

CHAPTER - 1

INTRODUCTION

1. Alternat Method of Dispute Resolution :- [ADR]

• ADR are used to resolve disputes outside the ordinary court system. It is an alternative to litigation.

• Types of ADR's



2. Arbitration A method of dispute resolution involving one or more neutral third persons/~~parties~~ selected by the disputing parties and whose decision is binding. Arbitration has following few features :-

- (i) Flexibility in procedure to be adopted.
- (ii) Disputing parties has choice to select decision makers.
- (iii) Privacy & Confidentiality
- (iv) Binding decision
- (v) Normally, no appeal against decision of arbitrator.
- (vi) Comparatively less formal than ~~the~~ trial/Court's.

3. Conciliation :- It is a less formal form of arbitration.

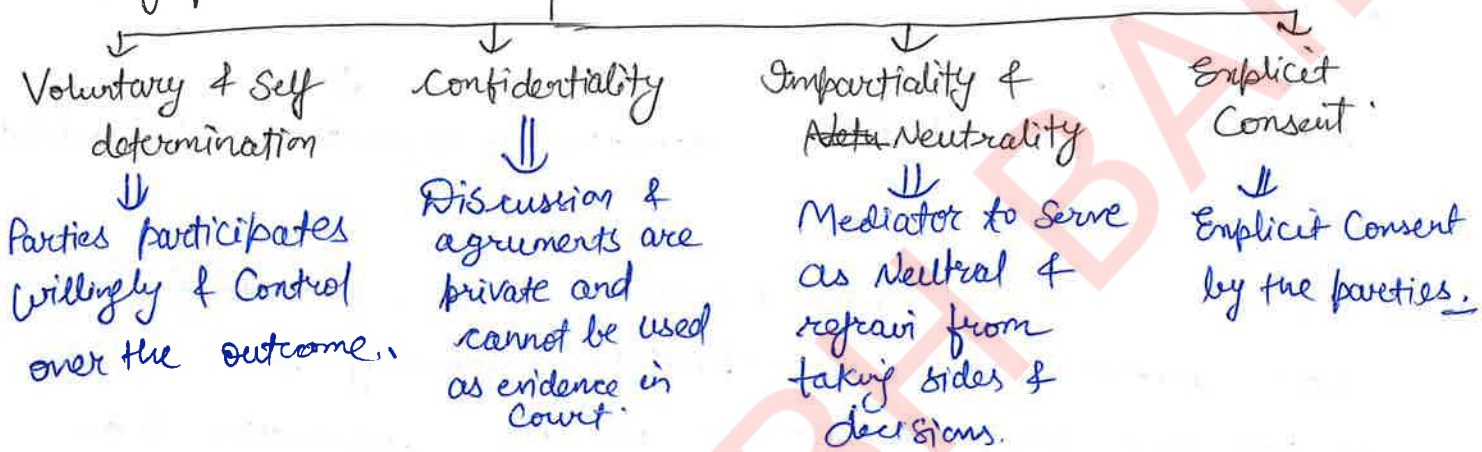
• The parties to the dispute engages a conciliator, who needs to hear both parties separately to settle their disputes.

• Conciliation has following few features :-

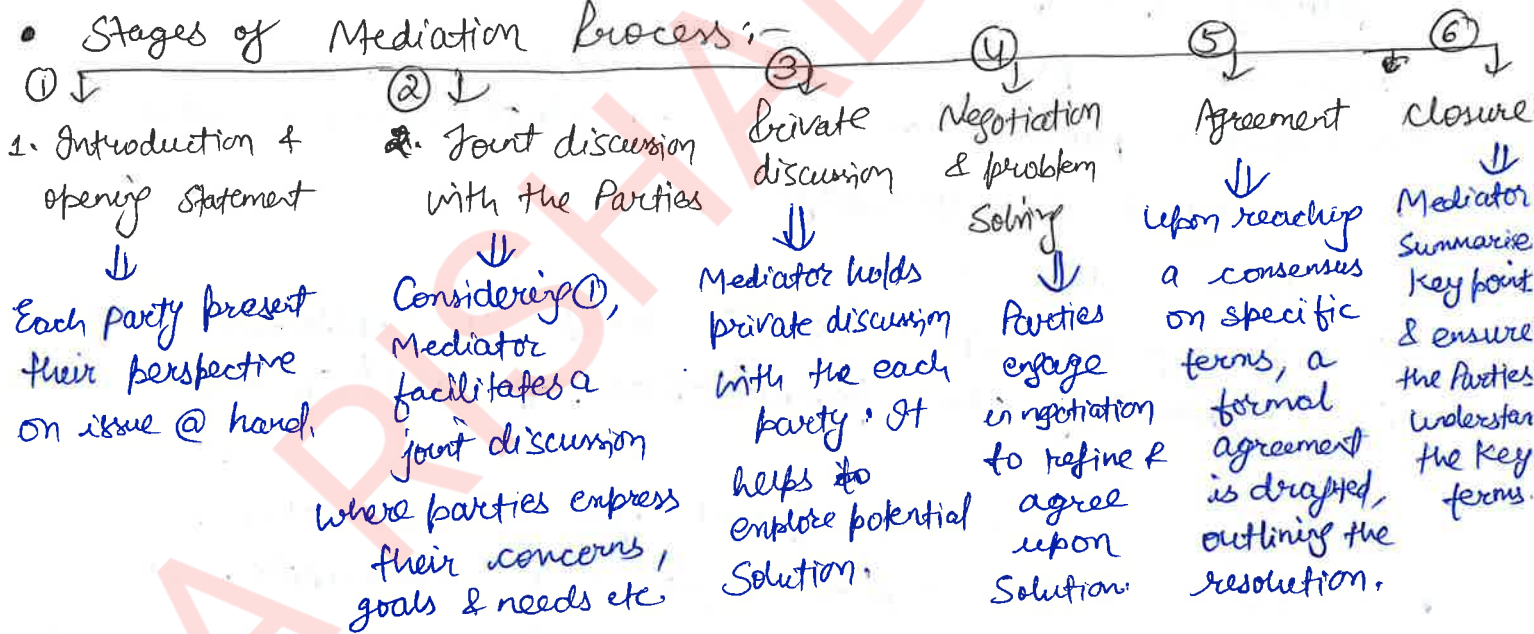
- (i) No prior agreement is essential;
- (ii) Comparatively less formal form of arbitration.
- (iii) Parties not bound by the conciliation & can reject the recommendations
- (iv) If Parties (all) ~~except~~ the recommendation of Conciliator then those shall be final & binding on them.

4. Mediation :-

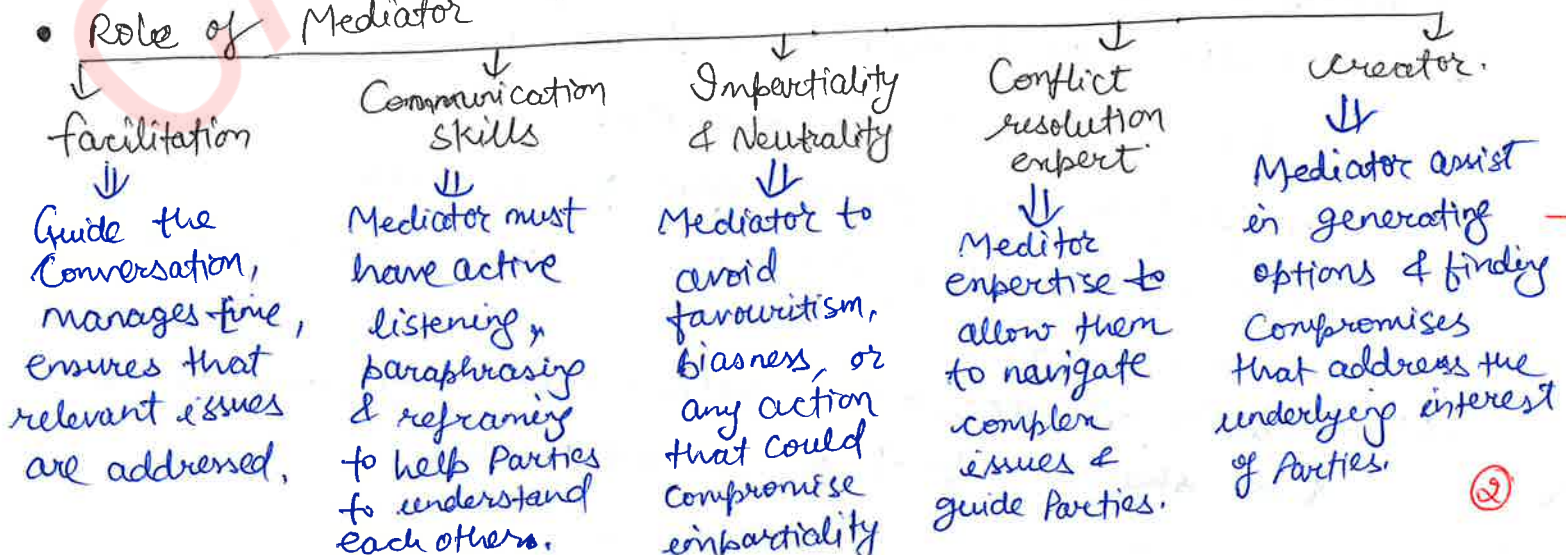
- It is an ADR Mechanism that facilitates the resolution of conflicts between parties through an impartial third party, called as 'Mediator'.
- The mediator uses appropriate communication & negotiation techniques to settle the disputes.
- Key points of Mediation,



• Stages of Mediation Process :-



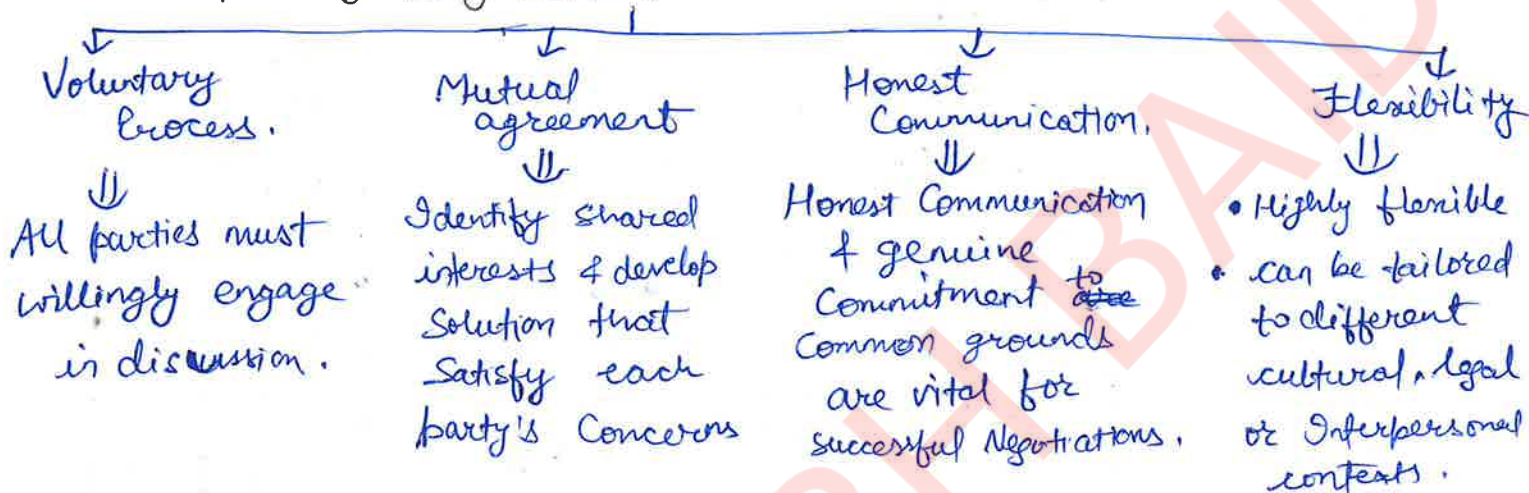
• Role of Mediator



5. Negotiation

- Reach a mutual agreement to settle a dispute.
- No Intervention of third party
- It occurs in Businesses, NPO's, Among Nations, personal situations such as, Marriage, divorce, parenting etc.

