Intrepretation of Statutes KSLU Notes Final

Interpretation of Statutes (Karnataka State Law University)

INTERPRETATION OF STATUTES

3 AND 5 YEARS LLB UNDER KARNATAKA STATE LAW UNIVERSITY

MOST IMPORTANT PREVIOUS YEAR QUESTIONS ALONG WITH ANSWERS

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Interpretation of statutes and principles of legislations

Most important previous year questions

1. What is interpretation of statutes? And explain the rules relating to commencement of statute?
2. Write a note on mandatory & directory provisions.
3. Discuss the reference to other statues as an external aid to construction.
4. Write a note on importance of headings.
5. Explain the importance of preamble in Interpretation of statute.
6. Explain “Contemporanea expositio”.
7. The so called golden rule is really a modification of literal rule explain?
8. Write a note on Ejusdem Generis.
9. Explain the Heyden’s rule.
10. What is doctrine “Pith & Substance”.
11. Explain the presumption against intending injustice.
12. Write a short note on prospective operation of statutes.
13. Statutes are territorial in operation. Elucidate.
14. Write a note on presumption relating to penal statutes.
15. Explain the principles of utility as advocated by Sir Jeremy Betham.
16. Write a note on classification evils.
17. Explain the measures of pleasure of pain.
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19. Statute must be read as whole in its context elucidate.
20. Explain the literal rule of interpretation with the help of decided cases.
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30. A statute must prima facie be given their ordinary meaning elucidate.

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BY

ANIL KUMAR K T LLB COACH

What is interpretation of statutes? And explain the rules relating to commencement of statute?

The term has been derived from the Latin term *'interpretari'*, which means to explain, expound, understand, or to translate. Interpretation is the process of explaining, expounding and translating any text or anything in written form. This basically involves an act of discovering the true meaning of the language which has been used in the statute. Various sources used are only limited to explore the written text and clarify what exactly has been indicated by the words used in the written text or the statutes.

Interpretation of statutes is the **correct understanding of the law.** This process is commonly adopted by the courts for determining the exact intention of the legislature. Because the objective of the court is not only merely to read the law but is also to apply it in a meaningful manner to suit from case to case. It is also used for ascertaining the actual connotation of any Act or document with the actual intention of the legislature.

There can be mischief in the statute which is required to be cured, and this can be done by applying various norms and theories of interpretation which might go against the literal meaning at times. The purpose behind interpretation is to clarify the meaning of the words used in the statutes which might not be that clear.

According to **Salmond,** "**Interpretation**" is the process by which the court seeks to ascertain the meaning of the legislature through the medium of authoritative forms in which it is expressed.

Out of the three organs of the State, viz Legislative, Executive and Judiciary, interpreting the statutes is primarily concerned with Judiciary. Being the machinery that puts the laws laid down by legislature into use, it becomes primary function of Judiciary to interpret the statutes and ascertain the correct meaning of the provisions of the statutes in their true spirit as intended by the framers.

The Interpretation Act 1957 explains when laws commence and what happens when a law is repealed.

Commencement of laws

If a day is not set for the coming into operation of a law, that day will be the day when the law was first published in the Gazette as a law.

If any act provides that it will come into operation on a date fixed by the President or a Premier by proclamation in the Gazette, different dates may be fixed in respect of different provisions of that act.

Exercise of conferred powers between passing and commencement of a law

Where a law confers a power to do anything required to bring the law into operation (for example, making appointments, actions of regulators, prescribing forms or making regulations) that power may be exercised at any time after the passing of the law so far as may be necessary for the purpose of bringing the law into operation. However, those acts (for instance the making of regulations) only come into operation when the law comes into operation.

Notification in Gazette of official acts under authority of law

When an act is by law to be done by the President, a Premier, a Minister, or any public officer, the notification of that act may be by notice in the Gazette unless a specified method is prescribed.

Certain enactments must be published in the Gazette but there are also other ways stated for the promulgation and commencement of laws and publication of notices when publication in the Gazette is impractical. It has become common in recent legislation to permit publication on an official website.

(1) Any written law which is expressed to come into operation on a particular day shall come into operation on the expiration of the previous day.

(2) Subsection (1) shall apply also to the day proclaimed, notified orother wise appointed as the day as from which any written law shall come into force; and the expression “otherwise appointed” shall include the provisions for commencement made by sections 16 and 18.

Exercise of statutory powers between enactment and commencement of written law.

Section 18: Whenever any written law which is not to come into operation immediately on the passing thereof confers power to make subsidiary legislation, or to issue any instrument, or to prescribe forms, or to do any other thing, for the purposes of such written law, such power may be exercised at any time after the passing of the written law so far as maybe necessary or expedient for the purpose of bringing the written law into operation at the date of the commencement thereof:

Provided that nothing contained in this section shall be deemed to authorise any provision to bring into effect any such subsidiary legislation, instrument, form or thing prior to the commencement of the written law conferring power to make, issue, prescribe or do the same; and, if no date is specified as from which any such subsidiary legislation, instrument, form or thing shall have effect, it shall have effect as from the commencement of such written law.

Section 20: Whenever any written law confers upon any person or authority power to make appointments to any office or place, the power shall be construed as including a power to dismiss or suspend any person so appointed and to appoint another person temporarily in the place of any person so suspended, or in place of any sick or absent holder of such office or place:

Provided that, where the power of such person or authority to make such appointment is only exercisable upon the recommendation or subject to the approval or consent of some other person or authority, such power of dismissal shall only be exercisable upon the recommendation or subject to the approval or consent of such other person or authority.

2.Write a note on mandatory & directory provisions.

Mandatory & Directory Provisions:

Whether a statute is mandatory or directory depends upon the intent of the Legislature and not upon the language in which the intent is clothed. The meaning and intention of the Legislature must govern, and these are to be ascertained not only from the phraseology of the provision, but also by considering its nature, its design and the consequences which would follow from construing it the one way or the other.

In **DA Koregaonkar v State of Bombay** it was held that one of the important tests that must always be employed in order to determine whether a provision is mandatory or directory in character is to consider whether the non-compliance of a particular provision causes inconvenience or injustice and, if it does, then the Court would say that, the provision must be complied with and that it is obligatory in its character.

Whether a provision of law is directory or mandatory, the prime object must be to ascertain the legislative intent from a consideration of the entire statute, its nature, its object and the consequences that would result from construing it in one way or the other, or in connection that with other related statutes, and the determination does not depend on the form of the statute.

Use of prohibitory words :

In **State of Himachal Pradesh v MP Gupta** the Court was interpreting **section 197 of the Code of Criminal Procedure 1973**, which provided 'that no court shall take cognizance of any offence alleged to have been committed by a public servant, judge, magistrate, or member of the armed forces'. It was held that the use of the words 'no' and 'shall' make it abundantly clear that the bar on the exercise of power of the court to take cognizance of any offence is absolute and complete.

Mandatory & Permissive words:

In **Sidhu Ram v Secretary Railway Board** the Court had to consider the import of Rule 1732 of the Railway Establishment Code. The relevant portion of the Rule read thus— "where the penalty of dismissal , removal from service, compulsory retirement, reduction in rank or withholding of increment has been imposed, the appellate authority may give the railway servant either at his discretion or if so requested by the latter a personal hearing, before disposing of the appeal."

The term 'may' must be taken in it naturally, i.e. in its permissive sense and not in its obligatory sense. 'May and 'shall' are generally used in contradistinction to each other and normally should be given their natural meaning especially when they occur in the same section. Also in some cases the word 'may' is used in such a way as to create a duty that must be performed.

In GullipilliSowria Raj vs. BandaruPavani @ GullipiliPavani this Court while dealing with a similar issue held as under:

"The expression "may" used in the opening words of Section 5 is not directory, as has been sought to be argued, but mandatory and non-fulfilment thereof would not permit a marriage under the Act between two Hindus.

&Section 7 of the 1955 Act is to be read along with Section 5 in that a Hindu Marriage, as understood under Section 5, could be solemnised according to the ceremonies indicated therein"

3.Discuss the reference to other statues as an external aid to construction.

Reference to Other Statute as an external aid to construction:

For the purpose of interpretation or construction of a statutory provision, courts can refer to or can take help of other statutes.

It is also known as statutory aids.

It allows the use of an earlier statute to throw light on the meaning of a phrase used in a later statute in the same context.

Example: The Limitation Act, the General Clauses Act

Above mentioned are the examples of statutory aid.

If a statute in itself is not clear of what representation it offers, then other statutes in *pari materia*, i.e. dealing with the same or similar subject can be considered. Such statutes are not exactly the same, but they deal with the same topics, or deal with different topics of the same subject matter. These statutes are enacted at different times and under different circumstances, but they correspond to each other.[11] In **State of Madras v. A. Vaidyanath Iyer**[12], an income-tax officer was accused of taking bribe. The trial court sentenced the accused to 6 months of rigorous imprisonment, but when the appeal went to the High Court, it set him free on the basis that the accused may have simply borrowed money instead of accepting it as a bribe. The Supreme Court, while dealing with Section 4 of the Prevention of Corruption Act, 1947, stated that if there is proof that the accused has accepted gratification in any form other than legal remuneration, then it will be presumed that such gratification was accepted as a bribe, unless the contrary is proved. This has to be held as *pari materia* to the Indian Evidence Act, 1872, and the words 'shall presume' in the Evidence Act correspond to the words 'it shall be presumed' in the Prevention of Corruption Act. Thus, the Supreme Court reverted the decision of the High Court and held the accused guilty.

For the purpose of interpretation or construction of a statutory provision, courts can refer to or can take help of other statutes. It is also known as statutory aids. For e.g. the General Clauses Act, 1897.

The application of this rule helped to avoid any contradiction between a series of statutes dealing with the same subject as it allows the use of an earlier statute to throw light on the meaning of a phrase used in a later statute in the same context.

4.Write a note on importance of headings.

Introduction:

Headings are attached to every section of every Act or statute. For example; Section 3 of 'General Powers of Central Government' in the Indian Constitution has a heading i.e. 'Power of Central Government to take measure to protect and improve the environment'. Like marginal notes, headings too, are not introduced by the legislators themselves. The drafters insert these. Headings and the preamble are treated in a similar fashion. It is used as an aid to interpretation when the content of the provisions create ambiguity. However, if the general meaning of the enactment is clear, headings must not be used.

But if there is more than one conclusion of any provision, its heading should be used to derive a true meaning to the provision.

