The Negotiable Instrument Act - 1881

↳ 1st March 1882

14 Marks

Topic

Knowledge Part → Negotiable Instrument
- Meanings
- Elements
- Types

Application Parts ← Negotiation
- Classificatery of
- Ways of Negotiation
- Provision related to Negoti Presentment of Instrument
- Rules of Compensation

Meaning of Negotiation Instrument
- Written Documents — Transferable

Eg. Cheque

Negotiable Instrument Includes →
- Section 4 — Promissory Note
- Section 5 — Bills of Exchange
- Section 6 — Cheque.

Meaning

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 ② & Delivery.
The property in such an instrument pass to Bonafide transferee for a value (₹) money

BONAFIDE TRANSFEREE ⇒ Someone who exchange value for property without any reason to suspect irregularities in the transaction
↳ Purchaser

Types of Negotiable Instrument

Section 4
Promissory Note

Section 5
Bills of Exchange

Section 6
Cheque

Instrument Payable

Pay to Mr. X

Payable to Order

- Expressed to be
- expressed to payable to specified person

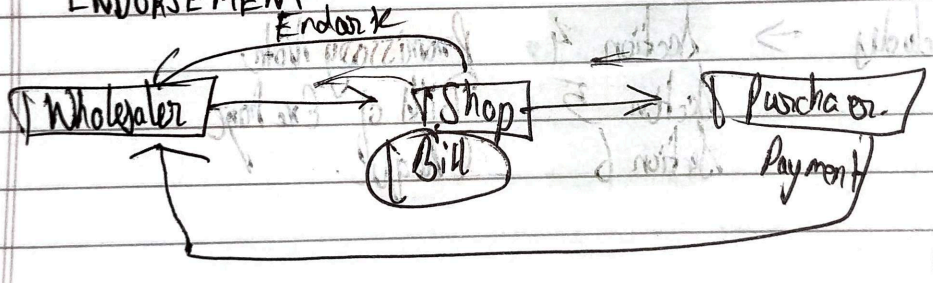
Payable to Bearer

- Expressed to be so payable
- Pay to Bearer
- Cheque made payable to specified person and that cheque is been endorsed by signing on the backside of the cheque.

Payto _____

Back Side
Sign

ENDORSEMENT



Who hold the cheque during payment

Bearer

Essential Characteristics of Negotiable Instrument

6 points

① Written & signed Ex: Cheque → ✗
- ① Without writing
- ② without signed

② Transferable – Any number of times till its satisfaction.

Transferable

Endorsement
- Written form
- Name mention specified person

Ex. Bills of Exchange

Delivery
- Bearer Instrument
- Name not mentioned

Eg - Cheque without mentioning the Name (Self Cheque)

③ Holder Title is free from defects (Exception → ownership)

NEMO DAT QUOD HABET
Gras SOGA 1930

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

Holder

Transferor
Who transfer the negotiable instrument

Transferee
Transfer in favour of

Effective Title

Defective Title
Ex. Fraud in Bills of Exchange

Endorse

Valid of Bills of Exchange

4. Instrument must be certain ⇒
   - Certainty regarding ~~throughout~~ payable (Amount)
     Eg → 40 000 — 50 000 (10k Gap)
   - Certainty regarding time of payment.
   - Certainty regarding Payee
5. Right to Sue ⟶ Petition filing in court
   who hold the instrument legally
6. Instrument should be delivered ⇒
   ⟶ Transfer → Specific person
   - Drawing of instrument does not create liability
     ↓
     Making
     ↓
     Create Liability

Promissory Note — Sec 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 — (2)

MAKER — Drawer
- Person who make the promissory note
- Maker must sign the instrument

PAYEE — Drawee
- Who receive the money
- To whom the amount is payable

Essential Characteristics of Promissory Note

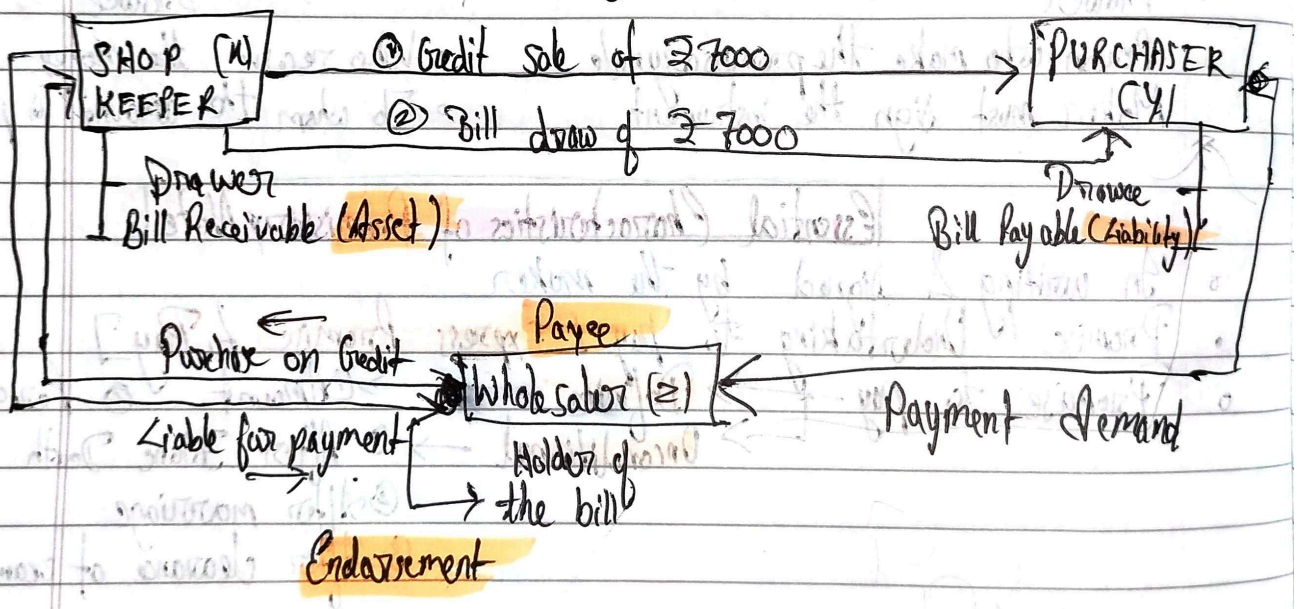
- In writing & signed by the maker
- Promise / Undertaking to pay [Express Promise to Pay]
- Promise to pay → Definite → ① Amount ② Person
  - Unconditional → ① After false Death ② After marriage ③ After clearance of exam
- Certainity of Parties → Maker, Payee
- Promise to pay money only → not in kind
- Other than bank note or Currency Note
- Stamping (Indian Stamp Act 1899) Promissory Note must be stamped.