Principles of Negotiations :-



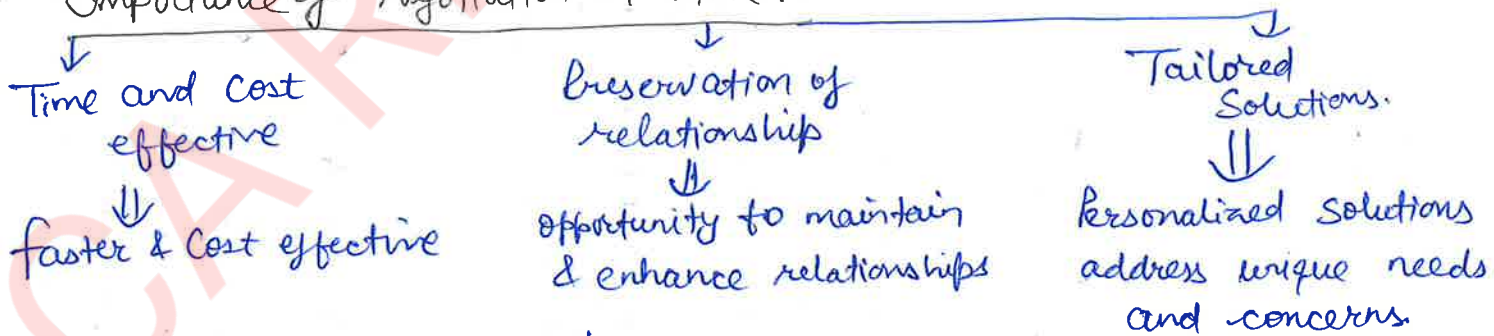
Process of Negotiation :-



Role of Negotiator :-



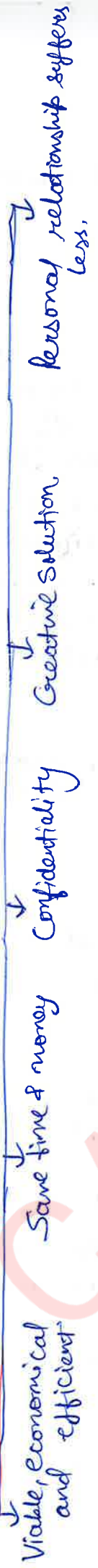
Importance of Negotiation in ADR :-



6. Cok Adalats • It means 'people's courts.'

- Lok adalats focus on alternative dispute resolution through mediation & conciliation.
- Prioritises easy settlements, encouraging active participation.
- Operates at National, State & district forums

7 Advantages of ADR



8. Differences between Various ADR's Mechanism.

Basis	Arbitration	Conciliation	Mediation	Negotiation
① Third Party Intervention & decision.	Neutral 3 rd Party → Arbitrator's decision is binding and final.	Neutral third party conciliator's decision is not binding.	Neutral 3 rd Party, 'Mediator' decision is not binding.	May or may not involve 3 rd Party. Direct Communication between the Parties.
② Level of process	Formal & Structured.	Less formal	More collaborative & less formal.	Can be formal or informal.
③ Role of 3 rd Party	Acts as a judge & role is directive	Acts as facilitator & help parties understand each other's perspective	Acts as facilitator & solution should come from parties themselves.	No 3 rd Party is involved generally
④ Binding of decision	Binding on parties & legally enforceable.	Non-binding by default. Binding only if they agree on outcome through separate agreement.	No decision making authority, rather parties control over the outcome. Parties can accept/reject the outcome.	No 3 rd Party, generally. Parties involved retains control over decision making
⑤ Status of decision.	Decision is final & legally binding, with limited options to appeal.	No decision making authority	Non Binding decision. Parties can choose to continue with other ADR methods.	Outcome is mutually agreed between the Parties.
⑥ Governing law	Arbitration and Conciliation Act 1996	Arbitration & Conciliation Act 1996	Code of Civil Procedures, 1908	

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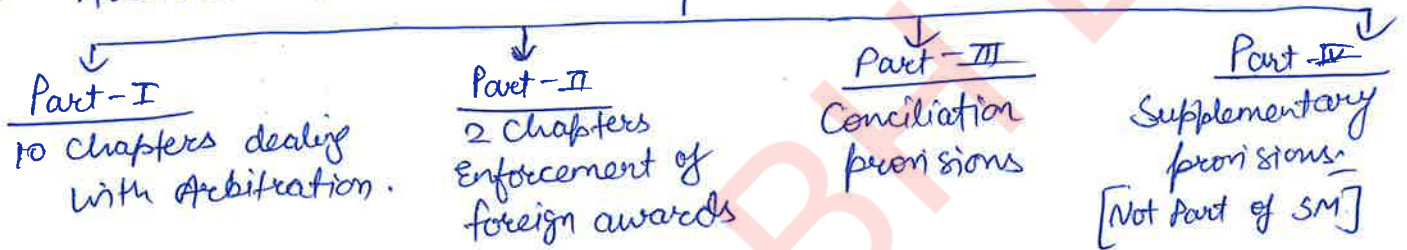
CHAPTER - 2

FUNDAMENTALS OF ARBITRATION

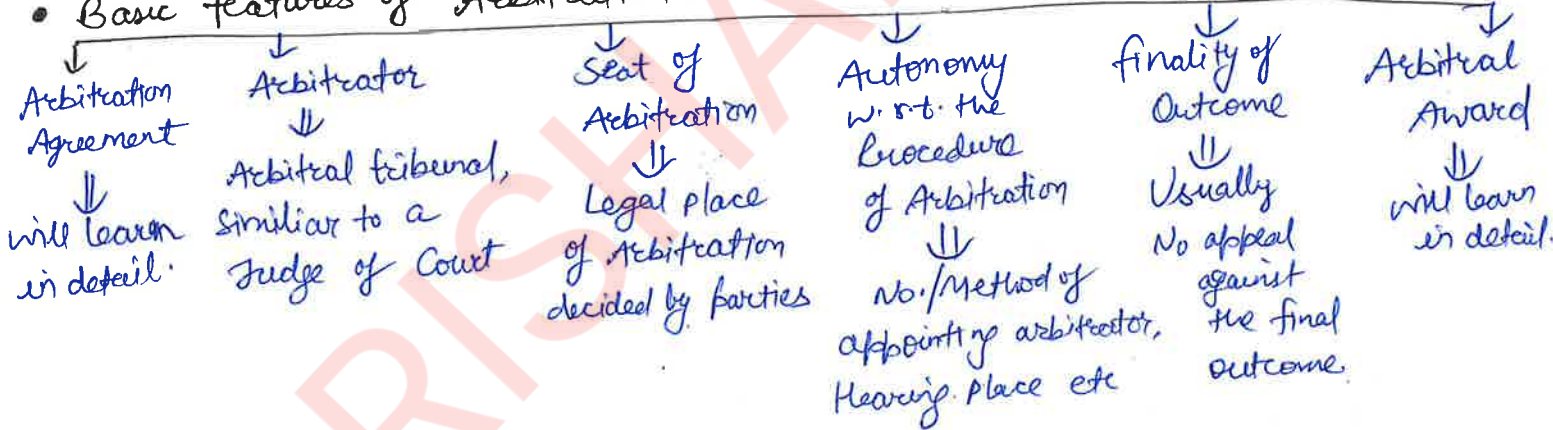
Involves one or more neutral person, selected by disputing parties, whose decision is binding.

1. Introduction

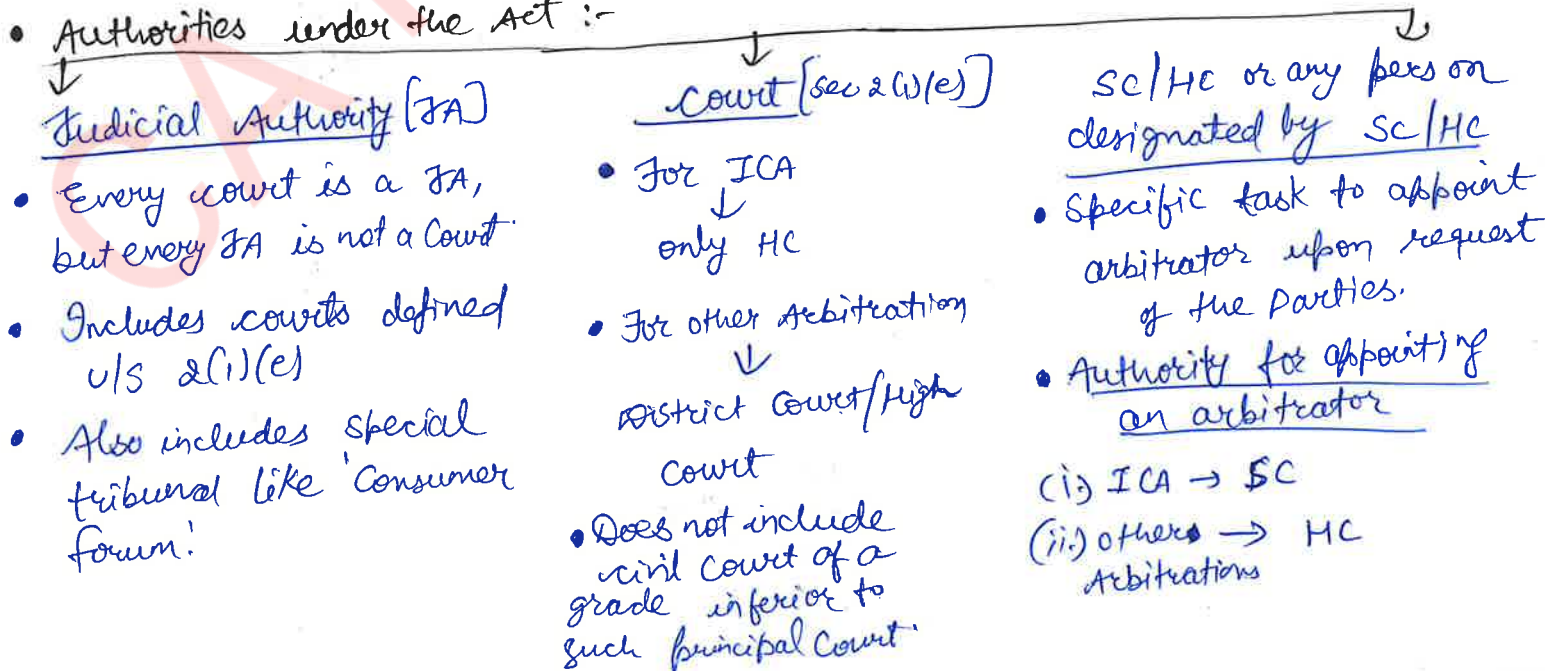
- Arbitration is governed by Arbitration & Conciliation Act, 1996 [Act]
- The Act covers both Domestic & International Commercial Arbitration.
- A.K. Balaji v/s GOI & others (Madras HC) :- Foreign lawyers cannot be debarred to come to India & conduct arbitration w.r.t. disputes arising out of a contract relating to ICA. [International Commercial arbitration]
- Arbitration Act is divided into 4 parts



Basic features of Arbitration :-



Authorities under the Act :-



(2)

2. Definition [Section 2]

(i) Section 2(i)(d) Arbitral tribunal means sole arbitrator/Panel of arbitrators

(ii) Section 2(i)(c) Arbitral award also includes An Interim Award,

(iii) International Commercial Arbitration :- [Section 2(i)(f)] [ICA]

- It means legal disputes, whether contractual or not, considered as commercial under the law in force in India, where at least one party is
 - Individual of any country other than India; or
 - Body corporate incorporated outside India, or
 - Association/BOI, whose central mgmt & Control is o/s India.
 - Government of Foreign Country.

• The above definition makes no distinction b/w ICA held in India/o/s India.

• The AT shall follow the laws of country, which parties has agreed in the agreement.

3. Section 3 :- Receipt of Written Communication :-

(i) Unless otherwise agreed a written communication is deemed to be received if delivered to the addressee personally/at his place of business, habitual residence or mailing address, and

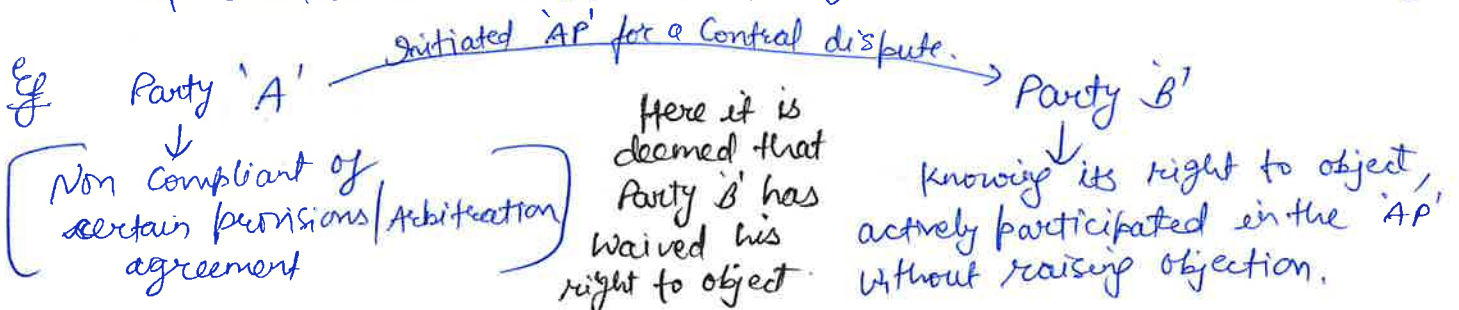
(ii) If above places not found & record of the attempt to deliver is available, then deemed to have been received by parties on the day it is so delivered.

