

## **Eighth Semester**

### **Paper – I**

#### **LAW OF BANKING AND NEGOTIABLE INSTRUMENTS (OPTION – I)**

**Outcome :-** This paper makes the students familiar with the development of bank and banking system in to a vital socio- economical institution in the modern age. It reveals the evolutionary effect on banking structure, policies, patterns and practices. Moreover it makes clear that the new emerging dimensions including e- Banking and e-Commerce are essential to cope with the modern scenario. It also provides Legal aspect of various negotiable instruments, structure and functions of Reserve Bank of India.

1. Indian Banking Structure: Origin - Evolution of Banking Institutions - Types and functions of banks - Commercial banks – functions - Banking companies in India - Central Banking: Organizational Structure of RBI - Major functions of the Reserve Bank - Bank of Issue - Banker to the Government - Bankers Bank- Lender of the Last Resort - Regulation of money and monetary mechanism – Domestic and Foreign currency - Credit Control - Exchange control - Fixation of bank rate policy formulation - Control function of RBI over Banking and Non Banking Companies

2. Banking Regulation Act, 1949 – Control over State Bank of India, UTI, IDBI, RRBs, Local Banks, NABARD and other Financial Institutions – An Overview - The role of banking institutions in the socio-economic development of the country- priority sector and Credit Guarantee Scheme – Social Control of Banks – Nationalization of Banks – Priority lending – Protection of Depositors – Promotion of underprivileged classes – Development work and participation in national economy – Narasimham Committee Recommendations – 21<sup>st</sup> century reforms and technological revolution in Banking Industry.

3. Negotiable Instruments - Kinds - Holder and holder-in-due-course - Parties, Negotiation, Assignment, Presentment, Endorsement, Liability of parties, Payment in due course, Special rules of evidence, Material alteration, Noting and protest.

4. Banker and customer Relationship: Definition of banker and customer, General relationship, Special relationship, Banker's duty of secrecy, banker's duty to honour cheques, banker's lien, banker's right to set off, Appropriation of payments, Garnishee order, Customer's duties towards his banker, Paying banker

and collecting banker, Bills in sets, Penal provisions under NI Act, Banker's Book Evidence Act.

5. Opening of New Accounts: Special types of customers, Minor's A/C, Joint A/C, Partnership A/C, Company's A/C, Married women's A/C, Trust A/C, Joint Hindu family A/C, Illiterate persons, lunatics, executors, Precautions required in case of administrators, clubs, societies and charitable institutions to open an account. Ancillary Services and e-banking: Remittances – General, DD, MT, TT, Traveller's cheques, bank orders, credit card, debit/smart cards, safe deposit vaults, gift cheques, stock invest e-banking: Definition – e-banking includes, Internet banking, mobile banking, ATM banking, computerized banking, e-banking services: retail services, wholesale services, e-cheque-authentication, Cyber Evidence, Banking Ombudsman – Employment of funds: Loans and Advances, Guarantees, Advances secured by Collateral securities, Agency Services- Financing of Exports, Special Banking Services, Advances to Priority Sectors and Credit Guarantee schemes, Securitisation Act, 2002.

***Prescribed Books:***

1. M. L. Tannan – Law of Banking
2. Khergamvala – Negotiable Instruments Act – M. S. Parthasarathy (Ed.)
3. Justice Bhaghabati Prasad Banerjee- Guide to Securitisation and Reconstruction of financial assets and Enforcement of Security Interest Act, 2002
- M.L. Tannan, *Tannan's Banking Law and Practice in India* (Eighth Edition-2008),

***Reference Books:***

1. Avtar Singh – Negotiable Instruments Act.
2. Basu – Review of current banking theory and practice, Macmillan.
3. Pagets Law of Banking – Butterworths, London.
4. L. C. Goyle – The Law of Banking and Bankers – Eastern Book Co.
5. K. Subramanyan – Banking Reforms in India
6. R. K. Talavar- Report of working group on customer service in Banks
7. S. N. Gupta – The Banking law in theory & practice.
8. G. S. N. Tripathi (Ed.) Sethi's commentaries on Banking Regulation Act 1949 and allied Banking Laws.
9. Bashyam and Adiga – The Negotiable Instruments Act.
10. Mukherjee. T. K. – Banking Law and practice.
11. Chorley – Law of Banking
12. Paget – Law of Banking
13. Bashyam and Adiga – The Negotiable Instruments Act

