CA FOUNDATION · PAPER 2 · BUSINESS LAWS

Flash Cards with Memory Tricks

Chapter 1 · Indian Regulatory Framework · 15 cards

How to use these cards

- Read the **front** and answer **aloud** before you look at the back.
- Then read the **memory trick**. If it does not click, make up your own and write it beside the card.
- Each card carries its **Scanner question numbers**, so you can attempt those questions straight after the card.
- Give every card a **second look after 1 day and again after 1 week.**

Reading the stars

★★★	Asked by ICAI 6 or more times. Learn word for word.
★★	Asked 3 to 5 times. Know the key terms and the lists.
★	Asked once or twice. Read once; recognise it in the exam.
–	Taken from the Study Material text. Not a One Liner line, but useful for understanding.

Topics in this chapter

Topic	Name	Card numbers	Count	Highest stars
3	Sources of Law	1.01	1	★
4	The Process of Making A Law	1.02 – 1.05	4	★★
5	Enforcing The Law	1.06 – 1.12	7	★
6	Structure of the Indian Judicial System	1.13 – 1.15	3	★★★

Source: ICAI Study Material (July 2026), Scanner Business Laws 2026 October, One Liners P2. Stars follow the One Liners deck. "OL" is the One Liner reference; "TQ" and "CSQ" are the theory and case-scenario question numbers in the Scanner (in Chapters 2, 3 and 4 they carry the unit, e.g. U3); "SM p." is the Study Material page.

CARD 1.01 T 3 · MEMORISE

★ OL 3.1 · Scanner TQ 3.1 · SM pp.1.3–1.4

FRONT · RECALL ALOUD

Define **Law**. What are the main **sources of law** in India, and into how many lists does the Constitution divide law-making power?

BACK · ANSWER

- **Law** = a set of **obligations and duties imposed by the government** for securing **welfare** and providing **justice** to society.
- Main sources: the **Constitution**; **statutes** made by Parliament and State Assemblies; **precedents** (judicial decisions); in some cases established **customs and usages**.
- The Constitution divides law-making power by **three lists**: **Central**, **State** and **Joint**.
- MCQ trap: **legal text books** are not a main source of law.

MEMORY TRICK **C-S-P-C**: Constitution, Statutes, Precedents, Customs. Then **3 lists** to share the work: Centre, State, Joint.

CARD 1.02 T 4 · MEMORISE

★★ OL 4.1 · Scanner TQ 4.2, TQ 4.3 · SM p.1.5

FRONT · RECALL ALOUD

Trace the **steps by which a Bill becomes an Act of Parliament**.

BACK · ANSWER

- A law proposed in Parliament is called a **Bill**.
- After discussion and debate it is passed in **Lok Sabha**, then in **Rajya Sabha**.
- It must obtain the **assent of the President of India**.
- It is notified in the **Official Gazette of India** and applies from the **effective date** mentioned in the notification.
- Once notified and effective, it is called an **Act of Parliament**.

MEMORY TRICK **B-L-R-P-G-E-A**: Bill, Lok Sabha, Rajya Sabha, President, Gazette, Effective date, Act. Seven letters, seven steps.

CARD 1.03 T 4 · MEMORISE

★★ OL 4.3 · Scanner TQ 4.1 · SM pp.1.5–1.6

FRONT · RECALL ALOUD

Name the **four types of laws** in the Indian legal system. Which code governs criminal law and which governs civil law?

BACK · ANSWER

- **Criminal law**: public wrongs and their punishment. SM: **IPC, 1860** (defines crime and punishment) and **CrPC, 1973** (procedure). The Scanner model answer cites **BNS, 2023** and **BNSS, 2023**, in force from **1 July 2024**.
- **Civil law**: disputes between individuals or organisations; **dispute resolution rather than punishment**; governed by the **Code of Civil Procedure, 1908 (CPC)**.
- **Common law** (judicial precedent) and **principles of natural justice** complete the four.
- Civil examples: breach of contract, non-delivery of goods, non-payment of dues. MCQ trap: **traffic offences** are not civil law.

MEMORY TRICK **C-C-C-N**: Criminal, Civil, Common, Natural justice. Criminal law **punishes**; civil law **settles**.

CARD 1.04 T 4 · CONCEPT

★★ OL 4.4 · Scanner TQ 4.1, TQ 4.4 · SM p.1.6

FRONT · RECALL ALOUD

What is **common law**? Which Article and which doctrine support it, and can a judgment override a statute?

BACK · ANSWER

- **Common law** = a judicial precedent or **case law**.
- **Article 141**: a judgment of the Supreme Court is binding upon the courts within the territory of India.
- Supported by the doctrine of **Stare Decisis**: "to stand by that which is decided". Courts follow earlier decisions where the facts are similar ("on all four legs").
- MCQ trap: a judgment can **override or alter a common law**, but it **cannot override or change a statute**.

MEMORY TRICK Judges can change what judges made, but never what Parliament made.

CARD 1.05 T 4 · MEMORISE

★★ OL 4.4 · Scanner TQ 4.1, TQ 4.4 · SM p.1.6

FRONT · RECALL ALOUD

State the **three rules of natural justice** with the Latin terms and their meanings.

BACK · ANSWER

- Natural justice (**Jus Naturale**) = fundamental principles of justice going **beyond written law**.
- **Nemo judex in causa sua**: no one should be made judge in his own cause; a rule against prejudice.
- **Audi alteram partem**: hear the other party; give a fair hearing.
- **Reasoned decision**: the decision must be supported by clear reasons.

MEMORY TRICK **N-A-R**: Nemo = "Not me" as judge; Audi = "All sides heard"; Reasoned = "Reasons given".

CARD 1.06 T 5 · CONCEPT

★ OL 4.2 · Scanner TQ 4.3 · SM p.1.6

FRONT · RECALL ALOUD

Who enforces a law after Parliament passes it, and how is a Ministry staffed? Give the Income Tax Act example.

BACK · ANSWER

- Enforcement is the job of the **executive**; the Central or State Government enforces according to whether the law is Central or State.
- Functions are distributed among **ministries**, headed by a minister and run by officers of the Indian administrative and other services.
- A Ministry is made up of **civil servants** and is politically accountable through a minister. A major Ministry is headed by a **Cabinet Minister**, supported by junior ministers called **Ministers of State**.
- Income Tax Act: **Ministry of Finance → Central Board for Direct Taxes (Department of Revenue) → Indian Revenue Service** officers.

MEMORY TRICK The minister is the face; the civil servants are the hands. Cabinet Minister on top, Ministers of State beside.

CARD 1.07 T 5 · MEMORISE

★ OL 5.2 · Scanner TQ 5.2 · SM pp.1.7–1.8

FRONT · RECALL ALOUD

What is the **Ministry of Finance** concerned with, which services does it control, and what are its departments?

BACK · ANSWER

- **Vitta Mantralaya**: concerned with the economy, serving as the **Treasury**; taxation, financial legislation, financial institutions, capital markets, centre and state finances and the **Union Budget**.
- Apex controlling authority of **four Central Civil Services**: Indian Revenue Service, Indian Audit and Accounts Service, Indian Economic Service, Indian Civil Accounts Service.
- Also apex authority of one central commerce service: **Indian Cost and Management Accounts Service (ICMAS)**.
- **Six departments**: Economic Affairs, Expenditure, Revenue, Financial Services, Investment and Public Asset Management, Public Enterprises.
- MCQ trap: **Department of States** is not one of them (it belongs to the Home Ministry).

MEMORY TRICK **4 + 1**: four Central Civil Services plus one commerce service, ICMAS. Budget day is the Treasury's big day.

CARD 1.08 T 5 · MEMORISE

★ OL 5.3 · Scanner TQ 5.2 · SM p.1.8

FRONT · RECALL ALOUD

Which Acts does the **Ministry of Corporate Affairs** administer, and what is the role of the **ICLS** cadre?

BACK · ANSWER

- Administers the **Companies Act 2013**, the **Companies Act 1956**, the **Limited Liability Partnership Act, 2008** and the **Insolvency and Bankruptcy Code, 2016**.
- Regulates Indian enterprises in the industrial and services sector.
- Mostly run by civil servants of the **ICLS** cadre, selected through the Civil Services Examination conducted by **UPSC**.
- Highest post: **Director General of Corporate Affairs (DGCoA)**, fixed at **Apex Scale** for the ICLS.

MEMORY TRICK Say the years like a code: **thirteen, fifty-six, oh-eight, sixteen** for 2013, 1956, 2008, 2016.

CARD 1.09 T 5 · MEMORISE

★ OL 5.1 · Scanner TQ 5.1, TQ 5.4 · SM p.1.9

FRONT · RECALL ALOUD

What is the **Ministry of Home Affairs** mainly responsible for, and which **six departments** does it cover?

BACK · ANSWER

- **Gṛha Mantralaya**: the interior ministry, mainly responsible for **internal security and domestic policy**; headed by the Union Minister of Home Affairs.
- Six departments: **Border Management**, **Internal Security**, **Jammu, Kashmir and Ladakh Affairs**, **Home**, **Official Language**, **States**.
- In an answer, give the departments as a separate list; they carry marks of their own.

MEMORY TRICK Initials **B-I-J-H-O-S**: Border, Internal, J-K-Ladakh, Home, Official Language, States. Six letters, six departments.

CARD 1.10 T 5 · MEMORISE

★ OL 5.4 · Scanner TQ 5.2 · SM p.1.9

FRONT · RECALL ALOUD

Name the **three departments** of the Ministry of Law and Justice and state what each one does.

BACK · ANSWER

- The Ministry of Law and Justice is a **Cabinet Ministry**.
- **Department of Legal Affairs**: management of legal affairs; **advises** the various Ministries of the Central Government.
- **Legislative Department**: legislative activities; **drafts** principal legislation for the Central Government.
- **Department of Justice**: **administration of justice** in India.

MEMORY TRICK **Advise, Draft, Administer** in the order Legal Affairs, Legislative, Justice: **A-D-A**.

CARD 1.11 T 5 · MEMORISE

★ OL 5.5, 5.6, 5.7 · Scanner TQ 5.3 · SM pp.1.10–1.11

FRONT · RECALL ALOUD

Give the key **dates and facts** for **SEBI** and **IBBI**.

BACK · ANSWER

- **SEBI**: regulator for the securities and commodity market, under the Ministry of Finance. Established **12 April 1988** as an executive body; given statutory powers on **30 January 1992** through the **SEBI Act, 1992**.
- **IBBI**: regulator overseeing insolvency proceedings and **Insolvency Professional Agencies (IPA)**, **Insolvency Professionals (IP)** and **Information Utilities (IU)**.
- IBBI established on **1 October 2016**, with statutory powers through the **Insolvency and Bankruptcy Code** (passed by Lok Sabha on 5 May 2016).
- IBBI handles cases through two tribunals: **NCLT** and the **Debt Recovery Tribunal**.

MEMORY TRICK SEBI: **88 then 92**, executive first, statutory later. IBBI: **1-10-2016**, and three entities **IPA, IP, IU**.

CARD 1.12 T 5 · MEMORISE

★ OL 5.5, 5.6, 5.7 · Scanner TQ 5.3 · SM p.1.10

FRONT · RECALL ALOUD

State the functions of the **RBI** and its **three specialised divisions** (BRBNM, NPCI, DICGC).

BACK · ANSWER

- India's **Central Bank**, regulating the Indian banking system; under the Ministry of Finance.
- Controls the **issue and supply of the Indian rupee**, manages the main **payment systems** and works to promote economic development.
- **BRBNM** (Bharatiya Reserve Bank Note Mudran): prints and mints currency notes at **Nashik** (Western India) and **Dewas** (Central India).
- **NPCI** (National Payments Corporation of India): regulates payment and settlement systems.
- **DICGC** (Deposit Insurance and Credit Guarantee Corporation): insures deposits and guarantees credit facilities of all Indian banks.

MEMORY TRICK **Note, Pay, Insure**: BRBNM prints the Notes, NPCI handles Payments, DICGC provides Insurance. Presses: **N**ashik and **D**ewas.

CARD 1.13 T 6 · CONCEPT

★★★ OL 6.1 · Scanner TQ 6.1, TQ 6.2 · SM p.1.11

FRONT · RECALL ALOUD

What are the **three functions of the Indian judiciary**, how are the courts ranked, and whose decisions bind whom?

BACK · ANSWER

- The judiciary resolves disputes between citizens, or between citizens and the Government.
- Functions: **regulation of the interpretation of the Acts and Codes**; **dispute resolution**; **promotion of fairness** among citizens.
- Hierarchy: **Supreme Court → High Courts → District Courts** (the Scanner answers add Metropolitan Courts).
- A **High Court** decision is binding in its own state but only **persuasive** in other states.
- A **Supreme Court** decision is binding on all High Courts under **Article 141**: the final word.

MEMORY TRICK **I-D-F**: Interpret, Decide disputes, Foster fairness. Then climb the ladder: District, High, Supreme.

CARD 1.14 T 6 · MEMORISE

★★ OL 6.2 · Scanner TQ 6.2 · SM pp.1.11–1.12

FRONT · RECALL ALOUD

State the key facts of the **Supreme Court** and the **High Courts**: date, strength, Articles and writs.

BACK · ANSWER

- **Supreme Court**: apex body of the judiciary, established **26 January 1950**; the Chief Justice of India is the highest authority, appointed under **Article 126**.
- Principal bench: **seven** members including the CJI; now **34** including the CJI. Relief by **writ petition under Article 32**.
- **High Court**: highest court of appeal in each state and union territory; **Article 214**: a High Court in each state; appellate, original and supervisory jurisdiction (supervisory power limited by **Article 227**).
- **25** High Courts in India; **six states share a single** High Court. Writ for violation of fundamental rights under **Article 226**.

MEMORY TRICK Writs: **32** for the apex court, **226** for the High Courts. Bench: **7 grown to 34**.

CARD 1.15 T 6 · MEMORISE

★★ OL 6.2 · Scanner TQ 6.2 · SM p.1.12

FRONT · RECALL ALOUD

What do **District Courts** and **Metropolitan Courts** deal with? State the money limit and the population condition.

BACK · ANSWER

- **District Courts** sit below the High Courts. **Courts of District Judge**: civil matters (contractual disputes, claims for damages). **Courts of Sessions**: criminal matters.
- Pecuniary jurisdiction: a civil judge can try suits valuing **not more than ₹2 crore**.
- Territorial jurisdiction rests on local limits within which the parties reside or the disputed property is situated.
- **Metropolitan Courts**: set up in metropolitan cities, in consultation with the High Court, where the population is **ten lakh or more**.
- **Chief Metropolitan Magistrate**: powers of Chief Judicial Magistrate. **Metropolitan Magistrate**: powers of a Magistrate of the first class.

MEMORY TRICK District: **Judge = civil, Sessions = criminal**. Two numbers to keep: **₹2 crore** cap, **10 lakh** city.

CA FOUNDATION · PAPER 2 · BUSINESS LAWS

Flash Cards with Memory Tricks

Chapter 2 · The Indian Contract Act, 1872 — Units 1 to 3 · 58 cards

How to use these cards

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Topics in this chapter

Topic	Name	Card numbers	Count	Highest stars
1.1	What is Contract?	2.01	1	★
1.2	Essentials of Valid Contract	2.02 – 2.03	2	★★
1.3	Types of Contracts	2.04 – 2.07	4	★★★
1.4	Proposal/Offer [Section 2(a) of the Indian Contract Act, 1872]	2.08 – 2.11	4	★★★
1.5	Acceptance	2.12 – 2.13	2	★
1.6	Communication of Offer and Acceptance	2.14	1	★
1.8	Revocation of Offer and Acceptance	2.15 – 2.17	3	★
2.1	What is Consideration?	2.18	1	★★★
2.2	Legal Rules Regarding Consideration	2.19 – 2.21	3	★★★
2.3	Suit by a Third Party to a Contract	2.22	1	★★
2.4	Validity of an Agreement without Consideration	2.23 – 2.27	5	★★★
3.1	Capacity to Contract	2.28 – 2.32	5	★★★
3.2	Free Consent	2.33	1	★★
3.3	Elements Vitiating Free Consent	2.34 – 2.44	11	★★★
3.4	Legality of Object and Consideration	2.45 – 2.50	6	★★
3.5	Void Agreements	2.51 – 2.58	8	★★★

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CARD 2.01 T 1.1 · CONCEPT

★ OL 1.1.1 · Scanner U1 TQ 1.1 · SM pp.2.4–2.5

FRONT · RECALL ALOUD

Define **contract** and **agreement**. Why are "all contracts agreements, but not all agreements contracts"?

BACK · ANSWER

Contract (s. 2(h)) = an agreement **enforceable by law**. So Contract = Agreement + Enforceability.

Agreement (s. 2(e)) = every promise and every set of promises, forming the consideration for each other.

Every contract needs an agreement, so **all contracts are agreements**.

An agreement that creates no legal obligation (social, moral or religious) is **not** a contract, so **not all agreements are contracts**.

MEMORY TRICK **Agreement is the big circle; contract is the small circle inside it.** The only ticket into the small circle is enforceability by law.

CARD 2.02 T 1.2 · MEMORISE

★ OL 1.2.5, 1.2.4 · Scanner U1 CSQ 2.2, U1 CSQ 2.4 · SM pp.2.5–2.7

FRONT · RECALL ALOUD

Which elements does **Section 10** list for a valid contract? Which further essentials does the Study Material add?

BACK · ANSWER

Section 10: agreement · **free consent** · **competent** parties · **lawful consideration** and **lawful object** · **not expressly declared void**.

Examples: a promise extracted at gunpoint is under coercion, so not a valid contract; selling a house for cocaine fails for unlawful consideration (CSQ 2.2).

Other essentials (not in s. 10): **two parties**, **intention to create legal relationship**, **legal formalities**, **certainty of meaning**, **possibility of performance**.

Certainty: 2,000 packets of biscuits ordered without naming the variety → not enforceable for want of certainty (CSQ 2.4).

MEMORY TRICK **Six inside Section 10, five outside.** The outside five spell **T-I-F-C-P**: Two parties, Intention, Formalities, Certainty, Possibility.

CARD 2.03 T 1.2 · MCQ TRAP

★★ OL 1.2.1, 1.2.2, 1.2.3 · Scanner U1 CSQ 2.1, U1 CSQ 2.3, U1 CSQ 2.5 · SM pp.2.6, 2.18, 2.52

FRONT · RECALL ALOUD

Are social and domestic agreements enforceable? When does a family promise become enforceable, and what of a contributory party?

BACK · ANSWER

NOT enforceable: the parties do not intend to create legal relations (**Balfour v. Balfour**: husband's promise of monthly maintenance to his wife).

A social invitation, e.g. a birthday party, creates no contract; friends who stay away cannot be sued (CSQ 2.3).

A **contributory** party (e.g. a contributory New Year celebration) may be enforceable, because it can create legal relations (CSQ 2.3).

Exception: a **written and registered** promise out of natural love and affection between near relations is valid under **s. 25(1)** (Unit 2). Without those facts, treat it as a social agreement.

MEMORY TRICK **No legal intent, no legal suit.** A family promise needs a pen and a registrar's stamp (s. 25(1)) before a court will listen.

CARD 2.04 T 1.3 · COMPARE

★ OL 1.3.1 · Scanner U1 TQ 3.1 · SM pp.2.10–2.12

FRONT · RECALL ALOUD

Distinguish between a **void** contract and a **voidable** contract on the five bases in the Study Material.

BACK · ANSWER

Meaning: void [s. 2(j)] = ceases to be enforceable by law; voidable [s. 2(i)] = enforceable at the option of one or more parties, not of the other(s).

Enforceability: void: cannot be enforced at all; voidable: only at the option of the aggrieved party.

Cause: void: change in law or circumstances beyond the parties' contemplation; voidable: consent of a party was not free.

Performance: void: cannot be performed; voidable: if the aggrieved party does not avoid within a reasonable time, any party can sue for performance.

Rights: void: no legal remedy to any party; voidable: aggrieved party may rescind within reasonable time (then it becomes void); if not rescinded it becomes valid.

MEMORY TRICK **M-E-C-P-R:** Meaning, Enforceability, Cause, Performance, Rights. Void is a dead end; voidable is a door only the wronged party can open.

CARD 2.05 T 1.3 · CONCEPT

★★★ OL 1.3.2, 1.3.3 · Scanner U1 CSQ 2.2, U1 CSQ 3.3, U1 CSQ 3.4, U1 CSQ 3.5 · SM pp.2.10, 2.73

FRONT · RECALL ALOUD

Which later events make a valid contract **void**? What if the subject matter is already dead or destroyed when the contract is made?

BACK · ANSWER

A valid contract becomes **void** when it later becomes impossible to perform: author dies before writing the book; factory catches fire and the sugar to be supplied is destroyed (SM).

Scanner CSQ 3.4 adds: artist loses both hands (personal contract); apples rotten because the truck arrived late (time is of the essence); imports banned later (subsequent illegality). In each, performance cannot be demanded.

Subject matter **already dead** when agreed (elephant, bull), both parties unaware → **bilateral mistake** (s. 20) → agreement **void** from the very start (CSQ 3.3, CSQ 3.5(ii)).

MEMORY TRICK **Fire, Death, Dead-already.** Impossibility after the deal makes a contract void; impossibility before the deal (the dead elephant) means it never lived.

CARD 2.06 T 1.3 · CONCEPT

★★ OL 1.3.4, 1.3.5, 1.3.6 · Scanner U1 CSQ 3.1, U1 CSQ 3.5, U1 CSQ 3.6 · SM pp.2.11, 2.13, 2.76

FRONT · RECALL ALOUD

Give an example each of a **valid**, a **voidable** and an **unenforceable** contract.

BACK · ANSWER

Valid: has all the essentials, e.g. paying a marriage bureau only for information about prospective grooms (a bureau gives information; it does not negotiate marriage for reward) (CSQ 3.5).

Voidable: a party who promises to finish work by a fixed date and misses it → voidable at the option of the promisee. CA Sarthak Jain need not pay for interior work that gave him no benefit (CSQ 3.6).

Unenforceable: good in substance but a technical defect bars suit, e.g. a debt barred by the Limitation Act after three years (CSQ 3.1).

MEMORY TRICK **Valid = all boxes ticked. Voidable = victim's choice. Unenforceable = the right exists but the court door is locked.**

CARD 2.07 T 1.3 · MEMORISE

★★★ OL 1.3.7, 1.3.8 · Scanner U1 TQ 3.2, U1 TQ 3.3, U1 CSQ 3.2 · SM pp.2.13–2.15

FRONT · RECALL ALOUD

Name the kinds of contract by **formation**, with an example of each, and distinguish **executed** from **executory** contracts.

BACK · ANSWER

Express (words or writing, s. 9) · **Implied** (conduct; a coolie in uniform lifts the luggage unasked) · **Tacit** (silent, e.g. ATM withdrawal; part of implied) · **Quasi** (created by law, e.g. finder of lost goods must return them) · **E-contract** (electronic means, EDI or mouse-click).

Executed: the act is done or forbearance brought on record, e.g. a cash sale of sugar.

Executory: consideration is a promise to be performed in future, e.g. tuition from next month for a monthly fee.

Unilateral and bilateral contracts are kinds of executory contract, not separate kinds.

MEMORY TRICK **E-I-T-Q-E:** Express, Implied, Tacit, Quasi, E-contract. Executed = **done**; Executory = **due**.

CARD 2.08 T 1.4 · MEMORISE

★ OL 1.4.1 · Scanner U1 TQ 4.1 · SM pp.2.15, 2.18–2.20

FRONT · RECALL ALOUD

Define **offer** under s. 2(a) and list the **nine essentials** of a valid offer.

BACK · ANSWER

s. 2(a): one person signifies to another his willingness to do or to abstain from doing anything, with a view to obtaining the assent of that other.

(1) capable of creating **legal relations**; (2) **certain**, definite, not vague; (3) **communicated** to the offeree; (4) made with a view to obtaining **assent**; (5) may be **conditional**;

(6) no term that non-compliance (silence) amounts to acceptance; (7) may be **specific or general**; (8) may be **express or implied**; (9) a **statement of price is not an offer**.

MEMORY TRICK **First three are musts: L-C-C** (Legal relations, Certain, Communicated). The rest: assent sought, conditional, specific or general, express or implied, plus two ‘no’s’ (no silence-means-yes term; price alone is no offer).

CARD 2.09 T 1.4 · COMPARE

★ OL 1.4.1 · Scanner U1 TQ 4.1 · SM pp.2.21–2.22

FRONT · RECALL ALOUD

Distinguish an **offer** from an **invitation to offer**.

BACK · ANSWER

Meaning: offer = final expression of willingness to be bound should the other accept; invitation = proposing terms on which one is willing to negotiate (offers to receive offers).

Intention: offer: intends to be bound as soon as the other accepts; invitation: intends to negotiate on terms.

Sequence: an offer is not a step before an invitation; an invitation is always an act **precedent** to an offer.

Test: **intention to be bound.** Instances of invitations: company prospectus, goods in shop windows, advertised auctions, quotation of prices in reply to a query.

MEMORY TRICK **Offer = ‘I am ready; say yes.’ Invitation = ‘Come and talk.’** The test is always intention to be bound.

CARD 2.10 T 1.4 · CONCEPT

★★★ OL 1.4.2, 1.6.4 · Scanner U1 CSQ 4.1, U1 CSQ 6.4 · SM pp.2.17, 2.26, 2.30–2.31

FRONT · RECALL ALOUD

Is a newspaper advertisement of a **reward** an offer or an invitation? How is it accepted, and can it be revoked after the act is done?

BACK · ANSWER

A reward advertisement is a **general offer** to the public (**Carlill v. Carbolic Smoke Ball Co.**, 1893, reward of £100).

Anyone who performs the conditions accepts it (s. 8): **performance is acceptance** and no separate communication is needed.

Applied: advertisement for information about a stolen car → a general offer; the finder can claim the ₹10,000 reward (CSQ 4.1).

A revocation binds the offeree only when it **comes to his knowledge**: Meera fixed the bug before Mr Arjun's e-mail withdrawing the bonus offer reached her, so it did not bind her (CSQ 6.4).

MEMORY TRICK **Reward ad = an open door to the whole world; walk through it by doing the act.** The door shuts only when news of the shutting reaches you.

CARD 2.11 T 1.4 · MCQ TRAP

★★★ OL 1.4.3, 1.4.4 · Scanner U1 CSQ 4.2, U1 CSQ 4.3, U1 CSQ 4.4 · SM pp.2.20–2.22

FRONT · RECALL ALOUD

Is goods displayed with a **price tag** an offer? What about a self-service display and an **auction advertisement**?

BACK · ANSWER

NOT an offer. Each is only an **invitation to offer**.

Price tag or shop display: the customer asking to pay at the counter makes the **offer**; the shopkeeper may refuse (CSQ 4.2).

Self-service mall: the shopper at the cashier makes the offer; the cashier need not accept the price of the tenth item (CSQ 4.3).

Auction advertisement: the auctioneer does not contract with those who attend (**Harris v. Nickerson**, 1873); Kanha cannot claim his travel loss when the furniture was withdrawn (CSQ 4.4).

Tempting wrong answer: a **reward** advertisement is different; that is a general offer.

MEMORY TRICK **A tag tempts; it does not tender.** Shelf, price tag and auction notice invite you to make the offer; the shop decides whether to say yes.

CARD 2.12 T 1.5 · MEMORISE

★ OL 1.5.1 · Scanner U1 TQ 5.1 · SM pp.2.22–2.26

FRONT · RECALL ALOUD

Define **acceptance** (s. 2(b)) and state the **seven rules** of valid acceptance.

BACK · ANSWER

s. 2(b): when the person to whom the proposal is made signifies his assent, the proposal is accepted; a proposal, when accepted, becomes a **promise**.

(1) by the **right person** (specific offer: only that person; general offer: anyone who knows of it); (2) **absolute and unqualified** (s. 7); (3) **communicated**; (4) in the **prescribed mode**;

(5) within **time** (specified, or reasonable); (6) **mere silence** is not acceptance; (7) by **conduct** (s. 8): performing the conditions of the proposal.

A qualified acceptance is a **counter offer** and rejects the original offer (Union of India v. Bahulal).

MEMORY TRICK **R**ama **A**lways **C**arries **M**angoes **T**o **S**ell **C**lients: Right person, Absolute, Communicated, Mode, Time, Silence, Conduct.

CARD 2.13 T 1.5 · MCQ TRAP

★ OL 1.5.2 · Scanner U1 CSQ 5.1 · SM p.2.25

FRONT · RECALL ALOUD

A offers his car and says: “if you do not reply within a week I shall treat the offer as accepted.” Is silence acceptance? What if B accepts after the week?

BACK · ANSWER

Silence is NOT acceptance. An offer cannot make non-reply count as acceptance (**Felthouse v. Bindley**: uncle's “if I hear no more about it I shall consider the horse mine”).

Exception: the offeree's own previous conduct showed that his silence is evidence of acceptance.

Acceptance after the time fixed by the offeror does **not** turn the offer into a contract (CSQ 5.1).

MEMORY TRICK **No reply is not ‘yes’.** An offeror cannot write your answer for you.

CARD 2.14 T 1.6 · CONCEPT

★ OL 1.6.1, 1.6.2 · Scanner U1 TQ 6.1, U1 CSQ 6.1 · SM pp.2.26–2.28

FRONT · RECALL ALOUD

When is communication of offer and of acceptance complete (ss. 3 and 4)? Is an acceptance leaked by one committee member communicated?

BACK · ANSWER

Modes (s. 3): by any **act** (words written or oral, conduct) or by **omission** intended to communicate; silence is not omission; a mere mental assent is not communication.

Offer is complete when it **comes to the knowledge** of the offeree (letter reaching on the 12th but read on the 15th → communicated on the 15th).

Acceptance (s. 4): against the proposer, when put in course of transmission beyond the acceptor's power (posting); against the acceptor, when it comes to the proposer's knowledge.

A private word from one committee member is not the school's communication: Mr Parth had no contract (CSQ 6.1; uncommunicated bank resolution in Central Bank Yeotmal).

MEMORY TRICK **Post it and the proposer is bound; let it land and the acceptor is bound.**

CARD 2.15 T 1.8 · CONCEPT

★ OL 1.8.3, 1.6.3 · Scanner U1 CSQ 6.3, U1 CSQ 8.1, U1 CSQ 8.2 · SM pp.2.27–2.28, 2.31–2.32

FRONT · RECALL ALOUD

A offers by post and B accepts by post. Who can revoke what, and until when? What if the revocation telegram arrives first or together with the acceptance letter?

BACK · ANSWER

Offer by post is complete when the letter is **read**. The proposer may revoke it up to the moment the acceptance is posted, not afterwards (s. 5).

Acceptance may be revoked by the acceptor any time **before or at the moment** the letter of acceptance reaches the proposer, not afterwards.

If the **revocation telegram arrives first or together** with the letter of acceptance, the revocation is **absolute** (SM). Scanner answers add that, if both arrive together, it may turn on which is read first.

Acceptance posted before the revocation of the offer reached the offeree is effective (CSQ 6.3); but ‘oil’ with no kind specified and no stock → the agreement is still void.

MEMORY TRICK **Offer: recall until the acceptance is posted. Acceptance: recall until it lands.** Two clocks, two stop-points.

CARD 2.16 T 1.8 · MCQ TRAP

★ OL 1.8.4 · Scanner U1 CSQ 8.3 · SM p.2.31

FRONT · RECALL ALOUD

X promises to keep an offer open until 6 pm, but sells the goods to another before then. Can the offeree still accept?

BACK · ANSWER

NO. A promise to keep an offer open does **NOT** stop its revocation before acceptance.

Under **s. 5** an offer can be revoked at any time before communication of its acceptance is complete as against the proposer, even though he agreed to hold it open for a definite period.

Chairs offered till 15.02 but sold to C on 13.02; B accepted on 14.02: B cannot claim damages, as it was a mere offer (CSQ 8.3).

MEMORY TRICK **'Open until 6 pm' is a wish, not a lock.** Only acceptance locks an offer.

CARD 2.17 T 1.8 · MEMORISE

★ OL 1.8.1, 1.8.2, 1.6.5 · Scanner U1 TQ 8.1, U1 CSQ 6.2 · SM pp.2.32–2.33

FRONT · RECALL ALOUD

List the **seven modes of revocation** of an offer. What happens when a **condition precedent** is not fulfilled?

BACK · ANSWER

(1) **Notice** of revocation; (2) **lapse of time** (specified or reasonable); (3) failure of a **condition precedent** (s. 6); (4) **death or insanity** of the proposer, if it comes to the acceptor's knowledge before acceptance;

(5) **counter offer**; (6) not accepted in the **prescribed or usual mode**; (7) **subsequent illegality**.

Condition precedent: the offeror may require a document or earnest money; if not supplied, the proposal lapses automatically, **without communication**.

Bright Scholars: fee paid but documents not submitted by the due date → the admission offer stood revoked; cancelling without informing Vishal was valid (CSQ 6.2).

MEMORY TRICK **N-L-C-D-C-M-I:** 'No Late Cheques; Death, Counter, Mode, Illegality' = Notice, Lapse, Condition, Death, Counter offer, Mode, Illegality.

CARD 2.18 T 2.1 · MEMORISE

★★★ OL 2.1.1 · Scanner U2 TQ 1.1 · SM pp.2.46–2.47

FRONT · RECALL ALOUD

Define **consideration**. What does **s. 2(d)** say and which case is cited for the definition?

BACK · ANSWER

Consideration = **quid pro quo**, "something in return". It has a double aspect: benefit to the promisor, detriment to the promisee.

s. 2(d): at the desire of the promisor, the promisee or any other person has done or abstained from doing, or does or abstains from doing, or promises to do or abstain from doing something; such act, abstinence or promise is consideration.

Misa v. Currie: some right, interest, profit or benefit to one party, or forbearance, detriment, loss or responsibility given, suffered or undertaken by the other.

Consideration need not be money.

MEMORY TRICK **A-A-P: Act, Abstinence, Promise** are the three coins in which the price of a promise can be paid.

CARD 2.19 T 2.2 · MEMORISE

★★★ OL 2.1.2, 2.2.2 · Scanner U2 TQ 1.1, U2 TQ 2.2 · SM pp.2.48–2.50

FRONT · RECALL ALOUD

State the **eight legal rules** regarding consideration.

BACK · ANSWER

(1) Must move at the **desire of the promisor**; (2) may move from the **promisee or any other person**; (3) may be **executed or executory**; (4) may be **past, present or future**;

(5) need **not be adequate**; (6) not **what one is already legally bound to do**; (7) must be **real**, not illusory; (8) must **not** be unlawful, immoral or opposed to public policy.

Illustrations: an act done at a third party's desire is no consideration (Durga Prasad v. Baldeo); a promise to pay a witness is void; ₹2,000 over the fee to a doctor is void; discovering treasure by magic is illusory.

MEMORY TRICK **D-P-E-P-A-L-R-L: D**ad **P**ays **E**very **P**enny **A**lways, **L**ittle **R**upees **L**ast = Desire, Person, Executed/executory, Past/present/future, Adequacy, Legal duty, Real, Lawful.

CARD 2.20 T 2.2 · MCQ TRAP

★★ OL 2.2.1 · Scanner U2 TQ 2.1 · SM pp.2.49, 2.57

FRONT · RECALL ALOUD

"To form a valid contract, consideration must be adequate." Comment.

BACK · ANSWER

NOT true. Consideration **need not be adequate**; it must be something to which the law attaches **some value**. Adequacy is for the parties at the time of agreement, not for the court (Bolton v. Modden).

Explanation 2 to s. 25: an agreement to which the promisor's consent is freely given is not void merely because the consideration is inadequate.

But **gross inadequacy** may be taken as evidence that consent was **not free**: a ₹60 lakh house sold for ₹10 lakh is not void by price alone unless coercion, undue influence or fraud is pleaded.

MEMORY TRICK **Courts weigh promises, not prices.** A bad bargain is still a bargain, unless the price is so low that it smells of pressure.

CARD 2.21 T 2.2 · CONCEPT

★ OL 2.2.3, 2.3.3 · Scanner U2 CSQ 2.1, U2 CSQ 3.2 · SM pp.2.48, 2.50

FRONT · RECALL ALOUD

Can a person who gave no consideration sue on a promise made for his benefit? Explain "stranger to consideration" and "stranger to contract".

BACK · ANSWER

Consideration may move from the promisee **or any other person**: there can be a **stranger to a consideration, but not a stranger to a contract** (s. 2(d)).

Chinnayya v. Ramayya (1882): an old lady gave property to her daughter with a direction to pay an annuity to her brother (the maternal uncle); the daughter signed a writing in his favour the same day. The uncle could recover.

The deed of gift and the promise were executed together as one transaction; consideration from the donor sufficed (CSQ 2.1, CSQ 3.2).

A stranger to the contract cannot sue unless an exception applies (next topic).

MEMORY TRICK **Anyone may pay the price; only a party may sue.** The uncle was a stranger to the payment, not to the promise.

CARD 2.22 T 2.3 · MEMORISE

★★ OL 2.3.1, 2.3.2 · Scanner U2 TQ 3.1, U2 TQ 3.2, U2 TQ 3.3, U2 CSQ 3.1 · SM pp.2.50–2.52, 2.57

FRONT · RECALL ALOUD

State the doctrine of **privity of contract** and its **seven exceptions**. How does a covenant running with land help the seller's son?

BACK · ANSWER

Privity: only a party to a contract can sue on it; a stranger to the contract cannot.

Exceptions: (1) **trust**; (2) **family settlement** reduced to writing; (3) **marriage** arrangements; (4) **assignment** (no personal skill involved); (5) **acknowledgement or estoppel**; (6) **covenant running with land**; (7) contract through an **agent** within authority.

Covenant running with land: a purchaser with notice is bound, and the successor of the seller may enforce it. Chotelal could claim the 1 acre against Mohanlal (CSQ 3.1).

In that case the consideration also moved from Chotelal's father, and the sale deed and the promise were executed together.

MEMORY TRICK **T**ea **F**or **M**um, **A**nita **A**nd **C**ousin **A**arav: Trust, Family settlement, Marriage, Assignment, Acknowledgement, Covenant, Agent.

CARD 2.23 T 2.4 · MEMORISE

★★ OL 2.4.1, 2.4.8 · Scanner U2 TQ 4.1, U2 CSQ 4.7 · SM pp.2.52–2.53

FRONT · RECALL ALOUD

"No consideration, no contract" (s. 25). List the **seven exceptions** in which an agreement without consideration is valid.

BACK · ANSWER

(1) **Natural love and affection** [s. 25(1)]; (2) compensation for **past voluntary services** [s. 25(2)]; (3) promise to pay a **time-barred debt** [s. 25(3)]; (4) **agency** (s. 185); (5) **completed gift** (Explanation 1 to s. 25); (6) **bailment** (s. 148); (7) **charity**.

Agency and bailment need **no consideration** at all (ss. 185 and 148).

Completed gift: valid as between donor and donee, e.g. an iPhone actually gifted by a friend on her birthday (CSQ 4.7).

MEMORY TRICK **N-P-T-A-G-B-C: N**ice **P**eople **T**rust **A**ny **G**ift, **B**ring **C**ake = Natural love, Past service, Time-barred debt, Agency, Gift, Bailment, Charity.

CARD 2.24 T 2.4 · MEMORISE

★★★ OL 2.4.2, 2.4.4, 2.4.5 · Scanner U2 TQ 4.2, U2 CSQ 4.2, U2 CSQ 4.8, U1 CSQ 2.1 · SM p.2.52

FRONT · RECALL ALOUD

State the **four conditions of s. 25(1)** (natural love and affection). Does an unregistered deed or a promise between friends qualify?

BACK · ANSWER

(i) made out of **natural love and affection**; (ii) parties in **near relationship**; (iii) **in writing**; (iv) **registered** under the law.

A written and registered promise between husband and wife (e.g. to pay his earnings, or a golden necklace for a daughter-in-law) is enforceable without consideration.

Unregistered deed fails: Om Kashyap's written gift of his house to his daughter, not registered before he died, was not enforceable (CSQ 4.2).

Friends fail: Amol's promise of a gold ring to a friend is not enforceable; between husband and wife it is enforceable only if written and registered (CSQ 4.8).

MEMORY TRICK **Love + Near + Written + Registered = four locks.** Friends have no key; an unregistered deed leaves one lock open.

CARD 2.25 T 2.4 · MEMORISE

★★★ OL 2.4.2, 2.4.3 · Scanner U2 TQ 4.2, U2 CSQ 4.1, U2 CSQ 4.6 · SM pp.2.13, 2.53

FRONT · RECALL ALOUD

When is a promise to pay a **time-barred debt** enforceable without fresh consideration (s. 25(3))?

BACK · ANSWER

The promise must be **in writing** and **signed by the debtor or his authorised agent**, to pay wholly or in part a debt barred by limitation.

A debt becomes unenforceable after **three years** under the Limitation Act.

SM illustration: A owes ₹60,000 (time-barred) and signs a written promise to pay ₹50,000 in final settlement → enforceable for **₹50,000 only**.

Bhuvika's written promise to pay her time-barred loan made Madan's claim valid (CSQ 4.6).

MEMORY TRICK **Dead debt, live pen:** only a signed written promise revives it, and only for the amount promised.

CARD 2.26 T 2.4 · MEMORISE

★ OL 2.4.7 · Scanner U2 CSQ 4.5 · SM pp.2.52–2.53

FRONT · RECALL ALOUD

State the **four conditions** under s. 25(2) for a promise to compensate **past voluntary services**.

BACK · ANSWER

(i) services rendered **voluntarily**; (ii) rendered **for the promisor**; (iii) promisor **in existence** when the services were rendered; (iv) promisor **intended to compensate**.

SM examples: P finds R's wallet and returns it, R promises ₹10,000 → valid; nephew helped in a lawsuit, later promise of ₹10,000 → valid.

CSQ 4.5: Ramesh returned lost documents unasked; Abhimanyu later promised ₹50,000 and is liable (the Scanner answer relies on a written, signed promise; the SM lists only the four conditions).

MEMORY TRICK **V-F-E-I = Volunteered, For him, Existed then, Intended to pay.**

CARD 2.27 T 2.4 · CONCEPT

★★ OL 2.4.6 · Scanner U2 CSQ 4.3, U2 CSQ 4.4 · SM p.2.53

FRONT · RECALL ALOUD

When is a promise to **contribute to charity** enforceable without consideration? Name the case.

BACK · ANSWER

Valid where the **promisee undertakes liability** on the faith of the promise to contribute (**Kadarnath v. Gorie Mohammad**).

SM example: promise of ₹1,00,000 to a temple secretary; he incurs cost on renovation on the faith of it; he can claim.

CSQ 4.3: Mr S promised ₹2 lakh for a child's treatment; Mr A spent ₹1.5 lakh in the emergency → A can claim ₹1.5 lakh. CSQ 4.4: temple trust extended the work on members' promises → the committee succeeds.

Scanner: liability is limited to the amount promised or the liability incurred, whichever is less.

MEMORY TRICK **Promise + liability incurred = enforceable.** A bare charity pledge on which nobody has acted is just a wish.

CARD 2.28 T 3.1 · MCQ TRAP

★★★ OL 3.1.4 · Scanner U3 CSQ 1.4, U3 CSQ 1.5, U3 CSQ 1.7 · SM pp.2.59–2.60, 2.62

FRONT · RECALL ALOUD

Is a minor's agreement void, voidable or valid? Can he ratify it on attaining majority? Can the lender sue the parents?

BACK · ANSWER

A minor (under **18**, Indian Majority Act, 1875) is not competent: his agreement is **void ab initio**, void from the very beginning.

Mohori Bibi v. Dharmo Das Ghose (1903): a minor mortgaged his house for ₹20,000 but received ₹8,000; the contract was void and he owed nothing.

NOT ratifiable: a void agreement can never be ratified on attaining majority; a fresh promissory note given on majority is void for want of consideration (SM Example 1; CSQ 1.4).

No claim against parents: a minor cannot bind his parent or guardian unless acting as their agent (CSQ 1.5, CSQ 1.7).

MEMORY TRICK **You cannot water a seed that was never sown.** Turning 18 does not revive an agreement that was void from the start.

CARD 2.29 T 3.1 · CONCEPT

★ OL 3.1.3, 3.1.6, 3.1.7 · Scanner U3 TQ 1.2, U3 CSQ 1.2, U3 CSQ 1.6 · SM pp.2.60, 2.62

FRONT · RECALL ALOUD

What CAN a minor do? Explain the minor as **beneficiary**, as **agent**, and an adult as **surety** for a minor.

BACK · ANSWER

Beneficiary: nothing prevents a minor from making the other party bound to him; a promissory note or mortgage in his favour can be sued upon. He cannot be a partner but, with all partners' consent, may be admitted to the **benefits** of partnership.

Agent: a minor can act as an agent but is **not liable to his principal**; the buyer who purchases from the minor agent keeps good title (CSQ 1.6).

Surety: an adult who stands surety for a minor's purchase is **liable** (direct contract with the creditor); if the surety is also a minor, the guarantee is void (CSQ 1.2).

MEMORY TRICK **Take, Act, Never Owe:** a minor may take a benefit and act as agent without ever owing; a guarantee for him is carried by an adult.