(iii) This section is not applicable for written communication in case of Judicial authority.

4. Section 4 Waiver of right to object :-

If parties derogates from any provisions of this Part, or any requirement under the 'Arbitration agreement' has not been complied with, yet the parties proceeded with the arbitration without stating their objection to such non-compliance, within the time limit/period allowed.

↓
It shall be deemed that the party has waived their right to ^{object} ~~file~~.



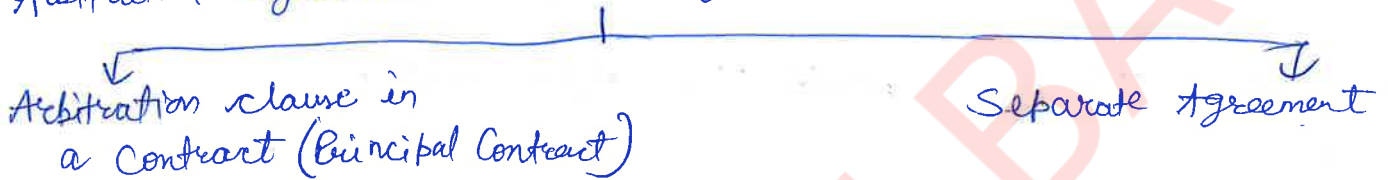
5) Extent of Judicial Intervention :- [Section 5]

(3)

- In an AP, no judicial authority shall intervene in the proceedings.
- This is to be uphold the autonomy of parties & AP.

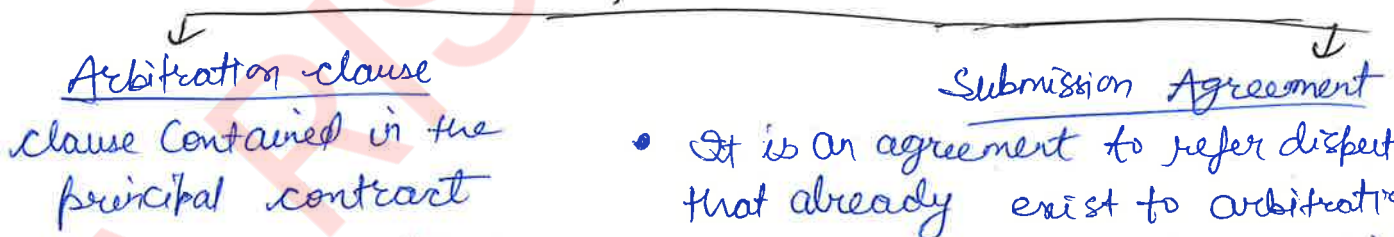
6) Arbitration Agreement :-

- (i) Consent of parties is most fundamental requirement for an arbitration to happen. The document which notes the consent of the parties is known as 'Arbitration Agreement'.
- (ii) Arbitration agreement shall always be in writing, as follows :-



- (iii) In other words, Arbitration agreement clearly notes that, in the event of a dispute between these parties, they will not go to court, instead they will proceed to AP.
- (iv) An Arbitration agreement is in writing & valid if it is contained in
 - (a) a document signed by the parties.
 - (b) An exchange of letter, telegram, or any electronic mode which provides a record of agreement.

(v) Types of Arbitration Agreements → [Eg Pg no. 215]



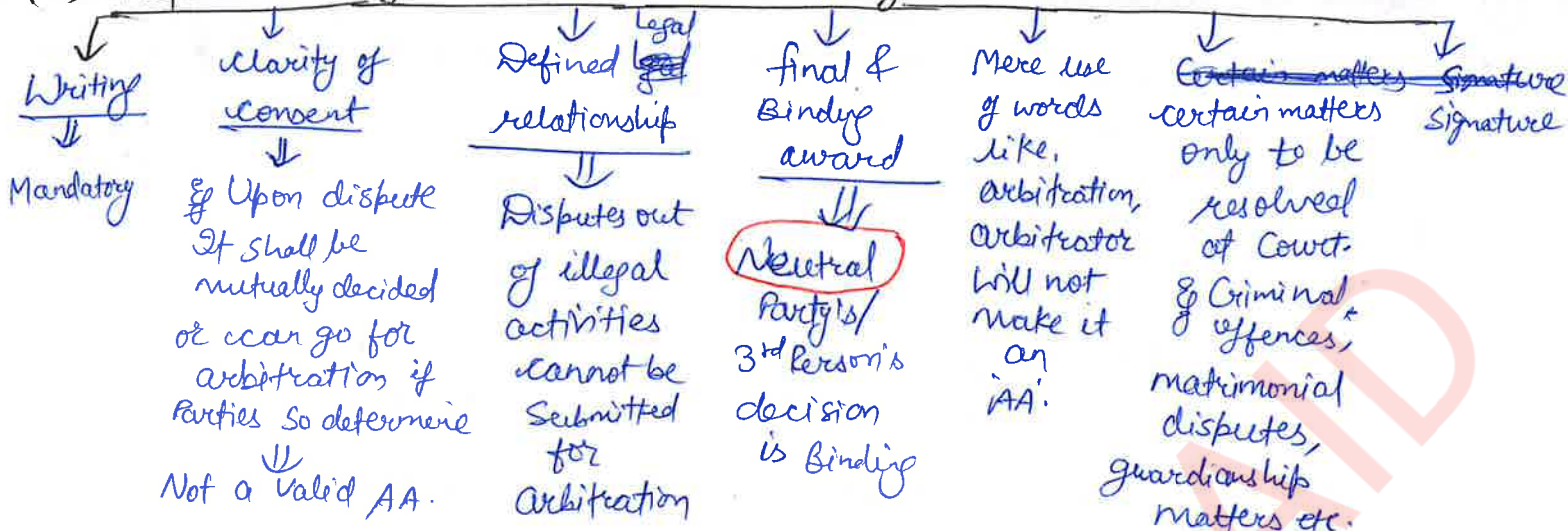
AA through reference :- Parties can arbitrate by referring to another contract containing AA. [Supreme Court of India]

- It is an agreement to refer disputes that already exist to arbitration
- Basically, the agreement entered into after the dispute has arisen, is known as 'Submission Agreement'.

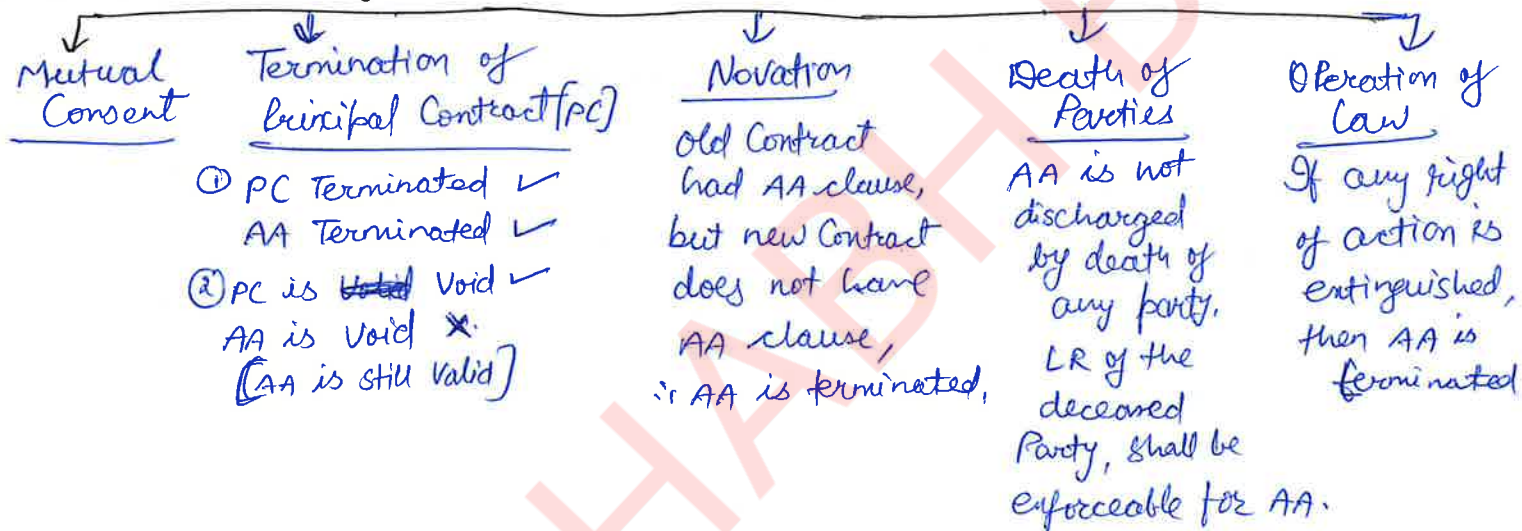
- (vi) Arbitration agreement is a Contract. (Requirement of valid Contract)
- (vii) Consent (Consensus ad idem) should be given by all the parties to resolve dispute through AP. If no consent → no arbitration agreement
- (viii) If AA is there, then ~~parties~~ ^{one party} cannot go to court to resolve dispute
- (ix) Doctrine of Separability :- It means AA is an independent agreement to the main Contract (Principal Contract). If principal contract is void, AA still remains valid.

(x) Requirement of Valid arbitration agreement :-

(4)



(xi) Termination of an Arbitration Agreement :-



⑦ Conduct of Arbitral Proceedings :-

⑦ Pre-requisite for conducting of Arbitral Proceedings :-

(a) Arbitration Agreement :- AA is required for conduct of 'AP'. However, SC in case of P.A.G. Raju vs P.V.G. Raju [AIR 2000 SC 1986] held that AA is not a pre-requirement. If one party applies to court for 'AP' & other party does not have any objection, then parties are allowed to go for arbitration.

(b) Notice required prior to referral of disputes :- Notice by one party to another is mandatory before referring the disputes to arbitration [Mandatory to satisfy Consensus ad idem condition]
(i) Note 1: Making a claim by one party does not show existence of dispute, whereas ~~dispute~~ request would arise only when the dispute has arisen between the parties.

(c.) Appointment of Arbitrators :- Parties are free to determine any odd number of arbitrators

- If no consent b/w parties for appointment of arbitrator, then any order/award by the arbitrator will be null & void.
- Arbitrator/Arbitral Tribunal cannot consult 3rd parties without disclosing it to 3rd parties.

(d.) Period of limitation :- Limitation Act, 1963 is applicable to AP. Any arbitral proceedings commenced after limitation period will be time-barred.

Eg
A $\xrightarrow[\text{by 1/5/20}]{\text{gave loan of ₹100k to 'B' on 1/1/2020 to be repaid}}$ B.

However, B' did not pay loan on due date; therefore, A' goes for AP on 1/1/2025.

Since repayment of loan has become time barred, \therefore It cannot be referred to arbitration.

(e.) Equal treatment of parties :- [Section 18]

- Parties to an arbitral proceedings shall be treated equally.
- Each party shall be given a full opportunity to present their case.

(f.) Determination of procedure to be followed for conduct of proceedings :- [Section 19] :-

- Parties are free to agree on the procedure to be followed, for AP
- AT shall not be bound by the code of civil procedure, 1908 or Indian evidence Act, 1872.

Eg During AP between A & B, arbitrator wants to take oral statement of A' as an evidence [not permissible under Evidence Act, 1872]

Soln AT is not bound by the provisions of Indian Evidence Act, 1872, therefore arbitrator can do so.

(g.) Place of Arbitration [Section 20] :- [PoA]

- Parties are free to agree on PoA, if not agreed b/w them, then AT shall determine the PoA; Considering convenience of the parties.
- Unless otherwise agreed by the parties, the AT may meet at any place it considers appropriate for consultation among its members, for hearing, inspection etc.

