

Interpretation of Statutes (written law)

- finding out true meaning
- Decoding of law
- finding out the intention of the Author/Lawmaker

Law

Act

Rule

Regulations

Order

Ordinance

Meaning of: Decoding the law of finding out true meaning of law.

Object of Interpretation: To figure out the intention of law maker.

Rules of interpretation

Primary Rules
of Interpretation

Secondary Rules
of Interpretation

Types of interpretation

Polowicz

Legal

Doctrinal

Authentic

When interpretation is derived from legislature himself
eg: Sec 2(81) provides an explanation that here Co. incl. body corp.

usual

When interpretation comes from other source because actual rule is silent on a particular matter.
eg: judicial precedents as given in textbooks.

Refr
Next
Page.

Jolowicz.

Types of interpretation

legal

Authentic

- when interpretation is derived from legislature himself.

eg: Sec 2(87) provides an explanation that bear Co. ind. body Corporate.

usual

- when interpretation comes from other source because actual rule is silent in a Particular matter
- eg: Judicial Precedents as given in Woolf v. Woolf.

Doctrinal

To discover real and true meaning of

Statute

Grammatical

- when court applies ordinary rules to find out the meaning of the word used in statutes.

Logical

- when the court goes beyond the words to decode the law.

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Refer Page 14-2 for example.

Fitzgerald

Types of interpretation

Literal (Authentic)

- Literal interpretation of law and does not look beyond the words.

Functional (Logical)

- Here, interpreter goes beyond the law and tries to interpret the law in letter as well as spirit.

↓
intention of
legislature.

Conclusion: It simply means where law is clear in itself, interpreter is not required to go beyond the words of law, however, where there

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when interpretation comes from other source because actual rule is silent in a Particular matter
eg: Judicial Precedents as given in Walfour v. Walfour.

Doctrinal

To discover real and true meaning of

Statute

logical

- when court applies ordinary rules to find out the meaning of the word used in Statutes.

- when the court goes beyond the words to decode the law.

Refer Page 14+2 for example.

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Types of Interpretation

Literal (Authentic)

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Functional (logical)

- Here, interpreter goes beyond the law and tries to interpret the law in letter as well as spirit.

intention of legislature.

Conclusion: It simply means where law is clear in itself, interpreter is not required to go beyond the words of law, however, where there is ambiguity regarding the interpretation of law in a particular situation since law is silent on that particular situation, interpreter may resort to judicial precedents, grammatical meanings and may also go beyond the words of law to interpret the law in spirit, to ensure that purpose of legislature is fulfilled.

Imp.

Interpretation

v/s

Construction

- | | |
|---|--|
| <ul style="list-style-type: none">• Art of finding out the true sense of the word - ordinary interpretation• court applies plain meaning of the language used by legislature | <ul style="list-style-type: none">• Drawing of conclusions beyond the words - conclusion which are in the spirit though not within the letter of text.• where meaning is not plain, Court goes beyond the words which is called construction. |
|---|--|
- Interpretation and construction are used Interchangeably
 - In practice construction includes interpretation and the term are frequently used synonymously

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Rules of interpretation / construction

Primary Rule

1. Rule of Literal Construction

- When language is plain and unambiguous, no question of construction of status arises.
- objective of this principal is to discover true intention of letters of law, in its natural and ordinary sense.

betel leaves

Tax on fruits

ordinary and natural meaning is clear and unambiguous

• It is ambiguous whether tax can be levied on tomato.

∴ Sale of betel leaves is liable to sales tax.

• applying popular understanding which often exclude tomato from fruits

• Court might conclude that the tax on fruits does not apply on tomatoes. based

[Romarotar v Assistant Sales tax officer]

Art of finding out the true sense of the word - ordinary interpretation

Court applies "plain" meaning of the language used by legislature

• Drawing of conclusions beyond the words - conclusion which are in the spirit though not within the letter of text.

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[Romavator v Assistant Sales tax officer]

Tax on fruits

• It is ambiguous whether tax can be levied on tomato.

• applying popular understanding which often exclude tomato from fruits

• Court might conclude that the tax on fruits does not apply on tomatoes, based on popular understanding.

[State of H.P. v. Pawan Kumari]

→ Golden rule of interpretation.

2. Rule of Reasonable construction

① Maxim: Ut Rex Magis Valeat. Quam Pareat

② Rule of Reasonable construction means to interpretate the law Sensibly & Reasonably (Tax on fruit)

③ Refer Page no 14.6

3. Rule of Harmonious construction

① Refer Page 14.7 of CB.

④ Mischief Rule or Heydon's Rule (Situational Rule).

① Refer Page 14.8 of CB.

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5. Rule of beneficial construction

① It is not a rule of interpretation but a method of interpretation.

② Court has to interpretate the provision liberally to give effect to the declared intention of the legislation

③ If a statute serves any particular class/background. and such people are under privileged and not have been treated fairly in the past. It is permissible to give extended meaning to words so that the law can serve to all of them.

Special note: This interpretation is only possible in case when the words in the statute have two or more meanings.

eg: Refer Page no 14.9 for example.

