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## Chapter XII

# Interpretation of Statutes

### 1. OVERVIEW OF THE CHAPTER

- ❖ **Introduction and Relevant terms like** – Statute, Documents, Deed etc.
- ❖ **Interpretation** –
  - Need, Importance and
  - Classification – Two categories based on Legal and Doctrine.
  - Difference between Interpretation and Construction
- ❖ **Primary Rules of Interpretation** - 6 Types like Literal, Reasonable etc
- ❖ **Secondary Rules of Interpretation** – Effect of Usage and associated words meaning
- ❖ **Aids – Internal and External**
  - **Internal includes** – Title, Preamble, Heading etc. = Total 10 Aids
  - **External includes** – 6 types of external aids
- ❖ Rules for Deeds and Document's Interpretation

### 2. INTERPRETATION

- ❖ The process by which the Courts seek to ascertain the meaning of the legislature through the medium of the authoritative forms in which it is expressed.
- ❖ By which the real meaning of an Act (or a document) and
- ❖ The intention of the legislature or of the parties executing the document is ascertained.
- ❖ Interpretation is used in order to resolve any ambiguity in the statute.
- ❖ It is the art of finding out the true sense of words that is to say the sense in which their author intended to convey the subject matter.

### IMPORTANCE OF INTERPRETATION

**An interpretation of the act serves as a bridge between the two. Process of statute making and its interpretation are two different things and takes place separately by two different agencies**

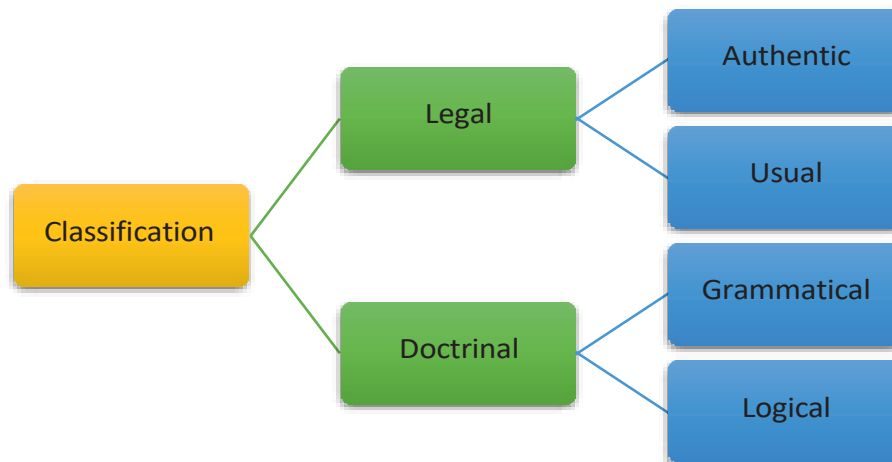
### 3. CLASSIFICATION OF INTERPRETATION

**Legal Interpretation** - This refers to a statutory or codified rule that legally binds the judge while interpreting the provisions of a law.

- ❖ **Authentic Interpretation:** This occurs when the rule of interpretation is derived directly from the legislature itself. It is considered binding as it reflects the legislature's own explanation or clarification of the law.
- ❖ **Usual Interpretation:** This form of interpretation is developed through precedents and case laws. It is commonly adopted by the courts based on established judicial decisions.

**Doctrinal Interpretation** - Doctrinal Interpretation refers to interpretation done to discover the true and real meaning of a statute. It does not necessarily rely on a binding rule but on reasoning and analysis.

- ❖ **Grammatical Interpretation:** This occurs when the court interprets a statute using the ordinary rules of grammar and language, giving words their plain and literal meaning
- ❖ **Logical Interpretation:** Here, the court goes beyond the literal words of the statute and attempts to determine the intent or purpose behind the law.



#### 3.1 INTERPRETATION OF LAWS CAN BE OF 2 TYPES: LITERAL AND FUNCTIONAL

##### 1. Literal Interpretation:

1. Focuses strictly on the words and language of the law.
2. The court's primary duty is to understand the legislature's intent through the exact words used, without looking beyond their literal meaning.

##### 2. Functional Interpretation:

1. Goes beyond the literal meaning of the law.

2. Seeks to uncover the true intention of the legislature, even if it means deviating from the exact wording of the law.

3. Balances the "letter" (literal words) and the "spirit" (intended purpose) of the law.

In most cases, courts rely on the **literal interpretation** as the best evidence of legislative intent. However, understanding when to apply each method is crucial for fair interpretation.

Aspect	Interpretation	Construction
<b>Definition</b>	Ascertaining the <b>plain meaning</b> of words and the true sense intended by the author.	Drawing conclusions <b>beyond the direct expression</b> of the words, considering the broader intent.
<b>Focus</b>	Focuses on the <b>exact language</b> used in the text.	<b>Focuses on the intention</b> behind the text when the meaning of words is unclear.
<b>Purpose</b>	To derive the <b>literal and plain</b> meaning of the statute.	To resolve <b>ambiguity</b> and determine the <b>broader</b> application of the text.
<b>Nature</b>	Adheres strictly to the <b>letter of the law</b> .	Explores the <b>spirit and intent of the law</b> , even beyond its literal words.
<b>Legal Basis</b>	Relies on the direct meaning of words.	Relies on context, other provisions, and the overall purpose of the law.
<b>Example Case</b>	<b>State of Madras v. Gannon Dunkerly Co. (AIR 1958)</b> : Legal words are given their precise sense.	<b>Bhagwati Prasad Kedia v. CIT (2001)</b> : Conclusions are drawn beyond the literal expressions.
<b>Relation</b>	Interpretation is a subset of construction.	Construction often involves interpretation but extends beyond it to include a broader analysis.
<b>Outcome</b>	Provides a straightforward application of the statute's words.	Resolves ambiguity to ensure the statute fulfills its intended purpose.

### 3.2 WHY DO WE NEED THEM ?

#### ❖ **Ambiguity in Laws:**

Laws often contain ambiguities due to the impossibility of drafting them with perfect clarity or foreseeing all contingencies.

#### ❖ **Denning L.J.'s View:**

- Drafting cannot foresee every situation or be free from ambiguity.
- Judges must work to uncover the intention of the legislature using the language of the statute, social conditions, and the problem it seeks to remedy.

### Fundamental Rules of Interpretation

1. **Legislative Will:** A statute reflects the legislature's intent and should be interpreted to align with that intent.
2. **Plain and Unambiguous Words:**
  - If the language is clear, the law should be applied in its natural sense.
  - Purpose: To discern express or implied legislative intent.

#### ❖ Limits of Interpretation

- **Clear and Unambiguous Laws:**
  - Must be strictly applied, regardless of perceived harshness.
  - Courts cannot alter or expand the law based on logic or fairness.

#### ❖ Court's Role: Administer the law as it is written.

#### ❖ Key Principle

- Interpretation must serve the public benefit and legislative intent, avoiding outcomes that render laws ineffective or unjust.

## 4. FEW IMPORTANT DEFINITIONS

### 4.1 STATUTE

- Generally means the laws and regulations of every sort without considering from which source they originate.
- The written will of the legislature solemnly expressed according to the forms necessary to constitute it the law of the State.
- Denotes an Act enacted by the legislative authority (e.g. Parliament of India).
- The Constitution uses the term 'Law' and not 'statute'.
- The term 'law' is defined as including any ordinance, order, bye-law, rule, regulation, notification.
- In short 'statute' signifies written law in contradiction to unwritten law.

## 4.2 DOCUMENT

- Its a paper or other material thing giving information, proof or evidence of anything.
- The Law defines 'document' in a more technical form.
- As per Section 3 of the Indian Evidence Act -
  - Any matter expressed or described upon any substance
  - by means of letters, figures or marks or
  - intended to be used, or which may be used, for the purpose of recording that matter.

## 4.3 ELEMENTS OF DOCUMENT

- **Matter** - Its usage with the word "any" shows that the definition of document is comprehensive.
- **Record** - Certain mutual or mechanical device employed on the substance. It must be by writing, expression or description.
- **Substance** – Mental and intellectual elements.
- **Means** - Those can be letters, any figures, marks, symbols which can be used to communicate between two persons.

## 4.4 INSTRUMENT

- A formal legal document which creates or confirms a right or records a fact.
- It is a formal writing of any kind such as
- An agreement, deed, charter or record, drawn up and executed in a technical form.
- It also means a formal legal document having legal effect, either as creating liability or as affording evidence of it.
- Section 2(14) of the Indian Stamp Act, 1899 states that 'instrument' includes every document by which any right or liability is or purports to be created, transferred, extended, extinguished or recorded.

## 4.5 DEED

- As an instrument in writing
- (or other legible representation or words on parchment or paper)
- **Purporting to effect some legal disposition.**
- Simply stated deeds are instruments though all instruments may not be deeds.
- However, in India no distinction seems to be made between instruments and deeds.

1. \_\_\_\_\_ means a legal document that is signed and delivered, especially one regarding the ownership of property or legal rights.
  - a. Statute
  - b. Document
  - c. Instrument
  - d. Deed
  
2. \_\_\_\_\_ includes every document by which any right or liability is or purports to be created, transferred, extended, extinguished or recorded.
  - a. Statute
  - b. Document
  - c. Instrument
  - d. Deed
  
3. \_\_\_\_\_ means any matter expressed or described upon any substance by means of letters, figures, or marks, or by more than one of these means, intended to be used, or which may be used, for the purpose of recording that matter.
  - a. Statute
  - b. Document
  - c. Instrument
  - d. Deed
  
4. The general considerations in the interpretation and construction of deeds and documents is/are:
  - a. The intention of the parties which manifested at the time when the document was executed.
  - b. Understanding as would a reasonable man construe, who has taken care to inform himself of the surrounding circumstances of a deed or a document, and of its scope and intent.
  - c. Where there is a conflict between
    - what is said in one part of the document and in another part, read the two parts of the document harmoniously if possible.
    - d. All of the above.
  
5. Which of the following explain the need for interpretation of statutes?
  - a. To remove ambiguities in the language of the statutes
  - b. To understand the intent of the legislature
  - c. To select the correct intent from multiple interpretations
  - d. All of the above
  
6. \_\_\_\_\_ is defined as the will of legislature conveyed in the form of text.
  - a. Statute
  - b. Document
  - c. Instrument
  - d. Deed
  
7. \_\_\_\_\_ is the process by which the courts seek to ascertain the meaning of the legislature through the medium of authoritative forms in which it is expressed.
  - a. Authorisation and Interpretation
  - b. Analysis and Evaluation
  - c. Interpretation or Construction
  - d. Appraisal or\_ Construction
  
8. The object of interpretation is:
  - a. To find out dictionary meaning of the words and phrase
  - b. To find out correct translation of the words and phrase
  - c. To find out the true intent and spirit of word and phrase
  - d. To apply the meaning depending on situation

## RULES OF INTERPRETATION

### Primary Rules

1. Rule of Literal Construction
2. Rule of Reasonable Construction
3. Rule of Harmonious Construction
4. Rule of Beneficial Construction
5. Rule of Exceptional Construction
6. Rule of Ejusdem Generis

### Secondary Rules

1. Effect of usage
2. Associated Words to be Understood in Common Sense Manner

## PRIMARY RULES OF INTERPRETATION

### 5. RULE OF LITERAL CONSTRUCTION

- ❖ It is the cardinal and elementary rule of construction
- ❖ Words, sentences and phrases of a statute should be read -
  - In their Ordinary, natural and grammatical (literal) meaning when they are clear and unambiguous.
  - Hypothetical interpretations are not allowed in such cases.
  - Words and phrases of technical nature are 'prima facie' used in their technical meaning,
  - In their ordinary popular meaning
  - Primary Rule: The court must find the legislature's intent in the words used in the statute itself.
- ❖ **Single Interpretation:** If the words are capable of only one interpretation, courts cannot adopt a hypothetical meaning, even if it seems more consistent with the Act's objectives.
- ❖ **Literal and Grammatical Meaning:**
  - Words must be given their ordinary and natural meaning.
  - The language should be interpreted in its grammatical sense.
  - **No Reference to Cases Initially:** The correct approach is to analyse the words directly without relying on prior case law in the first instance.
- ❖ **Clear and Unambiguous Language:**
  - When the language is plain, it must be interpreted as it is, without extrapolation or adding hypothetical meanings.
  - Courts cannot modify or expand the meaning based on assumed legislative intent.
- ❖ **Duty of the Court:** Interpret words in their ordinary grammatical sense unless ambiguity or doubt arises.

