

## Chapter 4: The Indian Partnership Act, 1932

### Unit 1: General Nature of Partnership

#### ELEMENTS OF PARTNERSHIP [Dec 21, 6 Marks] ★★ ★

**Question 1:**

X agrees with Y to carry passengers by **taxi** from **Delhi to Gurgaon**; Y to pay X **₹100 per mile**, both share **repair/replacement costs**, and divide equally **fares received**. **Question:** Are X and Y partners?

**Answer:**

**Yes, it is a case of partnership (Sec. 4 – sharing of profit + mutual agency present).**

**Question 2:**

X and Y are **co-owners** of a **house** let out to a **tenant**; they divide **net rents** after deduction of **taxes**. **Question:** Are they **partners**?

**Answer:**

**No, it is co-ownership, not partnership (no business + no mutual agency).**

**Question 3:**

X and Y, **co-owners** of a **house**, use it as a **hotel**, managed by themselves or a **manager**, for **common profit**. **Question:** Are they **partners**?

**Answer:**

**Yes, this is partnership (business + profit motive + mutual agency).**

**Question 4:**

X and Y buy **200 bales of cotton**, agreeing to **share** the same. **Question:** Are they **partners**?

**Answer:**

**No, this is only a joint purchase, not partnership (no business carried on).**

**Question 5:**

X agrees with Y (**goldsmith**) to **buy and furnish gold**; Y to work it up and sell; both share **profit/loss**. **Question:** Are they **partners**?

**Answer:**

**Yes, it is partnership (business + profit/loss sharing + agency).**

**Question 6:**

X and Y agree to work together as **carpenters**, but X to receive all **profits** and pay **wages** to Y. **Question:** Are they **partners**?

**Answer:**

**No, since Y is only a workman/employee, not a partner (no profit-sharing).**

**Question 7:**

X and Y are **joint owners of a ship**. **Question:** Are they **partners**?

**Answer:**

**No, it is co-ownership, not partnership (mere ownership, no business).**

**Question 8:**

X (**publisher**) agrees to **publish at his expense** a **book written by Y**; Y to receive **half net profit**. **Question:** Are they **partners**? [Dec 23 – 2 Marks]

**Answer:**

**No, not partnership (Sec. 4 – sharing of profit exists but mutual agency absent).**

**Question 9:**

X, Y, Z agree to **divide profits equally**, but **losses** (if any) to be borne by X alone. Is this **partnership**? (Dec 23 - 2 Marks)

**Answer:**

**Yes**, it is partnership (profit-sharing essential; **loss-sharing not mandatory** – Sec. 4).

**Question 10:**

**A and B** purchase a **tea shop**, contribute equally for **utensils & expenses**, lease it out on **daily rent**, and divide the rent. **Question:** Is this **partnership**? (Dec 23 - 2 Marks)

**Answer:**

**No**, not partnership (only **co-ownership**; no business + no mutual agency).

[Jan 21 – 6 Marks]

**Question 11:**

**A and B** jointly own a **car**, use it **personally on Sundays/holidays**, let it on hire as a **taxi** on other days, and **equally divide earnings**. **Question:** Is this **partnership**?

**Answer:**

**Generally, no** – mere **sharing of earnings/gross returns from property** does not create partnership (Sec. 6).

**Alternative View: Yes** – since **main purpose** of owning the car is **business use as taxi** and there is **agreement to share profits**.

**Question 12:**

**Two firms**, each with **12 partners**, agree to **combine into one firm**. **Question:** Is this **partnership**?

**Answer:**

**No**, a **firm cannot be partner** in another firm; only **individual partners** may enter into new partnership (Sec. 4).

**Alternative View: Yes**, if treated as an **agreement by all partners** of the two firms to form **one new firm**.

**Question 13:**

**A and B**, **co-owners**, agree to **conduct business in common for profit**. **Question:** Is this **partnership**?

**Answer:**

**Yes**, this is **partnership** (agreement + business + profit motive + mutual agency present).

**Question 14:**

Some **individuals** form an **association**, each contributing **₹500 annually**, to **produce clothes** and **distribute free** to **war widows**. **Question:** Is this **partnership**?

**Answer:**

**No**, since **partnership must be for business/profit motive** (Sec. 4). A **charitable/social association** is not partnership.

**Question 15:**

**A and B**, **co-owners**, share **rent** derived from a **piece of land**. **Question:** Is this **partnership**?

**Answer:**

**No**, this is **co-ownership**, not partnership (mere sharing of gross returns/property income ≠ partnership).

**Question 16:**

**A and B** buy **commodity X**, agree to **sell** and **share profits equally**. **Question:** Is this **partnership**?

**Answer:**

**Yes**, this is **partnership** – all essential elements exist: **agreement, business, profit-sharing, and mutual agency** (Sec. 4).

**Question 17:**

**A (a surgeon and druggist)** sold his **practice and goodwill** to **B**, agreed to introduce **B** to his patients and promote his profession, and in return **B allowed a portion of profits to A**. The issue is **whether A and B can be considered partners** under the **Indian Partnership Act, 1932**. [ACT]

**Answer:**

As per **Section 4** and **Explanation II to Section 6**, **sharing of profits is not conclusive evidence of partnership**. A **seller of goodwill** receiving a **share of profits** as consideration does **not become a partner**. Hence, in this case, **A and B are not partners** merely because they share profits.

