

LL.B. VI Term

Paper: LB – 6032 – Insurance and Banking

PART A : INSURANCE

Prescribed Legislations:

- I. The Insurance Act, 1938
- II. The Marine Insurance Act, 1963
- III. 3. The Life Insurance Corporation Act, 1956
- IV. 4. The General Insurance Business (Nationalization) Act, 1972
- V. 5. The Insurance Regulatory and Development Authority Act, 1999

Prescribed Books:

- John Birds, Ben Lynch, Simon Paul, *MacGillivray on Insurance Law: Relating to All Risks Other Than Marine*, (15th Edition, 2022)
- K.S.N. Murthy & K.V.S. Sarma, *Modern Law of Insurance in India* (6th Edition, 2019)
- Sumeet Malik, *J.V.N. Jaiswal's Law of Insurance- Vols 1&2* (2nd edn., 2016)
- Gaurav Varshney, *Insurance Laws*, (1st ed., 2017)
- M.N. Srinivasan & K. Kannan (Revised by Justice K.Kannan) *Principles of Insurance Law* (10th ed., 2017)
- M.N. Mishra, *Law of Insurance* (9th ed., 2012)
- Vandana Singh, K. B. Agrawal, *Insurance Law in India*, (2012)
- Birds, John, *Modern Insurance Law* (12th Edition, 2022)
- M.B. Shah, *Landmark Judgments on Insurance* (2004)
- E.R. Hardy Ivamy, *General Principles of Insurance Laws*, (6th ed., 1993)

Topic 1: Contract of Insurance

- Insurance Contracts as indemnity contracts
- Mitigation of Risk
- Premium
- Kinds of Insurance :
 - Marine Insurance
 - Fire Insurance
 - Life Insurance
- Formation, performance and discharge of contract

Topic 2: Principles of Insurance Contract

- General Principles – General Essentials of a valid contract :

- Offer and Acceptance,
- Consideration,
- Intention to create legal relationship
- Capacity to Contract
- Legality of Object
- Special Principles –
 - Uberrimae Fidei
 - Causa Proxima
 - Insurable Interest
 - Subrogation
 - Contribution
 - Contract of Adhesion and Doctrine of Fundamental Breach

1. <i>Pink v. Fleming</i> (1890) 25 QBD 396	01
2. <i>Mithoolal Nayak v. Life Insurance Corporation of India</i> . AIR 1962 SC 814	02
3. <i>Kasim Ali Bulbul v. New India Assurance Co.</i> AIR 1968 J & K 39	10
4. <i>Smt. Krishna Wanti Puri v. Life Insurance Corporation of India</i> , AIR 1975 Del. 19	19
5. <i>Smt. Dipashri v. Life Insurance Corporation of India</i> , AIR 1985 Bom 192	28
6. <i>Life Insurance Corporation of India v. Asha Goel</i> , AIR 2001 SC 549	36

Topic 3: Rules of Construction of Insurance Policy

7. <i>New India Assurance Co. Ltd. V. M/s Zuari Industries Ltd.</i> (2009) 9 SCC 70	40
8. <i>Simmonds v. Cockell</i> (1920) All ER Rep. 162	46
9. <i>Harris v. Poland</i> (1941) All ER 204: 1 K.B.D. 204	48
10. <i>Vikram Greentech (I) Ltd. v. New India Assurance Co. Ltd</i> AIR 2009 SC 2493	58
11. <i>Bajaj Allianz General Insurance Co. Ltd. and Ors. v. The State Of Madhya Pradesh</i> , Supreme Court Judgment dated: 24.04.2020	63

PART – B: BANKING

Prescribed Legislation:

- I. The Banking Regulation Act, 1949 (B.R. Act)
- II. Reserve Bank of India Act, 1934
- III.

Prescribed Books:

- M.L. Tannan, Revised by Vinod Kothari, *Tannan's Banking Law and Practice in India*, (28th ed., 2021)
- M.L. Tannan, Edited by Mandira Mitra, *Tannan's Banking Law Student Edition by M L Tannan*, (2022 Edition)
- N. Chaudhary, *Banking Laws (The Banking Regulation Act, 1949 Reserve Bank of India Act, 1934 The Negotiable Instruments Act, 1881)* Central Law Agency, (2022 Edition)
- Dr. Bimal N. Patel, Dr. Dolly Jabbal, & Prachi V. Motiyani, *Banking Law* (1st ed., 2014)

- C.R. Datta & P.M. Bakshi, **M.L. Tannan's Banking - Law and Practice in India** (21th ed., 2008)
- R.K. Gupta, **Banking - Law and Practice** (2nd ed. 2008)
- Mark Hapgood, **Paget's Law of Banking** (13th ed., 2007)
- S.N. Gupta, **The Banking law in Theory and Practice, Vol. 1,2&3**, (6th ed., 2017)

Topic 4: 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
 - Banking Sector Reforms in India (Narasimham Committee Report I (1991) and II (1998))
- R.C. Cooper v. Union of India, AIR 1970 SC 564

Topic 5: Banking System in India and Control by Reserve Bank of India

Banking Regulations Act, 1949

- 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)
- The Banking Regulation (Amendment) Act, 2017 – Provisions regarding Non-performing Assets (NPAs)
- Functions of RBI.
- Monetary and Credit Policy
- Licensing of Banks.
- Amalgamation of Banking Companies.
- Suspension of Business and Winding Up.