6. Rule of Exceptional Construction

Conjunctive and Disjunctive words 'or' and

- or is normally considered disjunctive
- And is normally regarded conjunctive
- In special situation **AND** may be read for **OR**

May and Shall

Sometimes the words shall may be used as may and vice-versa.

Shall → May

May → Shall

and
'OR' for AND, provided that the intention of the legislature is otherwise quite clear.

[Refer Page no 14.9 of the Concept book]

⑦ Rule of Ejusdem Generis

where, in any law various words has been used, some of the words are specific in nature and some of the words and expression are general in nature, in such case general words shall derive its meaning and sense from the specific words after which it has been mentioned

ex:- Refer Page 2.46 [Ashbury Railway Carriage & Iron Co. Ltd v/s Richey]

To carry on the business of mechanical engineer and general Contractor

Shall derive its meaning

Secondary rules

Noscitur a Sociis

- A word known by its associate.
 - where, in any law, two or more specific words is used, one of such specific words and makes the interpretation useless.
 - In such case specific words shall lose its identity and shall derive its meaning from other specific associate words.
- eg:- Plant and Machinery

Fundamental Difference b/w

Ejusdem Generis

Primary rule

- General word is mentioned after specific words

General words derive its meaning from specific words.

- eg: Mechanical engineer and General contractor.

noscitur a sociis

Secondary rule

- Both the words are specific words

Ambiguous specific words shall derive its meaning from clear specific words.

- eg: Plant and Machinery

Doctrine of contemporanea expositio

The rule of Contemporanea expositio directs us to interpret words or phrases as they were understood in the historical context of the law's creation. Preserving the intent of the original legislature, this approach helps avoid expanding the law to cover modern developments that the law makers would not have foreseen.

∴ Optima legum interpres est consuetudo

→ The Custom is the best interpreter of the law.

① Need of Interpretation

① • Language Ambiguities: Laws are drafted by legal experts but they rely on language which is inherently imperfect. No language, including English, is precise enough to avoid all ambiguities.

eg: no vehicles allowed in the park. Here the language is ambiguous in relation to the word "vehicle". Here interpreters have to figure out what the legislature has prohibited and has to interpret the law accordingly.

② • Legislative intent: (a) A statute represents the intent of the legislature. This intent must be understood not only from the words used but also from the surrounding circumstances at the time of enactment.

eg: Tax on fruits shall exclude tomatoes. Since the surrounding circumstances show fruits does not include tomatoes in its ordinary and popular meaning.

(b) Courts must constructively seek the intent of law makers, not just from the statute language but also by considering the issue that led to the law creation and the problems it aims to solve.

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eg: Tax on fruits shall exclude tomatoes since the surrounding circumstances show fruits does not include tomatoes in its ordinary and popular meaning.

(b) Courts must constructively seek the intent of law maker, not just from the statute language but also by considering the issue that led to the law creation and the problems it aims to address. The court should then interpret the law in a way that fully supports the legislative intent.

eg: under Sec 17 of factories Act 1948, Provides for Sufficient and Suitable lighting for the safety of workers working in the factory. So Suppose in a factory where workers are working 10. Good Quality lights of 1000 watts has been installed and even after such installation there is darkness in the corners of the factory where workers are working, it means such 10 lights are not Sufficient and Suitable and the purpose of law is not fulfilled.

③ Multiple interpretation

(a) The Goal of interpretation is to understand the ^{intend} law maker conveyed directly or indirectly by the language used.

(b) If a statute allows for two interpretation, the Court must choose the one that best reflect the legislative true intent.

eg: Section 3 of Co's Act 2013 Provides "A Company may be formed at or any lawful purpose. Here there may be two interpretation that a Co. may be formed for lawful as well for unlawful purpose. However legislative never wants that Co. should be formed for unlawful purpose. therefore such interpretation which reflects the law maker intent should be given value.

④ When the intent is clearly expressed, interpretation focused on the words alone. however, if the intent is not cleared, the interpreter must use rule of interpretation.

④ Varied situations: its beyond human Capability to anticipate every possible future scenario and even if it were its impossible to draft laws entirely free from ambiguity.

Duties of the Court: (while interpretation)

① law is the ultimate authority: a Statute must be enforced by the Court, even if it seem unreasonable. the Courts duty is to apply the law as it is written, without judging whether it is fair or just. unless the law is changed, the Court must follow it as it stands.

eg: if a person Caught red handed having Possession of Cocaine of 10 grams only, he shall be liable under NDPS Act irrespective of the Quantity of such drugs.

② Grammatical v/s logical interpretation:

① Typically the Court Cannot alter the language of the law this is known as grammatical interpretation which follows the principle Maxim: "Abso luta sententia expositore non indiget", meaning "clear words need no explanation"

② However, there are exceptions

(a) if the wording of the law is ambiguous, inconsistent, or incomplete the Court may look beyond the literal words to understand the true intent of law makers

②

③ Aroura v/s State of UP

When a Clause can be interpreted in 2 ways the Court may choose the second interpretation which might not be strictly literal but could be more accurate in reflecting the law's purpose.