These are supplemented before sections or a group of sections and such headings are used for indicating a group of sections or as a preface to those sections by the courts. Thus, these headings can be crucial in the course of interpretation and the preface can prove a great pointer for the sections that follow. Headings can be of two kinds, one type of headings is added to a particular section while the other kind is added to a group of sections. The court may use the headings in case of ambiguity in interpreting the wordings of an Act but in case of complete clarity in the meaning of the Act then the headings would not be employed for the interpretation. A heading which has been given to a particular group of sections cannot be employed to interpret the other group of sections, while the heading to a chapter can be employed in the interpretation of the confusing provisions under that particular chapter.
In **Krishnaih vs. State of A.P. (AIR 2005 AP 10)**, the honourable Supreme Court gave the verdict that headings which are added to the sections cannot be construed to be controlling the simple words of the sections.

In all modern statutes, generally headings are attached to almost each section, just preceding the provisions. For example, the heading of Section 437 of the Code of Criminal Procedure, 1973 is “When bail may be taken in case of non-bailable offence”.

Headings are not passed by the Legislature but they are subsequently inserted after the Bill has become law.

Headings are of two kinds- one which are prefixed to a section and the other which are prefixed to a group or set of sections. These headings have been treated by courts as preambles to those sections or set of sections.

Naturally, the rules applicable to the preamble are followed in case of headings also while interpreting an enactment. Therefore, if the plain meaning of enactment is clear, help from headings cannot be taken by the courts.

However, if more than one conclusion are possible while interpreting a particular provision, the courts may seek guidance from the headings to arrive at the true meaning.

A heading to one set of sections cannot act as an aid to interpret another set of sections– **Shelly v. London County Council, 1949 AC 56**

But chapter heading can be used to interpret ambiguous provisions– **Bullmer v. I.R.C.**

In **Sarah Mathew v. Institute of Cardio Vascular Diseases,** it was held that sectional headings have a limited role to play in the construction of statutes. The heading of Ch. XXXVI, Cr.P.C. is not an indicator that the date of taking cognizance is the date on which limitation period commences.

In **Novartis Ag. v. Union of India**, the sectional headings were relied on while interpreting Section 5, 3(d), 2(1) (j) and (ja) and 83 of the Patents Act, 1970.

In **Union of India v. ABN Amro Bank**

- It was held that the heading of a section can be regarded as key to interpretation of the operative portion of said section.
- If there is no ambiguity in the language of the provision or if it is plain and clear, then heading used in said section strengthens that meaning.

In **N.C. Dhoundial v. Union of India**, it was held that "Heading" can be relied upon to clear the doubt or ambiguity in the interpretation of the provision and to discern the legislative intent.

5.Explain the importance of preamble in Interpretation of statute.

Introduction:

The Preamble to the Act contains the aims and objectives sought to be achieved, and is therefore, part of the Act. It is a key to unlock the mind of the law makers.

Therefore, in case of any ambiguity or uncertainty, the preamble can be used by the courts to interpret any provision of that statute. But there is a caution here. The apex court has held in **Maharishi Mahesh Yogi Vedic Vishwavidyalaya v. State of M.P. AIR (2013) 15 SCC 677–** the court cannot have resort to preamble when the language of the statute is clear and unambiguous.

Similarly it has been held that help from preamble could not be taken to distort clear intention of the legislature– **Burrakar Coal Company v. Union of India AIR 1961 SC 954.**

In **re Kerala Education Bill, 1957,** it was observed that the policy and purpose of the Act can be legitimately derived from its preamble.

In **Global Energy Ltd. v. Central Electricity Regulatory Commission**– it was held that the object of legislation should be read in the context of the Preamble.

In **Maharashtra Land Development Corporation v. State of Maharashtra**, it was held that Preamble of the Act is a guiding Light to its interpretation.

Another important example is found in **Kesavananda Bharati v. State of Kerala, AIR 1973 SC 1461**– wherein the apex court strongly relied on the Preamble to the Constitution of India in reaching a conclusion that the power of the Parliament to amend the constitution under Article 368 was not unlimited and did not enable the Parliament to alter the Basic Structure of the Constitution.

In **A.C. Sharma v. Delhi Administration AIR 1973 SC 913**

- In this case, the appellant challenged his conviction under Section 5 of the Prevention of Corruption Act, 1947.
- His main ground was that after the establishment of the Delhi Special Police Establishment, the anti-corruption department of the Delhi Police has ceased to have power of investigating bribery cases because the preamble of the Delhi Special Police Establishment Act, 1946 pointed out to this effect.
- The court, however, held that no preamble can interfere with clear and unambiguous words of a statue.
- Section 3 of the Delhi Special Police Establishment, 1946 empowered the Delhi Special Police also to investigate such cases.

In **Rashtriya Mill Mazdoor Sangh v. NTC (South Maharashtra)**, the Supreme Court while interpreting certain provisions of the Textile Undertakings (Take over of Management) Act, 1983 held that when the language of the Act is clear, preamble cannot be invoked to curtail or restrict the scope of an enactment.

6.Explain "Contemporanea expositio".

Introduction:

This rule of construction states that the best explanation of the law would be to read it as it would have been read at the time that it was passed. This rule

also considers the surrounding circumstances under which the Act was passed.

In the legal framework, the maxim “Contemporanea Expositio Est Fortissima in Lege” means that the finest way to interpret a text is to read it as it would have read when it was construed. It is often mentioned that the best description of a legislature or any verbal construction is that from the current authority description. Lord Coke laid down the maxim and was used while interpreting earlier legislations, but typically the maxim was not used to construe contemporary legislations as comparatively. It is apparent that the language of legislation should be taken in the manner in which it was meant when it was drafted. The meaning which the legislators meant and those who subsisted at the time when the Act was enacted may judiciously be made-up to be well aware than the later generations.

This maxim was exercised in JK Cotton Spinning and Weaving Mills Ltd v Union of India, when the Collector Central Excise held JK Cotton Spinning and Weaving Mills in default for not paying central excise on the yarn used as an intermediary raw material for fabric production. The Mills claimed Contemporanea expositor and appealed that levy of excise on yarn and other fabrics is applicable only when it is removed from the factory premises, and not if it is utilised in intermediary stages. However, the Supreme Court dismissed the appellants’ plea, presenting their judgement by holding the Mills liable for the payment of excise.

In reaching this judgement, the apex court referenced the decision in KP Varghese v The Income Tax Officer, Ernakulam. In this judgement, the maxim was appropriately applied, considering that there was ambiguity in the relied case as a word had two possible constructions. This was untrue for JK Cotton Spinning and Weaving Mills Ltd v Union of India, where the maxim was pleaded in the absence of an ambiguity, with the consequence of their plea being rejected.

The maxim was also applied in National Textile Corporation, New Delhi, and another v Swadeshi Mining and Manufacturing Co Ltd, Lucknow. The issue in regard was whether the shares held by Swadeshi Cotton Mills in Swadeshi Mining and Manufacturing Co Ltd and Swadeshi Polytex Ltd, come under the possession of the Central Government. The appellants posited that possession of certain documents was necessary for the shares to be vested with the

Government, however, the apex court ruled against this. The judgement claimed that the case could be resolved by interpreting the relevant provisions of the Swadeshi Cotton Mills Co Ltd Act 1986, with regard to which the claim was made, enforcing that there is no ambiguity and the maxim is not applicable in this case.

7.The so called golden rule is really a modification of literal rule explain?

Introduction:

The golden rule of interpretation is a modification of the literal rule of interpretation. Where the literal rule lays emphasis on the literal meaning of the words used in legal language, the golden rule interprets the words in such a way that the absurdities and anomalies of literal interpretation are avoided. The golden rule modifies the language as well as the grammar of the words used in statutes and other documents of interpretation, thus providing the actual meaning of the words. It brings forth the context in which the words have been used in a particular stance.

It must be kept in mind that the golden rule of interpretation can only be used when there is no correct grammatical construction possible. The legal language is sometimes composed of such words that do not provide a noticeable meaning, and to determine the latent meaning the golden rule is used. The judges of the courts must be aware of the consequences of interpreting the statutes using the golden rule, and it must only be used where it is absolutely necessary.

The modern approach to using the rules of interpretation is to have a purposeful construction, i.e., to bring into light the object of the legislation. In ***New India Sugar Mills Ltd.*** **v.** ***Commissioner of Income Tax, Bihar***[7], the Supreme Court held that the enactments within a statute must ordinarily be understood in a way that furthers the object of the statute as well as that of the legislature, and if two constructions of the same enactment exist, the court will adopt the one that advances remedy and suppresses any mischief. If the literal rule of interpretation were to be considered every time, it would result in irregularity and uncertainty because a word can have different meanings when put in different contexts. Also, what other words are used with that word also define or reduce its meaning variably. This would result in ambiguity, or multiple meanings of a single word. It can also result in absurdity, which means that the accurate meaning of the word as mentioned in the statute is

completely opposite of what is being deduced from literal constructions.[8] In such cases, the statute becomes questionable. Thus, these situations call for the application of the golden rule of interpretation.[9]

Interpretation Procedure

There are various methods suggested by experts in determining the meaning of statutes. According to Austin, the interpretive process consists of three steps: (a) discovering the rule, (b) ascertaining the intention of the legislature, and (c) extending the statute to cover all those cases that fall within its scope. De Sloovere also stated three steps of interpretation, with the first being choosing the proper statutory expression, followed by interpretation of that expression in a technical way, and applying the so found interpretation, or meaning, to the case(s) given.

Odgers mentions the first three rules as the steps of interpretation, namely, the literal rule, followed by the golden rule, and lastly the rule of mischief. The case of ***Vacher* v. *London Society of Compositors***[10] is an example of the application of all the three rules.

It is well settled that if the words of a statute themselves deliver a clear and unambiguous meaning, there is no need to employ the golden rule of interpretation to modify the already existing correct meaning. It is also evident that where the words so used in a statute are not those which could give a precise meaning to the expression in question, it is important to apply the golden rule of interpretation, in such a way that the true intention of the words is not reversed or modified in any way.

