

Chapter : 3

Interpretation of statutes -

- > A statute has been defined as the will of the legislature. It denotes the Act enacted by the legislature.
- > Statute is generally applied to laws and regulations of every sort, law which ordains, permits or prohibits anything which is designated as a statute without considering from what source, it arises.
- > The Constitution of India does not use the term statute it use the word law.

Statutes are commonly divided into following classes

- ① Codifying when they codify the unwritten law on a subject.
- ② Declaratory when they merely declare or explain what it is.
- ③ Remedial, when they alter the common law or judge made law
- ④ Amending, when they alter the statute law.
- ⑤ Consolidating, when they consolidate various laws with or without alterations.
- ⑥ Enabling, when they remove a restriction or disability
- ⑦ Disabling or restraining, when they restrain the alienation of property.
- ⑧ Penal, when they impose penalty.

Need for interpretation of a statutes -

- > The object of all interpretation of a written document is to discover the intention of the author.
- > The construction must be as near to the minds and intention of the parties.
- > The function of the court is to ascertain what the parties meant by the words.
- > The ordinary rules of construction must be applied although by doing so the real intention
- > It tends to establish a greater degree of certainty in the administration of the law.

Meaning of Interpretation of statutes -

- > The phrase 'interpretation of statutes' implies the judicial process of determining in accordance with certain rules & presumptions.
- > It's object is to see what is intended by the words used by the lawmaker.
- > The court only interprets the law and does not legislature.
- > The purpose of interpretation is to ascertain the intent of legislative.

Casus Omissus Rule ~

Casus omissus rule is a situation omitted from statute or regulation and therefore governed by common law.

2 basic rule of interpretation -

1. Every word in statute is given a meaning
2. The court cannot read anything into statute or

rewrite a provision which is unambiguous.

→ Rule deals with situation not covered by law, leaving them to be handled by the common law principles.

→ Court shouldn't change or add a law when its meaning is clear.

→ Nothing should be added or removed from a law unless there is a clear reason to believe that legislature intended to include or exclude it.

→ If law is clear and unambiguous court should not re-interpret it.

Interpretation of Definition Clause

The words "unless the context otherwise required" are used in the provisions relating to definition. These means that the definition is only conclusive unless otherwise context requires.

while interpretation, the interpreter should consider the context in which a word has been used.

Where definition is not given - the construction must be given in its popular sense & object should be given due consideration.

The definitions may be exhaustive & inclusive

Principles of Interpretation

(i) Primary rule -

(a) The Primary rule: Literal Construction / Golden rule

According to this the words, phrases and sentences of a statute are ordinarily to be understood in their natural, ordinary or popular and grammatical meaning, unless construction leads to an absurdity.

The objectives 'natural, ordinary and popular' are interchangeable.

Interpretation should not be such which would make other provisions redundant.

Some of the other basic principles of literal construction are

- (i) Every word in the law should be given meaning as no word is unnecessarily ~~is~~ used.
- (ii) One should not presume any omission and if a word is not there in the statute, it shall not be given any meaning.

(b) The Mischief Rule or Heydon's Rule

In Heydon's case it was resolved that for the sure & true interpretation of all statutes in general 4 things are to be considered-

- (1) What was the common law before making the Act
- (2) What was the mischief and defect for which the common law did not provide
- (3) What remedy the Parliament had resolved & appointed to cure the disease
- (4) The true Reason of the remedy.

The SC in *Sodha v. Beni*'s case expressed the view that the rule in *Heydon's case* is applicable only when the words are ambiguous and reasonably capable of more than one meaning.

(c) Rule of Reasonable Construction i.e. *Ut Res magis valeat quam Periret*

It means statute must be constructed sensibly and reasonably.

It is essential to consider objective intended by statute while interpreting its objective.

Court must avoid such interpretation that divorce provision from common sense.

It is the duty of court to give effect to the intention of legislature.

To make discovered intention fit words used in statute may be modified.

If letter of law is not clear, interpretation must be made according to the spirit of law.

(d) Rule of Harmonious Construction

A statute must be read as a whole & one provision of the Act should be constructed with reference to other provision of the same Act.