**Question 18:**

**A and B joint owners of a ship** – A manages and meets expenses, takes **two-thirds of gross earnings** and gives balance to B. [ACT]

**Answer:**

**No, joint owners** sharing **gross returns** from property are **not partners**. [Explanation to Section 6]. Alternatively, **no partnership** as there is **no mutual agency**.

**Question 19:**

**A and B tender separately for bamboo contract**, agree to share bamboos irrespective of who gets the contract, each dealing with his share separately. [ACT]

**Answer:**

**No partnership**, since there is **neither sharing of profits nor mutual agency**.

**Question 20:**

**A (licensed proprietor of theatre)** lets it to **B for dramatic shows**, A manages, bears expenses, advertises, collects **door money**, retains **half** and gives **half to B**. [ACT]

**Answer:**

**No partnership**, as there is **no mutual agency**.

**Nominal Partner ★★ ★**

**Question 21:**

**Mohan, Sohan and Rohan** are partners in **M/s Mosoro & Co**. They admitted **Bohan** as a **nominal partner**, with an agreement that he will **not share profits**. A **creditor Karan** filed a suit against **Bohan for recovery of debt**, but Bohan denied liability claiming he is only a **nominal partner** and dues should be recovered from other partners. **Question:** (a) Is **Bohan liable** for Karan's dues against the firm? (b) If Karan files suit against the **firm**, will **Bohan be liable**? [RTP Nov 22]

**Answer:**

As per the **Indian Partnership Act, 1932**, a **nominal partner**, though not entitled to **profit share**, is **liable for all acts of the firm as if he were a real partner**. Hence, (a) **Bohan is liable to Karan** for the firm's debt, and (b) even if the suit is filed against the **firm**, the **answer remains the same—Bohan is equally liable like other partners**.

**Partner by holding out / Partnership by estoppel (Section 28) ★★ ★**

**Question 22:**

**Mr. M, Mr. N and Mr. P** were partners in a firm dealing in **refrigerators**. On **1st October, 2018**, **Mr. P retired** but failed to give **public notice of retirement**. Later, all three visited a **trade fair**, where **Mr. P interacted** with **Mr. X (a supplier)** and even provided the firm's **visiting card**, which still showed his name as a **partner**. Relying on this, **Mr. X supplied refrigerators** to the firm, but could not recover his dues, and now seeks to recover them **from the firm as well as Mr. P**. [Nov 18, 3 Marks]

**Answer:**

As per the **Indian Partnership Act, 1932**, a **retiring partner** continues to be **liable to third parties until public notice** of his retirement is given. Further, under **Section 28 (holding out)**, since **Mr. P allowed himself to be represented as a partner**, he is **estopped from denying liability**. Hence, **Mr. P is also liable to Mr. X** for the firm's dues.

**Question 23:**

**A (money-lender)** gave a loan to **B for a cattle farm**, took **deep interest** in the business, used his **personal influence** to obtain **lease**, remained **present in farm**, and was **receiving parties and demands**. **C supplied building material** believing **A was a partner**. Whether A is liable to C if B fails to pay for building material? [ACT]

**Answer:**

**A is liable** as a **partner by holding out** [Section 28, Indian Partnership Act, 1932], since by his **conduct** he **represented himself as a partner** of the firm.

## Chapter 4: The Indian Partnership Act, 1932

### Unit 2: Relations of Partners

#### Mutual rights and liabilities [Sec.13] ★ ★ ★

**Question 1:**

**Moni and Tony** are partners in **M/s MOTO & Company**. They admitted **Sony** as a partner who is **actively engaged in day-to-day activities**. The firm has a **tradition of paying monthly remuneration of ₹20,000** to all active partners, but there is **no express agreement**. After Sony's admission, **Moni and Tony continued receiving salary**, but **Sony was denied remuneration**. The question is whether **Sony can claim remuneration** under the **Indian Partnership Act, 1932**. [RTP May 22]

**Answer:**

As per **Section 13(a)** of the **Indian Partnership Act, 1932**, a partner is **not entitled to remuneration** for conducting business **unless there is an express agreement or continued usage**. Since the firm has a **customary practice of paying remuneration** to active partners, **Sony, being a working partner, is entitled to claim remuneration** like the existing partners.

**Question 2:**

**Amit and Ajay** started a **wholesale sugar trading business**, contributing **₹3,00,000** and **₹1,00,000** respectively. The **partnership deed** did not mention **profit-sharing clause**. Due to **heavy rain**, the firm incurred a **loss of ₹60,000**. Amit asked Ajay to **contribute equally**, but Ajay wanted to contribute only **25%** (in proportion to capital). The question is how much **Ajay should contribute** to the loss under the **Indian Partnership Act, 1932**. (RTP May 25)

**Answer:**

As per **Section 13(b)** of the **Indian Partnership Act, 1932**, in the **absence of any agreement, partners share profits and losses equally**, irrespective of their **capital contribution**. Therefore, **Ajay must contribute 50% of the loss, i.e., ₹30,000**.

