

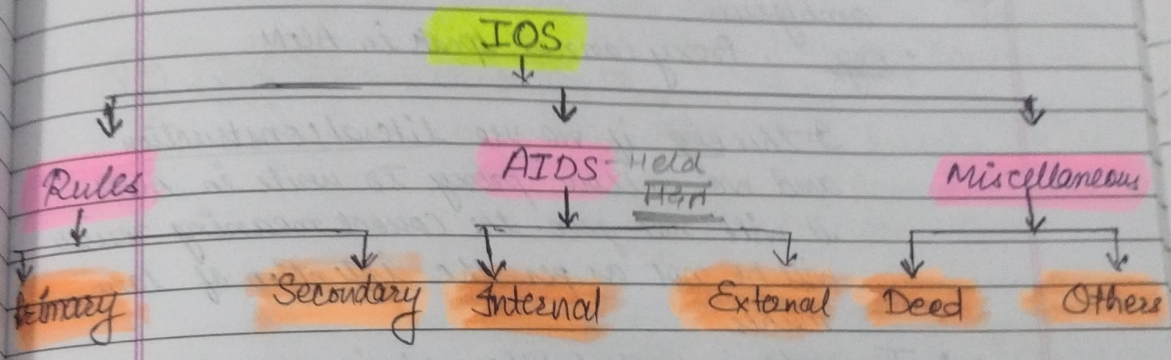
11 marks

12/11

Chapter 4  
Interpretation of Statutes  
Suganya

## Chapter 4 Interpretation of Statute (IOS)

Notes:->



### Rules:->

#### (A) Primary Rules of Interpretation:->

##### ① Rule of Literal:->

- Do not go beyond words
- Ordinary and natural meaning
- eeg - 149(1) OPC => min - 1 Director  
 Pvt => min - 2 Director  
 Public => min - 3 Director  
 max -> 15 Director

Not priority

- Literal construction is used when language of law is clear & unambiguous.
- Capable of one & only one interpretation



### ② Reasonable Construction :-

- When enactment are capable of two or more than two interpretation
- When the law language is not clear & ambiguous.
- eg. Proxy cannot speak in Act.

Beyond words

पर अपा को बिरय करेगा :- (X) (O)

In this eg if we use literal construction and we allow proxy to write in Act it will not give the correct meaning results will be not as per the intention of law makes.

- This rule is useful when plain meaning to the words will not be a fair construction.

veto

### ③ Eiusdem Generis

- eg. Object clause  
company can enter into the business of milk, icecream, panner, curd etc.  
etc :- means any product linked with dairy/milk means can start the business of curd, butter, cream, shrikhand, etc. company can't start fridge, TV, cars, mobile, notebook etc.
- General word (etc) will take the colour of specific word (milk, panner, icecream)

④

Hasr

⑤

Be



दोनों को समान दो  
 isko ulta hota hai - Conflict

④ Harmonious Construction

- No conflict
- It is useful when 2 sections are having conflict.
- It is the duty of court to <sup>try to</sup> interpret them that they are harmony with each other.

• eg

|  |  |
|--|--|
| Sec 179 Borrow -<br>BOD can Borrow<br>by passing BR. | Sec 180 Borrow -<br>BOD can borrow<br>by passing SR<br>If Borrow beyond<br>certain limit |
|--|--|

Harmonious Construction → upto limit only BR  
 Beyond limit BR+SR

- Give respect to both the sections.

⑤ Beneficial Construction → POSH

- eg POSH (Prevention of Sexual Harassment)  
 - sunle & jasoof live example - ~~not~~  
 • पालिका को निशाना देना - Half-Half Property  
 • सुविधा को निशाना देना - जोड़े saara nahi milenge

- This rule will be given to statute which brings into effect provision for improving the condition of certain class of people who are under prevalence.

eg → In POSH female will get the benefit since, they were under prevalence before POSH was introduced.

- Beneficial construction can be used only when no constructions are possible like POSH can be used by male or female but, by using beneficial construction rule only female can take the benefit of it.



दंड → fine & jail  
राफे → fine or jail

And - एत एव च  
Or - वा एव च

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सदय → solute  
हार्दशप → gl  
The  
Hey

## ⑥ Rule of Exceptional Construction

### (a) "And" and "Or"

- "And" means conjunctive
- "Or" is disjunctive
- But sometimes "and" is read as "or" and vice-versa to give effect to the manifest intention of the legislature.