Reserve Bank of India Act, 1934

- Establishment and Incorporation of Reserve Bank – Sec 3
- Central Banking Functions – 20-28A, 38-43
- Collection and Furnishing of Credit Information – 45A-45F
- Provisions Relating To Non-Banking Institutions Receiving Deposits And Financial Institutions- 45H-45QB

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| 12. <i>Sajjan Bank (Private) Ltd. v. Reserve Bank of India</i> , AIR 1961 Mad. 8 | 74 |
| 13. <i>Small Industries Development Bank of India v. M/S Sibco Investment Pvt. Ltd.</i>
Supreme Court Judgment dated: 3 January, 2022 | 80 |
| 14. <i>M/S Integrated Finance Co. Ltd v. Reserve Bank of India</i> , (2015) 13 SCC 772 | 88 |

- *Vivek Narayan Sharma v. Union of India*, Decided on 2 January, 2023

Topic 6: Banking Ombudsman

- The Banking Ombudsman Scheme, 2006 ((As amended upto and effective from July 1, 2017)
- Section 35 A of the Banking Regulation Act, 1949
- Who is a Banking Ombudsman [Clause 4 of the Banking Ombudsman Scheme 2006 (As amended up to July 1, 2017)]

15. *M/S Durga Hotel Complex v. Reserve Bank Of India & Ors*, (2007) 5 SCC 120 97

PART C: NEGOTIABLE INSTRUMENTS

Prescribed Legislations:

- I. The Negotiable Instruments Act, 1881 (N.I. Act)
- II. The Information Technology Act, 2000 (I.T. Act)

Prescribed Books:

- P Krishna Kumar & S Abdul Khader Kunju, *Khergamvala on The Negotiable Instruments Act*, (23rd Edition, 2022)
- S Krishnamurthy Aiyar, *Law Relating to Negotiable Instruments Act*, (14th Edition, 2022)
- Dr. Rajesh Gupta & Dr. Gunjan Gupta (revised), *S.P. Tyagi's Commentary on The Negotiable Instruments Act, 1881* (2019)
- Dr. Rajesh Gupta & Dr. Gunjan Gupta, *Law of Dishonour of Cheques* (5th ed., 2019)
- Dr. H.K. Saharay, *Negotiable instruments Act 1881 Amendment 2018 (With Special Emphasis on Dishonour of cheques)*, (4th ed., 2019)
- O. P. 'Faizi' & Ashish Aggarwal, *Khergamvala on The Negotiable Instruments Act* (20th ed., 2008)
- Ranganath Misra, *Bhashyam & Adiga's The Negotiable Instruments Act* (18th ed., 2008)
- D.K. Sharma, *Dishonour of Cheques*, (2012)

Recommended Readings:

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

Topic 7: Negotiable Instruments- Kinds and Important Concepts

- Negotiable Instruments – Section 13
- Promissory Note – Section 4
- Bill of Exchange – Section 5
- Cheque – Section 6
- Parties to Negotiable Instruments – Section 7
- Holder and Holder in Due Course – Section 8 and 9
- Material Alteration – Section 87-89

- Liability of Banker – Section 131

16. <i>Ponnuswami Chettiar v. P. Vellaimuthu Chettiar</i> , AIR 1957 Mad. 355	104
17. <i>Ashok Yeshwant Badeve v. Surendra Madhavrao Nighojakar</i> , AIR 2001 SC 1315	106
18. <i>Lachmi Chand v. Madanlal Khemka</i> , AIR 1947 All. 52	109
19. <i>Singheshwar Mandal v. Gita Devi</i> , AIR 1975 Pat. 81	114
20. <i>Nunna Gopalan v. Vuppuluri Lakshminarasamma</i> , AIR 1940 Mad. 631	116
21. <i>Canara Bank Ltd. v. I.V. Rajagopal</i> (1975) 1 M.L.J. 420	119
22. <i>London Joint Stock Bank, Ltd. v. Macmillan</i>	128
23. <i>Shivalingappa v. P.B. Puttappa</i> , AIR 1971 Mys. 273	132

Topic 8: Special Provisions relating to Dishonour of Cheques

- Chapter XVII- Of Penalties In Case Of Dishonour Of Certain Cheques For Insufficiency Of Funds In The Accounts
- The Negotiable Instruments (Amendment) Act, 2015 – Relating to Territorial Jurisdiction
- Negotiable Instruments (Amendment) Act, 2018 – Relating to Interim Compensation

24. <i>C.C. Alavi Haji v. Palapetty Muhammed</i> .2007 (7) SCALE 380	134
25. <i>Rangappa v. Sri. Mohan</i> (2010) 11 SCC 441	141
26. <i>Laxmi Dyechem v. State of Gujarat and Ors.</i> (2012) 13 SCC 375	151
27. <i>MSR Leathers v. S. Palaniappan</i> 2012 ALL SCR 3025	164
28. <i>G. J. Raja v. Tejraj Surana</i> AIR 2019 SC 3817	168
29. <i>Surinder Singh Deswal and Ors. v. Virender Gandhi</i> (2019) 8 SCALE 445	175

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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