

INTERPRETATION OF STATUTES

(8m - 10 marks)

=> Interpretation vs. Construction:

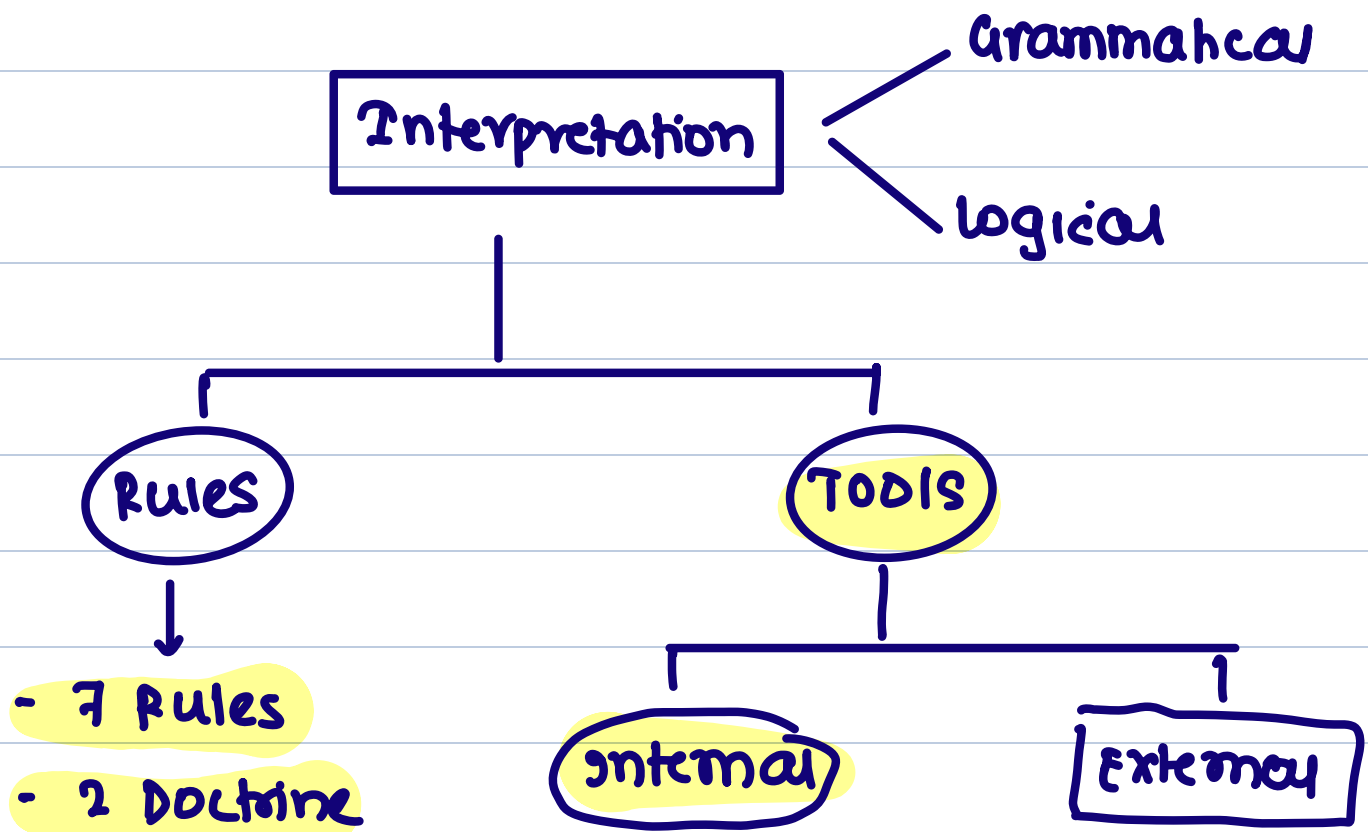
- Interpretation differs from construction. While these words can be used **interchangeable** in common parlance, they differ in meaning.
- Interpretation is finding out true sense of any form while construction is drawing of conclusion w.r.t. direct expression of text.
- Thus, where the court adheres to the plain meaning of language of law, it would be interpretation but where the meaning is not plain, the court has to decide whether the wordings was meant

to cover the situation before court.