<b>Absoluta sententia expositore non indiget means</b> <b>Plain words require no explanation. A simple preposition needs no expositor</b>	
<b>Narrow Vs Broader</b>	<ul style="list-style-type: none"> <li>• If two interpretations exist (narrow and broad)</li> <li>• the broader interpretation should be adopted</li> <li>• if the narrower fails to fulfil the purpose of the legislation.</li> </ul>
<b>Restricted Interpretation Consequences</b>	Narrow interpretation in matters like family interest in contracts would defeat the purpose of the legislation.
<b>Court's Limitation</b>	Courts cannot supply provisions omitted in a statute; doing so would amount to legislation, not interpretation.
<b>Technical Words</b>	<ul style="list-style-type: none"> <li>• Technical words must be understood in their technical sense,</li> <li>• Supreme Court Advocates Act, 1951 where "practice" includes both acting and pleading.</li> <li>• Ashwini Kumar Ghose v. Arabinda Bose AIR 1952 SC 369</li> </ul>

Example	Explanation	Conclusion
<b>Disclosure under Section 102 of the Companies Act, 2013</b>	<ul style="list-style-type: none"> <li>• Directors and managers must disclose all relevant details about their financial or other interests in any business proposal.</li> <li>• This includes close family connections like parents, siblings, or children in contracts.</li> <li>• Narrow interpretation would defeat transparency.</li> </ul>	A broad interpretation ensures shareholders have sufficient information to make informed decisions.
<b>Sale of Betel Leaves and Sales Tax</b>	<ul style="list-style-type: none"> <li>• The term "betel leaves" should be understood in its ordinary, popular meaning rather than its technical or botanical sense.</li> <li>• As a common trade item, it is liable to sales tax.</li> </ul>	Words in statutes should be interpreted in their commonly understood sense unless the context demands otherwise.

1. \_\_\_\_\_ is the cardinal rule of construction that words, sentences and phrases of a statute should be read in their ordinary, natural and grammatical meaning so that they may have effect in their widest amplitude.

(1 Mark) (MTP Oct. 22) (MTP Oct. 23)

- a. Rule of Literal Construction
- b. Rule of Harmonious Construction
- c. Rule of Beneficial Construction
- d. Rule of Exceptional Construction

## 6. RULE OF REASONABLE CONSTRUCTION

<b>Ut res magis valeat quam pereat</b> <b>Words of a statute must be interpreted to give a sensible &amp; meaningful outcome</b>	
<b>Scope of Interpretation</b>	<ul style="list-style-type: none"> <li>• Interpretation arises only when words have two possible meanings.</li> <li>• The meaning that furthers the statute's objective is chosen.</li> </ul>
<b>Grammatical Interpretation and Absurdity</b>	<ul style="list-style-type: none"> <li>• If grammatical interpretation causes absurdity, courts can modify the meaning to avoid it.</li> <li>• This is known as the <b>Golden Rule</b> of interpretation.</li> <li>• Modification is allowed <b>only to the extent necessary</b> to avoid absurdity.</li> </ul>
<b>Court's Role in Interpretation</b>	<ul style="list-style-type: none"> <li>• When plain meaning leads to unfair or unreasonable results,</li> <li>• courts adopt a fair and just construction.</li> <li>• Courts aim to advance the remedy and suppress mischief without guesswork.</li> </ul>
<b>Conclusion</b>	<ul style="list-style-type: none"> <li>• Courts provide interpretations aligning with the statute's <b>policy and object</b>.</li> <li>• The goal is to ensure the law remains effective and meaningful.</li> </ul>

1. When there is a conflict between two or more statutes or two or more parts of a statute then which rule is applicable:

(1 Mark) (MTP Oct. 23)

- a. Welfare construction
- b. Strict construction
- c. Harmonious construction
- d. Mischief Rule

## 7. GRAMMATICAL (LITERAL) VS LOGICAL (REASONABLE)

### Grammatical or Literal Interpretation:

- Focuses on the exact words and expressions used.
- Concerned with "what the law says."
- Principle: "*Clear words need no explanation*" (*absoluta sententia expositore non indiget*)

### Logical Interpretation:

- Seeks to determine "what the law means."
- Used when literal interpretation results in absurdity or does not align with legislative intent.

### When to Use Logical Interpretation

1. **Manifest Absurdity:** If grammatical interpretation leads to absurd outcomes, logical interpretation ensures the law fulfills its purpose.
2. **Conflicting Constructions:** Between a strict grammatical approach and one that aligns with the Act's purpose, the latter is preferred (*Arora v. State of UP*).

## 8. RULE OF HARMONIOUS CONSTRUCTION

### 1. Harmony with the Object of the Statute

- **Meaning:** Expressions in a statute or deed must be understood in a way that aligns with the object or purpose of the statute.
- **Conflict:** When two provisions or a provision and the statute's object are in conflict, this rule helps resolve it.
- **Example:** If a word has both a technical and a popular meaning, the court will choose the meaning that fulfils the object of the statute. *Case: New India Sugar Mills Ltd. v. Commissioner, Sales Tax*

### 2. Avoiding Conflict between Provisions

- If a conflict between two provisions can be avoided, the court must interpret them to maintain harmony.
- **Statute as a Whole:** The statute must be read in its entirety to ensure consistency.

### 3. When Conflict cannot be Avoided:

- **If it is impossible to harmonize two provisions:**
  - **One provision may be treated as an exception or a specific rule.**
  - **Generalia Specialibus Non Derogant - A specific rule overrides a general rule**

### 4. When Harmony cannot be Applied

- **Real Conflict:** The rule applies only if there is a real conflict, not an apparent one.
- **Natural Meaning:** If the words of the statute clearly convey one meaning, that natural meaning will prevail.
- **No Interpretation Based on Equity:** The court must not reinterpret based on fairness or attempt harmony where words are clear.

Term/Clause	Meaning	Effect
<b>Subject to</b>	When a provision is <b>subservient</b> to another, the latter prevails in case of conflict.	The clause using “subject to” is dependent on or limited by another provision.
<b>Notwithstanding</b>	A <b>non-obstante clause</b> that overrides other provisions or enactments mentioned.	The clause prevails over any conflicting provisions.

<b>Without prejudice</b>	When specific provisions operate <b>in addition to</b> general provisions, without limiting them.	Particular provisions do not restrict or reduce the effect of general provisions.
<p><b>Example:</b></p> <p><b>Subject to</b></p> <p><b>Example :</b> Section 13(2) of the Companies Act, 2013, "Any change in the name of a company shall be subject to the provisions of sub-sections (2) and (3) of section 4 and shall not have effect except with the approval of the Central Government in writing."</p> <p><b>Without prejudice</b></p> <p><b>Example:</b> Section 4(3) of the Companies Act, 2013, "Without prejudice to the provisions of sub-section (2), a company shall not be registered with a name which contains."</p> <p>This implies that while registering (and deciding) the name of the company [as per section 4(3)], provisions of section 4(2) shall also be operative.</p>		

Types of Clauses	Effect	Example
<b>Notwithstanding anything contained in another section/sub-section of the same statute</b>	Overrides specific section(s) or sub-sections within the same statute.	Section 42(11) of the Companies Act, 2013 <b>Notwithstanding anything contained in sub-section (9) and sub-section (10):</b> Private placement issue not made in compliance with sub-section (2) will be deemed a public offer despite sub-sections (9) and (10).
<b>Notwithstanding anything contained in a statute</b>	Overrides the <b>entire statute</b> or enactment.	Section 8(8) of the Companies Act, 2013: .....amalgamated with another company registered under this section and having similar objects, then, <b>notwithstanding anything to the contrary contained in this Act</b> , Central Government to order amalgamation despite anything in the Act.
<b>Notwithstanding anything contained in specific section(s)</b>	Prevails over specific sections of another enactment.	Section 7A of the Securities Contracts (Regulation) Act, 1956: Rules approved by Central Government prevail notwithstanding anything contained in the Companies Act, 1956.

<b>or provisions of another statute</b>		Section 183 of the Companies Act, 2013: Contributions to National Defence Fund prevail may, notwithstanding anything Stated in sections 180, 181, 182, or any other provision of this Act
<b>Notwithstanding anything contained in any other law for the time being in force</b>	Overrides all other laws currently in force.	Section 8 of the Securities Contracts (Regulation) Act, 1956: “Notwithstanding anything contained in any other provisions of this Act, or any other law for the time being in force Section 243(1B) of the Companies Act, 2013: Removed directors/officers cannot claim compensation, overriding all laws or contracts.

## 9. THE RULE IN HEYDON’S CASE OR MISCHIEF RULE

- ❖ Where the language used in a statute is capable of more than one interpretation
- ❖ The rule then directs that the courts must adopt that construction which shall –
- ❖ **Suppress the mischief and advance the remedy.**
- ❖ The Rule in Heydon’s case is **applicable only** –
  - ✓ *When the words used are **ambiguous** and*
  - ✓ *Are **reasonably capable of more than one meaning***
- ❖ So if the words are capable of bearing **only one construction**, the Heydon’s rule ceases & gives way to the plain meaning rule
- ❖ **The rule which is also known as ‘purposive construction’ or mischief rule,**
- ❖ **Enables consideration of four matters in construing an Act –**
  - ✓ **What was the law before the making of the Act ?**
  - ✓ **What was the mischief or defect for which the law did not provide ?**
  - ✓ **What is the remedy that the Act has provided; and**
  - ✓ **What is the reason for the remedy ?**

1. A method of interpretation which brings into effect provisions for improving the conditions of certain classes of people who are under privileged or who have not been treated fairly in the past.

(RTP Nov 23)

- a. Rule of Literal Construction
- b. Rule of Harmonious Construction
- c. Rule of Beneficial Construction
- d. Rule of Exceptional Construction

Example / Case	Statute	Issue	Court's Decision
<b>RMD Chamarbaugwalla v. Union of India</b>	Section 2(d) of the Prize Competition Act, 1955	Does the Act apply to competitions involving substantial skill?	The Act applies <b>only to competitions</b> where success <b>does not depend on substantial skill</b> .
<b>Reasoning</b>	Historical context and mischief	The Act aims to regulate competitions that are more in the nature of <b>gambling</b> and not skill-based.	The Court referred to <b>previous laws</b> and the mischief to conclude the Act's scope.

## 10. THE RULE OF BENEFICIAL CONSTRUCTION

### ❖ Meaning

- It is not strictly a rule but a method of interpretation.
- The provision is interpreted liberally to give effect to the declared intention of the legislation.

### ❖ When is it Applied?

- **Purpose:** To improve the conditions of underprivileged or unfairly treated classes of people.
- **Extended Meaning:** Courts may provide a broader interpretation of words or clauses to fulfil the legislation's intention.

### ❖ Conditions for Application

- The rule applies only when:
  - Two constructions of the provision are reasonably possible.
  - The words in the statute are not unequivocal.
- If the words are clear and specific, this rule cannot be applied.

