

LIMITED LIABILITY PARTNERSHIP ACT, 2008

Dates.

Act pass by parliament	consent/ Assent from president	Notified in official Gazette
↓	↓	↓
12/12/2008	07/01/2009	31/03/2009

enforceability of sections

section :-

- (1) Short Title :- limited liability partnership Act, 2008
- (2) Extent :- whole of India
- (3) commencement :- mostly sections enforced in India from 31/03/2009

⇒ Total NO. of sections = 81

⇒ Total NO. of schedules = 4

→ 1st schedule :-

Mutual Rights & Duties of partner
& limited liability partnership

→ 2nd schedule :- conversion firm into LLP

→ 3rd schedule :- Conversion of Pvt co. into LLP

→ 4th schedule :- conversion of Unlisted public company into LLP

Imp point :- Firm → LLP → sch-2
 Pvt. co. → LLP → sch-3
 Unlisted pub. co. → LLP → sch-4

→ listed public company can not converted into LLP.

→ Generally, Mutual Rights & duties of partners & LLP will be Decided by LLP agreement. But if LLP agreement is silent, then mutual Rights & duties will be decided by Schedule.

→ LLP → Administered By → central govt.

www.mca.gov.in

Ministry of corporate Affairs

↓
Registrar of companies

→ CG can amend provision of LLP

Notification in official Gazette

→ LLP rules can be formed by CG by Notification in official Gazette

→ **LLP :- Definition under section 2 :-**

A partnership formed & Registered under this Act (LLP Act, 2008)

→ LLP → promote entrepreneurship

→ Hybrid $\left(\begin{array}{l} \text{company} \\ \oplus \\ \text{partnership} \end{array} \right)$

Advantages of Both

- LLP company → limited liability → upto the value of Contribution
- Partnership → Flexibility

LLP agreement

Mutual Rights & duties

→ LLP disregards the company → higher cost of legal compliance
disadvantages of Both partnership → Unlimited liability
partner's of LLP → limited liability up to the value of contribution

characteristics:-

(1) separate legal Entity:-

- LLP's identity is separate from the identity of partners.
- Partners are not liable for the acts of LLP & LLP is not liable for the acts of its partners.
- creditors of LLP are the creditors of LLP only, not of its partners.

(2) Artificial legal person:-

- LLP is recognised by law
- LLP can do any act which is human being can do.
- LLP can have its own property, can sue or to be sued or can execute contract on his own name.

→ But LLP can not marry, can not take oath etc.

→ LLP is invisible, immortal only can be dissolve

(3) common seal :-

→ The Acts of LLP can be Authenticated by

→ the LLP or its designated partners.

→ So, LLP can Act, through its partners or designated partners.

→ LLP may have a common seal or if LLP doesn't have common seal, then its Document can be Authenticated by atleast 2 designated partners

(4) LLP Agreement :- Mutual Rights & Duties of

→ Already covered :- partners of LLP

If LLP Agreement is valid & correct

Decided by LLP Agreement L X Schedule-1

(5) NO Mutual Agency :-

→ The partners of LLP are not liable for the Acts of each other.

→ partners are not the agent of each other, they are agent of LLP only.

- so, partners are not liable for any misconduct by another partner in business of firm.
- so, there is no mutual agency like partnership.

(6) Minimum ^{no.} of partners :- 2

→ Maximum ^{no.} of partners :- Unlimited

	partnership	individual	company	LLP
Mim	2	1	→ Pvt → 2 → Pub → 7	2
Max	50	1	→ Pvt → 200 → Pub → No limit	No limit
owner	partners	sole proprietor	shareholders	partners
management	Active partner	sole proprietor	BOD	designated partner

(7) Limited liability :-

- partners liability is limited upto the value of contribution held by partners in LLP.

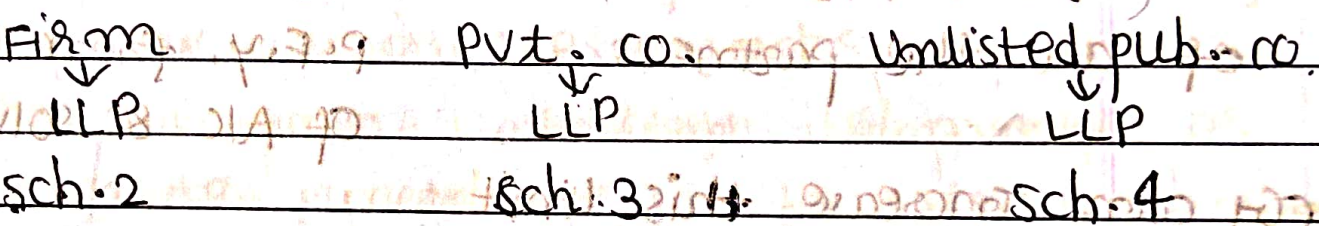
(8) Profit from Business :-

- Business includes
- trade
 - occupation
 - profession
 - services

→ The business must have intention of profit earning.

→ NO Business → NO LLP
A

(9) conversion into LLP :- Already Discussed.



(10) LLP affairs can be investigated by CA or CGI can appoint competent Authority.

(11) compromise / Amalgamation of LLP :-

→ merges of LLP as per prescribed rules in LLP rules.

(12) E-filing documents :-

→ LLP can file its all document electronically ROC on the site www.MCA.gov.in & Digitally sign all the documents through Digital Signature.

small LLP :-

contribution / capital Turnover

Doesn't exceed more than 25 Lakh

of all the partners

Doesn't exceed more than 40 lakh in

P.F.Y. from statement of A/c & solvency

CGI can increase this limit upto 5 cr.