CARD 2.30 T 3.1 · CONCEPT

★★ OL 3.1.5 · Scanner U3 CSQ 1.3 · SM p.2.60

FRONT · RECALL ALOUD

A minor falsely claims to be an adult and borrows ₹40,000. Can the lender recover? What of the money not yet spent?

BACK · ANSWER

A minor can **always plead minority**; the rule of **estoppel does not apply** against him, even if he took the loan by falsely representing that he was major.

He is **not liable** for any amount he has already spent.

Unspent money may be asked back; the Scanner adds that property still in his possession (the laptop) can be ordered to be returned (CSQ 1.3).

Rahul: not liable to repay the ₹40,000 but may be ordered to return the laptop.

MEMORY TRICK **'I lied about my age' is no shield for the lender.** The minor keeps his plea; only what is still in hand can be taken back.

CARD 2.31 T 3.1 · CONCEPT

★★ OL 3.1.1, 3.1.2 · Scanner U3 TQ 1.1, U3 CSQ 1.1, U3 CSQ 1.4, U3 CSQ 1.7 · SM pp.2.60–2.61

FRONT · RECALL ALOUD

"A minor is liable to pay for necessaries supplied to him." Correct or incorrect? Explain s. 68.

BACK · ANSWER

Incorrect as worded. Under **s. 68** the supplier is reimbursed from the minor's **property**; there is **no personal liability**, and never more than the value of the necessaries.

Two conditions: goods reasonably necessary for his support in his **station in life**, and he must not already have a sufficient supply.

Necessaries include education and funeral expenses; not luxuries or costly articles. Utility, not ornament, is the test.

Shruti's ₹70,000 laptop on credit: only ₹20,000 (her assets) recoverable. Loan for college fees and books: recoverable from the minor's assets (CSQ 1.1).

MEMORY TRICK **The estate pays; the minor never.** 'Utility, not ornament' decides what is a necessary.

CARD 2.32 T 3.1 · CONCEPT

★★ OL 3.1.8 · Scanner U3 CSQ 1.8 · SM pp.2.59, 2.63

FRONT · RECALL ALOUD

When is a person of **unsound mind** competent to contract (s. 12)? Who else is disqualified under s. 11?

BACK · ANSWER

s. 11: competent if of the age of majority, of **sound mind**, and not disqualified by any law to which he is subject.

s. 12: of sound mind if, at the time, capable of understanding the contract and forming a rational judgement as to its effect on his interests. An agreement by a person not of sound mind is **void**.

Usually unsound but sometimes sound → may contract in lucid intervals; usually sound but sometimes unsound (delirium, drunkenness) → cannot contract then.

Disqualified by status: foreign sovereigns and ambassadors, alien enemy, corporations, convicts, insolvents. Property worth ₹2,00,000 sold for ₹25,000 by a person of unsound mind → void (CSQ 1.8).

MEMORY TRICK **The signing-moment test:** sound at that moment, may contract; a lucid interval counts, delirium does not.

CARD 2.33 T 3.2 · CONCEPT

★★ OL 3.2.1, 3.3.15 · Scanner U3 CSQ 2.1, U3 CSQ 2.2, U3 CSQ 3.9 · SM pp.2.64–2.65

FRONT · RECALL ALOUD

Define **consent** (s. 13) and **free consent** (s. 14). Joy offers flat no. 101 but Roy thinks it is flat no. 102: is there a contract?

BACK · ANSWER

s. 13: two or more persons consent when they agree upon the **same thing in the same sense** (consensus ad idem).

s. 14: consent is free when not caused by **coercion, undue influence, fraud, misrepresentation or mistake**.

Caused by the first four → contract **voidable** at the option of the party whose consent was so caused; vitiated by mistake → **void**.

A different flat, the red car versus the black car, a Maruti versus a Wagon R in mind → no consensus ad idem → **no contract** (CSQ 2.1, CSQ 2.2, CSQ 3.9).

MEMORY TRICK **Same thing, same sense.** If one says '101' and the other hears '102', there is nothing to enforce.

CARD 2.34 T 3.3 · CONCEPT

★★ OL 3.3.1, 3.3.2 · Scanner U3 TQ 3.5, U3 TQ 3.8, U3 TQ 3.10 · SM pp.2.65–2.66

FRONT · RECALL ALOUD

Define **coercion** (s. 15) and state its effects. Is a threat to commit **suicide** coercion?

BACK · ANSWER

s. 15: committing or threatening to commit any act forbidden by the **Indian Penal Code** (Scanner answers cite the Bharatiya Nyaya Sanhita, 2023), or unlawfully detaining or threatening to detain any property, to the prejudice of any person, with intent to cause an agreement.

It need not come from a party and may be aimed at a third person.

Effects: the contract is **voidable** at the option of the party coerced (**s. 19**); money or goods received under coercion must be repaid or returned (**s. 72**).

Suicide threat = coercion: suicide is forbidden by the Penal Code though not punishable; a release deed extracted from wife and son by threatening suicide was set aside.

Gun-point sale of a scooter → voidable at X's option, not Y's (TQ 3.8).

MEMORY TRICK **Threat + crime, or threat + captured property = coercion.** Voidable (s. 19), refund (s. 72); even 'I will kill myself' counts.

CARD 2.35 T 3.3 · CONCEPT

★ OL 3.3.3 · Scanner U3 TQ 3.4, U3 TQ 3.6 · SM pp.2.66–2.67, 2.84

FRONT · RECALL ALOUD

Define **undue influence** (s. 16). In what four situations can a person **dominate the will** of another? Who bears the burden of proof?

BACK · ANSWER

s. 16: relations are such that one party can **dominate the will** of the other and uses that position to obtain an **unfair advantage**.

Dominating position arises from: (a) real or apparent **authority** (master and servant, doctor and patient); (b) **fiduciary** relationship (solicitor and client, guru and devotee); (c) **mental distress** from illness, old age or bodily distress; (d) **unconscionable bargain** (undue influence presumed, e.g. a money-lender's loan).

Burden of proof: first on the aggrieved party (dominant position, used it, unfair transaction); thereafter the other party must prove there was no undue influence.

A banker charging high interest in a money stringency is ordinary business, not undue influence.

MEMORY TRICK **A-F-M-U:** 'A Fine Mess, Unfair' = Authority, Fiduciary, Mental distress, Unconscionable bargain.

CARD 2.36 T 3.3 · CONCEPT

★★★ OL 3.3.4, 3.3.5 · Scanner U3 CSQ 3.3, U3 CSQ 3.4, U3 CSQ 3.7, U3 CSQ 3.11 · SM pp.2.67–2.68

FRONT · RECALL ALOUD

What is the effect of undue influence by an **employer, teacher or doctor** (s. 19A)? Can the doctor recover the promissory note? What if coercion and undue influence both exist?

BACK · ANSWER

s. 19A: the contract is **voidable** at the option of the party whose consent was so caused; the court may set it aside absolutely or, if he received a benefit, on **just terms**.

Employer and employee (flat sold below market value to secure promotion), teacher and student (bike sold cheaply for marks): authority → voidable, and the weaker party can sue.

Doctor: Chandan, in great pain, signed a ₹5,000 note for a ₹300 consultation. The doctor cannot recover the note but may claim his **normal fee** only.

False criminal-complaint threat (coercion) plus caretaker's emotional sway (undue influence) over elderly Mr Sen → gift deed **voidable** at his option (CSQ 3.11).

MEMORY TRICK **Boss, teacher, doctor = dominant. Voidable, never void.** The doctor keeps only his normal fee.

CARD 2.37 T 3.3 · MEMORISE

★★ OL 3.3.6 · Scanner U3 TQ 3.1, U3 TQ 3.7, U3 TQ 3.11, U3 CSQ 3.5 · SM p.2.68

FRONT · RECALL ALOUD

Define **fraud** (s. 17). List the five acts.

BACK · ANSWER

Acts committed by a party to a contract, or with his connivance, or by his agent, with **intent to deceive** another party (or his agent) or to induce him to enter into the contract:

(1) **suggestion, as a fact,** of that which is not true by one who does not believe it to be true; (2) **active concealment** of a fact by one having knowledge or belief of it; (3) a **promise made without any intention of performing** it;

(4) **any other act fitted to deceive**; (5) any act or omission the **law specially declares to be fraudulent**.

Karan's table with a broken leg pasted over: active concealment → fraud; he can rescind and claim compensation (CSQ 3.5).

MEMORY TRICK **S-C-P-A-L: S**ome **C**heats **P**romise **A**nd **L**ie = Suggestion, Concealment, Promise, Act, Law.

CARD 2.38 T 3.3 · MCQ TRAP

★★★ OL 3.3.7, 3.3.8 · Scanner U3 TQ 3.1, U3 TQ 3.3, U3 TQ 3.9, U3 CSQ 3.2, U3 CSQ 3.8 · SM pp.2.68–2.69

FRONT · RECALL ALOUD

Is **mere silence** fraud? When does silence amount to fraud? Test with the horse examples (A), (B), (C).

BACK · ANSWER

NOT fraud: mere silence as to facts likely to affect willingness to contract is not fraud, **unless** (a) there is a **duty to speak**, or (b) silence is **equivalent to speech**.

(A) Seller of an unsound horse says nothing to an auction buyer → **not fraud**; no duty to disclose (caveat emptor). Likewise the salesman who watched Kapil pick an aluminium pan (CSQ 3.2).

(B) The buyer is the seller's own child → the relationship makes it a **duty to speak** → silence is fraud.

(C) Buyer says "if you do not deny it, I shall assume the horse is sound" and the seller stays silent → silence is speech → fraud.

MEMORY TRICK **Silence is golden unless duty calls or silence speaks.** Auction stranger: golden. Own child: duty. 'If you don't deny it…': speech.

CARD 2.39 T 3.3 · CONCEPT

★★ OL 3.3.9 · Scanner U3 TQ 3.11, U3 CSQ 3.1 · SM p.2.69

FRONT · RECALL ALOUD

What are the **remedies** of a party whose consent was caused by fraud? In which two cases is the contract **not voidable**?

BACK · ANSWER

The contract is **voidable** at the option of the party defrauded. He may: (1) **rescind** within a reasonable time; (2) sue for **damages**; (3) **insist on performance**, being put in the position he would have been in had the representation been true.

Exceptions (not voidable): (i) consent caused by silence amounting to fraud, but he had the **means of discovering the truth with ordinary diligence**; (ii) the fraud **did not cause** his consent.

Example: shares bought on a prospectus wrongly naming B as a director; A had never heard of B, so the statement did not induce him and his claim failed.

MEMORY TRICK **R-D-P:** Rescind, Damages, Performance are the three doors. Two locked exits: 'could have checked' and 'never relied'.

CARD 2.40 T 3.3 · CONCEPT

★★★ OL 3.3.10, 3.3.11 · Scanner U3 TQ 3.2, U3 TQ 3.7, U3 CSQ 3.10 · SM p.2.70

FRONT · RECALL ALOUD

State the **three limbs of misrepresentation** (s. 18). Is an intention to deceive needed?

BACK · ANSWER

(1) **Positive assertion**, not warranted by the speaker's information, of that which is untrue, though he **believes it true**; (2) **breach of duty**, without intent to deceive, that brings him an advantage by misleading another;

(3) causing, **however innocently**, a party to the agreement to make a mistake as to the substance of the thing that is the subject of the agreement.

No intention to deceive is needed or present; the contract is voidable at the option of the misled party.

Examples: seller says the motorcycle engine is in excellent condition without having it checked; mare stated to be thoroughly sound without sufficient ground.

MEMORY TRICK **A-B-C of innocence:** Assertion without warrant, Breach of duty, Causing a mistake. No wicked intent in any of the three.

CARD 2.41 T 3.3 · MCQ TRAP

★★ OL 3.3.14 · Scanner U3 CSQ 3.10, U3 TQ 3.7 · SM pp.2.70–2.71

FRONT · RECALL ALOUD

Dealer Sahil innocently resold an accident-damaged car that he bought from Raju by fraud. Can the buyer avoid the contract? Can he claim damages from Sahil?

BACK · ANSWER

Misrepresentation gives NO right to damages — only fraud does.

Sahil did not know the car was accidental, so his sale is **misrepresentation**, not fraud: Akshay may **avoid** the contract but **cannot claim damages** (CSQ 3.10).

Fraud: the injured party can repudiate **and** claim damages. Misrepresentation: repudiate (or sue for restitution) but **no damages**.

MEMORY TRICK **The dishonest pay damages; the honest-but-wrong only lose the deal.**

CARD 2.42 T 3.3 · CONCEPT

★★ OL 3.3.12, 3.3.13 · Scanner U3 CSQ 3.1, U3 CSQ 3.6 · SM pp.2.69, 2.93–2.94

FRONT · RECALL ALOUD

When does a misled buyer lose the right to rescind: (a) when he had **means of discovering the truth**; (b) when he accepted an offer to **repair**?

BACK · ANSWER

Means of discovering the truth: if the party whose consent was caused by misrepresentation (or by fraudulent silence) had the means of discovering the truth with ordinary diligence, the contract is **not voidable**.

Car's fuel-efficiency claim: both fuel meter and speed meter were working perfectly, so Harish could have checked → cannot rescind (CSQ 3.1).

Affirmation: an aggrieved party loses the right to rescind if, after becoming aware of the misrepresentation, he takes a benefit under the contract or **affirms** it.

Suraj accepted Sohan's offer to bear a share of the repair cost → impliedly accepted the sale → cannot rescind (CSQ 3.6).

MEMORY TRICK **Could have checked? Then no. Took the repair deal? Then you stayed.** Both close the exit door.

CARD 2.43 T 3.3 · COMPARE

★★★ OL 3.3.10, 3.3.11, 3.3.14 · Scanner U3 TQ 3.7 · SM p.2.71

FRONT · RECALL ALOUD

Distinguish **fraud** from **misrepresentation**.

BACK · ANSWER

Intention: fraud: to deceive the other party by hiding the truth; misrepresentation: no intention to deceive.

Knowledge: fraud: the maker believes the statement to be untrue; misrepresentation: the maker believes it to be true, although it is not.

Remedy: fraud: repudiate and claim **damages**; misrepresentation: repudiate or sue for restitution but **no damages**.

Means to discover truth: fraud: the fraudster cannot protect himself by saying the other had the means; misrepresentation: the maker can plead that the injured party had the means.

MEMORY TRICK **I-K-R-M:** Intention, Knowledge, Remedy, Means-to-discover are the four rows to write in the answer.

CARD 2.44 T 3.3 · RECALL CHAIN

★★★ OL 3.3.1, 3.3.3, 3.3.6, 3.3.10 · No direct Q · SM pp.2.65–2.73

FRONT · RECALL ALOUD

Recall the five factors that spoil free consent and the effect of each.

BACK · ANSWER

Coercion (s. 15): crime-forbidden act or unlawful detention of property → voidable (s. 19).

Undue influence (s. 16): dominant will plus unfair advantage → voidable (s. 19A).

Fraud (s. 17): deliberate deceit → voidable, with damages.

Misrepresentation (s. 18): innocent untruth → voidable, no damages.

Mistake (ss. 20–22): bilateral mistake of fact → **void**; unilateral mistake → not voidable.

MEMORY TRICK **C-U-F-M-M:** Coercion, Undue influence, Fraud, Misrepresentation, Mistake. The first four are voidable; only (bilateral) mistake makes the agreement void.

CARD 2.45 T 3.4 · MEMORISE

★★ OL 3.4.1, 3.4.2, 3.5.8 · Scanner U3 TQ 4.3, U3 CSQ 4.3, U3 CSQ 5.1 · SM pp.2.73–2.74

FRONT · RECALL ALOUD

State the **six heads** under s. 23 in which consideration or object is unlawful. Is a loan taken to pay for a murder valid?

BACK · ANSWER

(1) **forbidden by law**; (2) of such a nature that it would **defeat the provisions of law**; (3) **fraudulent**; (4) involves **injury to person or property** of another; (5) **immoral**; (6) opposed to **public policy**.

Examples: dowry-linked marriage contract (forbidden); dividing gains acquired by fraud; printing a book in breach of copyright; a loan to a married woman to obtain a divorce and marry the lender (immoral, SM Example 36).

Collateral loan: X promises ₹1,00,000 to Y to kill Z; W lends X the money knowing the purpose → X–Y agreement void (illegal) and X–W agreement void too, as connected agreements to an illegal agreement are void (CSQ 4.3).

MEMORY TRICK **F-D-F-I-I-P: Fully Dishonest Frauds Injure Immorally the Public = Forbidden, Defeats law, Fraudulent, Injury, Immoral, Public policy.**

CARD 2.46 T 3.4 · CONCEPT

★★ OL 3.4.3, 3.5.8 · Scanner U3 CSQ 4.5, U3 CSQ 5.2 · SM p.2.77

FRONT · RECALL ALOUD

What is the effect of **s. 24** where part of the consideration or object is unlawful? Apply it to smuggling gold with a textile clause, and to a house sale with a gambling penalty.

BACK · ANSWER

s. 24: if any part of a single consideration for one or more objects, or any part of one of several considerations for a single object, is unlawful, the **agreement is void**.

Where the legal part can be **severed**, the bad part is rejected and the good retained; where the illegal part **cannot be severed**, the whole contract is void.

Smuggling gold with the profits to be invested in a textile business: the investment depended on the illegal profits → not separable → **entire agreement void** (CSQ 4.5).

House sold for ₹10,00,000 plus ₹50,000 payable if used for gambling: the **sale is valid**, the gambling clause is void; A cannot claim the ₹50,000 (CSQ 5.2).

MEMORY TRICK **Can you cut it out cleanly?** If yes, cut and keep the good part; if not, bin the lot. Gold-and-textiles: tangled. House-and-gambling: separable.

CARD 2.47 T 3.4 · MEMORISE

★ OL 3.4.4 · Scanner U3 TQ 4.2 · SM pp.2.75–2.77

FRONT · RECALL ALOUD

List the **nine heads of agreements opposed to public policy**.

BACK · ANSWER

(1) **Trading with enemy**; (2) **stifling prosecution**; (3) **maintenance and champerty**;

(4) **trafficking in public offices and titles**; (5) agreements tending to create **monopolies**; (6) **marriage brokerage** agreements;

(7) **interference with the course of justice**; (8) **interest against obligation** (e.g. an agent paid privately by the other side); (9) **consideration unlawful in part** (s. 24).

A marriage bureau that only gives information is not covered by marriage brokerage.

MEMORY TRICK **Three triplets:** (Enemy, Prosecution, Maintenance) · (Offices, Monopolies, Marriage brokers) · (Justice, Interest, Part-unlawful).

CARD 2.48 T 3.4 · CONCEPT

OL 3.4.5 · Scanner U3 TQ 4.1, U3 CSQ 4.2 · SM p.2.76

FRONT · RECALL ALOUD

What is **trafficking in public offices and titles**? Is paying a public servant to retire, or paying to procure a Padma award, valid?

BACK · ANSWER

Opposed to public policy: it interferes with the appointment of the person **best qualified** for the public service. There must be **no money consideration** for an appointment to an office in which the public is interested.

Void: an agreement to pay a public servant to **retire** so that another may be appointed (Mr D offered ₹10 lakh to Mr S, CSQ 4.2); an agreement to procure a public recognition such as **Padma Vibhushan** for reward.

SM example: ₹15,000 paid to an officer for a Forest-department job for the payer's son cannot be recovered.

MEMORY TRICK **Offices and honours are not for sale.** If a price tag hangs on a post or a Padma, the deal is void.

CARD 2.49 T 3.4 · CONCEPT

OL 3.4.6 · Scanner U3 TQ 4.1 · SM pp.2.9, 2.75

FRONT · RECALL ALOUD

What is **stifling prosecution**? Is an agreement to drop a criminal case ever valid?

BACK · ANSWER

An agreement to prevent **proceedings already instituted** from running their normal course; it perverts or abuses justice and is **void**.

Principle: one should **not make a trade of felony**; the compromise of any public offence is generally illegal.

Exception: a **compoundable offence** (statutory list under the Criminal Procedure Code): agreeing to drop proceedings for something in return is **not** opposed to public policy. It is otherwise for an **uncompoundable** offence.

SM examples: land sold to B in return for B not prosecuting a compoundable offence → valid; A drops the prosecution of B for robbery against B restoring the value of the things taken → void.

MEMORY TRICK **Compoundable can settle; uncompoundable cannot be sold.** Never trade a felony.

CARD 2.50 T 3.4 · CONCEPT

OL 3.4.7, 3.5.7 · Scanner U3 CSQ 4.1, U3 CSQ 5.4 · SM pp.2.76–2.77

FRONT · RECALL ALOUD

X promises ₹10 lakh to a judicial officer (or a legal expert) if he does not take up the opponent's brief. Can he recover the promised sum?

BACK · ANSWER

No. The agreement is **void**: it interferes with the **course of justice** and is opposed to public policy.

SM: an agreement to induce a judicial officer to act partially or corruptly is void; so is a reward to an intended witness for absenting himself from the trial.

CSQ 4.1 treats it as opposed to public policy; CSQ 5.4 reasons under **s. 27** (restraint of a lawful profession). Either way Mr C / Mr X cannot recover the amount.

MEMORY TRICK **You cannot buy a judge, and you cannot buy a lawyer's silence.** Justice is not a commodity.

CARD 2.51 T 3.5 · MEMORISE

SM text · No direct Q · SM pp.2.77–2.78

FRONT · RECALL ALOUD

List the agreements **expressly declared void** by the Contract Act, with section numbers.

BACK · ANSWER

Incompetent parties (**s. 11**) · bilateral mistake of fact (**s. 20**) · unlawful consideration or object (**s. 23**) · unlawful in part (**s. 24**) · without consideration (**s. 25**, see Unit 2).

Restraint of marriage (**s. 26**) · restraint of trade (**s. 27**) · restraint of legal proceedings (**s. 28**) · uncertain meaning (**s. 29**) · wagering (**s. 30**) · impossible acts (**s. 56**).

s. 26 voids restraint of marriage of any person **other than a minor**.

MEMORY TRICK **11, 20, then 23 to 30, then 56.** Eleven in all: one at s. 11, one at s. 20, eight in a row (ss. 23–30), one at s. 56.

CARD 2.52 T 3.5 · CONCEPT

★★★ OL 3.4.8, 3.5.5, 3.5.6 · Scanner U3 CSQ 4.4, U3 CSQ 5.1, U3 CSQ 5.3, U3 CSQ 5.5, U3 CSQ 5.6 · SM p.2.78

FRONT · RECALL ALOUD

State **s. 27** and the **goodwill exception**. Which other restraints are valid, e.g. an employee during service?

BACK · ANSWER

s. 27: an agreement restraining a person from exercising a lawful profession, trade or business of any kind is, to that extent, **void**.

Goodwill exception: the seller of goodwill may agree not to carry on a **similar business**, within **specified local limits**, so long as the buyer or his successor carries on a like business there; the limits must be **reasonable**.

Void: 'forever and anywhere in India' (CSQ 5.1); the whole of India for ten years (CSQ 5.3). Valid: Rishabh sells goodwill, local limits (CSQ 4.4). Only **similar** business is restrained: diamond jewellery was not covered by a sale of artificial jewellery (CSQ 5.5).

Employee during service may be barred from competing with his employer (surgeon's assistant, CSQ 5.6); also valid: outgoing partner (s. 36, Partnership Act) and partners during the partnership (s. 11, Partnership Act).

MEMORY TRICK **G-L-R: Goodwill sold, Limits local, Reasonable.** Sell the shop, not the right to earn a living everywhere.

CARD 2.53 T 3.5 · CONCEPT

★★ OL 3.5.6 · Scanner U3 CSQ 5.1, U3 CSQ 5.6 · SM pp.2.78–2.79

FRONT · RECALL ALOUD

State **s. 28**. Is an agreement that a suit be filed in only one of two competent courts valid? And an arbitration clause?

BACK · ANSWER

s. 28: an agreement that **absolutely restricts** a party from enforcing his rights through a court, or **abridges the usual period** for starting legal proceedings, is **void**.

Prakash and Girish agreeing not to institute legal proceedings against each other without consent → void (CSQ 5.1).

Valid: where two courts have jurisdiction, an agreement that the suit be filed in **one** of them alone; there is no absolute bar (CSQ 5.6).

Arbitration: reference of disputes to arbitration with only the award recoverable is valid; questions already arisen or arising in future may be referred, if in writing.

MEMORY TRICK **Do not lock the courthouse door.** You may choose one door; you may not bolt them all.

CARD 2.54 T 3.5 · CONCEPT

★ OL 3.5.4 · Scanner U3 TQ 5.2 · SM p.2.79

FRONT · RECALL ALOUD

State **s. 29**. When is an agreement for "a hundred tons of oil" void and when valid?

BACK · ANSWER

s. 29: an agreement whose meaning is **not certain** is **void**; if the meaning is **capable of being made certain**, it is valid.

A agrees to sell B "a hundred tons of oil" with nothing to show what kind → **void for uncertainty**.

If A deals **only in coconut oil**, the meaning can be made certain → **valid**.

MEMORY TRICK **Which oil?** If the facts answer the question, the agreement is valid; if nothing does, it is void.

CARD 2.55 T 3.5 · MEMORISE

★★ OL 3.5.1 · Scanner U3 TQ 5.3, U3 TQ 5.4 · SM pp.2.79, 2.86

FRONT · RECALL ALOUD

Define a **wagering agreement** (s. 30) and state its **essentials**.

BACK · ANSWER

An agreement **by way of wager is void**: payment of a sum of money upon the determination of an **uncertain event**, each side standing to win or lose. No suit lies to recover an amount won on a wager.

Essentials: (1) promise to pay **money or money's worth**; (2) **conditional** on an event happening or not; (3) **uncertainty** of the event; (4) **two parties**, each to win or lose; (5) **common intention to bet**; (6) no interest in the event except the stake.

Example: A pays ₹50,000 to B if it rains, B pays A the same if it does not. But if one party has control over the event, it is not a wager.

MEMORY TRICK **M-C-U-T-I-N:** Money, Conditional, Uncertain, Two sides, Intention to bet, No other interest.

CARD 2.56 T 3.5 · MEMORISE

★★ OL 3.5.2 · Scanner U3 TQ 5.3, U3 TQ 5.4 · SM pp.2.80–2.81

FRONT · RECALL ALOUD

Which transactions resemble a wager but are **not void**? State the ₹ limits for skill competitions and horse-race prizes.

BACK · ANSWER

Chit fund; commercial or share-market transactions where **delivery** is intended; **games of skill** (prizes awarded on skill and intelligence); **contract of insurance**; horse-race plate or prize.

Skill competitions: valid under the **Prize Competition Act, 1955** if the prize money does **not exceed ₹1,000**.

Horse race: s. 30 does not apply to a contribution toward a plate, prize or sum of the value of **₹500 or above** to the winner; a horse-race prize of **less than ₹500** is a wager.

Settling only the **difference** with no delivery intended is gambling and void; a lottery, even if government-sanctioned, is a wager.

MEMORY TRICK **Chit, Delivery, Skill, Insurance** are safe. Two numbers: **₹1,000 is the skill ceiling; ₹500 is the horse-race floor.**

CARD 2.57 T 3.5 · COMPARE

★ OL 3.5.3 · Scanner U3 TQ 5.1 · SM pp.2.81–2.82

FRONT · RECALL ALOUD

Distinguish a **contract of insurance** from a **wagering agreement** (seven points).

BACK · ANSWER

Meaning: insurance: contract to indemnify the loss; wager: promise to pay money or money's worth on an uncertain event.

Consideration: insurance: mutual (premium and compensation); wager: just gambling for money.

Insurable interest: insurance: the insured has an interest in the life or property; wager: none, betting on another's life or property.

Indemnity: insurance (except life) indemnifies the insured; wager: the loser pays a fixed amount. **Enforceability:** insurance valid; wager void.

Premium: scientific, actuarial calculation of risk vs. no logical calculation. **Public welfare:** beneficial to society vs. against public welfare.

MEMORY TRICK **My Cat Is In Every Perfect Place:** Meaning, Consideration, Interest, Indemnity, Enforceability, Premium, Public welfare.

CARD 2.58 T 3.5 · CONCEPT

★★ OL 3.5.9 · Scanner U3 CSQ 5.1, U3 CSQ 5.7, U1 CSQ 3.3, U1 CSQ 3.5 · SM pp.2.72–2.73

FRONT · RECALL ALOUD

What is the effect of a **bilateral mistake** as to the existence of the subject matter (s. 20)? Contrast unilateral mistake and mistake of law.

BACK · ANSWER

s. 20: where **both parties** are under a mistake as to a matter of fact **essential to the agreement**, the agreement is **void**.

Examples: black horse already dead (CSQ 5.1(ii)); Block D flat destroyed by an earthquake unknown to both, so Sakshi cannot demand Block A instead (CSQ 5.7).

Bilateral mistake may relate to the quality, existence, identity, title, price or quantity of the subject matter.

s. 22: a unilateral mistake of fact does **not** make a contract voidable. Mistake of **Indian law** gives no relief; mistake of **foreign law** is treated as mistake of fact (void).

MEMORY TRICK **Both wrong = void; one wrong = bound.** Dead horse, destroyed flat: nothing left to sell.

CA FOUNDATION · PAPER 2 · BUSINESS LAWS

Flash Cards with Memory Tricks

Chapter 2 · The Indian Contract Act, 1872 — Units 4 to 6 · 63 cards

How to use these cards

- Read the **front** and answer **aloud** before you look at the back.
- Then read the **memory trick**. If it does not click, make up your own and write it beside the card.
- Each card carries its **Scanner question numbers**, so you can attempt those questions straight after the card.
- Give every card a **second look after 1 day and again after 1 week.**

Reading the stars

★★★	Asked by ICAI 6 or more times. Learn word for word.
★★	Asked 3 to 5 times. Know the key terms and the lists.
★	Asked once or twice. Read once; recognise it in the exam.
–	Taken from the Study Material text. Not a One Liner line, but useful for understanding.

Topics in this chapter

Topic	Name	Card numbers	Count	Highest stars
4.1	Performance of Contract	2.59 – 2.61	3	★★
4.3	By Whom a Contract May Be Performed (Section 40, 41 and 42)	2.62 – 2.66	5	★★
4.5	Liability of Joint Promisor & Promisee	2.67 – 2.71	5	★★★
4.7	Performance of Reciprocal Promise	2.72 – 2.74	3	★★
4.8	Appropriation of Payments	2.75 – 2.78	4	★★★
4.9	Contracts, Which Need not be Performed – with the consent of both the parties	2.79 – 2.81	3	★★
4.10	Discharge of a Contract	2.82 – 2.86	5	★★★
5.1	Anticipatory Breach of Contract	2.87 – 2.90	4	★★★
5.3	Suit for Damages	2.91 – 2.97	7	★★★
5.4	Penalty and Liquidated Damages (Section 74)	2.98 – 2.105	8	★★
6.1	Contingent Contracts	2.106 – 2.111	6	★★★
6.2	Rules Relating to Enforcement	2.112	1	★
6.3	Quasi Contracts	2.113 – 2.121	9	★★★

Source: ICAI Study Material (July 2026), Scanner Business Laws 2026 October, One Liners P2. Stars follow the One Liners deck. "OL" is the One Liner reference; "TQ" and "CSQ" are the theory and case-scenario question numbers in the Scanner (in Chapters 2, 3 and 4 they carry the unit, e.g. U3); "SM p." is the Study Material page.

CARD 2.59 T 4.1 · MEMORISE

★ OL 4.1.1 · Scanner U4 TQ 1.1, U4 CSQ 1.1 · SM p.2.96

FRONT · RECALL ALOUD

What does **Section 37** require of the parties to a contract, and in what two forms can performance take place?

BACK · ANSWER

Parties must either **perform, or offer to perform**, their promises unless performance is dispensed with or excused by the Act or any other law.

Performance may be **actual** or **attempted** (tender).

Promises bind the **representatives** of the promisor on death, unless a contrary intention appears; a contract needing **personal skill** ends.

MEMORY TRICK **P-O-P**: Perform or Offer to Perform. Two ways in, one rule: nobody can demand your promise until they have done theirs.

CARD 2.60 T 4.1 · MEMORISE

★★ OL 4.1.2, 4.1.3 · Scanner U4 CSQ 1.1, U4 CSQ 1.2 · SM pp.2.96–2.97

FRONT · RECALL ALOUD

List the **four conditions of a valid tender** (attempted performance).

BACK · ANSWER

(i) **Unconditional**.

(ii) Made at the **proper time and place**.

(iii) **Reasonable opportunity to examine** the goods.

(iv) For the **whole obligation** (offering 80 bales out of 100 is not a valid tender).

MEMORY TRICK **U-T-E-W**: Unconditional, Time-and-place, Examine, Whole. Think "You Tender Entire Whole".

CARD 2.61 T 4.1 · CONCEPT

★★ OL 4.1.2, 4.1.3 · Scanner U4 CSQ 1.1, U4 CSQ 1.2 · SM pp.2.96–2.97

FRONT · RECALL ALOUD

Supplier delivers 5,000 of 10,000 bricks on the due date and promises the rest tomorrow. Can the buyer avoid the contract? Another buyer gets jute only after the date fixed for quality checks. Same question.

BACK · ANSWER

Part delivery is not valid performance: tender must be for the **whole obligation**, so the buyer may avoid the contract.

Delivery that denies the promisee a **reasonable opportunity to examine** the goods is not valid performance either, so the buyer may avoid it.

MEMORY TRICK A tender is like a full tiffin box: half-filled or handed over with no time to open it, it is not accepted as a proper meal.

CARD 2.62 T 4.3 · MEMORISE

★ OL 4.3.1 · Scanner U4 TQ 3.1 · SM pp.2.97–2.98

FRONT · RECALL ALOUD

By whom may a contract be performed (Ss. 40–42)? Name all five.

BACK · ANSWER

(1) The **promisor himself** (if personal skill or confidence is involved).

(2) His **agent**, where personal consideration is not the foundation.

(3) His **legal representative** (liability limited to the value of property inherited).

(4) A **third person** whose performance the promisee accepts (S. 41).

(5) **Joint promisors** (S. 42).

MEMORY TRICK **P-A-L-T-J**: Promisor, Agent, Legal rep, Third person, Joint promisors, said as "Pal, TJ".

CARD 2.63 T 4.3 · CONCEPT

★ OL 4.3.2 · Scanner U4 TQ 3.1, U4 CSQ 3.1, U4 CSQ 3.2 · SM p.2.98

FRONT · RECALL ALOUD

X owes Y ₹1,00,000. Z, a stranger, pays ₹60,000 on X's behalf and Y accepts it. Can Y sue X for the full sum? State the section.

BACK · ANSWER

Section 41: when a promisee accepts performance from a third person, he cannot afterwards enforce it against the promisor.

The promisor is discharged to that extent, although he neither authorised nor ratified it.

So Y can sue X **only for the balance** of ₹40,000.

MEMORY TRICK **Stranger's cash, Y's cap**: once you take the stranger's money, the debt is reduced by exactly that much.

CARD 2.64 T 4.3 · CONCEPT

★ OL 4.3.3 · Scanner U4 CSQ 3.2 · SM pp.2.97–2.98

FRONT · RECALL ALOUD

A singer misses the third week through illness and the hotel terminates. What if the hotel lets her sing in week four, or lets a substitute sing in week three, without saying anything?

BACK · ANSWER

Singer absent: the hotel may **repudiate** the contract (personal performance, S. 40).

Allowing performance **after default** shows assent to continue: hotel **cannot terminate** but may claim **damages** from the singer.

Allowing a **substitute** without objection: assent to performance by a third party, so no termination and **no damages** (S. 41).

MEMORY TRICK **Silence is a green light**: the hotel's silence lets the show go on, and the price of the delay is paid only in damages.

CARD 2.65 T 4.3 · CONCEPT

★★ OL 4.3.4, 4.7.4 · Scanner U4 CSQ 3.3, U4 CSQ 7.1 · SM pp.2.97–2.98, 2.104–2.105

FRONT · RECALL ALOUD

A painter promises a portrait and dies, or is paralysed, before finishing. Does the contract survive? What if the promisor dies before delivering photographs?

BACK · ANSWER

Painting involves **personal skill**: the contract **ends** on death; representatives are **not** bound and the promisee cannot enforce it (S. 40).

Paralysis is **supervening impossibility** (personal incapacity): contract **void**, so the **advance is refundable**.

Photographs: the representatives **are bound** to deliver (S. 37), unless a contrary intention appears.

MEMORY TRICK **Brush dies with the painter; boxes pass to the heirs.** Personal skill dies with the person; goods are inherited.

CARD 2.66 T 4.3 · COMPARE

SM text · No direct Q · SM pp.2.98–2.99

FRONT · RECALL ALOUD

Distinguish **succession** from **assignment** of contractual rights and liabilities.

BACK · ANSWER

Succession: **benefit and burden** pass to the legal heir, but liability is limited to the **property inherited**.

Assignment: only the **benefit** can be assigned, **not the liability**; a debtor cannot escape his debt by assigning the obligation to repay.

A benefit coupled with a liability, or involving personal consideration, **cannot be assigned**.

MEMORY TRICK **Heirs inherit both; assignees get only the plus side.** Succession = whole parcel, assignment = only the gain.

CARD 2.67 T 4.5 · MEMORISE

★★ OL 4.5.1 · Scanner U4 TQ 5.1, U4 CSQ 5.2 · SM pp.2.99, 2.101

FRONT · RECALL ALOUD

How do **Section 42** (joint promisors) and **Section 45** (joint promisees) devolve on death?

BACK · ANSWER

S. 42: during their joint lives all must fulfil jointly; on death of one, **his representative jointly with the survivors**; after the last survivor, **representatives of all jointly**.

S. 45 (rights): claim rests with the promisees jointly; on death, with the **representative jointly with the survivors**; finally the **representatives of all jointly**.

Applies unless a **contrary intention** appears.

MEMORY TRICK **Chain of three**: living together, then heir + survivors, then heirs of all. Same chain for debts (S. 42) and rights (S. 45).

CARD 2.68 T 4.5 · CONCEPT

★★★ OL 4.5.2 · Scanner U4 TQ 5.1, U4 CSQ 5.1, U4 CSQ 5.2, U4 CSQ 5.4 · SM p.2.99–2.100

FRONT · RECALL ALOUD

X, Y and Z jointly borrow ₹90,000 from L. Can L compel Y alone to pay the whole? What is the effect of S. 43?

BACK · ANSWER

Section 43: the promisee may, absent contrary agreement, compel **any one or more** of the joint promisors to perform the **whole** promise.

So liability is **joint and several**, and L can recover ₹90,000 from Y alone.

If X, Y and Z all die, L cannot choose only Y's representatives: **representatives of all** are jointly liable (S. 42).

MEMORY TRICK **One for all, and any one for all**: the creditor picks whichever pocket is deepest.

CARD 2.69 T 4.5 · CONCEPT

★★★ OL 4.5.3 · Scanner U4 TQ 5.1, U4 CSQ 5.1, U4 CSQ 5.3, U4 CSQ 5.4 · SM pp.2.99–2.100

FRONT · RECALL ALOUD

Joint promisor X pays the whole debt. What can he recover from the others, and who bears the loss if one defaults? (Section 43)

BACK · ANSWER

Each joint promisor may compel every other to **contribute equally**, unless a contrary intention appears.

If any one **makes default** in contribution, the **remaining joint promisors bear the loss in equal shares**.

A legal representative is liable only up to the **property of the deceased received**.

MEMORY TRICK **Split equally, and a missing share is re-split by those still standing.** Like friends dividing a bill when one runs off.

CARD 2.70 T 4.5 · FORMULA

★★★ OL 4.5.3 · Scanner U4 CSQ 5.3, U4 CSQ 5.4 · SM p.2.100

FRONT · RECALL ALOUD

A, B and C jointly promise ₹3,00,000 to D. C pays nothing and A is compelled to pay the whole. How much does A recover? In U4 CSQ 5.4, A cannot pay: what do B and C pay of ₹6,000?

BACK · ANSWER

Equal share = ₹3,00,000 ÷ 3 = ₹1,00,000. C's default is shared by A and B, so A is entitled to **₹1,50,000 from B** (SM Example 15).

CSQ 5.4: A pays nothing, so **B and C bear ₹3,000 each**.

MEMORY TRICK **Divide by those left**: when one drops out, divide the total by the number still standing.

CARD 2.71 T 4.5 · CONCEPT

★ OL 4.5.4 · Scanner U4 CSQ 5.2 · SM p.2.100

FRONT · RECALL ALOUD

The creditor releases joint promisor X. Are Y and Z discharged? Does X still owe anything? (S. 44)

BACK · ANSWER

Section 44: release of one joint promisor does **not discharge the others**.

Nor does it free the released promisor from **responsibility to the other joint promisors**.

So Y and Z still owe the whole, and X must still **contribute** to them.

MEMORY TRICK **The creditor's kindness is not shared**: the release is between X and the creditor only; X's duty to his co-promisors survives.

CARD 2.72 T 4.7 · CONCEPT

★★ OL 4.7.1 · Scanner U4 CSQ 7.2 · SM p.2.102

FRONT · RECALL ALOUD

Seller must deliver a machine and receive payment on delivery; buyer does not pay on the day. Must the seller deliver? (S. 51)

BACK · ANSWER

Section 51: where reciprocal promises are to be performed **simultaneously**, no promisor need perform unless the promisee is **ready and willing** to perform his promise.

They are **concurrent conditions**, so the seller need not deliver.

MEMORY TRICK **Cash and goods shake hands together**: no hand moves first.

CARD 2.73 T 4.7 · CONCEPT

★ OL 4.7.2 · Scanner U4 CSQ 7.3 · SM p.2.104

FRONT · RECALL ALOUD

When time is of the essence and the supplier is late, what can the promisee do? What if time is not of the essence? (S. 55)

BACK · ANSWER

Time essential: the contract (or the unperformed part) becomes **voidable at the promisee's option**.

Time not essential: not voidable, but the promisee gets **compensation** for loss.

If a voidable contract's late performance is accepted, **no compensation** for the delay unless **notice** is given at the time of acceptance.

MEMORY TRICK **Essence = exit option**; **no essence = money only**. Accept late goods quietly and you have waived your claim.

CARD 2.74 T 4.7 · CONCEPT

★ OL 4.7.3 · Scanner U4 CSQ 7.4 · SM pp.2.104, 2.107

FRONT · RECALL ALOUD

A builder's mall contract is replaced by consent with a hotel contract; a new law then bans hotels in that zone. Is he liable for breach?

BACK · ANSWER

Substituting the new contract is **novation (S. 62)**: the mall contract is discharged.

The ban is a **change in law after formation**, which makes performance unlawful: contract **void under S. 56**.

So **no breach and no damages**; both parties are relieved.

MEMORY TRICK **Swap, then stop**: Section 62 swaps the contract, Section 56 stops it.

CARD 2.75 T 4.8 · MEMORISE

★★ OL 4.8.1 · Scanner U4 TQ 8.1, U4 CSQ 8.1, U4 CSQ 8.2 · SM pp.2.106–2.107

FRONT · RECALL ALOUD

State the three rules of **appropriation of payments** (Ss. 59, 60, 61) in order.

BACK · ANSWER

S. 59: debtor intimates (expressly or by circumstances) which debt: payment, if accepted, **must be applied accordingly**.

S. 60: no intimation: **creditor** may apply it to any **lawful debt** due, even if **time-barred**, but **not to a disputed debt**.

S. 61: neither appropriates: **order of time**, time-barred or not; debts of **equal standing**: **proportionately**.

MEMORY TRICK **Debtor, Creditor, Law** (59, 60, 61): each steps in only when the one before stays silent.

CARD 2.76 T 4.8 · CONCEPT

★★★ OL 4.8.2 · Scanner U4 CSQ 8.1, U4 CSQ 8.2 · SM p.2.106

FRONT · RECALL ALOUD

A debtor owes bills of ₹12,120, ₹5,650 and ₹9,680 and sends a cheque for exactly ₹9,680 with no notice. Which debt does it clear? What of a further ₹15,000 cheque?

BACK · ANSWER

An **exact-amount cheque implies** the matching debt (S. 59, circumstances): ₹9,680 clears the ₹9,680 bill.

The ₹15,000 cheque carries no intimation: the creditor may apply it to **any lawful debt**, even time-barred (S. 60), e.g. ₹12,120 first and the balance to ₹5,650.

MEMORY TRICK **Match the cheque to the bill**: a number that fits one invoice speaks for the debtor.

CARD 2.77 T 4.8 · CONCEPT

★ OL 4.8.3 · Scanner U4 CSQ 8.3 · SM p.2.106

FRONT · RECALL ALOUD

Debtor with two loans (₹3,00,000 guaranteed, ₹4,00,000 not) sends ₹2,00,000 without intimation. The bank applies it to the unguaranteed loan. Valid?

BACK · ANSWER

Yes. With no intimation and no implying circumstances, **S. 60** lets the creditor apply it at his **discretion** to any lawful debt due.

The guarantor cannot insist that the guaranteed loan be paid first.

MEMORY TRICK **No word from the debtor, the creditor holds the pen.**

CARD 2.78 T 4.8 · MCQ TRAP

★★ OL 4.8.1 · Scanner U4 TQ 8.1, U4 CSQ 8.2 · SM p.2.106–2.107

FRONT · RECALL ALOUD

Time-barred and disputed debts: what is the position under S. 60 and S. 61? Where does the tempting wrong answer go astray?

