



# The Negotiable Instruments Act, 1881

(A) **Definition** [sa13] :- A Negotiable instrument means a Promissory note PIN, Bill of Exchange BIE, or cheque payable either to order or to bearer.

(B) **characteristic / Features** :-

1) **Freely transferable** :-

(a) A NI may be transferred by Delivery or Endorsement & delivery

1b) NI can be transferred any number of times till its satisfaction.

(2) **Holder to sue in his own Name** :- The holder in due course of NI can sue on the instrument in his own name.

(3) **Free from defect** :- The HDC obtain the good title to the instrument, notwithstanding any defect in previous holder title. A HDC is one who receive the instrument -

1. For Consideration
2. before Maturity

3) without any notice as to defect in title of Transferor.



4) **Presumptions** :- A **NI** is **subject to**

**Certain** **presumption**

(a) **Consideration** :- Every **NI** was made/accepted/indorsed etc **for** **Consideration**

(b) **Date** :- Every **NI** bearing a **date**, was made or drawn on **that date**

(c) **Stamp** :- That a **lost PIN BOE**, **chple** was **duly stamped**

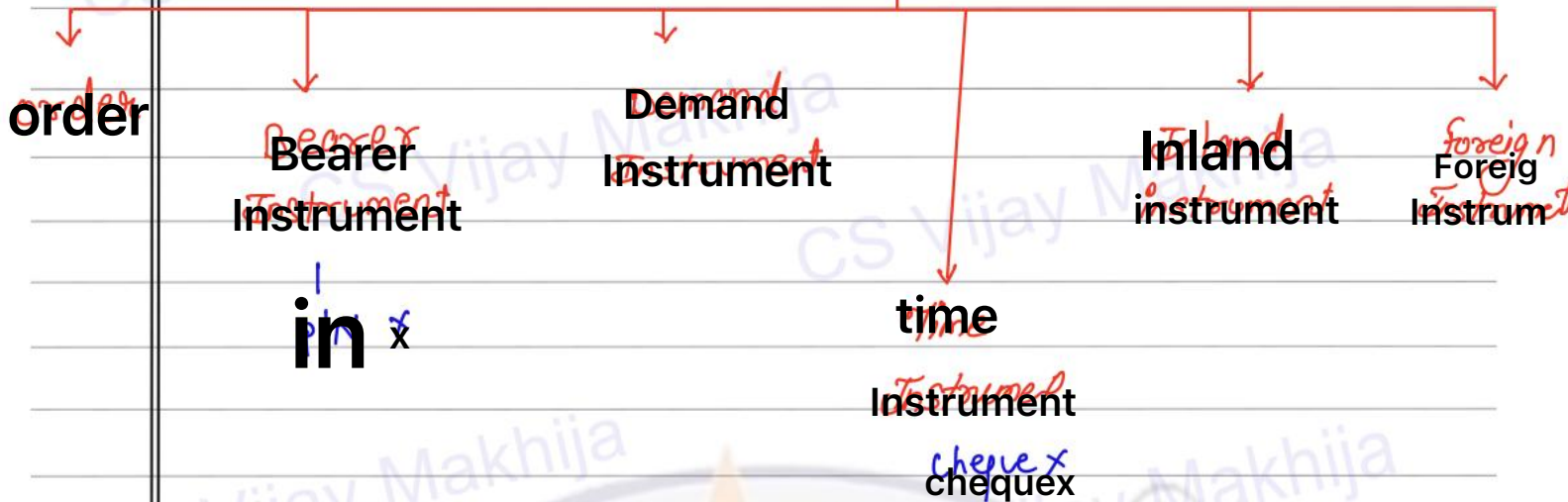
(d) **HDI** :- That the **holder of NI** is **HDI**

(e) **Time of transfer** :- Every **transfer of NI** was made **before its maturity**





# Classification of Negotiable Instruments



1. **order Instrument** :- An instrument  
 (a) Payable to particular person and  
 (b) does not contain word prohibiting transfer

2. **Bearer Instrument** :- An instrument is payable to bearer if

- (a) it is expressed to be so payable or
- (b) on which the only or last endorsement is an endorsement in blank

3) **Demand Instrument** :- An instrument which satisfies following Condition -

- a) Time for payment is not specified
- b) Expressed to be payable on demand
- e) Can be presented for payment at any time



Note :- A PIN or BLE, in which no time for payment is specified and a cheque, are payable on demand (Sec 10)