#### Personal profits earned by partners [Sec. 16] ★ ★ ★

**Question 3:**

**A, B, and C** are partners in a **construction business**. **B, a wholesale dealer of iron bars**, was entrusted with selecting iron bars for the firm. **B supplied 1000 Kg** of iron bars from his **own stock** purchased at **Rs. 200/Kg**, while the **current market price** was **Rs. 350/Kg**. The firm was unaware of **B's purchase cost**. The question is whether **B** is liable to account for the **extra profit** made. Assume there is no contract between the partners regarding the above. [RTP Nov 21]

**Answer:**

Under **Section 16(a)** of the **Indian Partnership Act, 1932**, if a partner **derives profit** for himself from any **transaction with the firm**, he must **account for it and pay it to the firm**. Since **B sold iron bars** to the firm at **market price** and earned an **extra profit of Rs. 150/Kg**, he is **accountable to the firm** for this profit.

#### Property of the firm [Sec. 14] ★ ★ ★

**Question 4:**

**Rahul and Kapil** are partners in **M/s Saxena Marble House**. **Rahul purchased 100 shares** of a reputed company in **his name** using **firm's money without Kapil's consent**. Questions: (i) Whether the **shares constitute firm property?** (ii) What if **Rahul debits himself** in the **firm's books** and becomes a **debtor** to the firm? [MTP I May 25, 7 Marks]

**Answer:**

According to **Section 14, Indian Partnership Act, 1932**, (i) since **shares were purchased from firm's money**, they are deemed **property of the firm**; (ii) if **Rahul debits himself** and becomes a **debtor**, the shares **will be his personal property**, not of the firm.

#### Authority of a Partner

#### Conditions for Implied Authority [Sections 19(1) and 22] ★ ★ ★

#### Acts outside implied authority of partner Sections 19(2) [July 21 – 6 Marks] ★ ★ ★

**Partner cannot, unless expressly authorised or trade custom permits:**

1. Submit dispute to **arbitration**.
2. Open **bank account in own name** for firm.
3. **Compromise/relinquish claims** of firm.
4. **Withdraw suit/proceedings** filed by firm.
5. **Admit liability** in suit/proceedings against firm.
6. **Acquire immovable property** for firm.
7. **Transfer immovable property** of firm.
8. **Enter into partnership** on behalf of firm.

**Question 5:**

**A, B and C** are partners in **ABC Firm**; partner **A**, with intent to **deceive supplier D**, bought **stationery** in the **firm's name** (within **ordinary course of business**) but misappropriated it for personal use. **D** claims the **price**—issue is whether the **firm** is liable, and whether answer changes if part of the goods were delivered to the firm and part used privately. [MTP Oct 18, 6 Marks]

**Answer:**

Under **Sections 19(1) & 22 of the Indian Partnership Act, 1932**, a partner has **implied authority** to bind the **firm** in the **ordinary course of business**, provided the act is done in the **usual way** and in the **firm's name**. Hence, the **firm is liable** to pay **D** in both cases, though it may take **action against A** internally.

**Question 6:**

**Mahesh, Suresh and Dinesh** are partners in a **trading firm**. **Mahesh**, without the **knowledge or consent** of **Suresh and Dinesh**, borrows **Rs. 50,000** from **Ramesh**, a **customer** of the firm, in the **name of the firm**, and uses it for his **personal purposes**. The question is whether **Ramesh** can hold **Suresh and Dinesh** liable for the loan. [MTP Oct 19, 6 Marks]

**Answer:**

Under **Sections 19 & 22 of the Indian Partnership Act, 1932**, a partner has **implied authority** to bind the **firm** for acts done in the **ordinary course of business**. Since **borrowing money** is within the **ordinary course of business** and **Ramesh** had no knowledge of **Mahesh's private use**, the **firm**, and hence **Suresh and Dinesh**, are **liable to repay the loan**.

### **Restrictions Imposed by Mutual Agreement [Sections 20] ★ ★ ★**

**Question 7:**

**A, B, and C** are partners in **ABC & Co.**, a dealer in office furniture. Roles were **reassigned** by an **internal agreement**: **A** now handles **accounts**, **B** handles **purchase and sale**. **M**, a **supplier**, supplied **furniture** to **A** unaware of the agreement, and **A** sold it to a **third party**. The question is whether **M** can **recover money** from the **firm**, and what changes if **M** knew about the agreement. [RTP Sep 24]

**Answer:**

Under **Section 20 of the Indian Partnership Act, 1932**, a partner's **implied authority** may be **restricted by mutual agreement**, but acts done within **implied authority bind the firm** unless the **third party** has **actual knowledge** of the restriction. Since **M** was **ignorant**, he can **recover money** from the **firm**; if **M** had **knowledge**, he **cannot recover**.

**Question 8:**

**Shyam, Mohan, and Keshav** are partners in **M/s Nandlal Gokulwale & Co.** They agreed that **Shyam** handles **sales**, **Mohan** handles **purchases**, and **Keshav** handles **accounts and banking**, with **no interference** in each other's departments. When **Shyam** and **Keshav** were **out of town**, **Mohan**, fearing **heavy loss** due to falling **prices**, sold **goods at reduced price** without **express authority**. The question is whether the **firm is bound** by this sale. [RTP June 23]

**Answer:**

Under **Sections 20 & 21 of the Indian Partnership Act, 1932**, a partner's **implied authority** may be **restricted** by agreement, but acts done in **emergency** to **protect the firm** from **loss** by a partner of **ordinary prudence bind the firm**. Therefore, **Mohan's sale**, though at a **loss**, **binds the firm**.

