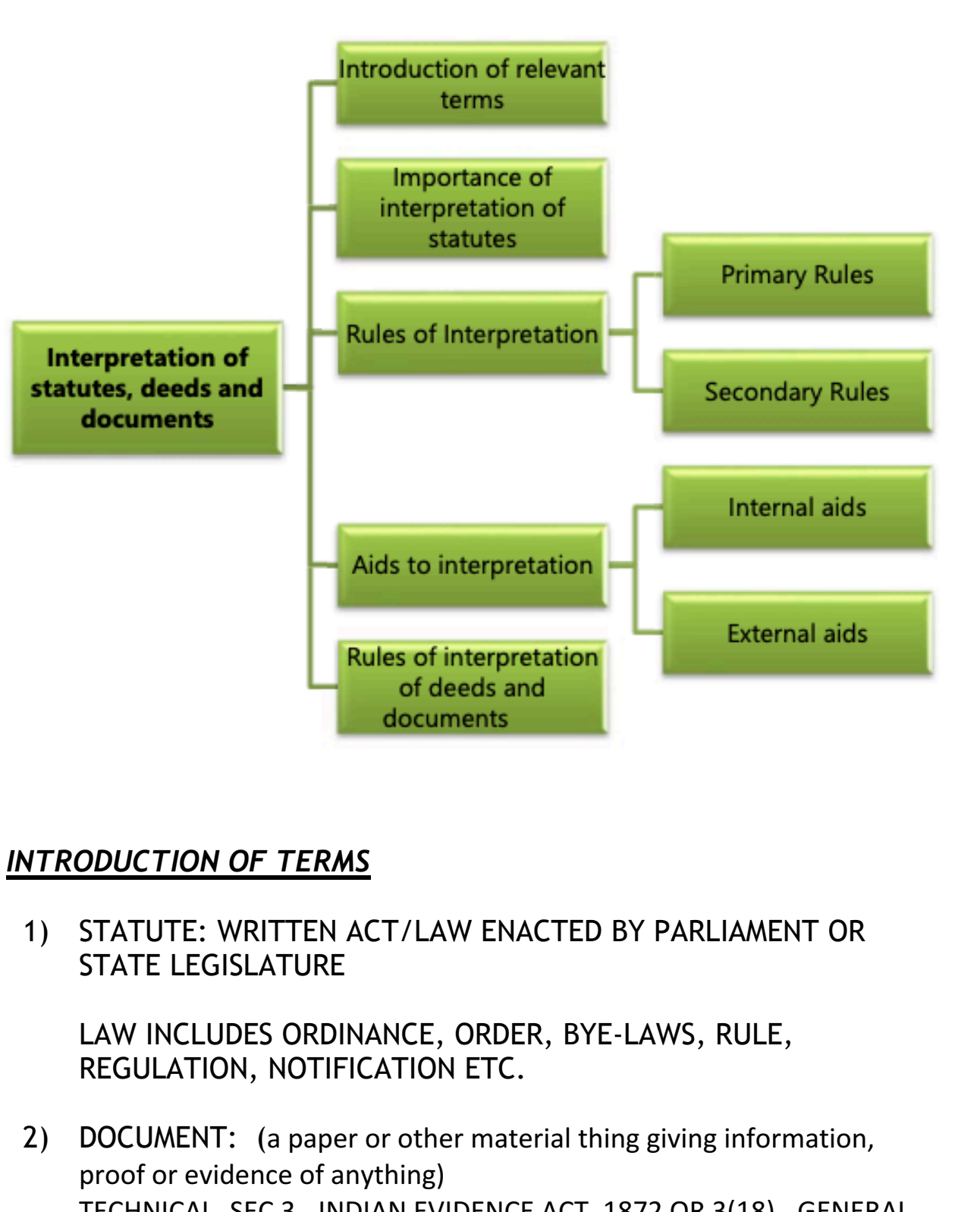


INTERPRETATION OF STATUTE

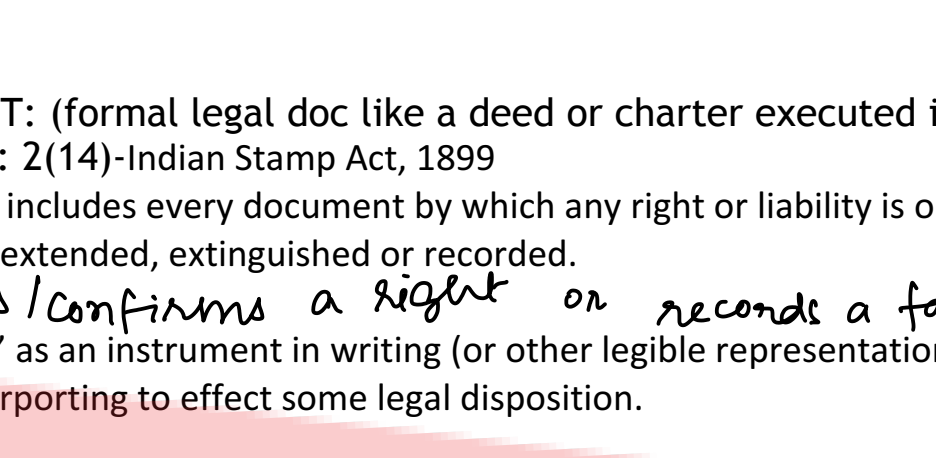


INTRODUCTION OF TERMS

1) **STATUTE: WRITTEN ACT/LAW ENACTED BY PARLIAMENT OR STATE LEGISLATURE**

LAW INCLUDES ORDINANCE, ORDER, BYE-LAWS, RULE, REGULATION, NOTIFICATION ETC.

2) **DOCUMENT:** (a paper or other material thing giving information, proof or evidence of anything)
TECHNICAL- SEC 3 - INDIAN EVIDENCE ACT, 1872 OR 3(18) - GENERAL CLAUSES ACT, 1897
 "Document" means any writing expressed or described upon any substance by means of letters, figures or marks or by more than one of those means, intended to be used, or which may be used, for the purpose of recording that matter.

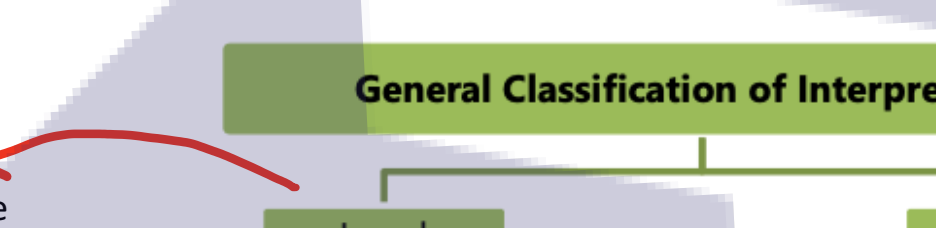


- (i) **Matter**—This is the first element. Its usage with the word "any" shows that the definition of document is comprehensive.