BACK · ANSWER

S. 60: creditor **may** apply to a **time-barred** debt but **never to a disputed debt**.

S. 61: order of time applies **whether or not** debts are time-barred; equal standing means **proportionate** (e.g. ₹4,000 over ₹5,000 and ₹3,000 gives ₹2,500 and ₹1,500).

Wrong: "time-barred debts are excluded"; the Act includes them.

MEMORY TRICK **Barred is allowed, disputed is denied.**

CARD 2.79 T 4.9 · MEMORISE

★★ OL 4.9.1 · Scanner U4 TQ 9.1 · SM pp.2.107–2.110

FRONT · RECALL ALOUD

Which sections cover contracts that **need not be performed** by consent, and what does each say in a line?

BACK · ANSWER

S. 62: substitute a new contract, rescind or alter.

S. 63: promisee dispenses with or remits performance, extends time or accepts any satisfaction.

S. 64: party rescinding a voidable contract restores any benefit.

S. 65: advantage under a void agreement or contract that becomes void must be restored.

S. 67: promisee neglects reasonable facilities: promisor excused. **S. 66**: rescission is communicated like a proposal.

MEMORY TRICK **62-63-64-65-67, with 66 as the postman**: the one section that only carries the message.

CARD 2.80 T 4.9 · COMPARE

★★ OL 4.9.2 · Scanner U4 TQ 9.2 · SM pp.2.107–2.108

FRONT · RECALL ALOUD

Distinguish **novation** from **alteration** (Ss. 62–67).

BACK · ANSWER

Novation: an existing contract is **substituted by a new one**; parties may **change**.

Alteration: terms are **altered by mutual agreement**; the **parties stay the same**.

Novation replaces the whole contract; alteration need not, only **some terms** change.

MEMORY TRICK **Novation = new; alteration = adjusted.** Same faces in alteration, maybe new faces in novation.

CARD 2.81 T 4.9 · MEMORISE

SM text · No direct Q · SM p.2.107

FRONT · RECALL ALOUD

How does **rescission** differ from novation under S. 62?

BACK · ANSWER

Rescission: only the old contract is **cancelled**; **no new contract** takes its place.

Novation also involves rescission, but a **new contract is substituted**.

Both discharge the contract by **mutual agreement**.

MEMORY TRICK **Rescind = rub out; novate = rub out and rewrite.**

CARD 2.82 T 4.10 · MEMORISE

★★★ OL 4.10.1 · Scanner U4 TQ 10.1, U4 TQ 10.2, U4 CSQ 10.1, U4 CSQ 10.2, U4 CSQ 10.3 · SM pp.2.104–2.105, 2.111

FRONT · RECALL ALOUD

What is **supervening impossibility** (S. 56) and what are its causes? What is its effect?

BACK · ANSWER

Performance possible when made, but later becomes **impossible or unlawful** through an event beyond contemplation.

Causes: unforeseen **change in law**; **destruction** of the subject-matter; **personal incapacity** such as dangerous malady; declaration of **war**.

Effect: contract **void**, parties discharged.

MEMORY TRICK **L-D-I-W**: Law, Destruction, Incapacity, War, the four ways a deal dies after birth.

CARD 2.83 T 4.10 · CONCEPT	★★★ OL 4.10.1, 4.10.3 · Scanner U4 CSQ 10.1, U4 CSQ 10.2 · SM pp.2.105, 2.111
FRONT · RECALL ALOUD Sugar to be supplied within ten days; floods destroy the only road. The seller claims compensation for refusal; the buyer wants his advance back. Decide. A shipper's government declares war on the port country: can K sue J?	BACK · ANSWER Contract becomes **void (S. 56)**; there is no room for compensation, so the seller's claim fails. The buyer may recover the **advance** (S. 65). War declared after the contract is a supervening impossibility: **K cannot sue J** for performance.

MEMORY TRICK **Act of nature or state: void, no blame, money back.**

CARD 2.84 T 4.10 · CONCEPT	★★★ OL 4.10.3 · Scanner U4 CSQ 10.1, U4 CSQ 10.3, U4 TQ 10.1 · SM p.2.109
FRONT · RECALL ALOUD A house is demolished after the buyer paid token money. What is the buyer's right? (S. 65)	BACK · ANSWER When an agreement is discovered void or a contract **becomes void**, a person who received an **advantage** must **restore it or make compensation**. So the buyer is entitled to a **refund** of the token money. Only benefit received **under the contract** is restored.

MEMORY TRICK **Void means return**: what you were given, you give back.

CARD 2.85 T 4.10 · MEMORISE	★★ OL 4.10.2 · Scanner U4 TQ 10.2 · SM pp.2.110–2.112
FRONT · RECALL ALOUD List the **modes of discharge** of a contract.	BACK · ANSWER (1) **Performance** (actual or attempted); (2) **mutual agreement**; (3) **impossibility**; (4) **lapse of time** (Limitation Act, 1963); (5) **operation of law** (death, insolvency); (6) **breach** (actual or anticipatory); (7) **remission** (S. 63); (8) promisee's neglect of facilities (S. 67); (9) **merger** of rights.

MEMORY TRICK **Nine doors out**: P-A-I-L-O-B-R-N-M (Performance, Agreement, Impossibility, Lapse, Operation, Breach, Remission, Neglect, Merger).

CARD 2.86 T 4.10 · CONCEPT	SM text · Scanner U4 TQ 10.2 · SM pp.2.112–2.113
FRONT · RECALL ALOUD What is **merger of rights** as a mode of discharge? Give the SM illustration.	BACK · ANSWER Inferior and superior rights **meet in one person**; the inferior rights **vanish** and need not be enforced. A lessee who **buys the leased land** becomes owner; ownership is superior, so the **lease stands terminated**.

MEMORY TRICK **Tenant turns landlord, the lease melts away.**

CARD 2.87 T 5.1 · CONCEPT

★★★ OL 5.1.1 · Scanner U5 TQ 1.1, U5 CSQ 1.1 · SM pp.2.123–2.124

FRONT · RECALL ALOUD

What does **Section 39** say when a party refuses to perform the whole promise? What can the promisee not do if he has agreed to continue?

BACK · ANSWER

If a party refuses or **disables himself** from performing his promise **in its entirety**, the promisee **may put an end to the contract**, unless he has signified by **words or conduct** his **acquiescence** in its continuance.

Once he agrees to continue, he cannot later rescind on that ground.

In either case he may claim **damages** (S. 75 for rightful rescission).

MEMORY TRICK **End it or mend it, but you cannot do both**: after saying "carry on", the exit door is shut; damages stay open.

CARD 2.88 T 5.1 · CONCEPT

★★★ OL 5.1.2 · Scanner U5 TQ 1.2, U5 CSQ 1.2, U5 CSQ 1.3 · SM pp.2.123–2.124

FRONT · RECALL ALOUD

Define **anticipatory breach**. What two options does the promisee have?

BACK · ANSWER

A breach **before the time fixed for performance**, by **words** (express) or **conduct** (implied).

Option 1: treat the contract as **rescinded** and **sue immediately** for damages.

Option 2: keep it alive and **wait for the due date**, holding the other party responsible for the consequences; the guilty party may still perform or benefit from any **supervening impossibility**.

MEMORY TRICK **Sue now or wait and bear the risk**: two roads, one toll on the slow road, the market may move against you.

CARD 2.89 T 5.1 · CONCEPT

★★★ OL 5.1.2 · Scanner U5 CSQ 1.1, U5 CSQ 1.2 · SM pp.2.123–2.124

FRONT · RECALL ALOUD

A dancer under a 60-performance contract is absent after a month. May the school terminate? If the school tells her it will continue, can it rescind later? Can it claim damages?

BACK · ANSWER

It may **terminate**: she has breached.

If it intimates **continuance**, it **cannot rescind later** on that ground.

Damages may be claimed in either case.

MEMORY TRICK **Terminate or continue, damages come either way.**

CARD 2.90 T 5.1 · FORMULA

★ OL 5.1.3 · Scanner U5 CSQ 1.2, U5 CSQ 1.3 · SM pp.2.125–2.126

FRONT · RECALL ALOUD

How are ordinary damages measured on refusal to deliver, and what two limits apply to special loss and to the claimant?

BACK · ANSWER

Damages = (market price − contract price) × quantity. E.g. shirts: ₹100 difference × 300 pieces = ₹30,000 per size (Scanner CSQ 1.2).

Special loss is recoverable only if the circumstances were **known** when contracting.

The injured party must take reasonable steps to **minimise the loss**.

MEMORY TRICK **M minus C, times Q**: Market, Contract, Quantity.

CARD 2.91 T 5.3 · CONCEPT	★★★ OL 5.3.1, 5.3.3 · Scanner U5 TQ 3.1, U5 CSQ 3.1, U5 CSQ 3.3 · SM pp.2.125–2.126
FRONT · RECALL ALOUD What loss is compensable under **Section 73**, and what is excluded?	BACK · ANSWER Loss which **naturally arose in the usual course of things**, or which the parties **knew when they made the contract** to be likely to result from the breach. **Not** any **remote and indirect** loss. The means of remedying the inconvenience existing must be taken into account (Explanation).

MEMORY TRICK **Natural + Known, never Far**: N-K, not remote.

CARD 2.92 T 5.3 · CONCEPT	★★★ OL 5.3.2 · Scanner U5 CSQ 3.2, U5 CSQ 3.4 · SM pp.2.125–2.126
FRONT · RECALL ALOUD What was held in **Hadley v Baxendale**, and what is the rule on special damages?	BACK · ANSWER A mill's broken crankshaft was delayed by a carrier; the court allowed **only ordinary damages** because the carrier was not told the delay would cost the mill its profits. **Special damages** need **previous notice** of the special circumstances.

MEMORY TRICK **No notice, no extra**: tell the carrier the mill will stop, or lose only what any mill would lose.

CARD 2.93 T 5.3 · CONCEPT	★ OL 5.3.2, 5.3.3 · Scanner U5 CSQ 3.1, U5 CSQ 3.2, U5 CSQ 3.3, U5 CSQ 3.4 · SM pp.2.125–2.126
FRONT · RECALL ALOUD Apply S. 73: machinery bought elsewhere for ₹12.75 lakh against a ₹11.50 lakh contract, plus compensation paid to a third party. Medical bills after a bus breakdown?	BACK · ANSWER ₹1.25 lakh (₹12.75 – ₹11.50) naturally arose and is recoverable. Compensation to the third party: recoverable **only if the seller knew** of that contract; else **remote and indirect**. Bus case: inconvenience and hotel charges yes, **wife's medical treatment no** (remote).

MEMORY TRICK **Told or not told?** The answer to every lost-profit question starts there.

CARD 2.94 T 5.3 · FORMULA	★★★ OL 5.3.2 · Scanner U5 CSQ 3.2 · SM p.2.126
FRONT · RECALL ALOUD X buys 1,000 bottles at ₹4.50 to resell to Y at ₹5.00; market is ₹5.25. If Z knew of Y's contract, what are the damages? If not?	BACK · ANSWER Z informed: ₹0.50 × 1,000 = **₹500** (X's profit on Y's contract). Z not informed: **market – contract price**: ₹0.75 × 1,000 = **₹750**.

MEMORY TRICK **Told → profit; not told → market gap.**

CARD 2.95 T 5.3 · MEMORISE

★ OL 5.3.4 · Scanner U5 TQ 3.2 · SM p.2.126

FRONT · RECALL ALOUD

When are **vindictive or exemplary** damages awarded?

BACK · ANSWER

Only in **two cases**:

(a) **breach of promise to marry** (injury to feelings);

(b) **wrongful dishonour** by a banker of a customer's cheque (**Gibbons v Westminster Bank**): a trader gets substantial damages without proving loss; a non-trader must plead and prove special damage.

MEMORY TRICK **Hearts and cheques**: a broken promise to marry, a bounced cheque.

CARD 2.96 T 5.3 · CONCEPT

★ OL 5.3.6 · Scanner U5 CSQ 3.4, U5 CSQ 3.5 · SM pp.2.104, 2.127

FRONT · RECALL ALOUD

Goods delivered late after an exhibition ended: can the owner claim loss of exceptional profit? What if time was of the essence?

BACK · ANSWER

Without notice of the special profit, only **ordinary losses** are recoverable.

If **time is of the essence**, the contract is **voidable** (S. 55) and the promisee may reject.

Deterioration by delay can be claimed from a **carrier without notice** (SM).

MEMORY TRICK **Late is late; profit needs a heads-up.**

CARD 2.97 T 5.3 · MEMORISE

SM text · Scanner U5 TQ 4.2 · SM pp.2.125–2.127

FRONT · RECALL ALOUD

List the kinds of damages in SM Unit 5 and state what **nominal** damages are.

BACK · ANSWER

Ordinary, **special**, **vindictive/exemplary**, **nominal**, **damages for deterioration caused by delay**, **pre-fixed** damages.

Nominal: breach proved but **no real loss**; awarded only to establish the right (a rupee, or even 10 paise).

MEMORY TRICK **OSVNDP**: "Our Strict Verdict: Nominal, Deterioration, Pre-fixed".

CARD 2.98 T 5.4 · CONCEPT

★★ OL 5.4.1, 5.3.5 · Scanner U5 TQ 3.2, U5 TQ 4.1, U5 TQ 4.2 · SM pp.2.127–2.129

FRONT · RECALL ALOUD

What does **Section 74** award where a sum is named for breach? Is there an Indian distinction between liquidated damages and penalty? Any exception?

BACK · ANSWER

Reasonable compensation not exceeding the sum named, whether it is liquidated damages or penalty.

Indian law makes **no distinction**; courts never allow more, but may allow less.

Exception: a **bond to Government** for a public duty: liable for the **whole sum**.

MEMORY TRICK **Ceiling, not floor**: the named sum is the roof; the court may lower it, never raise it.

CARD 2.99 T 5.4 · FORMULA

★★ OL 5.4.1 · Scanner U5 TQ 4.1 · SM p.2.127

FRONT · RECALL ALOUD

The contract names ₹1,00,000. Actual loss is ₹70,000. What if the loss is ₹1,50,000?

BACK · ANSWER

Loss ₹70,000: only **₹70,000** (actual loss).

Loss ₹1,50,000: only **₹1,00,000** (the sum named).

MEMORY TRICK **Pay the smaller of loss and named sum.**

CARD 2.100 T 5.4 · COMPARE

★★ OL 5.4.1 · Scanner U5 TQ 3.2, U5 TQ 4.1 · SM p.2.128

FRONT · RECALL ALOUD

Give principles that help distinguish **penalty** from **liquidated damages**.

BACK · ANSWER

Liquidated damages: **genuine pre-estimate** of loss.

Penalty: stipulated **in terrorem** of the offending party.

A sum **far in excess** of probable damage is a penalty; an **extra sum on default** of a payment due on a date is a penalty.

The **label is not final**: the court looks at its real nature.

MEMORY TRICK **Estimate vs scare**: a pre-estimate counts, a scare-tactic does not.

CARD 2.101 T 5.4 · MEMORISE

★ OL 5.4.2 · Scanner U5 TQ 4.2 · SM pp.2.125–2.127

FRONT · RECALL ALOUD

Name the three kinds of damages the court may award for breach in U5 TQ 4.2.

BACK · ANSWER

Ordinary: loss that naturally arises from the breach.

Special: loss from special circumstances **made known** at the time of contract.

Liquidated: a sum fixed in the contract; compensation not above that sum.

MEMORY TRICK **O-S-L**: Ordinary, Special, Liquidated: "Often Said Loudly".

CARD 2.102 T 5.4 · CONCEPT

★★ OL 5.4.3 · Scanner U5 TQ 4.3 · SM pp.2.129–2.130

FRONT · RECALL ALOUD

What is **quantum meruit** and what two conditions must be satisfied?

BACK · ANSWER

"**As much as he has earned**": reasonable payment for work done where a contract is discharged by the other's breach.

(1) Available only if the **original contract has been discharged**.

(2) The claimant must be a party **not in default**.

Damages are **compensatory**; quantum meruit is **restitutory**.

MEMORY TRICK **Done work, paid work**: but only the innocent worker, and only once the contract is over.

CARD 2.103 T 5.4 · MEMORISE	★★ OL 5.4.3 · Scanner U5 TQ 4.3 · SM pp.2.129–2.130
FRONT · RECALL ALOUD List the **six cases** in which quantum meruit arises.	BACK · ANSWER (a) agreement discovered void or contract becomes void; (b) something done **not gratuitously**; (c) services with **no agreed remuneration**; (d) one party **abandons** or refuses to perform; (e) **divisible** contract, benefit of part performance enjoyed; (f) **indivisible lump-sum** contract performed badly: lump sum less deduction for bad work.

MEMORY TRICK **Six cases**: Void, Not-free, No-price, Abandoned, Divisible, Defective-lump.

CARD 2.104 T 5.4 · CONCEPT	★★ OL 5.4.4 · Scanner U5 CSQ 4.1 · SM p.2.130
FRONT · RECALL ALOUD A refuses to supply a unique item with no substitute in the market. What may the court direct?	BACK · ANSWER Money is **not an adequate remedy**, so the court may order **specific performance**. It directs the party in breach to carry out the promise **according to the terms** of the contract. Where a party does what he promised not to do, an **injunction** may restrain him (SM).

MEMORY TRICK **Unique means "do it", not "pay for it".**

CARD 2.105 T 5.4 · RECALL CHAIN	SM text · Scanner U5 TQ 1.2, U5 TQ 3.1, U5 TQ 4.3 · SM pp.2.124, 2.129–2.131
FRONT · RECALL ALOUD Recall the remedies for breach of contract.	BACK · ANSWER **Damages**; **rescission** (with compensation, S. 75); **specific performance**; **injunction**; **quantum meruit**. Actual breach: on the due date or during performance; anticipatory: before due date.

MEMORY TRICK **D-R-S-I-Q**: Damages, Rescission, Specific performance, Injunction, Quantum meruit: "Doctors Rarely Skip Injection Queues".

CARD 2.106 T 6.1 · MEMORISE	★★★ OL 6.1.1 · Scanner U6 TQ 1.1, U6 TQ 1.2, U6 CSQ 1.1 · SM pp.2.139–2.140
FRONT · RECALL ALOUD Define a **contingent contract** (S. 31) and list its four essentials.	BACK · ANSWER "A contract to do or not to do something, if some event, **collateral** to such contract, does or does not happen." Insurance, indemnity and guarantee fall here. (a) Performance **depends on the event**; (b) event is **collateral**; (c) **not a mere will** of the promisor; (d) event is **uncertain**.

MEMORY TRICK **D-C-W-U**: Depends, Collateral, not Will alone, Uncertain: "Don't Count Without Uncertainty".

CARD 2.107 T 6.1 · CONCEPT

SM text · Scanner U6 TQ 1.1 · SM pp.2.139–2.140

FRONT · RECALL ALOUD

What is a **collateral event**? Why is "pay on completion of the swimming pool" not contingent?

BACK · ANSWER

An event that is **neither a performance promised** as part of the contract **nor the whole of the consideration** (Pollock and Mulla).

The pool's completion is **part of the promise itself**, so the contract is conditional, **not contingent**.

MEMORY TRICK **Collateral is on the side, not on the plate**: if the event is the job itself, it is not collateral.

CARD 2.108 T 6.1 · MCQ TRAP

★★★ OL 6.1.1 · Scanner U6 TQ 1.1 · SM p.2.140

FRONT · RECALL ALOUD

True or false: a promise to pay "if he so chooses" or on an event that is certain to happen is a contingent contract.

BACK · ANSWER

False. The event must **not be merely the will of the promisor** (such a promise is not a contract at all).

A **certain** event (e.g. collector's permission almost always granted) makes it **not contingent**, because the event is **uncertain** only if it may or may not occur.

An event within the promisor's will **plus** an outside event (rain) can be contingent.

MEMORY TRICK **Will alone, certainty alone: both fail.** Contingent needs doubt and something outside the promisor.

CARD 2.109 T 6.1 · MEMORISE

★★★ OL 6.1.2 · Scanner U6 TQ 1.2 · SM pp.2.140–2.142

FRONT · RECALL ALOUD

Match sections 32 to 36 to their rules on enforcement of contingent contracts.

BACK · ANSWER

S. 32: event happening: enforceable only **after it happens**; void if it becomes impossible.

S. 33: event not happening: enforceable only when its happening becomes **impossible**.

S. 34: conduct of a **living person**: impossible when he does something that makes it so.

S. 35: event **within a fixed time** (void if it does not happen in time or becomes impossible).

S. 36: **impossible event** = void, known or not.

MEMORY TRICK **32 Happens, 33 Not-happens, 34 Person, 35 Time, 36 Impossible**: count 2-3-4-5-6 with H-N-P-T-I.

CARD 2.110 T 6.1 · CONCEPT

★★ OL 6.1.2 · Scanner U6 TQ 1.2 · SM p.2.141

FRONT · RECALL ALOUD

How does Section 35 treat an event "not happening within a fixed time"?

BACK · ANSWER

Contingent on the event **not** happening within a fixed time: **enforceable** when the time has expired and the event has not happened, or **earlier** if it becomes **certain** it will not happen.

Contrast: event **happening** within a fixed time becomes **void** if it has not happened by expiry or becomes impossible before.

MEMORY TRICK **Ship must return within a year**: no ship, void; **ship must not return**: no ship, pay.

CARD 2.111 T 6.1 · CONCEPT

★ OL 6.1.3 · Scanner U6 CSQ 1.1 · SM pp.2.139, 2.141

FRONT · RECALL ALOUD

A hospital promises a doctor ₹1,00,000 if she tests positive for Covid-19 within three months of contract. Classify it; what if she does not?

BACK · ANSWER

A **contingent contract (S. 31)**: payment depends on a collateral, uncertain event.

Under **S. 35**, if the event has not happened when the time expires, the contract becomes **void**.

MEMORY TRICK **Time up, nothing happened, deal over.**

CARD 2.112 T 6.2 · COMPARE

★ OL 6.2.1 · Scanner U6 TQ 2.1 · SM pp.2.81–2.82, 2.142

FRONT · RECALL ALOUD

Distinguish a **wagering agreement** from a **contract of insurance** and from a contingent contract.

BACK · ANSWER

Insurance: **valid**, mutual consideration (premium), **insurable interest**, indemnifies (except life insurance).

Wager: **void**, no real consideration, **no interest** in the subject, loser pays the fixed amount.

Contingent: event is **collateral**; wager: the uncertain event is the **core factor** and it consists of reciprocal promises.

MEMORY TRICK **Insurance insures, wager gambles**: interest and indemnity on one side, a pure bet on the other.

CARD 2.113 T 6.3 · MEMORISE

★★★ OL 6.3.1 · Scanner U6 TQ 3.1, U6 TQ 3.2, U6 CSQ 3.4 · SM p.2.143

FRONT · RECALL ALOUD

What is a **quasi-contract**, what are its salient features, and what maxim supports it?

BACK · ANSWER

Law imposes obligations **resembling those of a contract** although no contract was made.

Right is always to **money**; **imposed by law**, not agreement; available against **particular persons**, not the whole world.

Maxim: "**No man must grow rich out of another person's loss**" (equity, justice and good conscience).

MEMORY TRICK **Law-made, money-only, person-specific.** L-M-P: no handshake, only a bill.

CARD 2.114 T 6.3 · CONCEPT

SM text · Scanner U6 TQ 3.2 · SM p.2.146

FRONT · RECALL ALOUD

Contrast a quasi-contract with a contract on two bases.

BACK · ANSWER

Essentials of a valid contract are **absent** in a quasi-contract; they are **present** in a contract.

Obligation is **imposed by law** in a quasi-contract; **created by the consent** of the parties in a contract.

MEMORY TRICK **Law imposes, parties agree.**

CARD 2.115 T 6.3 · MEMORISE	★★ OL 6.3.2 · Scanner U6 TQ 3.1 · SM pp.2.144–2.146
FRONT · RECALL ALOUD List the five quasi-contract cases (Ss. 68–72).	BACK · ANSWER **S. 68**: necessaries supplied to a person incapable of contracting. **S. 69**: payment by an **interested person**. **S. 70**: benefit of a **non-gratuitous act**. **S. 71**: **finder of goods**. **S. 72**: money paid or goods delivered by **mistake or coercion**.

MEMORY TRICK **N-I-N-F-M**: Necessaries, Interested, Non-gratuitous, Finder, Mistake: count from 68 up.

CARD 2.116 T 6.3 · CONCEPT	★★★ OL 6.3.3, 6.3.4 · Scanner U6 TQ 3.2, U6 CSQ 3.1 · SM p.2.145
FRONT · RECALL ALOUD What are the responsibilities of a **finder of goods** (S. 71)? What does **Hollins v Howler** decide?	BACK · ANSWER Same responsibility as a **bailee**: take **proper care** as a prudent person would; **no right to appropriate**; **restore** if the owner is found. Hollins v Howler: the finder who gave a diamond to the shop owner was entitled to **retain it against everybody except the true owner**, so the owner of the shop had to return it.

MEMORY TRICK **Care, Keep-off, Return**: C-K-R.

CARD 2.117 T 6.3 · CONCEPT	★ OL 6.3.5 · Scanner U6 CSQ 3.2, U6 CSQ 3.5 · SM p.2.144
FRONT · RECALL ALOUD From what is a supplier of necessaries reimbursed under S. 68? Does it cover medical aid to a dependant? Can a jeweller recover the price of a diamond set sold to a lunatic?	BACK · ANSWER Reimbursement is from the **property of the incapable person** only. Necessaries include **emergency medical treatment** of a person he is **legally bound to support**. A diamond set is **not necessaries** suited to condition in life, so the jeweller **cannot recover** from her husband.

MEMORY TRICK **Food yes, diamonds no; the estate pays, not the family.**

CARD 2.118 T 6.3 · CONCEPT	★★ OL 6.3.6 · Scanner U6 CSQ 3.3, U6 CSQ 3.4 · SM p.2.144
FRONT · RECALL ALOUD P pays rent to free his carriage seized from D's premises; a tenant pays the landlord's electricity bill to avoid disconnection. Can they recover? (S. 69)	BACK · ANSWER **S. 69**: a person **interested** in the payment of money which another is **bound by law to pay**, and who pays it, is entitled to be **reimbursed**. Both P and the tenant can recover from the person bound to pay.

MEMORY TRICK **Pay to protect your own, then bill the debtor.**

CARD 2.119 T 6.3 · CONCEPT	★ OL 6.3.7 · Scanner U6 CSQ 3.6 · SM p.2.146
FRONT · RECALL ALOUD Wheat meant for Akhil is mistakenly delivered to his neighbour, who accepts it. Who pays? (S. 72)	BACK · ANSWER **S. 72**: a person to whom anything is delivered by **mistake or under coercion** must **repay or return** it. The neighbour is liable for the price: every kind of mistake is recoverable (**Shivprasad v Sirish Chandra**).

MEMORY TRICK **Wrong doorstep, same bill.**

CARD 2.120 T 6.3 · CONCEPT	SM text · No direct Q · SM p.2.145
FRONT · RECALL ALOUD What must a plaintiff prove to succeed under **S. 70**?	BACK · ANSWER (i) He did the act or delivered the thing **lawfully**; (ii) he did **not do it gratuitously**; (iii) the other person **enjoyed the benefit**. Then the other is bound to **pay compensation** or **restore** the thing.

MEMORY TRICK **L-N-E**: Lawful, Not free, Enjoyed.

CARD 2.121 T 6.3 · RECALL CHAIN	SM text · Scanner U6 TQ 3.1, U6 CSQ 3.6 · SM pp.2.143–2.146
FRONT · RECALL ALOUD Recall Unit 6 in one chain.	BACK · ANSWER S. 31 contingent; Ss. 32–36 enforcement; wager void; quasi-contract by law: Ss. 68–72.

MEMORY TRICK **Maybe (31-36), then forced by law (68-72)**: first events that may happen, then duties the law forces.

CA FOUNDATION · PAPER 2 · BUSINESS LAWS

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Chapter 2 · The Indian Contract Act, 1872 — Units 7 to 9 · 48 cards

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★★★	Asked by ICAI 6 or more times. Learn word for word.
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Topics in this chapter

Topic	Name	Card numbers	Count	Highest stars
7.1	Contract of Indemnity	2.122	1	★★
7.2	Contract of Guarantee	2.123 – 2.125	3	★★
7.3	Types of Guarantees	2.126	1	–
7.4	Distinction Between a Contract of Indemnity and A Contract of Guarantee	2.127	1	★★
7.5	Nature and Extent of Surety's Liability [Section 128]	2.128	1	★
7.7	Discharge of A Surety	2.129 – 2.134	6	★★
7.8	Rights of A Surety	2.135 – 2.138	4	★★★
8.1	What is Bailment?	2.139 – 2.141	3	★★
8.2	Duties of A Bailor	2.142	1	★
8.3	Duties of A Bailee	2.143 – 2.145	3	★
8.4	Rights of A Bailor	2.146	1	★
8.6	Rights of Bailor and Bailee Against Any Wrong Doer (Third Party)	2.147	1	★★
8.7	Termination of Bailment	2.148	1	★
8.8	Finder of Lost Goods	2.149	1	★
8.9	Right of Lien	2.150	1	★
8.10	Pledge	2.151 – 2.152	2	★★
8.11	Pledge by Non-Owner	2.153 – 2.154	2	★
8.12	Distinction Between Bailment and Pledge	2.155	1	★
9.3	Creation of Agency	2.156 – 2.157	2	★
9.4	Extent of Agent's Authority	2.158 – 2.159	2	★
9.5	Sub-Agents	2.160	1	★★
9.7	Difference Between a Sub-Agent and A Substituted Agent	2.161	1	★
9.8	Duties and Obligations of An Agent	2.162 – 2.163	2	★
9.10	Principal's Liability to Third Parties	2.164	1	★
9.11	Personal Liability of Agent to Third Parties	2.165 – 2.166	2	★★★

Topic	Name	Card numbers	Count	Highest stars
9.12	Revocation of Authority	2.167 – 2.169	3	★★

Source: ICAI Study Material (July 2026), Scanner Business Laws 2026 October, One Liners P2. Stars follow the One Liners deck. "OL" is the One Liner reference; "TQ" and "CSQ" are the theory and case-scenario question numbers in the Scanner (in Chapters 2, 3 and 4 they carry the unit, e.g. U3); "SM p." is the Study Material page.

CARD 2.122 T 7.1 · MEMORISE

★★ OL 7.1.1, 7.1.2 · Scanner U7 TQ 1.1, U7 TQ 1.2 · SM pp.2.155–2.156

FRONT · RECALL ALOUD

What is a **contract of indemnity** (s. 124), and what can the indemnity-holder recover when sued (s. 125)?

BACK · ANSWER

Section 124: one party promises to save the other from loss caused by the **conduct of the promisor himself** or of **any other person**.

Section 125: the promisee, acting within the scope of his authority, recovers (a) all **damages** he is compelled to pay in any suit, (b) all **costs** of bringing or defending the suit, (c) all sums paid under a **compromise** of the suit.

Fire and marine insurance are contracts of indemnity; **life insurance is not**. So 'life insurance is not fully covered under indemnity' is **True**.

MEMORY TRICK **Damages, Costs, Compromise:** three heads of recovery under s. 125. Indemnity answers for people's conduct, not for calamity.

CARD 2.123 T 7.2 · MEMORISE

★ OL 7.2.1 · Scanner U7 TQ 2.1, U7 TQ 4.2 · SM pp.2.157–2.159

FRONT · RECALL ALOUD

Define a **contract of guarantee** (s. 126). Who are the three parties, and what are its six requisites?

BACK · ANSWER

A contract to **perform the promise or discharge the liability of a third person in case of his default**.

Parties: **Surety** (gives the guarantee), **Principal debtor** (whose default is covered), **Creditor** (to whom it is given).

Requisites: (1) **purpose**: a recoverable debt must exist; (2) **consideration**: what the principal debtor receives suffices (s. 127), past consideration does not; (3) an **existing, enforceable liability**, not time-barred.

(4) **No misrepresentation or concealment** (ss. 142, 143); (5) **writing not necessary**: oral or written; (6) the **co-surety condition** (s. 144).

Incompetent **principal debtor**: guarantee still valid. Incompetent **surety**: guarantee void.

MEMORY TRICK Six requisites in order: **D**ebt, **C**onsideration, **L**iability, **C**andour (no misrepresentation or concealment), **O**ral-or-written, **J**oining of co-surety: D-C-L-C-O-J.

CARD 2.124 T 7.2 · CONCEPT

★★ OL 7.2.2 · Scanner U7 CSQ 2.1 · SM pp.2.161, 2.165

FRONT · RECALL ALOUD

P buys a ₹54,000 purifier on 9 equal monthly instalments, S guaranteeing. P pays 4 and turns insolvent. What does S owe? And if R misrepresented the filter?

BACK · ANSWER

S's liability is **co-extensive** with P's (s. 128). Balance = ₹54,000 − (4 × ₹6,000) = **₹30,000**.

If **R**, the creditor, obtained the guarantee by **misrepresentation** about a material part of the transaction (a normal filter sold as copper), the guarantee is **invalid** (s. 142). The Scanner answer also cites silence as to material circumstances (s. 143).

So S is **not liable** to pay the balance.

MEMORY TRICK **Co-extensive until contaminated:** the surety pays what the debtor owes, unless the creditor's own misstatement taints the guarantee.

CARD 2.125 T 7.2 · FORMULA

★ OL 7.2.3, 7.2.4 · Scanner U7 CSQ 2.2 · SM pp.2.163, 2.167–2.168

FRONT · RECALL ALOUD

Bhusan owes ₹70 lakh; guarantors Suresh ₹30L, Suyash ₹20L, Sumati ₹10L, Suman ₹10L. Mortgaged gold (₹5L) is lost; the bank owes Bhusan ₹5L for an idol. Who pays what?

BACK · ANSWER

Lost security discharges the sureties by **₹5 lakh** (s. 141); the unpaid idol price of **₹5 lakh** is set off. Effective liability = ₹70L – ₹10L = **₹60 lakh**.

Equal share would be ₹15 lakh each, but Sumati and Suman are **capped at ₹10 lakh** each (s. 147).

The balance of ₹40 lakh is split equally: **Suresh ₹20L, Suyash ₹20L**. The bank's claim to equal contribution is therefore not fully valid.

If the bank changes the loan terms without the guarantors' consent, all are discharged for later transactions (s. 133).

MEMORY TRICK **60 → 15 → caps at 10, 10 → 40 → 20, 20.** Equal first, caps next, and the uncapped pair carries the remainder.

CARD 2.126 T 7.3 · COMPARE

SM text · No direct Q · SM pp.2.159–2.160

FRONT · RECALL ALOUD

Distinguish a **specific guarantee** from a **continuing guarantee** (s. 129).

BACK · ANSWER

Specific: extends to a **single debt or specific transaction**; the surety's liability ends when that debt is duly discharged.

Continuing (s. 129): extends to a **series of transactions**; the surety stays liable **until revocation**, for the unpaid balance.

Example: A guarantees tea supplied to C up to ₹10,000. Later supplies of ₹20,000 go unpaid: continuing guarantee, A is liable to the extent of **₹10,000**.

MEMORY TRICK **One parcel or a running account:** a specific guarantee covers one parcel; a continuing guarantee runs until the surety stops it by revocation.

CARD 2.127 T 7.4 · COMPARE

★★ OL 7.4.1, 7.4.2 · Scanner U7 TQ 4.1, U7 TQ 4.2 · SM pp.2.160–2.161

FRONT · RECALL ALOUD

Distinguish between a **contract of indemnity** and a **contract of guarantee**.

BACK · ANSWER

Parties: Indemnity: **two** (indemnifier, indemnified). Guarantee: **three** (creditor, principal debtor, surety).

Liability: Indemnity: **primary and unconditional**. Guarantee: **secondary and conditional**.

Arises: Indemnity: on a **contingency**. Guarantee: on non-performance of an **existing** debt or promise.

Request: Indemnity: indemnifier **need not** act at the indemnity-holder's request. Guarantee: surety acts at the **request of the principal debtor**.

Suing a third party: Indemnifier **cannot** (no privity) unless there is an assignment. Surety **can** proceed against the principal debtor, as he gets the creditor's rights.

Purpose: reimbursement of loss, against security for the creditor. Competency: all parties competent, against a **minor principal debtor** still being valid.

MEMORY TRICK Three pairs: **2 v 3** parties; **P**rimary v **S**econdary liability; **C**ontingency v **E**xisting debt.

CARD 2.128 T 7.5 · MEMORISE

★ OL 7.5.1 · Scanner U7 TQ 5.1, U7 CSQ 2.1 · SM p.2.161

FRONT · RECALL ALOUD

State the **nature and extent** of a surety's liability under s. 128.

BACK · ANSWER

(a) **Co-extensive** with that of the principal debtor, unless the contract provides otherwise.

(b) **Secondary**: he is liable only on default of the principal debtor.

(c) If the debtor cannot be held liable because of a **defect in the document**, the surety's liability also ceases.

(d) The creditor may proceed against the **surety first**, unless there is an agreement to the contrary.

MEMORY TRICK **C-S-D-F:** Co-extensive, Secondary, Defect ends it, First-against-surety allowed.

CARD 2.129 T 7.7 · MEMORISE

★ OL 7.7.1 · Scanner U7 TQ 7.1, U7 TQ 7.3 · SM pp.2.162–2.163

FRONT · RECALL ALOUD

In what **three ways** is a surety discharged, and how does **revocation** work?

BACK · ANSWER

A surety is discharged when his liability ends: (i) by **revocation** of the guarantee; (ii) by the **conduct of the creditor**; (iii) by **invalidation** of the guarantee.

Revocation by **notice** (s. 130): a continuing guarantee may be revoked as to future transactions.

Revocation by the surety's **death** (s. 131): in the absence of a contrary contract, as to future transactions.

Revocation by **novation** (s. 62): a fresh contract between the same or other parties, the old one being mutually discharged.

MEMORY TRICK Modes: **R-C-I** (Revocation, Conduct, Invalidation). Revocation routes: **N-D-N** (Notice, Death, Novation).

CARD 2.130 T 7.7 · MEMORISE

★ OL 7.7.2 · Scanner U7 TQ 7.3 · SM pp.2.163–2.165

FRONT · RECALL ALOUD

Which sections discharge a surety by the **creditor's conduct**, and which two sections do **not** discharge him?

BACK · ANSWER

s. 133: variance in terms between creditor and principal debtor without the surety's consent discharges him as to later transactions.

s. 134: creditor releases the principal debtor, by a fresh contract or by an act or omission whose legal consequence is the debtor's discharge.

s. 135: composition with, giving time to, or a promise not to sue the principal debtor, unless the surety assents.

s. 139: act or omission of the creditor that impairs the surety's eventual remedy against the principal debtor.

Not discharged: s. 136 (time given to the debtor by agreement with a third person) and s. 137 (mere forbearance to sue).

MEMORY TRICK **133-134-135, then 139:** Variance, Release, Composition, Impairing. Remember 136 and 137 as the safe harbours where the surety stays bound.

CARD 2.131 T 7.7 · MEMORISE

★★ OL 7.7.3, 7.7.5 · Scanner U7 TQ 7.2, U7 TQ 4.2, U7 CSQ 7.2 · SM pp.2.165–2.166

FRONT · RECALL ALOUD

When is a guarantee **invalid** (ss. 142–144)? Apply it to the copper filter and to the clerk dismissed for dishonesty.

BACK · ANSWER

s. 142: guarantee obtained by **misrepresentation** by the creditor, or with his knowledge and assent, about a material part of the transaction. An AC sold as copper but made of aluminium: the surety is not liable.

s. 143: guarantee obtained by the creditor **keeping silence** as to material circumstances. An employee earlier dismissed for dishonesty, this hidden from the guarantor: he is **not liable** when funds are embezzled.

s. 144: guarantee given on the condition that the creditor shall not act until another person joins as **co-surety**, and that person does not join: the guarantee is **not valid**.

MEMORY TRICK **Said wrongly (142), said nothing (143), someone missing (144).**

CARD 2.132 T 7.7 · CONCEPT

★★ OL 7.7.4, 7.7.7 · Scanner U7 CSQ 7.1, U7 CSQ 7.2, U7 CSQ 7.3, U7 CSQ 7.5, U7 CSQ 7.7 · SM pp.2.163–2.164

FRONT · RECALL ALOUD

Terms are changed without the surety's consent: a salary cut, higher rent, a smaller loan on fewer properties, lower interest with more time. What is the surety's position?

BACK · ANSWER

s. 133: a variance without the surety's consent discharges him for all transactions **after** the variance; he stays liable for those **before** it.

Salary cut from ₹50,000 to ₹30,000: surety liable for fraud in the **first six months**, not after.

Higher rent agreed without the surety: surety **discharged**; it is **immaterial** that the variation benefits him or does not materially affect him.

Loan of a smaller amount on three properties instead of four: the surety is **not liable**.

Interest cut from 12% to 8% and time extended: surety **discharged** (ss. 133, 135).

MEMORY TRICK **Three changes, one result:** pay cut, rent rise, smaller loan are each a variance, so each frees the surety from later loss.

CARD 2.133 T 7.7 · CONCEPT

★ OL 7.7.6 · Scanner U7 CSQ 7.4, U7 CSQ 7.6 · SM pp.2.162–2.163

FRONT · RECALL ALOUD

How do **notice** (s. 130) and the surety's **death** (s. 131) affect liability? Apply to Abhishek and to Sooraj's heirs.

BACK · ANSWER

Notice (s. 130): after revocation the surety is not liable for future transactions, but **is** liable for those before the notice. A specific guarantee can be revoked only if liability to the principal debtor has not accrued.

Abhishek paid the 13th and 14th instalments, then revoked: not liable for instalments falling after the notice.

Death (s. 131): the guarantee is revoked for transactions **after** death; the estate stays liable for earlier ones, even if the creditor did not know of the death.

Sooraj: supplies of ₹30,000 and ₹20,000 before death → **₹50,000** recoverable; ₹40,000 after death → not. If his estate is worth only ₹45,000, the heirs pay ₹45,000.

MEMORY TRICK **A closing door:** whatever passed through before the notice or the death is counted; nothing after it.

CARD 2.134 T 7.7 · RECALL CHAIN

★ OL 7.7.1–7.7.7 · Scanner U7 TQ 7.1, U7 TQ 7.3 · SM pp.2.162–2.166

FRONT · RECALL ALOUD

Recall chain: tell the story of how a surety gets discharged, with the sections.

BACK · ANSWER

1. The surety stops it: **notice (130)**, **death (131)**, **novation (62)**.
2. The creditor changes it: **variance (133)**, **release (134)**, **composition, time, promise not to sue (135)**, **impairing the surety's remedy (139)**.
3. The guarantee was tainted from the start: **misrepresentation (142)**, **concealment (143)**, **co-surety did not join (144)**.

Not discharged: **136** and **137**.

MEMORY TRICK **Stop, Change, Taint:** the surety stops it, the creditor changes it, or the guarantee was tainted from the start.

CARD 2.135 T 7.8 · MEMORISE

★★★ OL 7.8.1 · Scanner U7 TQ 8.1 · SM pp.2.166–2.168

FRONT · RECALL ALOUD

List the **rights of a surety** against the principal debtor, the creditor and the co-sureties, with sections.

BACK · ANSWER

Against the principal debtor: subrogation (s. 140): after paying all he is liable for, he steps into the creditor's shoes; **indemnity** (s. 145): implied promise to repay sums rightfully paid, not sums paid wrongfully.

Against the creditor: benefit of the creditor's **securities** (s. 141); **set-off** of what the creditor owes the principal debtor; **proportionate reduction** if the principal debtor becomes insolvent.

Against co-sureties: equal contribution (s. 146), subject to each surety's limit (s. 147).

MEMORY TRICK Three heads: **Debtor, Creditor, Co-sureties.** Pair the numbers: 140-141 (subrogation, securities) and 145-146-147 (indemnity, equal share, limits).

CARD 2.136 T 7.8 · CONCEPT

★ OL 7.8.2 · Scanner U7 CSQ 8.1 · SM p.2.167

FRONT · RECALL ALOUD

C lends B ₹2,00,000 on A's guarantee and holds a mortgage of B's furniture, worth ₹80,000. C cancels the mortgage and B becomes insolvent. What does A owe?

BACK · ANSWER

s. 141: the surety is entitled to every security the creditor holds against the principal debtor when the guarantee is given, whether or not he knows of it.

If the creditor **loses it or parts with it without the surety's consent**, the surety is discharged **to the extent of its value**.

A is discharged to **₹80,000** and remains liable for the balance of **₹1,20,000**.

MEMORY TRICK **Security lost, surety lighter:** deduct the security's value, ₹2,00,000 − ₹80,000 = ₹1,20,000.

CARD 2.137 T 7.8 · CONCEPT

★★ OL 7.8.3 · Scanner U7 CSQ 8.2 · SM p.2.167

FRONT · RECALL ALOUD

Suraj, Tarun and Usha guarantee Pawan's ₹3,00,000 loan, with no contract among themselves. Suraj pays all. Can Tarun refuse to contribute?

BACK · ANSWER

s. 146: co-sureties for the same debt, jointly or severally, under the same or different contracts, with or without knowledge of each other, pay **equal shares** unless there is a contract to the contrary.