- It is difficult to state where interpretation leaves off and construction begins.
- conclusion drawn by means of construction are within the spirit though not necessarily within the letter of law.
- Bhagwati Prasad Kedia vs. CIT

Interpretation is an art of ascertaining meaning of words in true sense in which author's intent is to be understood.

It is drawing of conclusion from law that is beyond direct expression of words used therein.



^{imp} ① Rule of literal interpretation:

- It is the cardinal rule of interpretation.
- It means that law must be construed **literally & grammatically** giving the words their original & general meaning.
- If a phrase is clear & unambiguous and capable of only one interpretation



It would not be correct to extrapolate

these words out of their ordinary sense.

[maxim = Absoluta Sententia Expositore Non Indiqu]

- If there is inconsistency with expressed intentions or it involves absurdity or repugnancy or inconsistency

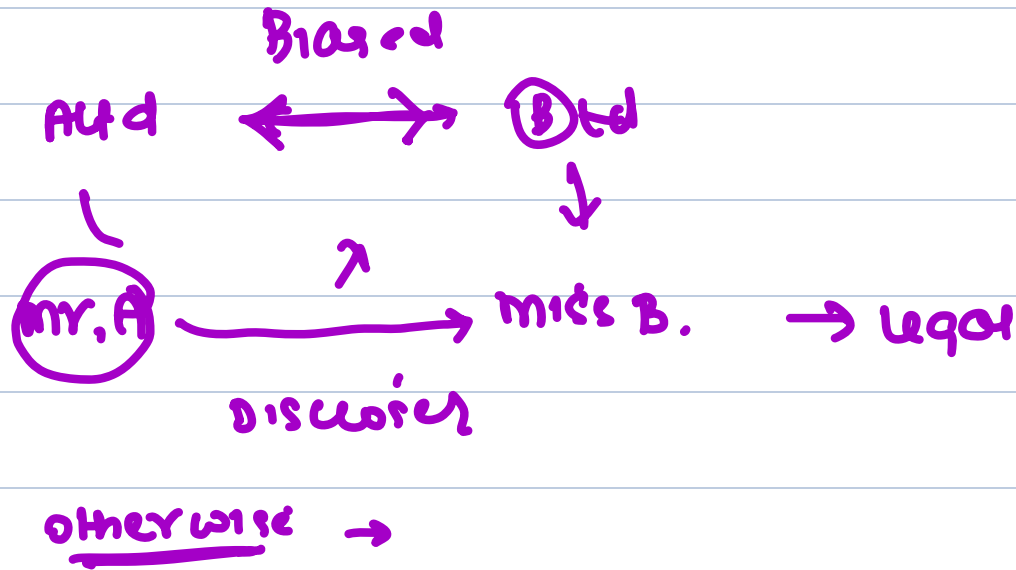


The gramahcal sense must be then modified to avoid such inconvenience.

- Technical words should be understood in their technical sense.
- Sometimes, occassion may arise when a choice has to be made between two interpretations
:- one narrower & one wider & bolder
↓
on such situation, if narrower interpretation fails to achieve desired purpose, one should adopt wider one.

[E.g. sec 102 of companies Act]

Sec 102



② Rule of reasonable construction:

- The words of the Statute must be construed so as to lead to a sensible meaning

max [maxim - Interpretatio fienda Est ut res magis valeat quam pereat]

- When the words are capable of two meanings → Then that constructions which further the object should be preferred over the one which is likely to defeat the object.

- When grammatical interpretation leads to absurdity, then the court shall interpret the law so as to resolve the inconsistency & make such law consistent as a whole

It is permissible to depart from grammatic meaning only to avoid absurdity & not any further. This is the golden rule of interpretation.