Application of Golden Rule of Interpretation

In ***Nokes* v. *Doncaster Amalgamated Collieries Ltd.***[11], Viscount Simon, L. C., observed that where two constructions are possible, the court will avoid the one that would prevent the object of the statute from being achieved, thus defeating the intent of the legislature. One should always adopt that meaning which gives a reasonably clear meaning to the expression. In ***Nyadar Singh* v. *Union of India***[12], Rule 11(IV) of the Central Services (Classification, Appeal and Control) Rules, 1965, imposed penalty 'reduction to a lower time-scale pay grade, post or service. This rule was given a strict interpretation, and

the Supreme Court held that a person appointed to a high post or pay grade-scale cannot be later on reduced to a lower post or pay grade-scale. If this rule were to be accorded a wider interpretation, any person appointed to a higher post may lack the necessary qualification for a lower post.

In ***U. P. Bhoodan Yagna Samiti*** **v.** ***Brij Kishore***[13], the Apex Court held that the meaning of the term 'landless person' under Section 14 of the Bhoodan Yagna Act, 1953, signified 'landless labourers' only, and not 'landless businessmen'. The object of the Act was to provide land to labourers engaged in agriculture, and not to businessmen.

In ***Ramji Missar*** **v.** ***State of Bihar***[14], the Supreme Court, in construing the age of the offender as per Section 6 of the Probation of Offenders Act, 1958, held that the date according to which the age of the offender has to be determined is not the date of commission of offence but the date of pronouncement of the sentence.

Criticism of Golden Rule of Interpretation

Even though the golden rule of interpretation proves to be useful over the literal rule, there may be instances where application of this rule may lead to further unclarity. It does not point out whether an anomaly actually exists in a legislative expression or not. It also does not determine the extent of such anomaly, even if one were to exist. It also puts the judges in a sort of dilemma, where they are left with nothing but to apply their own understanding of the expression, which renders justice in biased hands. This may or may not be intentionally done, but the fact that every judge can have a special opinion cannot be negated. The golden rule of interpretation puts the judiciary under heavy responsibility of finding out the intention of the legislature behind each legislative expression. In fact, every rule of interpretation brings with itself some lacuna which needs to be looked into and adjusted accordingly. The ultimate obligation of the courts is to deliver justice, without defeating the provisions of the legislation. Unless a construction renders an enactment absurd, it should be given its natural meaning.

8.Write a note on Ejusdem Generis.

Introduction:

For knowing the meaning of the statute, the statutory interpretation is done by the Courts. There are many rules for the interpretation of the statutes. One of them is "the doctrine of *Ejusdem Generis*". This doctrine is applied when there are some specified words which are been followed by the general words. If there is any ambiguity in the meaning of the general words then this doctrine is applied. This doctrine provides that the general words which follow the specified words will be restricts to the same class of the specified words. This is very important doctrine through which the purpose or the objectives of the statute can be achieved and a proper justice can be given.

Statement of problem

The Doctrine of Ejusdem Generis is a canon of interpretation, which is used by the Courts for providing the Justice, by interpreting according to the intention of the legislation so as to make the provision of legislation clear and unambiguous and thus fulfilling the purpose of the legislation. But the matter of concern is that whether the Courts are using the doctrine of Ejusdem Generis in a proper manner, to properly interpret the legislations and fulfill its purpose or the Courts are using this doctrine improperly where it is not required thus defeating the purpose and causing the miscarriage to the Justice?

Objectives

- To understand the meaning of the statutory interpretation.
- To understand the meaning of "Ejusdem Generis".
- To study the applicability and the non-applicability of the doctrine of Ejusdem Generis.
- To study the cases where this doctrine were applied and where not.
- To examine whether the Courts are using this doctrine in a proper manner or not.

Hypothesis

- For the application of this doctrine the general words must follow the specific words and the specific words must necessarily constitute a genus/class

- There must be an intention of the statute for restricting the general word to the genus/class of the specified words it follows.
- As this doctrine has to be used very cautiously by the Courts but sometimes the Courts may not use this doctrine properly and apply it where it is not necessary thus defeating the purpose of the statute and causing a miscarriage to Justice.

9.Explain the Heyden's rule.

Introduction:

Mischief Rule of Interpretation

Since, it is not possible to expect the Court to interpret arbitrarily, over the course of time, certain principles or rules have evolved out of the continuous exercise by the Courts. One of these rules of interpretation is the 'Mischief Rule of Interpretation'.

Meaning

Often referred to as Haydon's Rule, the Mischief Rule of Interpretation is one of the most important rules of interpretation. In legal parlance, the word *mischief* is normally understood to be a kind of specific injury or damage resulting from another person's action or inaction. But in relation to rules of interpretation, *mischief* means *to prevent the misuse of provisions of a statute.* It is widely known as the mischief rule primarily because it focuses on curing the mischief.

As per the Mischief Rule of Interpretation, a statute must be construed in such a way as to suppress the Mischief. Mischief should not have a place in the statute. If an attempt is made to add Mischief in any statute, then it must be prevented by the Mischief Rule of interpretation.

Haydon's Case

As mentioned before, Mischief rule of interpretation can be traced back to Haydon's Case[viii]. It is considered to be a landmark judgment for the Mischief Rule of Interpretation because the Mischief Rule seemed to have evolved from

this case. In the aforementioned case, it was held that there are four criterion which have to be met for the true interpretation of all the statutes in general. They are as follows: –

1. What was the common law before the making of the Act/statute?
2. What was the mischief for which the present statute was enacted?
3. What remedy did the Parliament sought or had resolved and appointed to cure the disease of the commonwealth?
4. The true reason of the remedy.

The core purpose behind the rule is to suppress the mischief and advance the remedy. Therefore, there lies a duty upon the Courts of Law to construct the statute in a way such that it suppresses the mischief and promotes the remedy in accordance with the intention of the legislature. Nonetheless, in the matter of **The Commissioner of Income Tax – Madhya Pradesh and Bhopal v. Sodra Devi,[ix]** Justice Bhagwati stated that *"It is clear that unless there is any such ambiguity it would not be open to the court to depart from the normal rule of construction which is that the intention of the Legislature should be primarily gathered from the words which are used."*

Therefore, it is evident that the rule established in Heydon's case can be applied only when the words in question are ambiguous and are reasonably capable of having two or more meanings.

Case Laws on the Mischief Rule of interpretation

1. Regional Provident Fund Commissioner v. Sri Krishna Manufacturing Company, 1962 AIR 1536

In this case, the factory listed as respondent comprised of 4 units for manufacturing. The 4 units operated as paddy mill, flour mill, saw mill and copper sheet units. The number of employees there were more than 50. By the application of the provisions of the Employees Provident Fund Act 1952, the Regional Provident Fund Commissioner directed the factory to furnish the employees with benefits. On the contrary, the respondent refused to comply on the ground that, separately, each of the 4 units comprised of less than 50 employees. Arguing on the aforesaid grounds, he stated that the provisions of the Act did not apply to him. Nonetheless, the court was of the opinion that

the mischief rule needed to be applied in this case. Therefore, considering all the 4 units to be one industry.

2. Pyarali K. Tejani v. Mahadeo Ramchandra Dange & Ors (1974 AIR 228)

In this case, the accused was being prosecuted under The Prevention of Food Adulteration Act as he was selling supari that was sweetened with artificial sweetener. Although the accused argued that supari could not be considered as 'food' under the said Act, the Apex Court by emphasizing on the application of the mischief rule of interpretation, rejected this argument and held supari to be an 'article of food' under the Act. Hence, validating his prosecution under the provisions of the said Act.

10.What is doctrine "Pith & Substance".

Doctrine of Pith and Substance Origin

It is widely believed that the origin of the doctrine of pith and substance lies in Canada and it was introduced in a case named Cushing v. Dupuy in the year 1880. The doctrine later made its way to India and is firmly supported by Article 246 of the Constitution and the Seventh Schedule. In India, it has evolved to become a celebrated doctrine that became the basis of many landmark Supreme Court judgements.

What is the Doctrine of Pith and Substance?

The doctrine states that within their respective spheres the state and the union legislatures are made supreme, they should not encroach upon the sphere demarcated for the other.

- However, if one among the state and the Centre does encroach upon the sphere of the other, the courts will apply the Doctrine of Pith and Substance.
- If the pith and substance i.e., the true object of the legislation pertains to a subject within the competence of the legislature that enacted it, it should be held to be intra vires although it may incidentally encroach on the matters not within the competence of the legislature.

The Privy Council applied this doctrine in **Profulla Kumar Mukherjee v Bank of Khulna**.

- In this case, the Bengal Money Lenders Act of 1946 enacted by the State Legislature was challenged with the contention that parts of the legislation dealt with promissory notes; a central subject.
- The Privy Council while upholding the validity of the impugned legislation stated that the Bengal Money Lenders Act was in pith and substance a law relating to money lenders and money lending – a state subject even though it incidentally trenches upon Promissory note – a central subject.

In **State of Bombay v FN Balsara**, the Bombay Prohibition Act was challenged on the ground that it accidentally encroaches upon import and export of liquor across custom frontier – a central subject. The court while upholding the impugned legislation declared that the Act was in pith and substance a State subject even though it incidentally encroached upon a central subject.

Important ingredients that constitute the Doctrine of Pith and Substance

- The Doctrine is applied when the subject matter of List I of the Seventh Schedule is in conflict with the subject matter of List II.
- The reason behind adopting this doctrine is that otherwise every law will be declared invalid on the ground that it encroaches upon the subject matter of another sphere.
- The doctrine examines the true nature and substance of the legislation in order to determine which List it belongs to.
- It takes into consideration whether the State has the power to make a law that encroaches on a subject matter from another list.
- The doctrine was first applied and upheld by the Supreme Court in the FN Balsara case.

The doctrine of pith and substance has provided the Indian constitutional scheme with much-needed flexibility because in the absence of this doctrine every other law would have been declared invalid because it incidentally encroaches upon the sphere of another legislature. Apart from its applicability in cases related to the competency of the legislature as mentioned in Article 246, the Doctrine of Pith and Substance is also applied in cases related to Article 254, which deals with the repugnancy in laws made by Parliament and laws made by the State Legislatures. The doctrine is employed in such cases to resolve the inconsistency between laws made by the Centre and the State Legislature.

11.Explain the presumption against intending injustice.

