



## **LL.B VI TERM**

# **LB-6032- Banking, Insurance Law and Negotiable Instruments**

**Cases Selected and Edited by**

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## **LL.B. VI Term**

### **Paper: LB – 6032 – Banking, Insurance Law and Negotiable Instruments**

#### **PART – A: BANKING**

**Prescribed Legislation:** The Banking Regulation Act, 1949 (B.R. Act)

**Prescribed Books:**

1. C.R. Datta & P.M. Bakshi, **M.L. Tannan's *Banking - Law and Practice in India*** (21<sup>th</sup> ed., 2008)
2. R.K. Gupta, ***Banking - Law and Practice*** (2<sup>nd</sup> ed. 2008)
3. Mark Hapgood, ***Paget's Law of Banking*** (13<sup>th</sup> ed., 2007)
4. M.L. Tannam, ***Banking Law and Practice in India*** (23<sup>rd</sup> ed., 2010)

#### **Topic 1: The Evolution of Banking Services and its History in India**

History of Banking in India, Bank Nationalization and social control over banking, Various types of Banks and their functions, Contract between banker and customer: their rights and duties, Role and functions of Banking Institutions.

#### **Topic 2: Banking System in India and Control by Reserve Bank of India**

Definition of 'bank', 'banker', 'banking', 'banking companies'; Development of banking business and companies; Regulations and restrictions; Powers and control exercised by the Reserve Bank of India (B.R. Act, sections 5-36AD)

1. *Sajjan Bank (Pvt.) Ltd. v. Reserve Bank of India*, AIR 1961 Mad. 8 01
2. *Canara Bank v. P.R.N. Upadhyaya* (1998) 6 SCC 526

#### **PART B: INSURANCE**

**Prescribed Legislations:**

1. The Insurance Act, 1938
2. The Marine Insurance Act, 1963

3. The Life Insurance Corporation Act, 1956
4. The General Insurance Business (Nationalization) Act, 1972
5. The Insurance Regulatory and Development Authority Act, 1999

**Prescribed Books:**

1. K.S.N. Murthy & K.V.S. Sarma, *Modern Law of Insurance in India* (4<sup>th</sup> ed., 2002)
2. S.V.Joga Rao, M.N. Srinivasan's *Principles of Insurance Law* (9<sup>th</sup> ed., 2009)
3. M.N. Mishra, *Law of Insurance* (9<sup>th</sup> ed., 2012)
4. Birds, John, *Modern Insurance Law* (2003)
5. M.B. Shah, *Landmark Judgments on Insurance* (2004)

**Topic 3: Law of Insurance**

Nature and Scope of Insurance; Classification; General Principles – Proximate Cause

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| 3. | <i>Pink v. Fleming</i> (1890) 25 QBD 396 | 07 |
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**Topic 4: Doctrine of Utmost Good Faith**

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|----|---|----|
| 4. | <i>Mithoolal Nayak v. Life Insurance Corporation of India</i> ,<br>AIR 1962 SC 814          | 08 |
| 5. | <i>Kasim Ali Bulbul v. New India Assurance Co.</i> , AIR 1968 J & K 39                      | 16 |
| 6. | <i>Smt. Krishna Wanti Puri v. Life Insurance Corporation of India</i> ,<br>AIR 1975 Del. 19 | 25 |
| 7. | <i>Smt. Dipashri v. Life Insurance Corporation of India</i> ,<br>AIR 1985 Bom 192           | 34 |
| 8. | <i>Life Insurance Corporation of India v. Asha Goel</i> , AIR 2001 SC 549                   | 42 |

**Topic 5: Rules of Construction of Insurance Policy**

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|-----|---|----|
| 9.  | <i>New India Assurance Co. Ltd. v. M/s Zuari Industries Ltd.</i><br>(2009) 9 SCC 70 | 46 |
| 10. | <i>Simmonds v. Cockell</i> (1920) All ER Rep. 162                                   | 52 |
| 11. | <i>Harris v. Poland</i> (1941) All ER 204: 1 K.B.D. 204                             | 54 |

**PART – C: NEGOTIABLE INSTRUMENTS**

**Prescribed Legislations:**

1. The Negotiable Instruments Act, 1881 (N.I. Act)
2. The Information Technology Act, 2000 (I.T. Act)

### **Prescribed Books:**

1. O. P. 'Faizi' & Ashish Aggarwal, **Khergamvala on *The Negotiable Instruments Act*** (20<sup>th</sup> ed., 2008)
2. Ranganath Misra, **Bhashyam & Adiga's *The Negotiable Instruments Act*** (18<sup>th</sup> ed., 2008)
3. Avtar Singh, ***Negotiable Instruments*** (4th ed., 2005)
4. S. Krishnamurti Aiyar, ***Law Relating to the Negotiable Instruments Act*** (10<sup>th</sup> ed., 2009)

### **Recommended Readings:**

1. Law Commission of India, ***Eleventh Report on the Negotiable Instruments Act, 1881*** (1958)
2. Law Commission of India, ***One hundred and twenty fifth Report relating to Establishment of Evening Courts*** (1988)
3. Law Commission of India, ***Two hundred thirteenth Report on Fast Track Magisterial Courts for Dishonoured Cheque Case*** (2008)

### **Topic 6: Kinds of Negotiable Instruments**

Promissory Note, Bill of Exchange, Cheque – Definition and Nature (N.I. Act, sections 4-7, 13)