- (ii) **Record**—This second element must be certain mutual or mechanical device employed on the substance. It must be by writing, expression or description.
- (iii) **Substance**—This is the third element on which a mental or intellectual elements comes to find a permanent form.
- (iv) **Means**—This represents forth element by which such permanent form is acquired and those can be letters, any figures, marks, symbols which can be used to communicate between two persons.

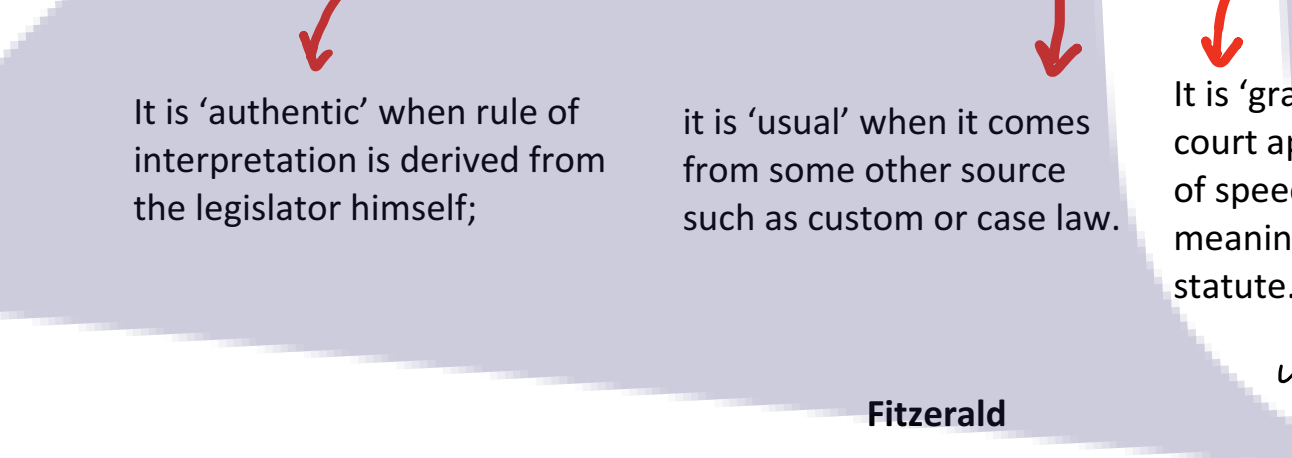
3) **INSTRUMENT:** (formal legal doc like a deed or charter executed in technical form)
TECHNICAL: 2(14)-Indian Stamp Act, 1899
 'instrument' includes every document by which any right or liability is or purports to be created, transferred, extended, extinguished or recorded.
 Checks confirms a right or records a fact.