- ❖ **Conclusion** - Beneficial construction favors a liberal approach to ensure the statute achieves its social or welfare-based objectives.

<b>Case Name</b>	<b>Alembic Chemical Works Co. Ltd. v. Workmen</b>
<b>Law Involved</b>	Law related to worker <b>compensation</b>
<b>Issue</b>	Whether <b>temporary workers</b> are covered under the law
<b>Rule Applied</b>	<b>Rule of Beneficial Construction</b>
<b>Purpose of the Law</b>	To protect the interests of <b>workers</b>

<b>Court's Interpretation</b>	The law should be <b>liberally interpreted</b> to include temporary workers
<b>Judgment</b>	Temporary workers were <b>included</b> for compensation
<b>Outcome</b>	The law achieved its <b>intended benefit</b> for all workers

## 11. THE RULE OF EXCEPTIONAL CONSTRUCTION

- ❖ The rule of exceptional construction stands for the elimination of statutes and words in a statute which defeat the real objective of the statute or make no sense.
- ❖ It also stands for construction of words 'and', 'or', 'may', 'shall' & 'must'
- ❖ This rule has several aspects, viz. :
  1. **The Common Sense Rule**
  2. **Conjunctive and Disjunctive Words - Or & And**
  3. **May, Must and Shall**

### 11.1 THE COMMON SENSE RULE

- Despite the general rule that full effect must be given to every word,
- if no sensible meaning can be fixed to a word or phrase, or if it would defeat the real object of the enactment, it should be eliminated.
- The words of a statute must be so construed as to give a sensible meaning to them, if at all possible.
- They ought to be construed 'utres magis valeat quam pereat' meaning thereby that it is better for a thing to have effect than to be made void.

### 11.2 CONJUNCTIVE AND DISJUNCTIVE WORDS 'OR' 'AND'

- The word '**or**' is normally disjunctive & '**and**' is normally conjunctive.
- However, at times they are read as **vice versa** to give effect to the manifest intention of the legislature as disclosed from the context.
- Where the literal reading of the words produces an unintelligible or absurd result.
- In such a case 'and' = 'or' and 'or' = 'and' even though the result of so modifying the words is less favourable to the subject, provided that the intention of the legislature is otherwise quite clear

### 11.3 USAGE OR INTERPRETATION OF THE WORDS - MAY, MUST AND SHALL

May	Shall
Directory	Mandatory
Sufficient - Substantially complied	Means - Strictly Observed
Technical conditions	Substantive conditions
If lapse – Can be condoned	Cannot be condoned
Would not invalidate the Act	It will invalidate the Act
Based on discretion	Penalty, prohibitions etc

### 11.4 WHEN THE WORD “MAY” WILL BE INTERPRETATED AS “SHALL” AND VICE VERSA

When May = Shall	When May = Shall
Use of the ‘may’ in a statutory provision would not by itself show that the provision is directory in nature.	A discretion is conferred upon a public authority
The legislature may use ‘may’ as a matter of pure conventional courtesy and yet intend a mandatory force.	An order of Gov or statute confers a power on an authority to discharge its public duty
Where a discretion is coupled with an obligation OR Power with Duty	Where a discretion is coupled with an obligation OR Power with Duty

## 12. RULE OF Ejusdem Generis

### Rule of Ejusdem Generis: Means ‘of the same kind or species’

- General words following specific words are to be construed with reference to the words that precede them.
- Those general words are to be taken as applying to things of the same kind as the specific words previously mentioned,
- Unless there is something to show that a wider sense was intended.

- Thus it means that where specific words are used and after those specific words, some general words are used, the general words would take their colour from the specific words used earlier.
- ❖ If the particular words used exhaust the whole genus (category), then the general words are to be construed as covering a larger genus.
- ❖ We must note, however, that the general principle of 'ejusdem generis' applies only –
  - Where the specific words are all the same nature.
  - When they are of different categories, then the meaning of the general words following those specific words remains unaffected - those general words then would not take colour from the earlier specific words.

**Rule applies when –**

1. Statute contains an enumeration of specific words
2. The subjects of enumeration constitute a class or category
3. That class or category is not exhausted by the enumeration
4. The general terms follow enumeration, and
5. There is no indication of a different legislative intent

**Courts have a discretion whether to apply the 'ejusdem generis' doctrine in particular case or not.**

## 13. SECONDARY RULES OF INTERPRETATION

### 13.1 ASSOCIATED WORDS TO BE UNDERSTOOD IN COMMON-SENSE MANNER

When two words or expressions are coupled together one of which generally excludes the other, obviously the more general term is used in a meaning excluding the specific one.

- Concept of 'Noscitur A Sociis' ('it is known by its associates')
- The meaning of a word is to be judged by the company it keeps
- When two or more words which are capable of analogous (similar or parallel) meaning are coupled together,
- They are to be understood in their cognate sense (i.e. akin in origin, nature or quality).
- They take, as it were, their colour from each other, i.e
- the more general is restricted to a sense analogous to the less general.
- It is a rule wider than the rule of ejusdem generis, rather ejusdem generis is only an application of the noscitur a sociis.
- It must be borne in mind that noscitur a sociis, is merely a rule of construction and

- it cannot prevail in cases where it is clear that the wider words have been deliberately used in order to make the scope of the defined word correspondingly wider

**Fresh orange juice is not a fruit juice.**

While dealing with a Purchase Tax Act, which used the expression "manufactured beverages including fruit-juices and bottled waters and syrups".

It was held that the description 'fruit juices' as occurring therein should be construed in the context of the preceding words and that orange-juice unsweetened and freshly pressed was not within the description. (Commissioners. v. Savoy Hotel, (1966) 2 All. E.R. 299)

**Private Dispensary of a doctor is not a commercial establishment**

In dealing with the definition of commercial establishment in Section 2 (4) of the Bombay Shops and Establishments Act, 1948, which reads, "commercial establishment means an establishment which carries on any business, trade or profession", the word 'profession' was construed with the associated words 'business' and 'trade' and it was held that a private dispensary of a doctor was not within the definition. (Dr. Devendra M. Surti v. State of Gujrat, A.I.R. 1969 SC 63)

## 13.2 DOCTRINE OF CONTEMPORANEA EXPOSITIO

**‘Optima Legum interpres est consuetudo’**

The custom is the best interpreter of the law

and

**‘Contempranea expositoest optima et fortissima in lege’**

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

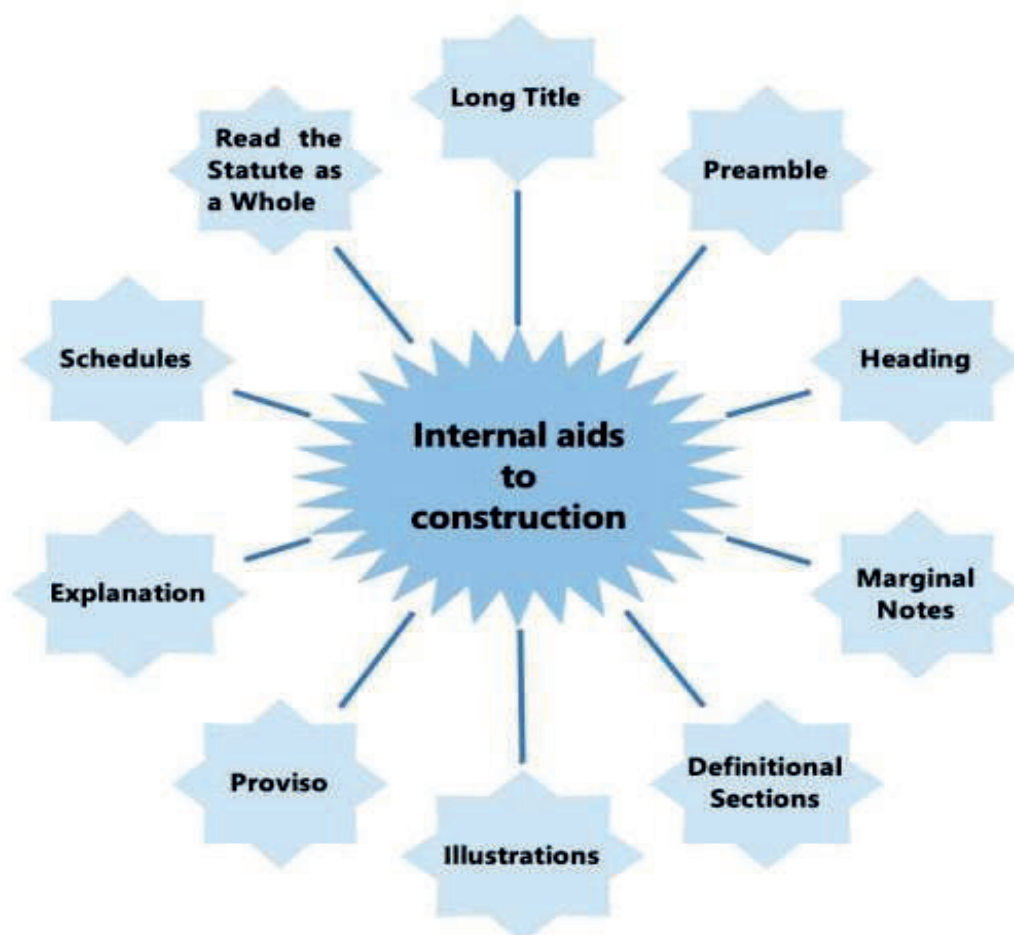
- The best interpretation/construction of a statute or any other document is that which has been made by the contemporary authority.
- Simply stated, old statutes and documents should be interpreted as they would have been at the time when they were enacted/written

1. In construing statutes, the cardinal rule is to construe its provisions literally and grammatically giving the words their ordinary and natural meaning so that they may have effect in their \_\_\_\_\_ amplitude.
  - a. Widest
  - b. Narrowest
  - c. Original
  - d. Contextual
  
2. The phrase and sentences are to be construed according to the rules of grammar except:
  - a. Where the words in the enactment are logically defective on account of ambiguity, inconsistency or incompleteness.
  - b. Where the text leads to a result which is so unreasonable that it is self-evident that the legislature could not mean what it says.
  - c. Both (a) and (b)
  - d. None of the above
  
3. Which among the following is the cardinal rule of construction of statutes:
  - a. Literal Rule of construction
  - b. Harmonious Rule of construction
  - c. Beneficial Rule of construction
  - d. Reasonable Rule of construction
  
4. The maxim 'absoluta sententia expositore non indiget' means:
  - a. No explanation is required when you have plain words capable of only one interpretation.
  - b. When a choice has to be made between two interpretations, the wider one should be adopted.
  - c. The word used by legislature can be expanded to fill in gaps or omissions.
  - d. Words in statutes should be construed in their popular meaning.
  
5. If there are two possible constructions of a clause —one a mere mechanical and literal construction and another contextual which emerges from the setting in which the clause appears and the circumstances in which it came to be enacted and also from the words used therein, the courts may prefer:
  - a. Literal construction
  - b. Contextual construction
  - c. Depends on the facts of the case
  - d. Depends on the interpretation taken by foreign cases
  
6. The word 'livestock' is interpreted to mean all domestic animals but will not include 'chicks'. This is application of which rule of interpretation?
  - a. Rule of Literal Interpretation
  - b. Rule of Reasonable Construction
  - c. Rule of Reasonable Construction
  - d. Rule of Ejusdem Generis
  
7. Rule of Reasonable Construction is based on the maxim:
  - a. Absoluta sententia expositore non indiget
  - b. Ut res magis valeat quam pereat
  - c. Quo facit per alium facit per se
  - d. Contemporanea exposition
  
8. The maxim 'ut res magis valeat quam pereat' means:
  - a. No explanation is required when you have plain words capable of only one interpretation.
  - b. It is better for a thing to have effect than to be made void.
  - c. When a choice has to be made between two interpretations, the wider one should be adopted.
  - d. The word used by legislature can be expanded to fill in gaps or omissions.