**Partner's Authority in an Emergency [Sections 21] ★★ ★**

**Notice to Partner operates as Notice to Firm [Section 24] ★★ ★**

**Question 9:**

X, Y, and Z are partners in a trading firm. X, who actively participates in management, bought goods for the firm. The seller informed X about a defect in the goods. The questions are: (a) Is the firm liable to the seller? (b) Does it make a difference if X colluded with the seller to conceal the defect from other partners?

**Answer:**

(a) The firm is liable because notice to a working partner operates as notice to the firm. (b) If there was collusion/fraud between X and the seller, the firm is not liable, since notice to a partner does not bind the firm in case of fraud.

**Question 10:**

ABC, a firm of carriers, was liable for parcels above Rs. 100 only if specially entered and paid for; however, a working partner allowed a friend's parcel without consideration and concealed it from co-partners; the parcel was lost and the question is whether a suit against the firm for such loss is maintainable. [ACT]

**Answer:**

As per Section 24 of the Indian Partnership Act, 1932, the firm is not liable, since notice to one partner is not deemed notice to the firm where that partner was party to fraud (no payment made for transport).

**LIABILITY TO THIRD PARTIES [SECTION 25 TO 27] ★★ ★**

**Question 11:**

A widow (Sushma) owning two cottages consulted Grace, Smith & Co., a firm of solicitors for low income from the cottages; a partner advised sale and got her to sign documents purported as sale deeds but actually prepared as gift deeds in his own name, later disposing property and misappropriating money; the question is whether a suit against the firm is maintainable. [ACT]

**Answer:**

As per Section 26 of the Indian Partnership Act, 1932, the firm is liable for the fraudulent wrongful act of the partner, since it was done in the ordinary course of the firm's business, hence Grace, Smith & Co. are liable to Sushma.

**Question 12:**

A & Co. and B & Co. were competing firms; A (partner of A & Co.) bribed B, a clerk of B & Co., to obtain secret information about prices and customers; due to this, B & Co. suffered loss and filed an action against A & Co. for recovery—whether A & Co. is liable. [ACT]

**Answer:**

As per Section 26 of the Indian Partnership Act, 1932, since A's act was within implied authority (obtaining competitor information being usual in trade) but was done through a wrongful act (bribery), A & Co. is liable to compensate B & Co. for the loss.

**Question 13:**

A and B are partners in a textile merchant business, with A as a sleeping partner financing the business. B, aware that certain fabric goods acquired from C are stolen, purchases and sells the goods, recording the proceeds in the firm's books. The question is whether A and B are liable to C for B's misconduct. (June 24 - 3 Marks) [MTP Jan 26]

**Answer:**

Under Sections 25, 26, and 27 of the Indian Partnership Act, 1932, all partners are jointly and severally liable for acts of the firm. The firm is liable for wrongful acts of a partner done in the ordinary course of business or with authority, including misapplication of property. Therefore, both A and B are liable to C, and A cannot avoid liability as a sleeping partner.

**Transfer of Interest [Sec 29] ★ ★ ★**

**Question 14:**

Mr. M, one of the **four partners** in M/s XY Enterprises, owes ₹6 crore to his friend Mr. Z and, being unable to pay, wants to **sell his share in the firm** to Z; later after **6 months** he also wishes to **retire**, so the question is whether such **transfer is valid** and what are the **rights of the transferee**. [July 21 – 6 marks]

**Answer:**

As per **Section 29 of the Indian Partnership Act, 1932**, Mr. M can **validly transfer his interest** in the firm; however, during the **continuation of the firm**, transferee Mr. Z cannot **interfere in business, require accounts, or inspect books**, being entitled only to **profits of the transferor**; but upon **retirement of M or dissolution**, Z is entitled to **M's share in the assets** and to an **account from the date of retirement/dissolution**.

**Admission [Sec. 31]**

**Question 15:**

On **admission of a new partner Amar**, he agreed by an **agreement signed with all partners** to be liable for the **existing debts (old debts)** of the firm, and the question is whether he will be **liable in a suit filed by the creditor** against the firm and partners for recovery of such **old debt**. [Sep 24, 2 Marks]

**Answer:**

As per the rule of **Novation**, a **mere agreement among partners** does not bind the creditor; **creditor's consent is necessary** to substitute liability, hence **Amar will not be liable** in the suit for recovery of the old debt of the firm.

**Question 16:**

**ABC & Co.**, a **partnership firm in textile business**, incurred **heavy debts of ₹50 lakhs** and introduced **D as a new partner**; prior to his **admission, A, B, and C** made an **agreement with creditors** that **D** will be liable for **existing debts**—question arises whether **D** (i) is liable for **past debts** by virtue of this **agreement**, (ii) would be liable if admitted as a **minor**, and (iii) whether **liability** changes on becoming **major**. [May 25 – 7 Marks]

**Answer:**

As per **Section 31** (introduction of partner) and **Novation principle**, **D is not liable** for debts incurred prior to admission since he was not a party to the tripartite agreement with creditors. If admitted as a **minor (Sec. 30)**, D's liability is confined only to his **share in profits and property**, with **no personal liability** for firm's debts. Upon becoming **major (Sec. 30(5))**, if he elects to continue as partner, he becomes personally liable for **all acts of the firm since his admission to benefits**, but still **not liable for debts incurred before admission**, unless a novation with creditors includes him after majority.