- It is presumed that legislature never intends its enactments to work public inconvenience or private hardship; and if a statute is doubtful or ambiguous or fairly open to more than one construction, that construction should be adopted which will avoid such results.
- It is always presumed that legislature intends the most reasonable and beneficial construction of its enactments, when their design is obscure or not explicitly expressed, and as such will avoid inconvenience, hardship or public injuries.
- Hence, if a law is couched in doubtful or ambiguous phrases or if its terms are such as to be fairly susceptible of two or more constructions, the Courts, having this presumption in mind, will attach weight to arguments which will remove the inconvenient and absurd.
- While it is quite true that where the language of a statute is plain and admits of but one construction, the Courts have no power to supply any real or supposed defects in such statute, in order to avoid inconvenience or injustice yet , where the terms of the statute are not plain, but admit of more than one construction, one of which leads to great inconvenience and injustice and possibly to the defeat or obstruction of the legislature intent, then the Court may, with a view to avoid such results, adopt some other more in accordance with the legislative intent.
- If words are ambiguous and one leads to enormous inconvenience and another construction does not, the one which leads to the least inconvenience is to be preferred.
- Thus, if it is apparent that, by a particular construction of a statute in a doubtful case, great public interests would be endangered or scarified, it ought not to be presumed that such construction was intended by the legislature.
- But if there is no doubt, obscurity or ambiguity on the face of the statute, but its meaning is plain and explicit, the argument from inconvenience has no place. In other word, the inconvenience created by the statute where its provisions are clear and is capable of only one interpretation, such inconvenience can be avoided by a change in law itself i.e., by the legislature and not by judicial action.

- Example: where a statute gives to a husband the power, by his last will, to extinguish the common law rights of his widow and where the language of the Act is clear and not ambiguous and is sufficiently include every widow, whether sane or insane and the Act makes no exception in favour of latter, the Courts cannot make any such exception, from consideration of the hardship and inconvenience which may result.

12.Write a short note on prospective operation of statutes.

Introduction:

Prospective amendments are those amendments which are mostly preferred by the parliament for any kind of statute. This amendment is supposed to take either on the day of its promulgation or in any other future date as will be mentioned in the statute. Whereas retrospective amendment refers to those amendments which take effect on a past date and not in the future.

A prospective operation of any statute essentially means that the statute as it is formulated is solely focused on the future acts or offences that might be committed. It doesn't consider any past act or incident that happened that in the present times would have constituted a crime.

Any law, unless stated otherwise, is considered to be prospective in nature, i.e., to be effective from either the date of its enforcement or from any other future date.

In India, all the laws relating to both civil and criminal matters can have prospective operation. In other words, all the statutory provisions are going to be applicable to future events or any of the acts.

Such a statute focuses solely on events resorting to wrongful acts after the introduction of the act or the amendment.

Any statute introduced, unless expressly stated otherwise, is considered to be prospective in nature.

Any statute, whether concerned with civil or criminal matters, is presumed to have prospective operation.

The prospective statutes enjoy acceptance from the general public and the governments are also mostly in favour of such statutes. These uphold the democratic values of justice and the rule of law.

All countries generally accept all the new laws to be applicable for future events, i.e., prospective operation of the laws.

13.Statutes are territorial in operation. Elucidate.

Introduction:

Under article 245 of the Indian constitution, it has been stated that:

1. Parliament has jurisdiction to make laws for extraterritorial operations or laws for the whole or any part of the country.
2. The state legislature has the jurisdiction to make laws for the whole or any part of the state.

Thus it can be said that both the union and the state have their own territorial jurisdiction to make laws.

Under article 246 it has been stated,

1. Parliament has the explicit power to make laws for the subject matters enumerated in the union list (list I of the 7th schedule)
2. The state has the power to make laws for the subject matter enumerated in the state list(list II of the 7th schedule)
3. Both the state and the union have the power to make laws for the subject matter enumerated in the concurrent list(list III of the 7th schedule)

Under article 245(2) of the Indian constitution, if any law is made by the parliament regarding the extraterritorial operations, no questions can be raised on its validity. Thus the validity of a legislation can't be questioned. In this case, a court is bound to enforce the laws made with regards to extra-territorial operations. This legislation can't be invalidated.

Legislative relation between the centre and state

The legislative powers are distributed in two ways which are provisioned by the constitution.

- Distribution of legislative powers in respect of the territory
- With respect to the subject matters of the list under 7th schedule

Distribution of the legislative powers with respect to the territory

As enshrined under article 245(1) of the Indian constitution parliament can make laws for the whole or any part of the territory of India. Parliament also has extra-territorial jurisdiction for which it can make laws and these laws can't be invalidated on the grounds that they have no effect outside India.

In the case of *A.H. Wadia v. Income Tax Commissioner* it was held that a question of extraterritoriality of enactment can never be raised against a supreme legislative authority on the grounds of questioning its validity. It may not comply with the rules of international law or while enforcing it practical difficulties may arise but they are subjected to questions of policy which is the concern of the national or domestic tribunal.

Theory of territorial nexus

In order to give effect to the laws made by a state for extraterritorial purpose, a nexus between the object and state must be shown. The state legislature has the jurisdiction to make laws within its territorial jurisdiction. Territorial nexus is one such exception which allows the state to make laws for extraterritorial operations if it shows that there exists a nexus between the object and the state.

- *Wallace Bros. And Co. Ltd. vs The Commissioner Of Income*

In the instant case, a company which was registered and incorporated in also which also carried out its business in India through a sleeping partner. The firm made a staggering profit in that accounting year. The income tax authorities sought to levy a tax upon the company of the respondent. The income tax authority was challenged by the respondent, but it was held by the privy council that there existed the doctrine of territorial nexus and held the tax valid. It is said that the major part of that income was extracted from British India was the sufficient ground to establish a territorial nexus.

Extra-Territorial Operations.

Parliament is conferred with the power to make laws within its territorial jurisdiction and also for extra-territorial purpose that has a legitimate nexus with India. Legislation or laws regarding this matter come under the ambit of the parliament as it has the power to do so. These laws can't be questioned on its validity. If the parliament enacts any law which doesn't establish any nexus with

India will turn out to be ultra vires and would be considered as the laws made for a foreign land.

This can be concluded that if any law passed by the parliament has a real connection with India can't be deemed to held as invalid or unconstitutional. If such laws enacted by parliament establishes no nexus with India would be *ultra vires*.

Our constitution states that the legislative powers conferred upon the parliament in order to enact laws within the territorial jurisdiction as well as for the purpose may take the cognizance of the extraterritorial purpose and exercise the state powers or the collective powers Doctrine of public trust states that all the laws enacted by parliament with respect to extraterritorial operations shall be enacted for the purpose of safeguarding the welfare and security of India, which directly concludes that no laws shall be made for the extraterritorial operations if there is no nexus of such law or legislation with India.

14.Write a note on presumption relating to penal statutes

Introduction:

A penal statute cannot be presumed to have retrospective effect, but if it is beneficial to the accused whereby the punishment is reduced by legislation, then the accused can be benefitted out of such a retrospective effect.

Maxwell identifies four aspects of the rule that penal statutes must be strictly construed.

1.The requirement of express language for the creation of an offence.

2.Strict interpretation of the words setting out of an offence.

3.Fulfilment to the letter of statutory conditions precedent to the infliction of punishment.

4. Strict observance of technical provisions concerning criminal procedure and jurisdiction.

15.Explain the principles of utility as advocated by Sir Jeremy Betham.

I.Nature has placed mankind under the governance of two sovereign masters, pain and pleasure. It is for them alone to point out what we ought to do, as well as to determine what we shall do. On the one hand the standard of right and wrong, on the other the chain of causes and effects, are fastened to their throne. They govern us in all we do, in all we say, in all we think: every effort we can make to throw off our subjection, will serve but to demonstrate and confirm it. In words a man may pretend to abjure their empire: but in reality he will remain subject to it all the while. The principle of utility[1] recognizes this subjection, and assumes it for the foundation of that system, the object of which is to rear the fabric of felicity by the hands of reason and of law. Systems which attempt to question it, deal in sounds instead of sense, in caprice instead of reason, in darkness instead of light.

But enough of metaphor and declamation: it is not by such means that moral science is to be improved.

II. The principle of utility is the foundation of the present work: it will be proper therefore at the outset to give an explicit and determinate account of what is meant by it. By the principle[2] of utility is meant that principle which approves or disapproves of every action whatsoever. according to the tendency it appears to have to augment or diminish the happiness of the party whose interest is in question: or, what is the same thing in other words to promote or to oppose that happiness. I say of every action whatsoever, and therefore not only of every action of a private individual, but of every measure of government.

III. By utility is meant that property in any object, whereby it tends to produce benefit, advantage, pleasure, good, or happiness, (all this in the present case comes to the same thing) or (what comes again to the same thing) to prevent the happening of mischief, pain, evil, or unhappiness to the party whose interest is considered: if that party be the community in general, then the happiness of the community: if a particular individual, then the happiness of that individual.

IV. The interest of the community is one of the most general expressions that can occur in the phraseology of morals: no wonder that the meaning of it is often lost. When it has a meaning, it is this. The community is a fictitious body, composed of the individual persons who are considered as constituting as it were its members. The interest of the community then is, what is it?— the sum of the interests of the several members who compose it.

V. It is in vain to talk of the interest of the community, without understanding what is the interest of the individual.[3] A thing is said to promote the interest, or to be for the interest, of an individual, when it tends to add to the sum total of his pleasures: or, what comes to the same thing, to diminish the sum total of his pains.

VI. An action then may be said to be conformable to then principle of utility, or, for shortness sake, to utility, (meaning with respect to the community at large) when the tendency it has to augment the happiness of the community is greater than any it has to diminish it.

VII.' A measure of government (which is but a particular kind of action, performed by a particular person or persons) may be said to be conformable to or dictated by the principle of utility, when in like manner the tendency which it has to augment the happiness of the community is greater than any which it has to diminish it.

VIII. When an action, or in particular a measure of government, is supposed by a man to be conformable to the principle of utility, it may be convenient, for the purposes of discourse, to imagine a kind of law or dictate, called a law or dictate of utility: and to speak of the action in question, as being conformable to such law or dictate.

IX. A man may be said to be a partizan of the principle of utility, when the approbation or disapprobation he annexes to any action, or to any measure, is determined by and proportioned to the tendency which he conceives it to have to augment or to diminish the happiness of the community: or in other words, to its conformity or unconformity to the laws or dictates of utility.

X. Of an action that is conformable to the principle of utility one may always say either that it is one that ought to be done, or at least that it is not one that ought not to be done. One may say also, that it is right it should be done; at least that it is not wrong it should be done: that it is a right action; at least that it is not a wrong action. When thus interpreted, the words ought, and right and wrong and others of that stamp, have a meaning: when otherwise, they have none.

