

Unit - III

Negotiable Instrument Act, 1881

The word negotiable means 'transferable by delivery,' and the word instrument means 'a written document by which a right is created in favour of some person.' Thus, the term "negotiable instrument" literally means 'a written document transferable by delivery.'

According to Section 13 of the Negotiable Instrument Act, "a negotiable instrument means a promissory note, bill of exchange or cheque payable either to order or to bearer." "A negotiable instrument may be made payable to two or more payees jointly, or it may be made payable in the alternative to one of two, or one or some

of several payees." [Sec. 13(2)].

The Act, thus, mentions three kinds of negotiable instruments, namely notes, bills and cheque and declares that to be negotiable they must be made payable in any of the following forms:

(a) Payable to Order: A note, bill or cheque is payable to order which is expressed to be "payable to a particular person or his order."

(b) Payable to bearer: "Payable to bearer" means "payable to any person whosoever bears it." A note, bill or cheque is payable to bearer which expressed to be so payable or on which the only or last endorsement is an endorsement ⁱⁿ blank.

* Sec. 31 of the RBI Act - It is important to note that the above definition is subject to the provision of Sec. 31 of the RBI Act, 1934, which as amended by the Amendment Act of 1946, provides as under:

(i) No person in India other than the Reserve Bank or the Central govt can make or issue a promissory note "payable to bearer".

- (ii) No person in India other than the Reserve Bank or the Central Govt. can draw or accept a bill of exchange 'payable to bearer on demand'.
- (iii) A cheque 'payable to bearer on demand' can be drawn on a person's account with a banker.

* Characteristics of a Negotiable Instrument

1. Easy negotiability - They are transferable from one person to another without any formality. In other words, the property in these instruments passes by either endorsement and delivery or by delivery merely, and no further evidence of transfer is needed.
2. Transferee can sue in his own name without giving notice to the debtor - A bill, note or a cheque represents a debt, i.e. an "actionable claim" and implies the right of the creditor to recover something from his debtor.
3. Better title to a bonafide transferee for value - A bonafide transferee of a negotiable instrument for value gets the instrument 'free from

all defects? He is not affected by any defect of title of the transferor or any prior party.

4. Presumptions - Certain presumptions apply to all negotiable instruments.

Thank You

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