

V LL.B.

NINTH SEMESTER

PAPER : XXXVII

CIVIL PROCEDURE CODE AND LIMITATION ACT

1. INTRODUCTION:

1.1 Conceptions of Civil Procedure in India before the advent of the British Rule
1.2 Evolution of Civil Procedure from 1712 to 1901, 1.3 Principal features of the Civil Procedure Code 1.4 Importance of State Amendments 1.5 Types of Procedures - Inquisitorial & Adversary - Importance of observance of Procedures.

2.SUITS:

2.1 Concept of Law Suit .2.2 Order I, Parties to Suit 2.3 Order II, Frame of Suit 2.4 Order, IV, Institution of Suits 2.5 Bars & Suit: Doctrines of *Res Sub Judice* & *Res Judicata* 2.6 Place of Suing (Section 15,20) - Territorial Jurisdiction. 2.7 "Cause of Action" and Jurisdictional Bars 2.8 Summons (Sections 27,28,31, orders V, VI, IX) 2.9 Service of Foreign Summons (Section 29) 2.10 Power for order (Section 30, Order XI)

3.PLEADINGS: (ORDER VI)

3.1 Material Facts 3.2 Forms of Pleading 3.3 Condition Precedent 3.4 Presumptions of Law 3.5 Striking Out / Amendment

4.PLAINT: (ORDER VII)

4.1 Particulars (esp. in money suits / suits for immovable property) 4.2 Showing of defendant's interest and liability 4.3 Ground of Limitation 4.4 Return of Plaint 4.5 Rejection of Plaint 4.6 Production and listing of Documents 4.7 Written Statement 4.8 Counter-Claim 4.9 Set-off 4.10 .Framing of issues

5.APPEARANCE AND EXAMINATIONS:

5.1 Appearance 5.2 Ex parte procedure 5.3 Default of Parties 5.4 summoning and attendance of witnesses 5.5 Examination 5.6 Admissions 5.7 Production,

Impounding and Return of Documents 5.8 Hearing 5.9 Affidavit.

6. ADJOURNMENTS:

6.1. Order XVII 6.2. Adjournment, Judicial Discretion and Problems of arrears

7.JUDGEMENT AND DECREE:

7.1 Concepts of Judgment, Decree and Interim Orders and stay 7.2 Injunctions 7.3 Appointment of Receivers 7.4. Costs

8.EXECUTION: (ORDER. XXI)

8.1 Concept of "Execution" 8.2 General Principles of Execution 8.3 Power of Execution of Decrees Rules (38-46) 8.4 Procedure for Execution Rules(51-54) 8.5 Enforcement: Arrest and Detention (Section 55-59) 8.6 Attachment (Rules 60-64) 8.7 Sale (Rules 65-67)

9.SUITS IN PARTICULAR CASES:

9.1 Suits by or against Government (Section 79-82) 9.2 Suits by Aliens and by or against Foreign Rulers, Ambassadors (Section 91- 93) 9.3 Suits relating to public matters. 9.4 Incidental and supplementary Proceedings (Section 75-78,94-95) 9.5 Suits against Minors, persons with unsound mind, indigent persons etc., 9.6 Interpleader suits.

10.APPEALS:

10.1 Appeals from original Decrees (section 96-99-A and Order XLI), 10.2 Appeals from Appellate Decrees (Section s100-101), 10.3 Appeals from Orders (Sections 104-106) (Or XLIII) 10.4 General Provisions Relating to Appeals (Section 107-108) 10.5 Appeals to the Supreme Court (Section 108)

11.COMMISSIONS:

11.1 The Rationale of Commissions 11.2 Order XXVI 11.3 Socio-Legal Commissions of Inquiry in "Social Action" or "Public Interest" litigation

12.LAW REFORMS

13.LIMITATION

13.1 Concept of Limitation - Why Limitation? 13.2 General Principles of Limitation 13.3 Extension - sufficient cause - acknowledgement 13.4 Legal disability -

Condonation - Which comes to an end? 13.5 Limitation Act, 1963 (Excluding Schedules).

PAPER : XXXVIII

CRIMINAL PROCEDURE CODE, JUVENILE JUSTICE ACT AND PROBATION OF OFFENDERS ACT

1.INTRODUCTORY:

1.1 The rationale of Criminal Procedure: the importance of Fair Trial. 1.2 Constitutional Perspectives: Articles 14, 20 & 21. 1.3 The variety of Criminal Procedures and 1.4 The organization of police, prosecutor, defence counsel and prison authorities their duties, functions and powers. 1.5 Types of Procedures - Inquisitorial & Adversary Importance of Procedure.