Tarun **cannot escape**: no contract between the sureties is needed. Each bears an equal share (₹3,00,000 ÷ 3 = ₹1,00,000).

Basis: **equality of burden**.

MEMORY TRICK **Equal burden, no paper needed:** co-sureties sit in one boat, and each rows an equal share.

CARD 2.138 T 7.8 · FORMULA

★ OL 7.8.4 · Scanner U7 CSQ 8.3, U7 CSQ 8.4 · SM pp.2.167–2.168

FRONT · RECALL ALOUD

Work out each co-surety's share (s. 147): limits ₹10,000 / ₹20,000 / ₹40,000 on a default of ₹42,000; limits ₹1L / ₹2L / ₹4L on a loan of ₹4L, then ₹6L.

BACK · ANSWER

Rule: contribute **equally** as far as each surety's **limit** permits; no one pays beyond his own limit.

Default ₹42,000: X is capped at ₹10,000; the remaining ₹32,000 is split by Y and Z → **X ₹10,000, Y ₹16,000, Z ₹16,000**.

Loan ₹4,00,000: A pays his cap of ₹1,00,000; the balance ₹3,00,000 is split → **B ₹1,50,000, C ₹1,50,000**.

Loan ₹6,00,000: **A ₹1,00,000, B ₹2,00,000, C ₹3,00,000**.

MEMORY TRICK **Cap first, then share the rest:** fill the smallest limit and let the larger bonds carry the remainder.

CARD 2.139 T 8.1 · MEMORISE

★★ OL 8.1.1 · Scanner U8 TQ 1.1 · SM pp.2.178–2.180

FRONT · RECALL ALOUD

Define **bailment** (s. 148) and state its five essential elements.

BACK · ANSWER

Delivery of goods by one person to another for some purpose, upon a contract that the goods shall, when the purpose is accomplished, be **returned or otherwise disposed of** according to the directions of the person delivering them.

(i) **Contract**: express or implied; no consideration needed. (ii) **Delivery** of **movable** goods; never immovable property or money.

(iii) **Purpose**, express or implied. (iv) **Possession** changes, not ownership: the bailor remains owner.

(v) **Return** of the goods, in the same form or altered as the bailor directs.

MEMORY TRICK **C-D-P-P-R:** Contract, Delivery, Purpose, Possession, Return. Possession moves, ownership stays.

CARD 2.140 T 8.1 · CONCEPT

★ OL 8.1.2 · Scanner U8 CSQ 1.1 · SM pp.2.179–2.180

FRONT · RECALL ALOUD

Is it bailment? (i) Vikas parks his locked car and keeps the keys; (ii) customs authorities seize goods; (iii) ornaments in a bank locker; (iv) money deposited in a bank.

BACK · ANSWER

(i) **No**: mere custody is not possession; the keys stay with Vikas, so s. 148 does not apply.

(ii) **Yes**: possession of the goods passes to the customs authorities.

(iii) **No**: the owner keeps the locker key, so the ornaments remain in his possession.

(iv) **No**: the bank does not return the identical currency notes.

MEMORY TRICK **Possession is the test, not custody:** no keys handed over means no bailment; goods taken and held means bailment.

CARD 2.141 T 8.1 · CONCEPT

★ OL 8.1.3 · Scanner U8 CSQ 1.2 · SM pp.2.181–2.182

FRONT · RECALL ALOUD

Goods bailed **for hire** prove faulty and extraordinary expenses arise. What are the bailor's liabilities under s. 150 and s. 158?

BACK · ANSWER

Gratuitous bailment (s. 150): the bailor must disclose faults he **knows** of that materially interfere with use or expose the bailee to extraordinary risks; otherwise he is liable for damage arising directly from them.

Bailment for hire (s. 150): the bailor is liable for the damage **whether or not he knew** of the faults (an unsafe hired carriage).

s. 158: in a hire bailment the bailor bears **extraordinary expenses** (an engine repair on a hired taxi); ordinary expenses such as petrol and toll fall on the bailee.

MEMORY TRICK **Paid hire, no excuse:** the hirer pays for goods fit for use, so the bailor answers for faults known or unknown; a free lender answers only for faults he knew.

CARD 2.142 T 8.2 · CONCEPT

★ OL 8.2.1 · Scanner U8 CSQ 2.1 · SM pp.2.182, 2.185

FRONT · RECALL ALOUD

Kushwah Travels hired a car to Rahul for 15 days but demands it back after five days, offering compensation. Can it recover the car?

BACK · ANSWER

Early recall is possible only in a **gratuitous** bailment (s. 159): the bailor may demand the goods back at any time, but must compensate the bailee for loss exceeding the benefit he obtained.

In a bailment **for hire** the right is **not available**, even if the bailor offers compensation.

So Kushwah Travels **cannot** recover the car before the 15 days end.

MEMORY TRICK **Free loan: recall any time (pay the excess loss). Paid hire: wait out the term.**

CARD 2.143 T 8.3 · CONCEPT

★ OL 8.3.3 · Scanner U8 CSQ 3.3 · SM pp.2.182–2.183

FRONT · RECALL ALOUD

Jeweller Arun locks Ramesh's ornaments in his shop locker and thieves steal them. Is Arun liable?

BACK · ANSWER

The bailee must take as much care as a man of **ordinary prudence** would take of his **own goods** of the same bulk, quality and value (s. 151).

If he took such **reasonable care** he is **not responsible** for loss, destruction or deterioration, absent a special contract (s. 152).

Arun locked the ornaments in the locker and secured the shop, so he is **not liable**.

MEMORY TRICK **As you would guard your own:** meet that standard and a theft is not your fault.

CARD 2.144 T 8.3 · MEMORISE

★ OL 8.3.2 · Scanner U8 CSQ 3.2 · SM pp.2.183–2.184

FRONT · RECALL ALOUD

What are the bailee's duties when he **mixes** the bailor's goods with his own: with consent, and without consent (separable, inseparable)?

BACK · ANSWER

With consent (s. 155): both have an interest **in proportion** to their shares in the mixture.

Without consent, separable (s. 156): property stays with each; the bailee bears the **cost of separation** and any damage.

Without consent, inseparable (s. 157): the bailor is **compensated** by the bailee for the loss of his goods.

Case: 5 kg Mamra Badam mixed with other almonds and repacked cannot be separated, so compensation is due (s. 157).

MEMORY TRICK **155-156-157:** Consent shares, Separable pays the cost, Inseparable compensates.

CARD 2.145 T 8.3 · CONCEPT

★ OL 8.3.1 · Scanner U8 CSQ 3.1 · SM p.2.184

FRONT · RECALL ALOUD

R lends an umbrella to M for two days; M keeps it a week and it is damaged on the way back. Who bears the loss?

BACK · ANSWER

The bailee must return the goods **without demand** once the time expires or the purpose is accomplished (s. 160).

If by his default he does not return them at the proper time, he is responsible for **any loss, destruction or deterioration from that time**, even if he took reasonable care (s. 161).

So **M bears the loss**.

Also, any increase or profit from the goods (a calf with the cow) must be delivered to the bailor (s. 163).

MEMORY TRICK **Late means at your risk:** overstay the time and every mishap after it is yours.

CARD 2.146 T 8.4 · MCQ TRAP

★ OL 8.4.1 · Scanner U8 TQ 4.1 · SM pp.2.183, 2.185

FRONT · RECALL ALOUD

The bailee uses the goods against the terms of the bailment. Does the contract become **void**? What is his liability?

BACK · ANSWER

Not void but voidable at the option of the **bailor** (s. 153). The statement that the contract becomes void is **invalid**.

The bailee must **compensate** the bailor for any loss or destruction of the goods due to the inconsistent use (s. 154).

Example: a horse lent for the bailee's own riding is given to another to ride; the contract is voidable at the bailor's option.

MEMORY TRICK **Misuse makes it voidable, never void:** the bailor holds the switch.

CARD 2.147 T 8.6 · MEMORISE

★★ OL 8.6.1 · Scanner U8 TQ 6.1 · SM p.2.187

FRONT · RECALL ALOUD

A third person wrongfully deprives the bailee of the goods or injures them. Who can sue (s. 180), and how is the relief shared (s. 181)?

BACK · ANSWER

s. 180: the bailee may use the remedies the owner would have had if there were no bailment; **either the bailor or the bailee** may sue the third person for the deprivation or injury.

s. 181: whatever relief or compensation is obtained is dealt with, as between bailor and bailee, **according to their respective interests**.

MEMORY TRICK **180: either may sue. 181: each takes his own interest.**

CARD 2.148 T 8.7 · MEMORISE

★ OL 8.7.1, 8.7.2 · Scanner U8 TQ 7.1, U8 TQ 7.2 · SM pp.2.187–2.188

FRONT · RECALL ALOUD

In what **five circumstances** does a contract of bailment terminate?

BACK · ANSWER

(1) **Expiry** of the stipulated period; (2) **fulfilment** of the purpose.

(3) **By notice:** the bailor may end it if the bailee acts inconsistently with the terms; a gratuitous bailment can be ended by the bailor at any time, compensating the bailee for loss exceeding his benefit (s. 159).

(4) **Death** of the bailor or bailee: terminates a **gratuitous** bailment.

(5) **Destruction** of the subject matter, or a change in the goods that makes them unusable for the purpose.

MEMORY TRICK **P-P-N-D-D:** Period, Purpose, Notice, Death, Destruction.

CARD 2.149 T 8.8 · MEMORISE

★ OL 8.8.1, 8.8.2 · Scanner U8 TQ 8.1, U8 CSQ 8.1 · SM p.2.188

FRONT · RECALL ALOUD

State the rights of a **finder of lost goods** (ss. 168, 169). Can he sue for expenses, gift the goods or sell them?

BACK · ANSWER

s. 168: no right to **sue** the owner for trouble and expense voluntarily incurred; he may **retain** the goods until compensated, and may **sue for a specific reward** offered, keeping the goods until then.

The goods are not his own, so he cannot **gift** them away (Raghav's gift to his son was not lawful).

s. 169: a finder of a thing commonly sold may sell it, if the owner cannot be found with reasonable diligence or refuses to pay the lawful charges, **only** when the thing may perish or lose the greater part of its value, or his lawful charges amount to **two-thirds of its value**.

₹20,000 of charges on a ₹1,00,000 watch is far below two-thirds, so a sale is not lawful.

MEMORY TRICK **Keep, don't sue (except for a reward); sell only if perishing or at two-thirds.**

CARD 2.150 T 8.9 · CONCEPT

★ OL 8.9.1 · Scanner U8 CSQ 9.1 · SM pp.2.189, 2.191

FRONT · RECALL ALOUD

Radheshyam repays a ₹50,000 secured loan; the bank keeps his gold for a later unsecured ₹20,000 loan, though the agreement gave a **particular lien** only. Is that valid?

BACK · ANSWER

General lien (s. 171): bankers, factors, wharfingers, attorneys of a High Court and policy brokers may retain goods for a general balance of account, **in the absence of a contract to the contrary**; others only by express contract.

The agreement expressly gave a **particular lien**, limited to the ₹50,000 loan, which is repaid. The bank's decision is **not valid**.

A pawnee may retain pledged goods for **subsequent debts** only if there is a **contract to that effect** (s. 174).

MEMORY TRICK **The banker's lien yields to the contract:** what the paper limits, the bank cannot stretch.

CARD 2.151 T 8.10 · MEMORISE	★ OL 8.10.3 · Scanner U8 TQ 8.1 · SM p.2.191
FRONT · RECALL ALOUD State the rights of a **pawnee** under ss. 173–176.	BACK · ANSWER **s. 173:** retain the pledged goods for the debt or promise, the **interest**, and necessary expenses for possession or preservation. **s. 174:** retain for **subsequent debts** only if a **contract** says so. **s. 175:** recover **extraordinary expenses** by **suit**; he cannot retain the goods for them. **s. 176:** on default, **sue** and keep the goods as collateral, or **sell** after reasonable **notice**; the pawnor pays any shortfall and the pawnee returns any surplus.

MEMORY TRICK **173 Retain, 174 Contract-only, 175 Sue, 176 Sell:** R-C-S-S.

CARD 2.152 T 8.10 · MEMORISE	★★ OL 8.10.1, 8.10.2 · Scanner U8 TQ 10.1, U8 CSQ 10.1 · SM pp.2.184, 2.192
FRONT · RECALL ALOUD List the **six duties of the pawnee**. What must he do with increase in the goods, and when may the pawnor redeem (s. 177)?	BACK · ANSWER (a) Take **reasonable care**; (b) make **no unauthorised use**; (c) **return** the goods when the debt is repaid or the promise performed. (d) **Do not mix** his own goods with the pledged goods; (e) do nothing **inconsistent** with the terms of the pledge; (f) **return accretions**. Stefen, pawnee of a poultry farm, must hand back the increase (9,000 live birds and 5,000 eggs) along with the original stock. **s. 177:** if the pawnor defaults at the stipulated time he may still **redeem** at any later time **before the actual sale**, paying the expenses arising from his default.

MEMORY TRICK **Three do's, three don'ts:** do take care, return, and hand back increase; don't use, mix, or act inconsistently.

CARD 2.153 T 8.11 · MEMORISE	★ OL 8.11.1, 8.11.2 · Scanner U8 TQ 11.1, U8 TQ 11.2 · SM p.2.193
FRONT · RECALL ALOUD When can a **non-owner** pledge validly (ss. 178, 178A)? Is a pledge of documents of title by a mercantile agent, with the owner's consent, invalid?	BACK · ANSWER **s. 178:** a **mercantile agent** in possession of goods or documents of title **with the owner's consent** may pledge them in the ordinary course of business; valid as if made with the owner's authority, if the pawnee acts in **good faith** and has no notice of the lack of authority. **s. 178A:** the pawnor got the goods under a contract **voidable** (ss. 19, 19A) that was **not rescinded** at the time of the pledge: the pawnee gets good title if in good faith and without notice of the defect. So the statement that the mercantile agent's pledge is **invalid** is **False**.

MEMORY TRICK **178: agent with consent. 178A: voidable, not yet rescinded.** Good faith runs through both.

CARD 2.154 T 8.11 · CONCEPT

★ OL 8.11.3 · Scanner U8 CSQ 11.1 · SM p.2.217

FRONT · RECALL ALOUD

Shyam sells goods at Govind's request, unaware Govind had no right to them; the true owner recovers their value from Shyam. Must Govind indemnify him? What if the goods are a prohibited drug?

BACK · ANSWER

s. 222: the employer must indemnify the agent against the consequences of **lawful acts** done in exercise of his authority.

s. 223: where the agent acts in **good faith**, the employer indemnifies him even though the act injures a third person's rights. Govind **must indemnify** Shyam, with his expenses.

s. 224: where the act employed is **criminal**, the employer is **not liable** to indemnify, on an express or implied promise. For the prohibited drug, Govind is **not liable**.

MEMORY TRICK **222 lawful, 223 good faith, 224 crime:** the indemnity door shuts at crime.

CARD 2.155 T 8.12 · COMPARE

★ OL 8.12.1 · Scanner U8 TQ 12.1 · SM pp.2.194–2.195

FRONT · RECALL ALOUD

Distinguish between **bailment** and **pledge**.

BACK · ANSWER

Meaning and parties: Bailment: delivery of goods for some purpose on a contract of return; bailor and bailee. Pledge: bailment **as security** for a debt or promise, a kind of bailment; **pawnor and pawnee**.

Purpose: Bailment: **any purpose** (safe custody, repair, processing). Pledge: **security** for payment of a debt or performance of a promise.

Consideration: Bailment: **with or without**. Pledge: **always** for consideration.

Right to sell: Bailment: bailee has **no right to sell**, even if dues are unpaid (he may sue or exercise lien). Pledge: pawnee **may sell** if the pawnor fails to redeem.

Right to use: Bailment: only for the purpose in the contract. Pledge: pawnee **cannot use** the goods.

MEMORY TRICK **All pledges are bailments; not all bailments are pledges.** A pledge adds three marks: security, sale, no use.

CARD 2.156 T 9.3 · MEMORISE

★ OL 9.3.1 · Scanner U9 TQ 3.1 · SM pp.2.207–2.209

FRONT · RECALL ALOUD

Define **ratification** (s. 196) and state the essentials of a valid ratification.

BACK · ANSWER

Acts done for a person **without his knowledge or authority**: he may **ratify or disown** them; if he ratifies, the same effects follow as if done by his authority.

(1) Express or implied (s. 197); (2) full **knowledge** of the facts (s. 198); (3) the **whole** transaction (s. 199); (4) **no injury to a third person** (s. 200).

(5) Within a **reasonable time**; (6) **communicated** to the other party; (7) the act must be **valid**, not void or illegal (forgery, dividend paid out of capital).

MEMORY TRICK **4 + 3:** ss. 197–200 give four tests; reasonable time, communication and validity add three.

CARD 2.157 T 9.3 · CONCEPT

★ OL 9.3.2, 9.3.3 · Scanner U9 CSQ 3.1, U9 CSQ 3.2 · SM p.2.208

FRONT · RECALL ALOUD

(i) Prem buys goods for Ramu at a higher rate; they turn out to be Prem's own; Ramu accepts. (ii) C, without authority, gives A's tenant B a notice to quit; A is asked to ratify. Valid?

BACK · ANSWER

(i) **s. 198:** no valid ratification by a person whose knowledge of the facts is **materially defective**. Ramu is **not bound** (he may still ratify if ready to take the risk).

(ii) **s. 200:** an unauthorised act that would terminate a third person's right or interest **cannot be ratified** to have that effect. A **cannot** ratify C's notice against B.

MEMORY TRICK **Ratify with open eyes (198), and without harming outsiders (200).**

CARD 2.158 T 9.4 · MEMORISE

★ OL 9.4.1 · Scanner U9 TQ 4.1, U9 CSQ 4.1 · SM p.2.209

FRONT · RECALL ALOUD

State the conditions for an agent's authority **in an emergency** (s. 189). Shiv, stranded near Shimla, sells Nitin's apples below market rate: is he liable?

BACK · ANSWER

An agent may do all acts to protect his principal from loss that a person of **ordinary prudence** would do in his own case (s. 189).

(i) **Cannot communicate** with the principal in time; (ii) **actual and definite commercial necessity** to act promptly; (iii) acted **bona fide** for the principal's benefit; (iv) took the **most reasonable and practicable course**; (v) was **in possession** of the principal's goods that are the subject of the contract.

Shiv acted under an agency of necessity, so he is **not liable** to Nitin for the loss.

MEMORY TRICK **C-N-B-R-P:** Cannot reach principal, Necessity, Bona fide, Reasonable course, Possession of the goods.

CARD 2.159 T 9.4 · CONCEPT

★ OL 9.4.3 · Scanner U9 CSQ 4.2 · SM p.2.17

FRONT · RECALL ALOUD

Rakesh tells broker Vikash the car's price is ₹12 lakh. Buyer Ravi replies he will pay only ₹10 lakh and pays ₹5 lakh as advance. Is there a contract?

BACK · ANSWER

Ravi's reply is a **counter-offer**, not acceptance: a qualified acceptance that **rejects the original offer** (Hyde v. Wrench).

Acceptance must be **absolute and unconditional** (s. 7), and parties must agree on the same thing in the same sense (s. 13). There was no agreement on price.

So there is **no valid, enforceable contract**: Rakesh need not deliver the car, and the ₹5 lakh advance is to be returned.

MEMORY TRICK **A counter-offer kills the old offer:** ₹12 lakh asked, ₹10 lakh answered, and the ₹12 lakh offer is dead.

CARD 2.160 T 9.5 · CONCEPT

★★ OL 9.5.1 · Scanner U9 CSQ 5.1 · SM pp.2.210, 2.224

FRONT · RECALL ALOUD

A appoints B as agent; B, under A's authority, appoints C as sub-agent. A revokes B's authority but not C's. What is C's status?

BACK · ANSWER

s. 191: a sub-agent is a person **employed by, and acting under the control of**, the original agent in the business of the agency.

s. 210: termination of the agent's authority terminates the authority of **all sub-agents** appointed by him. So C's authority **ends** with B's.

General rule (s. 190): an agent cannot delegate acts he undertook to perform personally, unless trade custom allows or the nature of the agency requires a sub-agent.

MEMORY TRICK **The sub-agent is the agent's man:** when the agent falls, the sub-agent falls with him.

CARD 2.161 T 9.7 · COMPARE

★ OL 9.6.1, 9.7.1 · Scanner U9 TQ 7.1, U9 CSQ 6.1 · SM pp.2.211–2.213

FRONT · RECALL ALOUD

Distinguish a **sub-agent** from a **substituted agent** (s. 194). Hari tells Bharat to recover dues; Bharat instructs solicitor Deepak. What is Deepak's status?

BACK · ANSWER

Control: Sub-agent works under the **agent's** control and directions. Substituted agent works under the **principal's** instructions.

Delegation: the agent **delegates part of his duties** to a sub-agent; he delegates **nothing** to a substituted agent.

Privity: **none** between principal and sub-agent; **established** between principal and substituted agent.

Responsibility: a sub-agent answers to the agent alone, and the agent answers to the principal for him. A substituted agent answers to the principal, and the agent is not responsible for him.

Remuneration: a sub-agent **cannot** sue the principal; a substituted agent **can**.

Deepak, named under authority (s. 194), is **not a sub-agent but Hari's agent** for the part entrusted to him.

MEMORY TRICK **Sub-agent: the agent's helper. Substituted agent: the principal's own agent.**

CARD 2.162 T 9.8 · MEMORISE

★ OL 9.8.1 · Scanner U9 TQ 8.1 · SM p.2.204

FRONT · RECALL ALOUD

How does s. 182 define **agent** and **principal**? Does the Act define 'agency'?

BACK · ANSWER

Agent: a person employed to do any act for another or to represent another in dealing with third persons.

Principal: the person for whom such act is done or who is so represented.

The Act does **not define** the word 'agency'.

MEMORY TRICK The maxim behind agency: **'Qui facit per alium, facit per se'**, he who acts through an agent is himself acting.

CARD 2.163 T 9.8 · MEMORISE

★ OL 9.8.2, 9.4.2 · Scanner U9 TQ 8.1 · SM pp.2.213–2.215

FRONT · RECALL ALOUD

List the **nine duties of an agent**, with sections.

BACK · ANSWER

(1) **Follow directions** or the customs of the place (s. 211), indemnifying the principal for loss and accounting for profit if he acts otherwise; (2) **reasonable care and skill** (s. 212); (3) **render proper accounts**, supported by vouchers (s. 213).

(4) **Communicate** with the principal in cases of difficulty (s. 214); (5) **no dealing on his own account** without consent: the principal may repudiate (s. 215) or claim the benefit (s. 216); (6) **no secret profit**.

(7) **Not delegate** (s. 190); (8) **pay over sums received** for the principal (s. 218); (9) **not use confidential information** against the principal.

MEMORY TRICK **3 × 3:** Instruct-Skill-Accounts; Communicate-Self-dealing-Secret profit; Delegate-Pay-Confidence.

CARD 2.164 T 9.10 · CONCEPT

★ OL 9.10.1 · Scanner U9 CSQ 10.1 · SM pp.2.218–2.219

FRONT · RECALL ALOUD

An agent exceeds his authority. When is the principal bound for the authorised part (s. 227), and when is he not bound at all (s. 228)?

BACK · ANSWER

s. 227: if the authorised part can be **separated** from the excess, only what is within authority binds the principal (the policy on the ship binds; the extra policy on the cargo does not).

s. 228: if the excess **cannot be separated**, the principal is **not bound** to recognise the transaction (500 sheep and 200 lambs bought for one sum: A may repudiate the whole).

Exception (s. 237): the principal is bound if by words or conduct he led third persons to believe the acts were authorised.

MEMORY TRICK **Separable: split it (227). Inseparable: scrap it (228).**

CARD 2.165 T 9.11 · MEMORISE

★★★ OL 9.11.1 · Scanner U9 TQ 11.1, U9 CSQ 10.1 · SM pp.2.220–2.221

FRONT · RECALL ALOUD

State the general rule of s. 230 and the **exceptions** in which an agent is presumed to be personally bound.

BACK · ANSWER

Rule (s. 230): absent a contract to that effect, an agent can neither **personally enforce** nor be **personally bound** by contracts made on his principal's behalf.

Exceptions: (1) **foreign principal**: goods bought or sold for a principal resident abroad; (2) **undisclosed principal**: the principal's name is not disclosed; (3) **non-existent or incompetent principal**, such as a minor.

(4) **Pretended agent** whom the principal disowns (s. 235); (5) **agent exceeds authority** and misleads the third person: liable for breach of **warranty of authority**.

MEMORY TRICK **F-U-I-P-E:** Foreign, Undisclosed, Incompetent, Pretended, Excess of authority.

CARD 2.166 T 9.11 · CONCEPT

★★★ OL 9.11.1, 9.10.2 · Scanner U9 CSQ 10.1 · SM pp.2.220–2.221

FRONT · RECALL ALOUD

Q buys 1,000 tons of cement at ₹3,500 a ton against P's limit of ₹2,000–2,500, without naming his principal. Is P bound to pay R? Can R sue Q (s. 233)?

BACK · ANSWER

Q exceeded his authority and did not disclose his principal, so **Q is personally liable** (exceptions to s. 230).

s. 233: where the agent is personally liable, the third person may hold **either the agent or the principal, or both** liable.

Scanner answer: P is **not bound** to pay R at ₹3,500 a ton, but R **can sue Q**.

MEMORY TRICK **Either, or both:** s. 233 lets the third party choose his defendant.

CARD 2.167 T 9.12 · MEMORISE

★ OL 9.12.1, 9.12.2 · Scanner U9 TQ 12.1 · SM pp.2.222–2.223

FRONT · RECALL ALOUD

How can an agency terminate (s. 201)? State the rules of revocation (ss. 203–207).

BACK · ANSWER

Modes (s. 201): (a) **revocation** by the principal; (b) **renunciation** by the agent; (c) **completion** of the business; (d) **death or insanity** of principal or agent; (e) principal's **insolvency**; (f) **expiry** of the fixed term.

s. 203: the principal may revoke at any time **before the authority is exercised** so as to bind him. **s. 204:** not after it is **partly exercised**, as to acts already done.

s. 205: premature revocation without sufficient cause: the principal compensates the agent. **s. 206:** reasonable **notice** is needed, else damages. **s. 207:** revocation and renunciation may be express or implied.

MEMORY TRICK **R-R-C-D-I-E:** Revocation, Renunciation, Completion, Death or insanity, Insolvency, Expiry.

CARD 2.168 T 9.12 · CONCEPT

★ OL 9.12.4 · Scanner U9 CSQ 12.2 · SM pp.2.223–2.224

FRONT · RECALL ALOUD

PG asks VG to sell his shares and repay VG's ₹40 lakh loan with interest from the proceeds, then revokes the authority. Is the revocation lawful?

BACK · ANSWER

s. 202: where the agent has himself an **interest in the property** that forms the subject matter of the agency, the agency **cannot**, absent an express contract, be terminated to the prejudice of that interest.

VG was authorised to repay himself out of the sale proceeds, so an **interest** was created: PG's revocation is **not lawful**.

Such an agency is not terminated by the principal's insanity or death (SM examples).

MEMORY TRICK **Agency coupled with interest is a one-way door:** once the agent holds a stake in the subject matter, the principal cannot shut it.

CARD 2.169 T 9.12 · FORMULA

★★ OL 9.12.3 · Scanner U9 CSQ 12.1, U9 CSQ 12.3 · SM p.2.224

FRONT · RECALL ALOUD

Rama revokes Shyam's authority by letter; before it reaches him Shyam sells 5 laptops at ₹1 lakh each on 11% commission. Is the sale binding, and what is due?

BACK · ANSWER

s. 208: termination of authority does not take effect as regards the **agent** before it becomes **known to him**, nor as regards **third persons** before it is known to them.

The sale is **binding** on Rama, and Shyam recovers 11% × ₹5,00,000 = **₹55,000**.

SM example: 5% commission, sale for ₹1,00,000 after the letter is sent but before it is received: sale binding, commission **₹5,000**.

Ajay's letter sent on 3 March, received on 7 March; Vijay sold on 5 March: Vijay is **entitled to his commission**.

MEMORY TRICK **Revocation bites only when it is known:** a letter still in the post leaves the authority alive.

CA FOUNDATION · PAPER 2 · BUSINESS LAWS

Flash Cards with Memory Tricks

Chapter 3 · The Sale of Goods Act, 1930 · 56 cards

How to use these cards

- Read the **front** and answer **aloud** before you look at the back.
- Then read the **memory trick**. If it does not click, make up your own and write it beside the card.
- Each card carries its **Scanner question numbers**, so you can attempt those questions straight after the card.
- Give every card a **second look after 1 day and again after 1 week.**

Reading the stars

★★★	Asked by ICAI 6 or more times. Learn word for word.
★★	Asked 3 to 5 times. Know the key terms and the lists.
★	Asked once or twice. Read once; recognise it in the exam.
–	Taken from the Study Material text. Not a One Liner line, but useful for understanding.

Topics in this chapter

Topic	Name	Card numbers	Count	Highest stars
1.2	Definitions	3.01 – 3.03	3	★★★
1.3	Sale and Agreement to Sell (Section 4)	3.04 – 3.06	3	★★★
1.4	Distinction Between Sale and an Agreement to Sell	3.07	1	★
1.5	Sale Distinguished from Other Similar Contracts	3.08	1	★★
1.7	Subject Matter of Contract of Sale	3.09	1	★★
1.8	Ascertainment of Price (Section 9 & 10)	3.10 – 3.11	2	★★★
2.2	Introduction - Conditions and Warranties	3.12	1	★★★
2.3	When Condition is to Be Treated as Warranty (Section 13)	3.13 – 3.14	2	★★★
2.4	Express and Implied Conditions and Warranties (Section 14–17)	3.15 – 3.29	15	★★★
2.5	Caveat Emptor	3.30 – 3.31	2	★★★
3.1	Passing of Property (Sections 18 – 26)	3.32 – 3.38	7	★★★
3.2	Risk Prima Facie Passes with Property (Section 26)	3.39	1	★★
3.3	Transfer of Title by Non-Owners (Sections 27 – 30)	3.40 – 3.42	3	★★★
3.4	Performance of the Contract of Sale (Sections 31 – 44)	3.43 – 3.45	3	★★
4.3	Right of Unpaid Seller Against the Goods (Section 47 to 54)	3.46 – 3.51	6	★★★
4.4	Rights of Unpaid Seller Against the Buyer (Sections 55–61)	3.52 – 3.53	2	★★★
4.5	Remedies of Buyer Against the Seller	3.54	1	★
4.6	Auction Sale (Section 64)	3.55 – 3.56	2	★★★

Source: ICAI Study Material (July 2026), Scanner Business Laws 2026 October, One Liners P2. Stars follow the One Liners deck. "OL" is the One Liner reference; "TQ" and "CSQ" are the theory and case-scenario question numbers in the Scanner (in Chapters 2, 3 and 4 they carry the unit, e.g. U3); "SM p." is the Study Material page.

CARD 3.01 T 1.2 · MEMORISE

★★ OL 1.2.1 · Scanner U1 TQ 2.1, U3 CSQ 4.3 · SM pp.3.6–3.7

FRONT · RECALL ALOUD

What is **delivery** under the Act, and what are its **three forms**?

BACK · ANSWER

Delivery = **voluntary transfer of possession** from one person to another [S. 2(2)].

- **Actual**: goods are physically handed to the buyer or to a person authorised to hold them for him.
- **Constructive**: no change in custody; the holder **acknowledges (attornment)** that he holds for the buyer, e.g. a warehouseman.
- **Symbolic**: documents of title (bill of lading, railway receipt) or the **key** of the warehouse are handed over.

MEMORY TRICK **A-C-S: Actual hands over, Constructive nods, Symbolic gives the key.** Hands, a nod from the holder, or the key to the godown.

CARD 3.02 T 1.2 · COMPARE

★★★ OL 1.2.2 · Scanner U1 TQ 2.2, U1 CSQ 2.1 · SM pp.3.4–3.5

FRONT · RECALL ALOUD

Distinguish **ascertained** from **unascertained** goods. Where do **specific** goods fit?

BACK · ANSWER

- **Unascertained**: not identified when the contract is made; indicated only by **description or sample**, e.g. one packet out of 100 packets in the shop.
- **Ascertained**: identified in accordance with the agreement **after** the contract is made, e.g. 50 of 100 cotton bales selected and set aside.
- **Specific** goods [S. 2(14)] are identified and agreed upon **when the contract is made**. In practice 'ascertained' is used in the same sense as 'specific'.

MEMORY TRICK **Un-** = unknown packet; **A-** = after selection. Pick one packet out of the lot and it moves from unknown to ascertained.

CARD 3.03 T 1.2 · MCQ TRAP

★★★ OL 1.2.3, 1.7.3 · Scanner U1 CSQ 2.1, U1 CSQ 3.2, U1 CSQ 7.1 · SM pp.3.5–3.6

FRONT · RECALL ALOUD

Can a contract for **future goods** (or **contingent goods**) ever be a **sale**?

BACK · ANSWER

No. A contract for **future goods** [S. 2(6)] (to be manufactured, produced or acquired after the contract, e.g. potatoes to be grown in a field) is **always an agreement to sell**, never a sale.

Contingent goods [S. 6(2)] (acquisition depends on an uncertain event, e.g. goods coming on a ship) also operate only as an **agreement to sell**; property does not pass at the time of contract.

Ship case (CSQ 7.1): no sale, so the buyer could not recover the extra cost of buying in the market.

MEMORY TRICK **Not yet, so only a promise.** Future and contingent goods are 'not yet' goods, and 'not yet' gives an agreement to sell, never a sale.

CARD 3.04 T 1.3 · MEMORISE

★★ OL 1.3.1 · Scanner U1 TQ 3.1 · SM pp.3.9–3.10

FRONT · RECALL ALOUD

State the **six essentials** of a contract of sale of goods.

BACK · ANSWER

(i) **Two parties**, seller and buyer, who must be different persons.

(ii) The subject matter is **goods** (movable property), existing or future.

(iii) A **price in money**, paid or promised (part money, part kind is allowed).

(iv) **Transfer of property** from seller to buyer.

(v) The contract may be **absolute or conditional** [S. 4(2)].

(vi) All other essentials of a **valid contract**: free consent, competency, legality of object, consideration.

MEMORY TRICK **2-G-P-T-A-V**: Two parties, Goods, Price, Transfer, Absolute-or-conditional, Valid contract. Count to six.

CARD 3.05 T 1.3 · CONCEPT

★★★ OL 1.3.2 · Scanner U1 CSQ 3.1, U1 CSQ 3.2 · SM p.3.9

FRONT · RECALL ALOUD

Sonal paid for ruby-stone bangles and was asked to collect them a week later; the design was then spoiled. Is it a **sale** or an **agreement to sell**? Can she recover her money?

BACK · ANSWER

Agreement to sell, not a sale: under S. 4(3)/(4) property passes at a **future time or on a condition** still to be fulfilled, even though the price was paid.

An agreement to sell becomes a sale when the **time elapses or the condition is fulfilled** [S. 4(4)].

The design was disturbed, so Sonal may **avoid** the agreement and **recover the price** (Scanner answer).

MEMORY TRICK **Paid is not passed.** The money moves today; ownership moves only when the time comes or the condition is met.

CARD 3.06 T 1.3 · MCQ TRAP

★ OL 1.3.4 · Scanner U1 CSQ 3.3 · SM p.3.9

FRONT · RECALL ALOUD

If the **price is payable in instalments**, is the contract only an agreement to sell?

BACK · ANSWER

No. Sale or agreement to sell turns on **when property passes**, not on when the price is paid.

If ownership passes now, it is a **sale** even though the price is paid in instalments; the buyer must pay the balance (CSQ 3.3: 100 chairs, two instalments, goods delivered).

MEMORY TRICK **Title decides, timetable doesn't.** Ask when ownership moves, and ignore when the money moves.

CARD 3.07 T 1.4 · COMPARE

★ OL 1.4.1 · Scanner U1 TQ 4.1 · SM pp.3.10–3.11

FRONT · RECALL ALOUD

Distinguish a **sale** from an **agreement to sell**.

BACK · ANSWER

- Property and contract: Sale: passes **immediately**; **executed**. Agreement to sell: passes on a **future date or condition**; **executory**.
- Remedy: Sale: seller can **sue for the price**. Agreement to sell: **damages only**, unless the price was payable at a stated date.
- Risk: Sale: on the **buyer**. Agreement to sell: on the **seller**.
- Rights: Sale: **jus in rem** (against the whole world). Agreement to sell: **jus in personam** (against a particular party).
- Resale: Sale: seller **cannot resell**. Agreement to sell: seller **may sell** (ownership is with him).
- Insolvency of seller: Sale: official assignee cannot take the goods, recovers the price. Agreement to sell: assignee takes the goods, price not recoverable.

MEMORY TRICK **Sale = done; agreement to sell = due.** Everything in a sale is done now (executed, price suit, buyer's risk); in an agreement it is due later (executory, damages, seller's risk).

CARD 3.08 T 1.5 · COMPARE

★★ OL 1.5.1 · Scanner U1 TQ 5.1 · SM pp.3.11–3.12

FRONT · RECALL ALOUD

Distinguish **sale** from **hire-purchase**. When does property pass to the hirer?

BACK · ANSWER

- Property: Sale: passes **at the time of contract**. Hire-purchase: on payment of the **last instalment**.
- Position: Sale: buyer is the **owner**. Hire-purchase: hirer is a **bailee** until the last instalment.
- Termination: Sale: buyer cannot terminate and must pay. Hire-purchase: hirer **may terminate** by returning the goods, with no liability for remaining instalments.
- Title and resale: Sale: buyer can pass good title and resell. Hire-purchase: hirer **cannot pass title** or resell until all instalments are paid.

Hire-purchase agreements are governed by the **Hire-purchase Act, 1972**.

MEMORY TRICK **Hire first, purchase last.** Until the final instalment he only hires: a bailee who can walk away, cannot resell and cannot pass title.

CARD 3.09 T 1.7 · CONCEPT

★★ OL 1.7.1, 1.7.2, 1.3.3 · Scanner U1 TQ 7.1, U1 TQ 7.2, U1 CSQ 3.2 · SM pp.3.14–3.15

FRONT · RECALL ALOUD

What happens if **specific goods perish** (a) before the contract, (b) after an agreement to sell but before risk passes? What of a **specific future crop** destroyed by flood?

BACK · ANSWER

S. 7: specific goods already perished (or so damaged that they no longer answer their description) **without the seller's knowledge** when the contract was made → contract **void**.

S. 8: agreement to sell specific goods, which perish **without fault of either party** before risk passes to the buyer → agreement **avoided**.

Specific future goods destroyed: supervening impossibility → contract **void**; in the flood case (CSQ 3.2) the seller must **refund the price**.

S. 7 and S. 8 apply to **specific** goods only, not to unascertained goods (Scanner TQ 7.1).

MEMORY TRICK **7 comes before 8.** Section 7: gone before the contract. Section 8: gone after the agreement but before risk passes. Either way, void.

CARD 3.10 T 1.8 · MEMORISE

★★★ OL 1.8.1 · Scanner U1 CSQ 8.1, U1 CSQ 8.4 · SM p.3.15

FRONT · RECALL ALOUD

In how many ways may **price** be fixed under **S. 9**? What if it is not fixed at all?

BACK · ANSWER

Price may be (1) **fixed by the contract**, (2) **agreed to be fixed in a manner provided by the contract**, e.g. by a valuer, or (3) **determined by the course of dealings** between the parties.

If it is not determined in any of these ways, the buyer must pay a **reasonable price** (Scanner CSQ 8.1: the contract is still valid, not void for uncertainty of price).

MEMORY TRICK **C-M-C: Contract, Manner, Course of dealing.** Miss all three and the law supplies a reasonable price.

CARD 3.11 T 1.8 · MEMORISE

★★★ OL 1.8.2, 1.8.3, 1.8.4, 1.8.5 · Scanner U1 TQ 8.1, U1 CSQ 8.2, U1 CSQ 8.3, U1 CSQ 8.4 · SM p.3.15

FRONT · RECALL ALOUD

Under **S. 10**, what if the **third party (valuer)** does not fix the price? What if a party's fault prevents the valuation?

BACK · ANSWER

Valuer does not or **cannot** value → the agreement is **void**.

Valuer **prevented by the default** of either party → the **party at fault** is liable in **damages** to the other.

A buyer who has **received and appropriated** the goods must pay a **reasonable price** in any eventuality.

Illustration (CSQ 8.4): 1,000 litres of oil, 600 delivered, valuer refuses → reasonable price for the 600; contract for the other 400 may be avoided.

MEMORY TRICK **Fail → Void; Fault → Fine; Fetched → Fair.** Valuer fails: void. Party at fault: damages. Goods already taken: fair (reasonable) price.

CARD 3.12 T 2.2 · COMPARE

★★★ OL 2.2.1, 2.2.2 · Scanner U2 TQ 2.1, U2 CSQ 2.1, U2 CSQ 4.19 · SM pp.3.27–3.28

FRONT · RECALL ALOUD

Distinguish a **condition** from a **warranty** [S. 12]. What decides which a stipulation is?

BACK · ANSWER

Condition [S. 12(2)]: a stipulation **essential** to the main purpose of the contract; breach gives a right to **treat the contract as repudiated** (and to claim damages).

Warranty [S. 12(3)]: a stipulation **collateral** to the main purpose; breach gives a **claim for damages only**, not a right to reject the goods.

The **construction of the contract** decides [S. 12(4)]; a stipulation may be a condition though called a warranty.

A breach of condition **may be treated** as a breach of warranty; a breach of warranty **cannot** be treated as a breach of condition.

Example: car unfit for touring = **condition** (reject, refund); faulty horn under a one-year guarantee = **warranty** (damages).

MEMORY TRICK **Condition = Cancel; Warranty = Wallet.** Break a condition and you may cancel; break a warranty and you only get money.

CARD 3.13 T 2.3 · MEMORISE

★★★ OL 2.3.1, 2.3.2 · Scanner U2 TQ 3.2, U2 TQ 2.1 · SM pp.3.28–3.29

FRONT · RECALL ALOUD

When is a **breach of condition** treated only as a **breach of warranty** under **S. 13**, so that the buyer cannot reject the goods?

BACK · ANSWER

(i) The buyer **waives** the condition (voluntarily).

(ii) The buyer **elects** to treat the breach as a breach of warranty and claims damages only.

(iii) The contract is **non-severable** and the buyer has **accepted** the whole goods or any part of them.

(iv) Fulfilment is **excused by law** by reason of impossibility or otherwise.

Result: no right to rescind; **damages only**. Example: second-quality sugar at ₹600 instead of ₹625 per bag → accept it and claim ₹25 per bag.

MEMORY TRICK **W-E-N-E: 'We Elect, Not Escape'.** Waiver, Election, Non-severable-with-acceptance, Excused by law: in each case the buyer cannot escape (rescind).

CARD 3.14 T 2.3 · MCQ TRAP

★★★ OL 2.3.2 · Scanner U2 TQ 3.1 · SM pp.3.28, 3.38

FRONT · RECALL ALOUD

Can a **breach of warranty** be treated as a **breach of condition**? And the reverse?

BACK · ANSWER

No. A breach of warranty can **never** be treated as a breach of condition.

Only the reverse is possible: a breach of condition **can** be treated as a breach of warranty (S. 13), e.g. by waiver or by accepting the goods.

Why: a condition is the more vital stipulation, so the buyer may 'downgrade' it; a warranty is already the lesser stipulation and cannot be 'upgraded'.

MEMORY TRICK **One-way street, downhill only.** A condition can slide down to a warranty; a warranty can never climb up.

CARD 3.15 T 2.4 · MEMORISE

★★ OL 2.4.1 · Scanner U2 CSQ 4.12, U2 CSQ 4.19 · SM p.3.30

FRONT · RECALL ALOUD

What is the **implied condition as to title** [S. 14(a)]? What if the seller turns out to have no title?

BACK · ANSWER

In a **sale**, the seller has a **right to sell** the goods; in an **agreement to sell**, he will have the right to sell **when property is to pass** (in simple words, he should be the real owner).

If his title is defective, the buyer must **return the goods to the true owner** and **recover the price from the seller**.

Example: a stolen motorcycle returned to its rightful owner → the buyer may sue the seller for the price (CSQ 4.12).

MEMORY TRICK **No title, no deal: give back the bike, get back the cash.** The goods go to the owner; the price comes from the seller.

CARD 3.16 T 2.4 · CONCEPT

★★ OL 2.4.2, 2.3.3 · Scanner U2 TQ 4.1, U2 CSQ 3.1, U2 CSQ 4.14, U2 CSQ 4.19 · SM p.3.31

FRONT · RECALL ALOUD

What does **S. 15** imply in a sale by description? Apply it: exhaust fan ordered but table fan delivered; tins packed 50 per box but 30 delivered; 'Italian' couch.

BACK · ANSWER

Implied **condition** that the goods **correspond with the description** [S. 15]: 'if you contract to sell peas, you cannot compel the buyer to take beans'.

Breach entitles the buyer to **reject the goods**, whether or not he could inspect them; he may instead **elect damages** (S. 13).

Place of origin or mode of packing can be part of the description if essential to identity (rice from Chhattisgarh in pink 25 kg bags; tins in boxes of 50) → buyer may reject the whole.