### (b) "May" and "shall"

- May is directory (optional)
- Shall is mandatory (compulsory)
- e.g. Income Tax law in India → Shall mandatory

Swatch Bharat Efforts are → May directory

●

- The words 'may', 'shall' should initially be deemed to have been used in their natural & ordinary sense.
- 'May' signifies permission and implies that the authority has been allowed discretion. 'Shall' in the normal sense imports a command.
- In cases where the normal significance of imperative & permissive terms leads to absurd, inconvenient or unreasonable results, they should be discarded.
- "May" though permissive sometimes has compulsory force & is to be read as shall.

(B)

(1)



remedy → hardship - glt decision

solution

Prejudice → एतनी काहकोस

discretion → शक्ति

mischief → +harms or trouble caused

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The rule in

### Heydon's case Or Mischief Rule

मिश्चियल एतनी - एतिएर

- where the language used in statutes is capable of more than 1 interpretation.
- for the true & sure interpretation of all statutes in general, four things are to be discerned & considered.

(a) what was the law before making of the act?

(b) what was the defect, mischief, hardship caused by the earlier law?

(c) How does the act of parliament seek to resolve or cure the mischief or deficiency?

(d) what are the true reasons for the remedy?

e.g. VAT, service tax → Cost  
Companies Act 1956 → Companies Act 2013

### Secondary Rules of Interpretation

#### 1. Doctrine of Noscitur a Sociis

It is useful when the one word has multiple meaning then the meaning of a word is to be judged by the company it keeps.

e.g. → Issue - Hospital, Library, Problem, Interest, IPO

Interest - Bank, Uking → If interest is coming in bank records it means it is interest rate not Uking



begum → shadi → custom → Agni  
 hawan kund - Agni

② Optima Legum Interpret Consuetudo

- Custom is the best interpreter of the law
- e.g. Hindu Law Marriage
- Sapt Padi → Here Agni means
- Hawan kund

③ Contemporanea Expositio est Optima et Fortissima in lege

- Best way to interpret a document is to read it as it would have been read when made
- e.g. Indian Contract Act, 1872
- reading in 2023

AIDS

Internal

- Help is available in Base Act itself
- e.g. proviso, long title, Chapter name

External

- It is available outside of the Base Act
- e.g. dictionary, definition, foreign court decision



## Internal Aids to Interpretation

### ① Long Title :-

Short title is merely

eg. The Companies Act

Long title on the other

act enactment & does not merely identify it

eg. An act to consolidate & amend the law related to companies.

Long titles are used for interpretation

### Chapter's Heading

### ② Heading & Title of a Chapter :-

As per the Companies Act, 2013, Chapter 2 is dividend; Chapter 9 Accounts of Companies; Chapter 10 Audit.

To interpret the law effectively it is important to read title before we read sections.

Sections referring to a particular subject are grouped together in a chapter.

### ③ Marginal notes :-

Are nothing but side notes, often found at the side of the section.

Do not use marginal notes for the interpretation of law except Articles of the Constitution

### ④ Preamble :-

Defines scope, objective & purpose of the act

It gives us more clarity than the long title.

It must be used to interpret the law.

## Long Title & Preamble

Index of Constitution

Purpose - यह कानून को बनाने का मकसद है

Objective - इसका उद्देश्य क्या है

Scope - कवर करेगा



①

## Internal Aids to Interpretation →

①

### Long Title :-

- Short title is merely chosen for convenience  
e.g. The Companies Act, 2013.
- Long title on the other hand describes the act enactment & does not merely identify it  
e.g. An act to consolidate & amend the law related to companies.
- Long titles are used for interpretation

### Chapter's heading

②

### Heading & title of a Chapter :-

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④

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- It gives us more clarity than the long title.
- It must be used to interpret the law.



Provided that  
further provided that

Lawyer → Compulsion  
to interpret

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### ⑤ Definition

→ Outside Base Act

- given in sec 2 can't be ignored, shall be used at the time of interpretation.
- e.g. definition of salary in Income Tax Act shall be used to define the meaning of salary throughout the Income Tax Act.

### Types of Definition

#### (i) Restrictive

- When a word is define to mean such & such then it is restrictive.
- Appellate Tribunal means the National Company law appellate tribunal constituted sec 410.

#### (ii) Extensive

- When a word is define to include such & such
- e.g. → definition of salary as per IT Act salary includes BP, HRA, Bonus etc.

#### (iii) Ambiguous

- When the definition is not clear then it has to be read in the light of other provision of the act.