If there are two provisions which cannot be reconciled with each other, they should be

interpreted in that if possible, effect may be given to both.

Law should be interpreted in such a way to give effect to both of them.

(*Venkataramana Devaru v. State of Mysore*)

② Rule of Eiusdem Generis

Eiusdem generis means "of the same kind or species."

Where there are general words following particular and specific words, the general words should be treated as specific words. To apply the rule, following conditions must exist-

- (1) The statute consists an enumeration of specific word
- (2) The members of enumeration constitute a class
- (3) The class is not exhausted by the enumeration
- (4) A general term follow the enumeration.
- (5) There is a distinct genus which comprises more than one species.

Other Rules of Interpretation -

① Expressio Unius Est Exclusio Alterius -

It means express mention of one thing implies the exclusion of another.

General words in the statute must receive a general meaning. The method of construction according to this maxim must be carefully watched. It cannot be applied when the

language of the statute is plain with clear meaning.

(b) *Contemporanea Expositio Est Optima Et Fortissima in lege*

It means that contemporaneous exposition is the best and strongest in law. Old statutes should be interpreted as they would have been at the date when they were passed. Where word in the statute have undergone alteration in their meaning due to time it should be interpreted in their original meaning only.

(c) *Noscitur a sociis*

means "known by its associates". It means meaning of a word should be known from its accompanying or associating words.

The rule state that where two or more words which are susceptible of analogous meaning are coupled together, they are understood in their cognate sense.

This rule will not apply when-

- i it would cause injustice or absurdity
- ii where different circumstances are being dealt with
- iii where words are used in different context.
- iv when context exclude the principle

(d) Strict and liberal construction ~

Strict construction means the Acts are not to be regarded as including anything which is not within their letter as well as their spirit.

While liberal construction means that everything is to be done in advancement of the remedy that can be done consistently with any construction of the statute.

Presumptions ~

If the intention of the legislature is not clear, then presumptions can be used. Few presumptions are :-

1. The words in a statute are used precisely & not loosely.
2. That vested rights i.e rights which a person possessed at the time the statute was passed are not taken away without compensation.
3. The state is not being affected by statute unless it is expressly mentioned as being so affected.
4. The legislature knows the state of the law.
5. Legislature knows the practice of executive and judiciary.
6. Legislature confers powers necessary to carry out duties imposed by it.
7. Law compels no man to do that which is futile or fruitless.
8. Legislature does not make any alteration in the existing law unless by express enactment.

Aids to interpretation —

Internal aids in Interpretation

- Title
- Preamble
- Heading & Title of Chapter
- Marginal notes
- Interpretation clauses
- Proviso
- Illustration or explanation
- Schedules

External aids in Interpretation

- Parliamentary history
- Reference to Reports of committees
- Reference to other statutes
- Dictionaries
- Use of foreign decisions

Reading of Bare Act-

1. Bare act should be read according to the context
2. Definition clause & pari materia statutes & General clauses Act may be referred.
3. Literal Interpretation should be given
4. Break the sentence but understand a provision
5. Read - understand and apply
6. Read the updated version.

Citation of Cases-

Citation is a reference to a statute, reported case, regulation etc. Citations are also used by the authors in referring the cases. It generally indicates the name of parties, year of judgement, volume, no & page no.

Interpretation of statutory and Procedural provisions -

Statutory provisions creating substantive rights are ordinarily prospective. An amendment of substantive law is not retrospective unless expressly laid down. Declaration about existing law is not an amendment. A change in law of procedure may operate retrospectively and unlike the law relating to vested right is not only prospective.

(Nabendu Dutta V. Arindam Mukherjee)

Interpretation of Proviso

Clause in a document of statute that begins with words 'Provided that' is called proviso. Proviso is like special condition or exception added to a rule in a law. It doesn't change the main purpose of law but it add an exception to it.

It is there to deal with specific situation which main law doesn't cover. It can't go against words in the main law.

In *AN Sehgal and ors* SC held proviso only applied to field covered by main provision. It cannot be used to nullify or to go against what main provision clearly states unless proviso's language make it necessary to do so.

Deeming Provisions ~

A provision in a statute which contains the word deemed is called as 'deeming provision'. To deem means to regard or to consider or sometime assuming a fact which does not really exist.