6
 Eg. Dispute arose between Ram & shyam & matter was referred to arbitration, 'Mr. Vishnu' was appointed as 'Arbitrator'. Ram & shyam couldn't decide PoA, therefore Vishnu decided the PoA as 'Mathura'.
 (i) can he do so? → Yes
 (ii) If Ram & shyam do not agree can they request for change of PoA → YES
 In this case Mr Vishnu shall change the venue.

(11) Language to be used in AP :- [Section 22]

- The parties are free to agree upon the languages.
- If not agreed between parties, then AT shall determine the language.
- The AT may order for translation of evidences into the language agreed by the parties.

eg. A (Tamil) ← ^{Dispute arose, now} language needs to be determined → B (Delhi) } If both agrees for a language then AP shall be in that language.

(12) Statement of claim & Evidence [Section 23] :- [SOCE]

- The SOCE shall be completed within a period of six months from the date the arbitrator/s received notice of their appointment in writing.
- Either party may amend/supplement his claim/defence during 'AP' unless AT considers it inappropriate.
- The SOCE shall be furnished between the time period agreed b/w the parties or allowed by 'AT'.

claimant → claim ; Respondent → Defence.

(13) Hearing and written proceedings :-

- Unless agreed b/w the parties, the AT shall decide whether to hold oral hearing/oral argument or whether proceedings shall be conducted on basis of documents/other materials.
- Oral hearing only if parties has agreed for oral hearings.
- Hold oral hearing on day-to-day basis & not to grant adjournment unless sufficient cause has made out by the parties.

(14) Default of Parties [Section 25] :-

- If the claimant without sufficient cause do not submit his statement of claim, then the AT ^{may} shall terminate the proceedings.

- If respondent fails to submit without sufficient cause, the statement of defence → The AT shall continue the AP, without ~~continuing~~ treating that failure as an admission of allegations made by the claimant (7)

(15.) Appointment of Experts :- [Section 26]

- The AT on specific issues may
 - appoint one or more experts
 - ask expert to determine specific issue.
 - deliberate upon the ~~issue~~ issue.
- The AT may also direct the parties
 - Give expert any relevant info.
 - produce/provide access to all info/goods/documents for inspection.
- The AT upon oral/written request of any party shall
 - ↓ ASK the expert to participate in oral proceedings
 - ↓ Permit parties to put questions to such experts who made the report
 - ↓ Permit parties to present their own expert witnesses to have viewpoints over issue

(16.) Court assistance in taking evidence :- [Section 27]

- AT has power to apply for court assistance in taking evidence from a person/s if he/she/they refuses to give evidences or cooperate in AP. [AT can't enforce attendance w/o court assistance]
- Any party can also apply to court subject to approval from AT.
- The court shall serve notice to such person.

Making of Arbitral Award & Termination of proceedings :-

(17.) Arbitral Award [Section 28] :- [AA]

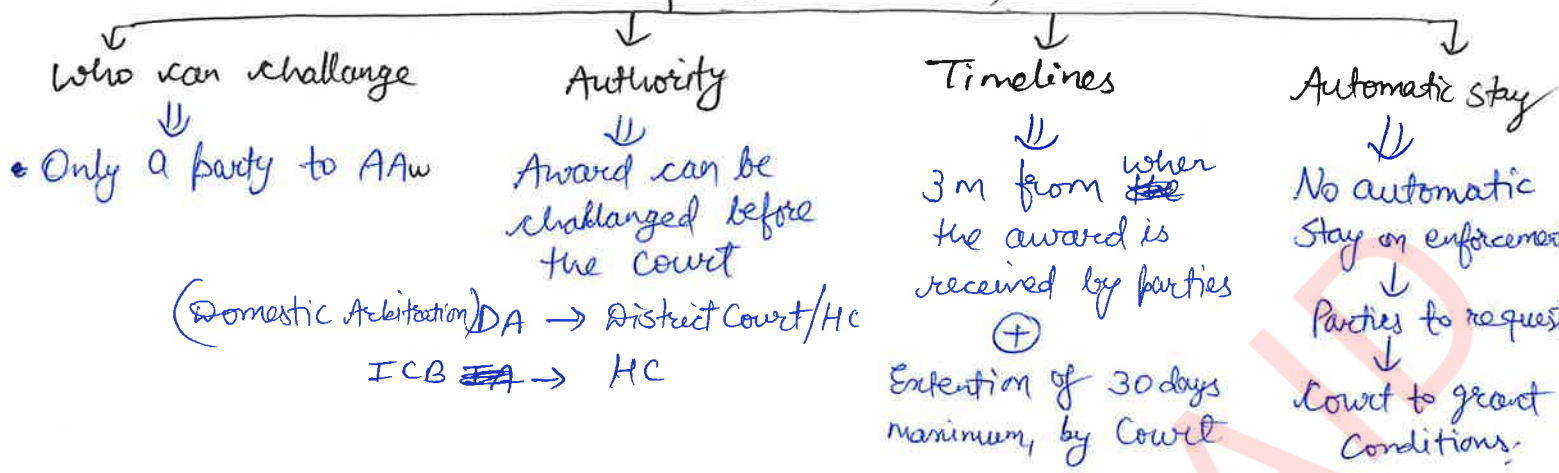
- It is similar to a judgement given by a court of law
- The AA is a remedy to the parties depending upon the issue of the dispute which includes

↓
Injunction
⇓
order of a court directing a party to stop an action

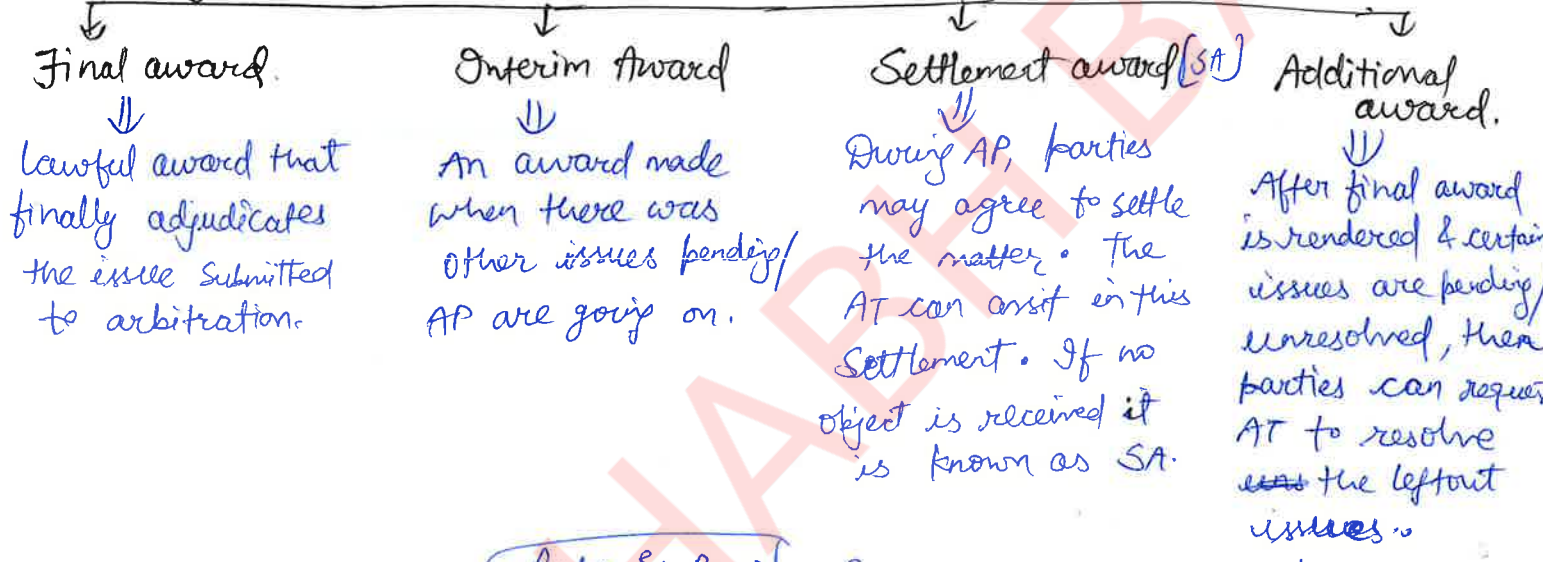
↓
Monetary award
⇓
one party pays the opposite party

↓
Incentives.
⇓
Arbitrator has discretion to add incentive for certain behaviours to encourage the parties to settle.

• General principles of an AAw: (Arbitral award)



• Types of AAw.



Refer Eg B no 2.36

This request can be made within 30 days from date of receipt of final award by the parties

• The tribunal shall decide the award ex aequo et bono or as amiable Compositeur only if parties have expressly authorized it to do so

↓

Means decision taken on equitable principles of justice & good conscience without adhering to strict rules of Court of law.

(18) Decision making by panel of arbitrators :- [Section 29]

- Sole arbitrator → Decision by such sole arbitrator
- Panel of arbitrator → The opinion of majority shall prevail. (Presence of all arbitrators not required at a same place. Decision by modern means is also acceptable (Telephone, fax, mail etc))
- The decision on question of procedure should be decided by all members of arbitration. In case of difference of opinion the AP may be terminated as per Section 32.

(19) Time limit for Arbitral Award [Section 29A]:-

- Domestic Arbitration → Within 12m from date of Completion of pleadings (other than ICA) U/s 23(4).
- ICA → As expeditiously as possible & endeavour may be made to dispose of the matter within 12m from Completion of pleadings U/s 23(4).
- If AA is made within 6m from date of AT reference, then AT is entitled to additional fees, as the parties may agree.
- The parties may, by consent, extend the period specified ~~is~~ above for maximum 6 months.
- If AA is ~~not~~ not made within extended period also, ~~and~~ this is due to ignorance of AT, then Court may order reduction of AT fees by not exceeding 5% for each month of such delay, after giving ROOBH.

(20) Fast track Procedure [Section 29B]:-

- Parties at any stage either before or at the time of appointment of AT agree in writing to have dispute resolved through fast track process.
- The award under this section shall be made within a period of 6 months from the date the AT enters upon the reference.

(21) Settlement [Section 30]:-

- The AT may resolve the issue through settlement (Mediation/Conciliation)
- If during AP, a settlement is reached b/w parties, the AP will be terminated & settlement will be recorded as AAW.
- The AT may reject settlement request, if terms are against public policy, unfair, & fraudulent etc.

22. Form & Content of Arbitral Award [Section 31]:-

- The AAW shall be in writing, & signed by the arbitrators.
- The decision should be backed by a reason, unless parties agree.
- Date & Place of AAW, shall also be included in the AAW.
- The signature of majority of arbitrators shall be sufficient, as long as the reason for omitted signature is stated in AA.

- As a part of AA, the AT cannot award interest, if there is a specific bar against payment of interest in the Contract, unless otherwise agreed by the parties.

(23.) Regime for cost [Section 31A]:-

- The AT/Court shall have the discretion to determine -

Whether cost are payable by one party to another

The amount of such cost

When such costs are to be paid.

* Cost means legal fees, fee & expense of arbitrators, Admin fees, other exp.

- Generally, unsuccessful party is ordered to pay the cost to Successful Party.
- The AT/Court may give different order also, but with reason in writing.
- An agreement which has effect that a party is to pay the whole or ~~part of part~~ part of the costs of the arbitration in an event, shall be only valid if such agreement is made after the dispute in question has arisen.

(24.) Termination of Proceedings:- [Section 32]:-

- The AP shall be terminated upon the ^{issuance of} final AAW or by an order of AT. as follows:-

claimant withdraws his claim

The parties agree on termination of the proceedings

The AT finds that continuation of proceedings has been unnecessary or impossible.