CGI can increase this limit upto 50 cr.

Address :-

LLP Partners

Register office of LLP

Residential address of partner

Body corporate

Indian co. Foreign co. Indian LLP Foreign LLP

→ Body corporate means

A company which is incorporated under co. Act 2013 or any other previous co. Act. (Indian co.)

{main part}

→ It includes :-

- A company which is incorporated outside India but having a place of Business in India. (Foreign co.)
- A partnership which is formed & Registered under LLP Act, 2008 (Indian LLP)
- A LLP which is incorporated outside India But having place of B/S in India (Foreign LLP)

Inclusion part

-
- co-operative society
 - co-operation & sole
 - Any other Body corporate prescribed by govt through Notification in official Gazette

Exclusion part

⇒

Body corporate

Main part

Inclusion

Exclusion

Indian co. Foreign co. Indian LLP Foreign LLP corporate society sole

Name :-

Partnership Body corporate

Name, surname, Middle name Registered Name

chartered Accountant

member of $\oplus$ having certificate of practice

section

sec: 5

sec: 6 sec: 7

who can become partner No. of partner designated partner

#

section: 5

who can become partner

Individual

Body corporate

→ Rohan $\oplus$ Aman $\oplus$

→ Indian co.

→ unsound mind $\otimes$

→ Foreign co.

→ Insolvent $\otimes$

→ Indian LLP

→ Disqualified by law $\otimes$

→ Foreign LLP

- ↳ Minor $\otimes$
 - ↳ A person who applied to court for declaring him as insolvent $\otimes$
 - ↳ But his Application is pending $\odot$
- exclusion $\rightarrow$ corporate society
 $\rightarrow$ corporate sole
 $\rightarrow$ Any other body corporate appointed by court

$\Rightarrow$ Rohan $\oplus$ Reliance Pvt. Ltd

Individual $\rightarrow$ Body $\rightarrow$ corporate

$\Rightarrow$ Reliance Ind. Ltd $\oplus$ JKSC Pvt. Ltd.

Body corporate $\rightarrow$ Body corporate

section: 6 No. of partners

Min. of partners $\downarrow$ 2

Max. No. of partners $\downarrow$ NO limit

$\rightarrow$ If any point of time, $\left\{ \begin{array}{l} \text{If minimum no of partners} \\ \text{are reduced below than 2} \end{array} \right.$

$\downarrow$

Then, the remaining partner can carry Business for 6 months but if carried

Business for more than 6 Months

Then the Remaining will be personally liable for all the liabilities incurred during that period.

Section : 7 Designated Partner

→ 2 Types of partner

- Normal partner → Business manager
- Designated partner → Business manager

↓

Responsible for legal compliances

→ Every UP must have at least 2 designated partner which should be Individual.

↓

In which one of them must be in Resident of India

↓

who stays in India for more than 120 days in immediately preceding F.Y.

→ If Body corporate are the partners, then Body corporate will appoint their nominee

who can act as designated partner.

How to become Designated partner :-

→ Incorporation :- states the name of partner who will act as designated partner.

:- state the manner in which partners will act as designated partner.

→ Any other person or partner can become designated partner or can cease from post of DP as per LLP agreement.

→ Every partner who acts as DP must give written consent before becoming DP to LLP.

→ LLP will also file with ROC, the particulars of partners who acts as DP within 30 days of his appointment.

→ If any vacancy arises in the office of designated partner (casual vacancy) then LLP will appoint another person as designated partner.

→ If No Appointment



The every partners are to be treated as designated partner

→ Provision of Indian Partnership Act, 1932 will not apply in the LLP

→ Financial year (In LLP):

If any LLP incorporate after 30/9 then its F.Y. will end on the 31st March of Next following year.

Example:- (i) LLP incorporate :- 1/7/24



1/7/24 → 31/3/25

(ii) LLP incorporate :- 30/10/24



30/10/24 → 31/3/26

Incorporation of LLP

→ Form-1 :- Availability & Reservation of Name of LLP

→ E-form-2 : Incorporation Document

who will be partners who will be P P Prior consent of partner

→ E-form-3 : LLP Agreement → schedule: 1

Name :- LLP must use after being Registered

sec: 15 LLP OR limited liability Partnership

XYZ LLP OR XYZ limited liability Partnership as suffic

→ must not be undesirable in the opinion of co.

→ must not identical or resembles of another Body corporate name.

→ must not be in violation of Trademark of any other person.

→ Every proposed LLP → Along with File → with ROC

prescribed form e-form-1

(+)

prescribed fees

where Reg office of LLP is proposed to situated

Reserve the name for that LLP for 3 month from the date of intimation by ROC. Then ROC after payment of Receipt of Appli. form within 7 days

⇒ Incorporation Document :- **E-form-2**

→ At least 2 or any lawful subscribe in more person Business for their profit Name in Incorporation Document

→ File E-form 2 Along with prescribed fees → ROC depends on capital contribution of the state which Reg. office of prop. LLP is to be situated.

1. E-form 2
2. Name of LLP
3. Reg. office of LLP or any other Business Address
4. Proposed Business of LLP
5. Name & Address of partners
6. Name & Address of designated partner.

7. Any other prescribed Information.

→ A statement is also to be filed either by CA / CS / CMA / Advocate who is engaged in the formation of LLP as a professional

⊕

Any one of the subscribers

→ That All Rules & Regulations to incorporate LLP has been duly complied.