4) **DEED:** 'deed' as an instrument in writing (or other legible representation or words on parchment or paper) purporting to effect some legal disposition.

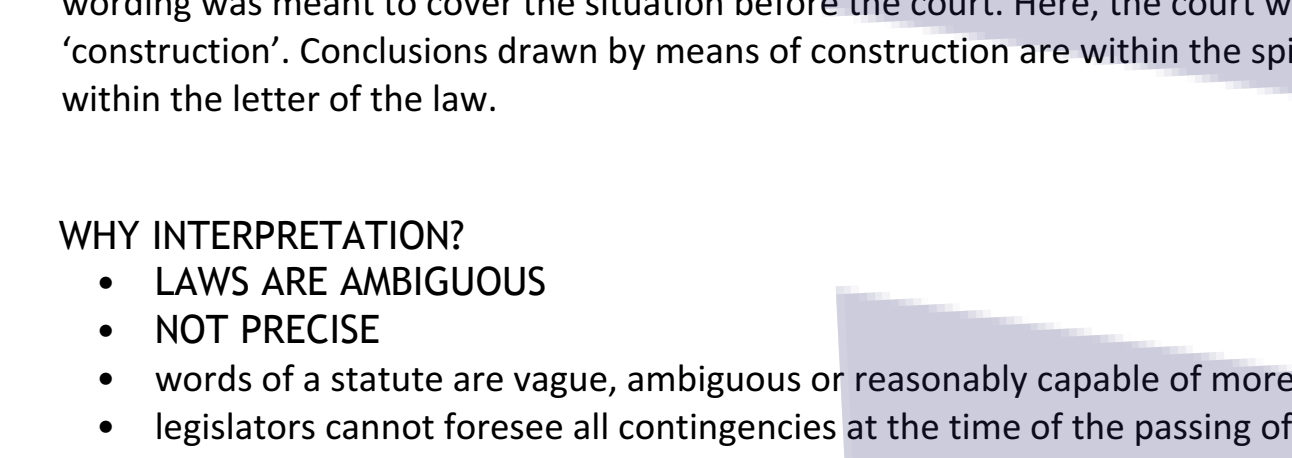
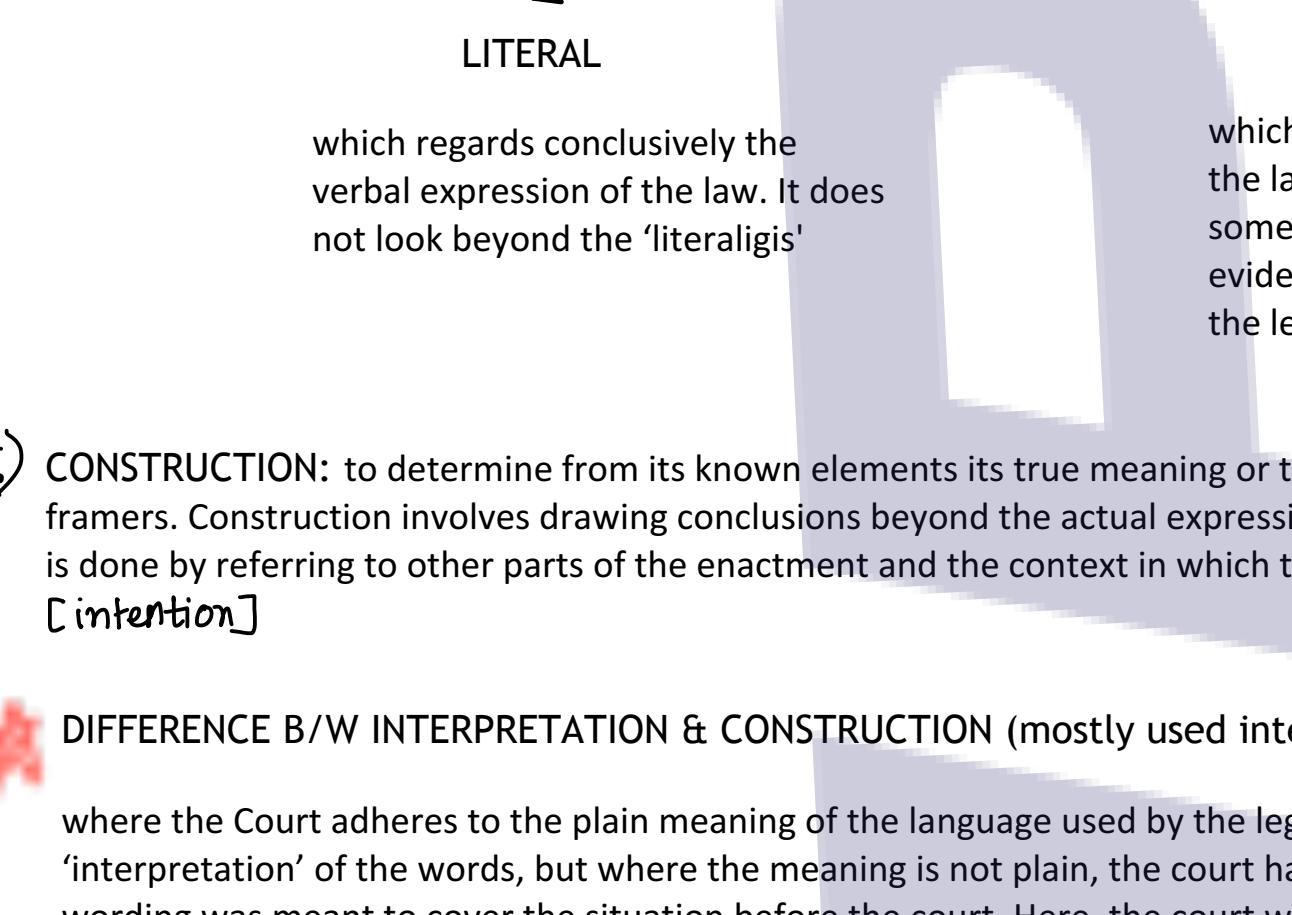
5) **INTERPRETATION:** the process by which the Courts seek to ascertain the meaning of the legislature through the medium of the words in which it is expressed.