Interpretation of "Subject to" "without prejudice" and "not with standing"

Non-obstante clause

Not with standing: Gives a clause ^{139(5) → Priority over 139(1)} priority over conflicting provisions

eg: 139(1) - Appointment of Subsequent Auditor in 1st annual General meeting

139(5) - Appointment of Subsequent Auditor in Govt. Co.

139(6) - Appointment of 1st Auditor by BOD/Members

139(7) - Appointment of 1st Auditor in Case of Govt. Co.

Subject to indicate that one provisions is Sub-ordinate to another and must comply with it.

eg: As per Section 13(2) any Change in the name of a co. shall be Subject to the provisions of Subsection 2 and 3 of Section 4.

This implies that any change in the name of Co has to accordance with the provisions of the Section 4(2) and Sec. 4(3) of Companies Act 2013.

without prejudice: ensure that Subsequent provisions do not limit the general rights or meaning established earlier.

eg: 77(3) - non-registration of charges will make the creditor unsecured

77(4) - without prejudice to 77(3) obligation of company shall remain intact

[Refer Page 14.12 of CB]

Internal aids of Interpretations.

1. Long title: Gives full description of General purpose, object and scope of the Act.
- ② Long title is considered as part of the Act.
 - ③ It is legitimate to use for the purpose of interpretation.

2. Preamble: ① Expresses Scope, object and Purpose of Act
- ② Main source for understanding the intention of law maker
 - ③ Preamble is accepted aid for the construction of the Act
 - ④ Preamble cannot override the provisions of enactment.
i.e long title or preamble shall not override specific provision of the Act.

[Gullipoli Soubria Raj v/s Bandaru Pavani]

Refr Page 14-13

3. Heading and title of a Chapter:

In case of any ambiguity in the expression/words in a section. In such a case heading and title of the Chapter can be use as an aid to interpret such expression or word.

eg: labour act - Chapter heading "Provision for worker safety and welfare"

Within this Chapter there is a section which provides adequate rest breaks to employees.

② Long title is considered as part of the Act.

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[Gullipoli Sowera Raj v/s Bondaru Parani]

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In case of any ambiguity in the expression/words in a section. In such a case heading and title of the Chapter can be used as an aid to interpret such expression or word.

eg: Labour Act - Chapter heading "Provision for worker safety and welfare"

Within this chapter there is a section which provides adequate rest breaks to employees.

↓
Ambiguity whether such break include meal break

↓
Heading & title of Chpt can be used as an Aid to interpret such expression

Section expressly provide that such break means a non-meal break
no question of interpretation arises

- ③ Heading and title cannot control the plain meaning of the words
- ③ Heading may sometimes be referred to know the scope of the section in the same way as the preamble
- ④ but a heading cannot override the section.

④ Marginal Notes:

Refer QB Page 5 Chapt 2 IOS

↓
Refer case laws

Construction

Hazard Zone

CIT v Ahmedbhai Umashahai & Co.

Deewan Singh v. Rajendra Pr. VI

Constitution of India.

Marginal notes cannot be referred for the purpose of construing the statute. Since marginal notes are not part of the Act.

reference to marginal notes may be permissible in exceptional cases for construing a section of statute.

marginal note appended/ attached to articles of constitution have been held to be the part of the constitution and therefore have been made use in construing the article.

⑤ Definitional Section / Interpretation clauses.

means

~~restrictive and extensive~~
definitions

Include

↓
Extensive definition

eg: 2(11)

means & include

↓
exhaustive definition

eg: Sec 17 of ICA

↓
Sec 2(20)

⑥ Illustration: ① Illustration follow the text of the section

② Illustration do form part of statute and can be consider in construing the text of the section.

* ③ Illustration cannot modify the language of the section and cannot curtail or expand the scope of the section.

⑦ Proviso:

A proviso serves to narrow or create an exception to the main provision of a statute. Typically, starting with "Provided that" it restricts or qualify the scope of the main clause which might otherwise be too broad. The proviso is embedded in the section and function as part of it, but is not meant to established a new rule - only to clarify or limit the existing one.

Distinction b/w Proviso, exception, and saving clause

Proviso

Exception

Saving Clause

- is used to remove special cases from General enactment
eg: Proviso to Sec 2(68) provide special cases to be removed from General enactment.

- Entended to restrain the enacting clause to particular cases
eg: Proviso to Sec 2(85) provide an exception for Holding sub-Sec 8 Co. and Statutory body.

- Is used to preserve from destruction of certain rights, remedies and prevelages already existing
eg: Sec 6 read with Sec 47 provide a saving clause for Pvt Ltd. The Private Co. can give voting rights in all matters to Pref. Share holder as per AOA.

⑧ Explanation }
⑨ Schedule } → Refer Page 14.17 of CB.

⑩ Statute to be read as a whole:

External Aids to Interpretation

Document, Instrument, Deed

↓
→ Refer Page 14.1 of Concept book.

Arjun Chhabra (CS LLB LL.M.) 262 143 8