→ If this statement is false or to be known to be false

Impriusment upto 2 year

⊕

AND

Time

Min
10000

Max
5 Lakh

→ So, Now ROC will within 14 days from filling of Incorporation Documents & statements

Register the incorporation & issue a certificate of Document Incorporation by specifying the name of LLP

↓

If ROC found every document true & correct

ROC → sign & sealed

& LLP will be treated as Body corporate from the date mentioned in certificate of incorporation & with the name itself given in Incorporation Document.

→ The Incorporation certificate is a conclusive evidence of LLP Registration.

OR

Effects of Registration (Sec: 14) ←

↓

→ LLP can do all acts which a Body corporate can lawfully do. ←

→ LLP can sue or to be sued on its own name

→ LLP may have common seal

→ LLP can acquire, dispose, purchase property whether intangible or tangible or movable or immovable on its own name.

E-form 3 ⇒ LLP Agreement

↓

Rights & duties of partners of LLP

→ Now LLP can choose to have its LLP agreement.

→ If LLP decides to have LLP Agreement, then

it must be filed with ROC within 30 days of incorporation in prescribed form along with prescribed fees.

→ If NO LLP Agreement, then schedule 1 will be applicable.

LLP wound up (sec: 64)

Voluntary By Tribunal (NCLT)

By partners as per mutual agreement between them → CG can prescribe Rules for the winding up of LLP.

→ When LLP decides that wound up to be by tribunal

→ LLP unable to pay debts.

→ If no. of partner reduced below 2 & 6 month has been expired

→ LLP acts against the integrity (or sovereignty) of state.

→ Tribunal found just &

Equitable ground for LLP

→ If LLP does not file

Statement of Accountant & solvency OR Annual Return #

for consecutive 5 years

Financial disclosures

① statement of Account & solvency ⇒ 6 Months

② Annual Return ⇒ 60 Days

⇒ Maintenance of Books of Accounts, & other records

→ LLP shall maintain proper BOA

↓
which shows true picture of the affairs of co. for every F.y.

→ For preparing BOA, company must follow

Accounting principles
OR standards

Accrual double entry system
True & fair

→ BOA must be maintained at Registered office of LLP.



(9.11) BOA must be Audited by chartered Accountant as per the Rules prescribed & Auditing standards.



CGI can exempt any class of LLP through notification in official gazette for non-applicability of this section.

• penalty for contravention

LLP



designated partner

Min :- 25,000

Max :- 5,00,000

Min :- 10,000

Max :- 1,00,000

⇒ statement of Account & solvency :-

→ Every LLP prepare statement of A/c & solvency within 6 months from end of F.Y.

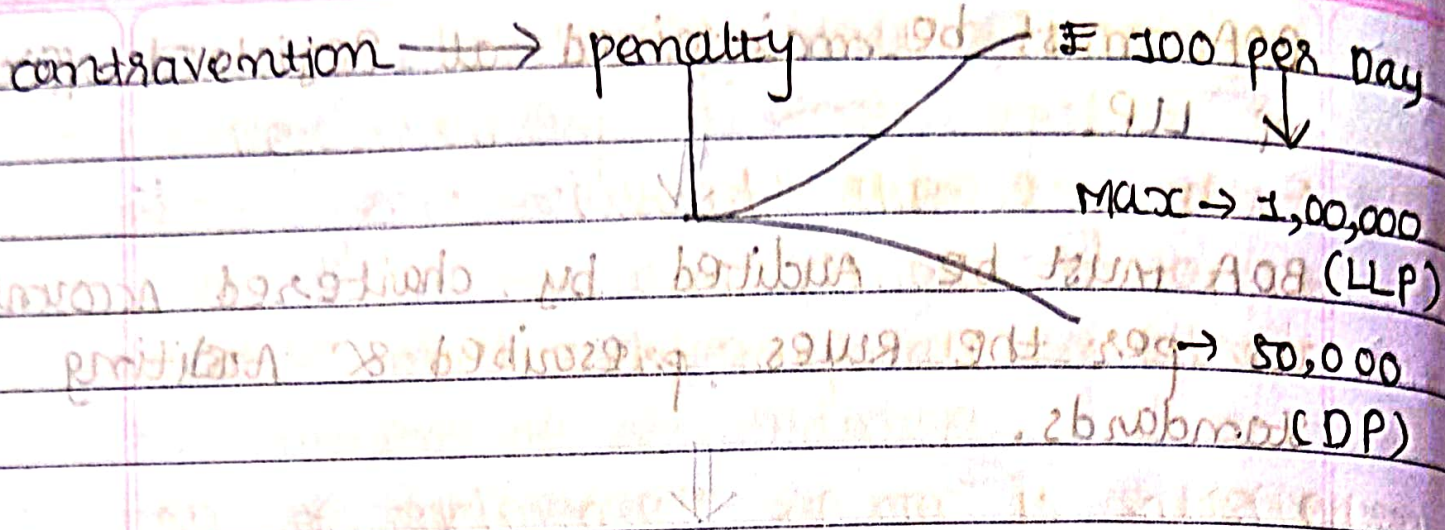


Has to be filed with ROC Along with Fees

for every F.Y.