Table fan for exhaust fan, and a couch that was not Italian → description breached → reject and ask for a refund.

MEMORY TRICK **Peas are not beans.** If the description says peas, the buyer may refuse beans, and the same goes for fans, tins and couches.

CARD 3.17 T 2.4 · MEMORISE

★★★ OL 2.4.3, 2.4.6 · Scanner U2 TQ 4.4, U2 CSQ 4.6 · SM pp.3.31–3.32

FRONT · RECALL ALOUD

State the **three implied conditions** in a sale **by sample** [S. 17].

BACK · ANSWER

(a) The **bulk shall correspond with the sample** in quality.

(b) The buyer shall have a **reasonable opportunity of comparing** the bulk with the sample.

(c) The goods shall be **free from any latent defect** rendering them unmerchantable, which would not be apparent on reasonable examination of the sample.

Example: shoes for the French Army contained paper not discoverable by ordinary inspection → refund of price plus damages.

MEMORY TRICK **B-O-L: Bulk matches, Opportunity to compare, no Latent defect.** Three letters, three conditions.

CARD 3.18 T 2.4 · CONCEPT

★★★ OL 2.4.4 · Scanner U2 CSQ 4.1, U2 CSQ 4.4 · SM pp.3.32, 3.45

FRONT · RECALL ALOUD

Basmati rice matched the sample but contained a mix of long and short grains, which the buyer missed on casual examination. Can he reject? Would it differ if he had specified the length?

BACK · ANSWER

No remedy: the defect was **apparent on reasonable examination** of the sample, the bulk matched the sample, and S. 17(c) protects only **latent** defects.

If he had **specified the exact length** of the rice, the sale would be by **description** [S. 15]: the goods must answer that description, and the buyer may **reject** them.

MEMORY TRICK **Look before you buy; say before you buy.** What you could see, you cannot complain of; what you specified, you can insist on.

CARD 3.19 T 2.4 · CONCEPT

★★ OL 2.4.5 · Scanner U2 CSQ 4.8 · SM p.3.46

FRONT · RECALL ALOUD

Goods sold by sample J → K → L → M do not match the sample. Who may **reject**, and who gets **damages only**?

BACK · ANSWER

M, the last buyer, may **reject** the goods as a breach of the implied condition as to sample.

L and K, the intermediate buyers, accepted and **resold** the goods, so they cannot reject; each may claim **damages only** from his own seller (L from K, K from J).

Basis: a breach of condition is treated as a breach of warranty where the buyer accepts the goods [S. 13(2)].

MEMORY TRICK **Last in line rejects; the middlemen only claim damages.** Only the final buyer returns the goods.

CARD 3.20 T 2.4 · CONCEPT

★★★ OL 2.4.7 · Scanner U2 CSQ 4.10, U2 CSQ 4.11 · SM pp.3.32, 3.46

FRONT · RECALL ALOUD

In a sale by **sample as well as description** [S. 15], what must the goods match? Apply it to the Burfi and the washing machine.

BACK · ANSWER

The bulk must correspond with **both the sample and the description**; if it matches one but not the other, or neither, the buyer can **repudiate** the contract.

Burfi: the tasted piece was fresh but the bulk was stale → breach as to **sample**; had he not tasted, the breach would be as to **description** ('fresh'). Either way he may return it.

Washing machine asked for woollens, wrong and unfit machine delivered → buyer may **repudiate**, claim a **refund**, or ask for a **replacement**.

MEMORY TRICK **Two keys, one lock: both must fit.** If the sample key or the description key fails to turn, the buyer may walk away.

CARD 3.21 T 2.4 · MEMORISE

★★★ OL 2.4.8 · Scanner U2 CSQ 4.15, U2 CSQ 4.22, U2 CSQ 4.11 · SM pp.3.32–3.33

FRONT · RECALL ALOUD

When is there an implied condition of **fitness for purpose** [S. 16(1)]? What if the purpose is obvious from the goods?

BACK · ANSWER

Three requirements: the buyer **made known the particular purpose**; he **relied on the skill and judgement** of the seller; the goods are of a description the seller **deals in**, whether manufacturer or not.

Then the goods must be **reasonably fit** for that purpose.

Where goods can be used for **only one purpose** (e.g. false teeth), the buyer need not state it.

Example: the seller's technician visited the room and suggested a split AC that proved too weak → buyer may avoid the contract (CSQ 4.15).

MEMORY TRICK **K-R-D: Known purpose, Reliance, Dealer.** Three boxes to tick before S. 16(1) bites.

CARD 3.22 T 2.4 · MCQ TRAP

★★★ OL 2.4.8 · Scanner U2 CSQ 5.3 (alternate answer) · SM pp.3.32–3.33, 3.37

FRONT · RECALL ALOUD

A buyer asks for goods **by their trade mark or patent name**. Is there an implied condition of fitness for a particular purpose?

BACK · ANSWER

No. Goods bought under a **trade mark or patent (brand) name** carry **no implied condition of fitness** for any particular purpose [S. 16(1)].

Reason: the buyer is relying on the **brand name**, not on the seller's skill and judgement ('Merrit' sewing machine example).

The tempting wrong answer is that the seller is always liable once the buyer states his purpose; the brand-name exception defeats it.

MEMORY TRICK **The name did the choosing, not the seller.** No reliance on the seller's skill means no condition of fitness.

CARD 3.23 T 2.4 · MCQ TRAP

★★ OL 2.4.9 · Scanner U2 CSQ 4.3, U2 CSQ 4.16 · SM pp.3.36, 3.45

FRONT · RECALL ALOUD

Mrs G's abnormally sensitive skin reacted to a tweed coat; VK's cloth proved unfit for uniforms. Neither had told the seller the purpose or sensitivity. Any remedy?

BACK · ANSWER

No. If the purpose (or special sensitivity) was **not made known** to the seller, there is **no implied condition of fitness**; **caveat emptor** applies.

The buyer cannot treat it as a breach of the implied condition as to fitness and has **no right to damages** (CSQ 4.3, CSQ 4.16).

Contrast: had the buyer disclosed the purpose and relied on the seller, S. 16(1) would bind the seller.

MEMORY TRICK **Silence is the buyer's cost.** What you do not say, the seller does not owe.

CARD 3.24 T 2.4 · CONCEPT

★ OL 2.4.10, 2.4.15 · Scanner U2 CSQ 4.5, U2 CSQ 4.22 · SM p.3.36

FRONT · RECALL ALOUD

Timber ordered 1 inch thick came 1–1.4 inches but was commercially fit. A tractor and six planters were sold on one itemised bill; the tractor and one planter were unfit. What can be rejected?

BACK · ANSWER

Timber: it was **commercially fit** for the purpose, so the contract could not be avoided and TK cannot reject (Scanner answer, citing S. 16(1) and Bombay Burma Trading Corporation Ltd. vs Aga Mohammad).

Tractor: unfit for the purpose told to the dealer → S. 16(1) breached → buyer may **reject it and recover the price**.

Planters: itemised prices and serial numbers show a **severable** sale, so reject **only the one unfit machine**, not the five that suited the field.

MEMORY TRICK **Reject the rotten apple, not the basket.** In a severable sale only the unfit items go back.

CARD 3.25 T 2.4 · MEMORISE

★★ OL 2.4.11, 2.4.12 · Scanner U2 CSQ 4.2, U2 CSQ 4.7, U2 CSQ 4.13, U2 CSQ 4.20 · SM pp.3.33–3.34

FRONT · RECALL ALOUD

State the implied conditions of **merchantability** [S. 16(2)] and **wholesomeness**. Does the buyer's examination matter?

BACK · ANSWER

Merchantability needs two things: goods bought **by description** and a seller who **deals in goods of that description** (manufacturer or not). The goods must be of **merchantable quality**.

Proviso: if the buyer **examined** the goods, there is no implied condition as to defects which the examination **ought to have revealed**; **latent** defects remain covered.

Wholesomeness: for **eatables and provisions**, goods must also be **wholesome**, e.g. a stone in a bun (damages); contaminated sealed juice cartons (reject, refund, damages).

MEMORY TRICK **Examine and it is yours; hidden and it is theirs.** Visible defects fall on the buyer who looked; latent ones stay with the seller.

CARD 3.26 T 2.4 · MEMORISE

★★★ OL 2.4.13, 2.4.14 · Scanner U2 TQ 4.2, U2 TQ 4.4, U2 CSQ 4.12, U2 CSQ 4.19 · SM pp.3.34–3.35

FRONT · RECALL ALOUD

List the **four implied warranties** in a contract of sale, with their sections.

BACK · ANSWER

Undisturbed (quiet) possession [S. 14(b)]: the buyer shall have and enjoy quiet possession.

No encumbrance [S. 14(c)]: goods free from any charge in favour of a third party not declared or known to the buyer.

Quality or fitness by usage of trade [S. 16(3)].

Disclosure of dangerous nature of goods: if the buyer is ignorant of the danger, the seller must warn him; breach → damages.

Read into every sale unless excluded by express agreement, course of dealings or usage of trade [S. 62].

MEMORY TRICK **Peace, Purity, Practice, Peril**: one word per warranty, in the same order (possession, encumbrance, trade usage, dangerous goods).

CARD 3.27 T 2.4 · CONCEPT

★ OL 2.4.16 · Scanner U2 CSQ 4.21 · SM p.3.52

FRONT · RECALL ALOUD

Romi could reject a customised sofa within 20 days of delivery and installation but never gave notice. Can she still refuse to pay?

BACK · ANSWER

No. In a sale on approval, if the buyer **retains the goods without notice of rejection** beyond the fixed time, **property passes** to him [S. 24(b)].

Her right to reject ended when the 20 days lapsed; she must **pay the price**, and the seller may sue for it [S. 55] (Scanner answer).

MEMORY TRICK **Silence past the deadline means 'yes'.** When the approval period ends without a rejection, the goods are yours.

CARD 3.28 T 2.4 · MEMORISE

★ OL 2.4.17 · Scanner U2 TQ 4.3 · No SM page (Scanner only; Indian Contract Act)

FRONT · RECALL ALOUD

When is a contract induced by **undue influence** [S. 16, Indian Contract Act]? When is a person in a position to **dominate the will** of another?

BACK · ANSWER

Undue influence: the relations between the parties are such that one is in a position to **dominate the will** of the other and **uses that position to obtain an unfair advantage**.

Deemed to dominate [S. 16(2)]: (a) holds **real or apparent authority**; (b) stands in a **fiduciary relationship**; (c) contracts with a person whose **mental capacity** is affected, temporarily or permanently, by age, illness, or mental or bodily distress.

This question is filed here in the Scanner but belongs to the Indian Contract Act, 1872.

MEMORY TRICK **A-F-M: Authority, Fiduciary, Mental weakness.**

CARD 3.29 T 2.4 · RECALL CHAIN

SM text · No direct Q · SM pp.3.30–3.35

FRONT · RECALL ALOUD

Recall the **implied conditions** in a sale of goods in order, then the **implied warranties**.

BACK · ANSWER

Implied **conditions**: Title [S. 14(a)] → Description [S. 15] → Sample [S. 17] → Sample and description [S. 15] → Fitness [S. 16(1)] → Merchantability [S. 16(2)] → Wholesomeness (eatables).

Implied **warranties**: quiet possession [S. 14(b)] → no encumbrance [S. 14(c)] → usage of trade [S. 16(3)] → dangerous goods.

Breach of condition: buyer may **reject**. Breach of warranty: **damages only**.

MEMORY TRICK **The Dean Sets Both Forms: Mark Well** = Title, Description, Sample, Both, Fitness, Merchantability, Wholesomeness.

CARD 3.30 T 2.5 · MEMORISE

★★★ OL 2.5.1, 2.5.2 · Scanner U2 TQ 5.1 · SM pp.3.35–3.37

FRONT · RECALL ALOUD

What is **caveat emptor** and where is it laid down? List the **eight exceptions**.

BACK · ANSWER

Caveat emptor = 'let the buyer beware': the buyer must satisfy himself that the goods suit his purpose. It is laid down in the **opening words of S. 16**: no implied warranty or condition as to quality or fitness for any particular purpose.

Exceptions: (1) **fitness** where purpose is made known and skill relied on [S. 16(1)]; (2) goods under **patent or brand name** (no fitness condition); (3) sale by **description** [S. 15]; (4) **merchantable quality** [S. 16(2)].

(5) sale by **sample** [S. 17]; (6) **sample and description** [S. 15]; (7) **trade usage** [S. 16(3)]; (8) seller **actively conceals a defect or is guilty of fraud**.

MEMORY TRICK **F-B-D-M, S-S, T-F**: Fitness, Brand, Description, Merchantability; Sample, Sample-and-description; Trade usage, Fraud. Say it as 4 + 2 + 2.

CARD 3.31 T 2.5 · CONCEPT

★★★ OL 2.5.3, 2.5.4, 2.5.5 · Scanner U2 CSQ 5.1, U2 CSQ 5.2, U2 CSQ 5.3 · SM pp.3.35–3.37

FRONT · RECALL ALOUD

Apply the exceptions: marble for a house, a laptop for graphic design, tiles sold with a warning, talcum powder with a latent chemical residue.

BACK · ANSWER

Marble and laptop: purpose disclosed, seller's skill relied on, seller deals in such goods → seller is liable under S. 16(1) (laptop: legal action possible; marble: alternate answer holds the seller liable for the unsuitable second-floor marble).

Tiles: the seller warned that they bear only a reasonable weight; a loaded vehicle damaged them → **buyer's risk**, seller not liable.

Talc: the chemical residue is a **latent defect**, so the goods are not of merchantable quality and caveat emptor does not apply; the manufacturer is liable, and the Scanner answer holds a mere trader liable too [S. 16(2)].

MEMORY TRICK **Told and trusted, seller pays; warned and ignored, buyer pays; hidden defect, seller pays.**

CARD 3.32 T 3.1 · MEMORISE

★★ OL 3.1.1, 3.1.2, 3.1.6 · Scanner U3 TQ 1.3, U3 CSQ 1.7 · SM pp.3.48–3.50

FRONT · RECALL ALOUD

What decides when **property passes** (S. 18–19)? State the rules for **specific goods** in ss. 20, 21 and 22.

BACK · ANSWER

S. 18: unascertained goods → **no property passes** until the goods are **ascertained**. **S. 19**: property passes when the parties **intend**, judged from the terms, conduct and circumstances; ss. 20–24 are rules for finding that intention.

S. 20: unconditional contract for specific goods in a **deliverable state** → property passes **when the contract is made**, even if payment or delivery is postponed.

S. 21: seller must **do something** to put the goods in a deliverable state → property passes when it is done **and the buyer has notice**.

S. 22: seller must **weigh, measure or test** to find the price → property passes when done **and the buyer has notice**.

Example (CSQ 1.7): microchips identified by serial number, in a deliverable state, destroyed by flood before delivery → loss falls on the **buyer**.

MEMORY TRICK **20-21-22: Now, Notice, Notice.** Section 20 passes now; sections 21 and 22 wait until the work is done and the buyer is told.

CARD 3.33 T 3.1 · MCQ TRAP

★ OL 3.1.7 · Scanner U3 CSQ 1.9, U3 CSQ 1.10 · SM p.3.50

FRONT · RECALL ALOUD

The seller must **alter or repair** specific goods before delivery. Has property passed on the contract or payment? Who bears the loss if the goods are destroyed meanwhile?

BACK · ANSWER

No. Property does **not** pass until the work is **done and the buyer has notice** of it [S. 21].

Until then the goods remain the **seller's** and at the **seller's risk**: in CSQ 1.10 the machine was destroyed during repair, so the seller **cannot recover the price**.

Tempting wrong answer: 'property passed as soon as the contract was made or the price paid'.

MEMORY TRICK **Fix first, tell next, then it is theirs.** Two steps before ownership moves: finish the work and give notice.

CARD 3.34 T 3.1 · MEMORISE

★★★ OL 3.1.3, 3.1.5 · Scanner U3 TQ 1.1, U3 TQ 1.3, U3 CSQ 1.3 · SM pp.3.48, 3.51

FRONT · RECALL ALOUD

State the **seven essentials of appropriation** under **S. 23(1)** for unascertained goods.

BACK · ANSWER

(a) A contract for the sale of **unascertained or future** goods.

(b) The goods conform to the **description and quality** stated in the contract.

(c) The goods are in a **deliverable state**.

(d) They are **unconditionally appropriated** to the contract, by delivery to the buyer, his agent or the carrier.

(e) Appropriation is made by the **seller with the buyer's assent**, or the **buyer with the seller's assent**.

(f) Assent may be **express or implied**; (g) it may be given **before or after** appropriation.

MEMORY TRICK **3 + 2 + 2**: three about the goods (contract, description, deliverable), two about appropriation (unconditional, by whom), two about assent (express or implied, before or after).

CARD 3.35 T 3.1 · COMPARE

★★ OL 3.1.4, 3.1.13 · Scanner U3 CSQ 1.8, U3 TQ 1.2, U3 TQ 1.4 · SM pp.3.51, 3.53

FRONT · RECALL ALOUD

Distinguish **S. 23(2)** (delivery to a carrier) from **S. 25** (reservation of right of disposal). When is disposal presumed reserved?

BACK · ANSWER

S. 23(2): seller delivers goods to a carrier or bailee for transmission and **does not reserve** the right of disposal → **unconditional appropriation**; the buyer owns them and bears the transit loss (courier case, CSQ 1.8).

S. 25: seller **reserves** the right to dispose of the goods until conditions are met → property **does not pass** even though the goods are delivered to the buyer or a carrier; this is **conditional appropriation**.

Presumed reserved: (1) bill of lading or railway receipt deliverable to the **order of the seller or his agent**; (2) seller sends a **bill of exchange with the bill of lading or railway receipt** and the buyer **wrongfully retains** the document without accepting or paying → no property passes.

MEMORY TRICK **23(2): dispatch and done. 25: dispatch but hold.** Without a reservation the buyer owns it on the road; with one, he owns nothing until the condition is met.

CARD 3.36 T 3.1 · MEMORISE

★★★ OL 3.1.8, 3.1.10, 3.1.12 · Scanner U3 CSQ 1.1, U3 CSQ 1.2, U3 CSQ 1.4, U3 CSQ 1.5, U3 CSQ 1.11, U3 CSQ 1.12 · SM p.3.52

FRONT · RECALL ALOUD

On **approval or sale or return** [S. 24], when does property pass to the buyer? If he **pledges** the goods, what can the owner do?

BACK · ANSWER

(a) The buyer **signifies approval or acceptance** to the seller, or does any other act **adopting the transaction**;

(b) he **retains the goods without notice of rejection** beyond the fixed time, or beyond a **reasonable time** if none was fixed;

(c) he does something **equivalent to accepting**, e.g. **pledges or sells** the goods.

If the buyer pledges: property has passed, so the owner **cannot claim the goods from the pledgee** and can only **recover the price** from the buyer.

MEMORY TRICK **A-R-P: Approve, Retain, Pledge.** Say yes, sit silent too long, or pledge or sell: ownership has passed.

CARD 3.37 T 3.1 · CONCEPT

★★ OL 3.1.9, 3.1.11 · Scanner U3 CSQ 1.2, U3 CSQ 1.5, U3 CSQ 1.6 · SM pp.3.52–3.53

FRONT · RECALL ALOUD

(1) Goods on 'sale for cash only or return' are pledged before payment. (2) A TV on three days' approval is damaged by an earthquake on day two. Who loses?

BACK · ANSWER

(1) Property does **not pass until the cash is paid**; the **pledge is not valid** and the owner can **recover the goods** from the pledgee.

(2) No S. 24 event had occurred, so property and **risk** remain with the **seller**; the buyer is **not liable for the price**, and the loss is the **seller's** (CSQ 1.6).

MEMORY TRICK **Cash first, or it is not yours to pledge.** And before approval, damage stays with the seller.

CARD 3.38 T 3.1 · RECALL CHAIN

SM text · No direct Q · SM pp.3.48–3.55

FRONT · RECALL ALOUD

Walk through the **ladder of passing of property and risk** from S. 18 to S. 26.

BACK · ANSWER

S. 18 identify (no ascertainment, no property) → S. 19 intention → S. 20 specific goods in a deliverable state: at the contract → S. 21 work to be done, and S. 22 weighing or testing: when done and the buyer is notified.

Unascertained goods: S. 23(1) appropriation with assent; S. 23(2) delivery to a carrier without reservation.

S. 24 goods on approval or sale or return; S. 25 reservation of the right of disposal holds property back.

S. 26: risk prima facie follows property.

MEMORY TRICK **Identify, Intend, Now, Notice, Appropriate, Approve, Hold, Risk**: eight words for ss. 18, 19, 20, 21–22, 23, 24, 25, 26.

CARD 3.39 T 3.2 · MEMORISE

★★ OL 3.2.1 · Scanner U3 TQ 2.1 · SM pp.3.54–3.55

FRONT · RECALL ALOUD

State the rule in **S. 26** on risk. What are its **exceptions**?

BACK · ANSWER

Unless otherwise agreed, goods remain at the **seller's risk** until property passes; after that they are at the **buyer's risk**, whether delivery has been made or not (risk prima facie passes with property).

Exceptions: (1) **agreement** that risk passes before or after property; (2) delivery **delayed by the fault** of buyer or seller → the party at fault bears any loss which might not have occurred but for the fault; (3) duties of seller or buyer as **bailee** for the other remain.

Example: the auctioneer's hammer damages an antique painting before property passes → the **seller** bears the loss.

MEMORY TRICK **Risk rides with the owner, except A-F-B: Agreement, Fault, Bailee.**

CARD 3.40 T 3.3 · MCQ TRAP

★★★ OL 3.3.1 · Scanner U3 TQ 3.1 · SM p.3.55

FRONT · RECALL ALOUD

Can a seller who is **not the owner** pass a better title than he has? State the maxim.

BACK · ANSWER

No. Nemo dat quod non habet: no one can give what he has not got [S. 27]; the buyer's title is no better than the seller's.

Stolen goods sold to a buyer in good faith: the buyer gets **no title** and the true owner may recover them. A hirer under hire-purchase who sells passes only the hirer's rights.

The rule has **exceptions** that protect innocent buyers (next card); the trap is to say it has none.

MEMORY TRICK **Empty hands, empty gift.** If the seller holds no title, there is nothing to hand over.

CARD 3.41 T 3.3 · MEMORISE

★★★ OL 3.3.1 · Scanner U3 TQ 3.1 · SM pp.3.55–3.58

FRONT · RECALL ALOUD

List the **eight exceptions** to nemo dat in which a non-owner conveys good title to a bona fide purchaser for value.

BACK · ANSWER

1 **Mercantile agent** (proviso to S. 27); 2 **one of joint owners** in sole possession [S. 28]; 3 person in possession under a **voidable contract** not yet rescinded [S. 29]; 4 **seller in possession** after sale [S. 30(1)].

5 **buyer in possession** before property passes [S. 30(2)]; 6 **estoppel**; 7 **unpaid seller** who has exercised lien or stoppage and resells [S. 54(3)]; 8 **other Acts**: official receiver or liquidator, finder of goods (S. 169 ICA), pawnee (S. 176 ICA).

MEMORY TRICK **M-J-V-S-B-E-U-O: 'My Jolly Vendor Sells Bargains, Every Unusual Object'** = Mercantile, Joint, Voidable, Seller, Buyer, Estoppel, Unpaid, Other.

CARD 3.42 T 3.3 · CONCEPT

★★ OL 3.3.2, 3.3.3, 3.3.4, 3.3.5 · Scanner U3 CSQ 3.1, U3 CSQ 3.2, U3 CSQ 3.3, U3 CSQ 3.4, U3 CSQ 3.5, U3 CSQ 3.6 · SM pp.3.56–3.57

FRONT · RECALL ALOUD

Who gets good title? (1) A mercantile agent sells below the authorised price. (2) A fraudster resells before the owner rescinds. (3) A seller or buyer in possession resells.

BACK · ANSWER

(1) Agent in possession with the owner's consent, selling in the ordinary course to a **good-faith buyer without notice → good title**, even below the minimum price (car sold for ₹40,000 against ₹50,000); the owner recovers only from the agent.

(2) Voidable contract **not yet rescinded** when the goods are resold → **innocent buyer gets good title** [S. 29]; the original owner can claim damages only from the fraudster.

(3) **Seller in possession** resells to a good-faith buyer without notice [S. 30(1)]; **buyer in possession** on instalments resells before property passes [S. 30(2), Lee v Butler] → **good title** to the new buyer.

MEMORY TRICK **Handed over with consent, bought in good faith, no notice: the buyer wins.**

CARD 3.43 T 3.4 · MEMORISE

★ OL 3.4.1 · Scanner U3 TQ 4.1 · SM pp.3.61–3.62

FRONT · RECALL ALOUD

When is **acceptance** of delivery deemed to take place [S. 42]? What do ss. 43 and 44 add?

BACK · ANSWER

S. 42: the buyer (a) **intimates** acceptance; (b) does an act **inconsistent with the seller's ownership**; or (c) **retains** the goods beyond a reasonable time without intimating rejection.

S. 43: a buyer who rightly refuses is **not bound to return** the goods; it is enough to **intimate refusal**.

S. 44: seller ready and willing asks the buyer to take delivery; if he does not do so within a reasonable time, he is liable for **loss from his neglect or refusal** and a **reasonable charge for care and custody**.

MEMORY TRICK **42 accepts, 43 shrugs, 44 pays.** Accept by word, act or silence; refusal needs only notice; neglect costs money.

CARD 3.44 T 3.4 · MEMORISE

★★ OL 3.4.2, 3.4.3, 3.4.4 · Scanner U3 TQ 4.2, U3 TQ 4.3, U3 CSQ 4.2 · SM p.3.60

FRONT · RECALL ALOUD

What are the buyer's rights under **S. 37** if the seller delivers (i) **less**, (ii) **more**, or (iii) the contract goods **mixed with a different description**?

BACK · ANSWER

Less: the buyer may **reject** them; if he accepts, he pays at the **contract rate** (700 kg of 1,000 kg tomatoes accepted → ₹70,000 at ₹100 per kg).

More: accept the contract quantity and reject the rest, or **reject the whole**; if he accepts the whole, he pays at the **contract rate**.

Mixed with a different description: accept the goods in accordance with the contract and reject the rest, or **reject the whole** (25 chairs of the agreed type plus 25 of another type).

All subject to **usage of trade, special agreement or course of dealing** [S. 37(4)].

MEMORY TRICK **S-S-M: Short, Surplus, Mixed.** In each case the buyer may reject the whole delivery.

CARD 3.45 T 3.4 · MEMORISE

★★ OL 3.4.5, 3.4.6 · Scanner U3 TQ 4.4, U3 CSQ 4.3 · SM pp.3.59–3.60

FRONT · RECALL ALOUD

State the rules on **part delivery** [S. 34], **place of delivery** [S. 36(1)] and goods held by a **third party** [S. 36(3)].

BACK · ANSWER

Part delivery: delivery of part in progress of delivery of the whole counts as delivery of the **whole** for passing property; part delivery **with intention of severing** it from the whole is **not** delivery of the remainder.

Place of delivery: subject to contract, goods sold are delivered where they are at the time of sale; goods agreed to be sold, where they are at the agreement; goods not in existence, where **manufactured or produced**.

Third party: no delivery until the third person **acknowledges to the buyer** that he holds the goods on the buyer's behalf (CSQ 4.3: warehouse keeper confirmed → constructive delivery, so the flood loss was the buyer's).

MEMORY TRICK **Part in progress = whole; part to sever = just that part.** And a third party must say 'I hold it for you'.

CARD 3.46 T 4.3 · MEMORISE

★★ OL 4.4.1, 4.3.1 · Scanner U4 TQ 3.1, U4 TQ 4.2, U4 CSQ 3.4 · SM pp.3.74–3.75, 3.81

FRONT · RECALL ALOUD

Who is an **unpaid seller** [S. 45]? What are his **rights against the goods** [S. 46], and what if property has not passed?

BACK · ANSWER

Unpaid seller: the **whole price has not been paid or tendered**, or a **bill of exchange or other negotiable instrument** received as conditional payment has been **dishonoured**. 'Seller' includes an agent or consignor who has paid, or is directly responsible for, the price.

S. 46: even if property has passed, he has a **lien** (while in possession), **stoppage in transit** (on the buyer's insolvency, after parting with possession) and a right of **resale** as limited by the Act.

If property has **not passed**, he also has a right of **withholding delivery**, co-extensive with lien and stoppage ('quasi-lien').

MEMORY TRICK **L-S-R: Lien, Stoppage, Resale.** Hold it, stop it, sell it.

CARD 3.47 T 4.3 · MEMORISE

★★★ OL 4.3.2 · Scanner U4 TQ 3.2, U4 CSQ 3.6 · SM pp.3.75–3.76

FRONT · RECALL ALOUD

When can an unpaid seller exercise **lien** [S. 47]? What of part delivery [S. 48]? When is lien **lost** [S. 49]?

BACK · ANSWER

Lien (retaining possession until the price is paid or tendered) arises **only** if: (a) **cash sale**, no credit stipulated; (b) credit sale but the **term has expired**; (c) the buyer becomes **insolvent**.

S. 48: after **part delivery**, lien continues on the **remainder** unless the part delivery shows an agreement to **waive** it.

S. 49 lien is lost by: (i) delivery to a **carrier** without reserving disposal; (ii) buyer or his agent **lawfully obtains possession**; (iii) **waiver**; (iv) **estoppel**.

A **decree for the price** does **not** end the lien.

MEMORY TRICK **Opens: C-E-I. Closes: C-B-W-E.** Opens with Cash sale, Expired credit, Insolvency; closes with Carrier, Buyer's possession, Waiver, Estoppel. A decree never closes it.

CARD 3.48 T 4.3 · MCQ TRAP

★★ OL 4.3.3 · Scanner U4 CSQ 3.4, U4 CSQ 3.6 · SM p.3.75

FRONT · RECALL ALOUD

A buyer on three months' credit is rumoured to be likely to default, and the seller withholds delivery on day 5. Is the **lien** valid? What if the buyer becomes insolvent?

BACK · ANSWER

No lien on mere fear of default while the credit period runs and the buyer is solvent; the seller must deliver as promised.

If the buyer becomes **insolvent**, lien arises and the seller may **withhold delivery**.

Once the credit term has expired, even an **unpaid balance** supports lien (₹20,000 left unpaid after the due date; seller P was justified).

MEMORY TRICK **Fear is not insolvency.** A rumour does not open the lien; only a cash sale, expired credit or insolvency does.

CARD 3.49 T 4.3 · MEMORISE

★★★ OL 4.3.4, 4.3.5 · Scanner U4 CSQ 3.1, U4 CSQ 3.2, U4 CSQ 3.3, U4 CSQ 3.5 · SM pp.3.76–3.78

FRONT · RECALL ALOUD

State the conditions for **stoppage in transit** [S. 50–52]. When does **transit end**, and how is stoppage effected?

BACK · ANSWER

Conditions: seller **unpaid**; he has **parted with possession**; goods **in transit**; buyer **insolvent**; subject to the Act.

Transit ends when: the buyer or his agent **takes delivery** (railway authorities cannot stop goods the buyer's agent has loaded on his truck); the carrier **acknowledges** he holds for the buyer; the carrier **wrongfully refuses** to deliver to the buyer; goods go to a carrier or ship **hired by the buyer**.

Undelivered part (CSQ 3.2): buyer took 100 bales sent by lorry; seller may stop the 100 bales still on the railway.

Effected by taking **actual possession** or giving **notice to the carrier**; the seller bears the re-delivery expenses [S. 52].

MEMORY TRICK **U-P-T-I** (say 'you-pity'): Unpaid, Parted, in Transit, Insolvent. All four, or the goods roll on to the buyer.

CARD 3.50 T 4.3 · CONCEPT

★ OL 4.3.6 · Scanner U4 CSQ 3.3 · SM p.3.79

FRONT · RECALL ALOUD

The buyer **sub-sells or pledges** the goods. Does the unpaid seller still have **lien or stoppage** [S. 53]?

BACK · ANSWER

Yes, as a rule: the right is **not affected** by the buyer's sub-sale or pledge, because a second buyer cannot stand in a better position than the first.

Unless (a) the seller **assented** to the sub-sale or pledge; or (b) a **document of title** was transferred to the buyer and he transferred it to a person who bought **in good faith and for value**: a **sale** defeats the right; a **pledge** leaves it exercisable **subject to the pledgee's rights**.

Cement case (CSQ 3.3): sub-buyer Ravi took the railway receipt in good faith → seller cannot stop; had Ravi known of the insolvency, he could.

MEMORY TRICK **Assent, or a document in good faith: only these two defeat the seller.**

CARD 3.51 T 4.3 · MEMORISE

★★★ OL 4.3.7, 4.3.8 · Scanner U4 TQ 3.3, U4 CSQ 3.7 · SM pp.3.80–3.81

FRONT · RECALL ALOUD

When may an unpaid seller **resell** [S. 54]? What follows from reselling **with** or **without notice**?

BACK · ANSWER

Resale is allowed where: (i) the goods are **perishable** (no notice needed); (ii) the seller gives **notice of intention to resell** and the buyer fails to pay within a reasonable time; (iii) the seller resells after exercising **lien or stoppage**; (iv) the right is **expressly reserved**.

With notice [S. 54(2)]: the seller may recover the **loss** from the original buyer as damages and **keep any profit**.

Without notice: he **cannot recover the loss** and must **return any profit** to the original buyer.

A resale after lien or stoppage gives the new buyer **good title** against the original buyer, even without notice.

MEMORY TRICK **P-N-L-E: Perishable, Notice, Lien-or-stoppage done, Express reservation.** And notice is what changes both answers: loss recovered and profit kept, or neither.

CARD 3.52 T 4.4 · MEMORISE

★★ OL 4.4.2, 3.4.7 · Scanner U4 TQ 4.1, U4 TQ 4.2, U3 CSQ 4.1 · SM pp.3.81–3.82

FRONT · RECALL ALOUD

List the **unpaid seller's rights against the buyer** (ss. 55, 56, 60, 61). If goods are already delivered and the price is unpaid on the due date, which rights remain?

BACK · ANSWER

Suit for price [S. 55]: (1) property **has passed** and the buyer wrongfully refuses to pay; (2) price payable on a **certain day irrespective of delivery**, even if property has not passed.

Damages for non-acceptance [S. 56] (measure under S. 73 of the Contract Act); **repudiation before the due date** [S. 60] (treat as rescinded and sue for damages: anticipatory breach); **interest** [S. 61].

Goods delivered and the price unpaid on the due date (goods sold on 15 days' credit): no lien, stoppage or resale; only these rights **against the buyer personally**.

MEMORY TRICK **P-D-A-I: Price, Damages, Anticipatory breach, Interest.** Four rights in personam: against the person, not the goods.

CARD 3.53 T 4.4 · CONCEPT

★★★ OL 4.4.3 · Scanner U4 CSQ 4.1 · SM pp.3.54, 3.61–3.62

FRONT · RECALL ALOUD

The price has been paid, the seller asks the buyer to collect the goods, the buyer does not, and goods left in the open are damaged by rain. Who bears the loss?

BACK · ANSWER

The **buyer**. Once the seller is ready and willing and **requests delivery**, a buyer who does not take it within a reasonable time is liable for **loss from his neglect or refusal** and a **reasonable charge for care and custody** [S. 44].

Property had already passed, so the risk was the buyer's [S. 26].

Had dues been **pending**, the seller would also be an **unpaid seller** able to sue for the price [S. 55].

MEMORY TRICK **Asked to collect, failed to collect: your risk, your cost.**

CARD 3.54 T 4.5 · MEMORISE

★ OL 4.5.1, 4.5.2 · Scanner U4 TQ 5.1 · SM pp.3.82–3.84

FRONT · RECALL ALOUD

List the **buyer's remedies** against the seller [ss. 57–61]. When will the court order **specific performance** [S. 58]?

BACK · ANSWER

Damages for non-delivery [S. 57]; **specific performance** [S. 58]; **breach of warranty** [S. 59] (set it up against the price or sue for damages, but not reject on that ground alone); **anticipatory breach** [S. 60]; **interest** [S. 61].

Specific performance: only for **specific or ascertained goods**, subject to the Specific Relief Act, 1963, where **damages would not be an adequate remedy**, and where the goods are of **special nature or unique** (e.g. a rare Mughal painting).

MEMORY TRICK **Damages, Specific, Warranty, Anticipatory, Interest: D-S-W-A-I.** The unique painting belongs to the 'S'.

CARD 3.55 T 4.6 · MEMORISE

★★★ OL 4.6.1, 4.6.2 · Scanner U4 TQ 6.1, U4 CSQ 6.1, U4 CSQ 6.4 · SM pp.3.84–3.85

FRONT · RECALL ALOUD

State the **rules of auction sale** under **S. 64**.

BACK · ANSWER

Lots: each lot is prima facie a **separate contract** of sale.

Completion: the sale is complete on the **fall of the hammer** or in another customary manner; until then **any bidder may retract**.

Right to bid may be reserved expressly by or on behalf of the seller; only then may the seller (or one person for him) bid. The sale may be notified to be subject to a **reserve (upset) price**.

Pretended bidding to raise the price makes the sale **voidable** at the option of the buyer.

MEMORY TRICK **L-C-R-R-P: Lots, Completion, Right to bid, Reserve, Pretended bids.**

CARD 3.56 T 4.6 · CONCEPT

★★ OL 4.6.3, 4.6.4 · Scanner U4 CSQ 6.3, U4 CSQ 6.2 · SM pp.3.54, 3.85

FRONT · RECALL ALOUD

(1) The hammer breaks and damages the lot as it falls. (2) The seller's right to bid was not notified, yet the seller bids. Position?

BACK · ANSWER

(1) The sale is not complete until the announcement by the hammer is complete, so **property has not passed** and the loss is the **seller's** (antique clock case: the buyer may avoid the contract).

(2) If the sale is **not notified** to be subject to a right to bid on the seller's behalf, it is **unlawful** for the seller to bid or employ a bidder, or for the auctioneer knowingly to take such a bid; the buyer may treat the sale as **fraudulent** [S. 64].

MEMORY TRICK **Hammer unfinished, sale unfinished; unnotified bid, unlawful bid.**

CA FOUNDATION · PAPER 2 · BUSINESS LAWS

Flash Cards with Memory Tricks

Chapter 4 · The Indian Partnership Act, 1932 · 50 cards

How to use these cards

- Read the **front** and answer **aloud** before you look at the back.
- Then read the **memory trick**. If it does not click, make up your own and write it beside the card.
- Each card carries its **Scanner question numbers**, so you can attempt those questions straight after the card.
- Give every card a **second look after 1 day and again after 1 week.**

Reading the stars

★★★	Asked by ICAI 6 or more times. Learn word for word.
★★	Asked 3 to 5 times. Know the key terms and the lists.
★	Asked once or twice. Read once; recognise it in the exam.
–	Taken from the Study Material text. Not a One Liner line, but useful for understanding.

Topics in this chapter

Topic	Name	Card numbers	Count	Highest stars
1.2	Elements of Partnership	4.01 – 4.04	4	★★★
1.3	True Test of Partnership	4.05 – 4.07	3	★★★
1.4	Partnership Distinguished from Other Forms of Organisation	4.08 – 4.10	3	★★
1.5	Kinds of Partnerships	4.11 – 4.12	2	★★★
1.6	Types of Partners	4.13 – 4.14	2	★★
2.1	Relation of Partners to One Another	4.15 – 4.18	4	★★
2.2	Partnership Property (Section 14)	4.19	1	★★★
2.3	Personal Profit Earned by Partners (Section 16)	4.20	1	★★
2.5	Relation of Partners to Third Parties	4.21 – 4.23	3	★★★
2.7	Effect of Notice to Acting Partner (Section 24)	4.24	1	★★★
2.8	Liability to Third Parties (Section 25 to 27)	4.25 – 4.26	2	★★★
2.9	Rights of Transferee of a Partner's Interest (Section 29)	4.27 – 4.29	3	★★★
2.10	Minors Admitted to the Benefits of Partnership (Section 30)	4.30 – 4.32	3	★★★
2.11	Legal Consequences of Partner Coming in And Going Out (Section 31 – 35)	4.33 – 4.37	5	★★★
2.12	Rights of Outgoing Partner to Carry on Competing Business (Section 36)	4.38	1	★★
2.13	Right of Outgoing Partner in Certain Cases to Share Subsequent Profits (Section 37)	4.39 – 4.41	3	★★
2.14	Revocation of Continuing Guarantee by Change in Firm (Section 38)	4.42	1	★★★
3.1	Registration of Firms	4.43	1	★★
3.2	Consequences of Non-Registration (Section 69)	4.44 – 4.45	2	★★★
3.3	Dissolution of Firm (Sections 39 – 47)	4.46 – 4.48	3	★★★
3.4	Consequences of Dissolution (Sections 45 – 55)	4.49 – 4.50	2	★★★

Source: ICAI Study Material (July 2026), Scanner Business Laws 2026 October, One Liners P2. Stars follow the One Liners deck. "OL" is the One Liner reference; "TQ" and "CSQ" are the theory and case-scenario question numbers in the Scanner (in Chapters 2, 3 and 4 they carry the unit, e.g. U3); "SM p." is the Study Material page.

CARD 4.01 T 1.2 · MEMORISE

★★★ OL 1.2.1 · Scanner U1 TQ 2.1, U1 CSQ 2.1 · SM p.4.2

FRONT · RECALL ALOUD

What is ‘partnership’ under Section 4, and which five elements must co-exist?

BACK · ANSWER

Section 4: ‘Partnership’ is the relation between persons who have agreed to share the profits of a business carried on by all or any of them acting for all.

The **five elements** must co-exist: (1) association of two or more persons; (2) agreement entered into by all concerned; (3) some business; (4) agreement to share the profits; (5) business carried on by all or any of them acting for all.

Persons who enter into partnership are individually ‘partners’ and collectively ‘a firm’; the name under which they carry on business is the ‘firm name’.

MEMORY TRICK **P-A-B-S-A**: Persons, Agreement, Business, Sharing of profits, Acting for all. Five letters, five elements; if one is missing there is no partnership.

CARD 4.02 T 1.2 · MEMORISE

★★★ OL 1.2.2 · Scanner U1 TQ 2.1 · SM pp.4.2–4.3

FRONT · RECALL ALOUD

Who can and cannot be a partner? Is there a maximum number? What form must the agreement take?

BACK · ANSWER

A **firm** cannot be a partner: it is not a person recognised by law, and only such persons can enter into a partnership agreement.

A **minor** cannot be a partner; with the consent of all the partners he may be admitted **to the benefits** of partnership only.

Maximum: **50 partners** (Section 464, Companies Act, 2013). The Partnership Act itself is silent on the maximum.

The agreement may be **express or implied** from conduct, and **oral or written**.

MEMORY TRICK **Three N’s**: **N**o firm, **N**o minor (benefits only), **N**o more than 50. As for the agreement, any form will do: spoken, written or understood from conduct.

CARD 4.03 T 1.2 · MCQ TRAP

★★ OL 1.2.3 · Scanner U1 CSQ 2.1, U1 CSQ 2.3 · SM p.4.3

FRONT · RECALL ALOUD

Is sharing of losses essential to a partnership? And sharing of profits?

BACK · ANSWER

Sharing of profits is essential. There can be no partnership where only one person is entitled to the whole profit; partners may agree to share profits in any manner they choose.

Sharing of losses is NOT essential. It is open to one or more partners to agree to bear all the losses.

CSQ 2.1(i): X, Y and Z share profits equally but X alone bears the loss. It is still a partnership.

MCQ trap: do not choose ‘loss-sharing is essential’.

MEMORY TRICK **Profit is the ticket; loss is optional.** No profit-sharing, no partnership; no loss-sharing, still a partnership.

CARD 4.04 T 1.2 · MCQ TRAP

★★★ OL 1.2.5, 1.3.6, 1.3.7, 1.3.8 · Scanner U1 CSQ 2.1, U1 CSQ 2.2, U1 CSQ 3.1, U1 CSQ 3.3 · SM p.4.3

FRONT · RECALL ALOUD

Co-owners share the rent from a piece of land. Are they partners? When do joint owners or joint dealers become partners?

BACK · ANSWER

No. Co-owners who merely share rent are not partners because there is **no business**. Each pays only his own share (CSQ 2.2: Ram is liable for ₹1,500 of the ₹3,000, not the whole).

'Business' includes every trade, occupation and profession, and the motive is the **acquisition of gains**.

Yes, where business is carried on for profit: X and Y buy bales of cotton (or commodity X) to sell on joint account and share profits equally are partners.

Also partnerships (CSQ 3.1): co-owners who agree to conduct business in common for profit; a car used personally on holidays and hired out as a taxi on other days, earnings divided equally; two firms of 12 partners each combining by agreement.

Charity is not partnership: an association making clothes to give free to war widows has no profit motive. No charitable institution or club may be floated in partnership.

MEMORY TRICK **Rent is collected; business is carried on.** Co-owners sit back and collect; partners work the shop, trade the bales, run the taxi, for profit.

CARD 4.05 T 1.3 · CONCEPT

★★★ OL 1.3.1 · Scanner U1 TQ 3.4, U1 CSQ 3.3 · SM pp.4.4–4.6

FRONT · RECALL ALOUD

How is the existence of a partnership tested under Section 6? What does Section 5 say about status?