14. Information System for Banks – Taxmann  
 15. Vasantha Desai and Joshi – Managing Indian Banks.  
 Relevant provisions of Information Technology Act, 2000

**PAPER I**  
**LAND LAWS INCLUDING TENURE AND TENANCY SYSTEMS**  
**(OPTION - II)**

**Outcome :-** This paper acquaint the students with the redistribution of land ownership in favour of the cultivating class, regulation, fixity of tenure, rights of forest dwellers, rehabilitation and re settlement laws.

- 1 . Land – immovable property – right to hold Land – Constitutional scheme – land reforms – ARTICLE 31A of Constitution – scope and implications.
- 2 . Historical background of Kerala Land Reforms Act - fixity of tenure – purchase o landlord’s rights by cultivating tenants – vesting of landlord’s right in govt – right to purchase kudikidappu – Role of Land Tribunals and Land Boards
- 3 . Rights of forest dwellers – Objectives of Wet land laws, Kerala Land Utilization order, Land Conservancy and Land Assignment Act – Revenue Recovery Act
- 4 . Right to fair Compensation and transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 – Rehabilitation and Re settlement laws – urban land ceiling – Kerala Building ( Lease and Rent Control Act) Act, 1965.

**Prescribed Readings:**

- 1 . Sugathan, Land laws of kerala
- 2 . A Gangadharan, Law of land reforms in Kerala
- 3 . A Gangadharan, The laws on land in Kerala

**Paper – II**

**LABOUR AND INDUSTRIAL LAW – I**

**Outcome :-** This paper acquaints the students with the concept of trade unions, procedural formalities involved in registration of trade unions, its powers and functions and also equip the student with the concept of industry, industrial dispute and workman and also regarding the resolution of industrial disputes, methods and agencies.

1. History of trade union movement – trade unions and Indian Constitution – definition of trade union – Collective bargaining
- 2 Trade union movement in India – Registration of trade unions – powers and functions of Registrar of Trade Union – cancellation of registration – rights and liabilities of trade unions
- 3 Objects of trade unions – funds of trade unions – general and political – trade union immunities – nature and scope.
- 4 Industry, industrial dispute and workman – meaning and definition – dispute resolution methods and authorities – powers and functions – governmental controls.
5. Strikes, lock outs, lay offs – retrenchment and closure – legal controls- protected workman – Standing Orders.

**Statutory Materials: (With amendments)**

1. Trade Unions Act, 1926.
2. Industrial Dispute Act, 1947.

**Prescribed Readings: (With amendments)**

- 1 Malhotra, *Law of Industrial Disputes*.
- 2 Indian Law Institute, *Labour Law and Labour Relations*.
- 3 K.D. Srivastava, *Industrial Employment (Standing Orders) Act, 1946*.
- 4 K.D. Srivastava, *Law Relating to Trade Unions and Unfair Labour Practices*.
- 5 H.L. Kumar, *Misconducts, Charge Sheets and Enquiries*.
- 6 P.R. Bagri – *Law of Industrial Disputes*
- 7 O.P. Malhotra – *Labour Law*
- 8 *Labour Law and Labour Relations* – Indian Law Institute
- 9 V.V. Giri – *Labour problems in Indian Industry*
- 10 H.K. Saharay – *Labour and Social Laws*
- 11 Mishra – *Labour and Industrial Laws*

**Paper – III**

**COMPANY LAW**

**Outcome :-** This paper acquaint the students with the provisions of Companies Act, 2013 and the intricacies related with. It creates flexibility and simplicity in the formation and maintenance of companies and encourages transparency and high standards of corporate governance

## 1. Introduction –

- a. Company – Definition, Nature and scope of companies.
- b. Historical Evolution of Company Law – English and Indian,
- c. Advantages and disadvantages of company – Independent Corporate Personality, Limited Liability, Perpetual Succession, Right to Property, Right to Contract, Right to sue and be sued, Professional management, fund unauthorized, Doctrine of Lifting the corporate veil, Formality and expenses.
- d. Characteristics of companies – Common Seal
- e. Comparison between Company, Partnership, Unlimited partnership and Sole Proprietorship
- f. Types of Companies – Limited and Unlimited, Limited by shares and Guarantee Company, Public and Private Company, Holding and Subsidiary Company, Government Company, Foreign Company, Single person company, Associate Company etc.