As per the Rules prescribed by CG

shall be signed by designated partners



CGI can prescribe :-

Accounting & Auditing Standards Recommended By ICAI → In consultation with NERA

→ Annual Return

Every LLP shall file → ROC

within 60 days from end of F.y. (Fees for documents)

penalty for contravention :- ₹ 100 per day max to ₹ 1 lakh for LLP & ₹ 50000 for every D.P.

→ Registered office of LLP: Section: 13

(i) Every LLP must have registered office
↓
to send all communications & Notices.

↓
so, they can be received at Registered office

(ii) If any document → which needs to be sent
Notice

LLP Partner OP
either of post OR Any other mode
Registered office

Must be sent at RO or any place
mentioned in incorporation document.

(iii) can LLP change this : YES → By filing Notice of
Registered office change to ROC.

(iv) penalty for contravention :- Both on LLP & D.P
₹ 500 per day ----- Max. to ₹ 50,000

→ change of the Name of LLP :-

(i) If LLP has been Registered But its Name either Negligently OR Not Resemble the name of other Body corporate OR It is in violation of Registered trade mark.

(ii) So, in such case:- If COI is satisfied

Then COI can give order to LLP: (i)

to change its name with the New name within 3 months from date of order.

(iii) COI After filling application either LLP OR Registered trade mark Proprietor

(iv) But if application is filed by Registered trade mark (proprietor); SEC: 15

This Application is maintainable only within 3 years from date of Incorporation or registration.

(v) Now LLP obtains a New name then within 15 Days from such change

Notice to ROC ⊕ order of CG
⊕ prescribed fees

(v) Now ROC will issue new certificate of incorporation within 30 days from such change

(vi) If LLP doesn't } CG can allot the new
change the name to such LLP.
Name ↓

ROC will strike off the old Name & replace with new name in its Register.

AND also issue certificate of Incorporation

(vii) The person who subscribed in incorporation document shall be called as partners after incorporation of LLP.

Any other person can → According to LLP agreement also become partner.

→ Eligibility For Partner :-

The person who subscribed their name in Incorporation document. ⊕ Any other person can become partner by LLP agreement.

* Every partner of LLP has a interest in the LLP → share in LLP



When the interest in LLP will cease?

cessation of partnership Interest
OR

When a partner is called as ceased from



- (i) voluntarily By giving notice in writing for at least 30 days.
- (ii) on the death.
- (iii) Resigns as per LLP agreement
- (iv) Unsound mind declare.
- (v) Insolvent.
- (vi) Dissolution of LLP.

→ The ceased partner shall still considered as partner :- (sec: 24)

till the outsider doesn't know about ceastion of partner.
 till the notice that partner has been delivered to ROC.
 The ceased partner doesn't be discharged from liabilities that he incurred while he is a partner.
 (i.e.) Partner has to give public Notice.

ceased partner

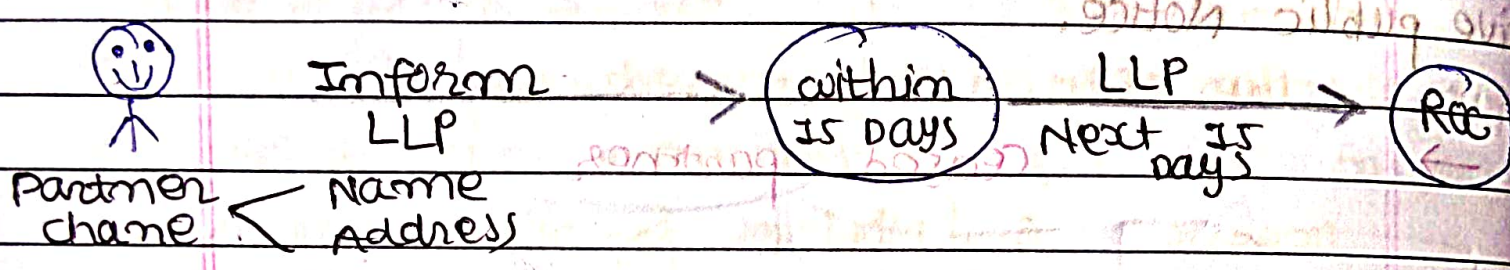
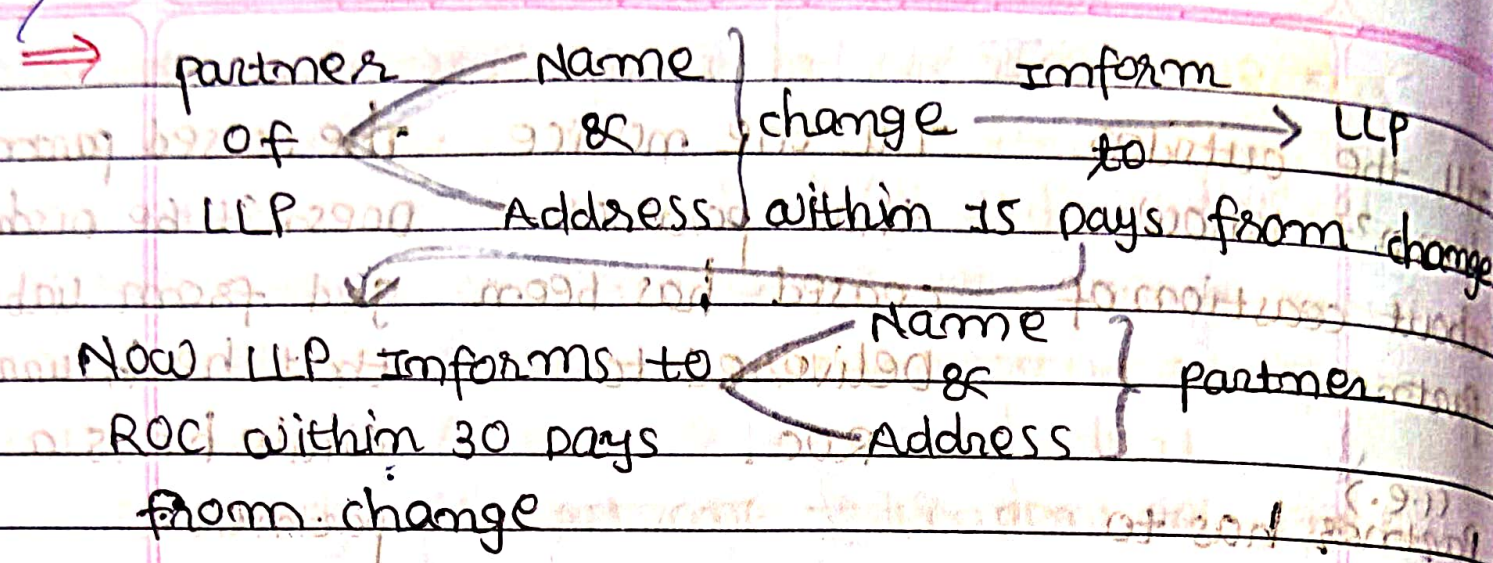
Death Insolvent other cases