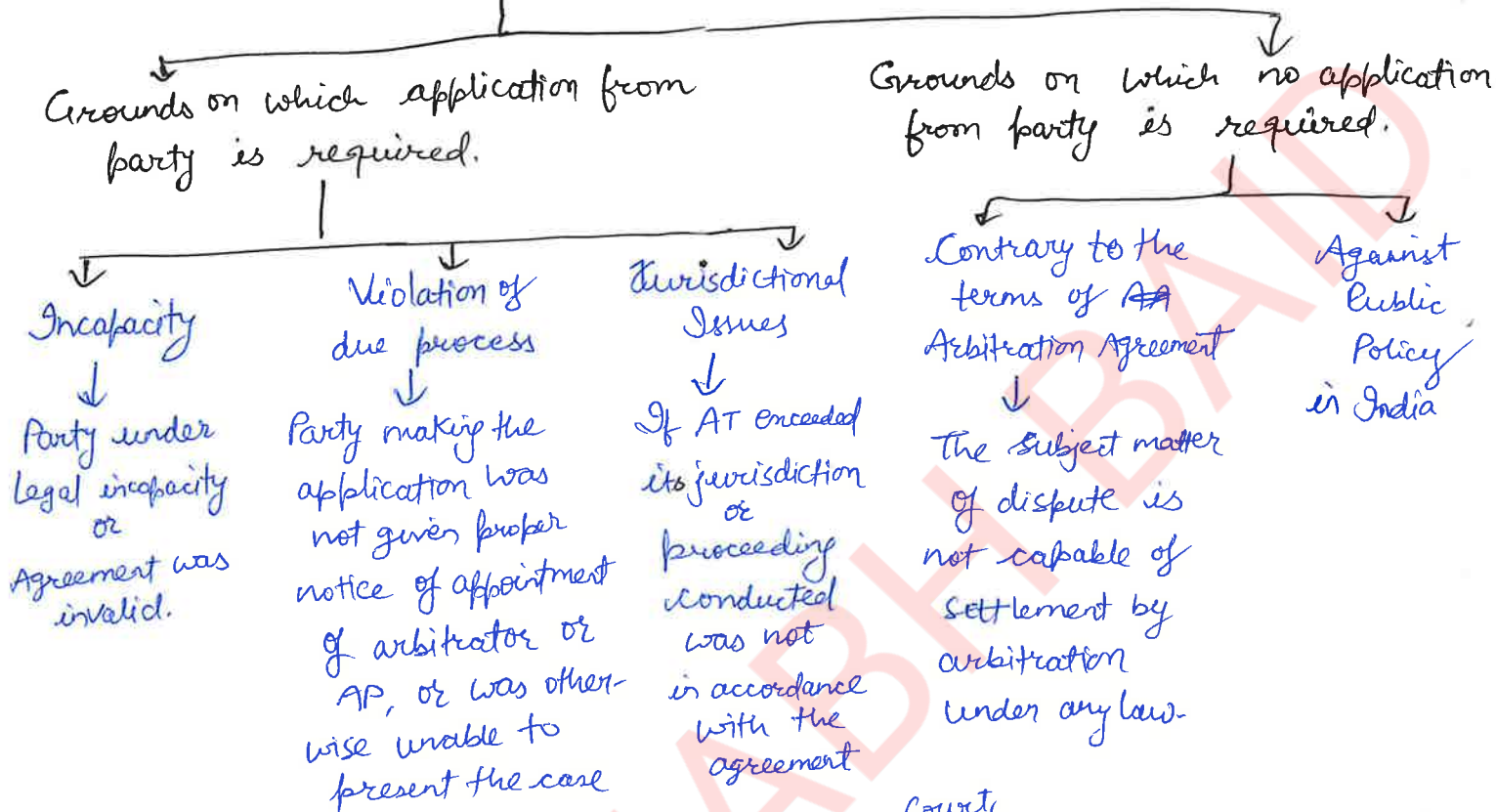
- Once the sole arbitrator terminates the AP, the same cannot be subsequently recalled.

(25.) Correction & Interpretation of award; Additional award: [Sec 33]:-

- The AT on request of party may correct the mistake or give interpretation of the award within 30 days from the receipt of request.
- If if something remained undecided or left out in arbitral award, an additional award can be requested [only on justifiable request to AT]
- Under extraordinary circumstances, the tribunal is empowered to extend the time limit by another 30 days.

(26.) Recourse against Arbitral Award :- [Section 34]

- On certain **specific grounds** court may set aside an AA, if application submitted to the court within **three months** of receiving the AA or within the extended time limit allowed by court



- Arbitrator's decision cannot be set aside by ^{Court} only because the court has a different conclusion.
- If AT has proceeded illegally, did not consider evidences, or principle of construction which the law doesn't counterance, then the court may set aside the AA.

(27.) Finality & Enforcement of Arbitral Award :-

Finality of Arbitral awards :- [Section 35]

- The arbitral award is binding upon the parties.
- Arbitral award cannot be challenged after 3m or extended period if any, allowed by the court.
- Bombay HC, held that an award which has become final & binding can be questioned before the court only on the ground of lack of jurisdiction & not on any other ground.

(28) Enforcement [Section 36] :-

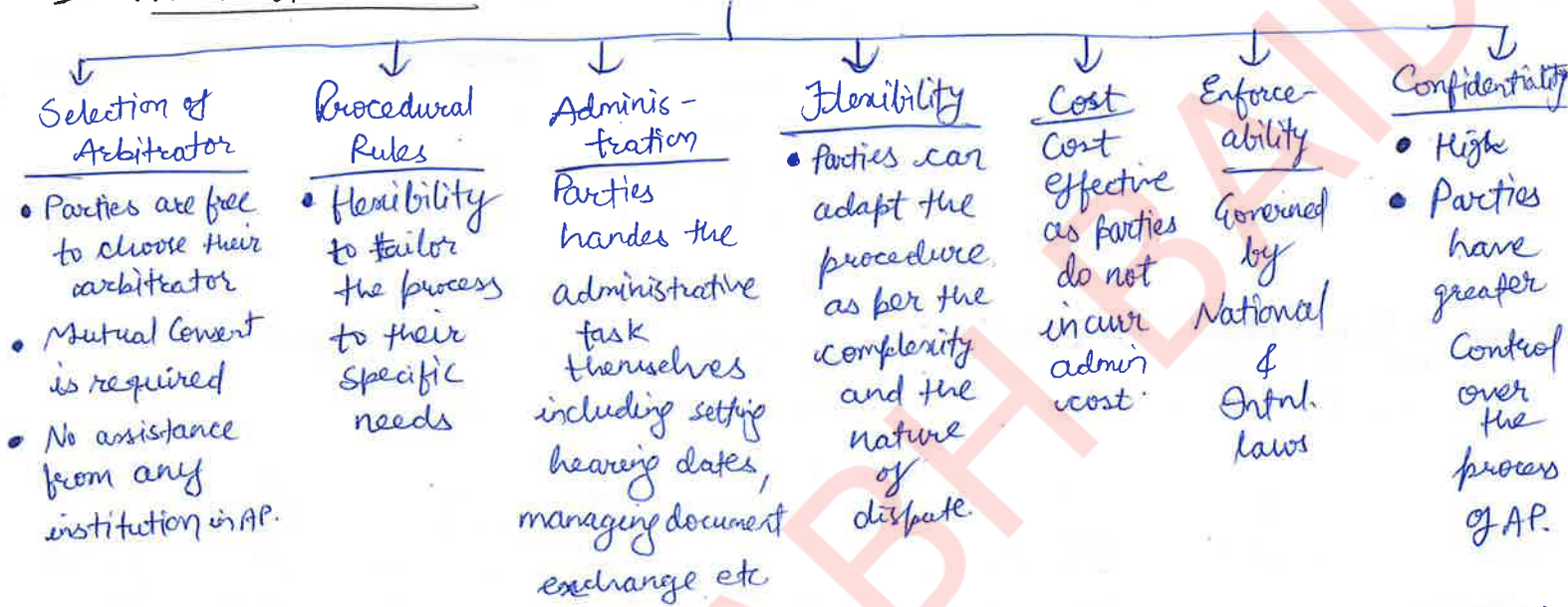
- An arbitral award, irrespective of the country in which, it was made is enforceable as a decree of court.
- Once an AA is received, the parties seeking enforcement may file it before the court within the jurisdiction where the subject matter is situated.
- The court may grant a stay on the enforcement of the award if a party files an application challenging the award u/s 34.
- The court may refuse enforcement, if the party against whom the award is invoked furnishes proof of condition, such as incapacity of a party, invalidity of arbitration agreement, procedural irregularities etc.
- This section ensures swift & effective enforcement of arbitral awards, promoting the finality & efficacy of the arbitration process.

CHAPTER-3

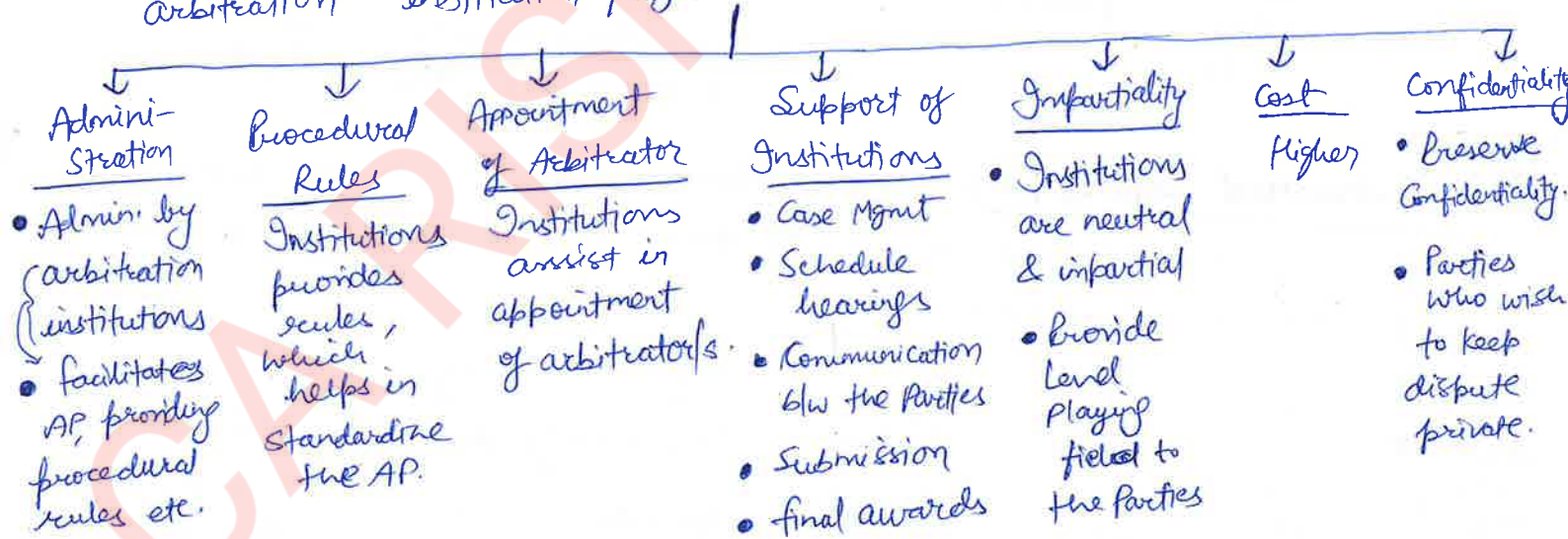
ENFORCEMENT OF CERTAIN FOREIGN AWARDS

I. Arbitration & Its Types :-

I. Ad hoc Arbitration :- Parties manages disputes themselves.



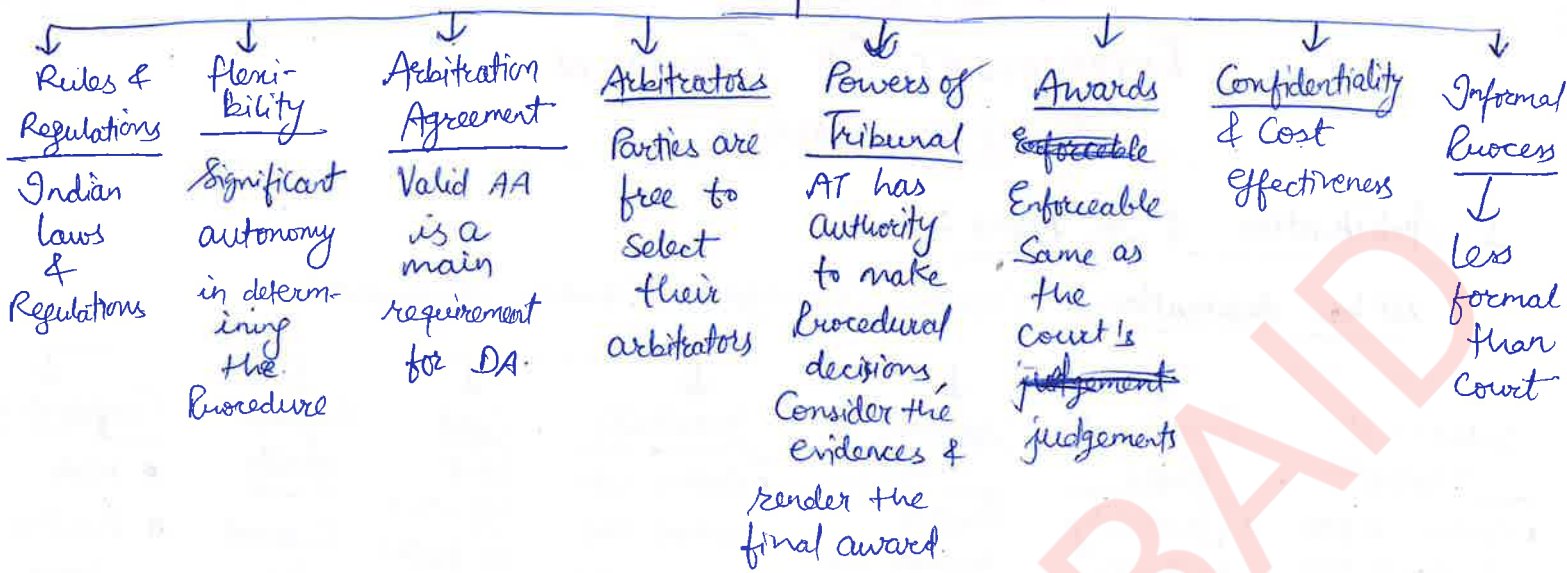
II Institutional Arbitration :- Prior agreement b/w the parties for settlement of disputes through Arbitration & will be referred to an established arbitration institution / organisation.