4) Time instrument :- An instrument in which time for payment is specified and may be payable at after a specified period, or  
b) on a specified day or  
c) Certain period after sight or  
d) on happening of certain event

5) Inland Instrument : A PIN, BLE or cheque is said to be an inland instrument, if any one of the following condition is satisfied -  
a) Drawn or made in India and made payable in India or  
b) Drawn or made in India and drawn upon PRI

Note - Even if Inland Bill is endorsed to foreign country, it cont to be an inland instrument

6) Foreign Instrument :- other than inland instrument

7) Ambiguous Instrument :- where an instrument may be construed either as PIN or as a BLE, the holder may at his option treat it as either and instrument shall henceforth be treated





### 8) Inchoate Instrument :-

a) Meaning :- An Inchoate Instrument mean an instrument that is in complete in certain respects

b) Treatment when it is in complete :- A person sign and delivers to another, a paper stamped in accordance with law relating to NI either wholly blank or having written thereon an incomplete NI.

P N = Beaver x

cheque - Time x





# Types of NI JIGN

## (A) Promissory Note

### Promissory Note

Sec 4. a P.N. is (promise to pay)

1. an instrument in writing [not being a banknote or currency note]
2. containing an unconditional undertaking.
3. signed by maker
4. to pay a certain sum of money
5. to, or to the order of certain person or to the bearer

Note :- A PIN cannot be made payable to Bearer See 31 of RBI Act 1934 permit only RBI and CG to Make PIN Payable to bearer on demand.

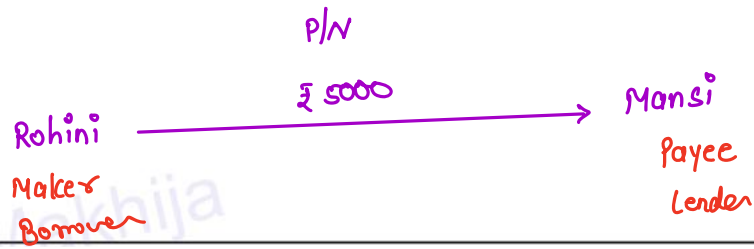
eg:- a) I Promise to pay Balu or order ₹ 500 ✓  
pay

1b) I acknowledge myself to be indebted to Balu for ₹ 1000, to be paid on demand for value received ✓

(c) Mr Ball, I.O.O. ₹ 1000 ✗

(d) I Promise to pay a sum of ₹ 10,000 to Balu after 3 Month ✓





Rs. 5000.00

New Delhi, 10th January, 2025

Three months after date, I promise to pay Mansi Arora (Payee), or Bearer, the sum of rupees five thousand for value received.

To,  
Mansi Arora  
XYZ Road,  
Mumbai

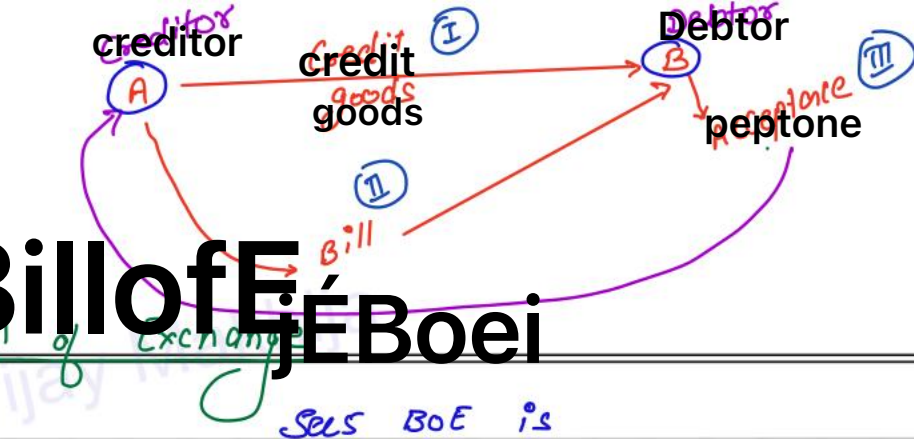
Stamp  
Sd/-  
Rohini Das

Payee

Maker



# Bill of Exchange



1. an instrument in writing
2. unconditional order
3. signed
4. directing a certain person
5. to pay a certain sum of money
6. to, or to the order of certain person or to the bearer

**Note :-** A BOE cannot be made payable to Bearer on demand because sec 31 of RBI Act, 1934 permit only RBI & CG to make a BOE payable to Bearer

## Acceptance of Bill

**Meaning :-** Acceptance is the indication of Drawee's assent to the order of the Drawer.

**who shall accept :-** A BOE may be accepted by

a) The Drawee of Bill



(b) where there is more than one

drawee, by all or more than one of them.