9. On a question before the court whether a transaction is intra vires the objects of a company, the company counsel argues that the transaction is question is covered under the general clause of the Memorandum of Association to 'do other incidental things'. Applying the rules of interpretation, how would you decide?
- According to Rule of Literal Interpretation, the claim of company is valid.
  - According to Rule of Reasonable construction, any object not expressly provided cannot be found by reference to the general clause.
  - According to Rule of Harmonious construction, the different object clauses of Memorandum should be read together as a whole and therefore any object not expressly provided can be covered under the general clause.
  - According to Heydon's Rule the purpose of Memorandum is to allow all kinds of object.
10. Which rule of construction is applicable where there is a real and not merely apparent conflict between the provisions of an Act, and one of them has not been made subject to the other:
- Rule of Literal construction
  - Rule of Reasonable construction
  - Rule of Harmonious construction
  - Rule of Exceptional construction
11. If there is inconsistency in two provisions of the Act enacted at different points of time, as per Rule of Harmonious Construction which one should prevail?
- Both the provisions should be applied by removing the inconsistency through insertion/ deletion of words therein.
  - The provision enacted earliest in point of time must prevail.
  - The provision enacted later in point of time must prevail.
  - Both the provisions should be discarded.
12. The rule of beneficial construction is also known as:
- Heydon's Rule
  - Rule of Purposive Construction
  - Mischief Rule
  - All of the above
13. Which of the following statements is/are true with reference to rule of exceptional construction:
- The conjunctive word 'and' and disjunctive word 'or' can be read as vice versa.
  - The mandatory word 'shall' and directory word 'may' can be read as vice versa.
  - Both (a) and (b)
  - None of the above
14. Which of the following statements is/are true with reference to rule of exceptional construction:
- Whether a provision is mandatory or directory depends on the substance and not merely the form.
  - The expression 'shall' and 'may' should be construed literally and cannot be interpreted vice versa'.
  - If there is inconsistency, it is better for a thing to be void than have effect.
  - The word 'may' is always used as a matter of pure conventional courtesy and never intend a mandatory force.

15. The word 'may' should be interpreted to convey a mandatory force:
- Where it involves a discretion coupled with an obligation
  - Where it confers a positive benefit to the general class of subjects
  - Where giving the word a directory significance would defeat the very object of the Act
  - All of the above
16. Rule of Ejusdem Generis means:
- General words following specific words will be construed as being limited to persons or things of the same general kind or class as those enumerated by the specific words.
  - General words coming before specific words will be construed as being limited to persons or things of the same general kind or class as those enumerated by the specific words.
  - Both (a) and (b)
  - None of the above
17. An Act permits keeping of dogs, cats, cows, buffaloes and other animals. Applying the rule of Ejusdem Generis, the expression 'other animals' would:
- Include all kind of wild and domesticated animals
  - Include only wild animals
  - Include only domesticated animals
  - Include all kind of wild and domesticated animals depending on the facts of the case
18. The maxim 'Optima legum interpretis est consuetudo' means:
- The best interpreter of laws is the Constitution
  - The best interpreter of laws is the Customs
  - The best interpreter of laws is the Context
  - The best interpreter of laws is the Case laws
19. The maxim 'Contemporanea expositio est optima et fortissima in lege' means:
- The best way to construe a document is to read it as it would have been read when made.
  - The best way to construe a document is to read literally.
  - The best way to construe a document is to read it as a whole.
  - The best way to construe a document is to read it as required.
20. The maxim Noscitur a Sociis' means:
- Two or more words in a list within a statute should be read as unrelated to each other.
  - Two or more words used in a statute restrict each other.
  - Two or more words susceptible of dissimilar meaning coupled together, they are understood to be used in their cognate sense.
  - Two or more words susceptible of analogous meaning coupled together, they are understood to be used in their cognate sense.
21. Applying the rule 'Noscitur a Sociis', in the list 'cosmetics, perfumery and toilet goods excluding toothpaste, tooth powder kumkum and soap', the word 'perfumery' can include:
- Aerosol perfume sprays and body deodorants
  - Dhoop and Agarbatti
  - Both (a) and (b)
  - None of the above
22. \_\_\_\_\_ means that when two or more words that are susceptible of analogous meaning, are coupled together they are understood to be used in their cognate sense.
- (1 Mark) (MTP Oct. 23)**
- Noscitur a Sociis
  - Contemporanea Expositio
  - prima facie
  - absoluta sententia expositore non indigent

## 14. INTERNAL AIDS TO INTERPRETATION



### 14.1 INTERNAL AIDS TO INTERPRETATION OR CONSTRUCTION

Every enactment has its Title, Preamble, Heading, Marginal Notes, Definitional Sections/ Clauses, Illustrations etc. They are known as 'internal aids to construction'.

#### Types –

- ❖ Long Title
- ❖ Preamble
- ❖ Heading and Title of a Chapter
- ❖ Marginal Notes
- ❖ Definitional Sections/Interpretation Clauses
- ❖ Illustrations
- ❖ Proviso

- ❖ Explanation
- ❖ Schedules
- ❖ Read the Statute as a Whole

### Long Title

An enactment would have what is known as a '**Short Title**' and also a '**Long Title**'.

'**Short Title**' merely identifies the enactment & is chosen merely for convenience,

'**Long Title**' describes the enactment and does not merely identify it.

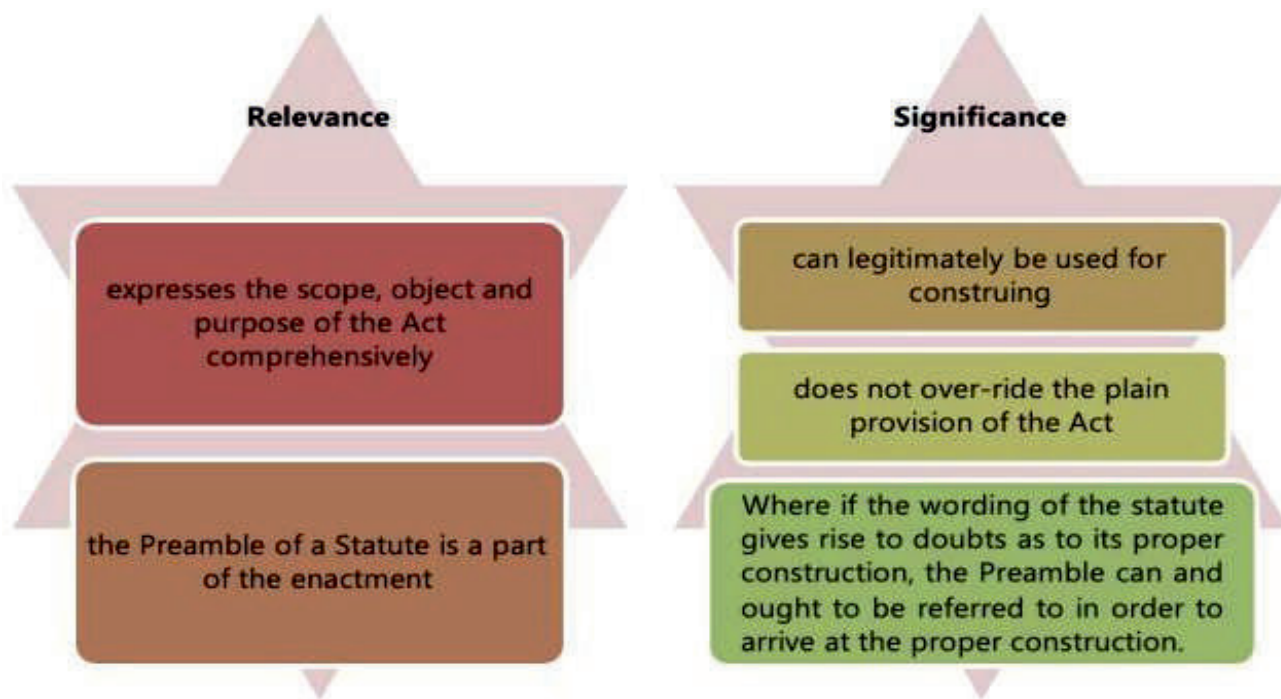
It is now settled that the Long Title of an Act is a part of the Act. We can, therefore, refer to it to ascertain the object, scope and purpose of the Act and so is admissible as an aid to its construction. Although it cannot override the clear meaning of the enactment. [Aswini kumar Ghose v. Arabinda Bose, AIR 1952 SC]

### Preamble

- It expresses the scope, object and purpose of the Act more comprehensively than the Long Title.
- The Preamble may recite the **ground** and the **cause** of making a statute and **the evil** which is sought to be remedied by it.

In short,

- When wording gives rise to doubts or where the words or phrase has more than one meaning,
- Discloses the primary intention
- But only when the language of the statute is not clear.
  - It does not **over-ride** the plain provision of the Act



## 14.2 HEADING AND TITLE OF A CHAPTER

**Sections are grouped together in the form of Chapters, prefixed by Heading and/or Titles.**

1. It is to be regarded as giving the key to the interpretation of the clauses ranged under it and might be treated as 'preambles to the provisions following it'.
2. It can only be taken when the enacting words are ambiguous. So they may be referred to as to construction of doubtful expressions
3. The heading to one group of sections can't be used to interpret another group of sections.
4. It may be noted that headings may sometimes be referred to know the scope of a section in the same way as the preamble

**HEADING CANNOT OVERRIDE A SECTION**

## 14.3 MARGINAL NOTES

**Based on many Case laws -**

- Marginal Notes appended to a Section can not be used for construing.
- Marginal notes in an Indian statute, as in an Act, of Parliament cannot be referred to for the purpose of construing the statute.

- Marginal notes are summaries and side notes often found at the side of a section or group of sections in an Act
- They are not a part of the enactment, for they were not present when the Act was passed in Parliament but inserted after the Act has been so passed

However, marginal notes appended to Articles of the Constitution have been held to be part of the Constitution as passed by the Constituent Assembly and therefore have been used in construing the Articles.

#### 14.4 DEFINITIONAL SECTIONS/INTERPRETATION CLAUSES

- The legislature has the power to embody in a statute itself the definitions of its language and it is quite common to find in the statutes 'definitions' of certain words and expressions used in the body of the statute.
- When a word or phrase is defined a particular meaning in the enactment, it is that meaning alone which must be given to it in interpreting a Section of the Act
- Unless there be anything repugnant in the context.
- The Court cannot ignore the statutory definition and try and extract what it considers to be the true meaning.

to provide a key to the proper interpretation of the enactment

to shorten the language of the enacting part by avoiding repetition of the same words contained in the definition part.

#### The purpose of a definition clause is two-fold:

1. To provide a key to the proper interpretation of the enactment, and
2. To shorten the language of the enacting part by avoiding repetition of the same words contained in the definition part every time the legislature wants to refer to the expressions contained in the definition.

## 14.5 CONSTRUCTION OF DEFINITIONS MAY UNDERSTOOD UNDER THE FOLLOWING HEADINGS

- Restrictive and extensive definitions
- Ambiguous definitions
- Definitions subject to a contrary context

### 1. Restrictive and extensive definitions :

The definition of a word or expression in the definition section may either be restricting of its ordinary meaning or may be extensive of the same.

- ❖ **'Mean'** = Restrictive and Exhaustive = restrict the meaning of the word to that given in the definition section.
- ❖ **'Include'** = Extensive means here the word defined is not restricted to the meaning assigned to it.
- ❖ **'Means and includes'** = Definition would be exhaustive.
- ❖ **'to apply to and include'** = Definition is understood as extensive.