**Expulsion of a Partner [Sec 33] ★ ★ ★**

**Question 17:**

**X, Y and Z**, partners in a **partnership firm**, admitted **Mr. A** as partner making 4 partners; during a **business meeting, Y misbehaved with Mrs. A** (wife of A) while **badly drunk**, leading to a **fight between A and Y**; next day, **X, A and Z expelled Y without notice**—whether such **expulsion was valid** and what are the **criteria for test of good faith** under the **Indian Partnership Act, 1932**? [MTP Nov 21 – 6 marks]

**Answer:**

As per **Sec. 33(1)**, expulsion of **Y is not valid**, since (i) he was **not served any notice**, (ii) **no opportunity of being heard** was given, and (iii) the dispute arose out of **personal reasons** and not for the **interest of the partnership**; hence, the **test of good faith** was not satisfied, making the expulsion **null and void**, with provisions of **Sec. 32** applying as if he were a retired partner.

- **Partnership Firm:** A & B carrying on **banking business**.
- **Misconduct:** Partner A committed **adultery**, wife left him.
- **Application:** B sought **dissolution of firm** on this ground.
- **Court's Decision:** **Rejected** — misconduct **not affecting business**.
- **Reasoning:**
  - Misconduct must have **adverse effect on business**.
  - Example: In case of **medical practitioners**, immoral conduct with patients affects business → dissolution possible.
  - But in **banking business**, adultery does **not affect safety of money**.

- **Case Law: Snow v Milform (1868).**

### **Insolvency [Sec. 34]**

#### **Death [Sec. 35] ★ ★ ★**

**Question 18:**

**Mr. A, Mr. B and Mr. C**, partners in **M/s ABC & Co.** engaged in **trading branded furniture**, displayed partners' names on the **head office and letterheads**; on **1st Oct 2018**, **C died**, but his name was **not removed**, and firm continued with **A & B**; **accounts with legal heirs of C were settled on 10th Oct (unpaid)**; on **16th Oct**, supplier **X supplied goods worth ₹20,00,000**, firm defaulted, and **X sought recovery not only from the firm but also from C's legal heirs—whether the legal heirs are liable under the Indian Partnership Act, 1932?** [Nov 18, 3 Marks]

**Answer:**

As per **Sec. 35**, the **estate of a deceased partner** is liable only for acts done **before his death**, and **not for any act after death**; no **public notice** is required for death; hence, **Mr. X can recover only from surviving partners A & B and partnership assets**, but the **legal heirs of Mr. C cannot be held liable** for dues of ₹20,00,000.

**Question 19:**

**Sohan, Rohan and Jay**, partners in a **furniture dealership firm**, regularly dealt with **M/s AB & Co.**; on **25th May 2020**, firm ordered furniture (when **Jay was alive**); on **30th June 2020**, **Jay died**; business continued by **Sohan and Rohan** without giving **public notice of Jay's death**; **M/s AB & Co. delivered furniture on 25th July 2020** (got to know about **Jay's death**); later firm became **insolvent** and failed to pay—whether **Jay's private estate** is liable for the price of furniture under the **Indian Partnership Act, 1932?** [Jan 21 - 6 Marks]

**Answer:**

As per **Sec. 35**, the **estate of a deceased partner** is liable only for acts done **before death**; since delivery of goods was on **25th July 2020 (after Jay's death)**, his **estate is not liable**; liability rests only with the **surviving partners and the firm**, however, since the surviving partners are already insolvent, no suit for recovery of the debt would lie against them and the fact that supplier knew or believed otherwise makes **no difference**.

### **MINORS ADMITTED TO THE BENEFITS OF PARTNERSHIP (SECTION 30) [Nov 18, 4 Marks]**

**Admission of Minor:** Minor can be admitted **with consent of all partners** through guardian agreement. ★ ★ ★

**Question 20:**

**Master X** was introduced to the **benefits of partnership** in **M/s ABC & Co.** with the **consent of all partners**. After **attaining majority**, more than **six months** elapsed and he failed to give a **public notice** electing whether to become a **partner** or not. Later, **Mr. L**, a **supplier**, filed a **suit** against the firm for **recovery of debt**. The question is whether **X is liable** and to what extent. [Nov 19, 6 Marks]

**Answer:**

Under **Section 30(5) and 30(7) of the Indian Partnership Act, 1932**, failing to give **public notice** within **six months** results in **X being deemed a partner**. He becomes **personally liable to third parties** for all acts of the firm done since he was admitted to the benefits of partnership. Therefore, **Mr. L can recover his debt from X** as from any other **partner**, while **X's share in property and profits** remains as when he was a **minor**.

**Question 21:**

A **partnership firm of A & B** admitted **Chandrakant (a minor)** to the **benefits of partnership**; the firm became **indebted to a third party of Rs. 1,72,484**, and was **dissolved on 18 April 2024**; thereafter **Chandrakant attained majority** but did not exercise his **option under Section 30(5)**; third party, failing to recover dues from **insolvent A & B**, sued **Chandrakant** claiming he had become a **partner by default** and should be **adjudicated insolvent—whether Chandrakant is bound by acts of the firm.** [ACT]

**Answer:**

As per **Section 30 of the Indian Partnership Act, 1932**, the **requirement to give public notice** applies only when the **firm is in existence**; since **Chandrakant attained majority after dissolution**, he did **not become a partner**, and hence **cannot be adjudicated insolvent** for acts of A & B.