~~imp~~

③ Rule of harmonious construction:

- This rule is applied when there is a conflict b/w two provisions of law.
- Where an expression has a narrower or technical meaning as well as a popular meaning
↓
the court is justified in assuming that such word is used in a sense to carry out its objects & reject the meaning which

renders it invalid

[paan vs. Beitel uolce]

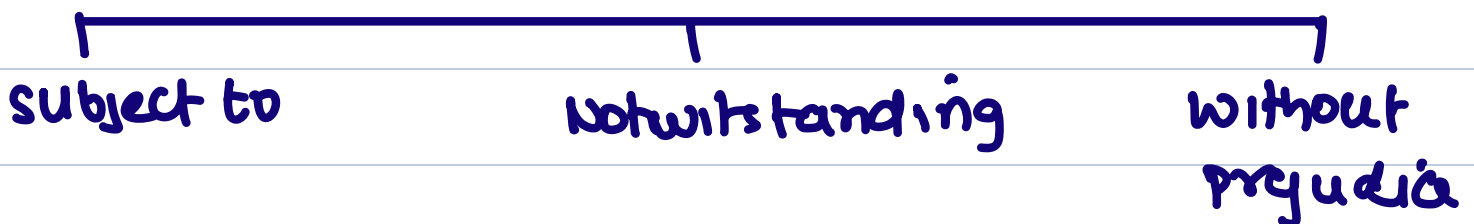
- A specific rule will override a general rule:

[maxim: Generalia specialibus non derogant]

- This rule can be adopted only when there is a **real & not merely apparent conflict** between provisions.
- In some cases, law may give clear indication as to which provision overrides & which provision is subservient



This can be done by:



(a) subject to:

Where the same subject matter is covered

by that provision & by other provision
subject to which it operates & there is
a conflict between them:



Latter shall prevail over the former

[sec 6(2) >>> 6(1) of FEMA]

(b) Notwithstanding:

unlike the "subject to" clause, notwithstanding
has effect of making the provision prevail
over others.

(c) without prejudice:

Where a particular provision follows a
general provision and it is stated that:

"the particular provision is without prejudice
to the general provision"



such particular prov. would not restrict

the generality of such general provision.

[E.g. Definition of current A/c transaction]

Note: This rule is not applicable where there is only single meaning of words used.

gmp

④ Rule in Heydon's case or Mischief rule:

- This rule enables consideration of **four matters** in constitution an Act:

→ What was the law before making this Act?
[Co. Act 1956]

→ What was the mischief / defect for which such law did not provide?

[No rotation of auditor]

→ What is the remedy that Act has provided?
[Rotation]

→ What is the reason for remedy?

[Satyam Scam]

- The rule directs that court must adopt that rule of interpretation which:

Suppresses the mischief

Advances the remedy

~~gmp~~
case law: CIT vs. Sotara Devi:

It was emphasized by supreme court in this case that:



This rule shall only apply when words are ambiguous & are reasonably capable of more than 1 meaning.

⑤ Rule of beneficial construction:

- This is not a rule but a **method of liberal interpretation** so as to give effect to intent of law.
- This construction method applies to law which makes provision to **improve condition**

of certain class of people — underprivileged
— Not fairly treated.

- In such case - it is permissible to give an extended meaning to words only when two construction are reasonably possible

6. Rule of exceptional construction:

- This rule means that to obtain sensible meaning:
 - "And" may be read as "or" or vice versa
or
 - "may" may be read as "shall" or vice versa.

gmp - 4m.

"And" and "or"

- And is normally **conjunctive** i.e., used to conjoin words or sentences.
- "or" is **disjunctive** that marks an alternative

generally corresponding to "either"

To give effect of law — And may be read as or
or

✓ Vice versa.

- "may" signifies **permission** and implies that authority has allowed **discretion** (i.e., it is directory in nature)
- "shall" signifies a **mandatory or obligatory** intent.

in order to give effect to intent of law

— may may be read as shall
or

✓ vice versa.

Day 2

⑦ Rule of Eiusdem Generis

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- Eiusdem generis means same kind or specifics

- Where specific words pertaining to a category is followed by general words (etc, or others)



such general words shall be construed as linked to things of same kind as those specified.

e.g. [scooter, auto, car, ~~kia~~, etc.]



specific word

road
category = transport



Any vehicle
used in
road transport



Applicability of this Rule:

1. Law contains enumeration of specific words
2. The subject of enumeration consists a category
3. Such category is not exhausted

4. General terms follows such category/words

5. No indication of different intent

[a, b, c, d, etc.]
↓
?

Exception:

1. If preceding term is general and that which follows is also general.

[car, scooter, mode of transport, etc.]

2. Particular words exhaust the whole genus.

3. specific objects enumerated are essentially diverse in characters.