**Example:** Inclusive definition of lease given under section 2(16)(c) of the Stamp Act, 1899 has been widely construed to cover transaction for the purpose of Stamp Act which may not amount to a lease under section 105 of the Transfer of property Act, 1882. [State of Uttarakhand v. Harpal Singh Rawat, (2011) 4 SCC 575]

Section 2(m) of the Consumer Protection Act, 1986 contains an inclusive definition of 'person'. It has been held to include a 'company' although it is not specifically named therein [Karnataka Power Transmission Corporation v. Ashok Iron Works Pvt. Ltd., (2009)3 SCC 240]

A definition section may also be worded as 'is deemed to include' which again is an inclusive or extensive definition as such a words are used to bring in by a legal fiction something within the word defined which according to its ordinary meaning is not included within it.

**Example:** If A is deemed to be B, compliance with A is in law compliance with B and contravention of A is in law contravention of B.

### 2. Ambiguous definitions :

- Sometime we may find that the definition section may itself be ambiguous, and so it may have to be interpreted in the light of the other provisions of the Act.
- **Such types of definition is not to be read in isolation.** It must be read in the context of the phrase which it defines,
- realising that the function of a definition is to give accuracy and certainty to a word or phrase which would otherwise be vague and uncertain but not to contradict it or depose it altogether.

**Example:** Termination of service of a seasonal worker after the work was over does not amount to retrenchment as per the Industrial Disputes Act, 1947. [Anil Bapurao Karase v. Krishna Sahkari Sakhar Karkhana, AIR 1997 SC 2698]. But the termination of employment of a daily wager who is engaged in a project, on completion of the project will amount to retrenchment if the worker had not been told when employed that his employment will end on completion of the project. [S.M. Nilajkar v. Telecom District Manager Karnataka, (2003)4 SCC].

**3. Definitions subject to a contrary context :**

When a word is defined to bear a number of inclusive meanings, the sense in which the word is used in a particular provisions must be ascertained from the context of

- the scheme of the Act,
- the language of the provision and
- the object intended to be served thereby.

**14.6 ILLUSTRATIONS**

- Many, though not all, sections have illustrations appended to them.
- Illustrations follow the text of the Sections and, therefore,
- Do not form a part of the Sections.
- Illustrations do form a part of the statute and are considered
- To be of relevance and value in construing the text of the sections.
- Cannot modify the language of the section and can neither curtail nor expand the ambit of the section.

**Example:** In holding that section 73 of the Indian Contract Act, 1872 does not permit the award of interest as damages for mere detention of debt, the privy Council rejected the argument that illustration given in the Act can be used for arriving at a contrary result. It was observed that nor can an illustration have the effect of modifying the language of the section which alone forms the enactment.

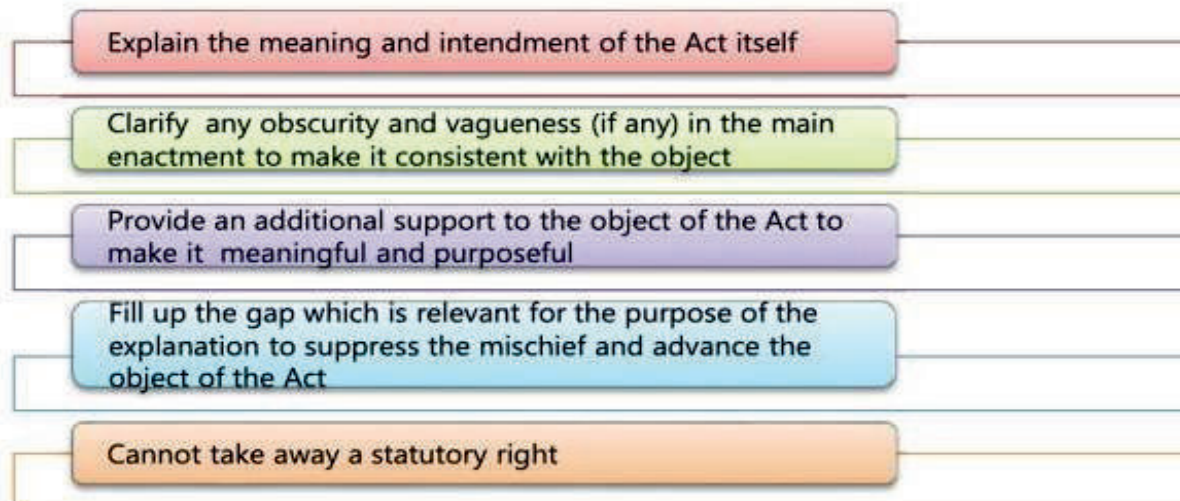
**14.7 PROVISIO**

- The normal function of a proviso is to except something out of the enactment or to qualify something stated in the enactment which would be within its purview if the proviso were not there.
- Ordinarily a proviso is not interpreted as stating a general rule.
- It is a cardinal rule of interpretation that a proviso to a particular provision of a statute only embraces the field which is covered by the main provision.
- It carves out an exception to the main provision to which it has been enacted as a proviso and to no other.

Exceptions	Proviso	Saving clause
It is intended to restrain the enacting clause to particular cases	Proviso is used to remove special cases from general enactment and provide for them specially	Saving clause is used to preserve from destruction certain rights, remedies or privileges already existing.

- Exception clauses are intended to restrain the enacting clause to particular cases.
- Savings clause is used to preserve from destruction certain rights, remedies, or privileges already existing.

## 14.8 EXPLANATION



- An Explanation is at times appended to a section to explain the meaning of the text of the section.
- An Explanation may be added to include something within the section or to exclude something from it.
- An Explanation should normally be so read as to harmonise with and clear up any ambiguity in the main section.
- It should not be so construed as to widen the ambit of the section.

### Object of an Explanation

- Explain the meaning and intendment of the Act itself.

- Clarify and obscurity and vagueness (if any) in the main enactment to make it consistent with the object.
- Provide an additional support to the object of the Act to make it meaningful and purposeful.
- Fill up the gap which is relevant for the purpose of the explanation to suppress the mischief and advance the object of the Act.
- Cannot take away a statutory right

### 14.9 SCHEDULES

- The Schedules form part of an Act.
- They must be read together with the Act for all purposes of construction.
- The expressions in the Schedule cannot control or prevail over the expression in the enactment.
- If there appears to be any inconsistency between the schedule and the enactment, the enactment shall always prevail.
- They often contain details and forms for working out the policy underlying the sections of the statute for example schedules appended to the Companies Act, 2013, to the Constitution of India.

### 14.10 'READ THE STATUTE AS A WHOLE'

It is the elementary principle that construction of a statute is to be made of all its parts taken together and not of one part only.

#### **Deeds and Acts similarity**

The deed must be read as a whole in order to ascertain the true meaning of its several clauses, and the words of each clause should be so interpreted as to bring them into harmony with other provisions – if that interpretation does no violence to the meaning of which they are naturally susceptible. And the same approach would apply with equal force with regard to Acts and Rules passed by the legislature.

**Example :** If one section of an Act requires 'notice' should be given, then a verbal notice would generally be sufficient. But, if another section provides that 'notice' should be 'served' on the person or 'left' with him, or in a particular manner or place, then it would obviously indicate that a written notice was intended.

## 15. EXTERNAL AIDS TO INTERPRETATION

- a) Historical Setting
- b) Consolidating Statutes and Previous Laws
- c) Usage
- d) Earlier Later Acts and Analogous Acts
- e) Dictionary Definitions
- f) Use of Foreign Decisions

### 1. HISTORICAL SETTING

- The history of the *external circumstances* which led to the enactment in question is of much significance in construing any enactment.
- All those *external or historical facts* for understanding and comprehension of the subject matter and the scope and object of the enactment.
- History in general and *Parliamentary*.
- History of ancient statutes, contemporary or other authentic works and writings.
- We have also to consider whether the statute in question was intended to alter the law or leave it where it stood before.

### 2. CONSOLIDATING STATUTES & PREVIOUS LAW

- The Preambles to many statutes contain expressions such as “An Act to consolidate” the previous law, etc.
- In such a case, the Courts may stick to the presumption that it is not intended to alter the law.
- They may solve doubtful points in the statute with the aid of such presumption in intention, rejecting the literal construction

### 3. USAGE

The acts done under a statute provide quite often the key to the statute itself.

Where the meaning of the language in a statute is doubtful,

**Usage** – how that language has been interpreted and acted upon over a long period – may determine its true meaning.

When a legislative measure of doubtful meaning has, for several years, received an interpretation which has generally been acted upon by the public, the Courts should be very unwilling to change that interpretation, unless they see cogent reasons for doing so.

#### 4. EARLIER & LATER ACTS AND ANALOGOUS ACTS

##### ❖ **Exposition of One Act by Language of Another**

1. Where there are different statutes in '*parimateria*' (i.e. in an analogous case), though made at different times, or even expired and not referring to each other, they shall be taken and construed together as one system and as explanatory of each other.
2. If two Acts are to be read together then every part of each Act has to be construed as if contained in one composite Act.
3. But if there is some clear discrepancy then such a discrepancy may... render it necessary to hold the later Act (in point of time) had modified the earlier one.
4. However, this does not mean that every word in the later Act is to be interpreted in the same way as in the earlier Act.
5. Where a single section of one Act (say, Act 'A') is incorporated into another statute (say Act 'B'), it must be read in the sense which it bore in the original Act from which it is taken consequently, it would be legitimate to refer to all the rest of Act 'A' to ascertain what that Section means, though one Section alone is incorporated in the new Act (Act 'B').

##### ❖ **Earlier Act Explained by the Later Act**

Not only may the later Act be construed in the light of the earlier Act but it (the later Act) sometimes furnishes a legislative interpretation of the earlier one, if it is '*pari materia*' and if, but only if, the provisions of the earlier Act are ambiguous.

Where the earlier statute contained a negative provision but the later one merely omits that negative provision: this can not by itself have the result of substantive affirmation. In such a situation, it would be necessary to see how the law would have stood without the original provision and the terms in which the repealed sections are re-enacted.

##### ❖ **Reference to Repealed Act**

1. Where a part of an Act has been repealed,
2. it loses its operative force.
3. Nevertheless, such a repealed part of the Act may still be taken into account for construing the unrepealed part.
4. This is so because it is part of the history of the new Act

#### 5. DICTIONARY DEFINITIONS

- First - If any particular word or expression is defined in the Act.  
Second – If not then we may refer to dictionaries to find out the general sense in which that word is commonly understood.
- One out of the several meanings of a word – Refer the context of Act.
- Read meanings of words and expressions = In cognate sense.
- Judicial decisions on the meaning of words > weight than the meaning furnished by dictionaries.
- For technical terms reference may be made to technical dictionaries.

## 6. USE OF FOREIGN DECISIONS

- Foreign decisions of countries following
- the same system of jurisprudence as ours and
- given on laws similar to ours
- can be legitimately used for construing our own Acts.
- Prime importance is always to be given to the language of the Indian statute.
- Where guidance can be obtained from Indian decisions, reference to foreign decisions may become unnecessary.