**Rights of outgoing partner [Sec 36-37] ★ ★ ★**

**Question 22:**

Manisha, Madhuri, and Juhi are partners sharing profits and losses equally. Juhi dies on 1st October 2017. After adjustments for assets, liabilities, goodwill, and Joint Life Policy, their capital accounts are ₹100,000, ₹140,000, and ₹240,000 respectively. Manisha and Madhuri continue the business, and Juhi's account is unsettled until 1st January 2018. The profit for the year is ₹180,000, and the question is which option the legal representative of Juhi should choose. [ACT]

**Answer:**

Option 1: Share in subsequent profits yields profit for 3 months = ₹45,000 ( $180000 \times 3/12$ ), with Juhi's share = ₹22,500. Option 2: Interest @6% gives ₹3,600 ( $\text{Interest} = 240000 \times 6/100 \times 3/12 = ₹3600$ ). Since Option 1 is more beneficial, the legal representative of Juhi should choose the share in subsequent profits.

**Question 23:**

Suman, holding 10% share in the property of Rs 200 lakh of a partnership firm, retires on 31st March 2023. The firm continues business without final settlement of accounts and earns profit of Rs 10 lakh for the year ending 31st March 2024. Suman claims Rs 3 lakh for the use of her share in the property and profit, which is rejected by the partners. The question is the validity of Suman's claim under the Indian Partnership Act, 1932. [Sep 24, 2 Marks]

**Answer:**

As per Section 37, Suman is entitled to either interest @6% on her share in the property (Rs 1,20,000) or share of profits (10% of Rs 10 lakh = Rs 1 lakh). Therefore, her claim of Rs 3 lakh is not valid.

**Question 24:**

P & Q and R & S are partners in M/S PQRS & Co.; P & Q left the partnership on 31st July 2019 and started a competitive business under M/S PQ & Co., while R & S continued to use the firm's property. The question asks about the rights of outgoing partners under the Indian Partnership Act, 1932, specifically: (i) their right to start a competitive business, and (ii) their right to claim share in property and profits of the firm. [May 25 – 3 Marks] [Dec 20, 6 Marks]

**Answer:**

Under Section 36, P & Q may start a competitive business but must not use the firm name, represent themselves as carrying on the firm's business, or solicit customers of the firm; restrictions agreed with partners are valid if reasonable. Under Section 37, P & Q are entitled to share in profits made since their cessation attributable to the use of their share in firm's property, or alternatively, they can claim interest at 6% p.a. on their share in the firm's property, provided there is no final settlement of accounts.

**Revocation of Continuing Guarantee from Date of Change [Sec 38] [Nov 19, 2 Marks]**



**Question 25:**

A became surety to the firm 'NC Mookerji' for B's conduct as cashier. Later, the firm's constitution changed with two sons of N. Mookerji admitted and the firm's name changed to "N. Mookerji and Sons". Question: Is A liable for B's subsequent defalcation?

**Answer:**

According to Section 38, Indian Partnership Act, 1932, A is not liable, because a continuing guarantee is revoked as to future transactions from the date of any change in the firm's constitution.

## Chapter 4: The Indian Partnership Act, 1932

### Unit 3: Registration and Dissolution of a Firm - Complete Unit is Important

Hot Topics are marked as ★ ★ ★

#### REGISTRATION OF FIRMS - [Sec. 58 and 59] [6 Marks June 23]

- **Time:** Registration can be done **anytime during partnership's continuance**.
- **Restrictions on Name:** Words like **Crown, Emperor, Royal, King, Queen, Imperial**, etc., or words implying **Govt. sanction/approval** not allowed unless **State Govt. written consent**. ★ ★ ★
- **Signing & Verification:** Must be signed by **all partners/authorized agents**; verification in prescribed manner.
- **Registrar's Role (Sec 59):**
  - If **Sec. 58 complied**, Registrar records entry in **Register of Firms**.
  - Issues **Certificate of Registration**.
  - Registration effective from **date of filing duly signed & verified statement**, not from date of certificate (recording is clerical act). ★ ★ ★
- **Registration possible even after filing a suit.**
- But the **pending suit must first be withdrawn**.
- After withdrawal, the firm must **get registered**.
- Then, a **fresh suit can be filed**. ★ ★ ★

#### Question 1:

**A, B & C**, partners of an **unregistered firm**, filed a suit against **D** (debtor of ₹1,000 on a contract). The suit was **dismissed for non-registration**. Later, the firm got **registered** and contemplated filing a **fresh suit**. Question: Can the firm now successfully sue **D**?

#### Answer:

Since **registration must exist at the time of instituting the suit**, and now the firm is **registered**, a **fresh suit is validly maintainable** under the Act.