Legal Representative Official Assignee ceased partner

HAS Right to receive capital contribution from LLP.
 share in accumulated profit & Reserve.

HAS NO Right to Interfare in management of LLP.

sec: 25



⇒ LLP can inform to ROC when a partner ceases or eligible within 30 days signed by: DP Also file his consent to become partner

⇒ Any person who ceases to be partner can himself file the Notice to ROC about ceasention of partner

If he Believed that LLP has not filed Notice with ROC.



Now Registrar of companies shall obtain a confirmation from LLP about that partner has ceased.

Either LLP confirms OR If LLP doesn't confirm within 15 days

The Notice by ceased partner is

deemed as Notice by LLP filed.

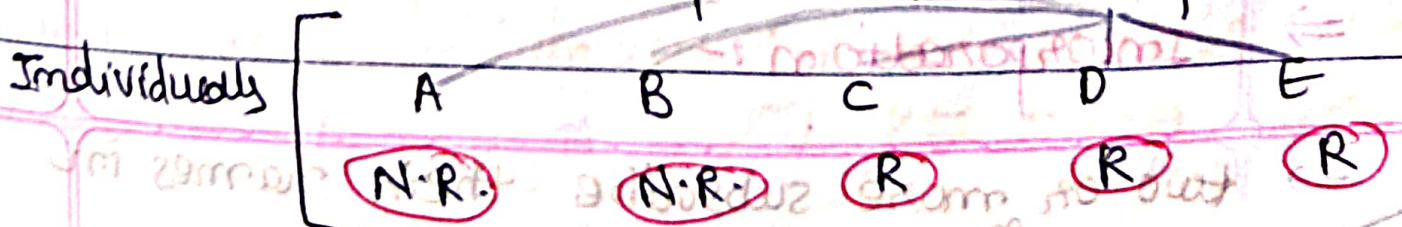
⇒ Examples of Financial year

LLP Incorporated Financial year

- | | | | |
|-----|---------|-------------------|---------|
| (1) | 1/4/24 | 1/4/24 - - - - - | 31/3/25 |
| (2) | 20/7/24 | 20/7/24 - - - - - | 31/3/25 |
| (3) | 28/9/24 | 20/9/24 - - - - - | 31/3/25 |
| (4) | 2/10/24 | 2/10/25 - - - - - | 31/3/26 |
| (5) | 3/1/25 | 3/1/25 - - - - - | 31/3/26 |

⇒ Example on sec: 7 :- ICAI

LLP → Ind. Helicopters LLP. → 5 partner



sec:- 6 $\Rightarrow$ Min. no. of partners = 2 $\Rightarrow$ 5

sec:- 5 $\left\{ \begin{array}{l} \text{Ind.} \rightarrow \text{All are individual} \\ \text{Body corporate} \end{array} \right.$

sec:- 7 - At least 2 $\rightarrow$ individual
At least one $\rightarrow$ resident of India

sec:- 4 - provision of IPA, 1932 will not apply on LLP.

sec. 4

sec. 5

sec. 6

sec. 7

$\Rightarrow$ Advantages of LLP:-

- (i) Easy to form
- (ii) Easy to Dissolve.
- (iii) flexibility to change the terms by mutual consent of partners. (LLP agreement)
- (iv) Limited liability of partners.
- (v) Easy to operate or manage
- (vi) less legal compliances.

$\Rightarrow$ Incorporation:-

$\rightarrow$ two or more subscribe their names in person

Incorporation person document who are carrying lawful Business for profit (E-form 2)

→ Incorporation document along with prescribed fees & statement to be filed with ROC of the state in which Reg. office of LLP is proposed to be situated.

→ Inc. document :- Name of LLP

:- Address of LLP

:- Balance sheet (B/S)

:- Name & Address of partner

:- Name of Address of DP

Sign :- CA/CS/CMA/Advocate

one of subscribers

2 year imprisonment

⊕

10000 to 5 lak

All Rules & Regulations to incorporate LLP has been complied.