- Pick the odd one out of the following aids to interpretation:  
**(1 Mark) (MTP Oct. 22)**
  - Preamble
  - Marginal Notes
  - Proviso
  - Usage
- Statutory interpretation is a practice through which the courts break down the words of a legislation and give true intent to it. While the legislature makes the laws, the judiciary performs the art of interpretation to give meaning to the words of the law maker. It is correctly said that “The purpose of Interpretation of Statutes is to help the Judge to ascertain the intention of the Legislature – not to control that intention or to confine it within the limits, which the Judge may deem reasonable or expedient”. For interpretation of statutes various tools are used, you are required to pick the option depicting correct sequence of tools in order their application.  
**(1 Mark) (MTP Sep. 23)**
  - Internal Aids to Construction, External Aids to Constructions, and Literal Construction
  - Literal Construction, Internal Aids to Construction, and External Aids to Constructions
  - Internal Aids to Construction, Literal Construction, and External Aids to Constructions
  - External Aids to Constructions, Internal Aids to Construction, and Literal Construction
- An internal aid that may be added to include something within the section or to exclude something from it, is—  
**(1 Mark) (MTP Sep. 23)**
  - Proviso
  - Explanation
  - Schedule
  - Illustrations
- The Preamble is most important in any legislation, it:  
**(1 Mark) (MTP Oct. 23)**
  - Provides definitions in the Act.
  - Expresses scope, object and purpose of the Act.
  - Provides explanation of all the sections of the entire Act.
  - Provides side notes often found at the side of a section.
- For interpretation of statute, the following being integral part of the statute can be used as an aid to its construction:
  - Short title
  - Long title
  - Both (a) and (b)
  - None of the above
- An aid that expresses the scope, object and purpose of the Act:
  - Title of the Act
  - Heading of the chapter
  - Preamble
  - Definitional sections

7. Which of the following statement is/are correct with reference to aids to construction of statutes:
- In case of any ambiguity or uncertainty, the preamble can be used by the courts to interpret any provision of that statute.
  - The court can resort to preamble when the language of the statute is clear and unambiguous.
  - In case of conflict between Preamble and a Section, the section would succumb and preamble shall prevail.
  - All of the above.
8. The preamble of the Hindu Marriage Act, 1955 reads, 'An Act to amend and codify the law relating to marriage among Hindus'. Section 5 of the Act reads, 'A marriage may be solemnized between any two Hindus...'. A marriage was solemnised between a Christian male and a Hindu female. With regard to Hindu Marriage Act, decide whether this marriage is valid or not?
- The word 'may' in Section 5 gives an option and therefore both parties to the marriage need not be Hindus. Hence, the marriage is valid.
  - The preamble of the Act clearly gives the intention of legislature i.e. the statute is about marriage of Hindus. Therefore, marriage between non-Hindus is void under this Act.
  - On a harmonious reading of the preamble and the provision, the marriage between non-Hindus is valid.
  - The court will decide on more facts of the case.
9. Section 2(16) of the Indian Stamp Act, 1899 defines 'Lease' as 'Lease means a lease of immovable property, and includes ' This is:
- Restrictive and exhaustive definition
  - Extensive and inclusive definition
  - Ambiguous definition
  - Contextual definition
10. Section 2(2) of the Companies Act, 2013 defines 'Company' as 'Company means a company incorporated under this Act or under any previous company law'. This is:
- Restrictive and exhaustive definition
  - Extensive and inclusive definition
  - Ambiguous definition
  - Contextual definition
11. Which of the following statement is/are correct with reference to aids to construction of statutes:
- Where the proviso is directly repugnant to a section, the proviso shall stand and be held a repeal of the section as the proviso speaks the latter intention of the makers.
  - Illustrations cannot have the effect of modifying the language of the provision itself.
  - Marginal notes are very rarely used for interpretation as they are not considered to be a good aid to construction.
  - All of the above.
12. Historical settings as an external aid to interpretation would include:
- Parliamentary history, speech and debates in parliament
  - Historical circumstances which led to enactment of the law
  - Reports of various expert committees
  - All of the above
13. Different statutes in 'pari materia', though made at different times and not referring to each other:
- Can be construed together as one system and as explanatory of each other.
  - Cannot be legitimately referred while interpreting either in any case.
  - Can be referred only if the court decides in a particular case.
  - Cannot be used for interpretation as they are not considered to be a good aid to construction.

14. Which of the following statement is/are correct with reference to aids to construction of statutes:
- a. Court judgments from foreign countries can be considered even if they follow different system of jurisprudence as in India.
  - b. When referring to Foreign and Indian cases, priority and prime importance is always to be given to the language of foreign judgements.
  - c. When the meaning of the word is not clear in the statute itself, the meaning of those words can be figured by referring to dictionaries to find out the general sense in which that word is commonly understood.
  - d. Where a part of an Act has been repealed, it loses its operative force and therefore cannot be taken into account for construing the unrepealed part of the Act.

## 16. INTERPRETATION OF DEEDS AND DOCUMENTS

S.No.	Title	Explanation
1	<b>Reasonable Person Standard</b>	The primary rule in interpreting a deed or document is to understand how a reasonable person, who is well-informed about the surrounding circumstances and the purpose of the document, would interpret the words used in it. This includes considering the scope, context, and objective of the document.
2	<b>Deeds vs. Statutes: Minor Differences</b>	The method of interpreting a deed is not much different from interpreting a statute, except for a few minor distinctions. In both cases, the goal is to ascertain true intent through language, context, and structure.
<b>Golden Rule of Interpretation</b>		
3	<b>Read the Document as a Whole</b>	The deed or document must be read in its entirety to understand the true meaning of each clause. The words of one clause should be interpreted in a way that maintains harmony with other clauses, as long as the natural meaning is preserved
4	<b>Ordinary and Natural Meaning</b>	The court must consider the ordinary and natural meaning of all words used in the document. The aim is to determine the intention of the parties at the time the document was created.
<b>Circumstances and Background of the Parties</b>		
5	<b>Surrounding Circumstances Matter</b>	While interpreting a document, the circumstances under which certain words were used must be considered. This includes factors like: The status, education, and background of the parties Their level of skill in legal drafting or conveyancing
6	<b>Different Meanings in Different Contexts</b>	Words may carry multiple meanings depending on the context. Even if a word has a specific meaning for a trained conveyancer, the same interpretation may not be suitable if the document was drafted by someone without such training.

<b>Important Judicial Principles</b>		
<b>7</b>	<b>Avoid Comparing Different Documents</b>	According to the judgment in <i>Nirmala Bala Ghose v. Balai Chand Ghose</i> (1965), it is not advisable to interpret the terms of one deed by comparing them with another. Each document should be interpreted on its own merit.
<b>8</b>	<b>Same Word, Same Meaning</b>	A fundamental rule of interpretation is that a word must carry the same meaning throughout the document, unless the context clearly demands a different interpretation ( <i>Kultar Singh v. Mukhtiar Singh</i> , 1964).
<b>Conflict Resolution in Clauses</b>		
<b>9</b>	<b>Attempt Harmonious Construction</b>	If two or more clauses seem to be in conflict, the court should try to interpret them in a harmonious manner, so that all clauses can be given effect.
<b>10</b>	<b>Earlier Clause Prevails</b>	If harmony is not possible and a conflict remains between clauses, then the earlier clause will prevail over the latter one. The later clause may be disregarded, if it cannot be reconciled.

## Problem Kya Hai? - Question Bank

### ICAI Module Descriptive Questions

1. Explain the rule in 'Heydon's Case' while interpreting the Statutes quoting an example.

**Solution:** Where the language used in a statute is capable of more than one interpretation, the most firmly established rule for construction is the principle laid down in the Heydon's case.

This rule enables, consideration of four matters in constituting an Act:

- (1) what was the law before making of the Act,
- (2) what was the mischief or defect for which the law did not provide,
- (3) what is the remedy that the Act has provided, and
- (4) what is the reason for the remedy.

The rule then directs that the courts must adopt that construction which 'shall suppress the mischief and advance the remedy'. Therefore, even in a case where the usual meaning of the language used falls short of the whole object of the legislature, a more extended meaning may be attributed to the words, provided they are fairly susceptible of it. If the object of any enactment is public safety, then its working must be interpreted widely to give effect to that object. Thus, in the case of Workmen's Compensation Act, 1923 the main object being provision of compensation to workmen, it was held that the Act ought to be so construed, as far as possible, so as to give effect to its primary provisions.

However, it has been emphasized by the Supreme Court that the rule in Heydon's case is applicable only when the words used are ambiguous and are reasonably capable of more than one meaning [CIT v. Sodra Devi (1957) 32 ITR 615 (SC)].

2. Explain the principles of "Grammatical Interpretation" and "Logical Interpretation" of a Statute. What are the duties of a court in this regard?

**Solution:** Principles of Grammatical Interpretation and Logical Interpretation: In order to ascertain the meaning of any law/ statute the principles of Grammatical and Logical Interpretation is applied to conclude the real meaning of the law and the intention of the legislature behind enacting it.

Meaning: Grammatical interpretation concerns itself exclusively with the verbal expression of law. It does not go beyond the letter of the law, whereas Logical interpretation on the other hand, seeks more satisfactory evidence of the true intention of the legislature.

Application of the principles in the court: In all ordinary cases, the grammatical interpretation is the sole form allowable. The court cannot delete or add to modify the letter of the law. However, where the letter of the law is logically defective on account of ambiguity, inconsistency or incompleteness, the court is under a duty to travel beyond the letter of law so as to determine the true intentions of the legislature. So that a statute is enforceable at law, however, unreasonable it may be. The duty of the court is to administer the law as it stands rather it is just or unreasonable.

However, if there are two possible constructions of a clause, the courts may prefer the logical construction which emerges from the setting in which the clause appears and the circumstances in which it came to be enacted and also the words used therein.

3. (i) What is the effect of proviso? Does it qualify the main provisions of an Enactment?  
 (ii) Does an explanation added to a section widen the ambit of a section?

**Solution:**

- (i) Normally a Proviso is added to a section of an Act to except something or qualify something stated in that particular section to which it is added. A proviso should not be, ordinarily, interpreted as a general rule. A proviso to a particular section carves out an exception to the main provision to which it has been enacted as a Proviso and to no other provision. [Ram Narian Sons Ltd. v. Commissioner of Sales Tax AIR (1955) S.C. 765]
- (ii) Sometimes an explanation is added to a section of an Act for the purpose of explaining the main provisions contained in that section. If there is some ambiguity in the provisions of the main section, the explanation is inserted to harmonise and clear up and ambiguity in the main section. Something may added be to or something may be excluded from the main provision by insertion of an explanation. But the explanation should not be construed to widen the ambit of the section.
4. Gaurav Textile Company Limited has entered into a contract with a Company. You are invited to read and interpret the document of contract. What rules of interpretation of deeds and documents would you apply while doing so?

**Solution:** The rules regarding interpretation of deeds and documents are as follows:

First and the foremost point that has to be borne in mind is that one has to find out what reasonable man, who has taken care to inform himself of the surrounding circumstances of a deed or a document, and of its scope and intendments, would understand by the words used in that deed or document.

It is inexpedient to construe the terms of one deed by reference to the terms of another. Further, it is well established that the same word cannot have two different meanings in the same documents, unless the context compels the adoption of such a rule.

The Golden Rule is to ascertain the intention of the parties of the instrument after considering all the words in the documents/deed concerned in their ordinary, natural sense. For this purpose, the relevant portions of the document have to be considered as a whole. The circumstances in which the particular words have been used have also to be taken into account. Very often, the status and training of the parties using the words have also to be taken into account as the same words maybe used by an ordinary person in one sense and by a trained person or a specialist in quite another sense and a special sense. It has also to be considered that very many words are used in more than one sense. It may happen that the same word understood in one sense will give effect to all the clauses in the deed while taken in another sense might render one or more of the clauses ineffective. In such a case the word should be understood in the former and not in the latter sense.

It may also happen that there is a conflict between two or more clauses of the same documents. An effect must be made to resolve the conflict by interpreting the clauses so that all the clauses are given effect. If, however, it is not possible to give effect of all of them, then it is the earlier clause that will override the latter one.

5. How will you interpret the definitions in a statute, if the following words are used in a statute?  
 (i) Means  
 (ii) Includes  
 Give one illustration for each of the above from Statutes you are familiar with.

