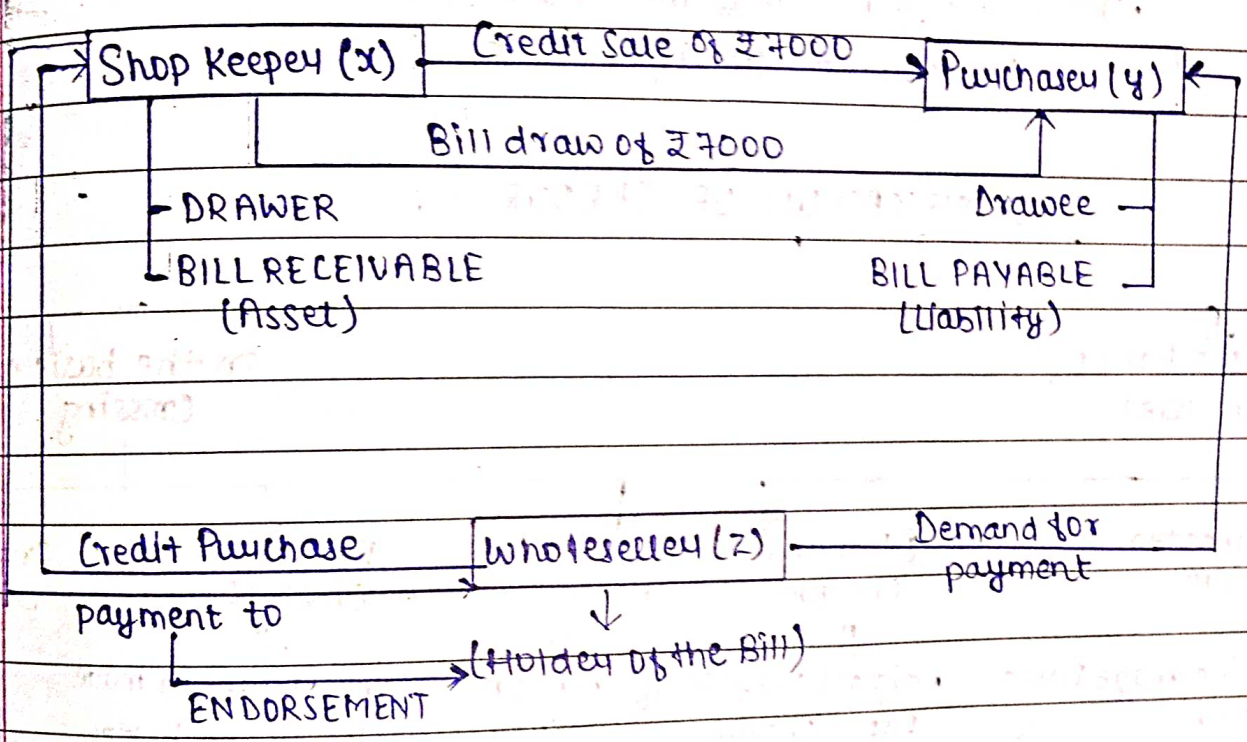
(vii) Stamping → as per Indian Stamp Act, 1899



Bills of Exchange [Sec. 5]

- * A Bill of Exchange → is an instrument ↔ in writing and containing UNCONDITIONAL ORDER signed by the MAKER [DRAWER] directing a certain person to pay a certain sum of money
 - (a) only to order of, a certain person
 - (b) to the bearer of the instrument

Process of Bill of Exchange



Essential characteristics of Bills of Exchange :-

- (i) must be in writing and stamped
- (ii) contain an order to pay [→ Certain person
→ Certain amount]
- (iii) Drawer must sign the instrument
- (iv) Order must be unconditional
- (v) Order must be to pay money only
- (vi) Drawer, Drawee and Payee must be certain



* Cheque [Sec. 6]