IMPORTANCE OF INTERPRETATION



CLASSIFICATION OF INTERPRETATION

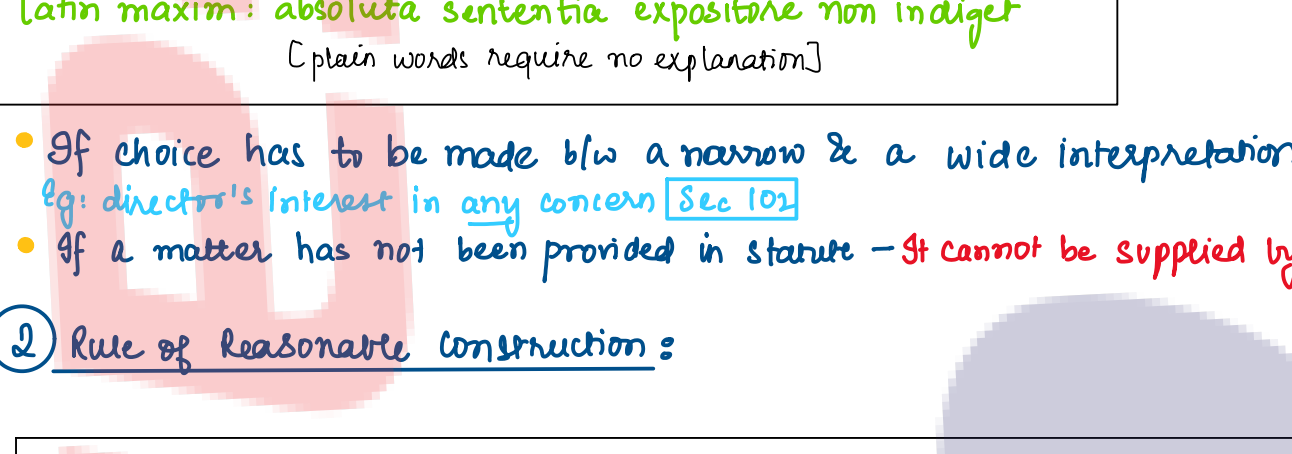


CONSTRUCTION: to determine from its known elements its true meaning or the intention of its framers. Construction involves drawing conclusions beyond the actual expressions used in the text. This is done by referring to other parts of the enactment and the context in which the law was made. [intention]