**Solution:** Interpretation of the words “Means” and “Includes” in the definitions- The definition of a word or expression in the definition section may either be restricting of its ordinary meaning or may be extensive of the same.

When a word is defined to ‘mean’ such and such, the definition is ‘prima facie’ restrictive and exhaustive, we must restrict the meaning of the word to that given in the definition section.

But where the word is defined to ‘include’ such and such, the definition is ‘prima facie’ extensive, here the word defined is not restricted to the meaning assigned to it but has extensive meaning which also includes the meaning assigned to it in the definition section.

Example—

Definition of Director [section 2(34) of the Companies Act, 2013]—Director means a director appointed to the board of a company. The word “means” suggests exhaustive definition.

Definition of Whole time director [Section 2(94) of the Companies Act, 2013]—Whole time director includes a director in the whole time employment of the company. The word “includes” suggests extensive definition. Other directors may be included in the category of the whole time director.

6. Differentiate Mandatory Provision from a Directory Provision. What factors decide whether a provision is directory or mandatory?

**Solution:** Practically speaking, the distinction between a provision which is ‘mandatory’ and one which is ‘directory’ is that when it is mandatory, it must be strictly observed; when it is ‘directory’ it would be sufficient that it is substantially complied with. However, we have to look to the substance and not merely the form, an enactment in mandatory form might substantially be directory and, conversely, a statute in directory form may in substance be mandatory. Hence, it is the substance that counts and must take precedence over mere form. If a provision gives a power coupled with a duty, it is mandatory: whether it is or is not so would depend on such considerations as:

- the nature of the thing empowered to be done,
- the object for which it is done, and
- the person for whose benefit the power is to be exercised.

7. Define Grammatical Interpretation. What are the exceptions to grammatical interpretation?

**Solution:** Grammatical Interpretation and its exceptions: 'Grammatical interpretation' concerns itself exclusively with the verbal expression of the law, it does not go beyond the letter of the law. In all ordinary cases, 'grammatical interpretation' is the sole form allowable. The Court cannot take from or add to modify the letter of the law.

This rule, however, is subject to some exceptions:

- (i) Where the letter of the law is logically defective on account of ambiguity, inconsistency or incompleteness. As regard the defect to ambiguity, the Court is under a duty to travel beyond the letter of the law so as to determine from the other sources the true intention of the legislature. In the case of the statutory expression being defective on account of inconsistency, the court must ascertain the spirit of the law.
- (ii) If the text leads to a result which is so unreasonable that it is self-evident that the legislature could not mean what it says, the court may resolve such impasse by inferring logically the intention of the legislature.

8. When can the Preamble be used as an aid to interpretation of a statute?

**Solution:** While the Preamble can be used to know the aims and objects of the legislation it cannot be used to control or qualify the precise and unambiguous language of an enactment. The preamble is the key to the mind of the maker of the law, but it cannot override in order to enlarge or restrict the enacting provision of the Act. A provision contained in the Act cannot be considered as invalid because they do not accord with the preamble, which is only a brief summary of legislative objectives behind the Act, and if there is any conflict between the preamble and any provision of an Act, the provision prevails.

The preamble merely affords help in the matter of construction if there is any ambiguity. Where the language of the Act is clear, the court is bound to give it effect.

**When will courts refer to the preamble as an aid to construction?**

Situation 1: Where there is any ambiguity in the words of an enactment the assistance of the preamble may be taken to resolve the conflict.

Situation 2: Where the words of an enactment appear to be too general in scope or application then courts may resort to the preamble to determine the scope or limited application for which the words are meant.

9. Explain how 'Dictionary Definitions' can be of great help in interpreting/constructing an Act when the statute is ambiguous.

**Solution:** Dictionary Definitions: First we refer the Act in question to find out if any particular word or expression is defined in it. Where we find that a word is not defined in the Act itself, we may refer to dictionaries to find out the general sense in which that word is commonly understood. However, in selecting one out of the several meanings of a word, we must always

take into consideration the context in which it is used in the Act. It is the fundamental rule that the meanings of words and expressions used in an Act must take their colour from the context in which they appear. Further, judicial decisions laying down the meaning of words in construing statutes in pari materia will have greater weight than the meaning furnished by dictionaries. However, for technical terms, reference may be made to technical dictionaries.

10. Preamble does not over-ride the plain provision of the Act. Comment. Also give suitable example.

**Solution: Preamble:** The Preamble expresses the scope, object and purpose of the Act more comprehensively. The Preamble of a Statute is a part of the enactment and can legitimately be used as an internal aid for construing it. However, the Preamble does not over-ride the plain provision of the Act. But if the wording of the statute gives rise to doubts as to its proper construction, for example, where the words or phrase has more than one meaning and a doubt arises as to which of the two meanings is intended in the Act, the Preamble can and ought to be referred to in order to arrive at the proper construction.

In short, the Preamble to an Act discloses the primary intention of the legislature but can only be brought in as an aid to construction if the language of the statute is not clear. However, it cannot override the provisions of the enactment.

Example: Use of the word 'may' in section 5 of the Hindu Marriage Act, 1955 provides that "a marriage may be solemnized between two Hindus....." has been construed to be mandatory in the sense that both parties to the marriage must be Hindus as defined in section 2 of the Act. It was held that a marriage between a Christian male and a Hindu female solemnized under the Hindu Marriage Act was void. This result was reached also having regard to the preamble of the Act which reads: 'An Act to amend and codify the law relating to marriage among Hindus' [GullipoliSowria Raj v. BandaruPavani, (2009)1 SCC714].

11. At the time of interpreting a Statute what will be the effect of 'Usage' or 'customs and Practices'?

**Solution:** Effect of usage: Usage or practice developed under the statute is indicative of the meaning recognized to its words by contemporary opinion. A uniform notorious practice continued under an old statute and inaction of the Legislature to amend the same are important factors to show that the practice so followed was based on correct understanding of the law. When the usage or practice receives judicial or legislative approval it gains additional weight.

In this connection, we have to bear in mind two Latin maxims:

- (i) 'Optima Legum interpres est consuetude' (the custom is the best interpreter of the law); and
- (ii) 'Contemporanea Expositio est optima et fortissima in lege' (the best way to interpret a document is to read it as it would have been read when made).

Therefore, the best interpretation/construction of a statute or any other document is that which has been made by the contemporary authority. Simply stated, old statutes and documents should be interpreted as they would have been at the time when they were enacted/written.

Contemporary official statements throwing light on the construction of a statute and statutory instruments made under it have been used as contemporanea expositio to interpret not only ancient but even recent statutes in India.

## RTP, MTP and PYQ Descriptive Questions

1. "No vehicles are allowed in the park." Comment on the statement, explaining the concept of 'Construction' in legal interpretation. Mention its significance in determining the legal interpretation.

**(MTP May 25)**

**Solution:** In legal interpretation, 'construction' refers to the process of determining the true meaning and intent behind a statute or legal document. It extends beyond the literal words of the text and considers the broader legislative purpose, historical context, and other relevant factors. This method helps courts and legal professionals resolve ambiguities and apply laws in a just and reasonable manner.

As per the stated statement "No vehicles are allowed in the park" can have a strict literal interpretation which would mean that all types of vehicles, including bicycles, baby strollers, and even wheelchairs, are prohibited in the park. However, through legal construction, courts may consider the legislative intent behind the law. If the primary goal is to prevent pollution and ensure pedestrian safety, the restriction may only apply to motorized vehicles, while bicycles and strollers may still be allowed.

Significance of Construction in Legal Interpretation:

1. Clarifies Legislative Intent: Construction ensures that laws are interpreted in alignment with the intention of the lawmakers rather than relying solely on the literal meaning of the words.
  2. Resolves Ambiguities: Many legal texts contain vague or unclear language. Construction helps eliminate confusion and ensures a consistent application of the law.
  3. Ensures Justice: By considering context and broader objectives, legal construction prevents unfair or unintended consequences that could arise from rigid literal interpretations.
  4. Adapts Laws to Changing Contexts: Societal norms and circumstances evolve over time. Construction allows laws to be interpreted in a way that remains relevant and applicable to modern situations.
2. What are the differences between interpretation and construction in the legal context, and how do these two concepts relate to each other as per Interpretation of Statute?

**(MTP Jan 25)**

**Solution: Difference and Relationship between Interpretation and Construction**

In practice construction includes interpretation and the terms are frequently used synonymously. The two terms- 'Interpretation' and 'Construction', are used interchangeably to denote a process adopted by the courts to ascertain the meaning of the legislature from the words with which it is expressed, these two terms have different connotations.

**Meaning**

Interpretation is the art of ascertaining the meaning of words and the true sense in which the author intended that they should be understood. Construction involves drawing conclusions beyond the actual expressions used in the text

**Court**

Thus, where the Court adheres to the plain meaning of the language used by the legislature, it would be 'interpretation' of the words, but where the meaning is not plain, the court has to decide whether the wording was meant to cover the situation before the court. In construction, court goes beyond the words to understand intent of legislator.

**Conclusions drawn**

Conclusions drawn by Interpretation are within the letter of law Conclusions drawn by means of construction are within the spirit though not necessarily within the letter of the law.

3. Explain the impact of the two words "means" and "includes" in a definition, while interpreting such definition.

**(MTP May 24)**

**Solution:** Impact of the words "Means" and "Includes" in the definitions- The definition of a word or expression in the definition section may either be restricting of its ordinary meaning or may be extensive of the same.

When a word is defined to 'mean' such and such, the definition is 'prima facie' restrictive and exhaustive, we must restrict the meaning of the word to that given in the definition section.

But where the word is defined to 'include' such and such, the definition is 'prima facie' extensive, here the word defined is not restricted to the meaning assigned to it but has extensive meaning which also includes the meaning assigned to it in the definition section.

Example:

Definition of Director [section 2(34) of the Companies Act, 2013]: Director means a director appointed to the board of a company. The word "means" suggests exhaustive definition.

Definition of Whole time director [Section 2(94) of the Companies Act, 2013]: Whole time director includes a director in the whole time employment of the company. The word "includes" suggests extensive definition. Other directors may be included in the category of the whole time director.

4. Explain the rule which suggests that the 'Plain word requires no explanation' and 'Technical words be understood in technical sense only'.

**(PYQ Sep 24)**

**Solution: Rule that suggests 'Plain Word requires no explanation'**

This Rule is called "Rule of Literal Construction".

It is a cardinal rule of construction that a statute must be construed literally and grammatically giving the words their ordinary and natural meaning. Therefore, the language used in the statute must be construed in its grammatical sense. The correct course is to take the words themselves and arrive if possible, at their meaning without reference to cases, in the first instance.

If the phraseology of a statute is clear and unambiguous and capable of one and only one interpretation, then it would not be correct to extrapolate these words out of their natural and ordinary sense. When the language of a statute is plain and unambiguous it is not open to the courts to adopt any other hypothetical construction simply with a view to carrying out the supposed intention of the legislature.

This principle is contained in the Latin maxim “absoluta sententia expositore non indiget” which literally means “an absolute sentence or preposition needs not an expositor”. In other words, plain words require no explanation.

Sometimes, occasions may arise when a choice has to be made between two interpretations—one narrower and the other wider or bolder. In such a situation, if the narrower interpretation would fail to achieve the manifest purpose of the legislation, one should rather adopt the wider one.

**Technical words are to be understood in a Technical sense only**

This point of literal construction is that technical words are understood in the technical sense only.

In construing the word ‘practice’ in the Supreme Court Advocates Act, 1951, it was observed that practice of law generally involves the exercise of both the functions of acting and pleading on behalf of a litigant party. When legislature confers upon an advocate the right to practice in a court, it is legitimate to understand that expression as authorizing him to appear and plead as well as to act on behalf of suitors in that court. (Ashwini Kumar Ghose v. Arabinda Bose AIR 1952 SC 369).