XI. Has the rectitude of this principle been ever formally contested? It should seem that it had, by those who have not known what they have been meaning. Is it susceptible of any direct proof? it should seem not: for that which is used to prove every thing else, cannot itself be proved: a chain of proofs must have their commencement somewhere. To give such proof is as impossible as it is needless.

XII. Not that there is or ever has been that human creature at breathing, however stupid or perverse, who has not on many, perhaps on most occasions of his life, deferred to it. By the natural constitution of the human frame, on most occasions of their lives men in general embrace this principle, without thinking of it: if not for the ordering of their own actions, yet for the trying of their own actions, as well as of those of other men. There have been, at the same time, not many perhaps, even of the most intelligent, who have been disposed to embrace it purely and without reserve. There are even few who have not taken some occasion or other to quarrel with it, either on account of their not understanding always how to apply it, or on account of some prejudice or other which they were afraid to examine into, or could not bear to part with. For such is the stuff that man is made of: in principle and in practice, in a right track and in a wrong one, the rarest of all human qualities is consistency.

XIII. When a man attempts to combat the principle of utility, it is with reasons drawn, without his being aware of it, from that very principle itself.[4] His arguments, if they prove any thing, prove not that the principle is wrong, but that, according to the applications he supposes to be made of it, it is misapplied. Is it possible for a man to move the earth? Yes; but he must first find out another earth to stand upon.

XIV. To disprove the propriety of it by arguments is impossible; but, from the causes that have been mentioned, or from some confused or partial view of it, a man may happen to be disposed not to relish it. Where this is the case, if he thinks the settling of his opinions on such a subject worth the trouble, let him take the following steps, and at length, perhaps, he may come to reconcile himself to it.

16.Write a note on classification evils.

Classification of evils

Demonic Evil

Demonic evil is evil for its own sake, performed for the express purpose of harming others, or for the enjoyment of the experience of watching others suffer. A serial killer who slowly tortures his victims would seem to be an example of this.

- **Instrumental Evil**

Instrumental evil is evil that occurs in order to carry out some other purpose. An example might be the BP oil spill in the Gulf of Mexico, the hazardous by-product of an aggressive business venture, and of our civilization's collective need for fuel.

• **Idealistic Evil**

Idealistic evil is evil that is "justified" by some greater cause. It's not hard to find big examples here. Adolf Hitler, Chairman Mao and Osama bin Laden were all motivated by what they considered to be lofty ideals.

• **Stupid Evil**

Stupid evil is evil that occurs based on human incompetence, despite the fact that nobody wished it. A plane crash due to an easily avoidable pilot error would be an example of stupid evil.

So far so good. I feel optimistic about Lars Svendsen's venture at this point, and am intrigued to find that this breakdown provides much of the structure for the entire book. But Svendsen then surprises me by delving into the first kind of evil on the list, demonic evil, and declaring that it may not exist at all. Everything must be done for a reason Svendsen says, and therefore everything a person does, even when perceived as evil, must somehow satisfy that person's notion of good. Therefore, the person does not commit evil for evil's sake, but rather for good.

17.Explain the measures of pleasure of pain.

Bentham has classified the pleasure and pain on the basis of human psychology which illustrates as psychological hedonism.

Pleasures

a. Pleasure of riches
b. Pleasure of good reputation
c. Pleasure of friendship
d. Pleasure of knowledge
e. Pleasure of social affection
f. Pleasure of relief from pain which might vary with various kinds of pain, and
g. Pleasure of good friendship and social affection.

Pain

a. Pain of privation,
b. Pain of sense including diseases of all kinds,
c. Pain of skill,
d. Pain of enmity,
e. Pain of piety including feat of divine punishment, and
f. Pain of knowledge and imagination.

He also classified the pleasures and pain as sanctions and it divides into four categories as follows:-

1. Physical sanction
2. Political sanction
3. Moral sanction
4. Religious sanction

18.Write a short note on Ascetic philosophers.

Religion and Asceticism

The founders and earliest practitioners of many religions (e.g. Hinduism, Jainism, Judaism, Christianity, Buddhism) lived extremely austere lifestyles, refraining from sensual pleasures and the accumulation of material wealth.

- Hindu Sadhus (or holy men) are known for the extreme forms of self-denial they occasionally practice, such as vowing never to use one leg or the other, or to hold an arm in the air for a period of months or years.
- Jainism encourages fasting, yoga practices, meditation in difficult postures, barefoot travel, and sleeping on the floor without blankets. Some have claimed to have gained magical or miraculous abilities through self-denial.
- The history of extreme Jewish Asceticism goes back thousands of years to the Wilderness Tradition that evolved out of the forty years in the desert, although today it is considered contrary to God's wishes for the world.
- Although certain Catholic orders (e.g. Carthusians, Cistercians) are known for especially strict acts of Asceticism, even more rigorous ascetic practices were common in the early Church, and the deserts of the

Middle East were at one time said to have been inhabited by thousands of Christian hermits.

- Interestingly, Siddhartha Gautama (the Buddha), who initially counseled an ascetic life, eventually rejected extreme Asceticism as an impediment to ultimate freedom, recommending instead the "Middle Way".
- Although Asceticism is not an important tradition in Islam, apart from in Sufism (which is even named for the rough woollen robe of the ascetic), the Prophet Muhammad himself practiced great austerities, verging on Asceticism.

19.Statute must be read as whole in its context elucidate.

Introduction:

'**A statute must be read as a whole in its context**.'

Webster's New World Dictionary gives the meaning of the word 'interpretation' as 'the act or result of interpreting; explanation, meaning, translation, exposition etc' and that of 'construction' as 'the act or process of constructing the way in which something is constructed; manner or method of building'. Lastly, Webster defines 'statutory' as fixed, authorized or established by statute.' Therefore, by statutory interpretation we mean explanation, meaning, translation or interpretation of statutes or enacted laws.

Statute must be read as a whole in its context

Whenever the question arises as to the meaning of a certain provision in a statute, it is proper and legitimate to read that provision in its context. This means that the statute must be read as a whole. What was the previous state of the law, study of other statutes in pari materia i.e., on the same matter, if there are any, what is the general scope of the statute and what is the mischief which it wanted to remedy, all these questions are to be considered here.

Lord Greene, M.R. said, 'To ascertain the meaning of a clause in a statute the courts must look at the whole statute, at what precedes and at what succeeds and not merely at the clause itself and the method of construing statutes that I prefer, is to read the statute as a whole and ask oneself the question: In this state, in this context, relating to this subject- matter, what is true meaning of

that word?' In the words of Lord Halsbury, "I agree that you must look at the whole instrument in as much as there may be inaccuracy and inconsistency; you must, if you can, ascertain what is the meaning of the instrument taken as a whole in order to give effect, if it be possible to do so, to the intention of the framer of it.' It is now firmly established as a rule that the intention of the Legislature must be found by reading the statute as a whole.

The conclusion that the language used by the legislature is plain or ambiguous can only be truly arrived at by studying the statute as a whole. Words take colour from the context in which they are used, keeping pace with the time. Words used as an adjective draws colour from the context too. The same word may mean one thing in one context and another in different context, therefore, the same word used in different sections of a statute or even when used at different places in the same clause or section of a statute may bear different meanings. That is why it is necessary to read the statute as a whole in its context.

Although the court would be justified to some extent in examining the materials for finding out the true legislative intent engrafted in a statute, but the same would be done only when the statute itself is ambiguous or a particular meaning given to a particular provision of the statute would make the statute unworkable or the very purpose of enacting the statute should get frustrated. But it is not open for a court to expand even the language used in the preamble to extract the meaning of the statute or to find out the latent intention of the legislature in enacting the statute.
While making contextual interpretation, the roots of the past, the foliage of the present and the seeds of the future cannot be lost sight of. Context quite often provides the key to the meaning of the word and the sense it should carry. Its setting would give colour to it and provide a cue to the intention of the legislature in using it. A word is not a crystal, transparent and unchanged. It is the skin of living thought and may vary greatly in colour and content according to the circumstance and the time in which the same is used. When a word or expression is not defined in an enactment, the courts apply the 'subject-and- object' rule to ascertain carefully the subject of the enactment where the word or expression occurs and have regard to the object, which the legislature has in view.
In matters of interpretation one should not concentrate too much on one word

and pay too little attention to other words as no words or expressions used in any statute can be said to be redundant or superfluous. Every provision and every word must be looked at generally and in the context in which it is used and not in isolation. Every part of the provision has to be given meaning and effect in the context of the statute.

The Supreme Court in construing the word 'sale' in the Madras General Sales Tax Act, 1939 before its amendment in 1947, held that the definition of 'sale' as it then stood laid stress on the element of transfer of property and that the mere fact that the contract for sale was entered into within the province of Madras did not make the transaction, which was completed in another province, a sale taxable within the meaning of the Act. In arriving at that conclusion, the Supreme Court referred to the title, preamble, definition and other enacting provisions of the statute as also to the subsequent amendments made in the statute. B.K. Mukherjee J said, "It is a settled rule of construction that to ascertain the legislative intent, all the constituent parts of a statute are to be taken together and each word, phrase or sentence is to be considered in the light of the general purpose of the Act itself."
In **Jennings v. Kelly** it was held that the principle that the statute must be read as a whole is equally applicable to different parts of the same section. The section must be construed as a whole whether or not one of the parts is a saving clause or a proviso. .

Conclusion:

A statute cannot always be construed with the dictionary in one hand and statute in the other. **Regard must be had to the scheme, context and to the legislative history of the provision**. Every provision and every word must be looked at generally and in the context in which it is used and not in isolation. Every part of the provision has to be given meaning and effect in the context of the statute. Thus, the statute must be read as a whole in its context.

20.Explain the literal rule of interpretation with the help of decided cases.

Literal Rule of Interpretation

In order to interpret statutes, the courts use various principles which help them understand the principles. One of the principles is called the "Literal Rule of Interpretation"

The literal rule of interpretation has been termed as the primary rule of interpretation. As the name suggests, the literal rule of interpretation means that the judge literally interprets the statute. It can also be called the plain-meaning rule or the grammatical rule.

Statutes are constructed using the ordinary meaning of language given to the term and the judges are not required to interpret the terms in any other way.

In other words, the provisions have to be read word to word and no other meaning can be given to the statute.

In order to avoid ambiguity, the Act generally has “definitions” mentioned in it. If a particular meaning is given in the definition clause, the particular meaning shall be used and no other meaning.