[Bat, Tiger, Fight, Jai, Pitai, (etc.)
Kia,

4. Express intent of legislature to not apply Ejusdem Generis.

Rule Of:

- Literal
- Reasonable
- ✓ Harmonious
- ✓ Heydon's rule
- Beneficial construction
- Exception "
- ✓ Ejusdem Generis

2 Doctrine:

1. Doctrine of "Noscitur a sociis"

Where two or more words are susceptible of **analogous meaning** → They are understood to be used in their cognate sense.

They take their colours from each other
[i.e., more general is restricted to a sense analogous to less general]

Example: "manufactured beverages including

fruit juices, syrups, bottled water".

fresh orange juice? No

Example 2: Private dispensary of doctors
(freemedicum)

commercial estb. → HEPA register

↓
Not be
considered
as
commercial
estb.

Note! Examiner shall use following phrase to
ask this doctrine!

1. Associate words to be understood in common
manner/sense

or.

2. meaning of a word is judged by the C
it keeps.

2. Doctrine of contemporaneo Expositio:

- A law is to be interpreted by referring to
the exposition it has received from competent

authority.

2 maxims

contemporaneity

Expositio

est optima

Et fortissima

in lege



contemporaneous

exposition

is best &

strongest

in law

[Ammm]

optima legum

Interpres est

consuetudo



Custom is the

best interpreter

of law.

Yaad nahin
karoge
to k
chlega.

Hindi mein :

A law should be understood in the sense in which it was understood at the time when it was passed.

Internal aids to construction:

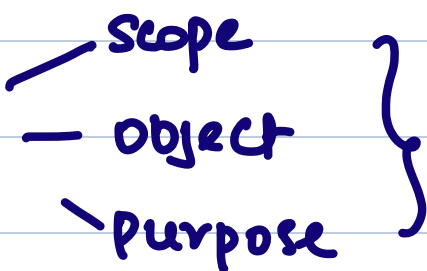
1. Long title: (section ka naam)

It is referred to, for purpose of ascertaining general scope of law

However, it cannot override clear meaning of law.

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2. Preamble:

• It expresses  of the Act.

• It is more comprehensive than long title

• Preamble may recite the cause of making law

and the evil which is sought to be remedied

- Preamble is a tool for construction but does not override plain provision.

- Where words in law has >1 meaning



Refer to preamble for construction.

3. Heading & Title : (Section ka naam)

- such heading & titles can be used to determine sense of any doubtful expression used in law.
- However, they cannot override law.