#### CONSEQUENCES OF NON-REGISTRATION (SECTION 69) [June 24 – 6 Marks] ★ ★ ★

#### Question 2:

**A & Co.**, a registered firm (2015) with **A, B & C** as partners, saw **A's death in 2016**. In **2017**, **B & C** sued **X** on behalf of **A & Co.** without **fresh registration**. Question: Is the suit maintainable? Further, would the answer change if in **2017 B & C admitted D as a new partner** and then sued **X** without fresh registration? [RTP May 18]

#### Answer:

Under **Section 69(2)**, a suit is maintainable if (a) the firm is registered, and (b) the **persons suing are shown as partners** in the register. Thus, the first suit by **B & C** (shown as partners) is **maintainable even without fresh registration**. However, after **D's admission**, his name must be notified to the **Registrar of Firms**; without this, the firm **cannot sue**, as **all partners at the date of suit must be in the register**.

#### Question 3:

**P & Co.**, a registered firm (2018) with **A, B & P** as partners, continued with **B & P** after **A's death (Apr 2019)**. In **Dec 2019**, they admitted **S as new partner** without fresh registration. Later, the firm supplied goods to **X**, who defaulted on payment. In **Jan 2020**, the firm sued **X** in the name of **P & Co.** without fresh registration. Question: Is the suit maintainable under the **Indian Partnership Act, 1932**? [MTP Nov 22 - 6 Marks]

#### Answer:

Since **fresh registration** was not obtained after admission of **new partner S**, the firm is treated as **unregistered**, and under **Section 69**, an **unregistered firm cannot sue** a third party. Hence, the suit against **X is not maintainable**.

#### Question 4:

**A & B** purchased a **taxi** to ply in **partnership**. After one year, **A sold the taxi without B's consent**, which led to **dissolution**. **B sued to recover his share** in the **sale proceeds**, but **A resisted**, arguing that the **firm was unregistered**. Question: Can **B** succeed?

**Answer:**

Yes. Under **Section 69**, a partner of an **unregistered firm** cannot enforce **contractual/legal rights** against another partner. However, **non-registration does not bar the right to seek settlement of accounts of a dissolved firm**. Hence, **B will succeed**.

**Question 5:**

**X, Y and Z** are partners in an **unregistered firm**. **X stole firm property**, and **Y filed a suit** against X. X defended by pleading that the **firm was unregistered**. Question: Will **Y succeed**?

**Answer:**

Yes. **Section 69(1)** prohibits only **civil suits**, not **criminal proceedings**. Hence, **Y's claim will succeed**.

**Question 6:**

**M/s XYZ & Co.** (unregistered) purchased **iron rods** from **M/s LMN & Co.** (also unregistered). On default of payment, **LMN filed a suit** against XYZ for **recovery of price**. Question: Can **M/s LMN & Co.** file a suit against **M/s XYZ & Co.** for recovery of price when:

1. Both firms **unregistered**.
2. **LMN unregistered**, XYZ registered.
3. **LMN registered**, XYZ unregistered.

**Answer:**

As per **Section 69 of the Indian Partnership Act, 1932**, an **unregistered firm cannot sue a third party** to enforce contractual rights. Hence, (a) **LMN (unregistered) cannot sue XYZ (unregistered)**, (b) same result if **XYZ is registered but LMN is unregistered**, (c) if **LMN is registered**, it can **successfully sue XYZ (even if XYZ is unregistered)**.

- **Parties:** A & B – partners in an **unregistered firm**.
- **Clause:** Partnership deed had **arbitration clause**.
- **Dispute:** A appointed arbitrator; B refused consent.
- **Action:** A filed suit to **compel arbitration**.
- **Defense:** B contended suit not maintainable as firm **unregistered**.
- **Held:** Suit **not maintainable** since **unregistered firm cannot enforce contractual rights** (Sec. 69).

**DISSOLUTION OF FIRM (SECTIONS 39 - 47)**

S. No.	Basis of Difference	Dissolution of Firm [Nov 19, 4 Marks]	Dissolution of Partnership [Nov 19, 4 Marks]
1.	Continuation of Business	Business discontinues.	Business continues; only reconstitution of firm.
2.	Winding Up	Assets realized and liabilities settled.	Only revaluation of assets and liabilities.
3.	Order of Court	Can be dissolved by court order.	Not dissolved by court order.
4.	Scope	Always involves dissolution of partnership.	May or may not involve dissolution of firm.
5.	Final Closure of Books	Involves final closure of books.	Does not involve final closure of books.

**Dissolution without Court (Voluntary Dissolution) [RTP Sep 24] [Jan 25 -3 Marks]**

**Question 7:**

**MN partnership firm** carried on **two lines of business**—(i) manufacturing **Ajinomoto** (later **banned by law** as unlawful), and (ii) manufacturing **paper plates & cups**. The question is whether the firm must be **compulsorily dissolved** under the **Indian Partnership Act, 1932**, and what will be the effect on the **other lawful business**. [RTP Nov 21]

**Answer:**

As per **Section 41**, the firm is **compulsorily dissolved** on happening of an event that makes its business **unlawful**. However, since the firm had **separate undertakings**, the **illegality of Ajinomoto business** does **not affect the legality** of the **paper plates & cups business**, which can continue lawfully.

