(14 marks)

Negotiable Instruments

Introduction

- Nothing in the act applies to RBI
- Date of applicability 1st March 1881
- Negotiable Instruments cover

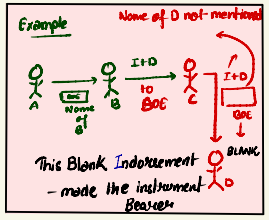
Section 13 →
- Promissory Note
- Bills of Exchange
- Cheques

On basis of Parties

Name on Instrument

Payable to Order
- When payable to the person named in instrument

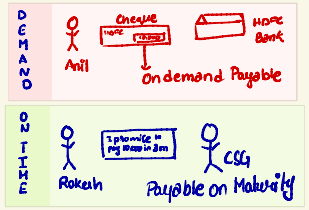
Payable to bearer
- No name on the instrument or the last indorsement in blank makes the instrument bearer.



On the basis of Payment

On demand
- payable on demand

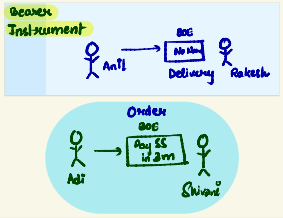
On time
- payable on maturity only



Negotiation

Bearer Instrument
By mere delivery of Instrument

Order Instrument
By Indorsement + Delivery



Characteristics of Negotiable Instruments

TWS
- writing
- Signed
- Transferable freely

headphone have Cheap DND
- mode → Money Only
- certain
  - NO Defects in title of holder
  - Number of times → Demand

Promissory Note

Section 4 - It is an instrument in writing (not being a bank note or a currency note) containing an unconditional undertaking signed by maker, to pay a certain sum of money only to the order of, a certain person, or to the bearer of instrument.

But RBI prohibits issue of bearer instrument as only they can issue bearer promissory Note which is currency.

Only RBI has the Power

Parties
- Drawer/maker
  - Person makes the Promissory Note
- Payee/creditor
  - It is person to whom the promissory note is payable.

Characteristics of Promissory Note
1. In writing
2. Express Promise to Pay (Only Admission of payment is not enough)
3. Definite & Unconditional
   eg. like instalment payment
   But if condition is certain eg. death it is allowed.
4. Promissory note should be Signed
5. Money Only
6. Promise to Pay Certain Sum of Money (direct or indirectly indicated)
7. Promissory Note cannot be made to bearer
8. Initials on the Stamp (Initials on Stamps)

Bills of Exchange

A Bills of Exchange is an instrument in writing containing an unconditional order, signed by maker, directing a certain person to pay a certain sum of money only to, or to Order of, a certain person, or to the bearer of the instrument. [Section 5]

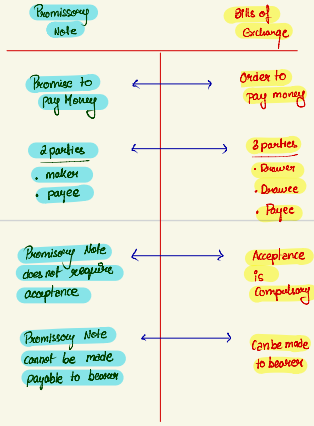
Parties Involved
- Drawer - Maker of the Bill
- Drawee - Acceptor of the Bill
- Payee - to whom payment is made in the instrument

PN BOE Stamp+Sign

Characteristics
- It must be in writing
- Must contain an express order to pay
- Unconditional must be definite and unconditional
- Must Sign Instrument
- Pay Money Only
- It must be Stamped
- Drawer, Drawee, Payee, Amount certain

Note: Bills of Exchange
- bearer on demand ✗
- Order on demand ✓

Note: Drawer and payee can be the same person because of No Indorsement.



Cheque

A cheque is a bill of exchange drawn on a specified banker and not expressed to be payable otherwise than on demand and it includes the electronic image of a truncated cheque [Section 6]

Electronic Image of the cheque is a electronic cheque issued by Bank.

Truncated cheque is a cheque used as a scan image in the clearing house facility of the bank.

Parties to the Cheque
1. Drawer → Person making the cheque
2. Drawee → Bank on whom cheque is drawn

   Where another Drawee is name is entered as a Drawee in case of need.
3. Payee → The person named in the instrument, to whom payment is made. The payee maybe drawer himself.

Types of Instruments

Inland Instrument
- Drawn in India and
  - Drawn on a Resident of India
  - Payable in India

Foreign Instrument
- Drawn outside India or Drawn in India but Payable Outside
- Resident outside NRO

Note: In case of Indorsement, instrument dishonour powers to claim interest in hands of holder from the drawer on endorsed at his choice.

Types of Instruments

Inchoate Instrument
- Incomplete in certain respect
- drawer instrument leaving it wholly blank,
- Power to holder to complete and recover payment
- The Principle of estoppel applies in case of an inchoate Instrument

Ambiguous Instruments
- Where the instrument can be treated as a bill of exchange or promissory note, and the way it is completed by the holder between the same. In other words, instrument can be constructed as bill or PN

Dishonour of Cheque

Section 138

Cheque Dishonour
- Insufficiency of funds or
- Stop payment

Banker inform Payee → in 30 days inform Drawer (give 15 days)

1st May → 21st May → 15th June

If Not made → Then dishonour

Penalty: 10,00,000 x 2 = 20,00,000 (Amount Fine)

Jail 2 years or Fine twice Amount or Both 10,00,000

Section 139

Presumption that the holder has acquired cheque in good faith.

"Rebuttable Presumption"

Section 140

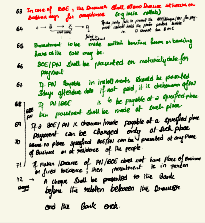
No defence if drawer says that he is unaware.

Dishonour of Cheque

Presentment Meaning - It refers to the act of making the instrument available for the purpose of getting paid.

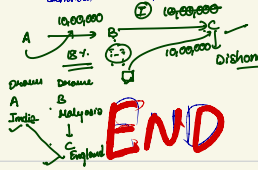
61 In case of BOE → if BOE is after Sight (before Holiday) → Noted → Advance - Granted / Drawer - Dishonour

62 In case of PN → it is payable after a period of Sight - Presentment → Period (in Reasonable time) / If → Payment / Maker to pay by next



Rules for Compensation

Compensation on Dishonour 117
- Amount + ligitation (Protest Charges) + Presentment charges
- If in different countries then exchange rate difference 1$ = 70 / 1$ = 80
- Interest at the rate 18% pa on Amount if endorsee paid to endorser from DOD to realisation
- If Drawer and Drawee at different places then exchange rate between two places (Indirect)
- the party entitled to compensation can draw another bill on demand if that dishonour same person.



END of NEGO

#CSG

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