## 2. Incorporation

- a. Incorporation of Companies
- b. Certificate of Incorporation
- c. Memorandum of Association – contents and alteration
- d. Articles of Association – contents and alteration
- e. Promoters
- f. Pre incorporation Contracts
- g. Constructive notice and Doctrine of Indoor Management.
- h. Doctrine of *Ultra vires*.

## 3. Capital

- a. Share Capital, Debentures and other securities
- b. Share holders and members
- c. Public offer and Private allotment
- d. Issue, allotment and forfeiture of shares
- e. Share Certificate.

- f. Transfer and Transmission of Shares
- g. Buy back of shares and reduction of share capital
- h. Prospectus – definition, contents of prospectus, Kinds of Prospectus, Remedies for misrepresentation in prospectus.
- i. Registration of Charges and Deposits

#### 4. Corporate Management and Administration

- a. Directors – position, powers and duties
- b. Meetings of the company, Essential requisites of a valid meeting.
- c. Audit and Auditor
- d. Mergers and Acquisitions
- e. Majority – Minority management – Rule of majority – *Foss v Harbottle*
- f. Prevention of Oppression and Mismanagement
- g. Inspection, Inquiry and Investigation into the affairs of a company
- h. Emerging trends in corporate social responsibility.
- i. Legal liability of company – civil, criminal, tortuous and environmental.
- j. Compromises, arrangements and amalgamations
- k. Dividends
- l. Accounts of the companies
- m. Revival and Rehabilitation of sick companies

#### 5. Winding up

- a. Dissolution of Companies- Types of winding up
- b. Winding up by the Tribunal
- c. Voluntary Winding up
- d. Winding up Procedures
- e. Liquidators and contributories
- f. Removal of names of companies from the register of companies.
- g. National Company Law Tribunal, Appellate Tribunal and Special Courts

#### Statutes

- The Companies Act, 2013 with latest amendments.

**Prescribed Books:**

1. Company Law by Avtar Singh
2. Guide to the Companies Act by A Ramaiya
3. Principles of Modern Company Law by L C B Gower

**Suggested Readings**

6. Company Law and the Competition Act by K S Anantharaman
7. Palmer's Company Law by Palmer
8. Principles of Modern Company Law by Gower and Davies

**Paper – IV****PROFESSIONAL ETHICS AND PROFESSIONAL ACCOUNTING SYSTEM****(Practical paper – II )**

**Outcome :-** This paper ensures the law students that professional services will be rendered in accordance with reasonably high standards and acceptable moral conduct. It helps the students to study and assess human behavior and also to establish principles and moral standards of behavior.

I. Advocates as professionals: Introduction, Importance of legal profession, Lawyers's Role in Accelerating and facilitating the social change visualized by the Indian Constitution, Categories of Advocates, Restrictions imposed on Senior Advocates, Admission and enrolment of advocates, Professional opportunities, Women Lawyers, Opportunities and Handicaps, Advocates' right to practise, to act and to plead – The right of pre-audience - Advocates' duty to society, to render legal aid, to educate and to accept public office.

Restrictions on other employment and penalty for illegal practice Trial Advocacy- Important tools of successful advocacy- Study, preparation and presentation of case- Art of examination (chief, cross and re-examination), Arguments on facts and law- How to address the court. Appellate advocacy- Original side Advocates- Supreme Court Advocates- Advocates on record- Mofussil Advocates- Retired Judges as Advocates.