2.PRE - TRIAL PROCESS: ARREST

2.1 The distinction between "Cognizable" and non-cognizable offences: relevance and adequacy problems. 2.2 Steps to ensure accused's presence at trial : warrant and Summons cases. 2.3 Arrest with and without Warrant (sections 70-73, and 41) 2.4 The absconder status (section 82, 83,84,&85) 2.5 Rights of the arrested 2.5.1 Right to be informed of Grounds of arrest (sections 60(1),55, 75) 2.6 Right to be taken to magistrate without Delay (sections 56,57) 2.7 Right of not being detained for more than twenty four hours (section 57), Articles 22(2) of the constitution of India. 2.8 Right to consult legal practitioner and legal aid. 2.9 Right to be examined by a medical practitioner (section 54)

3.PRE-TRIAL PROCESS: SEARCH AND SEIZURE

3.1 Search warrant (sections 83, 94, 97, 98) and searches without warrant (section 103) 3.2 Police search during investigation (section 165, 166, 153) 3.3 General Principles of Search (Section 100) 3.4 Seizure (section 102) 3.5 Constitutional aspects of validity of Search and Seizure proceedings.

4.PRE - TRIAL PROCESS: FIR

4.1 F.I.R. (Section 154) 4.2 Evidentiary value of F.I.R. (see Sections 145 and 157 of Evidence act)

5.Pre-Trial process: Magisterial Powers to take cognizance: (Sections 195 to 199 Cr. P.C.)

6.TRIAL PROCESS:

6.1 Commencement of Proceedings: (Section 200, 201, 202) 6.2 Dismissal of Complaints (Sections 203, 204) 6.3 Bail: 6.3.1 "Bailable" and Non-Bailable" offences (section 436, 437, 439) 6.3.2 Cancellation of bails (section 437(5)) 6.3.3 Anticipatory bail (section 438) 6.3.4 Appellate bail Powers - suspension of sentence (section 389) (1),395(1),437(5) 6.3.5 General Principles concerning Bond (Sections 441-450) 6.3.6 Constitutional Principle regarding Bail.

7.FAIR TRIAL:

7.1 Conception of Fair Trial 7.2 Presumption of innocence 7.3 Venue of trial (sections 177-189) -Jurisdiction of criminal courts. 7.4 Right of Accused to know the Accusation (section 221-224) 7.5 The trial must generally be held in accused's presence (Section 205, 273, 317) 7.6 Right to Cross examine and to offer evidence in defence. 7.7 Constitutional interpretation of Article 21 as a right to speedy trial.

8. CHARGE:

8.1 Form and Content of Charge (section 211,212,216) 8.2 Separate charges for distinct - offences (Sections 218, 219, 220, 221, 223)

9. PRELIMINARY PLEAS TO BAR TRIAL

9.1 Jurisdiction (Sections 26, 177-188,461, 462,479) 9.2 Time Limitations: Rationale and Scope (section 468-473) 9.3 Pleas of *Autre fois Acquit and Autre fois Convict* (sections 300, Article 20(2) of the Constitution of India.

10. TRIAL BEFORE A COURT OF SESSION: (Procedural steps and substantive rights under Sections 226-236)

11.JUDGEMENT

11.1 Form and Content (section 354) 11.2 Summary trial (Sec. 350) 11.3 Post - Conviction orders in lieu of punishment: emerging penal policy (section 360, 361,31) 11.4 Compensation and Cost (section 357,358) 11.5 Modes of providing judgment (Section 353, 362, 363)

12.APPEALS & REVISION

12.1 No appeal in certain cases (sections 372, 375, 376) 12.2 The rationale of appeals review, revisions. 12.3 the multiple range of appellate remedies: 12.3.1 Supreme Court of India (sections 374, 379, articles 132, 134; 12.3.2 High court (section 374) 12.3.3 Sessions Court (Section 374) 12.3.4 Special right to appeal (section 380) 12.3.5 Governmental Appeal Against Sentencing (section 377,378) 12.3.6 Judicial Powers in disposal of appeals (Sc. 168) 12.3.7 Legal Aid in Appeals.

13.Reform of criminal procedure -select areas

14. PROBATION

14.1 Problems and principles 14.2 Suspension of sentence

15. PAROLE

15.1 Meaning of Parole 15.2 Authority granting Parole 15.3 Supervision 15.4 Conditional release.

16.Procedures under Probation of Offenders Act.

