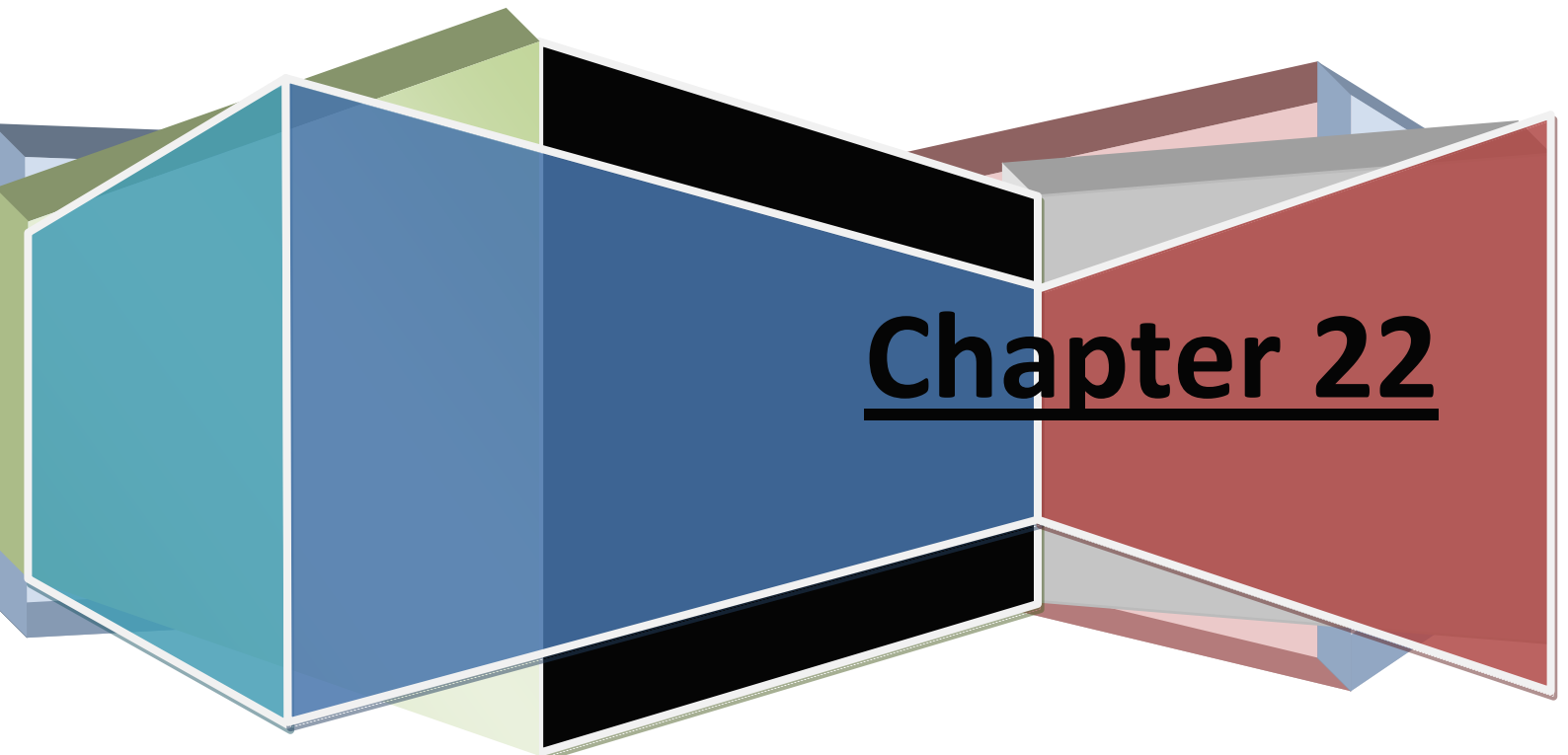


INTERPRETATION OF STATUTES, DEEDS AND DOCUMENTS

CA AKHIL MITTAL



Chapter 22

CHAPTER 22

INTERPRETATION OF STATUTES, DEEDS AND DOCUMENTS

A. INTRODUCTION:

“STATUTE”: Means law and regulations of every sort.