BACK · ANSWER

Section 6: regard is had to the **real relation** between the parties, as shown by **all relevant facts taken together**.

It must be proved that (1) there was an agreement between all the persons concerned; (2) the agreement was to share the profits of a business; and (3) the business was carried on by all or any of them acting for all.

Section 5: partnership arises from **contract, not status**. Members of a Hindu Undivided Family carrying on the family business as such are not partners in it.

Facts weighed together include the written or verbal agreement, the real intention and conduct of the parties and the surrounding circumstances.

MEMORY TRICK **S5: no Status. S6: Substance over labels.** Look at all the facts together, not at one clue.

CARD 4.06 T 1.3 · MCQ TRAP

★★★ OL 1.3.2, 1.2.4, 1.3.5 · Scanner U1 TQ 3.3, U1 TQ 3.5, U1 CSQ 2.1, U1 CSQ 3.2, U1 CSQ 3.4 · SM p.4.5

FRONT · RECALL ALOUD

Does receiving a share of profits make a person a partner? Name the four receipts that do not, of themselves, make the receiver a partner.

BACK · ANSWER

No. Mere receipt of a share of profits (or a payment varying with profits) does **not of itself** make a person a partner. It is prima facie evidence, not conclusive proof.

The four receipts: (a) by a **lender** of money; (b) by a **servant or agent** as remuneration; (c) by a **widow or child** of a deceased partner, as annuity; (d) by a **previous owner** or part owner as consideration for sale of **goodwill** or share.

Likewise, sharing profits or gross returns from property held jointly does not of itself make the holders partners.

CSQ 3.4: Shankar lent ₹50 lakh for 25% of profits and had no say in the business; no mutual agency, so no partnership. CSQ 3.2: Roop Singh, paid 5% of the contract value as an agent, is not a partner. CSQ 2.1(ii): author Y is not a partner of publisher X.

MEMORY TRICK **L-S-W-G**: Lender, Servant or agent, Widow or child, Goodwill seller. Four people who may share in the profits without sharing the partnership.

CARD 4.07 T 1.3 · CONCEPT

★★ OL 1.3.3, 1.3.4 · Scanner U1 TQ 3.1, U1 TQ 3.2, U1 CSQ 3.4 · SM pp.4.4, 4.6

FRONT · RECALL ALOUD

Why is mutual agency called the true test of partnership? What did the Supreme Court weigh in Santiranjan Das Gupta?

BACK · ANSWER

Mutual agency is the cardinal principle: each partner is both **principal and agent** of the others. As agent he binds the other partners; as principal he is bound by their acts.

The true test is mutual agency rather than sharing of profits; if it is absent, there is no partnership. Example: P, Q, R are partners; Mr A can recover from all three for a purchase made by P for the firm.

Santiranjan Das Gupta v. Dasyran Murzamull (no partnership): (a) no record of terms and conditions; (b) no accounts of its own open to inspection; (c) no bank account; (d) no written intimation to the Deputy Director of Procurement.

MEMORY TRICK **Two hats, one partner:** a Principal hat (bound by others) and an Agent hat (binds others). For the case, picture a business with no paper trail: no records, no accounts, no bank account, no intimation.

CARD 4.08 T 1.4 · COMPARE

★★ OL 1.4.1 · Scanner U1 TQ 4.1 · SM pp.4.9–4.10

FRONT · RECALL ALOUD

Distinguish partnership from a Hindu Undivided Family (HUF). Give any four points.

BACK · ANSWER

Creation: Partnership: by agreement. HUF: by status, i.e. by birth in the family.

Management: Partnership: all partners equally entitled to take part. HUF: generally vests in the Karta.

Liability: Partnership: each partner's liability is unlimited. HUF: only the Karta's is unlimited; the other coparceners are liable to the extent of their share in the profits of the family business.

Death of a member: Partnership: ordinarily leads to dissolution. HUF: does not dissolve the family business.

Governing law: Partnership: Indian Partnership Act, 1932. HUF: Hindu Law.

MEMORY TRICK **Agreement vs Birth, All vs Karta:** partners come in by agreement and all may manage; HUF members come in by birth and the Karta manages.

CARD 4.09 T 1.4 · COMPARE

★★ OL 1.4.2 · Scanner U1 TQ 4.2 · SM pp.4.7–4.8

FRONT · RECALL ALOUD

Distinguish partnership from a joint stock company. Give any four points.

BACK · ANSWER

Legal status: Firm: no legal personality distinct from its partners. Company: a separate legal entity (Salomon v. Salomon).

Agency: Firm: every partner is an agent of the other partners and of the firm. Company: a member is not an agent of other members or of the company.

Liability: Firm: partners' liability is unlimited and debts can be recovered from private property if the joint estate is insufficient. Company limited by shares: a shareholder is liable only for the unpaid amount on his shares.

Transfer of shares: Firm: not without the consent of all partners. Company: a shareholder may transfer his shares, subject to the Articles.

MEMORY TRICK **Firm = 'we', company = 'it'.** A firm is just its partners (no separate person, agents of each other, unlimited liability, shares move only by consent); a company is a person in its own right.

CARD 4.10 T 1.4 · COMPARE

★★ OL 1.4.3 · Scanner U1 TQ 4.3, U1 CSQ 2.2 · SM p.4.11

FRONT · RECALL ALOUD

Distinguish partnership from co-ownership.

BACK · ANSWER

Formation: Partnership: always arises from a contract, express or implied. Co-ownership: may arise from agreement or by operation of law, e.g. inheritance.

Agency: Partnership: a partner is the agent of the other partners. Co-ownership: a co-owner is not the agent of other co-owners.

Nature of interest: Partnership: community of interest, with profits shared. Co-ownership: does not necessarily involve sharing of profits and losses.

Transfer: Partnership: a share is transferred only by consent of the other partners. Co-ownership: a co-owner may transfer his interest without the consent of the other co-owners.

MEMORY TRICK **A co-owner owns; a partner operates.** The co-owner may inherit, sell without asking and is nobody's agent; the partner is bound by contract, is an agent and needs consent to transfer.

CARD 4.11 T 1.5 · MEMORISE

★★★ OL 1.5.1, 1.5.2, 1.5.3, 1.5.4 · Scanner U1 TQ 5.1, U1 TQ 5.2, U1 TQ 5.3, U1 TQ 5.6 · SM pp.4.12–4.13

FRONT · RECALL ALOUD

Name the four kinds of partnership. What makes a partnership 'at will' under Section 7?

BACK · ANSWER

By duration: (1) partnership **at will**, (2) partnership for a **fixed period**. **By extent of business:** (3) **particular** partnership, (4) **general** partnership.

At will (Section 7): (i) no fixed period agreed for its duration **and** (ii) no provision for its determination. Both must be satisfied. A fixed-term partnership continued after the term expires is treated as at will.

A partnership at will may be dissolved by any partner giving **written notice** to all the other partners.

Fixed period: ends on expiry of the period. **Particular:** a single adventure or undertaking, dissolved on its completion subject to agreement. **General:** business in general; liability is not limited to one adventure.

MEMORY TRICK **2 + 2**: two by Duration (at will, fixed), two by Extent (particular, general). At will means **no term and no clause to terminate**: two 'no's.

CARD 4.12 T 1.5 · MEMORISE

★★ OL 1.5.5 · Scanner U1 TQ 5.4, U1 TQ 5.5 · SM p.4.13

FRONT · RECALL ALOUD

Is a partnership deed mandatory? What formalities apply, and what should it contain?

BACK · ANSWER

Not mandatory: no particular formalities are required; the agreement may be oral or written. Writing is **desirable** to avoid future disputes.

The deed should be drafted with care and **stamped** under the Stamp Act, 1899. If the partnership comprises **immovable property**, the instrument must be in writing, stamped and **registered** under the Registration Act.

Contents (12): (1) firm name; (2) names of all partners; (3) nature and place of business; (4) date of commencement; (5) duration; (6) capital contribution of each partner.

(7) profit-sharing ratio; (8) admission and retirement; (9) rates of interest on capital, drawings and loans; (10) settlement of accounts on dissolution; (11) salaries or commissions; (12) expulsion for gross breach of duty or fraud.

MEMORY TRICK Three bags of four or five: **Identity** (firm name, partners, business, start date) · **Time and money** (duration, capital, profit ratio, interest, salaries) · **Entry and exit** (admission or retirement, expulsion, settlement on dissolution).

CARD 4.13 T 1.6 · MEMORISE	★★ OL 1.6.1 · Scanner U1 TQ 6.1, U1 CSQ 6.1 · SM pp.4.14–4.15, 4.18
FRONT · RECALL ALOUD Who is a nominal partner? What is his liability to third parties?	BACK · ANSWER A person who **lends his name** to the firm **without any real interest** in it. He neither invests capital nor takes part in the conduct of the business, and is **not entitled to share the profits**. Yet he is **liable to third parties for all acts of the firm**, as if he were a real partner. CSQ 6.1: Bohan is liable to creditor Karan, whether Karan sues him or the firm. He must give public notice of his retirement, and his insanity is not a ground for dissolving the firm.

MEMORY TRICK **Name lent, nothing spent:** no capital, no work, no profit, yet liable like a real partner.

CARD 4.14 T 1.6 · CONCEPT	★★ OL 1.6.2, 1.6.3, 2.5.8, 2.11.6 · Scanner U1 TQ 6.2, U1 CSQ 6.2, U2 CSQ 5.5 · SM pp.4.15–4.16
FRONT · RECALL ALOUD When is a person liable as a partner by holding out (Section 28)? Does a retired partner who gave no public notice fall under it?	BACK · ANSWER **Partnership by holding out is also called partnership by estoppel.** A person who by words or conduct represents himself, or **knowingly permits** himself to be represented, as a partner (when in fact he is not) is liable like a partner to anyone who **on the faith of that representation gave credit to the firm**. Only the person to whom the representation was made and who acted on it can enforce this liability. No fraudulent intention need be shown. **Retired partner:** the same rule applies to a former partner who retired without proper **public notice**; a person who later gave credit believing him still a partner can hold him liable (CSQ 6.2: Mr AM). CSQ 5.5: Ram introduced Gopal to Sundar as a partner and Gopal kept quiet, so Gopal is **liable to Sundar**. Sundar passed the news to Madhav; that was not Gopal's representation, so he is **not liable to Madhav**.

MEMORY TRICK **Said it, or let it be said.** Two doors into liability: you hold yourself out, or you knowingly allow others to. Only the creditor who relied on it can claim.

CARD 4.15 T 2.1 · MEMORISE

★ OL 2.1.1, 2.1.2, 2.1.3, 2.1.4 · Scanner U2 TQ 1.1, U2 TQ 1.2, U2 TQ 1.4 · SM pp.4.25–4.28

FRONT · RECALL ALOUD

State a partner's rights and duties in the conduct of business (Section 12) and the mutual rights and liabilities (Section 13).

BACK · ANSWER

Section 12: every partner may take part in the conduct of the business and must attend diligently to his duties. Ordinary differences are decided by **majority**, each partner being heard first, but **no change in the nature of the business without the consent of all**.

Every partner may have access to, inspect and copy the books; on a partner's death his heirs or legal representatives have the same right.

Section 13(a)–(c): no remuneration for taking part in the business; profits shared equally and losses contributed equally; interest on capital, where due, payable only out of profits.

Section 13(d)–(f): interest on advances beyond capital at **6% per annum**; the firm indemnifies a partner for payments and liabilities in the ordinary and proper conduct of business and in an emergency (ordinary prudence); a partner indemnifies the firm for loss caused by his wilful neglect.

Fraud (Section 10): a partner who commits fraud in the firm's business must make good the firm's loss. All these rules are subject to contract between the partners.

MEMORY TRICK Section 13 as a rhyme: **No pay, equal way, capital from profit, six on advance; the firm covers you, you cover the firm.**

CARD 4.16 T 2.1 · CONCEPT

★★ OL 2.1.7 · Scanner U2 CSQ 1.2, U2 TQ 1.4 · SM p.4.28

FRONT · RECALL ALOUD

The working partners are customarily paid ₹20,000 a month, with no express agreement. A new working partner, Sony, is paid nothing. Can he claim?

BACK · ANSWER

Yes. Section 13(a) says a partner is not entitled to remuneration, but the rule can be varied by an **express agreement or by a course of dealings**.

Where it is **customary** to pay remuneration to a partner for conducting the business, he can claim it even without a contract.

Sony is admitted as a working partner like Moni and Tony, so he is entitled to remuneration like them (CSQ 1.2).

MEMORY TRICK **Custom pays too.** What the firm has always paid its working partners becomes the new working partner's due.

CARD 4.17 T 2.1 · MCQ TRAP

★★ OL 2.1.8 · Scanner U2 CSQ 1.3, U2 TQ 1.4 · SM p.4.28

FRONT · RECALL ALOUD

Amit and Ajay contributed capital of ₹3,00,000 and ₹1,00,000. The deed is silent on the profit ratio. A loss of ₹60,000 occurs. In what ratio is it borne?

BACK · ANSWER

Equally, not in the capital ratio of 3:1. Section 13(b): profits are shared equally and losses contributed equally unless agreed otherwise.

There is **no connection** between the proportion in which partners share profits and the proportion in which they contributed capital.

If there is no agreement, equality is presumed; the burden of proving unequal shares lies on the party alleging it.

Here the two partners bear ₹30,000 each, and Ajay's plea to pay only 25% fails.

MEMORY TRICK **Equal unless agreed:** the capital ratio is a red herring. Capital does not set the ratio for profits or losses.

CARD 4.18 T 2.1 · CONCEPT

★★ OL 2.1.6, 2.5.5 · Scanner U2 CSQ 1.1, U2 CSQ 5.3, U2 TQ 5.3 · SM pp.4.28–4.29, 4.34

FRONT · RECALL ALOUD

A partner, unable to reach his co-partner, sells stock below the agreed minimum price in an emergency to save the firm from loss. Does it bind the firm?

BACK · ANSWER

Yes. Section 21: in an **emergency** a partner has authority to do all such acts to protect the firm from loss as a person of **ordinary prudence** would do in his own case, and they bind the firm.

Under Section 13(e) the firm must also **indemnify** him. CSQ 1.1: A sold the plastic bottles at a lower price while B was abroad; B cannot recover the difference from A.

CSQ 5.3: Mohan sold goods at a reduced price when Shyam, who alone had express authority, could not be reached; the sale binds the firm.

Emergency authority is measured by **ordinary prudence**, not by the usual course of business.

MEMORY TRICK **Prudent-person test.** Ask: would a careful owner have done the same in his own case? If yes, the firm is bound and the partner is indemnified.

CARD 4.19 T 2.2 · MEMORISE

★★★ OL 2.2.1, 2.2.2, 2.2.3 · Scanner U2 TQ 2.1, U2 TQ 2.2, U2 CSQ 2.1 · SM pp.4.29–4.30

FRONT · RECALL ALOUD

What is ‘property of the firm’ under Section 14, and how do you decide whether a particular property belongs to the firm?

BACK · ANSWER

‘Property of the firm’ (also partnership assets, joint stock, common stock or joint estate) means all property, rights and interests to which all the partners collectively may be entitled.

Unless a contrary intention appears, it comprises: (i) property **brought into the common stock** as contribution; (ii) property **acquired** by or for the firm, or for the purposes and in the course of its business; (iii) **goodwill**.

Test = the real intention or agreement of the partners. Mere use of a partner’s own property for the firm does not make it the firm’s unless so intended.

Property bought with the **firm’s money** is presumed to be the firm’s, unless the partner debits himself in the firm’s books as a debtor; then it is his personal property (CSQ 2.1: Rahul’s 100 shares).

Goodwill: the value of the reputation of a business in respect of profits expected over and above the normal level of profits.

MEMORY TRICK **B-A-G**: Brought in, Acquired for the firm, Goodwill. The partners’ intention is the judge.

CARD 4.20 T 2.3 · CONCEPT

★★ OL 2.3.1, 2.3.2 · Scanner U2 TQ 3.1, U2 CSQ 3.1 · SM p.4.30

FRONT · RECALL ALOUD

What must a partner do with a personal profit under Section 16? B sells his own cheaply bought iron bars to the firm at the market price. Must he account?

BACK · ANSWER

Section 16(a): a partner who derives any profit for himself from a **transaction of the firm**, or from the use of the firm's property, business connection or firm name, must **account for it and pay it to the firm**.

Section 16(b): if he carries on a **competing business** of the same nature as the firm's, he must account for and pay to the firm all profits made in that business.

CSQ 3.1: B bought iron bars at ₹200 per kg and supplied them to the firm at the market price of ₹350. The extra ₹150 per kg arose purely from dealing with the firm, so B must pay it to the firm.

Both rules are subject to contract between the partners.

MEMORY TRICK **No secret pockets.** Profit made through the firm's deal, name or connection, or from a rival trade, belongs to the firm.

CARD 4.21 T 2.5 · CONCEPT

★★★ OL 2.5.1, 2.5.2, 2.1.5 · Scanner U2 TQ 5.2, U2 TQ 1.3, U2 CSQ 5.4 · SM pp.4.32–4.33

FRONT · RECALL ALOUD

In what sense is a partner both principal and agent (Section 18)? When does his act bind the firm under Sections 19(1) and 22?

BACK · ANSWER

Section 18: a partner is the **agent of the firm** for the purposes of its business. He is a **principal** when acting in his own interest in the common concern and an **agent** when acting for his partners.

Unlike a mere agent, a partner has a **community of interest** in the whole property, business and liabilities of the firm.

Section 19(1): an act done to carry on, **in the usual way**, **business of the kind carried on by the firm** binds the firm. This is his **implied authority**.

Section 22: the act must be done in the **firm name** or in any other manner expressing or implying an intention to bind the firm.

The rule applies to acts done for the firm's business, not to dealings between the partners themselves.

MEMORY TRICK Three gates for implied authority: the act must be **usual**, of the **kind of business** the firm carries on, and in the **firm's name**.

CARD 4.22 T 2.5 · MEMORISE

★★ OL 2.5.3, 2.2.4 · Scanner U2 TQ 5.1, U2 CSQ 5.4, U2 CSQ 2.2 · SM pp.4.32–4.33

FRONT · RECALL ALOUD

Name the eight acts beyond a partner's implied authority (Section 19(2)).

BACK · ANSWER

In the absence of any usage or custom of trade to the contrary, implied authority does **not** empower a partner to:

(a) submit a dispute relating to the business to **arbitration**; (b) open a **bank account** on behalf of the firm in his own name; (c) **compromise or relinquish** any claim or portion of a claim by the firm; (d) **withdraw a suit** or proceedings filed on behalf of the firm.

(e) **admit any liability** in a suit or proceedings against the firm; (f) **acquire** immovable property on behalf of the firm; (g) **transfer** immovable property belonging to the firm; (h) **enter into partnership** on behalf of the firm.

CSQ 2.2: Mr Pramod cannot, without the other partner's consent, withdraw the suit or acquire the supplier's immovable property for the firm.

MEMORY TRICK Eight acts: **A-B-C** first (Arbitrate, Bank account, Compromise), then **W-A-A-T-E** (Withdraw suit, Admit liability, Acquire and Transfer immovable property, Enter partnership).

CARD 4.23 T 2.5 · CONCEPT

★★ OL 2.5.4, 2.5.6, 2.5.7, 2.8.5 · Scanner U2 CSQ 5.1, U2 CSQ 5.2, U2 CSQ 5.6, U2 CSQ 8.2 · SM pp.4.33–4.34, 4.36

FRONT · RECALL ALOUD

A partner borrows in the firm's name beyond his authority, or buys goods in the firm's name and uses them personally. Is the firm liable to the innocent lender or supplier?

BACK · ANSWER

Yes. If the act falls within the partner's implied authority and is done in the firm's name, it binds the firm, and the outsider who did not know of the misuse or restriction is protected.

Section 20: partners may by contract (with the consent of all) extend or restrict implied authority. A restriction does not bind an outsider unless he **knows of the restriction** or does not know or believe he is dealing with a partner.

CSQ 5.1: Mahesh borrowed ₹50,000 from Ramesh in the firm's name and spent it on himself; Suresh and Dinesh are liable. CSQ 5.2: supplier M, unaware of the restriction, can recover; had he known of it, he could not.

CSQ 5.6 and CSQ 8.2: Y (timber) and P (cement) bought in the firm's name for private use; the firm must pay the supplier, even where part of the goods was delivered to the firm.

MEMORY TRICK **The innocent outsider wins.** Private limits bind an outsider only if he knows them; what the partner did with the goods afterwards is the firm's problem.

CARD 4.24 T 2.7 · CONCEPT

★★★ OL 2.7.1, 2.7.2, 2.8.4 · Scanner U2 TQ 7.1, U2 CSQ 8.1 · SM p.4.35

FRONT · RECALL ALOUD

What is the effect of notice to an acting partner (Section 24)? R, a partner, buys a car for the firm and learns it is stolen. Who is liable to the true owner?

BACK · ANSWER

Section 24: notice to a partner who **habitually acts** in the firm's business, on matters relating to its affairs, operates as notice to the **firm**, just as notice to an agent is notice to his principal.

Exception: fraud on the firm committed by or with the consent of that partner.

The notice must be **actual, not constructive**; received by a **working partner, not a sleeping partner**; and relate to the firm's business.

SM example: R buys a second-hand car for the firm and learns it is stolen (P and Q do not know). **All the partners** are liable to X, the real owner. CSQ 8.1: sleeping partner A cannot avoid liability for the stolen goods B dealt in merely by being a sleeping partner.

MEMORY TRICK **Tell one, tell all.** But the 'one' must be an acting partner who actually receives the notice; a sleeping partner, or one in league with a fraud, does not count.

CARD 4.25 T 2.8 · MEMORISE

★★★ OL 2.8.1, 2.8.2 · Scanner U2 TQ 8.2, U2 CSQ 8.1, U2 CSQ 8.2 · SM p.4.36

FRONT · RECALL ALOUD

State Sections 25 and 26: how are the partners and the firm liable to third parties?

BACK · ANSWER

Section 25: every partner is **jointly and severally** liable to third parties for all acts of the firm done while he is a partner, within the scope of his express or implied authority.

'Act of firm' means any act or omission by all the partners, or by any partner or agent of the firm, which gives rise to a right enforceable by or against the firm.

Section 26: the firm is liable to the **same extent as the partner** for loss or injury caused to a third party by his wrongful act, if done (a) in the **ordinary course of the firm's business** or (b) **with the authority of the partners**.

Example: a partner-manager of a coal mine negligently left the shaft unfenced and a workman was injured; the other partner was also held responsible.

MEMORY TRICK **25 = one for all, all for one. 26 = a wrong done in the course of business is the firm's wrong.**

CARD 4.26 T 2.8 · COMPARE

★★★ OL 2.8.3 · Scanner U2 TQ 8.1, U2 TQ 8.2, U2 CSQ 8.1 · SM pp.4.36–4.37

FRONT · RECALL ALOUD

Distinguish the two clauses of Section 27 (misapplication by a partner).

BACK · ANSWER

Clause (a): a partner, acting within his **apparent authority**, receives money or property from a third party and misapplies it. The money need not have come into the firm's custody.

Clause (b): the firm, in the course of its business, receives money or property from a third party and it is misapplied by a partner **while in the custody of the firm**.

The firm is liable in both cases.

If the receipt was **not within the partner's apparent authority**, it is not a receipt by the firm and the other partners are not liable, unless the money came into their possession or control.

Example: A, B and C run a car-parking place; P parks his car and A sells it to a stranger. The firm is liable for A's act.

MEMORY TRICK **A for Apparent authority, B for the firm's Bag (custody).** The firm pays in both; the other partners escape only if the receipt was outside apparent authority and never reached them.

CARD 4.27 T 2.9 · MEMORISE

★★★ OL 2.9.1, 2.9.2 · Scanner U2 TQ 9.1, U2 TQ 9.2, U2 TQ 9.4 · SM pp.4.37–4.38

FRONT · RECALL ALOUD

A partner transfers his share. What can the transferee claim (i) while the firm continues and (ii) on dissolution of the firm or retirement of the transferor?

BACK · ANSWER

A share is transferable like any other property, but because partnership rests on mutual confidence the transferee cannot enjoy the same rights as the original partner.

(i) While the firm continues, the transferee may not (a) interfere with the conduct of the business, (b) require accounts, or (c) inspect the books. He gets only the transferor's **share of profits** and must **accept the profits as agreed** by the partners.

(ii) On dissolution of the firm or retirement of the transferring partner, he is entitled against the remaining partners to the **share of the assets** to which the transferor was entitled, and to an **account as from the date of the dissolution** to ascertain it.

MEMORY TRICK **While the firm runs: profits only. When it ends: assets plus an account.** Three barred acts: interfere, require accounts, inspect books.

CARD 4.28 T 2.9 · MCQ TRAP

★★★ OL 2.9.1, 2.9.3, 2.11.12 · Scanner U2 TQ 9.3, U2 CSQ 11.5 · SM pp.4.38, 4.40

FRONT · RECALL ALOUD

Does a transferee of a partner's share become a partner? Can he inspect the books while the firm continues?

BACK · ANSWER

No, and no. Under Section 31, no new partner can be introduced without the **consent of all** the partners (subject to contract and to the provisions on minors).

A partner cannot, by transferring his own interest, make anyone a partner in his place unless the others agree to accept that person. He is, however, **not barred from transferring** his interest, which is existing, tangible property.

While the firm continues the transferee **cannot inspect the books or challenge the accounts**.

CSQ 11.5: Prateek, to whom his father transferred his share, cannot be introduced as a partner because the other partners did not agree, and he cannot challenge the books.

MEMORY TRICK **Transfer is allowed; promotion is not.** The share can move, but the seat at the table needs everyone's consent.

CARD 4.29 T 2.9 · CONCEPT

★★ OL 2.9.4, 2.9.5, 3.3.9 · Scanner U2 CSQ 9.1, U2 CSQ 9.2, U3 CSQ 3.7 · SM pp.4.37–4.38

FRONT · RECALL ALOUD

Mr M sells his share to his creditor Z. Is the sale valid? What can a transferee demand during the firm's life and on dissolution?

BACK · ANSWER

Valid. A share is transferable like any other property (Section 29); Mr M can sell his interest to Z to settle the debt (CSQ 9.1).

If M later retires, Z is entitled against the remaining partners to M's **share of the assets** and to an account from the date M ceased to be a partner (CSQ 9.1).

While the firm continues, a transferee like Mr B cannot inspect the books or challenge the small profit shown (CSQ 9.2).

On dissolution the transferee gets an account only **from the date of dissolution**, not for earlier years; Niman's demand for three years' past accounts fails (CSQ 3.7).

MEMORY TRICK **Profits now, assets later, a say never.** That is the transferee's whole package.

CARD 4.30 T 2.10 · MCQ TRAP

★★★ OL 2.10.1 · Scanner U2 TQ 10.1, U2 TQ 10.2, U2 TQ 10.3 · SM p.4.38

FRONT · RECALL ALOUD

Can a minor be a partner? What is his position under Section 30 and what rights does he have?

BACK · ANSWER

No. A contract with a minor is void, not merely voidable; partnership is founded on contract, so a minor cannot become a partner.

He can be **admitted to the benefits** of partnership, i.e. validly given a share in the profits, but only with the **consent of all the partners**.

Rights: his agreed share of the profits and property; access to, and the right to inspect and copy, the accounts.

He may **sue the partners for accounts or his share only when severing his connection** with the firm, not otherwise.

MEMORY TRICK **Guest, not host.** The minor is served a share of the profits but cannot sit in the partner's chair.

CARD 4.31 T 2.10 · MEMORISE

★★★ OL 2.10.2 · Scanner U2 TQ 10.2, U2 TQ 10.3, U2 CSQ 11.9 · SM pp.4.38–4.39

FRONT · RECALL ALOUD

What is a minor's liability before he attains majority? What if the firm is declared insolvent?

BACK · ANSWER

His liability is confined to his **share in the profits and the property** of the firm.

He has **no personal liability** for the debts of the firm incurred during his minority.

A minor **cannot be declared insolvent**; but if the firm is declared insolvent, his share in the firm vests in the **Official Receiver or Assignee**.

MEMORY TRICK **The limit is his share, nothing more.** The creditor can reach the minor's slice of the firm, never his own pocket.

CARD 4.32 T 2.10 · CONCEPT

★★★ OL 2.10.3, 2.10.4, 2.10.5 · Scanner U2 CSQ 10.1, U2 CSQ 11.10, U2 TQ 10.1 · SM p.4.39

FRONT · RECALL ALOUD

What must a minor do on attaining majority? What if he stays silent, and from when is he then liable?

BACK · ANSWER

Within **6 months** of attaining majority, or of learning that he was admitted to the benefits of partnership, **whichever is later**, he must decide whether to become a partner or leave the firm.

He may give **public notice** of his election. If he elects **not** to become a partner, his rights and liabilities stay those of a minor up to the date of the notice and his share is not liable for later acts; he may sue for his share and must notify the Registrar.

Silence = partner. If he gives no notice within the 6 months, he **becomes a partner** on expiry.

As a partner he is **personally liable to third parties for all acts of the firm since admission** to the benefits, and his share remains what it was as a minor. CSQ 10.1: Master X gave no notice, so supplier L can recover from him.

MEMORY TRICK **Six months, three choices: Yea, Nay, or Silence.** Yea or silence makes him a partner, liable from admission; Nay by public notice takes him out.

CARD 4.33 T 2.11 · CONCEPT

★★ OL 2.11.1, 2.11.2, 2.11.3 · Scanner U2 CSQ 11.8, U2 CSQ 11.9 · SM p.4.40

FRONT · RECALL ALOUD

From when is an incoming partner liable? Is Amar, or D, liable for old debts after an agreement about them?

BACK · ANSWER

Section 31: a new partner's liability ordinarily **begins from the date of admission**, unless he agrees to be liable for earlier obligations.

Old debts: the new firm, including the new partner, may assume them, and creditors may accept the new firm as debtor and discharge the old partners. This is **novation**, and the **creditor's consent is necessary in every case**.

A **mere agreement among the partners** cannot operate as novation, so creditors get no right against the incoming partner. CSQ 11.8: Amar, bound only by an agreement signed by the partners, is **not liable** to the creditor suing for the old debt.

CSQ 11.9: A, B and C made the agreement with the creditors without D as a party; D is not liable for the ₹50 lakh debt, and the answer is the same if D was a minor and on his becoming a major.

MEMORY TRICK **Two nods make novation: the new firm's and the creditor's.** Partners nodding among themselves is not enough.

CARD 4.34 T 2.11 · MEMORISE

★★ OL 2.11.4, 2.11.5, 2.11.13 · Scanner U2 TQ 11.2, U2 CSQ 11.1, U2 CSQ 11.7 · SM pp.4.40–4.41

FRONT · RECALL ALOUD

In what three ways may a partner retire (Section 32)? Until when does he stay liable to third parties?

BACK · ANSWER

A partner may retire (a) with the **consent of all** the other partners; (b) in accordance with an **express agreement** among the partners; or (c) where the partnership is **at will**, by giving **written notice** to all the other partners.

He may be discharged from liability for acts done before retirement by an agreement among him, the third party and the reconstituted firm; it may be implied from a course of dealing after the third party knew of the retirement.

Until **public notice** of retirement is given, he and the other partners remain liable as partners for acts that would have been acts of the firm. The notice may be given by the retired partner or by any partner of the reconstituted firm.

Proviso: a retired partner is **not liable to a third party who deals with the firm without knowing that he was a partner**.

CSQ 11.1: P retired without public notice and his name stayed on the firm's visiting card, so X can recover from P. CSQ 11.7: R retired without public notice, so S can recover from R as well.

MEMORY TRICK **C-A-N**: Consent, Agreement, Notice (at will). Then public notice is the exit stamp: until it is given, you are still on the hook.

CARD 4.35 T 2.11 · MEMORISE

★★★ OL 2.11.7, 2.11.8, 2.11.9 · Scanner U2 TQ 11.3, U2 TQ 11.4, U2 CSQ 11.2, U2 CSQ 11.11 · SM pp.4.41–4.42

FRONT · RECALL ALOUD

On what conditions can a partner be expelled (Section 33)? What is the test of good faith? What if the conditions are not met?

BACK · ANSWER

A partner may not be expelled by any majority of the partners save in the exercise, **in good faith**, of powers conferred by **contract** between the partners.

Three conditions: (i) the power of expulsion exists in a **contract** between the partners; (ii) it is exercised by a **majority**; (iii) it is exercised in **good faith**.

Good faith means: (a) the expulsion is in the **interest of the partnership**; (b) the partner is **served with a notice**; (c) he is given an **opportunity of being heard**.

Otherwise the expulsion is **null and void**, and an invalid expulsion does not end the partnership even if it is at will.

Sections 32(2) to (4) apply to an expelled partner as if he were a retired partner, so he stays liable until public notice is given (TQ 11.4).

CSQ 11.11: Mr G's expulsion was justified, provided he was served with notice and heard.

MEMORY TRICK **A fair-trial picture:** a power in the contract, a majority behind it, and a proper hearing. Check Notice, Hearing and the firm's Interest; skip the hearing and the expulsion is void.

CARD 4.36 T 2.11 · CONCEPT

★★★ OL 2.11.10, 2.11.11, 2.13.4 · Scanner U2 TQ 11.1, U2 TQ 11.2 · SM pp.4.42–4.43, 4.48

FRONT · RECALL ALOUD

What are the effects of a partner's insolvency (Section 34)? Is public notice needed?

BACK · ANSWER

He **ceases to be a partner on the date the order of adjudication is made**, whether or not the firm is thereby dissolved.

His estate is **not liable for acts of the firm done after** that date, and the firm is **not liable for his acts after** that date.

Ordinarily but not invariably, insolvency dissolves the firm; the partners may agree that it will not.

No public notice is required on the insolvency of a partner.

MEMORY TRICK **Adjudication day = exit day.** From that date the insolvent and the firm are strangers: no liability either way, and no notice to give.

CARD 4.37 T 2.11 · MCQ TRAP

★★★ OL 2.11.11 · Scanner U2 CSQ 11.3, U2 CSQ 11.4, U2 CSQ 11.6, U2 CSQ 13.1 · SM pp.4.43, 4.48

FRONT · RECALL ALOUD

A partner dies and the firm continues. Must public notice be given? Is his estate liable for the firm's later acts?

BACK · ANSWER

No public notice is needed, and the estate is NOT liable for any act of the firm done after his death (Section 35).

Ordinarily death dissolves the partnership, but the partners may agree that it will not; a firm of only two partners dissolves automatically.

Goods **ordered in his lifetime but delivered after his death**: the estate is not liable, because no debt was due in his lifetime. The creditor gets a personal decree against the surviving partners and a decree against the partnership assets in their hands.

CSQ 13.1: C died; his name staying on the signboard and letterheads makes no difference, and supplier X cannot recover from C's heirs.

MEMORY TRICK **Death closes the account, silently.** There is no notice to publish, and the estate owes nothing for what the firm does afterwards.

CARD 4.38 T 2.12 · MEMORISE

★★ OL 2.12.1 · Scanner U2 TQ 12.1, U2 CSQ 12.1 · SM p.4.44

FRONT · RECALL ALOUD

What may an outgoing partner do about a competing business, and what may he not do (Section 36)?

BACK · ANSWER

He **may carry on a competing business** and may advertise it.

Subject to contract to the contrary, he may **not** (a) use the **firm name**; (b) **represent himself** as carrying on the business of the firm; or (c) **solicit the custom** of persons who were dealing with the firm before he ceased to be a partner.

Restraint agreement: a partner may agree that on ceasing to be a partner he will not carry on a similar business within a **specified period or specified local limits**; despite Section 27 of the Indian Contract Act, 1872, it is valid if the restrictions are **reasonable**.

CSQ 12.1: P and Q left and started the competing PQ & Co.; they may compete, subject to the three bars.

MEMORY TRICK **Compete yes, copy no:** he may open a rival shop, but not under the old name, not as the old firm, and not by calling on the old customers.

CARD 4.39 T 2.13 · MEMORISE

★★ OL 2.12.2, 2.13.1, 2.13.2 · Scanner U2 CSQ 12.1, U2 CSQ 13.2, U2 CSQ 13.3 · SM p.4.44

FRONT · RECALL ALOUD

A partner dies or goes out, and the continuing partners carry on with the firm's property without settling accounts. What can he or his estate claim (Section 37)?

BACK · ANSWER

Where the surviving or continuing partners carry on the business with the firm's property **without final settlement of accounts**, then, in the absence of a contrary contract, the outgoing partner or his estate may claim, **at his or his representatives' option**, either:

(a) the **share of profits made since he ceased to be a partner, attributable to the use of his share of the property** of the firm; or (b) **interest at 6% per annum** on the amount of his share in the property.

Proviso: if by contract the continuing partners have an option to purchase his interest and duly exercise it, he gets no further share of profits.

The choice is his, not the firm's, so compare the two and take the higher. CSQ 13.2: A (20% share) retired and died; B and C continued without settling. A's representatives may claim 20% of the profits or 6% interest on A's share of the property, at their option.

MEMORY TRICK **Profits or 6%, his pick.** The firm kept using his money, so he chooses a share of the profits or the 6% interest, whichever pays more.

CARD 4.40 T 2.13 · FORMULA

★ OL 2.13.3 · Scanner U2 CSQ 13.3 · SM p.4.44

FRONT · RECALL ALOUD

Suman has a 10% share in firm property of ₹200 lakh and retires on 31 March 2023. The firm carries on without settling accounts and earns ₹10 lakh profit in the next year. She claims ₹3 lakh. What can she validly claim?

BACK · ANSWER

Her share in the property = 10% of ₹200 lakh = **₹20 lakh**.

Option (a), share of profits: 10% of ₹10 lakh = **₹1,00,000**.

Option (b), interest at 6% per annum on ₹20 lakh = **₹1,20,000**.

She may claim either, at her option. The claim of ₹3 lakh is **not valid** because it exceeds both.

MEMORY TRICK **10% of 10 lakh = 1 lakh; 6% of 20 lakh = 1.2 lakh.** A three-lakh claim is far out of range.

CARD 4.41 T 2.13 · FORMULA

★ OL 2.14.2 · Scanner U2 CSQ 14.1 · SM pp.4.44–4.45

FRONT · RECALL ALOUD

Alex (ratio 4:3:3; firm property ₹30 crore) retires unsettled; the firm earns ₹2 crore till his death. Maximum claim of his heir Tom? And a month later, after ₹50 lakh more profit?

BACK · ANSWER

Alex's share = 3 of 10 (his **old ratio**, not the 4:3 ratio of the continuing partners).

First claim: share of profits = 3/10 of ₹2 crore = **₹60 lakh**.

Later claim: the entitlement runs to the date of settlement, so profits = ₹2 crore + ₹50 lakh = ₹2.5 crore, and 3/10 of that = **₹75 lakh**.

The interest option is 6% per annum on his share of the property (3/10 of ₹30 crore = ₹9 crore), i.e. under ₹54 lakh for a full year and less for these shorter periods. So the profit share is the higher claim in both cases.

MEMORY TRICK **Old ratio, long clock:** work Alex's share on his own ratio and let the profits run to the day of settlement. Then compare with the interest.

CARD 4.42 T 2.14 · MEMORISE

★★★ OL 2.14.1 · Scanner U2 TQ 14.1, U2 CSQ 14.1 · SM p.4.45

FRONT · RECALL ALOUD

What happens to a continuing guarantee when the constitution of the firm changes (Section 38)? Must the firm be dissolved?

BACK · ANSWER

A continuing guarantee given **to a firm**, or to a third party in respect of the transactions of a firm, is, **in the absence of agreement to the contrary**, **revoked as to future transactions** from the date of **any change in the constitution** of the firm.

The change may be by death or retirement of a partner or the introduction of a new partner.

No dissolution and no consent of the other party is needed; transactions already entered into before the change remain covered.

CSQ 14.1: Alex's retirement changed the constitution of the firm, so the continuing guarantee for Asif stood revoked for future transactions. Asif's plea that it could end only by mutual understanding fails.

MEMORY TRICK **New face, farewell or death: the guarantee stops for the future, not for the past.**

CARD 4.43 T 3.1 · MEMORISE

★★ OL 3.1.1 · Scanner U3 TQ 1.1 · SM p.4.58

FRONT · RECALL ALOUD

What must the Section 58 statement for registration contain, and what does the Registrar do under Section 59?

BACK · ANSWER

Section 58: a statement in the prescribed form with the prescribed fee, sent or delivered to the **Registrar** of the area in which any place of business is, or is proposed to be, situated. It is signed by **all the partners** or by their specially authorised agents.

It states: (a) the firm's name; (b) the principal place of business; (c) the names of any other places of business; (d) the date each partner joined; (e) the full names and permanent addresses of the partners; (f) the duration of the firm.

Section 59: when satisfied that Section 58 is complied with, the Registrar records an entry in the **Register of Firms**, files the statement and issues a certificate of registration.

Registration is deemed complete as soon as the application with the fee and particulars is delivered to the Registrar.

MEMORY TRICK **Who, Where, When:** Who (firm name; partners' names and addresses) · Where (principal and other places of business) · When (joining dates; duration).

CARD 4.44 T 3.2 · MCQ TRAP

★★★ OL 3.2.1, 3.2.2, 3.2.3, 3.3.1 · Scanner U3 TQ 2.1, U3 TQ 3.1, U3 CSQ 2.1, U3 CSQ 2.2 · SM pp.4.59–4.60

FRONT · RECALL ALOUD

Is registration of a firm compulsory? What are the disabilities of an unregistered firm under Section 69?

BACK · ANSWER

Registration is NOT compulsory and no penalty is imposed for non-registration. But the disabilities exert a 'persuasive pressure' to register.

(i) **No suit against a third party** by the firm or its partners to enforce a contractual right, unless the firm is registered and the persons suing are shown in the Register of Firms as partners. (ii) **No set-off** may be claimed by the firm or a partner if the suit is valued above ₹100.

(iii) A partner cannot sue the firm or another partner, though he may sue for dissolution or, on dissolution, for accounts and his share. (iv) A **third party can sue** the unregistered firm. CSQ 2.2: unregistered LMN cannot sue XYZ; a registered LMN can.

Section 69(2): a suit needs (a) a registered firm suing and (b) the persons suing shown as partners in the Register. Surviving partners may sue after a death or retirement without fresh registration (CSQ 2.1); a new partner not yet entered in the Register cannot be a plaintiff.

MEMORY TRICK **Optional to join, costly to skip.** Registration is not compulsory, but an unregistered firm cannot sue a third party on a contract; the third party can still sue it.

CARD 4.45 T 3.2 · MEMORISE

★★★ OL 3.2.1, 3.2.4 · Scanner U3 TQ 2.1, U3 CSQ 2.3 · SM pp.4.59–4.60, 4.67

FRONT · RECALL ALOUD

Which rights are NOT affected by non-registration of a firm?

BACK · ANSWER

(1) The right of **third parties** to sue the firm or any partner.

(2) The right of partners to sue for **dissolution** of the firm, for accounts of a dissolved firm, and for realisation of their share of its property.

(3) The power of an **Official Assignee, Receiver or Court** to release the property of an insolvent partner and to bring an action.

(4) The right to sue or claim a set-off where the suit does not exceed **₹100**.

(5) Suits by the **legal representatives or heirs** of a deceased partner for accounts or to realise the firm's property.

Also unaffected: **criminal proceedings**. CSQ 2.3: A may sue B for stealing the firm's goods.

MEMORY TRICK **T-D-O-₹100-H**: Third parties, Dissolution, Official Assignee, ₹100 suits, Heirs. Add crime as the sixth.

CARD 4.46 T 3.3 · COMPARE

★★★ OL 3.3.2 · Scanner U3 TQ 3.2, U3 TQ 3.4 · SM pp.4.60–4.61

FRONT · RECALL ALOUD

Distinguish dissolution of the firm from dissolution of partnership (Section 39).

BACK · ANSWER

Section 39: dissolution of the partnership **between all the partners** of a firm is called **dissolution of the firm**.

Continuation: Firm: business is discontinued. Partnership: business continues; only reconstitution of the firm.

Winding up: Firm: realisation of assets and settlement of liabilities. Partnership: only revaluation of assets and liabilities.

Order of court: Firm: may be dissolved by court order. Partnership: not ordered by the court.

Scope: Firm: necessarily involves dissolution of partnership. Partnership: may or may not involve dissolution of the firm. **Books:** Firm: final closure of books. Partnership: no final closure.

MEMORY TRICK **Whole house or one tenant.** Dissolving the firm brings the whole house down; dissolving the partnership is one tenant leaving while the house stands.

CARD 4.47 T 3.3 · MEMORISE

★★★ OL 3.3.3, 3.3.5, 3.3.6 · Scanner U3 TQ 3.4, U3 CSQ 3.1, U3 CSQ 3.2, U3 CSQ 3.4 · SM pp.4.61–4.62, 4.68

FRONT · RECALL ALOUD

Name the five modes of dissolution of a firm with their section numbers. When is dissolution compulsory?

BACK · ANSWER

(1) **By agreement (Section 40):** consent of **all** the partners, or in accordance with a contract already made between them. A mere majority is not enough (CSQ 3.4).