17. SPECIAL PROCEDURES IN CRIMINAL MATTERS.

17.1 Procedures under Juvenile Justice Act. 17.2 Juvenile Justice System 17.3 Treatment and rehabilitation of Juveniles 17.4 Juvenile -adult crimes 17.5 Protection of Juvenile offenders Legislative and Judicial role 17.6 Concept of Juvenile Delinquency

PAPER: XXXIX LAW OF EVIDENCE

1. INTRODUCTION:

1.1 Conceptions of evidence in classical Hindu and Islamic Jurisprudence. 1.2 Evidence in Customary Law Systems (non-state law) 1.3 The Introduction of the British "Principles" of evidence. 1.4 The Main Features of the Indian Evidence Act, 1861. 1.5 Other Acts which deal with Evidence (special reference to C.P.C., Cr. P.C, Central Acts such as Banker's Book Evidence Act, Commercial Documents Evidence Act, Fiscal and Revenue Laws etc.) 1.6 Problem of Applicability of Evidence Act 1.6.1 Administrative 1.6.2 Administrative Tribunals 1.6.3 Industrial

Tribunals 1.6.4 Commissions of Enquiry 1.6.5 Court-martial 1.6.6 Need for Industrial Tribunals, Commissions of enquiry, court-martial, unfair means at examinations arbitration, disciplinary proceedings.

2. CENTRAL CONCEPTIONS IN LAW OF EVIDENCE:

2.1 Facts: Section 3 definition & distinction (relevant facts/facts in issue) 2.2 Evidence: Oral and documentary (is "real" or "Material" Evidence, covered by this) - Primary and secondary evidence. 2.3 Circumstantial Evidence and Direct Evidence - Hearsay Evidence 2.4 Presumption (section 4) 2.5 "Proving" and "Disproving" 2.6 Witness 2.7 Appreciation of Evidence

3. FACTS: RELEVANCY

3.1 The Doctrine of *Res Gestae* (Section 6,7,8) 3.2 Evidence of Common intention (section 10) 3.3 The problems of relevancy of "Otherwise" - Irrelevant Facts (Section 1) 3.4 Relevant Facts for Proof of Custom (Section 13) 3.5 Facts concerning bodies & mental state (section 14,15)

4.ADMISSIONS AND CONFESSIONS

4.1 General Principles concerning Admissions (Section 17-23) 4.2 Differences between "Admission" and "Confession" 4.3 The problems of non-admissibility of confessions caused by "Any inducement, threat or promises" (section 24) 4.4 Inadmissibility of Confession made before a Police Officer (section 25) 4.5 Admissibility of "Custodial" Confessions (section 26) 4.6 Admissibility of "information" received from an accused person in custody ; with special reference to the problem of discovery based on "joint statement" (Section 27) 4.7 Confession by co-accused (section 30) 4.8 The problems with the judicial action based on a "retracted confession"

5.DYING DECLARATIONS:

5.1 The justification for relevance on dying declarations (section 32) 5.2 The judicial standards for appreciation of evidentiary value/of dying declarations.

6.OTHER STATEMENTS BY PERSONS WHO CANNOT BE CALLED AS WITNESS

6.1 Section 33(2) to (8) : General principles. 6.2 Special Problems concerning violation of women's right in marriage in the Law of Evidence:

7.RELEVANCE OF JUDGEMENTS

7.1 General Principles (section 40-44) 7.2 Admissibility of Judgments in Civil and Criminal matters (section 43) 7.3 "Fraud" and "collusion" (section 44)

8.EXPERT TESTIMONY:

8.1 General Principles (section 45-50) 8.2 Who is an expert? Types of Expert Evidence 8.3 Opinion on Relationship especially proof of marriage (section 50) 8.4 The problems of judicial defence to expert testimony.

9. ORAL AND DOCUMENTARY EVIDENCE:

9.1 General Principles Concerning Oral Evidence (Sections 59-60) 9.2 General Principles concerning Documentary Evidence (Sections 67-90) 9.3 General Principles Regarding Exclusion of Oral Evidence by Documentary Evidence 9.4 Special Problems regarding Hearsay Evidence 9.5 Estoppel in relation to oral and documentary evidence

10.WITNESSESS, EXAMINATION AND CROSS EXAMINATION:

10.1 Competency to Testify (section 118) 10.2 State Privilege (section 123) 10.3 Professional privilege (section 126,127,128) 10.4 Approver Testimony (section 133) 10.5 General Principles of Examination (Section 135-166) 10.6 Leading Questions (section 141-143) 10.7 Lawful Questions in Cross-Examination (section 146) 10.8 Compulsion to answer questions put to witness (section 147,153) 10.9 Hostile witness (Section 154) 10.10 Impeaching of the standing or credit of witness (section 155)

11.BURDEN OF PROOF:

11.1 The general conception of *onus probandi* (section 101) 11.2 General and Special Exceptions to *Onus Probandi* 11.3 The justification of presumptions and of the doctrine of judicial notice 11.4 Justification as to presumption as to certain offences (section 113A) 11.5 Presumption as to Dowry Death (section 113-B) 11.6 The Scope of the Doctrine of Judicial Notice (section 114)

12. ESTOPPEL:

12.1 What is Estoppel? Introduction as to the rationale (section 115) 12.2 Estoppel, Res Judicata and Waiver; and Presumption 12.3 Estoppel as a matter of Defence 12.4 Estoppel by Deed 12.5 Estoppel in fair 12.6 Equitable and promissory estoppel 12.7 Questions of corroboration (section 156-157) 12.8 Improper admission and of witness in civil and criminal cases.

