

The Negotiable Instruments Act, 1881

I) Introduction

- The Negotiable Instruments Act, 1881 came into force on 1st March, 1881
- This Act extends to whole of India.
- This Act deals with the law relating to promissory note, bill of exchange and cheque.
- The Act does not apply to Hundis and other native instruments which are governed by special customs and local usages.
- Where no such custom is established, this act shall apply to hundis
- In India, Government promissory notes, Shah Jog hundis, delivery orders and railway receipts for goods have been held to be negotiable by usage of customs
- The Act does not define the term 'Negotiable Instruments'. However, according to Section 13 of the Act, 'Negotiable Instrument means a promissory note, bills of exchange or cheque, payable either to order or bearer'
- Negotiable instruments are instruments of credit being convertible on account of legality of being negotiated and thus easily passable from one hand to another
- Negotiable instrument is one the property in which is acquired by anyone who takes it *bonafide*, and for value and before maturity, inspite of any defect of title in the person from whom he took it
- The **main objective** of the Act is to legalize the system by which instruments contemplated by it could pass from hand to hand by negotiation like any other goods.

II) Meaning of a Few Terms

1) Instrument Payable 'to order'

- It is an instrument to pay the payee or the person designated by the payee.
- Where the instrument is payable to order, the payee must be named or otherwise indicated therein with reasonable certainty.

2) Instrument payable to 'holder'

- It is an instrument payable to a person is entitled in his own name to the possession of a negotiable instrument and to receive or recover the amount due thereon from the parties thereto.
- Holder includes payee or endorsee in possession.

3) Meaning of the phrase 'to the bearer'

- It is a negotiable instrument payable to its holder, on demand or presentment, regardless of to whom it was issued originally.

4) Meaning of the phrase 'holder in due course'

- A person who became the possessor of negotiable instrument in good faith, for valuable consideration and before maturity is known as a holder in due course.

III) Characteristics of a Negotiable Instrument

1) Payable to order or bearer

Every negotiable instrument must be payable *either* to order *or* to bearer.

2) Presumption as to consideration

Every negotiable instrument is presumed to have been made, drawn, accepted, endorsed, negotiated or transferred for consideration.

3) Must be in writing and signed

Every negotiable instrument must be in writing and signed by the parties.