Q. Diff b/w Promissory Note and BOE

ANS

Basis	PIN	4	B/E	5
1. Number of Party	Two → 1. Maker 2. Payee		Three → a) Drawer b) Drawee c) Payee	
2. Maker Position	The maker is the Debtor who undertake (promise) to pay		The Drawer is the Creditor who directs the drawee	
3. Nature of Payment	Contains an unconditional promise by the maker to payee.		Contain an unconditional order to the Drawee to pay to the payee	
4. Payable to Bearer	cannot be made payable to bearer by any person other than RBI/CG		can be made payable to Bearer though it cannot be made payable to bearer on demand	





## ② Cheque cheque

1. **Meaning :-** Cheque is a Bill of Exchange, drawn on a specified Banker and not expressed to be payable otherwise than on Demand. It include the electronic image of a truncated cheque and a cheque in the electronic form.

	PIN	B/E	Cheque
OT	✓	✓	✗
Old	✓	✓	✓
BID	✗	✗	✓
BIT	✗	✓	✗

Truncated cheque mean a cheque which is truncated during the course of clearing cycle, either by the clearing house or by Bank whether paying or receiving payment, immediately on generation of electronic image for transmission, substituting the further physical movement of cheque in writing.



PAY **Teach Lane**

को या उनके आदेश पर OR ORDER

रुपये RUPEES **Five Thousand Only**

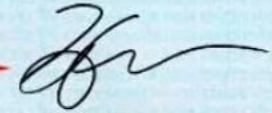
अदा करें ₹ **5000/-**

खा.सं.  
A/c No. **8563261452630**

VALID FOR Rs. 1000000/- & UNDER

Prefix :  
1515900002

Here Signature



Dipak Das

Please sign above

MULTI-CITY CHEQUE Payable at Par at All Branches of SBI

⑈950020⑈ 695002032⑈ 002860⑈ 31

Cheque No

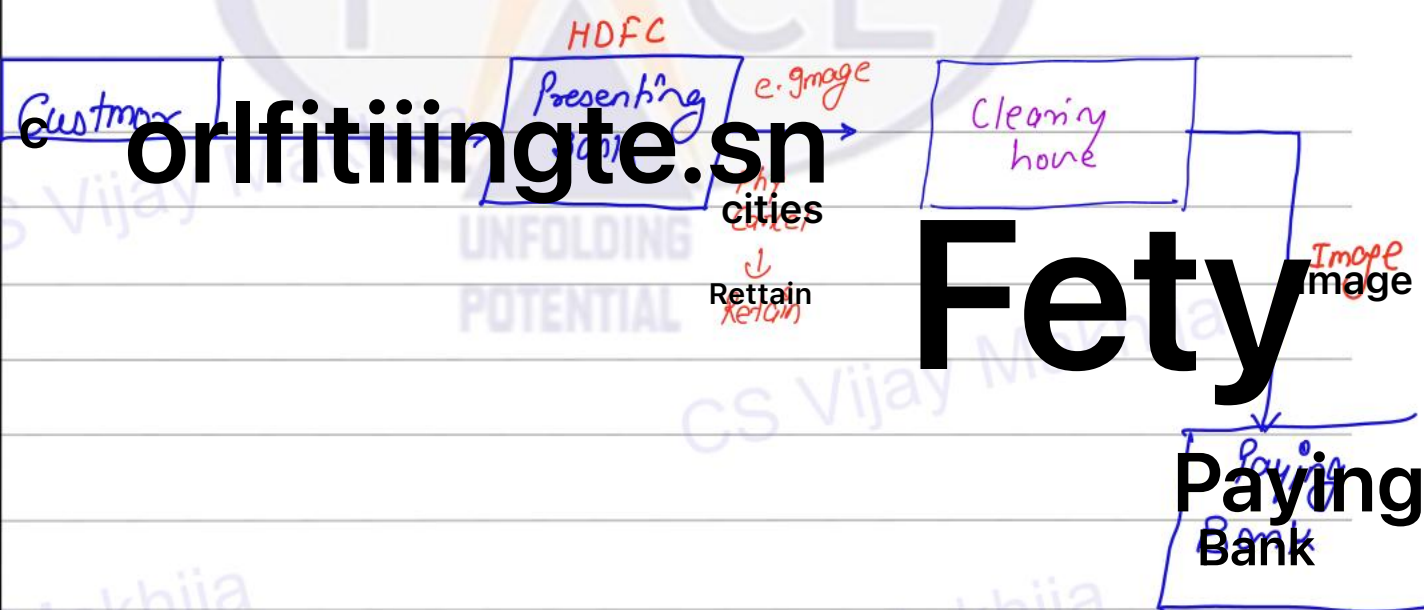
MICR Code

RBI A/C NO

Transation Code

11 Truncation means Conversion into another form.

4 The <sup>phy</sup> cheque is converted into an electronic image.



3. Only original cheques truncated are treated as cancelled and they are kept at collecting branch for any future verification.

Compiled by: CS VIJAY MAKHIJA, {B.Com, M.COM, LLB, CS}



Doubts/Queries +91 96947-56060

6. This process is known as CTS (cheque truncation system).



## similarities b/w BOE & cheque

1. Both are BOE
2. Both have three parties - Drawer, Drawee and Payee
3. The Drawer and payee may be one and same person in both the Instrument
4. Both must be written & Signed
5. Both must contain an unconditional order to pay a certain sum of money
6. Both may be endorsed

## Diff b/w BOE & cheque

Basis	BOE	cheque
1. Drawee	can be drawn on any person including Banker	should be drawn only on Specific Banker
2. Payment	Payable either on demand or after specified time	Always payable on demand
3. Grace day	Generally, B/E is entitled to 3 days of grace.	not entitle to any grace
4. Crossing	Crossing of BOE is not possible	A cheque may be Crossed