13. LAW REFORM

Arising out of discussion of these areas, the class should take up issues of law reform. The Sixty-Ninth Report on the Indian Evidence Act by the law Commission of India proposes many changes. Some of these must be considered closely in this topic especially those which relate to the promotion of human rights in the administration of justice.

PAPER : XL

ARBITRATION, CONCILIATION AND ALTERNATE DISPUTE RESOLUTION SYSTEMS

Unit 1: JUDICIAL DISPUTE RESOLUTIONS:

1.1 Characteristics 1.1.1 Operating Principles 1.1.1.1 Party participation and Control 1.1.1.2 Short focus on issues 1.1.1.3 Reasoned Decision 1.1.1.4 Finality 1.1.2 Adversary Process 1.1.3 What courts do and do not do effectively? 1.2 Advantages and Disadvantages of such resolution

2. ALTERNATE DISPUTE RESOLUTION:

2.1 Alternate to formal adjudication - Techniques processes 2.1.1 Unilateral - Bilateral - triadic (Third party) Intervention 2.2 Advantages - Limitations 2.3

Negotiations 2.4 Conciliation 2.5 Distinction between arbitration - conciliation and negotiation

3. DISTINCTION BETWEEN JUDICIAL SETTLEMENT AND ALTERNATE DISPUTE RESOLUTION:

4. THE ARBITRATION AND CONCILIATION ACT, 1996

4.1 Background of the Act 4.2 Efforts of United Nations commission on International Trade Law 4.3 Model Arbitration Law 4.4 Recommendations of Law Commissions of India

5. ARBITRATION

5.1 Definitions of "Arbitrary", "Arbitrator", "Arbitration Agreement" 5.2 Appointment of "Arbitrator" 5.3 Grounds for changing the arbitrator 5.4 Termination of Arbitrator

6. PROCEEDINGS IN ARBITRAL TRIBUNALS:

6.1. Arbitral Award 6.2 Termination of Proceedings 6.3 Setting aside of arbitral award 6.4 Finality and Enforcement 6.5 Appeals 6.6 Power of the High Court to make rules

7. ENFORCEMENT OF FOREIGN AWARDS:

7.1 New York and Geneva Convention Awards

8. CONCILIATION:

8.1 Meaning and Definition 8.2 Appointment of conciliators 8.3 Powers and functions of conciliators 8.4 Conciliation agreements 8.5 Conciliation Proceedings 8.6 Enforceability

9. ALTERNATE MODES OF DISPUTE RESOLUTIONS:

9.1 Role of Panchayat 9.2 Role of Grama Sabhas 9.3 Lokpal/Lokayukta 9.4 LokAdalats 9.5 Family Court-Counselling centers 9.6 Tribunals

10. LEGAL SERVICES AUTHORITY

11. ROLE OF N.G.OS IN DISPUTE RESOLUTIONS

PAPER : XLI
LAW OF INSURANCE

UNIT-1: INSURANCE

Definition and meaning of the term - Insurance Distinguished from wager and conditional contracts - History of Insurance in England and India in brief-out line - Kinds of Insurance: Life, Fire and Marine, Accident, Burglary and other Insurance - Construction of Insurance Policies - Subject matter of Insurance - The Risk - The Premium Double Insurance - Reinsurance - Conditions in Insurance - Non-Disclosure, Misrepresentation, Waiver and estoppel - contribution Subrogation.

UNIT-2: LIFE INSURANCE

Basis of the contract - event insured against circumstances affecting the risk - assignment of life policies - payment under life policies.

UNIT-3 : FIRE INSURANCE

Perils insured against - Proximate cause - Interest in particular cases - Assignment of Interest - Reinstatement - Salvage.

UNIT-4 : MARINE INSURANCE

Peril insured against - Assignment of policy Avoidance of policy - General average - Measures of loss for which insurers are liable - Total loss - Redemption.

BOOKS FOR STUDY:

1. K.S.N. MURTHY: MODERN LAW OF INSURANCE **IN** INDIA
2. E.W. PATTERSON: ELEMENTS OF INSURANCE LAW
3. MAC GILLIVARY: INSURANCE LAW
4. Mc ARNOLD: LAW OF MARINE INSURANCE

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