Repugancy with other Statutes -

To ascertain the meaning of a section it should not be omitted. It must be read together & shall reconcile all the parts. When reconciliation is not possible than the last law will prevail.

Conflict between General & specific law

When law has both General and specific rule about same thing "specific rule (law) will prevail over General law."

This makes sense because when someone give 2 instructions - 1 general and 1 specific special one is meant to be followed for particular situation it covers.

maxim :- *Generalia specialibus non derogant*
It means specific things are more important than general things.

Socially Beneficial construction -

For law aiming to help society court would not interpret them too strictly. Court will interpret them in a way that help their purpose.

This is beneficial rule of construction.

In simple terms it means if there is a choice they will choose the interpretation that help to achieve the law's goal.

Interpretation of Procedural laws -

If procedural rule isn't followed but it doesn't harm anyone's right to fair hearing or cause any prejudice, then it is treated more like a suggestion, then a strict requirement, even if the the word shall is used.

Delegated Legislation -

Delegated/ subordinate legislation is legislation made under power conferred by an Act of parliament. It consists mainly of orders, regulations, rules, directions & schemes made by ministers.

Delegated legislation are valid laws but should be based on principle of Natural justice. When rules are validly formed they should be treated as a part of the Act.

Conflict between Statute, Rules and Regulations-

Statute will prevail over rules & regulations.

Statutory provisions has more authority than rules and regulations.

Rules made under a statute are considered as a part of law and must be followed.

Rules have same effect to a statutory provision if 2 conditions are satisfied-

- It comply with provision of statute
- It come within the scope of rule making power of authority.
- If rules are not in line with provision of statute they can be declared as void.

Doctrine of Substantial Compliance

If in a good faith attempt to perform does not precisely meet the terms of an agreement, the performance will still be considered completed if essential purpose is accomplished subject to a claim for damages for the shortfall.

Doctrine of Impossibility of Performance

- A l'impossible nul'est tenu (No one is bound to do what is impossible, nobody expected to do impossible.)

- > *Impossibilium nulla obligatio est* (There is no obligation to perform special impossible things)
- > *Lex non cogit ad impossibilia* (The law doesn't compel a man to do which he cannot possibly perform).
- > *Impotentia excusat legem* (Impossibility excuses the law.)

Strict Construction of Penal Statutes -

Penal provisions should be constructed strictly when two interpretations are possible, then less onerous (difficult) should be preferred. This rule of interpretation can be considered along with other well established rules of interpretation.

If 2 possible construction can be put on the provision then court should lean towards that construction which would exempt the penalty not the one which imposes penalty.

General Clause Act, 1897 -

General clauses Act applies to -
Act of the Indian Parliament
Act of dominion legislature
Act passed before the commencement of constitution by the Governor.

Important provisions of General clauses act are

1. Applicability of definition to central laws.

2. Applicability of definition to all laws.
3. Revenues of the Central or State government
4. Effect of repeal (replace)
5. Repeal of Act making textual amendment in Act or regulation
6. Revival of replaced enactment
7. computation of time
8. Gender & number
9. Power to issue, include power, to add, amend, vary and rescind
10. Recovery of fines
11. Provision as to offences punishable under 2 or more enactments.
12. Meaning of service by post

Effect of repeal - Unless a different intention appears, the repeal shall not -

- (i) revive anything not in force or existence, at the time of repeal.
- (ii) affect the operation of any enactment.
- (iii) affect any right, privilege, obligation or liability acquired
- (iv) affect any penalty, forfeiture or punishment.
- (v) affect any investigation, legal proceeding or remedy.

Gender & number - words importing masculine gender shall include females.
words in singular shall include plural & vice versa.

Computation of time- when any case is taken to the court and the court is closed on the prescribed date then the proceedings are to be done of the next day afterwards the court open.

Provision as to offence punishable under 2 or more enactment - where any act or omission constitutes an offence under 2 or more enactment, the offender shall be liable to be prosecuted & punished under either of any of these enactment. but shall not be punished twice.

(Baliah v. Rangachari) offender shall not be liable to be punished twice for the same offence.