DIFFERENCE B/W INTERPRETATION & CONSTRUCTION (mostly used interchangeably)
 where the Court adheres to the plain meaning of the language used by the legislature, it would be 'interpretation' of the words, but where the meaning is not plain, the court has to decide whether the wording was meant to cover the situation before the court. Here, the court would be resorting to 'construction'. Conclusions drawn by means of construction are within the spirit though not necessarily within the letter of the law.

WHY INTERPRETATION?

- LAWS ARE AMBIGUOUS
- NOT PRECISE
- words of a statute are vague, ambiguous or reasonably capable of more than one meaning
- legislators cannot foresee all contingencies at the time of the passing of the law.
- FAULTY DRAFTSMANSHIP
- to ensure just & uniform decisions



Primary Rule:
 1) **Rule of Literal Construction:** Statute must be construed according to plain, literal & grammatical meaning [popular sense] eg: Bech leaves
 Technical words are understood in their own sense eg: Name of law

2) **Rule of Reasonable Construction:**
 Maxim: ut res magis valeat quam pereat
 Statute must be construed so as to lead to a sensible meaning.

3) **Rule of Harmonious Construction:**
 Applied when there is a conflict between provisions of a statute construed them in harmonious way. eg: Sec 46 ACP
 If enactment capable of 2 constructions - prefer the interpretation that fulfills the object.

4) **Heydon's Case or Mischief Rule:**
 Statute capable of >1 interpretation / ambiguity in law
 Express mischief to advance remedy
 Consider: What was the law before making of Act? What was the mischief caused by earlier law? How the act seeks to resolve that mischief? What are the true reasons for remedy? eg: Mischief Comp Act.

5) **Beneficial Construction:**
 Interpret liberally to give effect to intention of law
 permits extended meaning to words in enactments for underprivileged class
 Only when 2 constructions are possible

6) **Rule of Exceptional Construction**
 Applied if one - if intention is clear & other construction would defeat intention [Conjunctive] [Disjunctive]
 in docs also used synonymously. depends on context & meaning of other provisions in same doc.
 And/or - read either disjunctively or conjunctively.

7) **Rule of Ejusdem Generis:**
 Same kind or species
 Applies when: enumeration of specific words - construes a class or category not exhausted - General terms follow - No indication of different legislative intent

8) **Rule of Noscitur a Sociis:**
 Decline of Noscitur a Sociis
 Understand a word in separate sense
 they take color from each other
 eg: Fresh juice not a processed fruit juice
 Part - machinery

9) **Rule of Contemporanea Expositio:**
 Decline of Contemporanea Expositio
 Expositio has received from contemporary authority is straight in law
 Law should be understood in sense in which it was understood at the time when it was passed.
 Maxim: Optima legum interpretatio est contrarietas
 Contrarietas is the best interpretation of law
 applies to ancient statutes - Not to modern Acts.

Aids:
Internal aids:
 (a) Title: Long title describes the act and refers to ascertain its scope & purpose. Short title identifies the act. but it cannot override the clear meaning of enactment [more comprehensive]

(b) Preamble: scope, object, purpose of act. If unclear ground of cause of making a statute & evil it sought to remedy. words >1 meaning - intention can be ascertained by referring to preamble. eg: Hindu Marriage Act.

(c) Heading & Title of a Chapter: aids. referred to determine doubtful expression in a section. referred to know the scope of a section. cannot control or override a section.

(d) Marginalia: summarizes & aids notes to sum up effect of section. Not present when act was passed but inserted later. Hence, aid X. permissible only in exceptional case.