- ☉ Defined as written will of the legislature.
- ☉ Expressed according to the forms necessary to constitute it.

“DOCUMENT”: Document is a paper giving information, proof and evidence

- ☉ Section 3 of Indian Evidence Act, 1872, document means:

“Any matter expressed or described upon any substance by means of letters, figures or marks for the purpose of recording that matter”

“INSTRUMENT”: Means formal legal document which –
a. Creates
b. Confirms a right
c. Records a fact

“DEED”: It is instrument in writing purporting (To present) to effect legal disposition.

“INTERPRETATION”: It is process by which COURT seeks to ascertain the meaning of the legislature.

B. RULES OF INTERPRETATION/CONSTRUCTION:

There are certain rules of interpretation. These rules are considered to be guidelines only. Guidelines are being categorised into:

- **Primary Rules**
- **Secondary Rules**

PRIMARY RULES

1. Rules of **LITERAL CONSTRUCTION.**
2. Rules of **REASONABLE CONSTRUCTION.**
3. Rules of **HARMONIOUS CONSTRUCTION.**
4. Rules of **BENEFICIAL CONSTRUCTION.**
5. Rules of **EXCEPTIONAL CONSTRUCTION.**
6. Rules of **EJUSDEM GENERIS.**

LITERAL CONSTRUCTION.**BASICS:**

- ✿ It means that words, sentences and phrases should be read in their ORDINARY, NATURAL AND GRAMMATICAL MEANING.
- ✿ It has to be kept in mind that words and phrases of technical nature are to be used in their TECHNICAL MEANING.

JUSTIFICATIONS:**S.S. RAILWAYS COMPANY VS WORKERS UNION**

- ✚ Courts should give a **literal meaning** to language used by legislature,
- ✚ Unless language is **ambiguous/ which may defeat intent of the legislature.**
- ✚ Where the language is plain & admits of **only 1 meaning**, there is **no room for interpretation** & that meaning is to be enforced despite it may be absurd.

REASONABLE CONSTRUCTION.**BASICS:**

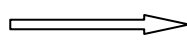
- ✿ It means words of statute to be construed so as to lead to SENSIBLE MEANING
- ✿ If court finds that **plain meaning** of the words will not be fair or reasonable construction,
- ✿ Then it is **duty of the court** to **ADOPT THE REMEDY** that will suppress the MISCHIEF.

HARMONIOUS CONSTRUCTION**BASICS:**

- ✿ Where there are in an **enactment (law)**, **2 or more** provision **which cannot be RECONCILED** with each other, **then**, wherever possible, as to give effect to **all of them**.
- ✿ For instance, provisions in respect of **annual general meeting (Sec-166 & 210)**
 - ♣ The meeting must **be held in EACH YEAR**.
 - ♣ It must be held not later than 15 months.
 - ♣ It must not be held **later than 6 months** from the date of **balance sheet**
- ✿ Here the 3 conditions are to be satisfied simultaneously. Failure of any of them will lead to offence.
- ✿ Explaining with the help of the example: ABC Limited



Financial year ending
On 31 march 2012



Assuming that **AGM** to be held on **30 September 2012** as per Section-166(1).

Going with the section 166, the gap between 2 AGMS' should not exceed 15 months. As such next AGM to be held on or before **31st Dec 2013**. — (1)

But considering the 3rd condition, **AGM** to be held within 6 months from the balance sheet date. As such AGM to be held on or before 30th September 2013 (2)

Considering (1) and (2) , it is imperative for ABC Limited, to convene AGM on or before 30th September 2013. Any default in complying with provisions will attract legal consequences.

This example indeed shows that all the provisions of the enactment has to be followed or construed harmoniously to give effect to all the provisions.

BENEFICIAL CONSTRUCTION/ HEYDON\$ RULE

BASICS:

- ✿ Where language **used in a statute is capable for more than 1 interpretation & usual meaning of** language defeat the very intent of the legislature, **then a MORE EXTENDED** meaning may be attributed to the words.
- ✿ It considers 4 matters in construing the act:
 - What was the law before making the Act;
 - What was the defect for which law did not provide;
 - What is remedy that the act provided;
 - What is the reason for the remedy.