(2) **Compulsory (Section 41):** adjudication of all the partners, or all but one, as insolvent; or any event making the business, or carrying it on in partnership, unlawful. Where the firm has **separate undertakings**, illegality of one does not dissolve the firm for the lawful ones.

(3) **Contingencies (Section 42)**, subject to contract: expiry of a fixed term; completion of the adventure; death of a partner; insolvency of a partner.

(4) **Notice (Section 43):** partnership at will; written notice to all; dissolved from the date mentioned or, if none, from the date the notice is communicated.

(5) **Court (Section 44):** at the suit of a partner, on the grounds listed in that section.

CSQ 3.1: when a ban makes the Ajinomoto line unlawful, the separate paper plates and cups business is not dissolved by that illegality.

MEMORY TRICK **A-I-E-N-C = 40, 41, 42, 43, 44:** Agreement, Illegal (compulsory), Event, Notice, Court. Five sections in a row.

CARD 4.48 T 3.3 · MEMORISE

★★★ OL 3.3.4 · Scanner U3 TQ 3.2, U3 TQ 3.3, U3 TQ 3.5, U3 CSQ 3.3, U3 CSQ 3.5 · SM pp.4.63–4.64

FRONT · RECALL ALOUD

State the grounds on which the Court may dissolve a firm under Section 44.

BACK · ANSWER

(a) **Unsound mind** of a partner (not a sleeping partner); suit by the other partners or the next friend. **Temporary sickness** is no ground.

(b) **Permanent incapacity** of a partner other than the one suing. (c) **Misconduct** likely to affect the business prejudicially; it need not relate to the conduct of the business.

(d) **Persistent breach** of agreement, or conduct making it not reasonably practicable to carry on with him (e.g. embezzlement, erroneous accounts, refusing to show accounts despite repeated requests).

(e) **Transfer** of the whole interest to a third party, or share charged or sold in recovery of arrears of land revenue. (f) **Continuous losses**: the business cannot be carried on except at a loss in future too.

(g) **Just and equitable grounds:** deadlock in management; partners not on talking terms; loss of substratum; gambling by a partner on a stock exchange.

CSQ 3.3: if P refuses to agree, Q and R may ask the Court to dissolve the bus partnership because it can be run only at a loss.

MEMORY TRICK **4 + 3**: four about the partner himself (unsound mind, incapacity, misconduct, persistent breach), then three more (transfer of interest, continuous losses, just and equitable).

CARD 4.49 T 3.4 · CONCEPT

★★ OL 3.4.4, 3.4.2, 3.3.7, 3.3.8 · Scanner U3 CSQ 4.1, U3 CSQ 3.5, U3 CSQ 3.6, U3 TQ 4.3 · SM pp.4.64–4.66

FRONT · RECALL ALOUD

After dissolution: until when are partners liable to third parties (Section 45)? What do Sections 46 and 47 provide?

BACK · ANSWER

Section 45: despite dissolution, the partners remain liable as such to third parties for acts of any of them that would have been acts of the firm, **until public notice** of the dissolution is given. Any partner may give the notice.

No liability for later acts, even without notice, in the case of the estate of a **deceased** partner, an **insolvent** partner, or a **dormant** partner (one not known as a partner to the person dealing with the firm).

Section 46: every partner or his representative may have the firm's property applied in **paying the debts and liabilities** of the firm, and the **surplus** distributed according to their rights. CSQ 3.5: M cannot claim the firm's trucks for his own use.

Section 47: the authority of each partner to bind the firm continues **only so far as necessary to wind up** and to complete transactions begun but unfinished, **not otherwise**. The firm is never bound by acts of a partner adjudicated insolvent.

CSQ 4.1: the firm was dissolved on 12 June 2022 with no public notice; X bought goods from Z in the firm's name, so Y is liable to Z.

MEMORY TRICK **45 = notice, 46 = wind-up rights, 47 = wind-up powers.** After dissolution: publish the notice, pay the debts first, and sign nothing new.

CARD 4.50 T 3.4 · MEMORISE

★★★ OL 3.4.1, 3.4.3 · Scanner U3 TQ 4.1, U3 TQ 4.2, U3 TQ 4.3, U3 CSQ 3.6 · SM p.4.66

FRONT · RECALL ALOUD

How are accounts settled after dissolution (Section 48): in what order are losses met and assets applied? What does Section 49 say about firm debts and separate debts?

BACK · ANSWER

Losses (including deficiency of capital) are paid first out of **profits**, next out of **capital**, and lastly, if necessary, by the **partners individually** in the proportions in which they shared profits.

Assets (including sums contributed to make up capital deficiencies) are applied in this order: (a) debts to **third parties**; (b) each partner's **advances**, as distinct from capital, rateably; (c) each partner's **capital**, rateably; (d) the **residue** in the profit-sharing ratio.

All of this is subject to agreement by the partners.

Section 49: firm property is applied first to the **firm's debts**, then each partner's share goes to his separate debts or to him. A partner's **separate property** is applied first to his **separate debts**, then to the firm's debts.

MEMORY TRICK **Losses: P-C-P** (Profits, Capital, Partners). **Assets: O-A-C-R** (Outsiders, Advances, Capital, Residue). **Section 49:** each pot clears its own debts first.

CA FOUNDATION · PAPER 2 · BUSINESS LAWS

Flash Cards with Memory Tricks

Chapter 5 · The Limited Liability Partnership Act, 2008 · 25 cards

How to use these cards

- Read the **front** and answer **aloud** before you look at the back.
- Then read the **memory trick**. If it does not click, make up your own and write it beside the card.
- Each card carries its **Scanner question numbers**, so you can attempt those questions straight after the card.
- Give every card a **second look after 1 day and again after 1 week.**

Reading the stars

★★★	Asked by ICAI 6 or more times. Learn word for word.
★★	Asked 3 to 5 times. Know the key terms and the lists.
★	Asked once or twice. Read once; recognise it in the exam.
–	Taken from the Study Material text. Not a One Liner line, but useful for understanding.

Topics in this chapter

Topic	Name	Card numbers	Count	Highest stars
1	Limited Liability Partnership – Meaning and Concept	5.01 – 5.05	5	★★★
2	Characteristics of LLP	5.06 – 5.12	7	★★★
3	Incorporation of LLP	5.13 – 5.22	10	★★★
4	Differences With Other Forms of Organisation	5.23 – 5.25	3	★★★

Source: ICAI Study Material (July 2026), Scanner Business Laws 2026 October, One Liners P2. Stars follow the One Liners deck. "OL" is the One Liner reference; "TQ" and "CSQ" are the theory and case-scenario question numbers in the Scanner (in Chapters 2, 3 and 4 they carry the unit, e.g. U3); "SM p." is the Study Material page.

CARD 5.01 T 1 · CONCEPT

★★★ OL 1.1, 1.3 · Scanner TQ 1.1, TQ 1.5 · SM p.5.3

FRONT · RECALL ALOUD

What is an **LLP**, and why is it called a **hybrid**?

BACK · ANSWER

An LLP is a new form of legal business entity with **limited liability**: an alternative corporate business vehicle.

It gives the **limited liability of a company** and the **flexibility of a partnership**, so it is called a **hybrid** between a company and a partnership.

The LLP is a separate legal entity and is liable to the **full extent of its assets**; the liability of the **partners is limited**.

MEMORY TRICK Think of a hybrid car with two engines: the **company engine** (limited liability) and the **partnership engine** (flexibility). The LLP itself carries the full load of its assets; the partners ride protected.

CARD 5.02 T 1 · MCQ TRAP

★★★ OL 1.4, 1.5 · Scanner TQ 1.2, TQ 1.6, TQ 1.8 · SM pp.5.5–5.6

FRONT · RECALL ALOUD

Who can **NOT** become a partner of an LLP (s. 5)? And what if the partners fall **below two** (s. 6)?

BACK · ANSWER

Any **individual or body corporate** may be a partner. An individual cannot be one if: (a) a Court of competent jurisdiction has found him of **unsound mind** and the finding is in force; (b) he is an **undischarged insolvent**; or (c) he has applied to be adjudicated insolvent and the **application is pending**.

Trap: unsound mind disqualifies only where the **Court's finding is in force**.

Section 6: every LLP must have at least **two partners**. If the number stays below two and the LLP carries on business for **more than six months**, the sole partner who **knows** he is carrying on business alone is **personally liable** for the LLP's obligations incurred during that period.

MEMORY TRICK **U-I-P** bars the door: **U**nsound mind, **I**nsolvent (undischarged), **P**ending insolvency application. For s. 6, remember: six months alone, and the lone partner who knows pays personally.

CARD 5.03 T 1 · MEMORISE

★★★ OL 1.6, 1.9 · Scanner TQ 1.3, TQ 1.6, TQ 1.9, CSQ 1.2 · SM p.5.6

FRONT · RECALL ALOUD

State the rules on **designated partners** under s. 7, and define **resident in India**.

BACK · ANSWER

Every LLP must have at least **two designated partners who are individuals**, and at least **one** of them must be a **resident in India**.

If all partners are bodies corporate, or partners are both individuals and bodies corporate, at least **two individuals** (partners, or **nominees** of the bodies corporate) must act as designated partners.

Resident in India: a person who has stayed in India for not less than **120 days during the financial year**.

Case (SM example): if Mr A and Mr B (non-residents) alone are designated, it does **not** serve the purpose; one must be a resident partner.

MEMORY TRICK **2 – 1 – 120:** two individual designated partners, one of them resident, resident means 120 days in the financial year.

CARD 5.04 T 1 · MEMORISE

★★ OL 1.7 · Scanner TQ 1.4, TQ 1.10 · SM p.5.5

FRONT · RECALL ALOUD

What is a **Small LLP** under s. 2(1)(ta)?

BACK · ANSWER

A limited liability partnership: (i) whose **contribution** does not exceed **₹25 lakh**, or such higher amount, not exceeding **₹5 crore**, as may be prescribed; **and**

(ii) whose **turnover** (per the Statement of Accounts and Solvency for the immediately preceding financial year) does not exceed **₹40 lakh**, or such higher amount, not exceeding **₹50 crore**, as may be prescribed;

or (iii) which meets such other requirements, and fulfils such terms and conditions, as may be prescribed.

Scanner hint: the two ceilings are **cumulative**: say "and", not "or", between them.

MEMORY TRICK Pair the figures in order, contribution first: **25 lakh ↔ 5 crore**, then turnover: **40 lakh ↔ 50 crore**. The smaller figure is the Act's own; the crore figure is the most the Centre may prescribe.

CARD 5.05 T 1 · MCQ TRAP

★ OL 1.8 · Scanner CSQ 1.1, CSQ 1.2 · SM p.5.8

FRONT · RECALL ALOUD

Can an LLP be formed for a **charitable** or non-profit purpose? What would you advise?

BACK · ANSWER

No. The essential requirement is carrying on a **lawful business with a view to profit**; an LLP cannot be formed for **charitable or non-economic purposes**.

Case (Raju and Anil; EDUDED LLP): a charitable school for poor children cannot be an LLP. Suggest a **Section 8 company**. In EDUDED LLP, the question of making Mr A and Mr B designated partners therefore does not arise.

MEMORY TRICK **No profit motive, no LLP.** A charity wearing an LLP badge is turned away at the gate; its proper door is Section 8.

CARD 5.06 T 2 · MEMORISE

★★★ OL 1.2, 2.2, 2.4, 2.5 · Scanner TQ 1.1, TQ 2.2 · SM pp.5.7–5.8

FRONT · RECALL ALOUD

List the **16 characteristics** of an LLP.

BACK · ANSWER

1–8: **Body corporate · Perpetual succession · Separate legal entity · Mutual agency · LLP agreement · Artificial legal person · Common seal · Limited liability**.

9–16: **Management of business · Minimum and maximum number of partners · Business for profit only · Investigation · Compromise or arrangement · Conversion into LLP · E-filing of documents · Foreign LLPs**.

MEMORY TRICK First eight: **BPS · MLA · CL** (Body, Perpetual, Separate · Mutual agency, LLP agreement, Artificial · Common seal, Limited liability). Last eight: **MMB · ICC · EF** (Management, Min–max, Business · Investigation, Compromise, Conversion · E-filing, Foreign).

CARD 5.07 T 2 · MCQ TRAP

★★★ OL 1.2 · Scanner TQ 2.2, TQ 1.1 · SM pp.5.7–5.8

FRONT · RECALL ALOUD

True or false: in an LLP, one partner can bind the other partners by his acts.

BACK · ANSWER

False. An LLP has **no mutual agency**: every partner is the **agent of the LLP alone**, not of any other partner.

No partner is liable for the **independent or unauthorised actions** of other partners, so partners are shielded from joint liability for another's wrongful business decisions or misconduct.

Contrast: in a partnership firm each partner can bind the firm **and** the other partners.

MEMORY TRICK **One partner, one principal:** the LLP. A partner wears the LLP's badge only, never a fellow partner's.

CARD 5.08 T 2 · MCQ TRAP

★★★ OL 2.2 · Scanner TQ 1.1 · SM p.5.7

FRONT · RECALL ALOUD

Does the death, insanity, retirement or insolvency of a partner affect the LLP's existence?

BACK · ANSWER

No. The LLP has **perpetual succession** and can continue irrespective of changes in partners.

Any change in partners does **not** affect the **existence, rights or liabilities** of the LLP.

It is capable of entering into contracts and holding property in its own name.

MEMORY TRICK **Partners are passengers; the LLP is the bus.** Passengers board and leave, and the bus keeps running.

CARD 5.09 T 2 · MCQ TRAP

★★★ OL 2.4, 2.5 · Scanner TQ 2.2, TQ 2.4, TQ 1.1 · SM p.5.7

FRONT · RECALL ALOUD

What can an LLP, as an **artificial legal person**, NOT do? Is a **common seal** compulsory?

BACK · ANSWER

Created by a legal process and clothed with all rights of an individual, it can do everything a natural person can, **except**: it cannot be **sent to jail**, cannot take an **oath**, cannot **marry or get divorce**, and cannot **practise a learned profession** like CA or Medicine.

It is **invisible, intangible, immortal** (dissolved by law alone) but **not fictitious**, because it really exists.

Common seal [s. 14(c)]: an LLP **may** have one if it decides to; it is **not mandatory**. It stays in the custody of a responsible official and is affixed in the presence of at least **2 designated partners**.

MEMORY TRICK Four things it cannot do: **J-O-M-P** (Jail, Oath, Marry, Practise). Three words describe it: invisible, intangible, immortal. Seal: a choice, but two designated partners must be present when used.

CARD 5.10 T 2 · MEMORISE

★★ OL 2.3 · Scanner TQ 2.2, TQ 1.1 · SM pp.5.5, 5.8

FRONT · RECALL ALOUD

What is a **Foreign LLP** [s. 2(1)(m)]? Can it be a partner in an Indian LLP?

BACK · ANSWER

A limited liability partnership **formed, incorporated or registered outside India** which **establishes a place of business within India**.

A Foreign LLP **can become a partner** in an Indian LLP.

MEMORY TRICK **Born abroad, trading at home:** formed outside, place of business inside, and still welcome as a partner in an Indian LLP.

CARD 5.11 T 2 · MEMORISE

★ OL 2.6 · Scanner TQ 2.3 · SM p.5.9

FRONT · RECALL ALOUD

State the **advantages** of the LLP form.

BACK · ANSWER

It is organised and operates on the basis of an **agreement**.

It provides **flexibility** without imposing detailed legal and procedural requirements.

Easy to form; all partners enjoy **limited liability**; **flexible capital structure**; **easy to dissolve**.

MEMORY TRICK Six verbs: **Agree · Flex · Form · Shield · Fund · Fold** (agreement, flexibility, easy formation, limited liability, flexible capital, easy dissolution).

CARD 5.12 T 2 · CONCEPT

★★★ OL 2.1 · Scanner TQ 2.1 · Beyond SM (Scanner TQ 2.1 only)

FRONT · RECALL ALOUD

When is an LLP **bound**, and when **not bound**, by an act of a partner (ss. 27, 28)?

BACK · ANSWER

Not bound [s. 27(1)] if (a) the partner in fact has **no authority** to act for the LLP in that act, **and** (b) the other person **knows** he has no authority, or does not know or believe him to be a partner. Both conditions must be met together.

Liable [s. 27(2)] if a partner is liable to any person for a **wrongful act or omission in the course of the LLP's business or with its authority**. An LLP's obligation is solely the LLP's and is met out of the LLP's property.

Section 28: a partner is the agent of the LLP, not of other partners, and is **not personally liable** for another partner's wrongful act or omission.

MEMORY TRICK **Two locks for "not bound":** no authority **and** the outsider knows (or does not believe he is a partner). Both locks must click, or the LLP stays bound.

CARD 5.13 T 3 · MEMORISE

★★★ OL 3.1, 3.2 · Scanner CSQ 3.1, CSQ 1.2 · SM pp.5.9–5.10

FRONT · RECALL ALOUD

What does **s. 11** require for incorporating an LLP, and what is the penalty for a false statement?

BACK · ANSWER

Two or more persons associated for carrying on a **lawful business with a view to profit** subscribe their names to an **incorporation document**.

It is filed, with the prescribed fees, with the **Registrar of the State** where the registered office is to be situated.

Along with it is filed a **statement** that all requirements of the Act are complied with, made by an **advocate, Company Secretary, Chartered Accountant or Cost Accountant** engaged in the formation, **and** by any one subscriber.

A person who makes this statement knowing it is **false** (or not believing it true) is punishable with imprisonment up to **2 years** and fine of **₹10,000 to ₹5 lakh**.

MEMORY TRICK **S-F-S: S**ubscribe names → **F**ile with the State Registrar → **S**tatement of compliance. False statement: **2 years, ₹10,000 up to ₹5 lakh**.

CARD 5.14 T 3 · MEMORISE

★★★ OL 3.4 · Scanner TQ 3.11, CSQ 3.1 · SM p.5.10

FRONT · RECALL ALOUD

What must the **incorporation document** state?

BACK · ANSWER

It must be in the **prescribed form** and state: the **name** of the LLP; the **proposed business**; the **address of the registered office**; the **name and address of each person who is to be a partner** on incorporation; and the **name and address of the persons who are to be designated partners** on incorporation.

It also contains such **other information** concerning the proposed LLP as may be prescribed.

MEMORY TRICK **N-B-O-P-D: N**ame, **B**usiness, **O**ffice, **P**artners, **D**esignated partners. (Never Bypass Official Paperwork Declarations.) Then add the catch-all: other prescribed information.

CARD 5.15 T 3 · MCQ TRAP

★★ OL 3.3 · Scanner TQ 3.3, CSQ 3.1 · SM pp.5.10–5.11

FRONT · RECALL ALOUD

Under **s. 12**, how long does the Registrar have to register an LLP, and how strong is the statement and the certificate as evidence?

BACK · ANSWER

Once ss. 11(1)(b) and (c) are complied with, the Registrar registers the incorporation document and gives a certificate of incorporation **within 14 days**.

The Registrar **may** accept the compliance statement as **sufficient evidence** that the subscription requirement is met: it is discretionary.

The certificate is signed by the Registrar and authenticated by his official seal, and is **conclusive evidence** that the LLP is incorporated by the name specified.

MEMORY TRICK **Statement MAY satisfy; certificate IS conclusive.** Fourteen days to the birth certificate.

CARD 5.16 T 3 · MEMORISE

★★ OL 3.5 · Scanner TQ 3.2, TQ 3.9 · SM p.5.11

FRONT · RECALL ALOUD

What are the rules on the **registered office** (s. 13), and the penalty for default?

BACK · ANSWER

Every LLP must have a **registered office** to which all communications and notices may be addressed and where they are received.

A change of place takes effect **only upon filing** the notice of change with the Registrar.

Contravention: the LLP **and its every partner** are liable to a penalty of **₹500 for each day** of default, subject to a maximum of **₹50,000**.

MEMORY TRICK **₹500 a day, capped at ₹50,000**, and a move counts only once the notice is **filed**, not when you move the furniture.

CARD 5.17 T 3 · MEMORISE

★★ OL 3.6 · Scanner TQ 3.7, TQ 2.3 · SM p.5.11

FRONT · RECALL ALOUD

What can an LLP do on **registration** (s. 14)?

BACK · ANSWER

On registration an LLP, **by its name**, is capable of:

- **suing and being sued**;
- **acquiring, owning, holding and developing or disposing of property**, movable or immovable, tangible or intangible;
- **having a common seal**, if it decides to have one; and
- **doing and suffering such other acts and things** as bodies corporate may lawfully do and suffer.

MEMORY TRICK **S-O-S, then D:** **S**ue, **O**wn property, **S**eal (optional), **D**o other corporate acts.

CARD 5.18 T 3 · MEMORISE

★★★ OL 3.7 · Scanner TQ 3.8, TQ 3.10 · SM pp.5.12–5.13

FRONT · RECALL ALOUD

An LLP is registered with a name **identical or too nearly resembling** another LLP, a company or a registered trade mark (s. 17). What follows?

BACK · ANSWER

On application, the **Central Government** may direct the LLP to change its name within **3 months** of the direction. A trade-mark proprietor's application must be made within **3 years** of incorporation, registration or change of name.

The LLP must give **notice to the Registrar within 15 days** of the change, with the Central Government's order, and must change its name in the **LLP agreement within 30 days** of the change in the certificate.

If the LLP **defaults**, the **Central Government allots a new name**; the Registrar enters it and issues a fresh certificate. The LLP may later change its name under s. 16.

MEMORY TRICK **3 – 15 – 30:** 3 months to change the name, 15 days to notify the Registrar, 30 days to amend the LLP agreement. Default: the Government picks the name for you.

CARD 5.19 T 3 · MEMORISE

★★★ OL 3.8 · Scanner TQ 3.1 · Beyond SM (Scanner TQ 3.1 only)

FRONT · RECALL ALOUD

On what grounds may an LLP be **wound up by the Tribunal** (s. 64)?

BACK · ANSWER

Winding up may be **voluntary or by the Tribunal** (s. 63). By the Tribunal (s. 64), if:

- the LLP **decides** that it be wound up by the Tribunal;
- for more than **six months** the number of partners is reduced **below two**;
- the LLP has acted against the **sovereignty and integrity of India**, the security of the State or public order;
- the LLP defaults in filing the **Statement of Account and Solvency** (or annual return) for **five consecutive financial years**;
- the Tribunal thinks it **just and equitable**.

MEMORY TRICK Five **D**-words: LLP **D**ecides · partners **D**rop below two · **D**anger to sovereignty · **D**efault for five years · **D**eemed just and equitable.

CARD 5.20 T 3 · CONCEPT

★★★ OL 3.9 · Scanner TQ 3.4 · Beyond SM (Scanner TQ 3.4 only)

FRONT · RECALL ALOUD

What are the **accounts and audit** rules for an LLP (s. 34)?

BACK · ANSWER

Maintain proper **books of account** for each year, on **cash or accrual basis** and the **double entry system**, at the **registered office**.

Within **six months** from the end of each financial year, prepare a **Statement of Account and Solvency**, **signed by the designated partners**.

File it with the **Registrar** every year, within the prescribed time and with the prescribed fee.

The accounts of the LLP are to be **audited** in accordance with the prescribed rules.

MEMORY TRICK **6 – D – R: 6** months to prepare, **D**esignated partners sign, **R**egistrar receives the filing.

CARD 5.21 T 3 · CONCEPT

★★★ OL 3.10 · Scanner TQ 3.5 · Beyond SM (Scanner TQ 3.5 only)

FRONT · RECALL ALOUD

When does **limited liability** become **unlimited** in an LLP (s. 30)?

BACK · ANSWER

If an act is carried out by the LLP or any partner **with intent to defraud creditors or any other person, or for any fraudulent purpose**, the liability of the LLP **and** of the partners who acted with that intent is **unlimited** for all or any debts of the LLP.

If a partner carried out the act, the LLP is liable to the same extent unless it proves the act was **without the knowledge or authority of the LLP**.

Every person **knowingly a party** to such carrying on of business: imprisonment up to **5 years** and fine of **₹50,000 to ₹5 lakh**.

Fraudulent conduct also makes the LLP and the wrongdoer liable to pay **compensation** for loss caused (LLP not liable if the wrongdoer acted fraudulently without its knowledge).

MEMORY TRICK **Fraud pierces the shield.** The partner's limited-liability coat protects honest losses, not dishonest intent.

CARD 5.22 T 3 · MEMORISE

★★★ OL 3.11 · Scanner TQ 3.6 · Beyond SM (Scanner TQ 3.6 only)

FRONT · RECALL ALOUD

What must be reported when a partner's **name or address changes**, or when a person **becomes or ceases** to be a partner (s. 25)?

BACK · ANSWER

Name or address change: the partner informs the LLP within **15 days** (default: penalty **₹10,000** on the partner); the LLP files notice with the Registrar within **30 days** (default: LLP and every designated partner, **₹10,000**).

Becoming or ceasing to be a partner: the LLP files notice within **30 days** (default: LLP and every designated partner, **₹10,000**). An incoming partner's notice must carry his **consent** statement.

A **former partner** may file the notice himself; the Registrar seeks the LLP's confirmation and, if none comes within **15 days**, registers the notice.

MEMORY TRICK **15 in, 30 out:** partner → LLP in 15 days; LLP → Registrar in 30 days.

CARD 5.23 T 4 · COMPARE

★★★ OL 4.2 · Scanner CSQ 4.1 · SM pp.5.13–5.14

FRONT · RECALL ALOUD

LLP v Partnership firm: distinguish on points 1–8.

BACK · ANSWER

Regulating Act: LLP = LLP Act, 2008; Firm = Indian Partnership Act, 1932.

Body corporate and entity: LLP **is** a body corporate with a separate legal entity; Firm is **not**, only a group of persons.

Creation: LLP by **registration** (mandatory, and it can sue and be sued in its own name); Firm by **agreement** (registration voluntary).

Succession: LLP has **perpetual succession**; Firm may be affected by the death, insanity, retirement or insolvency of a partner.

Name: LLP must carry "limited liability partnership"/"LLP" as suffix; Firm: any name.

Liability: LLP partners **limited** to agreed contribution (except wilful fraud); Firm partners **unlimited**, up to personal assets.

MEMORY TRICK The LLP says **yes** to every legal-personality word (body corporate, separate entity, perpetual, sues in its own name); the firm says **no**. Its one **unlimited** is liability.

CARD 5.24 T 4 · COMPARE

★★★ OL 4.2 · Scanner CSQ 4.1 · SM p.5.14

FRONT · RECALL ALOUD

LLP v Partnership firm: distinguish on points 9–15.

BACK · ANSWER

Mutual agency: LLP partner binds the LLP, **not** other partners; Firm partner binds the firm **and** other partners.

Designated partners: LLP, at least **two**, one resident; Firm: no such provision.

Common seal: LLP **may** have one; Firm: no such concept.

Compliances: LLP, **only designated partners**; Firm, **all partners**.

Annual filing: LLP files annual statement of accounts, statement of solvency and annual return; Firm files nothing annually with the registrar.

Foreign nationals: can be LLP partners; cannot be firm partners. Minor: **cannot** be admitted to the benefits of an LLP; can be to a firm with the existing partners' prior consent.

MEMORY TRICK **A Diligent Student Can Also Fetch Marks: A**gency, **D**esignated partners, **S**eal, **C**ompliances, **A**nnual filing, **F**oreign partner, **M**inor.

CARD 5.25 T 4 · COMPARE	★★★ OL 4.1 · Scanner TQ 4.1 · SM p.5.15
FRONT · RECALL ALOUD **LLP v Limited Liability Company**: distinguish on the 8 points.	BACK · ANSWER Act: LLP Act, 2008 v Companies Act, 2013. Persons: **partners** (contribute) v **members** (invest in shares). Governance: LLP by **contract/agreement**; company by **statute**. Management: LLP by partners including designated partners authorised in the agreement; company by a **board of directors** elected by shareholders. Name suffix: "limited liability partnership" or "LLP" v "limited" (public) / "Private limited" (private). Numbers: LLP minimum **2**, no maximum; Private company 2 to **200**; Public company minimum **7**, no maximum. Liability: partner limited to agreed contribution (except wilful fraud); member limited to the **amount unpaid on shares**. Minimum: LLP **2 designated partners**; Private company **2 directors**; Public company **3 directors**.

MEMORY TRICK **Contract v Statute** is the headline. Then count: **2** designated partners v **2** (private) or **3** (public) directors.

CA FOUNDATION · PAPER 2 · BUSINESS LAWS

Flash Cards with Memory Tricks

Chapter 6 · The Companies Act, 2013 · 32 cards

How to use these cards

- Read the **front** and answer **aloud** before you look at the back.
- Then read the **memory trick**. If it does not click, make up your own and write it beside the card.
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Reading the stars

★★★	Asked by ICAI 6 or more times. Learn word for word.
★★	Asked 3 to 5 times. Know the key terms and the lists.
★	Asked once or twice. Read once; recognise it in the exam.
–	Taken from the Study Material text. Not a One Liner line, but useful for understanding.

Topics in this chapter

Topic	Name	Card numbers	Count	Highest stars
1	Company Meanings & its Features	6.01 – 6.03	3	★★★
2	Corporate Veil Theory	6.04 – 6.06	3	★★★
3	Classes of Companies Under the Act	6.07 – 6.20	14	★★★
4	Mode of Registration/Incorporation of Company	6.21	1	★★
5	Classification of Capital	6.22 – 6.23	2	★★
6	Shares	6.24	1	★★
7	Memorandum of Association	6.25	1	★★
8	Doctrine of Ultra Vires	6.26 – 6.27	2	★★★
9	Articles of Association	6.28 – 6.29	2	★★
10	Doctrine of Indoor Management	6.30 – 6.32	3	★★★

Source: ICAI Study Material (July 2026), Scanner Business Laws 2026 October, One Liners P2. Stars follow the One Liners deck. "OL" is the One Liner reference; "TQ" and "CSQ" are the theory and case-scenario question numbers in the Scanner (in Chapters 2, 3 and 4 they carry the unit, e.g. U3); "SM p." is the Study Material page.

CARD 6.01 T 1 · MEMORISE

★★★ OL 1.3, 1.4, 1.5 · Scanner TQ 1.2, CSQ 1.4 · SM pp.6.4–6.6

FRONT · RECALL ALOUD

What are the **five features** of a company, and what can a company (an artificial legal person) NOT do?

BACK · ANSWER

- **Separate legal entity**: legally separate from its members.
- **Perpetual succession**: change in members does not affect its existence.
- **Limited liability**: the company's liability is different from the liability of its members.
- **Artificial legal person**: contracts, sues and is sued in its own name; acts only through human agency (directors).
- **Common seal**: the company's official signature.

It can own property, sue and be sued, but **cannot** be sent to jail, take an oath, marry or practise a learned profession.

MEMORY TRICK **S-P-L-A-C** = Separate, Perpetual, Limited, Artificial, Common seal. Picture a person with no body: no jail, no oath, no wedding, no professional practice.

CARD 6.02 T 1 · MEMORISE

★★★ OL 1.1, 1.2 · Scanner TQ 1.1, TQ 1.3, CSQ 1.3, CSQ 1.4 · SM p.6.6

FRONT · RECALL ALOUD

Is a **common seal** mandatory for a company? What is the alternative if it has none?

BACK · ANSWER

- **Not mandatory.** The Companies (Amendment) Act, 2015 made it optional by omitting the words 'and a common seal' from **Section 9**.
- Without a seal, authorisation is made by **two directors**, or by **a director and the Company Secretary**, wherever the company has appointed a Company Secretary.
- Common seal = the company's official signature, the symbol of its incorporation.

MEMORY TRICK **2015 makes the seal optional; two signatures replace one stamp.** Two directors, or director + CS (only where a CS exists).

CARD 6.03 T 1 · MCQ TRAP

★★★ OL 1.4 · Scanner CSQ 1.1, CSQ 1.2 · SM p.6.5

FRONT · RECALL ALOUD

All the members of a company die together in an accident. Does the company cease to exist?

BACK · ANSWER

No. A company has **perpetual succession**: members may die or change, but it goes on till wound up on the grounds specified by the Act.

Law alone can end its life; the death or insolvency of members does not.

SM illustration: a company whose 7 members all died in an aircraft still exists, unlike a partnership.

The shares are transmitted to the heirs.

MEMORY TRICK **Members are mortal; the company is not.** Only the Act can end it, never an accident.

CARD 6.04 T 2 · CONCEPT

★★ OL 2.2, 2.7 · Scanner CSQ 2.4, CSQ 2.8, CSQ 2.9 · SM p.6.7; SM p.6.12

FRONT · RECALL ALOUD

What did **Salomon v Salomon & Co. Ltd.** decide? Is a sole member, even of an OPC, personally liable for the company's debts?

BACK · ANSWER

- The company is at law a **different person** from its subscribers, even where one man holds virtually the entire share capital. Salomon took 20,000 shares and debentures with a charge on the company's assets.
- In the Scanner's Raj problem, the debenture-holder was entitled to the assets as a **secured creditor**; the creditors' plea that he and the company were one failed.
- **OPC**: the sole member is NOT liable for its debts merely because he is the only shareholder; his liability is limited to any unpaid share capital.
- If the OPC was formed for **fraud**, the veil is lifted and the member can be held personally liable.

MEMORY TRICK **One shareholder is not one person.** Salomon's company wore its own coat; only fraud can tear it.

CARD 6.05 T 2 · MCQ TRAP

★★ OL 1.3, 2.3 · Scanner CSQ 2.6, TQ 1.2 · SM p.6.5

FRONT · RECALL ALOUD

A shareholder-cum-creditor insures the company's timber in his own name and it is burnt in a fire. Can he claim? Name the case.

BACK · ANSWER

No. In **Macaura v Northern Assurance Co. Ltd. (1925)**, a member or creditor has **no insurable interest** in the company's property.

Macaura held nearly all the shares (except one), was a major creditor and insured the timber in his own name.

No shareholder has any legal or equitable interest in items of property owned by the company; the timber was not insured in the company's name.

MEMORY TRICK **Owning the shares is not owning the timber.** The company owns its assets; members own only shares.

CARD 6.06 T 2 · MEMORISE

★★★ OL 2.1, 2.4, 2.5, 2.6 · Scanner TQ 2.1, TQ 2.2, CSQ 2.1, CSQ 2.2, CSQ 2.3, CSQ 2.5, CSQ 2.7 · SM pp.6.8–6.9

FRONT · RECALL ALOUD

List the **five grounds** on which the corporate veil is lifted, with the case for each.

BACK · ANSWER

- **Enemy character** (trading with the enemy; test of control): **Daimler Co. Ltd. v Continental Tyre & Rubber Co.**
- **Tax / revenue**: **Juggilal** (entity used to evade tax); **Dinshaw Maneckjee Petit** (the assessee's companies were a sham).
- **Avoiding a legal obligation**: **Workmen of Associated Rubber Industries** (subsidiary formed to reduce bonus to workmen).
- **Subsidiary as agent**: **Merchandise Transport Ltd. v British Transport Commission (1982)**; parent and subsidiary one commercial unit.
- **Fraud / improper conduct or to defeat the law**: **Gilford Motor Co. v Horne**.

MEMORY TRICK **E-T-L-A-F**: Enemy, Tax, Legal obligation, Agent subsidiary, Fraud. Say it as 'Even The Law Alters Facades'.

CARD 6.07 T 3 · COMPARE

★★ OL 3.1, 3.2 · Scanner TQ 3.8, CSQ 3.19 · SM pp.6.10–6.12

FRONT · RECALL ALOUD

Distinguish companies **on the basis of liability**: limited by shares, limited by guarantee and unlimited. Can a creditor sue a member of an unlimited company directly?

BACK · ANSWER

- **Limited by shares (s. 2(22))**: members liable only for the **unpaid amount** on their shares; may be called on **at any time**, in the company's life or on winding up.
- **Limited by guarantee (s. 2(21))**: members liable only for the **amount they undertook** in the memorandum, and **only on winding up**.
- **Unlimited (s. 2(92))**: no limit on members' liability; it ceases when he ceases to be a member.
- **Trap**: a creditor can **NOT** sue a shareholder directly. He petitions for **winding up**, and the official liquidator then calls on members for contribution, which can be unlimited.

MEMORY TRICK **Shares: sum unpaid. Guarantee: given figure, on winding up only. Unlimited: no ceiling.** Creditors of an unlimited company go to the liquidator, not the member.

CARD 6.08 T 3 · MEMORISE

★★★ OL 3.3 · Scanner TQ 3.1, TQ 3.7, CSQ 3.5, CSQ 3.17 · SM pp.6.12–6.13

FRONT · RECALL ALOUD

Define an **OPC (s. 2(62))**. How does the **nominee** work: consent, withdrawal and change?

BACK · ANSWER

- **OPC** = a company with **only one person as a member**; it is a private company, with no minimum paid-up capital prescribed.
- The **memorandum names a nominee** who becomes the member on the subscriber's death or incapacity to contract.
- The nominee gives **prior written consent**, filed with the Registrar at incorporation; he may be given the right to **withdraw consent**.
- The member may **change the nominee at any time** by **notice** to the company, which informs the Registrar.
- Such a change is **not an alteration of the memorandum**.

MEMORY TRICK **Nominee = spare wheel**: fitted in advance with written consent, swapped by a simple notice, and the memorandum stays untouched.

CARD 6.09 T 3 · MEMORISE

★★★ OL 3.3, 3.5, 3.6 · Scanner TQ 3.1, CSQ 3.8, CSQ 3.25 · SM p.6.13

FRONT · RECALL ALOUD

What is an **OPC** NOT allowed to do or be? What about conversion?

BACK · ANSWER

- **One OPC per person**: no person may incorporate more than one OPC or be nominee in more than one.
- **No minor** can be member or nominee, or hold a share with beneficial interest.
- Cannot be **incorporated as, or converted into, a Section 8 company**.
- Cannot carry on **Non-Banking Financial Investment** activities, including investment in securities of any body corporate.
- It **may convert** into a private or a public company (SM: 'in certain cases').
- Deck: conversion allowed either way; CSQ 3.25 treats a private company becoming an OPC as valid if eligibility is met.

MEMORY TRICK **Four NOs**: no second OPC, no minor, no Section 8, no NBFI activity. The exit route is to a private or public company.

CARD 6.10 T 3 · MCQ TRAP

★★★ OL 3.4, 3.6 · Scanner CSQ 3.7, CSQ 3.25 · SM p.6.13

FRONT · RECALL ALOUD

What decides eligibility to form an OPC or to be its nominee: **residence** or **citizenship**? What is 'resident in India'?

BACK · ANSWER

- **Citizenship, NOT residence.** Only a **natural person who is an Indian citizen, whether resident in India or otherwise**, can incorporate an OPC or be nominee for its sole member.
- A **foreign citizen** can NOT be a nominee: in CSQ 3.7 the foreign citizen's 125 days in India were immaterial.
- '**Resident in India**' = stayed in India for **not less than 120 days** in the immediately preceding financial year.

MEMORY TRICK **Passport, not postcode.** Citizenship decides; the 120-day residence test only describes where he lives.

CARD 6.11 T 3 · MEMORISE

★★★ OL 3.7, 3.10 · Scanner CSQ 3.3, CSQ 3.27 · SM pp.6.13–6.15

FRONT · RECALL ALOUD

State the tests of a **private company (s. 2(68))** and how members are counted. When is a private subsidiary treated as public?

BACK · ANSWER

- By its articles it **restricts the right to transfer shares** and **prohibits any invitation to the public** to subscribe for its securities.
- It limits members to **200** (except an OPC); minimum 2.
- **Joint holders** are counted as **one** member.
- **Employees** and **ex-employees who became members while employed** are **not counted**.
- A subsidiary of a public company is **deemed public** (proviso to s. 2(71)) even if its articles say private, so its shares are **freely transferable** (CSQ 3.27).

MEMORY TRICK **R-200-P**: Restrict transfer, 200 cap, Prohibit public offer. Joint holders are one head; staff are not counted.

CARD 6.12 T 3 · MEMORISE

★★★ OL 3.8, 3.9 · Scanner CSQ 3.9, CSQ 3.22, CSQ 3.28 · SM pp.6.14–6.15

FRONT · RECALL ALOUD

State the conditions for a **small company (s. 2(85))** at present, and the companies that can never be small.

BACK · ANSWER

- A company **other than a public company**, i.e. a private company.
- **Paid-up share capital not more than ₹4 crore AND turnover not more than ₹40 crore** (turnover as per profit and loss account of the immediately preceding financial year). Source: 2022 Rules, w.e.f. 15 September 2022.
- **Both** limits must be met.
- **NOT small**: a **holding or subsidiary** company; a **Section 8** company; a company or body corporate governed by any **special Act**.

MEMORY TRICK **4 and 40, both 'not more than'.** Then remember the four barred types: Holding, Subsidiary, Section 8, Special Act (H-S-8-S).

CARD 6.13 T 3 · COMPARE

★★★ OL 3.11, 3.12, 3.13 · Scanner TQ 3.3, CSQ 3.6, CSQ 3.12, CSQ 3.23 · SM pp.6.16–6.17

FRONT · RECALL ALOUD

Compare a **subsidiary (s. 2(87))** with an **associate (s. 2(6))** company. How are 'exactly 50%' and non-voting shares treated?

BACK · ANSWER

- **Subsidiary**: the holding company **controls the composition of the Board**, or exercises or controls **more than one-half** of the total voting power, on its own or with its subsidiaries.
- A subsidiary of a subsidiary is also a subsidiary of the holding company (chain).
- **Exactly 50% is NOT enough**; **non-voting preference shares** do not add to voting power (CSQ 3.12).
- **Associate**: a company in which another has **significant influence**, i.e. control of **at least 20%** of total voting power, or control of or participation in business decisions under an **agreement**; it is **not a subsidiary**, and includes a **joint venture** company.

MEMORY TRICK **Subsidiary: more than half (>50%). Associate: at least a fifth (≥20%).** Exactly half is not 'more than half'.

CARD 6.14 T 3 · MEMORISE

★★ OL 3.14 · Scanner TQ 3.4 · SM p.6.17

FRONT · RECALL ALOUD

Define a **listed** and an **unlisted** company (s. 2(52)).

BACK · ANSWER

- **Listed**: a company which has **any of its securities listed** on a **recognised stock exchange**.
- **Unlisted**: any company **other than a listed company**.
- This is the classification **on the basis of access to capital**.

MEMORY TRICK **Listed = on the exchange's list; unlisted = everyone else.** One listed security is enough.

CARD 6.15 T 3 · MEMORISE

★★★ OL 3.15, 3.16 · Scanner CSQ 3.4, CSQ 3.15, CSQ 3.29, CSQ 3.31 · SM p.6.18

FRONT · RECALL ALOUD

What is a **government company (s. 2(45))**? What counts towards the 51%, and does being a private company matter?

BACK · ANSWER

- **Not less than 51%** of the **paid-up share capital** held by the **Central Government**, or by **State Government(s)**, or **partly by both**; includes a **subsidiary** of such a government company.
- Only **Central or State Government** holdings count. In CSQ 3.15, 20% + 10% + 10% = 40%; LIC's 8% and a government-owned company's 15% were not counted, so it was not a government company.
- Where shares carry differential voting rights, 'paid-up share capital' is read as **total voting power**.
- **Private form is irrelevant**: a private company with 51% Central Government holding is a government company (CSQ 3.31).

MEMORY TRICK **51 comes from Governments only.** Count Centre + States; LIC, PSUs and the public are left out. Private or public dress makes no difference.

CARD 6.16 T 3 · MEMORISE

★★★ OL 3.17 · Scanner TQ 3.6 · SM p.6.18

FRONT · RECALL ALOUD

State the **tests of a foreign company (s. 2(42))**.

BACK · ANSWER

- A company or body corporate **incorporated outside India**, which
- (i) has a **place of business in India**, whether by itself or through an agent, **physically or through electronic mode**; **and**
- (ii) **conducts any business activity in India** in any other manner.
- TQ 3.6: Mike LLC, incorporated in Singapore with an office in Pune, is a foreign company.

MEMORY TRICK **Abroad + Address + Activity**: incorporated Abroad, an Address (place of business) in India, and Activity in India.

CARD 6.17 T 3 · MEMORISE

★★★ OL 3.18, 3.19, 3.20 · Scanner TQ 3.2, TQ 3.5, CSQ 3.1, CSQ 3.13, CSQ 3.24 · SM pp.6.18–6.20

FRONT · RECALL ALOUD

List the **special features of a Section 8 company**. Can it ever pay a dividend?

BACK · ANSWER

- Formed to promote **charitable objects** (commerce, art, science, sports, education, research, social welfare, religion, charity, protection of environment etc.) and applies its **profits to those objects**.
- It can **NOT pay any dividend** to its members.
- Works under a **licence** from the Central Government (power delegated to the ROC); it need **not** add 'Ltd.' or 'Pvt. Ltd.' to its name.
- May call a general meeting on **clear 14 days' notice** instead of 21.
- A **partnership firm** can be a member.

MEMORY TRICK **Profit with a purpose, never a payout.** Charity in, nothing out: no dividend, no 'Ltd.', 14 days' notice, firms welcome.

CARD 6.18 T 3 · MEMORISE

★★★ OL 3.21 · Scanner TQ 3.2, CSQ 3.16 · SM p.6.19

FRONT · RECALL ALOUD

How can a **Section 8 licence be revoked**, and what follows?