II. Professional ethics – Advocate and Client:- Acceptance of brief, withdrawal from engagement, advocate's role as potential witness- Duty of advocate to make

full and frank disclosure to client- Breach of obligation to client- Advocate to act only on the instruction of the client- Contingent fee- Advocate's lien for fee- Share in claim or purchase of property sold in execution- Financial dealing between advocate and client- Prohibition on lending or borrowing money- Prohibition on changing of sides- Legal Profession and Strike.

III. Bar-Bench relationship-Duty towards Court: Duty to conduct himself with dignity and self-respect and not to commit contempt of court, Avoidance of illegal and improper means to influence decisions, Advocate not to be mere mouth piece of client- Dress code- Prohibition on practising before relatives, Other duties, powers and obligations of Notary public - Duty of advocates towards colleagues in the profession:- Bar council of India Rules governing professional conduct and etiquette, Soliciting and advertising, Professional services and name not to be used for unauthorized practice of law, Fees not less than fees taxable under the rules, Restriction on entering appearance without the consent of the advocate already engaged, Advocates not to demand fees for imparting training to juniors, Advocate's duty to opponent counsel, Advocates duty to report disqualification.

IV. The Contempt Law and Practice :- Law of contempt of court: Meaning, nature and categories of contempt of court, Constitutional validity of the Contempt of Court Act, 1972, Salient features of the Act, Contempt jurisdiction of Supreme Court, High Court and Subordinate Courts- Contempt by lawyers, judges and by State- Contempt procedure- Punishment for contempt- Defence open to contemnor and remedies against punishment.

V. Fifty (50) selected opinions of the Disciplinary Committees of Bar Councils

VI. Cases on Professional Misconduct:

1. *Salil Dutta v. T.M. and M.C. (P) Ltd.* (1993) 2 SCC 185
2. *Vinay Chandra Mishra, In re* (1995) 2 SCC 584
3. *C. Ravichandran Iyer v. Justice A.M. Bhattacharjee* (1995) 5 SCC 457
4. *P.D. Gupta v. Ram Murti* (1997) 7 SCC 147
5. *R.D. Saxena v. Balram Prasad Sharma* (2000) 7 SCC 264
6. *D.P. Chadha v. Triyugi Narain Mishra* (2001) 2 SCC 221
7. *Shambhu Ram Yadav v. Hanuman Das Khattry* (2001) 6 SCC 1
8. *Pravin C. Shah v. K.A. Mohd. Ali* (2001) 8 SCC 650
9. *Bhupinder Kumar Sharma v. Bar Assn., Pathankot* (2002) 1 SCC 470
10. *Ex-Capt. Harish Uppal v. Union of India* (2003) 2 SCC 45

VII. Accountancy for lawyers: - Need for maintenance of accounts- Books of accounts that need to be maintained- Cash Book, journal and ledger Elementary aspects of bookkeeping: Meaning, object, journal, double entry system, closing of



accounts. The cash and bulk transaction: The Cash book, Journal proper especially with reference to client's accounts, Ledger, Trial balance and final accounts, Commercial mathematics.

**Scheme of Internal/ Written Examinations.**

Internal examinations should be conducted through periodical test papers – case study / field survey/Simulation exercise — Writing articles/Paper presentation in seminars – problem solution - projects works on topics identified by the concerned teacher. The distribution of marks as follows:

Marks for internal/Written examinations shall be distributed as follows

(i) Test Paper (average of two test papers)	20 marks
(ii) Project work/ dissertation writing	30 marks
(iii) Case study/comment	20 marks
(iv) Paper presentation/writing articles/problem solution	20 marks

Each student shall prepare a combined record on all Internal/written examinations (answer sheets of two test papers are to be attached with the record) and produce before the viva-voce board.

**II. VIVA – VOCE EXAMINATION**

Total marks for viva-voce examination                                      10 marks

Viva-voce examination shall be conducted by a panel consists of two senior teachers other than teachers in charge of the subject.

***Prescribed Legislation:***

- The Advocates Act, 1961
- Contempt of Court Act, 1971

***Prescribed Book***

Mr. Krishnamurthy Iyer's book on *Advocacy*.

***Recommended Books***