EXCEPTIONAL CONSTRUCTION

Rules have several aspects:

1. Common sense Rules:

- Full effect must be given to every word.
- Words of statute must be construed as to give a **sensible meaning** to them

2. Conjunctive & Disjunctive Words:

- “**OR**” – Disjunctive -- (serving or tending to divide or separate)
- “**AND**” Conjunctive -- (the act of joining together)

3. “May”, “Must”, “shall”:

“**SHALL**”- This word is construed as **Compulsory** (It means that provision is to strictly followed)

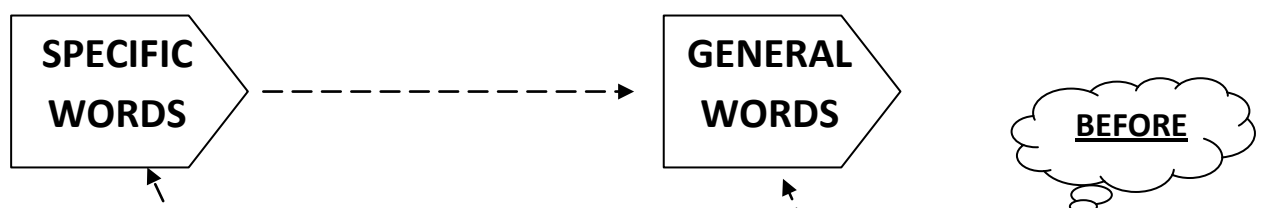
“**MAY**”- This word is construed as **Discretionary** (It means discretion coupled with obligation)

In case the discretionary nature of word “**May**” word defeats the very object of the act, that the word “**may**” should be interpreted as **mandatory force**.

EJUSDEM GENERIS

Term “*Ejusdem Generis*” = “of the same kind or species”. This rule means:

A. Where **general words** following **specific words**.



- Here the general words are to be construed **with reference** to words **precede** them.
- It depicts that where **general words** are used after **specific words**, then general words would take colour from the **specific words** used earlier.
- For example: **AG vs. BROWN(1920)**

Where “arms, **ammunitions, or gunpowder** or **any other goods**”---
 Here other will include any goods similar to arms, ammunitions, or
 gunpowder

B. In case where specific words are of different nature/category, then **general words will remain unaffected.**

For example:

"Arms, toys, or any other goods"- Since the category of goods are different (Arms, toys), then here the words **"any other goods"** will not be read with those **specific words**.

SECONDARY RULES

1. EFFECT OF USAGE:

'Optima Legum
Interpretest Consuetudo'



MEANING

Custom is the best interpreter of Law

MY WAY TO REMEMBER

Optimal (Best)
legum (law)
Interpretest (Interpreter)
Consuetudo (Customs)



Custom is the best interpreter of Law

'Contempranea Expositoest
Optima et Fortissima in lege'



MEANING

The best way to interpret a document is
to read it as it would have been read
when made

MY WAY TO REMEMBER

Contempranea (Competent)
Expositoest (Authority)
Optima (Best)
et Fortissima in lege (Document interpretation when it is made)

The best way to interpret a document
is to read it as it would have been
read when made.

2. ASSOCIATED WORDS TO BE UNDERSTOOD IN COMMON SENSE MANNER:

‘Noscitur A Sociis’ – “**Means** Meaning of a word is to be judged by the company it keeps.”

Description: When 1 or more words have similar meaning then they are to be understood in the ORIGINAL NATURE.

Example: Expression ‘**Commercial Establishment** means establishment which carries on BUSINESS, TRADE OR PROFESSION’.

“PROFESSION” was construed with the associated words “trade” and “Business” & it was held that DISPENSARY was not within the definition.

‘Tea Point in HiMachal, waha main tea SIP kari, ES’

INTERNAL AIDS TO INTERPRETATION/CONSTRUCTION

1. TITLE:



SHORT
TITLE

It identifies ENACTMENT and is chosen merely for the CONVENIENCE

LONG
TITLE

DESCRIBES ENACTMENT. It is part of the act

2. PREAMBLE:

PREAMBLE

☞ Expresses the **SCOPE, OBJECT AND PURPOSE** of the act more comprehensively.

