DECLARATION & PAYMENT OF DIVIDEND

85

section 123 to 127

covered every examples of ICAI module

6 to 8 marks

* section list :-

sec : 123 → Declaration of Divident
sec : 124 → Unpaid Dividend Account (UDA)
sec : 125 → Investor Education & protection Fund (IEPF)
sec : 126 → Right share, Bonus & Dividend to be held in Abeyence ~~Agree~~ due to pending of shares
sec : 127 → Punishment for failure to Distribute Dividend

concept 1 : Meaning of Dividend

Dividend

Normal Meaning

Statutory Definition (sec : 2)

shareholders invest money in the money as owner. So, owner always gets profit as its return on investment.

So, the portion of profit which is payable to shareholders

This portion is known as Dividend.

Inclusive Definition.

Dividend includes any Interim Dividend

→ Dividend has 2 types which has been Bifurcated on the Basis of timing.

Final Dividend

This has been paid after the end of F.Y. (After finalisation of Accounts)

So, it is Declared on the AGM.

BOD Recomonds the Rate of Dividend & then

Interim Dividend

Before the end of fy (Before finalisation of Accounts)

Declared between 2 AGM (at any time)

BOD Declared the Rate of Dividend

shareholders gives Approval on that Dividend (Declared By shareholders)	Yes, After that it is to be Regularised by the member at AGM

so, lets understand

① BOD → Recomond Rate of Dividend → BOD Report

then

② Shareholders Approve that Recomonded Rate → By passing OR

"Here" Question Arises in my mind

They have to Approve same Rate, or they can increase or Decrease

Same Rate	lower than Recomonded Rate	Increase than Recomanded Rate

IMP. Point

- Dividend is to be paid as % of face value (Nominal value) of shares
- Not on Issue, Market price
- BOD / company can transfer any amount of profit to Reserve before Declaring Dividend (even 100% of profit)

YES YES NO

By passing OR

At Any case

→ Regulation 80 (schedule I)

even by 100% Majority (Unanimously)

some Important points

(Final & Interim Dividend)

(1) Revocation of Dividend

Final Dividend After Declaration ~~Aft.~~ Interim Dividend

Final Dividend	Interim Dividend
Generally, it cannot be Revoked	It can be Revoked with the Approval of shareholder's
Once Declared, It creates Debt on the company	CAN Be Revoked Before any time upto the Date of payment
Revoked with Approval of shareholder's	

outBreak of war — Massive fire — illegal Dividend payment

Exceptional conditions

(2) Permission from AOA (Article of Association)

Final Dividend	Interim Dividend
No Need of permission from AOA for Declaration of Dividend	Need of permission for Declaration of Dividend from AOA

Payment of Dividend Depends on Nature of shares :-

Preference shares	Equity shares
fixed Rate of Dividend	variable Rate of Dividend
They are paid before equity shares	vary year to year
	They are paid after satisfying preference shareholders

Cumulative preference shares	Non cumulative preference shares
If question is silent, Assume CPS	Dividend accumlation is not allowed here.
Dividend is paid on fixed Rate	If Dividend Not paid in this year Right to Recieve Dividend for this year got expired.
So, suppose current year profit is insufficient to pay pref. Dividend, then that Dividend will be accumlated in the future year's profit	

Then future year Dividend (+) previous year Dividend (arrear) → future year profit → So, If preference Dividend including arrear is not paid, equity Dividend cannot be paid.

section 123 : Declaration of Dividend

Source of payment of Dividend

Final

1. out of CY profit
2. out of PY profit
   (Remaining undistributed)
3. Both 1 & 2
4. guarantee for payment of Dividend
   - CG
   - SG

   so, from money provided by Govt.

Interim

1. surplus in P/L A/C
2. Profit of that year in which Dividend to be Declared
3. profit of that FY in which Dividend Declare upto that Quarter

* If Co. $\xrightarrow{\text{Incur}}$ loss during FY upto the end of quarter → Immediately preceding the date of declaration of Dividend → Max. Rate of Dividend = Average Rate of Dividend of Immediately preceding 3 FY

• Special Note :-

* Don't Include in profits
  - → Unrealised gains
  - → Notional gains
  - → Book gains
  - → Revaluation gain
  - → change in FV of Assets & liability
* And Also provide Depreciation from profit After charging unabsorbed Depⁿ
* As per schedule II of Co. Act, 2013

→ If co. wants to use the previous year profit (out of Reserve), then use only free Reserve.