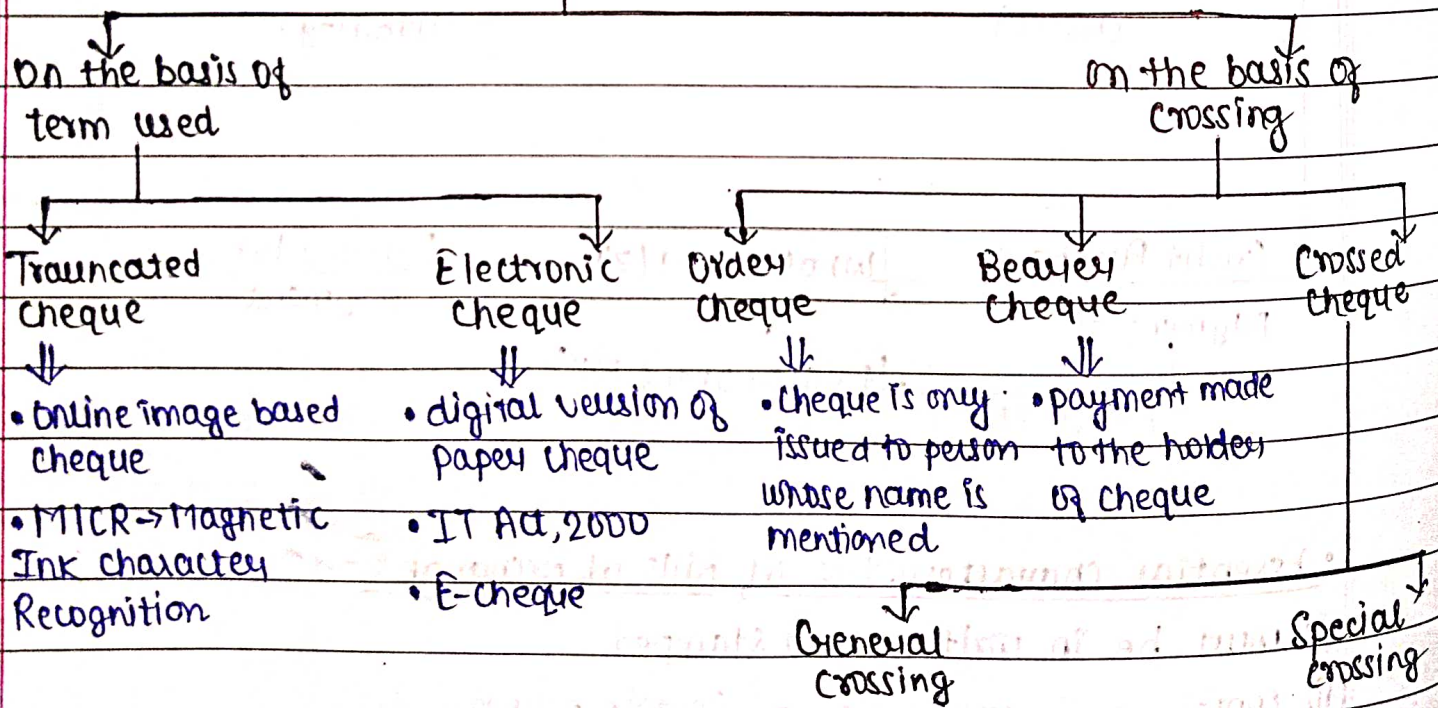
- A cheque is a Bill of Exchange drawn on specified Banker and NOT expressed to payment otherwise on Demand.
- Cheque includes the electronic image of truncated cheque and a cheque in the electronic form.

• Parties to a cheque:-

- (i) Drawer → who signed → cheque draft
- (ii) Drawee → Bank name → liable to pay on behalf of cheque
- (iii) Payee → In favour of (who receive the amount)

- Note**:-
- Cheque is always payable on demand
 - Cheque is payable to bearer (holder) also
 - must be drawn on specified bank

CLASSIFICATION OF CHEQUE



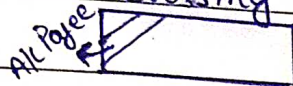
CROSSING OF CHEQUE

General Crossing



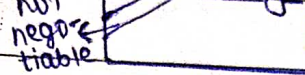
• This type of cheque crossing needs two parallel transverse line

A/C payee Crossing



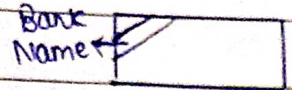
• also known as Restrictive crossing
 • This is not a bearer cheque
 • deposited in any Bank A/C

Not Negotiable Crossing



• a cheque can not be deposited
 • transferred or exchanged in cash
 • the person who obtain the cheque has no greater rights than person who gave it

Special Crossing



• only deposited into the bank mentioned
 • not need the name of the bearer