☞ It explains the **reason for making a STATUTE**.

☞ Preamble doesn't **override the PLAIN meaning** of the provisions of the act.

☞ If the language of the statute is **not clear**, then the preamble can be used as an **AID** to interpret.

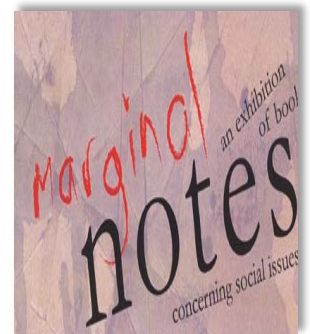
3. HEADING & TITLE OF A CHAPTER:

- ℔ There are **various sections** which may **apply** to a **particular matter**.
- ℔ These sections **contain various chapter, headings or titles**.
- ℔ These **chapters, headings or titles** may be referred to construe (Understand) the enactment or its parts.

4. MARGINAL NOTES:

- ℔ Marginal notes **can't be used** for **construing** section.

CIT Vs Ahmedbhai Umarbhai & Co.



5. DEFINITIONAL SECTIONS/CLAUSES:

- ℔ Purpose of the **Definition**

- To provide key to proper interpretation of the enactment.
- To shorten the language by avoiding the repetitive words contained in the enactment

- ℔ Definition of a word may be restrictive or extensive in nature, i.e.

- "MEANS" --> It is **RESTRICTIVE & EXHAUSTIVE** in nature.
- "INCLUDES" --> It is **EXTENSIVE (Broad)** in nature.
- "MEANS AND INCLUDES" --> It is also **EXHAUSTIVE** in nature.

6. ILLUSTRATIONS:

- ℔ We may find that some illustrations are attached to sections of act.
- ℔ It don't modify, change or expand the language of the provision, but follow the text of the sections

7. PROVISO:

- ℞ It depicts **any exception** to what is contained in the enactment.
- ℞ Proviso of a statute embraces (**covers**) the field which is covered by the main provisions.

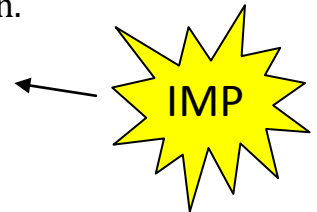
8. EXPLANATION:

- ℞ It explains the meaning of the **text** of the section.
- ℞ It is used to harmonise/clear any **ambiguity** (doubt) **in the main section**.

9. SCHEDULES:

- ℞ It form part of an **ACT**.
- ℞ It must be read **together with the ACT** for all construction.
- ℞ If there is **INCONSISTENCY** between

SCHEDULE & **ENACTMENT**



Then in this case, **ENACTMENT** will prevail.

11. READ THE STATUTE AS A WHOLE:

- ℞ Deed must be read **as a whole** in order to ascertain **true meaning of several clauses**.

EXTERNAL AIDS TO INTERPRETATION/CONSTRUCTION

H – C.U.R.D.

1. HISTORICAL SETTINGS:

- History of **external circumstances** which led to enactment is important in **construing act**
- It is imperative to understand the **historical facts** which are necessary in **interpreting and construing the act.**

2. CONSOLIDATING STATUTES & PREVIOUS LAWS:

- Preambles contains **expression** such as “**An Act to consolidate**”.
- Whereby, court may stick to the **presumption** that it is **not intended** to **ALTER THE LAW**. Through this literal(**normal**) interpretation of the act may be rejected.

3. USAGE:

- **Usage** may be taken into **consideration** to construe an enactment.
- Where meaning Of the language is **doubtful---** It is to be ascertained **how language is interpreted over a period of time.**
- It means in case of any confusion, **court may construe** a word in a sense which has been **generally used by the public.**

4. REFERENCE TO REPEALED ACT:

- Repealed (**Removed**) part of the act **may be considered** for **construing UNREPEALED PART** of act.

5. DICTIONARY DEFINITIONS:

- Where any **word is not DEFINED** in the act, **we may refer DICTIONARY** to find out general meaning.
- In case of **different meaning of the same word**, then it has to be ascertained that in **which context such word** is to be used.