⇒ contract of Indemnity & Guarantee

contract of
Indemnity

contract of
Guarantee

↓
compensate

↓
to make good the loss

- **Indemnity contract** :- Type of contract



It must have all essential elements of
valid contract (sec. 10, ICA, 1872)



A contract in which one party promises
to other party to save him from the
loss caused to him

Due to conduct of
promisor

OR

due to conduct of
any person

A



promisor

to save the loss

due to

B



promisee

contract

of

Indemnity

Promisor

(A)

OR

Any other
person

→ So, if any loss occurred to promisee, then that loss will be compensated by the promisor.

→ But contract of indemnity doesn't cover the loss which is due to :-

which is caused due to loss due to Act of god.
(due to his own conduct)

If any loss incurred to promisee due to his own conduct, that loss will not be compensated by promisor.

Promisor

Promisee

who compensate

to whom compensate

Indemnities

Indemnified

OR

Indemnity Holder

→ This type of contract covers the future loss (i.e. anticipated loss)

ACT OF GOD

Life Insurance

General Insurance

Contract of Indemnity

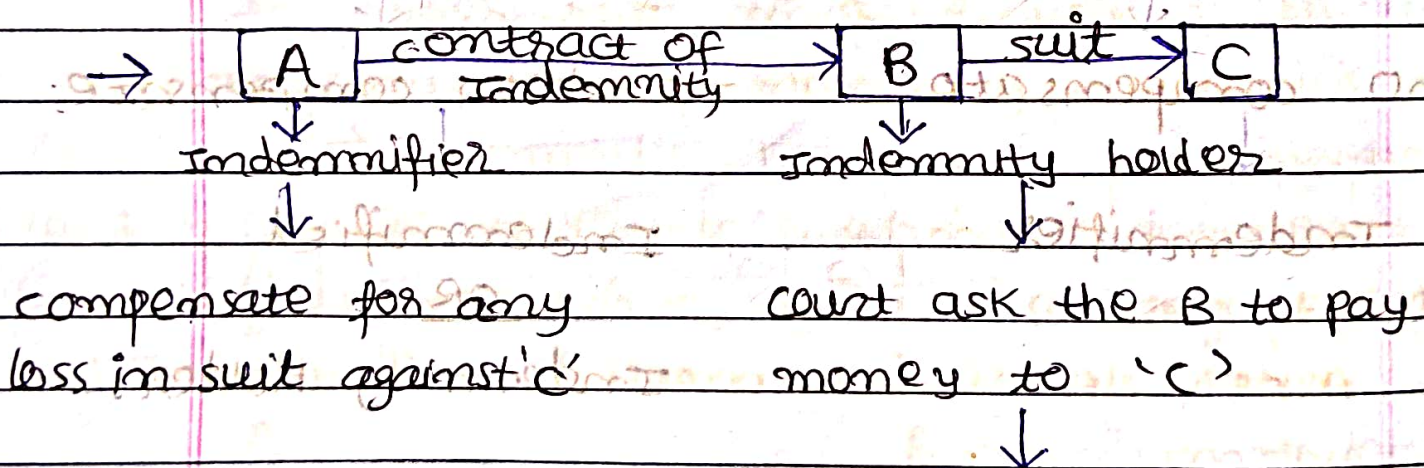
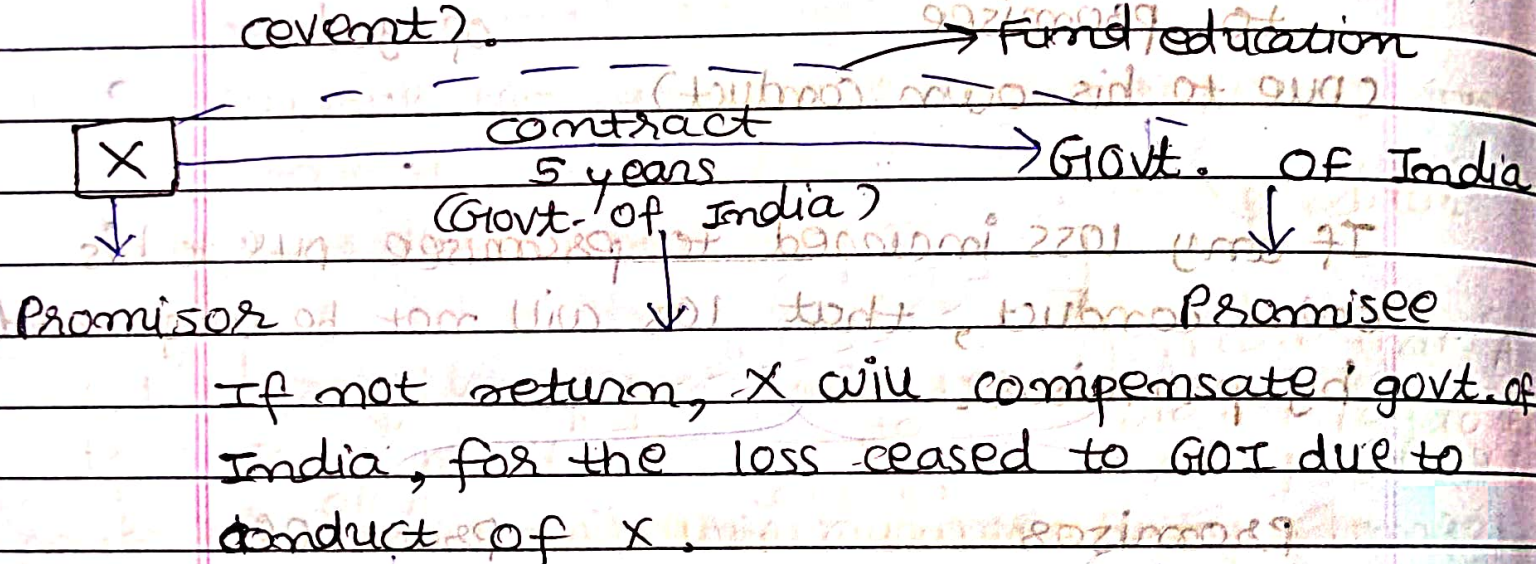
Fire marine contract of Indemnity