5. Stop payment not possible but before presented for payment.

6

Acceptance

A Bill must be accepted before payment can be demanded

Acceptance is not required for a cheque.



### Negotiation and Endorsement

Negotiation :- Secly, when PIN. BLE, cheque is transferred to any person, so as to constitute that the holder thereof, the instrument is said to be negotiated.

Mode of Negotiation

negotiation by delivery

Negotiation by Endorsement and Delivery

1. Sec 47 :- Instrument payable to Bearer is negotiated by simple delivery.

1. Sec 48 :- Instrument payable to order is negotiated by indorsement and delivery.

2. Negotiation of order instrument require two formalities - Holder should endorse it and then he should deliver it to the Endorsee.





## Types of delivery

### Actual

The instrument is physically handed over.

### Constructive

The instrument is delivered to an Agent or servant of endorsee.

### Conditional

The instrument is delivered upon a Condition or for special purpose. The instrument cannot be negotiated until the Condition is satisfied.

### Endorsement :-

s: Definition [15]

A Negotiable Instrument is said to be indorsed -

- 1) when the maker or Holder of NI
- 2) Sign the same
- 3) for the purpose of negotiation.
- 4) on the back or face thereof or on a slip of paper annexed thereto (allonge)



(Time instrument) **after sight** :- is payable a specified number of days after the date of presentation

**at sight** :- Payable on demand



## 2. Parties :-

**Endorser** :- The person who makes the endorsement

**Indorsee** :- The person to whom the instrument is indorsed

## Presentment

### 1. Presentment for Acceptance of BOE :- 61

a) A BOE payable after sight where no place or time is specified for presentment shall be

- Presented to the Drawer for acceptance

- within a reasonable time

- on a business day, during the business hour

(b) when the drawee cannot be found after reasonable search, the B/E is dishonoured

(c) where a B/E is directed to the Drawee at a particular place, it shall be presented at that place.

(d) whereas at the due date of presentment, Drawee cannot be found after reasonable search, the B/E is dishonoured





(e) on a default of presentment, no party thereto is liable to the person making default.

(f) Presentment by Registered letter is also sufficient, if authorised by Agreement.

2 **Presentment for acceptance of P/N - 62 -**

**Presentment for**

a) A **Presentment** shall be made at certain period after sight

- Presented to the Maker thereof for sight
- by a person entitled to demand payment
- within reasonable time after it is made
- on a Business day during Business hour

(b) on a default of presentment, no party thereto is liable to the person making default.