**Dissolution by the court [Section 44] [Sep 24 - 7 Marks] [Jan 25 -3 Marks]**

1. **Partner's Insanity** – Dissolution if partner becomes of **unsound mind**; petition may be filed by other partners or **next friend** of insane partner.
2. **Permanent Incapacity** – If partner is **permanently incapable** of duties; must be **proved in court**; application by non-incapacitated partner.
3. **Misconduct of Partner** – If partner's **conduct prejudicially affects business**; misconduct may be outside firm's business, but must harm business.
4. **Persistent Breach of Agreement** – If partner **wilfully/persistently breaches agreements** making it impracticable to work with him (e.g., **embezzlement, false accounts, excess cash holding, refusal to show accounts**).
5. **Transfer of Interest** – If partner **transfers entire interest** to third party or **share charged/sold by court**, other partners may seek dissolution.
6. **Continuous/Perpetual Losses** – If firm's business **cannot be carried on except at a loss in future**.
7. **Just & Equitable Grounds** – Court may dissolve if:
  - **Deadlock in management**
  - **Partners not on talking terms**
  - **Loss of substratum**
  - **Partner gambling on stock exchange**

**Question 8:**

**P, Q, and R** entered into a **partnership agreement** to run **motor buses** on specific routes for **12 years**. After **4 years**, the firm suffered **continuous losses**, but **P insists on continuing** the business, while **Q and R want to discontinue**. The question is whether **P can insist on continuation** and what **options are available to Q and R**. (June 24 - 4 Marks)

**Answer:**

As per **Section 40**, dissolution requires **consent of all partners** or as per a **contract between partners**. Since P cannot unilaterally enforce continuation, **Q and R may (i) seek mutual agreement to dissolve** or (ii) apply to the **Court under Section 44**, as the business **cannot be carried on except at a loss**.

**Liability of partners after dissolution [Section 45]**

**Question 9:**

**X and Y** were partners in a firm which was **dissolved on 12th June 2022** but **no public notice** of dissolution was given. Thereafter, **X purchased goods in the firm's name from Z**, who was **ignorant of the dissolution**. Later, **X became insolvent** and **Z sued Y** for recovery. Question: Is **Y liable** under the **Indian Partnership Act, 1932**? [RTP June 24]

**Answer:**

(Sec. 45): Even after dissolution, **partners remain liable to third parties** for acts which would have been acts of the firm, **until public notice is given**. Since no public notice was given and **Z dealt in good faith**, **Y is liable** for Z's claim despite dissolution and X's insolvency.

**Question 9A:**

M, N, and O were partners in a firm engaged in the transport business. Over time, N became mentally unsound and was incapable of managing the firm's affairs. O alleged that M was continuously guilty of misconduct and was misappropriating the firm's funds. Due to repeated disputes and loss of trust, O filed a petition in Court seeking dissolution of the firm. After the court ordered dissolution, M claimed that he still had the right to use the firm's trucks and vehicles for his personal business. Explain whether contention of M is correct. [RTP Jan 26]

**Answer:**

According to Section 44 of the Indian Partnership Act, 1932, the Court may dissolve a firm on several grounds, including when a partner becomes of unsound mind, when a partner is guilty of misconduct affecting business, when partners commit persistent breaches of the partnership agreement, or when it becomes just and equitable to dissolve the firm.

Further, Section 46 provides that on dissolution of a firm, every partner or his representative is entitled to have the firm's property applied in payment of debts and liabilities of the firm, and the surplus distributed among partners according to their rights. No partner can claim exclusive rights over the property of the firm after dissolution.

Here, N became mentally unsound and incapable of attending to partnership matters. O alleged that M was guilty of misconduct and misappropriation of funds. Due to loss of confidence and ongoing disputes, O approached the court for dissolution of the firm. The court ordered the dissolution. Subsequently, M claimed personal rights over the firm's assets, particularly its vehicles, for his individual use.

In the instant case, the dissolution ordered by the court was valid under Section 44, as one partner was of unsound mind and another was guilty of misconduct. After dissolution, under Section 46, the firm's assets must be used for clearing liabilities and then distributed among partners according to their share. M cannot claim exclusive rights over trucks and vehicles for personal business. His claim is unjustified, and the property must be applied for settlement of accounts of the dissolved firm.

### **Continuing authority of Partners [Sec. 47]**

- **Authority continues** after dissolution only for:
  1. **Winding up firm's affairs**
  2. **Completing unfinished transactions**
- **Firm not bound** by acts of a partner declared **insolvent**.
- If a person **represents/permits himself** to be shown as partner of the **insolvent**, he is **liable for such acts**.

### **Settlement of partnership accounts (Sec. 48) [July 21 – 4 Marks]**

1. **Losses (incl. capital deficiency) met from:**
  - (a) **Profits**
  - (b) **Capital**
  - (c) **Partners individually** (in profit-sharing ratio)
2. **Assets applied in order:**
  - (a) **Debts to third parties**
  - (b) **Dues to partners other than capital** (e.g., loans/advances)
  - (c) **Dues to partners on account of capital**
  - (d) **Residue divided among partners** (in profit-sharing ratio)

### **Payment of firm debts and of separate debts (Sec. 49) [MTP II May 25 - 2 Marks]**

#### **1. Types of Debts**

- **Firm Debts (Joint debts):** Owed by the **firm** (all partners jointly).
- **Separate Debts:** Owed by **individual partners**.

#### **2. Application of Property**

##### **a) Property of the Firm**

- **Firstly:** Used to pay **firm's debts**.
- **Secondly:** Any **surplus** is used to pay **separate debts** of partners.

##### **b) Separate Property of a Partner**

- **Firstly:** Used to pay the **partner's separate debts**.
- **Secondly:** Any **surplus** is used to pay **firm's debts**.