BACK · ANSWER

- Grounds: contravention of the section's requirements or licence conditions; affairs conducted **fraudulently**, against the company's objects, or **prejudicial to public interest**.
- **Before revocation**: the Central Government must give **written notice** of its intention and an **opportunity to be heard**.
- **On revocation**: the Registrar adds 'Limited' or 'Private Limited' to the company's name.
- **Then**, in the public interest, the Central Government may order **amalgamation** with another Section 8 company of similar objects, **or winding up**.

MEMORY TRICK **N-L-A-W**: Notice, Limited added, Amalgamate or Wind up. Hearing first, name change next, final order last.

CARD 6.19 T 3 · MEMORISE

★★★ OL 3.22, 3.23 · Scanner CSQ 3.11, CSQ 3.18, CSQ 3.31 · SM p.6.21

FRONT · RECALL ALOUD

Who can obtain **dormant company** status (s. 455)? What is a 'significant accounting transaction'?

BACK · ANSWER

- A company formed for a **future project**, or to **hold an asset or intellectual property**, with **no significant accounting transaction**, or an **inactive company**, may apply to the **Registrar**.
- **Inactive company**: no business or operation, or no significant accounting transaction, in the **last two financial years**, or no financial statements and annual returns filed for those two years.
- **Significant accounting transaction** = any transaction **other than** (i) fees to the Registrar, (ii) payments to fulfil the Act or any other law, (iii) allotment of shares to fulfil the Act, (iv) payments for maintenance of office and records.
- A transaction outside these **four exclusions** bars dormant status (CSQ 3.18: ₹1 crore down payment for machinery).

MEMORY TRICK **F-L-S-O**: Fees, Law payments, Shares allotted, Office upkeep. Any other transaction is 'significant'.

CARD 6.20 T 3 · MEMORISE

★ OL 3.24 · Scanner CSQ 3.21, CSQ 3.31 · SM p.6.22

FRONT · RECALL ALOUD

Which institutions are **public financial institutions (s. 2(72))**? Does 51% Government holding make a company a PFI automatically?

BACK · ANSWER

- (i) **LIC**; (ii) **IDFC Ltd.**; (iii) the **specified company** under the UTI (Transfer of Undertaking and Repeal) Act, 2002; (iv) institutions notified under **s. 4A(2) of the Companies Act, 1956**; (v) **other institutions notified** by the Central Government in consultation with the **RBI**.
- An institution can be notified only if it is **established or constituted by or under a Central or State Act** (other than the Companies Acts), **or not less than 51%** of its paid-up capital is held or controlled by Government(s).
- So 51% Government holding makes it **eligible** for notification, **not automatically** a PFI (CSQ 3.31).

MEMORY TRICK **L-I-U-4-N**: LIC, IDFC, UTI company, s. 4A(2) bodies, Notified others. 51% opens the door; notification lets you in.

CARD 6.21 T 4 · MEMORISE

★★ OL 4.1, 4.2 · Scanner TQ 4.1, TQ 4.2 · SM pp.6.23–6.24, 6.27

FRONT · RECALL ALOUD

What is filed with the Registrar under **s. 7(1)**? What is the effect of the registered memorandum and articles under **s. 10**?

BACK · ANSWER

- **s. 7(1)** documents: **memorandum and articles** signed by all subscribers; **declaration of compliance** by the professional engaged in formation (advocate, CA, cost accountant or CS in practice) and a person named in the articles; **subscribers' and first directors' declarations**; address for correspondence; particulars.
- The Registrar registers them and issues the **certificate of incorporation**.
- **s. 10**: the registered memorandum and articles **bind the company and the members** as if signed by the company and each member, with an agreement to observe all their provisions.
- **Monies payable by a member** under them are a **debt due** from him to the company.
- Formation (s. 3): public company, **7 or more** persons; private, **2 or more**; OPC, **one**.

MEMORY TRICK **Section 7 sends in; Section 10 binds.** File first (7), then bind (10); what a member owes under them is a debt.

CARD 6.22 T 5 · MEMORISE

★★ OL 5.1 · Scanner TQ 5.1 · SM pp.6.27–6.28

FRONT · RECALL ALOUD

Name the **five kinds of share capital** in order, and state how **paid-up capital** is worked out.

BACK · ANSWER

- **Authorised (nominal / registered) capital** [s. 2(8)]: maximum share capital authorised by the memorandum.
- **Issued capital** [s. 2(50)]: the part of authorised capital offered for subscription.
- **Subscribed capital** [s. 2(86)]: the part subscribed by members for the time being.
- **Called-up capital** [s. 2(15)]: the part called for payment.
- **Paid-up capital** = **called-up capital – calls in arrears**.

MEMORY TRICK **A-I-S-C-P, a narrowing funnel**: Authorised, Issued, Subscribed, Called-up, Paid-up. Each step is a slice of the one before.

CARD 6.23 T 5 · MCQ TRAP

★ OL 5.2 · Scanner TQ 5.2 · SM pp.6.28–6.29

FRONT · RECALL ALOUD

What is a **share** in law? Are shareholders part owners of the company's undertaking?

BACK · ANSWER

- A share is **not a sum of money** but an **interest measured by a sum of money**, made up of various rights contained in the contract (**Borland Trustees v Steel Bros. & Co. Ltd.**).
- Shareholders are **NOT part owners of the undertaking** in the eyes of law.
- Shares are **movable property** (**s. 44**), transferable as the articles provide.
- Every share is **numbered** (**s. 45**), except a share held by a person recorded as holder of beneficial interest in a depository's records.

MEMORY TRICK **44 moves, 45 numbers.** A share is a ticket of rights, not a brick of the factory.

CARD 6.24 T 6 · MEMORISE

★★ OL 6.1, 6.2 · Scanner TQ 6.1, TQ 6.2 · SM pp.6.29–6.30

FRONT · RECALL ALOUD

What **two kinds of share capital** does **s. 43** recognise? When is capital treated as **preference** capital?

BACK · ANSWER

- **Equity share capital**: all share capital that is **not preference** capital, with **voting rights**, or with **differential rights** as to dividend, voting or otherwise as per prescribed rules.
- **Preference share capital**: part of **issued** capital carrying a **preferential right** for **dividend** (fixed amount or fixed rate) **and** for **repayment** of paid-up capital on winding up or repayment of capital.
- SM example: Tata Motors' 'A' equity shares (DVR); every 10 carried one vote, with 5 percentage points more dividend.
- Section 43 does not apply to a **private company** whose memorandum or articles so provide.

MEMORY TRICK **Equity = everything that is not Preference; Preference = first in line twice**, first for dividend and first for money back.

CARD 6.25 T 7 · MEMORISE

★★ OL 7.1 · Scanner TQ 7.1 · SM pp.6.30–6.32

FRONT · RECALL ALOUD

The memorandum is the company's **charter**. State its **six clauses**.

BACK · ANSWER

- **Name** clause: ends with 'Limited' or 'Private Limited' (not applicable to Section 8 companies).
- **Registered office** clause: the State in which the office is to be situated.
- **Objects** clause: objects for which the company is incorporated.
- **Liability** clause: limited or unlimited; by shares, the unpaid amount; by guarantee, the amount undertaken.
- **Capital** clause: authorised capital divided into shares of fixed amounts (not needed without share capital).
- **Association** clause: subscribers, each taking at least one share; in an **OPC**, it also names the **nominee**.

MEMORY TRICK **N-R-O-L-C-A**: 'Never Run Outside Legal Charter Areas' gives Name, Registered office, Objects, Liability, Capital, Association.

CARD 6.26 T 8 · MCQ TRAP

★★★ OL 8.1, 8.2 · Scanner TQ 8.1, CSQ 8.3 · SM pp.6.33–6.35

FRONT · RECALL ALOUD

An act beyond the **objects clause** is approved by the members. Is it binding? Contrast acts ultra vires the **directors** and the **articles**.

BACK · ANSWER

- **Ultra vires the company** (outside the memorandum): **void** and **NOT binding** on the company, even with members' approval; it can neither be sued on nor sue on it. **Cannot be ratified**, even by all members (**Ashbury Railway Carriage v Riche, 1875**).
- It cannot become intra vires by estoppel, acquiescence, lapse of time, delay or ratification.
- **Ultra vires the directors** (but intra vires the company): members **ratify** by resolution at a **general meeting**.
- **Ultra vires the articles**: **alter the articles** by **special resolution**.

MEMORY TRICK **Three doors**: Company (locked for ever), Directors (members' resolution opens it), Articles (special resolution opens it).

CARD 6.27 T 8 · CONCEPT

★★★ OL 8.3 · Scanner CSQ 8.1, CSQ 8.2, CSQ 8.3 · SM pp.6.33–6.34

FRONT · RECALL ALOUD

A company takes an **ultra vires loan**. What can the lender do if the money is (a) still unspent, (b) used to pay lawful debts?

BACK · ANSWER

- The lender cannot enforce the transaction against the company; it is void.
- **Unspent**: he may obtain an **injunction** to stop the company parting with the money. The company does not become owner, so the lender can take the property back in specie.
- **Used to pay the company's lawful debts**: the lender **steps into the shoes of the debtor paid off** and recovers his loan to that extent.
- Typical facts: borrowing beyond the limit fixed by the memorandum (CSQ 8.1, CSQ 8.2).

MEMORY TRICK **Unspent: stop it (injunction). Spent on lawful debts: step in.** Stop it or step in.

CARD 6.28 T 9 · MEMORISE

★★ OL 9.1, 9.4 · Scanner TQ 9.1, CSQ 9.2, CSQ 9.4 · SM p.6.36

FRONT · RECALL ALOUD

What is **entrenchment** under **s. 5**? How is it introduced in a private and in a public company?

BACK · ANSWER

- **Entrenchment**: specified provisions of the articles can be altered **only on conditions more restrictive than a special resolution**.
- Made only **on formation**, or by **amendment**: **agreement of all members** in a **private** company; **special resolution** in a **public** company.
- For a private company a special resolution is **NOT enough** (CSQ 9.4: Mr Zitesh right, Mr Yogesh wrong).
- The company must **give notice to the Registrar** of the entrenchment provision.
- Articles follow **Tables F, G, H, I and J** (Schedule I); a company may adopt the **model articles**.

MEMORY TRICK **Private asks All, Public asks Special**, then tell the Registrar. The lock is harder to open than a special resolution.

CARD 6.29 T 9 · COMPARE

★ OL 9.2, 9.3, 9.5 · Scanner TQ 9.2, CSQ 9.1, CSQ 9.3 · SM pp.6.35–6.37

FRONT · RECALL ALOUD

Distinguish **memorandum** from **articles**. Do the articles bind members, and who can alter them?

BACK · ANSWER

- **Objects**: MoA defines and limits the company's objects; AoA are rules for internal management and how the objects are achieved.
- **Relationship**: MoA, company with the **outside world**; AoA, company and its **members**.
- **Alteration**: MoA only as the Act allows, usually with the **Regional Director's or Tribunal's** permission; AoA simply by **special resolution**.
- **Ultra vires**: an act beyond MoA is **void**, not ratifiable even unanimously; beyond AoA, ratifiable by special resolution if not beyond MoA.
- Articles bind members: the **official assignee** of an insolvent member was bound (CSQ 9.1). Being alterable by special resolution, a fixed post under the articles could not be enforced against the company (CSQ 9.3).

MEMORY TRICK **MoA: Outside, Objects, hard to change. AoA: Inside, Instructions, easy (special resolution).**

CARD 6.30 T 10 · MEMORISE

★ OL 10.1 · Scanner TQ 10.3 · SM p.6.37

FRONT · RECALL ALOUD

What is **constructive notice** (s. 399)? What is every outsider presumed to know?

BACK · ANSWER

- **s. 399**: any person may inspect documents kept by the Registrar; the memorandum and articles become **public documents** on registration.
- Whether he reads them or not, a person is **presumed to have read and understood** the **memorandum and articles** and related registered documents such as **special resolutions**.
- So he cannot acquire rights against the company under a contract beyond its powers or the directors' authority under those documents.

MEMORY TRICK **Registered means public means presumed read.** Not opening the file is no defence.

CARD 6.31 T 10 · MEMORISE

★★★ OL 10.2, 10.3, 10.4, 10.5 · Scanner TQ 10.1, TQ 10.2, CSQ 10.2 · SM pp.6.38–6.40

FRONT · RECALL ALOUD

State the **Turquand rule** (indoor management) and the **three exceptions** to it.

BACK · ANSWER

- **Rule** (exception to constructive notice): an outsider may **assume internal regularity** where the act is authorised by the articles or memorandum (**Royal British Bank v Turquand**).
- **Not** where he has **actual or constructive knowledge** of the irregularity (Howard v Patent Ivory Manufacturing Co.; Morris v Kansseen).
- **Not** where there is **suspicion** or negligence: an unusual transaction outside the officer's apparent authority calls for enquiry (Anand Bihari Lal v Dinshaw & Co.).
- **Not** for **forgery**, which is a nullity (Ruben v Great Fingall Consolidated).

MEMORY TRICK **K-S-F: Know, Suspect, Forge.** Three red lights switch off Turquand's green light.

CARD 6.32 T 10 · CONCEPT

★★★ OL 10.2, 10.3, 10.4, 10.5 · Scanner CSQ 10.5, CSQ 10.2 · SM pp.6.38–6.40

FRONT · RECALL ALOUD

A bank lends within the articles' limit, relying on the directors' letter that a board resolution was passed. When is the bank protected, and when not?

BACK · ANSWER

- **Protected** where no resolution was in fact passed: passing a board resolution is **indoor management**, and the bank, having read the articles, may presume it (CSQ 10.5; CSQ 10.2).
- **Not protected** if the bank **knew before sanction** that the procedure was skipped: actual knowledge defeats the rule, and the timing decides.
- **Not protected** if the confirming letter was **forged**: forgery is a nullity, so the company is not bound.

MEMORY TRICK **Innocent lapse: safe. Known lapse: unsafe. Forged paper: void.**

CA FOUNDATION · PAPER 2 · BUSINESS LAWS

Flash Cards with Memory Tricks

Chapter 7 · The Negotiable Instruments Act, 1881 · 32 cards

How to use these cards

- Read the **front** and answer **aloud** before you look at the back.
- Then read the **memory trick**. If it does not click, make up your own and write it beside the card.
- Each card carries its **Scanner question numbers**, so you can attempt those questions straight after the card.
- Give every card a **second look after 1 day and again after 1 week.**

Reading the stars

★★★	Asked by ICAI 6 or more times. Learn word for word.
★★	Asked 3 to 5 times. Know the key terms and the lists.
★	Asked once or twice. Read once; recognise it in the exam.
–	Taken from the Study Material text. Not a One Liner line, but useful for understanding.

Topics in this chapter

Topic	Name	Card numbers	Count	Highest stars
1	Meaning of Negotiable Instruments	7.01 – 7.02	2	★★
2	Promissory Note	7.03 – 7.04	2	★
3	Bills of Exchange	7.05 – 7.08	4	★★
4	Cheque	7.09 – 7.13	5	★★
5	Classification of Negotiable Instruments	7.14 – 7.17	4	★★★
6	Negotiation (Transfer) of Negotiable Instruments	7.18 – 7.21	4	★★★
7	Dishonour of Cheques for Insufficiency of Funds in the Accounts (Section 138 to 142)	7.22 – 7.26	5	★★★
8	Presentment of Instruments	7.27 – 7.30	4	★★★
9	Rules of Compensation	7.31 – 7.32	2	★★

Source: ICAI Study Material (July 2026), Scanner Business Laws 2026 October, One Liners P2. Stars follow the One Liners deck. "OL" is the One Liner reference; "TQ" and "CSQ" are the theory and case-scenario question numbers in the Scanner (in Chapters 2, 3 and 4 they carry the unit, e.g. U3); "SM p." is the Study Material page.

CARD 7.01 T 1 · MEMORISE

★★ OL 1.1, 1.2 · Scanner TQ 1.1 · SM p.7.3

FRONT · RECALL ALOUD

What is a **negotiable instrument**? Which instruments does **s. 13** recognise, and when is one payable to **order** or to **bearer**?

BACK · ANSWER

Freely transferable (by custom of trade) by **mere delivery**, or by **indorsement and delivery**; the property passes to a bona fide transferee for value.

The Act does not define the term; **s. 13** recognises only **bills of exchange, promissory notes and cheques**, payable to **order** or **bearer**.

- **Order:** expressed to be so payable, or payable to a specified person with no words prohibiting transfer.
- **Bearer:** expressed 'pay bearer', or the only or last indorsement is **in blank**.

MEMORY TRICK **Three** names in s. 13: **P**romissory note, **B**ill, **C**heque. A blank indorsement turns an instrument into bearer: whoever holds it can demand payment.

CARD 7.02 T 1 · MEMORISE

★★ OL 1.3 · Scanner TQ 1.1 · SM p.7.4

FRONT · RECALL ALOUD

State the **eight essential characteristics** of a negotiable instrument.

BACK · ANSWER

- **1–2:** necessarily in **writing**; **signed**.
- **3–5:** freely **transferable**; holder's **title free from defects**; can be transferred **any number of times** till satisfaction.
- **6:** an **unconditional promise or order** to pay **money only**.
- **7:** the **sum payable, the time of payment and the payee** must be certain.
- **8:** it must be **delivered**; mere drawing does not create liability.

MEMORY TRICK Chant it in order: **W**rite, **S**ign, **T**ransfer, **T**itle clean, **A**ny number of times, **U**nconditional, **C**ertain, **D**eliver (W-S-T-T-A-U-C-D).

CARD 7.03 T 2 · MEMORISE

★ OL 2.1 · Scanner TQ 2.2 · SM pp.7.4–7.6

FRONT · RECALL ALOUD

Define a **promissory note** (s. 4) and list its **eight essentials**.

BACK · ANSWER

Section 4: an instrument in writing (not a bank-note or currency-note) containing an **unconditional undertaking, signed by the maker**, to pay a **certain sum of money only** to, or to the order of, a **certain person**, or to the bearer.

- Essentials: (a) **writing**; (b) **express promise**; (c) **definite and unconditional**; (d) **signed** by maker; (e) **money only**; (f) **certain sum**; (g) **maker and payee certain** and different; (h) properly **stamped**.
- 'Mr. B, I.O.U. ₹1,000' is a mere acknowledgement of debt, so it is **not** a promissory note.
- A condition **bound to happen** is allowed (pay on D's death); an uncertain one is not (pay after my marriage with C).

MEMORY TRICK **W**hen **E**very **D**ebtor **S**igns, **M**oney **C**omes **P**romptly, **S**tamped: Writing, Express, Definite, Signed, Money, Certain sum, Parties, Stamped.

CARD 7.04 T 2 · MCQ TRAP

★ OL 2.2, 2.3 · Scanner TQ 2.1, CSQ 5.3 · SM p.7.6

FRONT · RECALL ALOUD

Can a **promissory note** be payable to **bearer**? Is Alok's note to 'whoever brings back my lost dog' valid?

BACK · ANSWER

No. A promissory note can **never** be made payable to bearer (s. 31 RBI Act); only the Reserve Bank or the Central Government can issue one.

TQ 2.1: 'I promise to pay ₹10,000 after three months' names no payee, so it is a bearer instrument and is **illegal and unenforceable**.

The dog note (CSQ 5.3): the payee was **unidentified** when the note was made, so the **certain payee** requirement fails; it is **not** a valid promissory note even though Anand later found the dog.

A note payable on an **uncertain event** (SM: after marriage with C) is also invalid.

MEMORY TRICK A dog-finder is a **stranger nobody can name**, and 'bearer' is a stranger too. A note needs a **named payee**.

CARD 7.05 T 3 · COMPARE

★★ OL 3.1, 3.2 · Scanner TQ 3.1, TQ 3.2 · SM pp.7.7–7.9

FRONT · RECALL ALOUD

Distinguish a **promissory note** from a **bill of exchange** (s. 5).

BACK · ANSWER

- **Nature:** note = a **promise** to pay; bill = an **order** to pay.
- **Parties:** note = **2** (maker, payee); bill = **3** (drawer, drawee, payee), though one person may play two roles; there must be **two distinct persons**.
- **Acceptance:** note needs **none**; bill needs **acceptance** by the drawee, who then becomes the acceptor with primary and unconditional liability.
- **Bearer:** note **cannot** be payable to bearer; bill can, but **never bearer on demand** (s. 31 RBI Act).

MEMORY TRICK **Note = two, Bill = three.** The note's signer is the payer, so no acceptance; the bill's drawee must first say 'yes'.

CARD 7.06 T 3 · MCQ TRAP

★★ OL 3.3, 3.4 · Scanner CSQ 3.1, CSQ 3.2 · Not in SM (Scanner CSQ 3.1, 3.2)

FRONT · RECALL ALOUD

A forged indorsement reaches a person who took the cheque in good faith for value. Does the **holder in due course** get title? And what of a bill whose drawer signs in a **fictitious name**?

BACK · ANSWER

Forgery: a forged signature makes the instrument a **nullity**. Even a holder in due course gets **no title** and cannot keep the money (CSQ 3.2).

A holder in due course is protected against a **defect** in title, not against **entire absence** of title.

Fictitious drawer (s. 42): bill drawn payable to the drawer's order in a fictitious name and indorsed by the same hand → the acceptor **cannot allege** the name is fictitious against a holder in due course (CSQ 3.1).

Condition: the drawer's and indorser's signatures must be in the **same handwriting**.

MEMORY TRICK Forgery is a **hole**: the holder in due course has nothing to stand on. A fictitious name signed by the **same hand** leaves the acceptor unable to cry 'fake'.

CARD 7.07 T 3 · CONCEPT

★★ OL 3.5, 3.7 · Scanner CSQ 3.3, CSQ 3.5 · Not in SM (Scanner CSQ 3.3, 3.5)

FRONT · RECALL ALOUD

R draws a bill for ₹10,000 but S accepts only ₹7,000. And for a bill payable '60 days after sight', when does the period start?

BACK · ANSWER

Qualified acceptance (s. 86): if the holder acquiesces in an acceptance limited to part of the sum, or substituting a different place or time, all **previous parties whose consent is not obtained are discharged**, unless they assent on notice.

CSQ 3.3: acceptance of ₹7,000 only is **qualified**; R may reject it or assent to it.

Bill payable after sight: the maturity period runs from the **date of acceptance**, not from the time the payee held the bill (CSQ 3.5: the 60 days run from N's acceptance).

MEMORY TRICK Part-acceptance **narrows** the promise, so earlier parties walk free unless they agree. For 'after sight': **sight → accept → then count**.

CARD 7.08 T 3 · CONCEPT

★★ OL 3.6 · Scanner CSQ 3.4 · Not in SM (Scanner CSQ 3.4)

FRONT · RECALL ALOUD

Holder M strikes out, **without Q's consent**, the indorsements of O and P, who precede Q. Can M recover anything from Q?

BACK · ANSWER

No. Under **s. 40**, a holder who, without the indorser's consent, **cancels or impairs the indorser's right of recourse** against a prior party **discharges** that indorser, as if the instrument had been duly paid at maturity.

Q's remedy against O and P was impaired, so Q stands discharged and M cannot recover from Q (CSQ 3.4).

MEMORY TRICK **Cut a link, free the one behind it:** destroy an indorser's recourse and you lose your claim on that indorser.

CARD 7.09 T 4 · MEMORISE

★★ OL 4.1, 4.2 · Scanner TQ 4.1, TQ 5.4 · SM pp.7.10, 7.12, 7.25

FRONT · RECALL ALOUD

Define a **cheque** (s. 6). What does it NOT need, and why are **all cheques bills but not all bills cheques**?

BACK · ANSWER

A **bill of exchange drawn on a specified banker** and not expressed to be payable otherwise than on demand; it includes the **electronic image of a truncated cheque** and a **cheque in electronic form**.

Parties: **drawer**, **drawee** (always a banker) and **payee**.

A cheque needs all the bill's essentials **plus two**: drawn on a **specified banker**; payable **on demand**.

MCQ trap: a cheque needs **no acceptance** and **no stamping**.

MEMORY TRICK Every square is a rectangle, not every rectangle a square. Every cheque is a bill, not every bill a cheque: a cheque adds **banker + demand**.

CARD 7.10 T 4 · MCQ TRAP

★★ OL 4.3, 4.7 · Scanner CSQ 4.1, CSQ 4.4, CSQ 5.3 · Not in SM (Scanner CSQ 4.1, 4.4, 5.3)

FRONT · RECALL ALOUD

V gives B a cheque of ₹11,000 **as a gift**. Is B a **holder in due course**? Can he still be paid?

BACK · ANSWER

Not a holder in due course: he gave no **consideration** (an HDC takes for consideration, before maturity, in good faith).

But B is a **holder** with good, bona fide title, so he can receive ₹11,000 from the bank (CSQ 4.1).

A bearer cheque gifted on a birthday (CSQ 4.4): valid title by delivery, still **not** an HDC; it takes subject to defects in prior parties' title.

Contrast: a **bearer cheque given as a reward for a service already completed** is a valid cheque, and the holder is entitled to payment (CSQ 5.3).

MEMORY TRICK **Gift = holder, not HDC.** A gift brings **title** but no **price paid**, and 'due course' needs a price.

CARD 7.11 T 4 · CONCEPT

★★ OL 4.4 · Scanner CSQ 4.2 · Not in SM (Scanner CSQ 4.2)

FRONT · RECALL ALOUD

A finder forges the payee's indorsement on an **order cheque** and cashes it. Is the **drawee bank** liable to the true owner?

BACK · ANSWER

No (s. 85). Where an order cheque purports to be indorsed by or on behalf of the payee, the drawee is **discharged by payment in due course**.

CSQ 4.2: Mr Vyas's indorsement was forged, yet the bank is protected and he cannot recover from it.

A cheque originally payable to **bearer**: the drawee is discharged by payment in due course to the bearer, whatever indorsement appears.

MEMORY TRICK The bank is a **doorman who checked the ticket**: forgery hurts the holder, but a bank that paid in due course is shielded.

CARD 7.12 T 4 · MCQ TRAP

★★ OL 4.5 · Scanner CSQ 4.3 · Not in SM (Scanner CSQ 4.3)

FRONT · RECALL ALOUD

A minor of sixteen indorses a cheque to pay his rent, and it bounces. Is the **minor** liable? Whom can the indorsee sue?

BACK · ANSWER

Section 26: a minor may draw, indorse, deliver and negotiate so as to **bind all parties except himself**.

M is **not liable**; Mrs A proceeds against the **drawer**, Mr S Venkatesh (CSQ 4.3).

Trap: 'a minor's indorsement is void against everyone' is wrong; it **binds the others**.

MEMORY TRICK A minor's signature is a **bridge for others, never a trap for himself**: it binds everyone except the minor.

CARD 7.13 T 4 · CONCEPT

★★ OL 4.6 · Scanner CSQ 4.5 · Not in SM (Scanner CSQ 4.5)

FRONT · RECALL ALOUD

The drawer himself changes the date on a cheque to re-validate it, then pleads 'material alteration' when it bounces. Does it bind him?

BACK · ANSWER

Yes (s. 87). The party who **makes** an alteration, and the party who **consents** to it, cannot complain of it.

General rule: parties liable on the original instrument are not liable on an altered one to which they never consented.

CSQ 4.5: a drawer may **voluntarily re-validate** a cheque, so the cheque with the new date is valid and binds the Bidder.

MEMORY TRICK **Your own pen, your own problem:** you cannot blame an alteration you made or agreed to.

CARD 7.14 T 5 · MEMORISE

★ OL 5.1 · Scanner TQ 5.2, TQ 5.3 · SM pp.7.12–7.15

FRONT · RECALL ALOUD

Name the **three pairs** into which negotiable instruments are classified, with the test for each.

BACK · ANSWER

- **Bearer / Order (s. 13):** bearer = payee blank, or 'or bearer', or last indorsement **blank** → negotiated by **delivery**. Order = payable to a person or his order, or last indorsement **in full** → **indorsement + delivery**.
- **Inland / Foreign (ss. 11, 12):** inland = drawn or made in India **and** (payable in India **or** drawn on a person resident in India). Foreign = **not inland**.
- **Inchoate / Ambiguous:** incomplete in some respect / may be read as a **note or a bill** (s. 17).

MEMORY TRICK **3 pairs = 6 types**: how it is paid (bearer/order), where it belongs (inland/foreign), how complete or clear it is (inchoate/ambiguous).

CARD 7.15 T 5 · CONCEPT

★★★ OL 5.2, 5.3, 5.4 · Scanner CSQ 5.1, CSQ 5.2, CSQ 9.1 · SM pp.7.13–7.14

FRONT · RECALL ALOUD

Inland or foreign? (a) Drawn in India on an Indian resident, payable abroad. (b) Drawn in India, payable in India, drawee abroad. (c) Drawn in India on, and payable in, London.

BACK · ANSWER

- (a) **Inland**: drawn in India on a person resident in India; it is immaterial that it is payable abroad (SM: London; CSQ 5.1: Los Angeles).
- (b) **Inland**: drawn in India and payable in India, even though the drawee is a foreign resident (SM: B of New York accepts payable in Delhi).
- (c) **Foreign**: fails both tests, as it is neither payable in India nor drawn on an Indian resident (CSQ 9.1: Shah's bill on Smith of London).

An inland instrument stays inland even if indorsed abroad.

s. 134 (foreign instrument, no contrary contract): **maker/drawer** by the law of the place **where made**; **acceptor/indorser** by the law of the place **where payable** (SM: drawer 15%, acceptor 6%).

MEMORY TRICK **Born in India + one exit ticket** (payable in India **or** Indian drawee) = inland. London to London has no ticket. For s. 134: drawer follows the **birthplace**, acceptor/indorser the **payment place**.

CARD 7.16 T 5 · CONCEPT

★★★ OL 5.5, 6.6 · Scanner TQ 5.1, TQ 5.4, CSQ 6.4 · SM pp.7.14–7.15

FRONT · RECALL ALOUD

Anjali signs and delivers a **stamped blank** promissory note; a holder in due course fills in ₹17,000 though ₹15,000 was agreed. Who recovers what? What if the signer never delivered it?

BACK · ANSWER

Inchoate instrument (s. 20): signed, stamped and delivered but wholly or partly blank; the holder has **prima facie authority** to complete it for any amount **not exceeding the stamp**.

- **Ordinary holder:** recovers only the amount **intended** by the signer.
- **Holder in due course:** recovers **any amount** filled in, provided it is **covered by the stamp** (CSQ 6.4: Anjali is liable for ₹17,000).

No delivery, no liability: a signed blank acceptance kept in a drawer, stolen and filled in for ₹20,000 → the signer is **not liable**, even to a holder in due course (SM Example 13).

MEMORY TRICK **Two ceilings:** the **stamp** caps what an HDC may recover, the signer's **intention** caps everyone else. And without delivery there is no building at all.

CARD 7.17 T 5 · CONCEPT

★★ OL 5.6, 5.7 · Scanner TQ 5.1, TQ 7.2, CSQ 5.3 · SM p.7.15

FRONT · RECALL ALOUD

What is an **ambiguous instrument** (s. 17)? What is the position of a bill Alok **draws on himself and accepts**?

BACK · ANSWER

An instrument that may be construed **either as a promissory note or as a bill of exchange**: the **holder may elect** to treat it as either, and it is **thenceforward treated accordingly**.

Once the option is exercised, the holder **cannot** treat it as the other kind.

CSQ 5.3(3): Alok's **self-drawn, self-accepted** bill is valid; Anand, the holder, may treat it as a **promissory note** and enforce it against Alok.

MEMORY TRICK **Pick a lane, then stay in it:** the holder's election is final.

CARD 7.18 T 6 · MEMORISE

★ OL 6.1 · Scanner TQ 6.2 · SM pp.7.15–7.17

FRONT · RECALL ALOUD

What is **negotiation** (s. 14)? How is an instrument negotiated by **delivery**, and by **indorsement and delivery**?

BACK · ANSWER

Section 14: transfer to any person with a view to constitute him the **holder** → the instrument is deemed **negotiated**.

- **Bearer** instrument → by **delivery** (s. 47).
- **Order** instrument → by the holder's **indorsement and delivery** (s. 48).

An order instrument indorsed **in blank** becomes bearer, so delivery alone then suffices (TQ 6.2).

Exception (s. 47): delivered on condition that it is not to take effect except in a certain event → **not negotiable** until the event happens, except in the hands of a holder for value without notice of the condition.

MEMORY TRICK **47 = Bearer: hand it over. 48 = Order: sign, then hand it over.** The sections run in the same order as the words.

CARD 7.19 T 6 · CONCEPT

★★ OL 6.2, 6.3 · Scanner TQ 6.1, TQ 6.2, CSQ 6.2 · SM pp.7.16–7.17

FRONT · RECALL ALOUD

Why is **delivery** essential (s. 46)? What are **actual** and **constructive** delivery? What if delivery is **conditional**?

BACK · ANSWER

Essential for **both** bearer and order instruments; it must be **voluntary**, with the object of passing the **property** in the instrument.

- **Actual:** the instrument physically changes hands.
- **Constructive:** delivered to the **agent, clerk or servant of the indorsee**, or the indorser, after indorsement, holds it as the **indorsee's agent**.
- **Conditional** or special-purpose delivery: **no property passes**, even if indorsed, unless the instrument is negotiated to a **holder in due course**.

Until delivery the contract stays **incomplete and revocable**. CSQ 6.2: delivery to **Arjun's agent** was sufficient, so Arjun can recover.

MEMORY TRICK **V-P-A-C:** Voluntary, Property-passing, then Actual or Constructive.

CARD 7.20 T 6 · CONCEPT

★★★ OL 6.4 · Scanner CSQ 6.3, TQ 6.2 · SM p.7.17

FRONT · RECALL ALOUD

Gagan indorses a bill to Akash but dies before delivery; his son Ankit delivers it next day. Can Akash enforce the bill?

BACK · ANSWER

No (s. 57). If the indorser dies before delivery, his **legal representative cannot negotiate by mere delivery**.

A legal representative is **not an agent** of the deceased, so he cannot complete the instrument.

Negotiation stays incomplete, so Akash cannot enforce against Baban or the previous parties (CSQ 6.3).

Contrast (CSQ 6.2): delivery to the **indorsee's agent** is valid constructive delivery.

MEMORY TRICK **Agent of the indorsee ✓, heir of the indorser ✗** Dead hands cannot hand over.

CARD 7.21 T 6 · CONCEPT

★ OL 6.5 · Scanner CSQ 6.1 · Not in SM (Scanner CSQ 6.1)

FRONT · RECALL ALOUD

An accommodation bill passes A → B (no consideration) → C (for value) → D (no consideration). Who can recover from the acceptor?

BACK · ANSWER

Section 43: an instrument transferred **without consideration** creates **no obligation** between the parties to that transaction.

But a **holder for consideration**, and every subsequent holder deriving title from him, may recover from the transferor for consideration or any prior party.

CSQ 6.1: **A and B cannot recover**; **C** (for value) and his successor **D** can.

MEMORY TRICK **Free → no claim; paid → claim, and the claim travels on to D.** A and B are out; C and D are in.

CARD 7.22 T 7 · MEMORISE

★★★ OL 7.1 · Scanner TQ 7.2, CSQ 7.2 · SM pp.7.18–7.19

FRONT · RECALL ALOUD

When does **s. 138** make the dishonour of a cheque an offence, and what is the punishment?

BACK · ANSWER

Cheque drawn on the drawer's **own account** for payment to another, for the discharge, wholly or partly, of a **legally enforceable debt or other liability**.

Returned **unpaid** because the balance is **insufficient**, or the amount **exceeds the arrangement** with the bank.

The drawer is **deemed to have committed an offence**: imprisonment up to **2 years**, or fine up to **twice the cheque amount**, or **both**.

CSQ 7.2: Y's ₹10,000 cheque bounced for lack of funds, so Y is liable under s. 138.

MEMORY TRICK **2 and 2×:** up to two years, up to two times the cheque, or both.

CARD 7.23 T 7 · MEMORISE

★★★ OL 7.1, 7.5 · Scanner TQ 7.2, CSQ 7.4, CSQ 7.6 · SM pp.7.18–7.19

FRONT · RECALL ALOUD

What **three conditions** must be met before **s. 138** applies? After how many days can the complaint be filed?

BACK · ANSWER

- **(a)** Cheque presented to the bank within **3 months** from its date or within its validity, whichever is **earlier**.
- **(b)** Payee or holder in due course gives a **written notice** of demand to the drawer within **30 days** of receiving the bank's information of return unpaid.
- **(c)** Drawer **fails to pay within 15 days** of receiving the notice.

SM: the complaint can be filed **after 45 days** of dishonour (30 + 15).

MCQ trap: **no** s. 138 complaint lies before the **written demand** and the drawer's **15-day default** (CSQ 7.6: presentation after one month is within the 3 months).

MEMORY TRICK **3 – 30 – 15**, like dialling a number: present, notify, wait. Skip a step and there is no complaint.

CARD 7.24 T 7 · MEMORISE

★★★ OL 7.2 · Scanner TQ 7.2, CSQ 7.1, CSQ 7.2, CSQ 7.5 · SM p.7.18

FRONT · RECALL ALOUD

Which **five kinds of cheque** fall **outside s. 138**?

BACK · ANSWER

A cheque given as a **gift**, **donation**, **security**, in discharge of a **mere moral obligation**, or for an **illegal consideration**.

Reason: s. 138 needs a **legally enforceable debt or other liability**.

CSQ 7.1: Shiva's ₹21,000 Raksha Bandhan gift cheque, even with a stop-payment instruction → **no** s. 138 offence.

CSQ 7.5: Ram's ₹51,000 wedding-gift cheque → Ram is not liable under s. 138; the cheque was not issued towards the unpaid car balance.

MEMORY TRICK **G-D-S-M-I: G**enerous **D**onors **S**eldom **M**eet **I**nspectors: Gift, Donation, Security, Moral obligation, Illegal consideration.

CARD 7.25 T 7 · MCQ TRAP

★★★ OL 7.3 · Scanner TQ 7.1, CSQ 7.1 · SM p.7.19

FRONT · RECALL ALOUD

Bholenath issues a cheque to Surendar, then asks him not to present it and **instructs the bank to stop payment**. Is he safe from s. 138?

BACK · ANSWER

No. A stop-payment instruction does **not** escape s. 138 (TQ 7.1, following Modi Cements Ltd. vs. Kuchil Kumar Nandi).

Once a cheque is issued, the **s. 139 presumption** follows; telling the payee or the bank to stop payment does not preclude action under s. 138.

SM Example 16: post-dated cheque with stop payment → s. 138 attracted; the 3 months run from the date on the cheque.

Careful (CSQ 7.1): if the cheque was a **gift**, s. 138 does not apply at all, for that separate reason.

MEMORY TRICK **Stop ≠ safe.** Braking after you have issued the cheque does not undo the debt.

CARD 7.26 T 7 · CONCEPT

★★★ OL 7.4, 7.6 · Scanner CSQ 7.2, CSQ 7.6 · SM p.7.19

FRONT · RECALL ALOUD

What is the presumption under **s. 139**? Why can a drawer not plead that he had **no reason to believe** the cheque would bounce (**s. 140**)?

BACK · ANSWER

s. 139: on dishonour it is **presumed**, unless the contrary is proved, that the holder received the cheque for the discharge, wholly or partly, of a **debt or other liability**.

It is a **rebuttable presumption**; it places the **evidential burden** on the accused.

s. 140: it is **not a defence** that the drawer had **no reason to believe**, when issuing the cheque, that it might be dishonoured on presentment.

CSQ 7.6: both of Alok's defences fail (cheque not encashed in two days; no reason to believe).

MEMORY TRICK **139 = prove otherwise; 140 = no 'I never knew'.**

CARD 7.27 T 8 · MEMORISE

★ OL 8.1, 8.2 · Scanner TQ 8.3, CSQ 8.2 · SM p.7.20

FRONT · RECALL ALOUD

State **ss. 61, 62 and 63** on presentment for acceptance, presentment of a note for sight, and the drawee's time to decide.

BACK · ANSWER

- **s. 61 (bill):** a bill payable **after sight** must be presented to the drawee for acceptance within a **reasonable time** after it is drawn, in business hours on a business day; in default, no party is liable to the person making the default.
- **s. 62 (note):** a note payable a certain period **after sight** must be presented **to the maker** for sight, within a reasonable time after it is made.
- **s. 63:** if the drawee requires, the holder must allow **48 hours (exclusive of public holidays)** to consider acceptance.

CSQ 8.2: presented 14 Aug, 3 pm; 15 Aug a public holiday → 48 hours end on **17 Aug**, so no dishonour on 16 Aug.

MEMORY TRICK **61 Bill → accept; 62 Note → sight; 63 Time to think.** Bill, Note, Time: in that order.

CARD 7.28 T 8 · CONCEPT

★★ OL 8.3 · Scanner TQ 8.2, CSQ 8.1, CSQ 8.3 · SM pp.7.20–7.21

FRONT · RECALL ALOUD

To whom must an instrument be presented for payment (s. 64)? When is **no presentment** needed to charge the maker?

BACK · ANSWER

Promissory note → **maker**; bill of exchange → **acceptor**; cheque → **drawee**, by or on behalf of the holder.

Default of presentment → the **other parties** are not liable to that holder.

Exception: a promissory note **payable on demand** and **not payable at a specified place** → no presentment is necessary to charge the maker (CSQ 8.1: A is not discharged).

CSQ 8.3: leaving the bill with Sanjay's assistant is valid only if the assistant was **authorised** to receive it.

MEMORY TRICK A lazy holder loses his claim on the **other parties**, but a **demand note with no named place** needs no knock on the maker's door.

CARD 7.29 T 8 · MEMORISE

★★ OL 8.4, 8.5 · Scanner CSQ 8.3, CSQ 8.4, CSQ 9.1 · SM pp.7.21–7.22

FRONT · RECALL ALOUD

State the rules of **ss. 65, 66, 75 and 75A** on the time and manner of presentment.

BACK · ANSWER

- **s. 65:** during the usual **business hours**; at a banker's, within **banking hours**.
- **s. 66:** note or bill payable a specified period **after date or sight** → present **at maturity**.
- **s. 75:** presentment may be made to the **duly authorised agent**, to the legal representative of a deceased party, or to the assignee of an insolvent.
- **s. 75A:** delay caused by circumstances **beyond the holder's control**, not due to his default, misconduct or negligence, is **excused**; when the cause ceases, present within a **reasonable time**.

CSQ 9.1: flights grounded by a volcanic eruption, bill dispatched the day after the block was lifted → delay excused.

MEMORY TRICK **H-M-A-B:** Hours, Maturity, Agent, Beyond-control.

CARD 7.30 T 8 · MEMORISE

★★★ OL 8.6 · Scanner TQ 8.1 · SM pp.7.22–7.23

FRONT · RECALL ALOUD

When is **presentment for payment unnecessary** (s. 76), the instrument being dishonoured at the due date?

BACK · ANSWER

- **(a)** the maker, drawee or acceptor **intentionally prevents** presentment; or **closes** his place of business on a business day in usual hours; or **no one attends** the other specified place; or, with no place specified, he **cannot be found** after due search.
- **(b)** against a party who has **engaged to pay** notwithstanding non-presentment.
- **(c)** against any party who, **after maturity and with knowledge** that the instrument was not presented, makes a **part payment**, **promises to pay** in whole or part, or **waives** the default.
- **(d)** against the **drawer**, if he could **suffer no damage** from the want of presentment.

MEMORY TRICK **A-B-C-D** for limbs (a) to (d): **A**voids it, **B**ound himself, **C**onduct after maturity, **D**rawer unharmed.

CARD 7.31 T 9 · MEMORISE

★★ OL 9.1, 7.7 · Scanner TQ 7.3, CSQ 9.1 · SM p.7.23

FRONT · RECALL ALOUD

What compensation can the **holder** claim on dishonour under **s. 117 (a) and (b)**?

BACK · ANSWER

- **(a)** The **amount due** on the instrument, plus **expenses properly incurred** in **presenting, noting and protesting** it.
- **(b)** If the person charged resides at a place **different** from where the instrument was payable, the holder gets the sum at the **current rate of exchange** between the two places.

CSQ 9.1: Binod can claim the bill amount, the **noting expenses** and the **exchange-rate difference**; Shah is not limited to face value.

MEMORY TRICK **Face, Fees, Forex:** the amount, the expenses, the exchange difference.

CARD 7.32 T 9 · MEMORISE

★★ OL 9.2, 9.3 · Scanner TQ 7.3 · SM pp.7.23–7.24

FRONT · RECALL ALOUD

What can an **endorser who has paid** claim, and what is the **re-draft** under **s. 117 (c) to (e)**?

BACK · ANSWER

- **(c)** An endorser who, being liable, **has paid** is entitled to the amount paid with **interest at 18% per annum** from the date of payment until **tender or realisation**, plus all **expenses** caused by dishonour and payment.
- **(d)** If the person charged and the endorser reside at **different places**, the sum at the **current rate of exchange** between those places.
- **(e)** The party entitled may **draw a bill** on the party liable, payable **at sight or on demand**, for the amount due plus expenses, accompanied by the **dishonoured instrument and protest** (if any).

If that bill is dishonoured, the party dishonouring it must compensate in the same manner as for the original.

MEMORY TRICK **E-18:** the **E**ndorser who paid earns **eighteen** per cent a year.