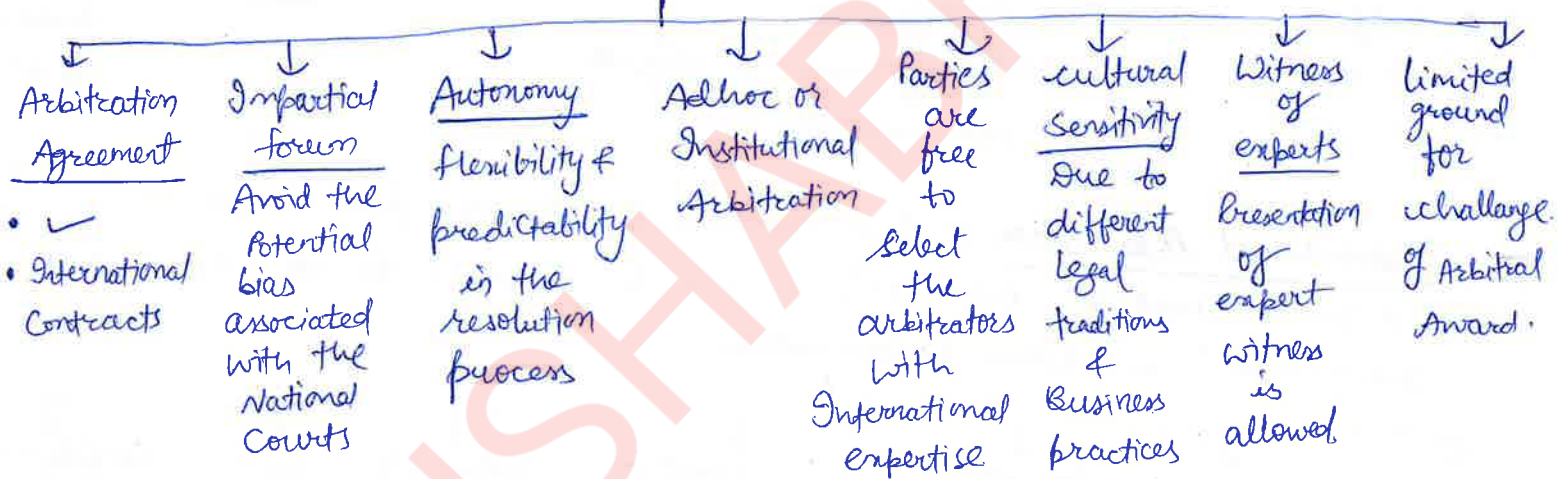
Ad hoc arbitration may be more suitable for parties who are familiar with AP or have legal representation experienced in managing arbitrations independently.

Parties should ensure that their ad hoc arbitration agreement are well drafted to avoid potential pitfalls & disputes over procedural issues.

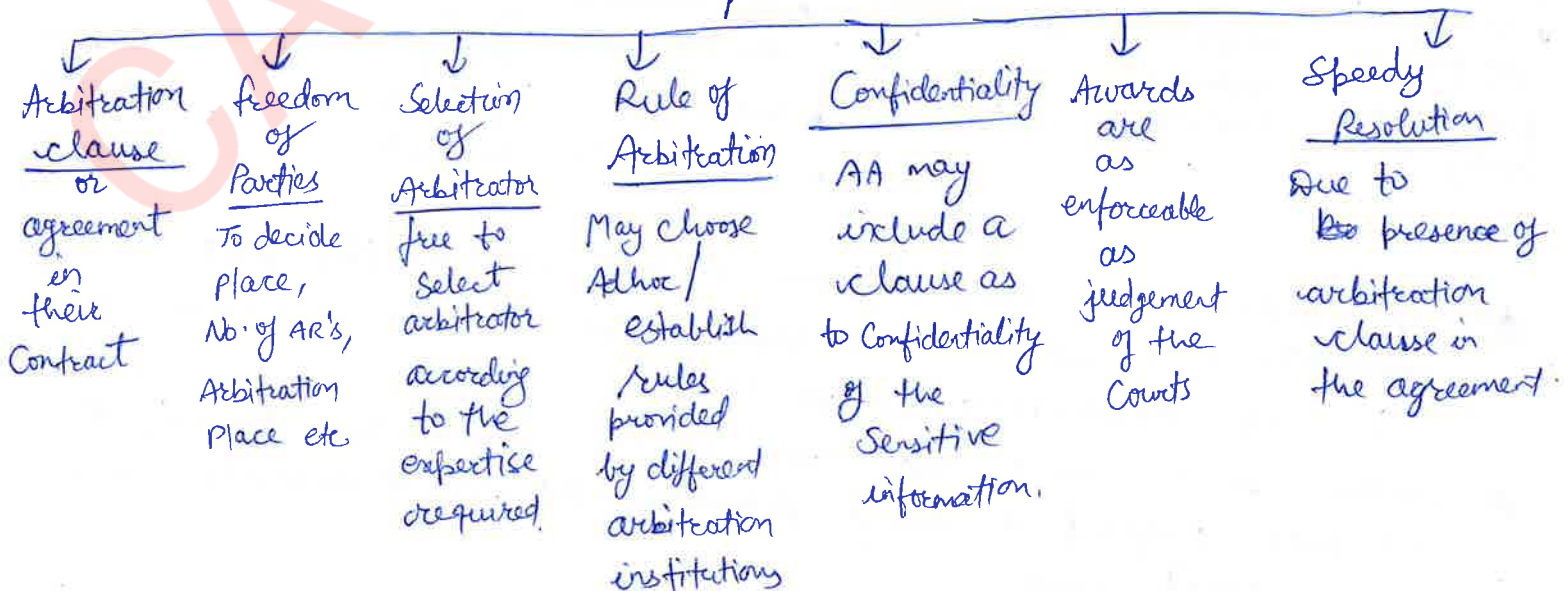
III. Domestic Arbitration :- Both the parties to dispute must be ⁽²⁾ Indian.



IV. International Arbitration :- Involves parties from different countries or transaction with an international dimensions

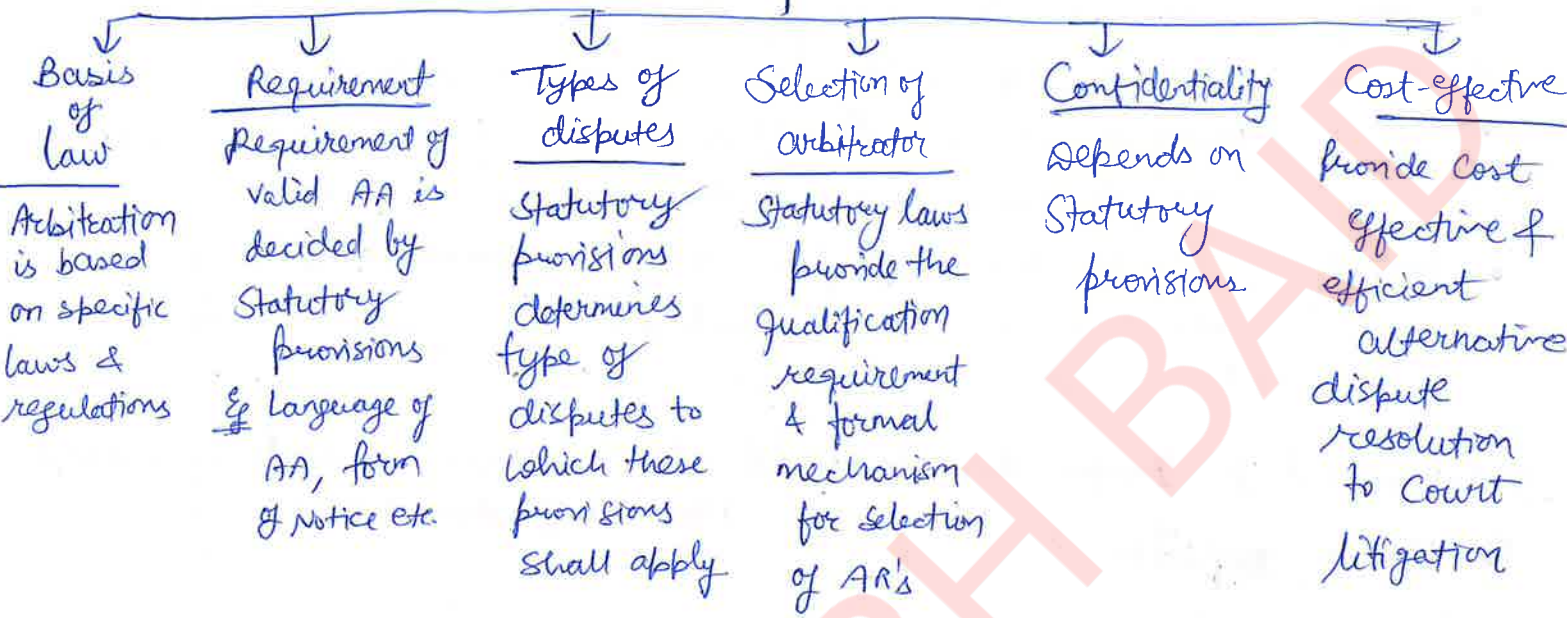


V. Contractual Arbitration :- Parties choose to incorporate an arbitration clause as part of the agreement to ~~refer~~ refer to their future differences & disputes.

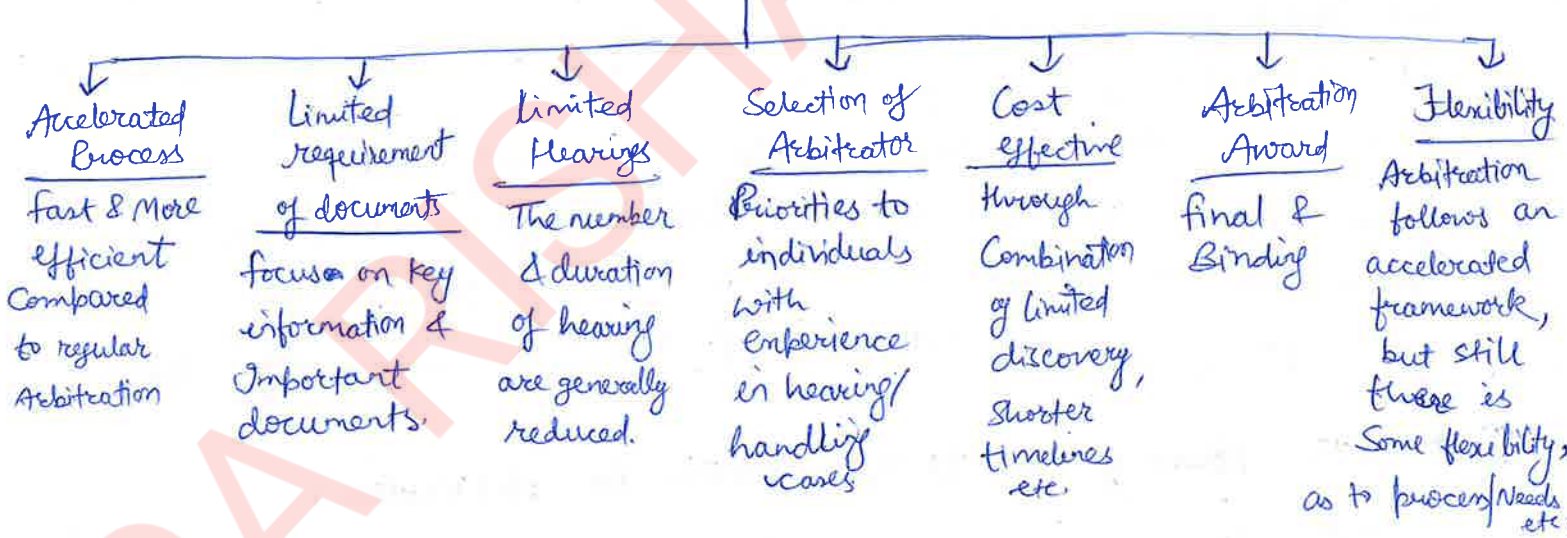


VI. Statutory Arbitration :- It is a mandatory arbitration imposed by the operation of law on the parties. Parties has no option but to abide by the law of the land.