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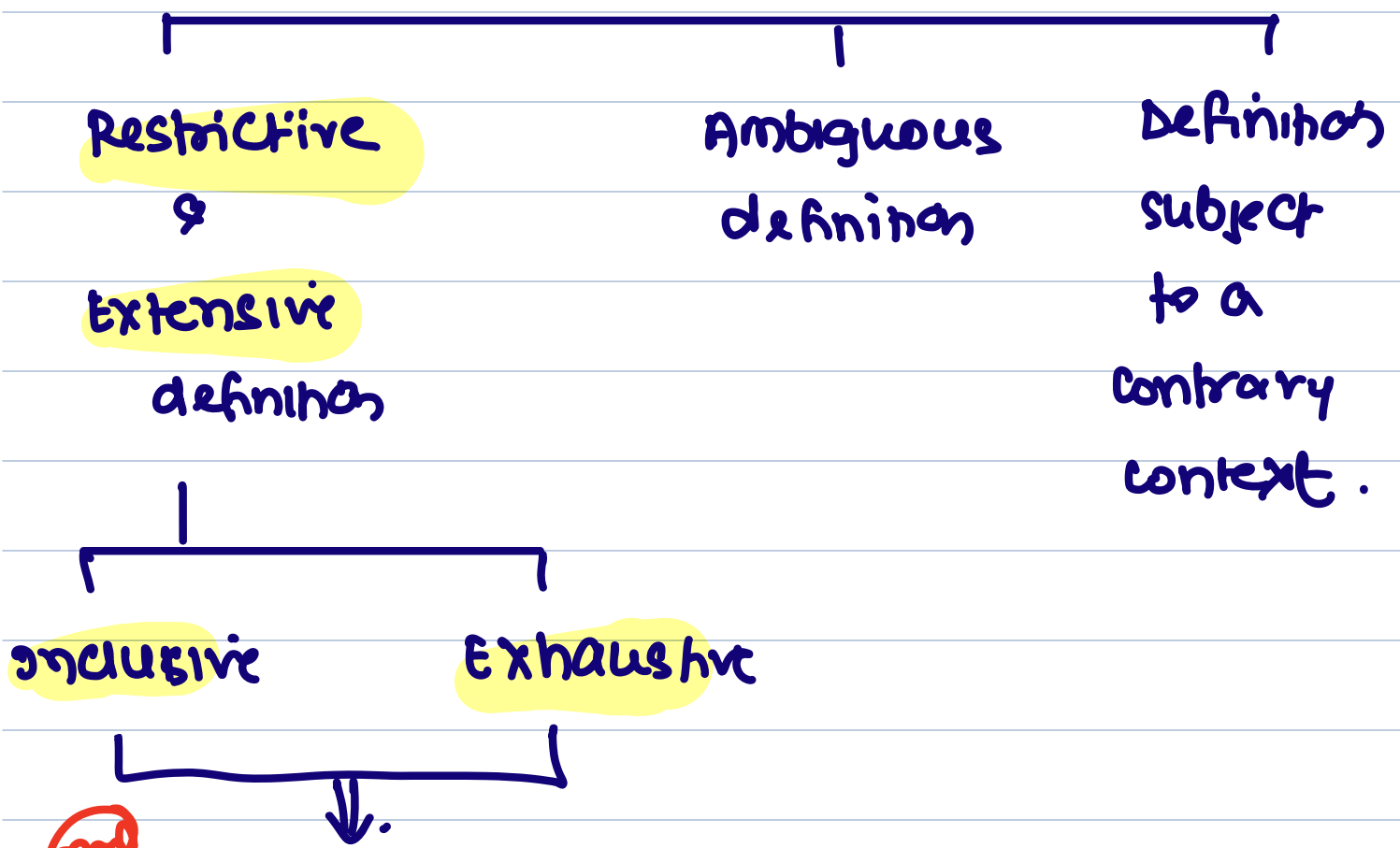
4. Marginal notes:

- These are summaries & side notes given to sum up the effect of a section.
- They are NOT a part of the law and are

inserted after such Act is passed.

- They are generally NOT an aid to construction. However, reference to marginal notes is permissible in exceptional cases.
- marginal notes attached to Articles of Constitution **is, however, part of the constitution** and therefore, have been used for construing such articles.

⑤ Definitions:



① means — Restrictive & exhaustive

↳ we must restrict the meaning of the word to that given in definition

② ~~means~~ includes — Extensive & inclusive

↳ Here, the meaning is not restricted.

③ shares means share in share capital of a company & it includes stock.

means & includes → Exhaustive

Ambiguous definition:

- Sometimes, we may find that definition is ambiguous and so, it has to be interpreted in light of other provision of the Act & having regard to its ordinary meaning.

- (such type of definition is not to be read in

isolation. It must be read in context)
of phrases that it defines realising that
the function of definition is to give accuracy.

* Definition subject to a contrary context:

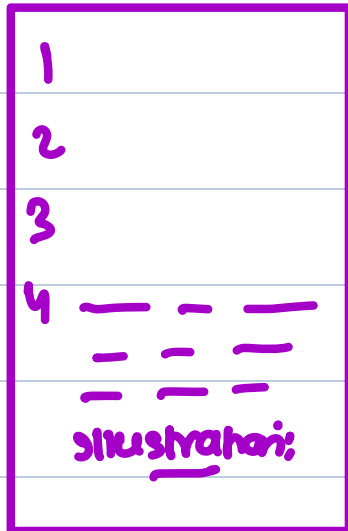
When a word is defined to bear a number
of inclusive meanings, the sense in which
it is used must be ascertained from context
of the Act, language of provision & object
intended to be served.

6. Illustration:

- Some sections may have illustration. These
illustration follow the text of section and
therefore **do not form part of section.**
- But they do form a part of such law
[E.g. Illustration given in Black Money Act]

- Such illustration can be used for interpretation but cannot have effect of modifying the language of law.