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|---|----|
| 12. <i>Mohammad Akbar Khan v. Attar Singh</i> , AIR 1936 PC 171   | 64 |
| 13. <i>Ponnuwami Chettiar v. P. Vellaimuthu Chettiar</i> , AIR 1957 Mad. 355                            | 70 |
| 14. <i>Ashok Yeshwant Badeve v. Surendra Madhavrao Nighojakar</i> , AIR 2001 SC 1315 : (2001) 3 SCC 726 | 72 |

### **Topic 7: 'Holder' and 'Holder in Due Course'**

Definition of Holder and Holder in Due Course; Comparison between Indian and English Law; Rights of holder in due course; Law Commission of India, Eleventh Report, 1958 (N.I. Act, section 8 read with 78; 9, 19-25, 53, 58, 59 and 118; and the English Bills of Exchange Act, 1882, sections 2, 29 and 90)

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| 15. <i>Lachmi Chand v. Madanlal Khemka</i> , AIR 1947 All. 52 | 75 |
| 16. <i>Singheshwar Mandal v. Gita Devi</i> , AIR 1975 Pat. 81 | 80 |
| 17. <i>Nunna Gopalan v. Vuppuluri Lakshminarasamma</i> ,      | 82 |

- AIR 1940 Mad. 631
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|-----|--|----|
| 18. | <i>S.D. Asirvatham v. G. Palniraju Mudaliar</i> , AIR 1973 Mad. 439              | 85 |
| 19. | <i>U. Ponnappa Moothan Sons v. Catholic Syrian Bank Ltd.</i><br>(1991) 1 SCC 113 | 89 |

### **Topic 8: Transfer of Negotiable Instruments**

Modes - Negotiation (N.I. Act, sections 14, 46, 47, 48, 57); Assignment (The Transfer of Property Act, 1882, sections 130-132); Meaning of Indorsement - Who can indorse (N.I. Act, sections 15 and 51); Kinds of Indorsement – Indorsement in Blank and Full (N.I. Act, sections 16 and 54), Conditional Indorsement (N.I. Act, section 52), Restrictive Indorsement (N.I. Act, section 50), Sans Recourse Indorsement (N.I. Act, section 52); Partial Indorsement (N.I. Act, section 56)

### **Topic 9: Liability of Parties and Discharge of Parties from Liability on Promissory Note, bill of exchange and Cheque**

Liability of Maker, Drawer, Drawee and Indorser (N.I. Act, sections 30, 31, 32, 35 and 36)  
Modes – Cancellation [N.I. Act, section 82 (a)]; Release [N.I. Act, section 82 (b)]; Payment [N.I. Act, section 82(c)]; Material Alteration (N.I. Act, sections 87-89)

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| 20. | <i>Canara Bank Ltd. v. I.V. Rajagopal</i> (1975) 1 M.L.J. 420                 | 99  |
| 21. | <i>London Joint Stock Bank, Ltd. v. Macmillan</i><br>(1918-19) All ER Rep. 30 | 108 |
| 22. | <i>Shivalingappa v. P.B. Puttappa</i> , AIR 1971 Mys. 273                     | 112 |

### **Topic 10: Crossing of Cheques**

Object of crossing; Kinds of crossing – general, special, not-negotiable & account payee crossing; who may cross; Rights and duties of paying banker; Protection of collecting banker (N.I. Act, sections 123-131-A)

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| 23. | <i>M/s. Tailors Priya v. M/s. Gulabchand Danraj</i> , IR 1963 Cal. 36                                   | 114 |
| 24. | <i>Great Western Rail Co. v. London &amp; County Banking Co. Ltd.</i> (1900-3)<br>All ER Rep. 1004 (HL) | 120 |
| 25. | <i>Bapulal Premchand v. Nath Bank Ltd.</i> , AIR 1946 Bom. 482  | 123 |
| 26. | <i>Indian Overseas Bank v. Industrial Chain Concern</i> 1990)1 SCC 484                                  | 131 |

### **Topic 11: Liabilities for Dishonour of Cheques**

Dishonor of cheque for insufficiency etc. of funds; cognizance of offences (N.I. Act, sections 138-147) *The Negotiable Instruments (Amendment) II Ordinance, 2015*

27.	<i>Modi Cements Ltd. v. Kuchil Kumar Nandi</i> (1998) 3 SCC 249	141
28.	<i>Kusum Ingots &amp; Alloys Ltd. v. Pennar Peterson Securities Ltd.</i> (2000) 2 SCC 745; AIR 2000 SC 954	146
29.	<i>Dalmia Cement (Bharat) Ltd. v. Galaxy Traders &amp; Agencies Ltd.</i> (2001) 6 SCC 463; AIR 2001 SC 676	150
30.	<i>MMTC Ltd. v. Medchl Chemicals &amp; Pharma (P) Ltd.</i> , AIR 2002 SC 182	155
31.	<i>Goaplast Pvt. Ltd. v. Chico Ursula D' Souza</i> , AIR 2003 SC 2035; (2003) 9 SCALE 791	159
32.	<i>C.C. Alavi Haji v. Palapetty Muhammed</i> .2007 (7) SCALE 380	164
33.	<i>Dashrath Rupsingh Rathod v. State of Maharashtra</i> (2014) 9SCC129	171
34.	<i>Rangappa v. Sri. Mohan</i> (2010) 11SCC441	200
35.	<i>Laxmi Dyechem v. State of Gujarat and Ors.</i> (2012) 13SCC375	210
36.	<i>The Negotiable Instruments (Amendment) II Ordinance, 2015</i>	223

#### **IMPORTANT NOTE:**

1. The students are advised to read only the books prescribed above along with legislations and cases.

2. The topics and cases given above are not exhaustive. The teachers teaching the course shall be at liberty to add new topics/cases.

3. The students are required to study the legislations as amended up-to-date and consult the latest editions of books.

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