3 **Presentment for payment - 64** presentment **for payment** shall be as under -

Instrument	Presented to	Presented by
PIN	Maker	Holder or any
BOE	Acceptor	Person on his
cheque	Drawee	behalf





#### 4. Time of Presentment :-

a)	NT Payable on Demand in	within reasonable time after it is received by holder.
b)	NT payable after sight date 66	Pin or B/E made payable at specified period after sight, must be presented for payment at Maturity.
c)	PIN payable in Instalments 67	Such Pin must be presented for payment on 3 <sup>rd</sup> day after date fixed for payment of each instalment.
d)	Hours for presentment 65	During the Business hour

#### 5. Place of presentment

a)	only at specified place 68, 69	shall be presented or payment at specified Place
b)	no Place specified 70	at the place of business or at Residence
c)	POB/Residence not known 71	Presentment may be made to him in Person at a place wherever he can be





## 6 Presentation of cheque

- a) Place must be presented at the bank upon which is drawn
- b) Time within reasonable time / Banking hour after delivery

## Imp 1 Situations when presentment is not necessary (see 76)

No presentment for payment is necessary and instrument is treated as dishonoured at the due date for payment in the following cases -

### a) ~~Against the Maker, Drawee or Acceptor :-~~

11 If the maker, Drawee or acceptor intentionally prevents the presentment of instrument.

(i) If the instrument is payable at his POB and he close the place during the

usual business hour on the due date

(iii) If the instrument is payable at some other specified place, and, neither he nor any person authorised to pay is found present at such place, during the normal business hour





live If the instrument is one not being payable at any specified place but he cannot be found after due search.

(b) Their circumstances :- where presentment is not required -

it where the drawee is a fictitious person or one incompetent to contract i.e. Minor.

(ii) where Drawer and Drawee are the Same

(iii) where presentment has become impossible.





## Dishonour of NI

# Dishonour of cheque

### 1. Dishonour of cheque for insufficiency of funds - [see 138]

- where any cheque drawn by a person on an account maintained by him with a Banker
- for the purpose of full or Part discharge of a debt or any other liability
- is returned unpaid by bank for -
  - (a) Insufficiency of fund in the account, or
  - (b) the cheque amount being in Excess of arrangement Made

Then, such person shall be -

- a) deemed to have committed an offence, and
- b) liable to punishment with imprisonment <sup>Max</sup> 1 yr or fine twice the Amount or Both.





2. ~~Condition for invoking action u/s 138~~  
**for invoking**

Aspect	Explanation
a) Reason for return	a) or b)
(b) presentment	cheque should be presented to the Banker within 3 months from the date of issue of cheque.
4) Notice to Drawer	a) in writing (b) Made by Payee or HDC (c) should clearly demand the payment (d) Made within 30 days of receipt of info from bank as to dishonour
(d) Failure of Drawer	The Drawer fails to make payment to payee with in 15 days of receipt of Notice
a) Complaint within Month	see 142 - Payee or HDC should give a Complaint within 1 Month of cause of action i.e failure to pay within 15 days of Notice

**Not** :- Therefore, we may conclude that Complaint can be filed after 15 days of dishonor of cheque.





**Example 16** X issued a post-dated cheque to Y on the account of discharge of its liability. Further, X instructed to the bank to stop the payment due to unavailability of the adequate amount in the account. Here, in this instance section 138 of the Act is attracted as when a cheque is dishonoured on account of stop payment instructions sent by the drawer to his banker in respect of a post-dated cheque irrespective of insufficiency of funds in the account. A post-dated cheque is deemed to have been drawn on the date it bears and the three months period for the purposes of section 138 is to be counted from that date. So, X will be liable for dishonour of cheque. Once a cheque is issued by the drawer, a presumption under section 139 must follow.

3. **Defence not allowed in prosecution u/s 138 [See 140]:**  
It shall not be a defence in a prosecution for an offence u/s 138 that the drawer had no reason to believe when he issued the cheque, that the cheque would be dishonoured on presentment for the aforesaid reasons i.e. want of funds or amount exceeding arrangement.