→ No other Reserve can not be used for Dividend Declaration

→ Now, co. can use free Reserve to pay Dividend But conditions are attached within → practical 'Q'

To, make it easy, please follow the Below steps :-

step : 1 Amount withdrawn from Reserve → 1/10 (PUSC + FR)
Equity + Preference

step : 2. Balance left in Reserve → FR − 15% of PUSC

step : 3 step 1 OR step 2 → Whichever is lower

step : 4 step 3 − losses (if any)
(even carry forward losses)

ep:5 Average of last 3 year Dividend &
Multiply Rate with PUSC

ep:6 step 4 or step 5 (whichever lower)

→ Both Dividend (FD / ID) → After Declaration

→ Company will Deposit in a sperate Schedule Bank A/C within 5 Days from Date of Declaration of Dividend

GOVT CO. ⇒ NO Need of Deposit Dividend

→ Any Dividend (FD / ID) :-

How to pay Dividend

cash | cheque | Dividend warrant (Give you Right of Dividend) | Through electronic mode

Bonus share in lieu of Dividend is not considered as payment of Dividend (Sec: 63)

→ To whom Dividend is to be paid
- → Registred shareholder
- → To his order
- → To his Banker

Registred shareholder → Whose name is given in Register of member U/S 88

To his Banker → suppose shareholder give instruction to Bank to collect Dividend on his Behalf.

→ Record Date of Dividend

The date on which name of shareholder who will find in Register of member & will be entitted for Dividend

→ Example :-

$\boxed{\text{SO}}$ $\boxed{\text{Rohan}}$ → Registred shareholder $\xrightarrow[\text{shares}]{\text{sells}}$ $\boxed{\text{AMAN}}$

Made full Payment

BUT still Rohan gets Dividend → Name in Register → Rohan

→ By whom Dividend will not be paid

those companies who fails to comply sec: 73 & 74 (Deposits ch:5)

NPO companies

sec: 8

"They are ineligible to pay Dividend"

→ They can utilise their surplus only for the promotion of their objectives, they are ineligible to pay Divident

→ Dividend can be paid according to proportion of PUSC (sec: 51) if AOA Allows,

↓

So, FV = 10, IP = 10,

one shareholder paid only ₹8.

Co. after declare Dividend ₹5 per share

(5 × 0.80) = 4

↓

Company can pay ₹4 per share to him, If AOA Authorise.

Section 124: UNPAID Dividend Account (UDA)

company Declared Dividend

From Declaration ① → Within 5 Days Deposit to seperate Bank A/C

From Declaration ② → To be paid or claimed by shareholder within 30 D

NO — YES

After 30 Days — NEXT 7 Days — OKAY

Transfer the whole unpaid/Unclaimed Amount to seperate Bank A/C Named as "UDA" (Escrow Account)

In Next 90 Days Now — YES — NO

prepare statement

Name, last Known Address, Amt of UD

Interest @ 12% p.a. on the whole Amt. from Date of Default & Accrue to the memb as per their amount unpaid

put this statement on | website of co.
OR
Any website approved by Govt.

→ Now, if any person wants to claim this Dividend Afterwards (बाद में याद आया)

Apply to company for payment

to claim Dividend

→ Now, After transferring Amount to UDA :-

If, Remains Unpaid OR Remains Unclaimed

FOR 7 years from Transfer

Now, transfer this Amt. from UDA → IEPF (sec: 125)

(Amount + Interest on UDA)

→ IEPF :- Investor Education & protection fund (sec : 125) → company will sent a statement to IEPF Authority & Authority will gave them Recipt of transfer

* shares on which Dividend NOT paid / claimed ↓
इनका Amt तो UDA मे पडा है ।
→ Afer 7 years → IEPF
↓
" पर Question ये है " ⇒ " shares का क्या होगा

→ shares on which Dividend Not paid / claimed
↓
For consecutive (लगातार) 7 years

* Then those shares will Also transfer to "IEPF" + statement
↓
But if Dividend paid / claimed During any year among these consective 7 years
↓
Then these shares shall not be transferred to IEPF

* Penalty for sec: 124
for contravention

company		officer	
Min	Max	Min	Max
1 lakh	500 per Day (10 lakh)	25000	100 per Day (2 lakh)

section 125 : Investor Education & protection fund (IEPF)