6. Nehul, a director of a Company, not being personally concerned or interested, financially or otherwise, in a matter of a proposed motion placed before the Board Meeting, did not disclose his interest although he has knowledge that his sister is interested in that proposal. He restrains from making any disclosure of his interest on the presumption that he is not required by law to disclose any interest as he is not personally interested or concerned in the proposal. He made his presumption relying on the 'Rule of Literal Construction'. Explaining the scope of interpretation under this rule in the given situation, decide whether the decision of Nehul is correct?

**(3 Marks) (MTP Sep. 23)**

**Solution:**

**Law** - If two interpretation – Narrower & Broader if the narrower interpretation would fail to achieve the manifest purpose of the legislation, one should rather adopt the wider one

**Conclusion** - When we talk of disclosure of ‘the nature of concern or interest, financial or otherwise’ of a director or the manager of a company in the subject-matter of a proposed motion (as referred to in section 102 of the Companies Act, 2013), we have to interpret in its broader sense of referring to any concern or interest containing any information and facts that may enable members to understand the meaning, scope and implications of the items of business and to take decisions thereon. What is required is a full and frank disclosure without reservation or suppression, as, for instance where a son or daughter or father or mother or brother or sister is concerned in any contract or matter, the shareholders ought fairly to be informed of it and the material facts disclosed to them. Here a restricted narrow interpretation would defeat the very purpose of the disclosure.

Therefore, Nehul should also disclose interest of his sister as well.

8. What is the meaning and legal significance of the principle "generalia specialibus non derogant"? Explain with an example.

(RTP May 25)

**Solution:** The principle "generalia specialibus non derogant" means that when a general law and a specific law address the same subject matter, the specific law prevails. This ensures that specialized laws designed for particular situations are not overridden by broader, more general provisions.

Example:

1. General Law: "All contracts must be in writing to be legally enforceable."
2. Specific Law: "An oral contract for the sale of goods under `5000 is legally valid."

Here, the general rule states that all contracts must be in writing. However, the specific rule creates an exception for oral contracts involving goods under `5000. According to the principle of "generalia specialibus non derogant", the specific rule will prevail in cases involving small-value goods, making oral agreements enforceable despite the broader general rule.

This principle helps maintain legal clarity by ensuring that specialized provisions are applied without being overridden by more general laws.

9. A clause that begins with the words "notwithstanding anything contained" is a clause that has the effect of making the provision prevail over others. It can operate at four levels. Explain any two of them. 4

Marks (Nov 23)

**Solution:** (i) A clause that begins with the words "notwithstanding anything contained" is called a non-obstante clause. Unlike the "subject to" clause, the notwithstanding clause has the effect of making the provision prevail over others.

(ii) A notwithstanding clause can operate at four levels

1. Notwithstanding anything contained in another section or sub-section of that statute.- The clause will override such other section(s) / sub-section(s)
2. Notwithstanding anything contained in a statute.- The clause will override the entire enactment.
3. Notwithstanding anything contained in specific section(s) or sub-section(s) or all the provisions contained in another statute. - The clause will prevail over the other enactment.
4. Notwithstanding anything contained in any other law for the time being in force.- The clause will override all other laws.

10. Imagine you are a legal advisor for a company drafting a new contract. One of the clauses in the contract states: "Notwithstanding anything contained in any other provisions of this agreement, the company reserves the right to terminate the agreement without notice if there is a breach of confidentiality by the employee." Explain to the management of the company the meaning of a non-obstante clause in legal documents and its effect on overriding other provisions with reference to decided case law.

(RTP Sep 24)

**Solution:** A clause that begins with the words “notwithstanding anything contained” is called a non-obstante clause. Unlike the “subject to” clause, the notwithstanding clause has the effect of making the provision prevail over others. When this term is used then the clause will prevail over the other provision(s) mentioned therein. (K. Parasurammaiah v. Pakari Lakshman AIR 1965 AP 220)

In conclusion, a non-obstante clause plays a crucial role in legal drafting by ensuring that the specified provision prevails over conflicting provisions, thereby enhancing legal certainty and consistency in judicial interpretation.

11. Explain the meaning of ‘Without Prejudice’ as a Harmonious aid to interpretation of statutes. Support your answer with the help of an example.

**(RTP Nov 23)**

**Solution:** When certain particular provisions follow general provisions and when it is stated that the particular provisions are without prejudice to those general provisions the particular provisions would not restrict or circumscribe the operation and generality of the preceding general provisions. In other words, the particular provisions shall operate in addition to and not in derogation of the general provisions.

Example: Section 4(3) of the Companies Act, 2013, “Without prejudice to the provisions of sub-section (2), a company shall not be registered with a name which contains ”

This implies that while registering (and deciding) the name of the company [as per section 4(3)], provisions of section 4(2) shall also be operative.

15. Enumerate when does the rule of Ejusdem Generis apply. **(3 Marks) (MTP Sep. 22)**

**Solution:** This rule applies when:

1. The statute contains an enumeration of specific words
2. The subject of enumeration constitutes a class or category;
3. That class or category is not exhausted by the enumeration
4. General terms follow the enumeration; and
5. There is no indication of a different legislative intent.

Not – Applicable

1. If the preceding term is general, as well as that which follows this rule cannot be applied.
2. Where the particular words exhaust the whole genus.

16. Explain the Doctrine of Contemporanea Expositio.

(MTP Sep 25)

**Solution: Doctrine of Contemporanea Expositio**

This doctrine is based on the concept that a statute or a document is to be interpreted by referring to the exposition it has received from contemporary authority.

The maxim “Contemporanea Expositio est optima et fortissima in lege” means “contemporaneous exposition is the best and strongest in the law.” This means a law should be understood in the sense in which it was understood at the time when it was passed.

This maxim is to be applied for construing ancient statutes, but not to Acts that are comparatively modern.

The Latin maxim of 'Optima legum interpret est consuetude' which means that the best interpreter of laws is custom, has been recognised as one of the oldest principle in construing statutes.

17. In what way is ‘Heading and Title of a Chapter’ considered as internal aid in the interpretation of statutes.

(MTP May 24)

**Solution: Heading and Title of a Chapter**

If we glance through any Act, we would generally find that a number of its sections referring to a particular subject are grouped together, sometimes in the form of chapters, prefixed by headings and/or Titles.

These Heading and Titles prefixed to sections or groups of sections can legitimately be referred to for the purpose of construing the enactment or its parts.

The headings of different portions of a Statute can be referred to determine the sense of any doubtful expression in a section ranged under any particular heading.

They cannot control the plain meaning of the words of the enactment though, they may, in some cases be looked at in the light of preamble if there is any ambiguity in the meaning of the sections on which they can throw light.

It may be noted that headings may sometimes be referred to know the scope of a section in the same way as the preamble. But a heading cannot control or override a section.

19. What is the effect of proviso? Does it qualify the main provisions of the enactment? Explain it with reference to Interpretation of Statutes.

(MTP Jan 25)

**Solution:**

- i. The normal function of a proviso is to except something out of the enactment or to qualify something stated in the enactment which would be within its purview if the proviso were not there.
- ii. The effect of the proviso is to qualify the preceding enactment which is expressed in terms which are too general.

- iii. As a general rule, a proviso is added to an enactment to qualify or create an exception to what is in the enactment.
- iv. Ordinarily a proviso is not interpreted as stating a general rule.
- v. It is a cardinal rule of interpretation that a proviso to a particular provision of a statute only embraces the field which is covered by the main provision

20. Write short note on Explanation

(MTP Sep 24)

Does an explanation added to a section widen the ambit of a section?

(MTP May 25)

**Solution:** Explanation:

- i. An Explanation is at times appended to a section to explain the meaning of the text of the section.
- ii. An Explanation may be added to include something within the section or to exclude something from it.
- iii. An Explanation should normally be so read as to harmonise with and clear up any ambiguity in the main section.
- iv. It should not be so construed as to widen the ambit of the section.
- v. The meaning to be given to an explanation will really depend upon its terms and not on any theory of its purpose.

21. What does the principle of "reading the statute as a whole" imply in the interpretation of statutes? Explain with the help of an example.

(RTP May 24) (MTP May 24)

**Solution:**

- (i) It is the elementary principle that construction of a statute is to be made of all its parts taken together and not of one part only.
- (ii) The deed must be read as a whole in order to ascertain the true meaning of its several clauses, and to bring them into harmony with other provisions.
- (iii) Reading statute as a whole helps to give context of other laws and how a expression is used in enactment.
- (iv) If we find that a number of such expressions have to be subjected to limitations and qualifications and that such limitations and qualifications are of the same nature, that circumstance forms a strong argument for subjecting the expression in dispute to a similar limitation and qualification.

**Example:** If one section of an Act requires 'notice' should be given, then a verbal notice would generally be sufficient. But, if another section provides that 'notice' should be 'served' on the person or 'left' with him, or in a particular manner or place, then it would obviously indicate that a written notice was intended.

22. At the time of interpreting a Statute what will be the effect of 'Usage' or 'customs and Practices'?  
(RTP Jan 25)

**Solution:** Effect of usage: Usage or practice developed under the statute is indicative of the meaning recognized to its words by contemporary opinion. A uniform notorious practice continued under an old statute and inaction of the Legislature to amend the same are important factors to show that the practice so followed was based on correct understanding of the law. When the usage or practice receives judicial or legislative approval it gains additional weight.

In this connection, we have to bear in mind two Latin maxims:

1. 'Optima Legum interpres est consuetude' (the custom is the best interpreter of the law); and
2. 'Contemporanea Expositio est optima et fortissima in lege' (the best way to interpret a document is to read it as it would have been read when made).

Therefore, the best interpretation/construction of a statute or any other document is that which has been made by the contemporary authority. Simply stated, old statutes and documents should be interpreted as they would have been at the time when they were enacted/written.

Contemporary official statements throwing light on the construction of a statute and statutory instruments made under it have been used as contemporanea expositio to interpret not only ancient but even recent statutes in India.

23. Write short notes on the following to understand definitions while interpreting statutes:
1. Ambiguous definitions
  2. Definitions subject to a contrary context

(MTP Jan 25)

**Solution:**

1. Ambiguous definitions: Sometime, we may find that the definition section may itself be ambiguous, and so it may have to be interpreted in the light of the other provisions of the Act and having regard to the ordinary meaning of the word defined. Such type of definition is not to be read in isolation. It must be read in the context of the phrase which it defines, realising that the function of a definition is to give accuracy and certainty to a word or phrase which would otherwise be vague and uncertain but not to contradict it or depose it altogether.
2. Definitions subject to a contrary context: When a word is defined to bear a number of inclusive meanings, the sense in which the word is used in a particular provision must be ascertained from the context of the scheme of the Act, the language of the provision and the object intended to be served thereby.

24. In what way are the following terms considered as external aid in the interpretation of statutes:
1. Historical Setting
  2. Use of Foreign Decisions

(MTP May 24)

**Solution:**

- (1) **Historical Setting:** The history of the external circumstances which led to the enactment in question is of much significance in construing any enactment. We have, for this purpose, to take help from all those external or historical facts which are necessary in the understanding and comprehension of the subject matter and the scope and object of the enactment. History in general and Parliamentary History in particular, ancient statutes, contemporary or other authentic works and writings all are relevant in interpreting and construing an Act.
- (2) **Use of Foreign Decisions:** Foreign decisions of countries following the same system of jurisprudence as ours and given on laws similar to ours can be legitimately used for construing our own Acts. However, prime importance is always to be given to the language of the Indian statute. Further, where guidance can be obtained from Indian decisions, reference to foreign decisions may become unnecessary.