Bills of Exchange — Section 5

A bills of exchange is an instrument in writing and containing an 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
→ holder

Process of Bill of Exchange — (3)



Bill of Exchange is doubled secured document

① Primary → Drawee

② 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 Cheque (3)

Drawer → who sign (Bill / Cheque Draft)

Drawee → Bank Name (Liable to pay on behalf of bill / cycle)

Payee → In favour of (who receive the amount)

NOTE:

Cheque is always payable on demand

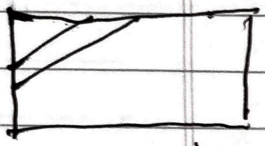
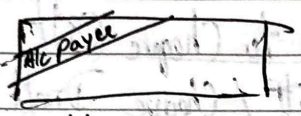
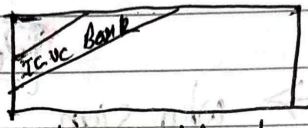
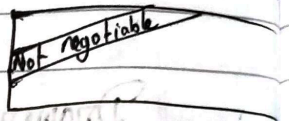
Cheque is payable to bearer also (Holder of the cheque)

Sign on back side of the cheque

Classification of Cheque

- On the basis of form used (2)
  - Truncated Cheque
    - Online image based cheque
    - MICR → Magnetic Ink Character Recognition
  - Electronic Cheque
    - Digital version of paper cheque
    - e-cheque
    - IT Act 2000
- On the basis of crossing (3)
  - Order Cheque
    - Cheque is only issued to the person whose name is mentioned on cheque
  - Bearer Cheque
    - Payment made to the holder of cheque
  - Crossed Cheque
    - General Crossing
    - Special Crossing

Gross: **Crossing of Cheque**

General Crossing	A/c Payee Crossing	Special Crossing	Not Negotiable Crossing
			
This type of Crossing cheque needs two parallel Transverse lines	• A/c payee is also known as restrictive Crossing. • This is not a bearer cheque (Children cheque) • Deposit in any Bank A/c (Deposited in any bank)	Only deposited into the bank → Name mentioned → Not need the name of the bearer (Deposited into the bank name mentioned)	• A cheque that cannot be deposited, transferred, or exchanged in cash • The person who obtain the cheque has no greater rights to it than the person who give it.

Classification of Negotiable Instrument → 4 | x 2 = 8 Concepts

(i) On the Basis of payee

(a) **Bearer Instrument** (Example → Cheque) (Self Cheque)

- Name of the payee is blank
- Negotiated by mere delivery

Question → B.O.E & P/N → x

Reason → RBI Act 1949 → Section 31 → Cheque

- By Delivery

(b) Order Instrument (Eg. B.O.E & P/N)
- 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 Condition ← Instrument made in India

Additional Condition ← Instrument Payable in India
OR
Instrument Drawn upon a person
→ Resident in India

Inland → Satisfy Condition No. 1
& Any of the Additional Condition

(b) Foreign Instrument
An 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) Ambigous instrument
- Complete Instrument
- Something which is not clear
- B.O.E (OR) P/N
- Holder may at his election
- After exercising the option the holder cannot change

④ On the basis of Payment

(a) Demand Instrument (Example → Cheque)
- Payable at sight
- Payable on Demand
- Payable on Presentment

(b) Time Instrument (Example → Term Insurance Instrument)
- Time specified
  OR
- Certain Event specified

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Negotiation of Negotiable Instrument

- P/N
- B.O.E
- Cheque

(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 & delivery → payable to order

Modes of Negotiation (2)

By Delivery

Bearer

If the instrument is payable to the bearer, → (Anyone)
It may be transfer to by Delivery to the transferee

By Endorsement & delivery

Order (Specified Person)

- If the instrument is payable to the specified payee
  - Or to his order, it
  - It must be endorsed

Condition

- It must be in writing
- 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 back of the instrument and put his signature thereto for the purpose of negotiation, it is called Endorsement

- Person Name ← Face side / Back side
- Signature
- Purpose of Negotion (freely transferable)

Endorser → Person who sign
Endorsee → to whom it is endorsed.

is Specified
lete
on who possesses
demand payment
Endorser sign
Name only
complete)

Special or Full

- Payable to an identified Payee (Person)
- Complete
- To whom → make the instrument payable

Restrictive Endorsement

- Limitation
- Limiting payment to a particular person
- Further transfer of instrument negotiation is not effective

Partial Endorsement

- It is invalid
- Endorsement which allow transferring to the endorsee a PART OF THE AMOUNT PAYABLE

SANS Recourse Endorsement

→ Conditional Endorsement

- Receiver cant file a case against endorser
- [in case of dishonour]
- The endorser waive their liability for the completion of the endorsement

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