Law



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7. Proviso:

- Normal function of a proviso is to provide exception to a particular provision



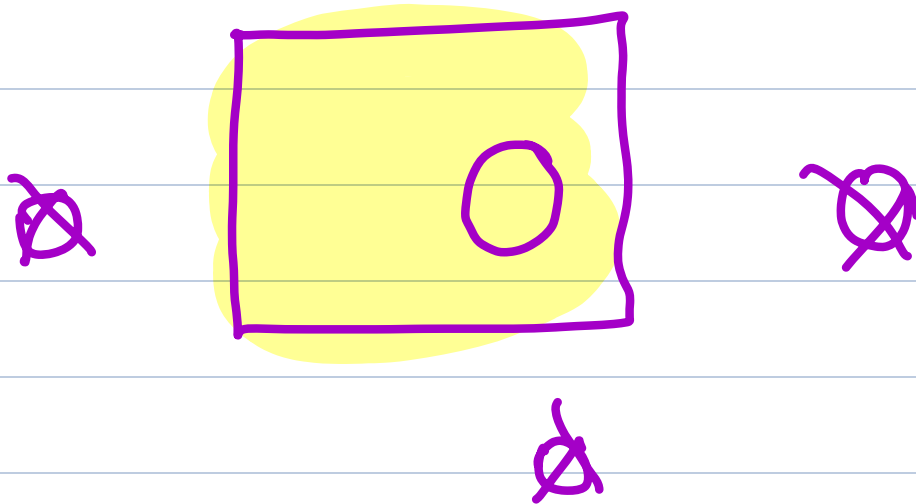
which would be within its purview if the proviso was not there.

- The effect of proviso is to qualify the previous enactment.

- ordinarily, a proviso is not interpreted as stating a general rule

(proviso is not a general rule but a specific exception)

- it is the **cardinal rule** of interpretation that a proviso to a particular provision only embraces the field which is covered by main provision.



"Grammatical vs logical"

8. Explanation:

- Explanations are, at time, appended to a section to explain meaning of the text of a section.
- It may be added to include something within the section or to exclude something out of it.
- It should normally be read in harmony with the section and it should clear up any ambiguity
- It should not be construed to widen the ambit of section.

9. Schedule:

- schedule form part of any Act. They must be read together with an Act.

- Schedule cannot control or prevail over enactment.

- Inconsistency between schedule vs Act
→ Act shall prevail

imp.

10. Read the statute as a whole :

- It is an elementary principle that interpretation of any law is to be made of all its parts taken together & not of only one part.
- The statute is to be read as a whole to ascertain its true meaning.
- The words of each clause should be interpreted to bring harmony with other provision.

External tools

1. Historical settings:

- History of external circumstances which led to the enactment is of much significance in construction thereof
- We have to take help from all those historical facts which are necessary in understanding :
 - Subject matter
 - Scope & Object of law.
- History in general, ancient laws, other authentic work are all relevant for interpretation.

② Consolidating statutes & previous laws:

Court may stick to presumption that it

was not intended to alter law in case
where intent is to consolidate & amend law

imp

③ usage: [custom]

- Usage is also to be taken into consideration
for interpretation.

- Where the meaning of language of law
is doubtful, usage may determine
true meaning.

i.e. How that language
has been interpreted
and acted upon over a
long period of time.

- Where a legislative measure of doubtful
meaning has, for several years received
an interpretation which has generally been
acted upon by public



Courts should be unwilling to change it
unless there are reasons to do so.

④ Earlier & later Acts and analogous Act:

Where an Act is interpreted, reliance shall be placed on any earlier or later Act or similar Acts.

⑤ Dictionary definition:

- First, we have to refer to definition given in Act
- Where that word is not defined in Act, we may refer to dictionaries to find out general meaning of such words.
- In selecting one out of several meanings of a word → Always consider the context of use.
- Meaning as per judicial decision (case laws)
>>> Dictionary definition.

- Technical terms to be interpreted as per technical dictionaries.

⑥ Use of foreign decision:

- Foreign decisions of countries following the same systems of jurisprudence as ours and given on laws similar to ours
→ can be used for construction of our Acts.
 - Prime importance is always given to language of Indian statute.
 - Where guidance is obtained from Indian decision, reference to foreign decision may become unnecessary.
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DPO Q16 (35m)



Read & summarise in fair notes.