In the literal rule of interpretation, the courts are required to observe the ordinary and natural meaning of words, interpret the phrase or words as it is. Judges are not required to add words or modify meaning and they must observe the actual intent of the legislature. It is the safest rule of interpretation.

The literal rule of interpretation, in a way, is against the use of intelligence in understanding language. Judges are bound by the literal meaning of the words and cannot use their judicial minds to deviate from it.

Sub Rules under the Literal Rule of Interpretation

- There are a few sub-rules that are followed in the literal rule of interpretation:

1. **Ejusdem Generis:** It literally translates to “of the same kind”. It means to follow the general meaning of word or words of similar kind.
2. **Casus Omissus:** It literally means cases omitted. It can also be interpreted as a point which is not provided for by the statute. Where a point is not provided for by the statute, it is governed by case laws.
3. **Expressio Unius Est Exclusio Alterius:** It literally means that one thing has been mentioned whereas the other has been left out.

Advantages of Literal Rule of Interpretation:

1. Literal rule enables layman to understand the issue in hand.
2. It enables to understand the intent of legislature simply and clearly.
3. This rule respects the parliamentary supremacy.

Criticisms of Literal Rule of Interpretation:

A major criticism of this rule of interpretation is that the meanings of words might change from time to time and hence the literal interpretation leads to injustice. Misleading precedents may be created due to this.

Some ambiguity might still arise while interpreting due to the use of words like "or", "and", "all".

Another criticism of this rule is that it restricts and bounds the court making it unable to use its judicial mind to deviate from the literal meaning of the terms.

Sometimes, a court might ascertain an absolute absurd meaning which the legislature never intended.

Case Laws on Literal Rule of Interpretation

1. ***Maqbool Hussain v State of Bombay [i]***: In this case Maqbool, an Indian citizen, upon returning from an international trip brought some gold with him. According to the Sea **Customs Act**, no Indian citizen was allowed to bring any valuables such as gold and hence, his gold was confiscated. He was then prosecuted under the Foreign Exchange Regulation Act, 1947. Maqbool contended that since the gold had already been confiscated, and that was a trial in itself. He cannot be prosecuted under FERA, 1947 as it would amount to **double jeopardy.** However, the Supreme Court held that confiscation of gold cannot be termed as prosecution and hence it was not a case of double jeopardy according to the strict and literal interpretation of Article 20(2).

2. ***Ram Avtar v Assistant Sales Tax Officer[ii]:*** Under the Central Province and Berar Sales Tax Act, vegetables were tax-free. Ram Avtar contented that pan leaf is also covered under the purview of vegetable according to its dictionary meaning and hence should be tax-free. However, the court said that the dictionary meaning shall be referred to only when there is ambiguity in the provision and there wasn't any ambiguity, hence the court rejected his plea.
3. ***CBI Bank Securities & Fraud Cell v Ramesh Gelli & Ors [iii]:*** In this case, the Supreme Court held that a managing director or chairman of a private bank will come under the purview of "public officer".

Conclusion

From the above discussion, it is clear that the literal rule of interpretation is the primary rule of interpretation under which courts interpret statutes and provisions in the literal and ordinary sense without adding any meaning to them and without modifying them. This rule is helpful in cases where there is no ambiguity.

21.Explain the guidelines for interpreting the provisions of a statute as mandatory or directory.

Mandatory & Directory Provisions:

Whether a statute is mandatory or directory depends upon the intent of the Legislature and not upon the language in which the intent is clothed. The meaning and intention of the Legislature must govern, and these are to be ascertained not only from thephraseology of the provision, but also by considering its nature, its design and the consequences which would follow from construing it the one way or the other.

In **DA Koregaonkar v State of Bombay** it was held that one of the important tests that must always be employed in order to determine whether a provision is mandatory or directory in character is to consider whether the non-compliance of a particular provision causes inconvenience or injustice and, if it does, then the Court would say that, the provision must be complied with and that it is obligatory in its character.

Whether a provision of law is directory or mandatory, the prime object must be to ascertain the legislative intent from a consideration of the entire statute, its nature, its object and the consequences that would result from construing it

in one way or the other, or in connection that with other related statutes, and the determination does not depend on the form of the statute.

Use of prohibitory words :

In **State of Himachal Pradesh v MP Gupta** the Court was interpreting **section 197 of the Code of Criminal Procedure 1973**, which provided 'that no court shall take cognizance of any offence alleged to have been committed by a public servant, judge, magistrate, or member of the armed forces'. It was held that the use of the words 'no' and 'shall' make it abundantly clear that the bar on the exercise of power of the court to take cognizance of any offence is absolute and complete.

Mandatory & Permissive words:

In **Sidhu Ram v Secretary Railway Board** the Court had to consider the import of Rule 1732 of the Railway Establishment Code. The relevant portion of the Rule read thus— "where the penalty of dismissal , removal from service, compulsory retirement, reduction in rank or withholding of increment has been imposed, the appellate authority may give the railway servant either at his discretion or if so requested by the latter a personal hearing, before disposing of the appeal."

The term 'may' must be taken in it naturally, i.e. in its permissive sense and not in its obligatory sense.'May and 'shall' are generally used in contradistinction to each other and normally should be given their natural meaning especially when they occur in the same section. Also in some cases the word 'may' is used in such a way as to create a duty that must be performed.

In GullipilliSowria Raj vs. BandaruPavani @ GullipiliPavani this Court while dealing with a similar issue held as under:

"The expression "may" used in the opening words of Section 5 is not directory,as has been sought to be argued, but mandatory and non-fulfilment thereof would not permit a marriage under the Act between two Hindus. &Section 7 of the 1955 Act is to be read along with Section 5 in that a Hindu Marriage, as understood under Section 5, could be solemnised according to the ceremonies indicated therein"

22.Explain the rules to the presumption against implied repeal of statutes.

Introduction

Presumption is basically a legal inference or assumption that a fact exists based on known or proven existence of some other facts. William P. Richardson in his book 'The Law of Evidence' defines presumption to be an inference as to the existence of one fact from existence of some other fact founded upon a previous experience of their connection.

Repeal has been defined as an abrogation of existing law by a legislative act. Further repeal has been divided into two- Express repeal and Implied repeal.

Sometimes the laws made by the legislature come into conflict among itself. When two statutes come into conflict and neither of the statute is more specific than other then the later enacted statute supervises another. The later enacted statute repeals the former and this principle is called as repeal by implication.[i] Presumption against repeal by implication opposes the later enacted statute rule, and gives importance on clear statement rule by express provision to repeal.

Meaning of Statute and its Repeal

A statute is of two types-Perpetual statute and Temporary statute. A perpetual statute is that statute for which no time limit is fixed for its duration, and such statute remains in force unless it is repealed. A statute is temporary when its duration is for a specific period of time, and that statute expires on the specific time unless it repealed earlier to its expiry. Once a temporary statute expires then it cannot be made effective only by amending it but it has to be re enacted with the procedure of constitution. When a temporary act expires then section 6 of the General Clauses Act 1897, does not apply on that act. The Government of India repealed the subsection (4) of section 102, of Government of India Act, 1935 by Article 395 of Constitution without saving any clause and section 6 of General Clause Act has no application to this. One of the questions raised before Federal Court was whether the prosecution terminated after expiry of the act. The matter came up before the court and following the decision of House of Lords in *Wicks v. DPP,* the Federal court held that the prosecution could be continued.

Types of Repeal

A power to make laws rest with the parliament or state legislature, and power to altercation and repeal also lies with it. However a legislature has no power to bind itself or its successors as to the course of future legislation by curtailing its law making power conferred by the constitution. In the case Ellen Street Estate Ltd. v. Minister of Health,A similar argument was raised as in*Vauxhall Estate*as to the provisions for compensation arising under the Acquisition of Land (Assessment of Compensation) Act 1919 and the Housing Acts 1925 and 1930. In this case The Housing Acts impliedly repealed the 1919 Act in so far as the later Acts were inconsistent with the earlier Act. So Maugham LJ, ruled that-

"The Legislature cannot, according to our constitution, bind itself as to the form of subsequent legislation, and it is impossible for Parliament to enact that in a subsequent statute dealing with the same subject matter there can be no implied repeal. If parliament chooses, in a subsequent act, to make it perfectly plain that previous one is being to some extent repealed or abrogated, that must have effect, because it is the will of legislature."

An act therefore may be repealed by a later but no repeal can be brought about 'unless there is an express repeal of an earlier act by the later act, or unless the two acts cannot stand together'. A repeal may be by express words of a later statute or may be implied of the provisions of earlier statute with later one.

Express Repeal:-

The use of any particular form is not necessary, but all that necessary is the words used show an intention to abrogate the act in question. Generally the words 'is or are hereby repealed' or "shall cease to have effect" is used by the legislature to repeal the previous statute with the later one. When a portion of an act should have to be repealed then 'shall be omitted' word is used generally. So there is not a much difference between an amendment or repeal of an statute.

Implied Repeal:-

The doctrine of **implied repeal** is a concept in constitutional theory which states that where an 'Act of Parliament' or an 'An act of Congress' conflicts with an earlier one, the later Act takes precedence and the conflicting parts of the earlier Act are repealed (i.e., no longer law). This doctrine is expressed in the Latin phrase *"leges posteriores priores contrarias abrogant"* (more recent law overwrites earlier law that say differently).

There is a presumption against a repeal by implication, and the reason of this rule is based on the theory that the Legislature while enacting a law has a complete knowledge of the existing laws on the same subject matter, and therefore, when it does not provide repealing provision, it gives out an intention not to repeal the existing legislation. When the new act contains a repealing section mentioning the

History of Presumption against Repeal by Implication

17th Century to 18th Century Approach:-

The principle of presumption against repeal by implication emerged in seventeenth century in England. The first case cited by Sir Edward Coke on Dr.

Foster Case in 1614 in a report on statutory interpretation as foundational authority for the presumption against implied repeals. In this case Coke considers the relationships between Elizabethan statute and Jacobean statute providing different punishments for conviction as recusants. In his acknowledgement Coke first analyzes the later enacted statute rule- *leges posteriores priores contrarias abrogant*. Coke says that contrary of law is a product of interpretation by directing judges to differ the wisdom of legislatures, and to refrain this he suggests that-

It must be known, that for as much as Acts of Parliaments are established with such gravity, wisdom, and universal consent of the whole realm, for the advancement of the commonwealth, they ought not by any constrained construction out of the general and ambiguous words of a subsequent Act, to be abrogated [but] … ought to be maintained and supported with a benign and favourable construction.