• On this consent of parties is not required, as it is binding on parties



VII. Fast-Track Arbitration :- Parties to an AA, may agree in writing for fast-track dispute resolution. It is a time bound device to resolve the dispute within ~~6 months~~ 6 months.



VIII. Foreign Arbitration :- When Arbitration proceedings are conducted in a place outside India, it is called 'Foreign Arbitration'. In such type of arbitration a Foreign award is sought.

2. Types of Arbitral Award:-

- I. Adhoc Arbitral Award
- II. Domestic Arbitral Award
- III. International Commercial Award:-

- ~~It~~ It involves arbitration involving parties from different countries.
- The parties usually agree on to the governing law of their contract/AA.
- Intl. chambers of commerce (ICC) / London court of International Arbitration (LCIA) may place a crucial role in arbitrator appointment
- Arbitral awards are enforceable/facilitated by International conventions such as New York conventions, which provide a framework for enforcement in over 160 countries

3. Enforcement of Foreign Awards :- [New York Convention awards - chapter I Part - II of A&C Act, 1996]

Section 44 Definition :-

- Foreign award means the award made as a result of foreign arbitration, which is not a domestic arbitration.
- The Calcutta HC in case of Serajuddin vs Michael Colodetz, held the essential elements of foreign arbitration :-
 - (a) Arbitration should be held in a foreign country by F. arbitrator,
 - (b) Application of foreign laws
 - (c) Foreign nationals are involved as a party
- An ~~is~~ interim award made in London in an AA, governed by Indian laws. SC in case of NTPC vs Singer Company held that it is purely a Domestic Award, which is governed by Indian laws.

Section 45 Power of JA to refer parties to Arbitration :-

- JA ~~authority~~ may refer parties to arbitration at the request of one of the parties, or any person claiming through or under him.
- JA needs to make sure, whether the AA is valid, operative & capable of being performed, before referring parties to the arbitration.

Section 46 When foreign award is binding :- [FA \Rightarrow Foreign award]

Any foreign award is enforceable in India & shall be binding on the parties between whom it is made.



Section 55 Foreign Awards when binding :-

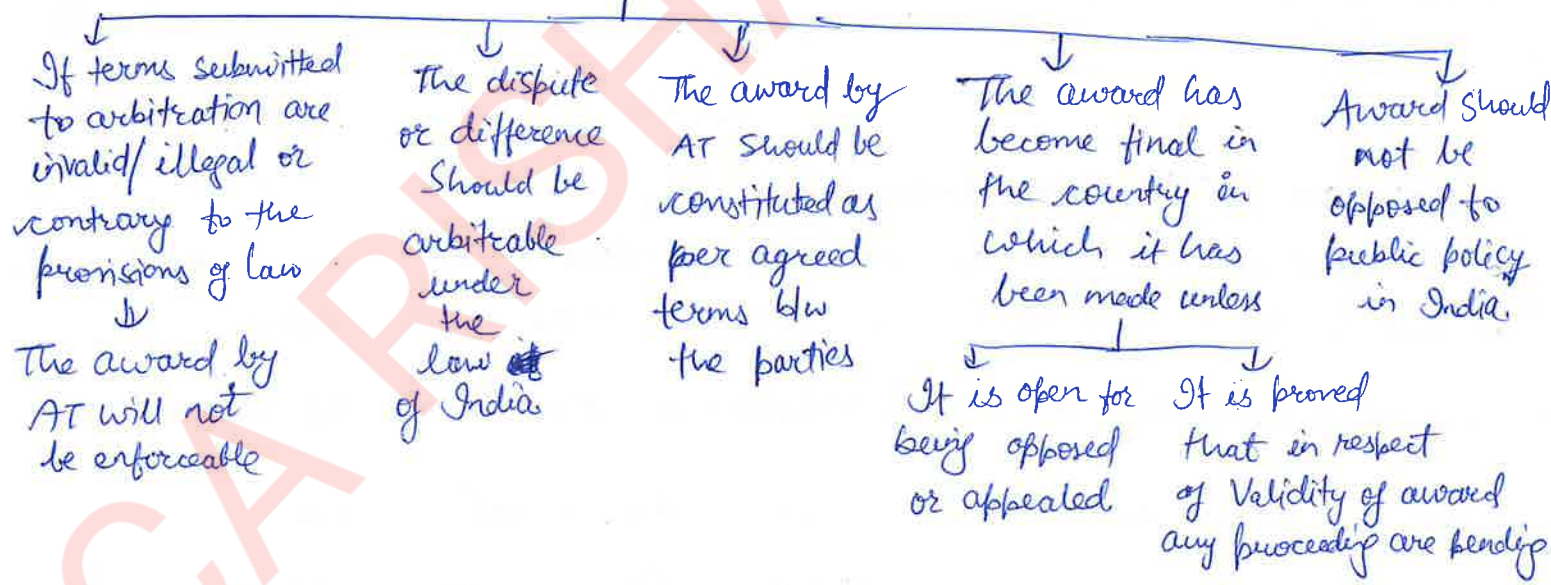
Foreign awards shall be considered as a basis for seeking defense, set-off or otherwise any legal proceedings in India.

Section 56 Evidence :- Same as Section 47 on ~~previous~~ page no. 5

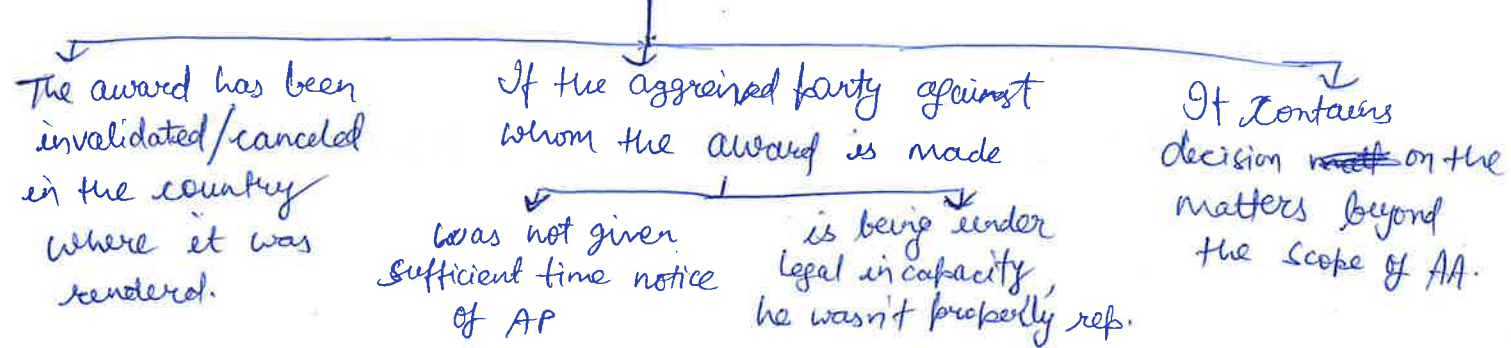
- If such award/AA is in foreign language, it should be translated in English & translated copies should be produced.
- These copies must be certified by a diplomatic or consular agent of that country.

Section 57 Conditions for Enforcement of Foreign Awards :-

- For enforcement of FA, parties seeking enforcement has to proof any of the following condition



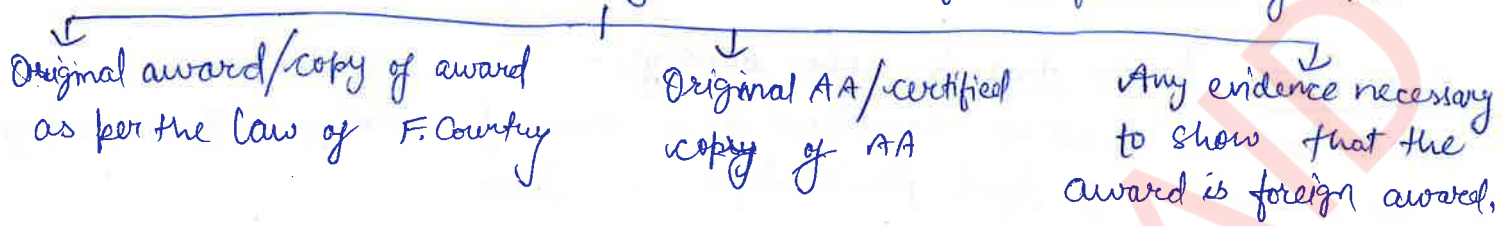
- Even if above conditions are satisfied the court must refuse the enforcement of FA if following conditions are satisfied :-



Section 47:- Evidence

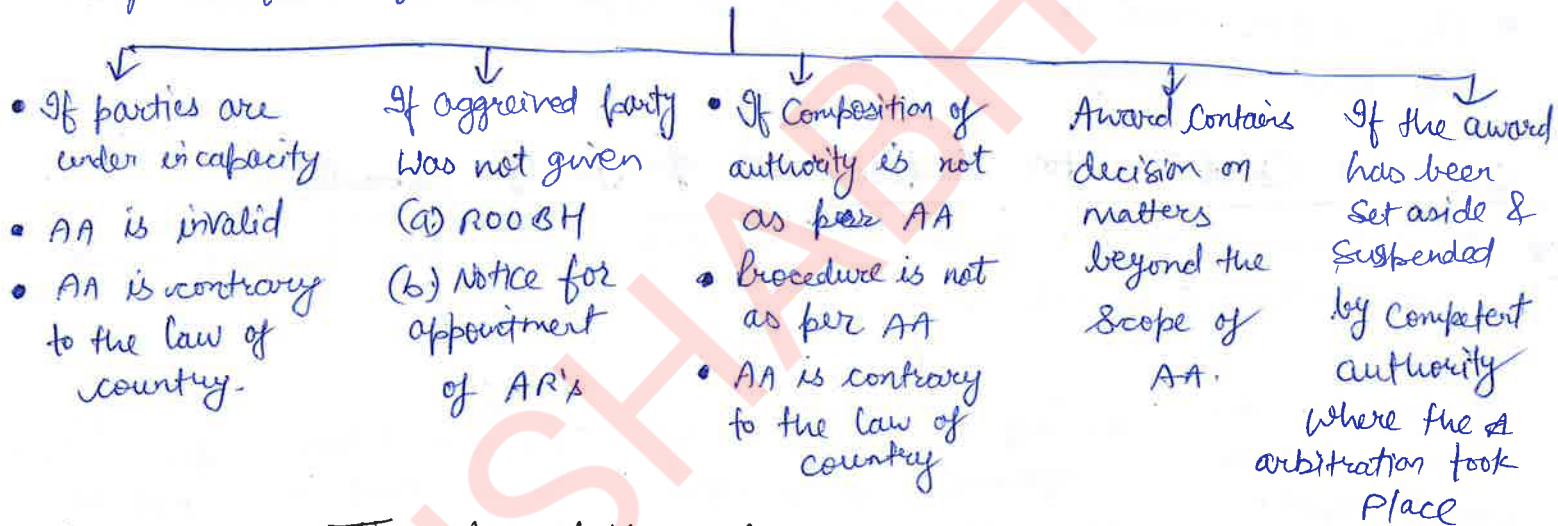
(5)

- Section 47 prescribes the evidence that the party has to be made prima facie before the court for enforcement of foreign award.
- The following documentary evidences must be produced by the parties before the court, while filing application for enforcement of FA.



Section 48:- Condition for enforcement of FA:-

- The enforcement of FA may be refused on the request of the party against whom this FA is made but party has to prove any of the following conditions:-



Section 50:- The Appealable orders:-

- An appeal can be filed against certain orders made under section 45 & 48.
- Further, No second appeal is possible against such orders.