### ⑥ Provision

- Exception to the section
- Always start with Provided that or further provided that
- It is important to interpret the section
- e.g. → provision of sec. 149(1) — women director

Memble  
Pankaj

⑦ Illustration

⑧ Schedules

⑨ Reading

⑩ Examples

Small  
check



Memble  
Ponso

Prevail - चतोर

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⑦ Illustrations & example Sec. -

- Many sections have illustrations which will be used to interpret the law. However, the sec and illustration are creating conflict. Then section will prevail.
- eg → Sec 152(6) director retirement by rotation

⑧ Schedule →

- eg → Schedule III. — prepare Balance sheet  
Schedule IV — activities of CSR
- Schedule form the part of an Act therefore, they must be read together with the act.

⑨ Read the Statute as whole →

- unless & until you read the entire law we can't interpret the law correctly.  
Read law as whole

⑩ Explanation →

• eg → as per sec 151 of the companies act 2013, Small shareholder, director of small shareholder  
check & director In the explanation of this sec it written that small shareholder mean SH holding shares of not more than nominal value of 20,000. It means explanation are essentials to interpret the law.

8-10 marks  
Pankaj  
Kamabam Notes



Consolidate → दो को मिलाके

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## (B) External Aids to Interpretation :-

### (1) Use of foreign decisions :-

- Countries following the same system of jurisprudence
- e.g. - British law can be legitimately used to interpret our own acts. These decisions are not compulsory for us to use.

### (2) Dictionary Definitions :-

- e.g. - wikipedia, Oxford
- In the absence of definition of particular enactment we may use the definition of dictionary which is not compulsory.

### (3) Historical Setting :- <sup>archival</sup> corona 2030

- History in general & parliamentary history in particular, ancient statutes, etc are to be considered to interpret the law.

### (4) Usage :-

- means how that language has been interpreted and acted upon over a long period.
- e.g. → Sapt Padi (Agni (Haram land) <sup>burned</sup>)

### (5) Consolidating Statute & Previous law :-

- e.g. GST is the consolidation of VAT & Service Tax means we can't interpret GST without understanding VAT & Service Tax.



Earlier & Later Act & Analogous Act

(i) Repealed Act :-  
• Repealed (deleted) part of the act may still to be taken into account for construction of unrepealed part of the act.

• Sec that 4th case is bear 4th in speech  
by default no 4th

(ii) Earlier Act Explained by later act :-

where the earlier statute contained a negative provision but the later one merely omits that negative provision. This cannot by itself have the result of substantive affirmation. In such a situation, it would be necessary to see how the law would have stood without the original provision & the terms in which the repealed sections are re-enacted.

→ e.g

Earlier & Later act

Repealed -  
उत्तर में जो भी पसना  
है उसे नष्ट कर दिया जाता है  
उत्तर में जो भी पसना  
है।

4 exceptions of  
अपवाद - 4 अपवाद

to understand why  
that was deleted

Read out अर्थ अर्थ का  
लगा है  
by default no 5th exception  
अपवाद नंबर 5

Not repealed/ko  
interpretation  
पर अपवाद नंबर 5

अपवाद  
अपवाद नंबर 5



\* Section will override Preamble  
 \* Associate words - meaning of something depends upon its context  
 \* Section Extends

Grammatical-Literal Rules of Interpretation of Law  
 Logical-Reasonable

Primary Rules

- Rule of Literal Construction  
 Only one meaning (Only one interpretation)  
 Law language - clear & unambiguous  
 (e.g. Director of Public Prosecutions v. Collins)
- Rule of Reasonable Construction  
 Law language - vague & ambiguous  
 different meanings  
 (e.g. Army cant speak in Army)
- Rule of Harmonious Construction  
 Conflicting provisions  
 e.g. Sec 143(b) - 143(c) / Sec 100(b) - 100(c)  
 Both - same - RR / Both - different - RR
- The Rule in Heydon's Case  
 Mischief Rule  
 What mischief was intended to be remedied?
- Rule of Beneficial Construction  
 Law - for public / for females / for children  
 rule - in favour of public / in favour of children
- Rule of Exceptional Construction  
 Law - for public / for females / for children  
 Sometimes - and -> or -> or -> and  
 may -> shall -> may
- Rule of Ejusdem Generis  
 e.g. Milk - wood - green - etc.  
 General word will take the colour of specific word