By putting this article, Coke's intention is to restrain the interpretation in statutes. He gives importance on the rigid framework of law by legislature without interpreted by judiciary. But the later approaches differ from Coke's approach upon this point.

19th Century Approach:-

American courts borrowed the principle of presumption against implied repeals directly from Coke's description with some altercation. American courts in 19th century followed same assumption put forward by Coke in Dr. Foster's case. Some treatises on statutory interpretation takes Coke's reasoning in Dr. Foster Case to its logical conclusion. Like Coke these treatise writer advocates a strong version of presumption against repeal by implication. The treatises suggest that, towards the end of nineteenth century, courts were increasingly willing to weigh 'convenience' against the presumption when deciding what to do with two conflicting statute. The treatises show that between 1800 and 1849 the court considered the possibility of implied repeals in fifteen majority opinions, but found that it occurred in only one case. But between 1850 and 1899 considered much more frequently and concluded that implied repeal occurred in thirty six of ninety nine cases.

23.Explain the rules of interpretation of taxing statutes.

Rule of Interpretation applicable to Taxation Statute

Taxation statute is a fiscal statute which imposes the pecuniary burden on the taxpayer. So such statutes are construed strictly. Plain, clear and direct

grammatical meaning is given. Where there are two possible outcomes then that interpretation is given which is in favour of assessee.

1.Intention of Legislature

The dominant purpose of construction of any statutory provision is to ascertain the intention of the legislature and the primary role is to ascertain the same by reference to the language used. The Supreme Court in **Doypack Systems Pvt. Ltd. vs. UOI [1998 (2) SCC 299]** laid down:

"It has to be reiterated that the object of interpretation of a statute is to discover the intention of Parliament as expressed in the Act. The dominant purpose in construing a statute is to ascertain the intention of the legislature as expressed in the statute, considering it as a whole and in its context that intention, and therefore, the meaning of the statute, is primarily to be sought in the words used in the statute itself, which must, if they are plain and unambiguous be applied as they stand". The object of all interpretation is to discover the intention of Parliament, but the intention of Parliament must be deduced from the language used."

2. Harmonious Interpretation

The most common rule of interpretation is that every part of the statute must be understood in a harmonious manner by reading and construing every part of it together. Further, **L. J. Denning** in **Seaford Court Estates vs. Asher** [1949] 2 All ER 155 speaks as hereunder:

“A Judge must not alter the material of which the Act is woven but he can and should iron out the creases. When a defect appears, a Judge cannot simply fold his hands and blame the draftsman. He must set to work on the constructive task of finding the intention of the Parliament and then he must supplement the written words so as to give force and life to the intention of the Legislature.”

3. **Literal rule : Language of Statute should be read as it is**

The first and the most elementary rule of construction is that it is to be assumed that the words and phrases of legislation are used in their technical meaning if they have acquired one, or otherwise in their ordinary meaning, and the second is that the phrases and sentences are to be construed according to the rules of grammar. ***Krishi Utpadan Mandi Samiti vs. UOI (2004) 267 ITR 460 (All.) .***

Pure, simple and grammatical sense of language used by Legislature is best way of understanding as to what Legislature intended. ***Coal Mines Officers' Association of India vs. UOI (2004) 266 ITR 429 (Cal.).***

A taxing statute should be strictly construed even if the literal interpretation results in hardship or inconvenience, common sense approach equity, logic and morality have no role to play. ***CIT vs. Calcutta Knitwears (2014) 362 ITR 673 (SC).***

4. <u>The Mischief Rule of Interpretation (Hayden's rule)</u>

Broadly speaking, the rule means that where a statute has been passed to remedy a weakness in the law, the interpretation which will correct that weakness is the one to be adopted. This rule is also one of the cardinal rules of interpretation when the words of a taxing statute are ambiguous and incapable of a literal interpretation and generally takes into account four parameters, namely

i. What was the Law prior to enactment of the statute in question;
ii. What was the defect or mischief for which the earlier law did not provide;
iii. What remedy had the Legislature intended to remedy the defect;
iv. The true Legislative intent behind the remedy.

This rule would come into play only if the words of the taxing statute were silent or ambiguous on an issue and the General Clauses Act also did not throw light on the interpretation

5) <u>The Golden Rule : Purposive interpretation</u>

This rule is to some extent an extension of the literal rule and Mischief Rule and under it the words of a statute will as far as possible be construed according to their ordinary, plain, and natural meaning, unless this leads to an absurd result. It is used by the courts where a statutory provision is capable of more than one literal meaning and leads the judge to select the one which avoids absurdity, or where a study of the statute as a whole reveals that the conclusion reached by applying the literal rule is contrary to the intention of Parliament. One of the principle laid down by the courts is that regard should be given to the object and purpose of the introduction of a particular provision in the Income-tax Act. It emerges that this rule of interpretation has been often applied in India.

6) <u>Strict construction</u>

A tax is imposed for public purpose for raising general revenue of the state. A taxing statute is to be strictly construed. Lord Hasbury and Lord Simonds stated : "The subject is not to be taxed without clear words for that purpose; and also that every Act of Parliament must be read according to the natural construction of its words."

It is settled law that a taxation statute in particular has to be strictly construed and there is no equity in a taxing provision. ***H. H. Lakshmi Bai vs. CIT - [(1994) 206 ITR 688, 691 (SC)].***

7) Ejusdem generis rule

Under this rule where general words follow particular words the general words are construed as being limited to persons or things within the class outlined by particular words. The words used together should be understood as deriving colour and sense from each other. They should be read together as one.

The true scope of the rule of '*ejusdem generis*' is that the words of general nature following specific and particular words should be construed as limited to things which are of the same nature as those specified

8) Expressio unius est exclusio alterius

The expression of the thing implies the exclusion of another. It conveys an important rule of interpretation to signify the circumstances where the express mention of one person or thing results in totality the exclusion of another. In other words, in any particular provision where the statutory language is plain or straight and its meaning is apparently clear, there is no scope of applying the rule. However, this maxim could be accepted as a valuable servant but it is definitely a dangerous master in the construction of statutes and documents. It is used when there is imperfect enactment of statutory language.

Coming corollary to this maxim is *expressum facit cessare facitum* which states that when there is express mention of certain things, then anything not mentioned is excluded.

24.What re the different kinds of pleasures and pains?

Kinds of pleasures.

- The pleasure of sense

- The pleasure of wealth
- The pleasure of skills
- The pleasure of amity
- The pleasure of a good name
- The pleasure of power
- The pleasure of piety
- The pleasure of benevolence
- The pleasure of malevolence
- The pleasure of memory
- The pleasure of expectation
- The pleasure of imagination
- The pleasure of relief.

Measures of pain

- The pains of privation
- The pain of senses
- The pain of awkwardness
- The pain of enmity
- The pain of an ill name
- The pain of piety
- The pain of benevolence
- The pain of malevolence
- The pains of memory
- The pains of imagination
- The pains of expectation.

25.Explain the general principles regarding retrospective operation of statutes?

Retrospective operations:

Retrospective means to look backwards. Contemplating what is past. Retrospective law thus means a law which looks backward or contemplates the past, one which is made to affects acts or facts occurring before it comes into force. It is well settled that legislature has plenary powers to legislate prospectively as well as retrospectively.

The General Rule as to a Statute:

The general rule as to every statute is prima facie prospective unless it is, specified to have retrospective operation either-

a.Expressly mentioned
b.Or mentioned by necessary implications
This rule is known as the rule against retrospectively.

In the case of Indira Nehru Gandhi vs Raj Narain the court observed that:

The legislature can make a valid law, it may provide not only for the prospective operation of the material provision of the said law, but it can also provide for the retrospective operation of the said provisions.
But a retrospective operation is not to be given to a statue so as to impair an existing right or obligation, other than as regards matter of procedure, unless that effect cannot be avoided without doing violence to the language of the enactment. If the enactment is expressed in language which is fairly capable of either interpretation, it ought to be construed as prospective.

Application of the rule against retrospectively:

1.Statutes dealing with substantive rights.
2.Statues dealing with procedure aspects
3.Statutes regarding transfer of property and contracts
4.Statutes of limitation
5.Statutes regarding successions
6.Penal statutes

Statutes dealing with substantive rights:

Any statute affecting substantive rights is presumed to be prospective in operation unless made retrospective either expressly or impliedly. This is based on the principle that 'No right should be created so as to work to disadvantage for whom it is created'. Which means if a law provides for a substantive right & take away another at the same time, then it cannot be given a retrospective operation.

Statues dealing with procedure aspects:

A Procedural statute can be retrospective in operation, unless such a construction is textually impossible. This is because while every litigant has a vested right in substantive law, no such right exists in procedural law.

Statutes regarding transfer of property and contracts:

Statutes which prescribe formalities for effecting the transfer of property are not applicable to transfers made prior to their enforcement. As a result, transfer made in contravention of statutory prohibition is invalid and cannot be validated by repeal of the statue.

Statutes of limitation:

On expiry of any time limit prescribed by limitation statute, the right to file a suit and take legal action expires and the action becomes time barred. These statutes can be both prospective and retrospective. It could be retrospective when they apply to all proceedings which came after the act came into force.

But prospective as to not affect the right subsisting before the act came into force.

Statutes regarding successions:

These apply from the date when succession opens after the coming into force of the statute. Applying the statute retrospectively would generate great injustice as it would result in divesting estate from a person in whom it became vested before coming into force of the new state.

Penal statutes:

The law grants a protection against ex post facto law. i.e. which imposes penalties retrospectively, that is on acts which were done in past and thereby increases the penalty for such acts.

26.Analyze critically the importance utilitarianism as the source of legislation.

Introduction:

Utilitarianism includes good and bad consequences produced by the performance of the act. If the difference in the consequences of alternative acts is not significant, some utilitarian's do not find the choice between them as a moral issue. According to Mill, acts should only be classified as morally correct or wrong if the implications are of such importance that a person would wish to see the agent compelled, not merely persuaded and exhorted, to act in a preferred manner. Utilitarianism depends on a principle of intrinsic value when determining the consequences of actions: everything is considered good in itself, aside from further consequences, and all other qualities are assumed to derive their worth from their relation to this intrinsic good as a means to an end. Bentham and Mill were hedonists; they analyzed happiness as a balance of pleasure over pain and believed that these feelings alone were of intrinsic value and disability.