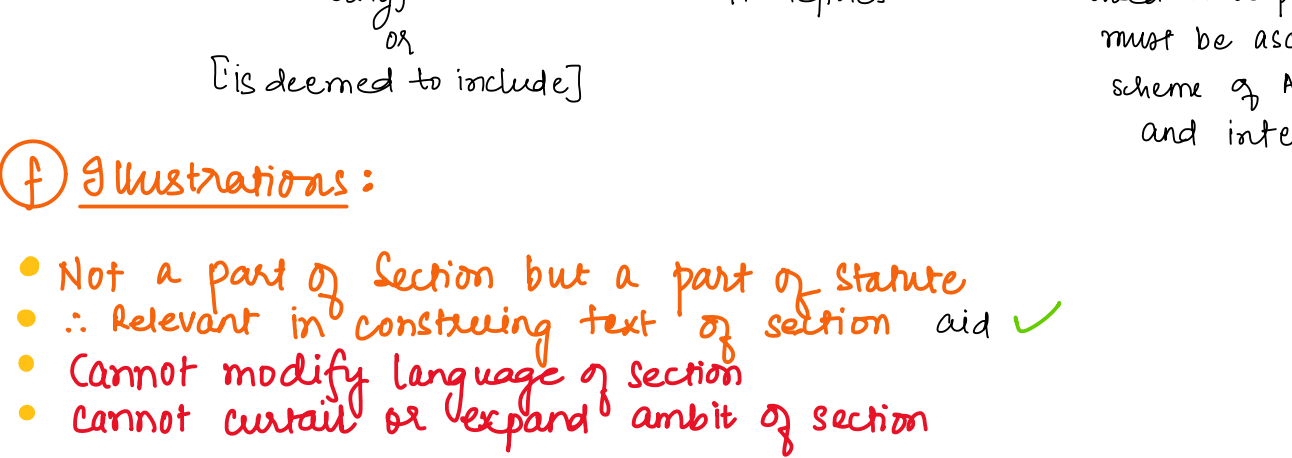
(e) Definitional Section/Clauses: Word - Particular meaning in enactment. use that meaning unless repugnant - exhaustive definition. [Court cannot ignore this]. Purpose - proper interpretation of act. shorten language of act. Construction of definitions: Recitative & extensive. Recitative: 'includes' or 'includes' - Read in context of the phrase it defines. Extensive: 'includes' or 'includes' - Read in context of the phrase it defines. Ambiguous: subject to ordinary context. No of inclusive meanings. Sense in which the word is used in a particular provision must be ascertained from scheme of Act, language of provision and intended object.

(f) Illustrations: Not a part of section but a part of statute. relevant in construing text of section. Cannot modify language of section. cannot curtail or expand ambit of section.

(g) Proviso: except something or qualify something. usually embedded in main body of section. begin with 'provided that'.

Distinction between Proviso, exception and saving		
Exception is intended to remove the meaning of clause to particular cases.	Proviso is used to remove special cases from general enactment and provide for them specially.	Saving clause is used to preserve from the effect of section certain rights, remedies or privileges already existing.

(h) Explanation: to explain the meaning of certain words used in section. to include / exclude something from a section. Read as to harmonise / clear up ambiguity. Cannot widen the ambit of section.



(i) Schedules: Part of Act: read together for all purpose. cannot prevail over enactment.

(j) Read the Statute as a whole: External aids: (a) Historical Setting: historical facts, Parliamentary history, contemporary & authentic works & writings, external circumstances that led to the enactment. (b) Consolidating Statutes of Previous Law: Preamble may contain 'an act to consolidate the previous law'. Court may presume it is not intended to alter the law.

(c) Usage: how the language has been interpreted & acted upon over a long period by the public. (d) Consistency & Analogous Acts: different statutes in 'pari materia' / analogous cases. Even if made at different times, shall be taken together as one system. Construed as if contained in one composite act. if discrepancy: later act had modified earlier act.

(e) Dictionary Definitions: If word is not defined in act. take context into consideration. Judicial decisions having down meaning > weights than dictionaries.

(f) Use of Precedent Decisions: Same system of jurisprudence (b) similar laws. Indian decisions > foreign decisions. Prime importance to language of statute.

Interpretation of Acts & Documents: Find out what a reasonable & informed man would understand by the words used in deed. Must be read as a whole. Golden rule - ascertain intention of parties after considering all words in ordinary, natural sense. Take into account the circumstances under which particular words are used. Consider the status & training of parties. It is unnecessary to construe terms of one deed by reference to another. Some words cannot have a different meaning in the same documents. Conflict in 2 clauses - resolve so that all clauses are given effect to harmoniously. Not possible: earlier clause will override the later one part.