Secondary Rules

- Doctrine of Necessity  
 a Sacis  
 Necessitas - Motus  
 Interest
- Doctrine of Contemporaneity  
 Expositio  
 same - Part I King 1000  
 sign - on the same date
- Optima Legum  
 legum - Begum  
 Agni - Hawankund  
 Sapd Padi  
 By Default Custom

Preamble  
Section

Long title (Article name)  
 Heading (Chapter name)  
 Section

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Aids of Interpretation

Internal Aid

External Aids

- Long Title  
 v. of companies act 2013  
 word - act to consolidate & amend the law related to companies
- Preamble  
 Gives more clearly than long title  
 Interpret - Sec 3, Chapter, scope of the act
- Heading  
 chapters heading  
 e.g. Director of Public Prosecutions v. Collins  
 Interpret - before section

- Use of foreign decisions  
 e.g. British act may be used for taking decision in India  
 • Countries having same system of jurisprudence
- Historical setting  
 e.g. - context -> same -> read -> not read  
 • Past history -> same -> interpret -> not interpret
- Usage - custom - tradition  
 e.g. - Sapd Padi  
 Agni (Hawan Kund) - Assumed not written in law

Statutes  
Schedules

Part of act  
 s 10 - s 15  
 s 10 - s 15 - must read with the act

- Marginal Notes  
 • side notes  
 • helpful in interpretation
- Articles of Constitution

Illustrations examples

• Sec 4 - ill<sup>d</sup> conflict  
 sec - prevail  
 e.g. -> Sec 152(c)  
 director retirement by rotation.

Consolidating statutes & Previous law

• GST = VAT + service Tax  
 • To understand GST we should read VAT & service Tax

Dictionary Definition

• Act - definition  
 • normally use oxford, wikipedia

Earlier & Later acts & Analogous Act

reference to repealed act -> delete  
 reference to repealed act -> delete  
 reference to repealed act -> delete



⑧ ~~120~~ <sup>7</sup> proviso → exception to section

- Start with provided that or further provided that
- Imp't to interpret
- eg → Sec 149(1) - Women Directors.

⑨ Explanation

- Sec 151) → Small shareholder can choose directors
- Explanation → SSH are SH - Holding share of nominal value not more than 20,000
- Imp't to interpret the law

⑩ Definitions → In Act → Imp to Interpret

- Sec 2 - imp't to interpret
- outside Act → optional [eg → Oxford dictionary other's Act defini.]
- Restrictive → means such & such
- Extensive → includes such & such ← Inclusive
- Ambiguous → not clear (has to read in the light of other provisions)

⑪ Read the statutes as a whole

- Unless & until
- Read Law as whole



## Rules of Interpretation/Construction of Deeds & Documents

eg → of deed ⇒ Lease deed, Sales deed, Partnership deed

Whatever we have read in rules & aids it is useful for the interpretation of act, law whereas now we are understanding how to interpret deed and not the law.



8-10 parts  
Program Notes

(i) **Surrounding** - Part of the deed - Business Background directly read

(ii) **Read as a whole** - (a) document/deed is read to interpret it

(iii) **One deed is not require to be same like other deed**  
• e.g. → deed of Mcd & cocacola and deed of Tata & starbucks may have different interpretation

(iv) **Harmonious Construction** → Conflict in the Harmonious  
• Conflict between two different paragraphs of the same deed  
• e.g. → One deed  
Working period → 2yrs Agreement → 5yrs

(v) **Noscitur Sociis** → Natural meaning  
• If one word having more than one meaning use appropriate meaning.  
• e.g. - Issue, Interest

(vi) **Before we read the Deed know the status and training of the writer.**  
• कानकापुराण में निम्नलिखित शब्दों का अर्थ  
serpan writing  
पुस्तक Bevatof  
पुस्तक

(vii) **meaning shall remain the same across the deed for the same word.**



not withstanding <sup>नहीं बाधा</sup> without prejudice <sup>एक ही नहीं कर सकते</sup> conditional in nature <sup>शर्तों पर</sup>

**Subject to:** → I will come to the party subject to   
 e.g. → I can withdraw any amount of foreign   
 Exchange subject to approval of RBI.

Conditional in Nature

**Not withstanding:** → Power

- It has the effect of making the provision prevail over the others
- makes section more powerful than others.

**Without prejudice:** → In addition

without harming to other section   
 एक ही नहीं कर सकते

would not restrict the operation of the preceding provisions. In fact it the addition to previous provisions.