4. Geneva Convention Award - [Chapter II, Part II of A&CA Act, 1996]

Section 53 Foreign Awards:- It is an arbitral award on disputes in respect of matter which has been referred to arbitration as commercial matter under the law in force in India after 28th July 1924.

- If the award is made in such territories which are not parties to Geneva Convention, provisions of Chapter II will not be applicable.

Section 54:- Power of JA to refer parties to Arbitration:-

JA has the power to refer the parties to the decision of arbitrator if the following conditions are fulfilled:-

- In case of Societa Anonmia v/s Gopalchram Gokalchand, ⁽⁷⁾ it was held that if contract is ~~is~~ illegal, the award given by AT in pursuance of arbitration clause in the contract shall not be enforceable.

Section 58 Enforcement of Foreign Awards :-

- The Section clearly provides that the court not only of the opinion but should be satisfied that the FA can be enforced & such award shall be deemed to be the decree of court.

Section 59 Appealable Order :- same as section 50 on Pg no. (5)

Section 60 Savings :-

This chapter II, does not weaken the rights that any individual would have had to enforce an award in India or to benefit from an award in India, if this chapter has not been enacted,

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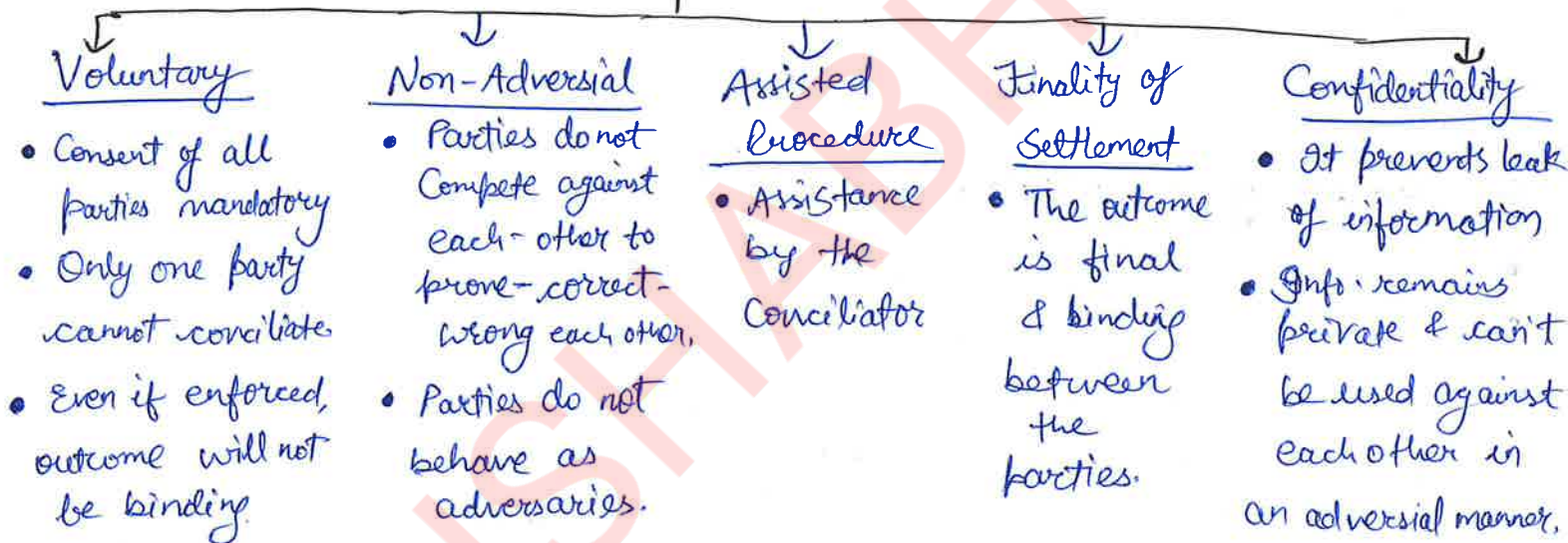
CHAPTER - 4

CONCILIATION

1. Introduction :-

- Conciliation involves a neutral third party, known as 'Conciliator', who facilitates communication between the conflicting parties.
- Main objective is to assist parties in finding common grounds, reach a mutually acceptable solution & reach, ~~rebuild~~ rebuild relationship.

2. Characteristics of Conciliation :-



Important points for Confidentiality :-

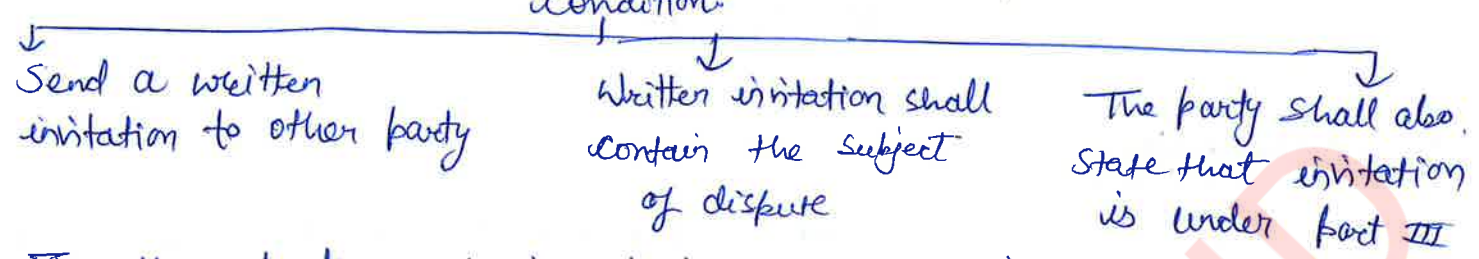
- * During conciliation proceedings (CP), the info received by the conciliator must be disclosed to the other party, unless the party giving information has specifically requested to keep it confidential. [In this case conciliator shall not share info.]

3. Conciliation in India :-

- It is governed by A&C Act, 1996. [Part III of A&C Act, 1996] (sect 61 to 81)
- Any dispute arising out of legal relationship, whether contractual or not, can be conciliated.
- These provisions shall not applicable, if parties has has agreed not to follow/any other law restricts the use of these provisions.
- Therefore, parties are free to follow/not to follow these provisions.

4. Commencement of process of CP:- [Section 62]

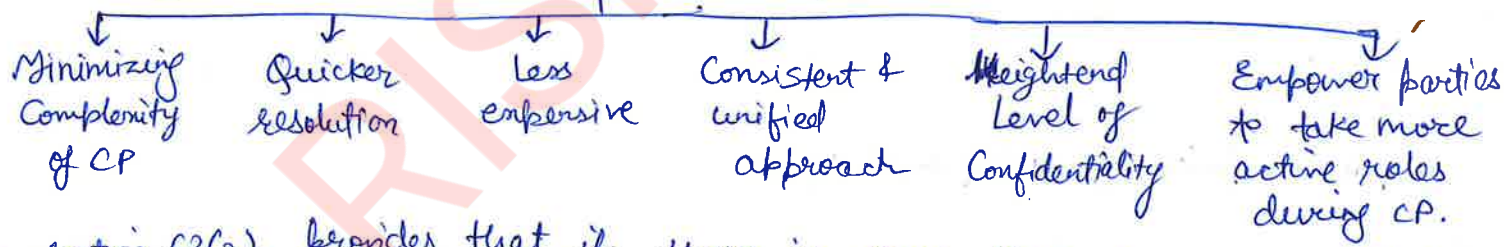
Any party to dispute, who wishes to initiate CP has to fulfill following condition.



- The other party must give their acceptance in writing.
- If other party rejects the invitation, The CP can not be initiated.
- The party initiating CP, may mention time limit for acceptance of invitation to CP by other party.
- Section 62(c) provides, if party does not receive any reply within 30 days of sending the invitation / any other period mentioned therein, he has the option to treat it as rejection, & send/communicate to other party sending a written intimation.

5. Number of Conciliators [Section 63]:-

- One conciliator, unless parties agree for 2/3 conciliators.
- The decision of conciliator is recommendatory in nature.
- Why a sole conciliator is preferred.



- Section 63(2), provides that if there is more than one conciliator, all the conciliators have to conciliate jointly & have to settle the dispute.

6. Appointment of conciliators :- [Section 64]

- One conciliator → Mutually agreed by parties.
- Two conciliators → One CR by each party.
- Three conciliators → One CR by each party & 3rd CR by mutual agreement, known as presiding conciliator (PC)

★ The PC is not authorized to take binding decision, in case of difference of opinion between the conciliators [other 2 CRs]

★ However, the parties may, by agreement, authorise the PC.

- Parties are free to seek assistance of a suitable institution by (3)
 - requesting such institution/person to recommend the name of suitable individual to act as conciliator
 - Parties may agree for appointment of one or more conciliators be made directly by such an institution/person.

7. Submission of Statements to conciliators: [Section 65]

- The CR shall request each party to submit a written statements furnishing/ summarizing the nature of dispute & specified points of issue.
- Each party will also send a copy of such submission of statement to other party.
- Conciliator may demand any further statement to clarify his position from any party. Any parties may furnish any document/ additional evidence to support their grounds.

8. Conciliator not bound by certain enactments: [Section 66]

- Conciliator is not bound by the provisions of code of civil procedure 1908 or the Indian evidence Act, 1872.
- Conciliator is bound to follow the principle of natural justice.

9. Role of Conciliator: [Section 67]

- The conciliator has to render assistance in an independent & impartial manner.
- While conducting CP, the conciliator shall consider various factors:-

↓ Rights & obligations of parties	↓ Usage of the trade concerned	↓ circumstances surrounding the disputes	↓ Previous business practise between the parties.
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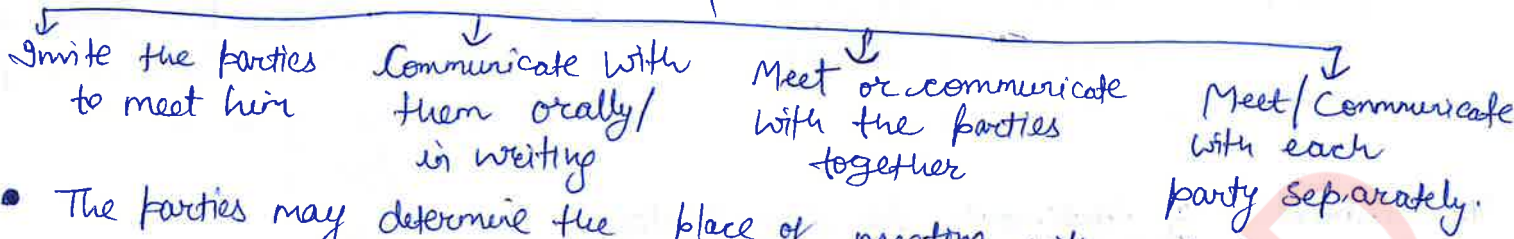
- Section 67(3) provides for flexibility (oral/written) for conducting the CP.
- If parties request for oral statement to speed up CP, then CR should consider such requests.
- The CR can make proposal for settlement of dispute, at any stage of CP, which need not be in writing. [without giving reason he can do so]

10. Section 68 The parties / CR with consent of parties, may arrange for administrative assistance by a suitable institution/person.

11. Communication between conciliator / parties [Section 69]

(2)

- The conciliator is authorised to



- The parties may determine the place of meeting with mutual consent.
- If no place is determined, the CR may determine the place after consulting with parties.

12. Disclosure of Information [Section 70]:-

- The CR shall disclose the factual information received from one party to another, so that the other party may have opportunity to present any explanation.

13. Settlement Agreement [Section 73]:-

- If CR is satisfied that he is in a position to frame the acceptable settlement b/w parties, then he will prepare terms of settlement & submit them to the parties.
- Parties are empowered to submit their observation on above terms.
- In case of observations submitted by parties, conciliator may reframe terms considering such observations.
- If parties agree on settlement terms reframed by conciliator, they may drawup & sign a written settlement agreement, upon agreement it shall be binding upon parties.
- In case of more than one conciliator, all the CR's should authenticate the settlement agreement.

14. Status & Effect of Settlement Agreement :- [Section 75]

- Settlement Agreement has been given the same status & effect as if it is an arbitral award as rendered by AT.

15. Termination of Conciliation Proceedings :- [Section 76]

- (i) Upon signing of Settlement Agreement → On date of agreement...
 - (ii) Written declaration by parties to the conciliator for termination of CP.
 - (iii) Written declaration by one party to other party & the CR's for termination of CP.
 - (iv) Written declaration by CR's if he is of opinion after consultation with parties that no further CP is required.
- } On the date of declaration, The CP, shall be terminated.