→ Who establish — central Govt. IEPF Rules, 2016

→ Now, some Reciept to this Account (IEPF) & some expenditure from this Account.

credit to	(IEPF)	Debit from
1) Amt. given by CG as Grants. ~~Bonus~~	1) Refund (Amt + Interest)	— Unclaimed Dividend — Unclaimed Deposit — Matured Debentures — Application money
2) Donation by CG / SG & any company		
3) Amt in UDA After 7 years	2) For permotion of Investor	— Education — awareness — Protection
4) Amt in General Revenue A/c under CO. Act 1956 of CG } TIF to → IEPF, 2013	3) Amt Received u/s 38 from Disgorgement (ill Doing)	→ Refund to eligible shareholder, Debenture holder
5) IEPF → 205 (C) (CO. Act 1956)		

6) Int on gov. from fund (IEPF)

7) security seized u/s 38 of Co. Act, 2013 $\xrightarrow[\text{to}]{\text{TIF}}$ IEPF
→ Due to ill doings or wrongdoers → false claimant of security

8) Application money ⊗ Int.

9) Matured deposits ⊕ Int.

10) Matured ⊗ Int. Debentures

11) pref. shares redemption

pending for Refund (for 7 years) — NOT claim OR PAID

12) Any other Amt Received — other sources; Any Income; Any other fees

who suffered loss due to wrong actions

4) Reimbursement of legal expenses for class action suits

5) Any other purpose

→ Now any person wants to claim his amount

↓

Apply to IEPF u/s 125

→ IEPF Activity → Who manages the fund (IEPF)

one chairman Max 7 member CEO

secretary of MCA

→ CAGI $\xrightarrow{\text{Audited Accounts}}$ IEPF Account → Prepare Account Report

IEPF authority

Annually

Forward reports & Accounts

For every FY

CG

forward to

prepare annual report

Audit Report + Annual Report

Now present this in parliament (LS & RS) section 126 :-

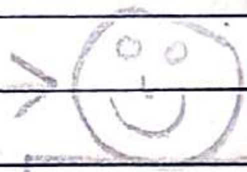
Right of
- Bonus shares
- Right shares
- Dividend

to be held in Abeyance ⇒ pending registration of transfer of shares

⇒ Example :

Rohan

sold shares
Transfer Deed
(Instrument of
Transfer)



AMan

↓

1) Deliver to → company

2) But company has Not registred this transfen

3) so, Now in Between company Declare Dividend

4) so, Rohan Name is in the Register of members

5) Now, Q arises to whom Dividend to be paid

↓

Transfer it it UDA (sec : 124)

Unless Rohan in writting Directed co. to pay to Aman

Right shares | Dividend | fully paid up Bonus shares

Keep in Abeyance

section : 127

punishment $\xrightarrow[\text{failure}]{\text{for}}$ Distribute Dividend

→ As Already Discussed company $\xrightarrow[\text{Declare Dividend}]{}$ Paid OR Post Dividend warrant → within 30 Days from Declaration

→ Suppose, co. $\xrightarrow[\text{Dividend warrant}]{\text{post}}$ with in 30 Days from Declaration → But shareholder didn't receive it on time, then co. is not liable

If Not paid within prescribed time

penalty

Co. ⇒ 18 % P.a. (simple Interest) upto default

Directors → Impriosment upto 2 years (+) → Min: 1000 per Day upto Default

during the period for which such default continues.

NO penalty (exception)

1) Not paid Dividend due to → operation of law (i.e. Death / insolvency)

2) shareholder give Direction to → for payment of Dividend → co. could not completed those Directions

↓

communicated to share-holders as well about non compliance

↓

All 4 points to be checked

3) Dispute regarding Right to Receive Dividend

4) Dividend adjusted by co. lawfully against any sum due by co. from shareholders like calls

5) Any other person, where co. is not ~~on~~ on any Default

* Interest confusion *

Not t/f to UDA with in 7 Days after expiry of 30 Days of Declaration (section: 124)

↓

12 % P.a.

Not paid Dividend or post Dividend warrant with in 30 Days from Declaration (section: 127)

↓

18 % P.a

special provisions for NIDHI CO.:-

sec: 123

↓

Dividend, if not paid / claimed from Declaration of Dividend

↓

can be credited in A/C after 30 Days

sec: 127

Dividend Amt ≤ 100

↓

No Need to pay Directly

↓

publish Declaration in vernacular language Newspaper + Display on Notice Board of co upto 3 Month