valid contingent contract

→ contract of contingent = Valid
indemnity contract

→ When the liability of indemnifier (promisor) arises

Ans:- So, on the happening of Any contingency event?



If B fails to pay C → A will pay to B & B will pay to C

A will pay

A -- "contract of indemnity" --> B

→ The liability of indemnifier will commence once the liability of indemnity holder will certain.

contract of Indemnity

Express

Implied

oral

written

↳ By mutual conduct of parties

↳ By circumstances

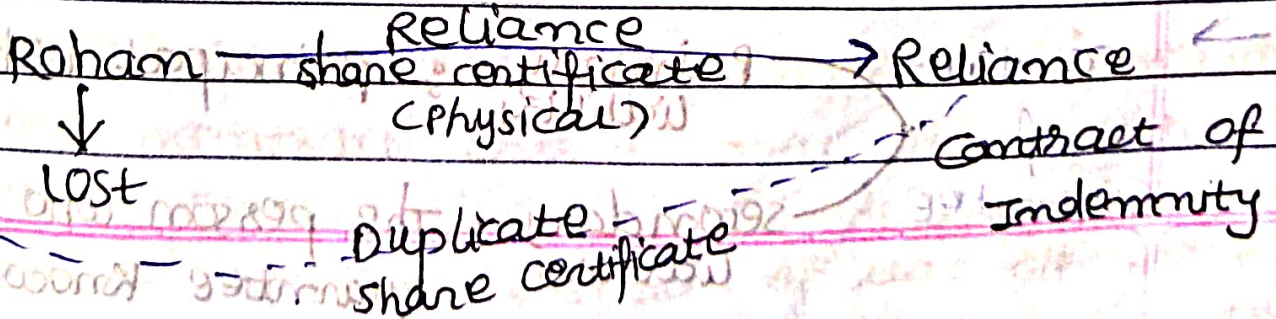
↳ By Mutual Behaviour

Rights of Indemnity Holder (promisee)

→ The indemnity holder can recover following amount from Indemnifier :-

- (1) All damages which promisee is Bound to pay in a suit.
- (2) All cost which he is Bound to bring suit.
- (3) All sum of money which promisee will paid under the compromise of suit.

Example:-



* Def. of indemnity contract

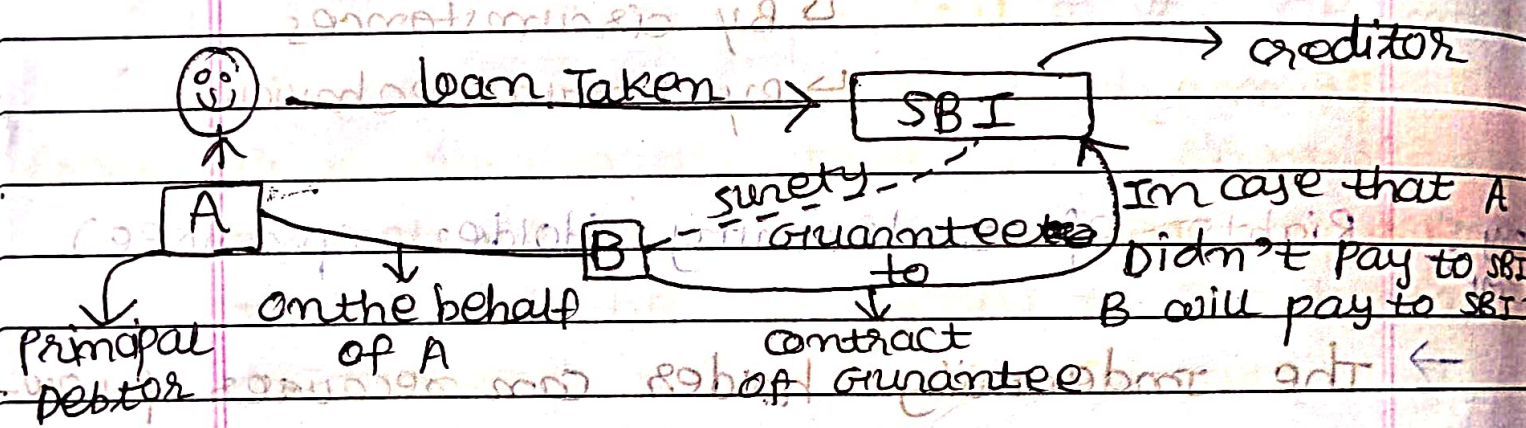
* Indemnification & indemnity

* losses which does not arise out of contract of indemnity

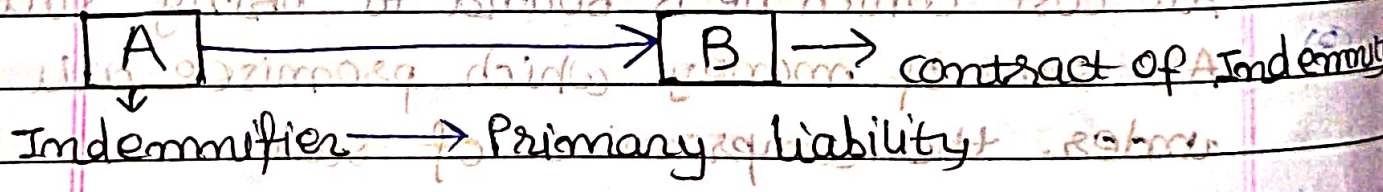
* when liability of indemnifier commence?