## Alternate language Alnaelangye

See 140 of NI Act 1881, clarifies that in a prosecution under section 138 (dishonor of cheque for insufficiency of fund), it is not a valid defense for the drawer of the cheque to claim they had no reason to believe the cheque would be dishonored. Essentially, the drawer





Cannot claim <sup>ignorance</sup> about the <sup>state of</sup> <sup>their account</sup> when <sup>issuing</sup> the <sup>cheque.</sup> **ignorance about the state of their account when issuing the cheque.**

See 17  
**Rules as to Compensation**

**In Case of dishonour of NF, holder Can claim**

1. Amount due on NF
2. Exp incurred in <sup>presenting, noting etc</sup>
3. Int 18% p.a.

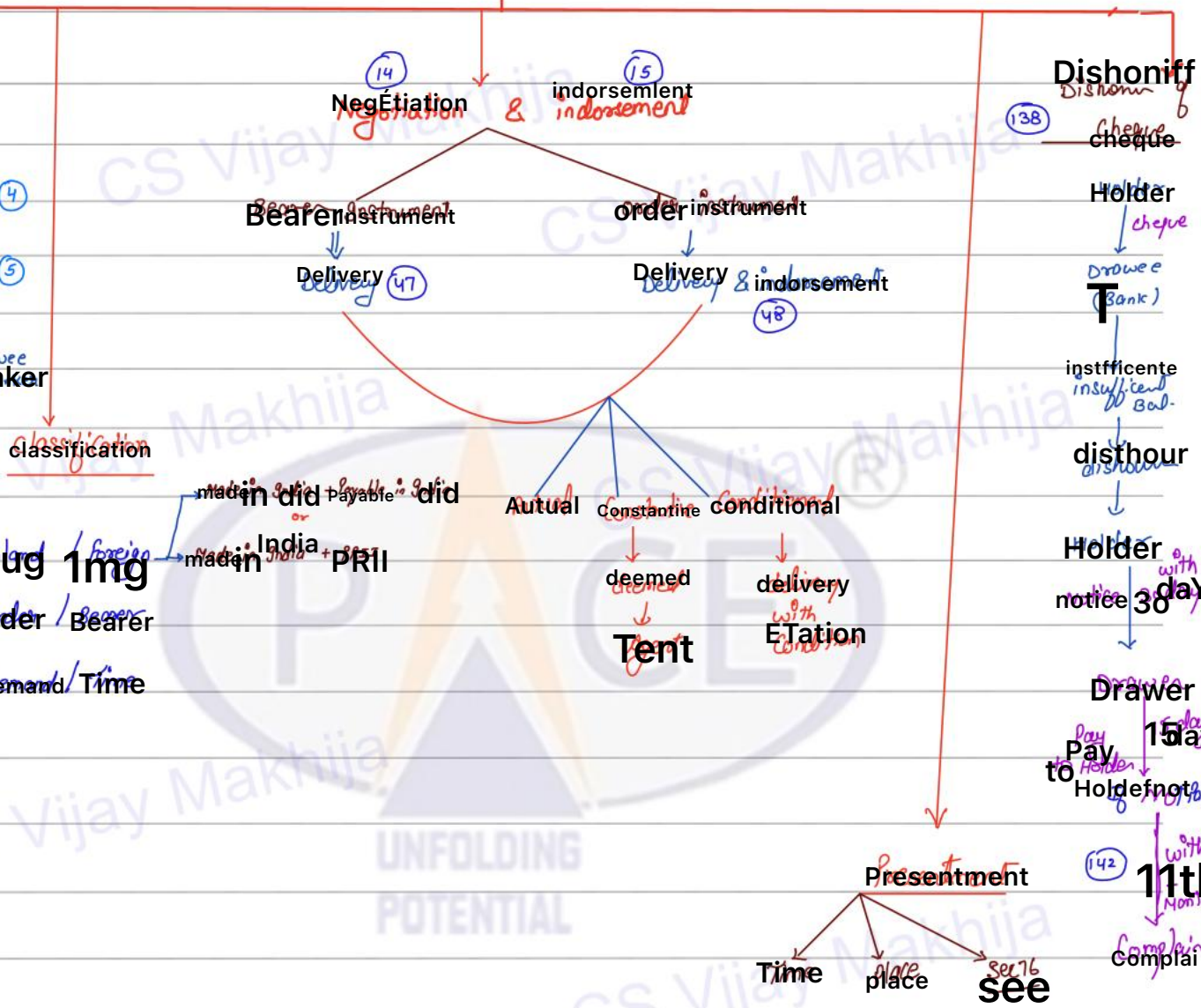




# Summary

## Typeset

- PIN: Promise (4)
- BOE: order (5)
- cheque: -- Drawee Banker (6)





Imp Topic

# IPPI

1. Specimen of PIN

2. Diff b/w BOE & cheque & PIN

3. Truncated cheque, cheque in e-Form

4. Inland Instrument, Inchoate Instrument

5. See 47, 48, 138, 76