* Rights of indemnity holder Imp

• Contract of Guarantee



→ In contract of indemnity
 → Indemnifier has always primary liability



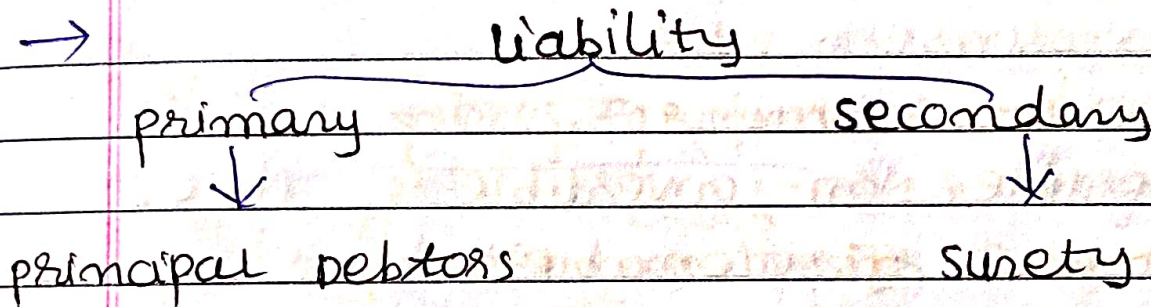
→ Contract of Guarantee

- Primary liability :- principal debtor
- secondary liability :- The person who is giving guarantee known as surety.

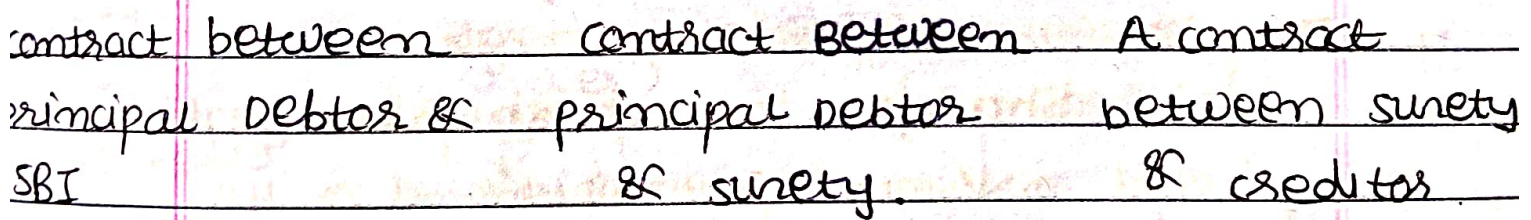
A :- principal debtor :- The person in whose behalf or on whose default a guarantee is given.

B :- surety :- The person who is giving guarantee

SBI :- creditor :- The person to whom guarantee is given.



→ Contract ⇒ 3

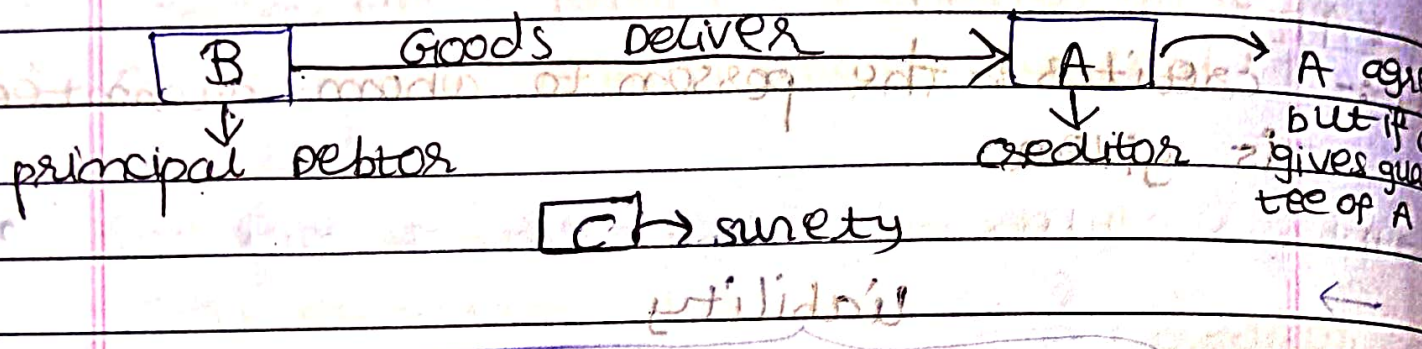


→ Elements of contract of Guarantee :-

- (1) Existence of debt.
- (2) This contract can be oral or written.
- (3) Past consideration is no consideration in contract of guarantee. (exception of that general rule: Past cons. is also a consideration)

(4) consent of surety shall not be obtained if the facts which are misrepresented or due to fraud.

→ consideration for guarantee :-



utilizing

contract

contract

contract

contract

contract

contract

contract