Impact of utilitarianism

Wendy Doniger's book, The Hindus: An Alternative History drew a lot of attention. Though Article 19(1), the Indian Constitution memorializes the fundamental right of freedom of expression it was quite disappointing that the supposed vanguards and protectors of 'freedom of expression' yielded and Section 295A of the Indian Penal Code was applied. Democracy is the government of the people but is not a form of majoritarianism where what is right or wrong is decided according to the interests of the majority.

Moreover, in the recent cases of sedition, even utterance of the words, *"Pakistan Zindabad"* is considered to be a seditious act depending on the masses. The objective of the principle of law is lost in the case of utilitarianism. India is a country that follows a positive theory of law and the Constitution of India holds the supreme authority. The Courts take decisions within the ambit of the law of the land. Thus, the view of the majority hold's no essence in the judiciary. Moreover in democracy, the voice of each individual of the country holds an equal position. The vote of each citizen is equivalent irrespective of any basis. Thus, in India majoritarianism holds no relevance, however, its influence can be reflected in cases of sedition and fundamental rights.

Utilitarianism and the criminal law

The role of legal tradition in the reformist rhetoric of Benthamite Utilitarianism is a contradiction. The popular interpretation of Utilitarian jurisprudence, on the one hand, is historical and opposes the reworking of the criminal justice system that prevailed in Britain during the late 18th and early 19th centuries. On the other hand, in British India, the same utilitarian law theorists concerned themselves with local rather than abstract definitions of crime. For example, in his Essay on the Power of Time and Place in Legislative Matters of 1782, Bentham encouraged the political reformer to balance progress in India by fitting Utilitarian decisions on the law into the structures of local society. The first Burkean perspective viewed India in terms of settled, well-established communities that had come under danger with the onset of British rule. It contributed to 'legal particularism', its emphasis on difference/pluralism, and its concomitant advocacy of personal laws for India's religious communities. Bentham's utilitarianism and its influence are especially seen in the creation of a penal code, and a code of criminal and civil procedure in India.

27.Write a note on Noscitur a Sociis.

Introduction:

Every provision of the statute as well as every word or phrase must be generally seen through the lens of its context of its applicability, and not in isolation. Every part of the provision has to be ascribed a certain meaning as well as effect in that context in which it is made. In this background, to give effect to the elementary rule, the judiciary has developed the rule of *noscitur a socii*. According to the Merriam Webster Dictionary, *noscitur a socii* refers

to *"the meaning of an unclear or ambiguous word (as in a statute or contract) should be determined by considering the words with which it is associated in the context.*

Applicability of the rule

The applicability of this rule of interpretation arises when a word or phrase in question cannot be interpreted in isolation and requires the words that surround it to also be understood in order to better grasp the concept. Another legal maxim to substantiate the same is "*qua non valeant singular juna juvant*" which stands for "words which are ineffective when taken singly operate when taken conjointly".

Scope of the rule

The scope of this rule of interpretation is limited, for it can only be applied in the circumstances where the law was either not clear or it was ambiguous. Otherwise, when there are no apparent problems with interpretation, the rule cannot be used. It has also been made clear that the rule cannot be used nefariously to make any of the associated words redundant[2]. The rule of *noscitur a sociis* cannot be used in cases where the intention of the legislature or Parliament as the case maybe, reflects its deliberate usage of words which would widen the scope.

Lord Macmillan had defined this rule of interpretation of statutes as "*the meaning of a word is to be judged by the company it keeps.*" The philosophy of the said rule has been stated in "Words and Phrases" as ascertainment of the understanding of any unclear word through getting a grasp of the nearby words associated with it.

- One of the pivotal cases that had discussed this rule in detail is that of *State of Bombay v. Hospital Mazdoor Sabha*[9], way back in 1960 in the judgement authored by Justice Gajendragadkar. Although the application of the rule had been rejected in the case by the SC, the scope of the rule had been analysed. The judgement stated that the rule of *noscitur a socii* is a mere rule of construction. It cannot be used where the legislative intent is clear, that is, the legislature has deliberately used words of an open nature and where this usage does not cause any ambiguity. The judgement also defined the scope of this rule, that it can be used in circumstances where the legislative

intent is unclear because it is relating broad words with words of narrow meaning.[10]

- The case had also referred to the English case of *The Corporation of Glasgow v. Glasgow Tramway and Omnibus Co. Ltd*[11], where the Earl of Halsbury, L.C. had said: *"the words 'free from all expenses whatever in connection with the said tramways' appear to me to be so wide in their application that I should have thought it impossible to qualify or cut them down by their being associated with other words on the principle of their being ejusdem generis with the previous words enumerated."*

29. Write Mensrea in statutory offence.

Introduction:

Mens Rea in Statutory Offences

Offence can be defined as the violation of law. The word offence is generally interpreted as a criminal wrong. There are certain offences that are not created by criminal laws but by different statutes like taxation, national security etc. are Statutory Offences. The acts those are inherently wrong such as murder, rape or grievously hurting someone etc. are offences but acts like driving on the wrong side of the road which is not inherently wrong but is also an offence. Such offences are known as statutory offences. Some examples of these offences are:

- Adulteration of food items and drugs.
- Tax evasion or avoidance
- Black Marketing, false advertising, hoarding, profiteering etc.
- Misappropriation or theft of public funds or property.
- Misuse of position by public servants in any field of work.

While statutory interpretations are done there are certain aspects that are presumed. Here the presumption is that all criminal actions contain the element of Mens Rea. It has also held that- " it is of the utmost importance that the protection of the liberty of the subject that a court should always bear in mind that, unless a statute, rules out Mens Rea as a constituent part of crime the court should not find a man guilty of an offence against criminal law, unless he has guilty mind'.

Though a statutory crime does not contain the explicit but a statute require specific intention, knowledge malice etc. to act in such manner. In some case

the statute may be silent on the requirement of Mens Rea in such a situation the objects and terms of the statutes are looked into. The court some court has also stated that even when there is no clear mention of state of mind in the language of the statute it is implied that Mens Rea is an important ingredient in the constitution of any offence.

In other instances the court has created a strict liability on statutory offences irrespective of the presence of mens rea. Strict liability arises on matters concerning food drugs, taxes etc.

Illustrations

1. A driver was waiting for person 'P' to show up on the streets, and when he did the driver deliberately hit that person in order to kill him or at least with an intention to cause grievous injury to him. In such case mens rea is present and the driver is criminally liable for his actions.

2. In a case where 'A' was out for hunting and in a sudden haste shot fires his gun which caused the death of 'B', here B is dead but 'A' did not intended to kill him or did any type of prior preparation for it. Here Mens Rea is not present. 'A' shall be given punishment for his actions but not for murder.

29.Write a note on mischief rule of interpretation.

Introduction:

Mischief Rule of Interpretation

Since, it is not possible to expect the Court to interpret arbitrarily, over the course of time, certain principles or rules have evolved out of the continuous exercise by the Courts. One of these rules of interpretation is the 'Mischief Rule of Interpretation'.

Meaning

Often referred to as Haydon's Rule, the Mischief Rule of Interpretation is one of the most important rules of interpretation. In legal parlance, the word *mischief* is normally understood to be a kind of specific injury or damage resulting from another person's action or inaction. But in relation to rules of interpretation, *mischief* means *to prevent the misuse of provisions of a*

statute. It is widely known as the mischief rule primarily because it focuses on curing the mischief.

As per the Mischief Rule of Interpretation, a statute must be construed in such a way as to suppress the Mischief. Mischief should not have a place in the statute. If an attempt is made to add Mischief in any statute, then it must be prevented by the Mischief Rule of interpretation.

Haydon's Case

As mentioned before, Mischief rule of interpretation can be traced back to Haydon's Case. It is considered to be a landmark judgment for the Mischief Rule of Interpretation because the Mischief Rule seemed to have evolved from this case. In the aforementioned case, it was held that there are four criterion which have to be met for the true interpretation of all the statutes in general. They are as follows: –

1. What was the common law before the making of the Act/statute?
2. What was the mischief for which the present statute was enacted?
3. What remedy did the Parliament sought or had resolved and appointed to cure the disease of the commonwealth?
4. The true reason of the remedy.

The core purpose behind the rule is to suppress the mischief and advance the remedy. Therefore, there lies a duty upon the Courts of Law to construct the statute in a way such that it suppresses the mischief and promotes the remedy in accordance with the intention of the legislature.

30.A statute must prima facie be given their ordinary meaning elucidate.

Introduction:

The **golden rule** is that the words of a statute must 'prima facie' be given their ordinary meaning. We must not shrink from an interpretation which will reverse the previous law, for the purpose of a large part of our statute law is to make lawful that which would not be lawful without the statute, or, conversely, to prohibit results which would otherwise follow. Judges are not called upon to apply their opinion of sound policy so as to modify the plain meaning of statutory words, taut where, in construing general words, the meaning of which

is not entirely plain, there are adequate reasons for doubting whether the Legislature could have been intending so wide an interpretation as would disregard fundamental principles, then we may be justified in adopting a narrower construction. At the same time, if the choice is between two interpretations the narrower of which would fail to achieve the manifest purpose of the legislation, we should avoid a construction which would reduce the legislation to futility and should rather accept the bolder construction based on the view that Parliament would legislate only for the purpose of bringing about an effective result"

"The **golden rule** is that the words of a statute must 'prima facie' be given their ordinary meaning."

In accordance with the principles laid down by these authorities and taking the plain words of Section 17 I am of the opinion that there is nothing to show that the relief provided by this section is not available to a displaced debtor if the matter in which the relief is sought is pending in an ordinary civil Court and not before a Tribunal constituted under the Act.

The primary object in interpreting a statute is always to discover the intention of the legislature and in England, the rules of interpretation, developed there, can be relied on to aid the discovery because those whose task is to put the intention of the legislature into language, fashion their language with those very rules in view.

Since framers of statutes couch the enactments in accordance with the same rules as the judicial interpreter applies, application of those rules in the analysis of a statute naturally brings up the intended meaning to the surface. It is at least doubtful whether, in a case of framers of Indian statutes of the present times, especially of the provincial legislature, the same assumption can always be made.

Interpretation is of two kinds – grammatical and logical. Grammatical interpretation is arrived at by reference to the laws of speech to the words used in the statute; in other words, it regards only the verbal expression of the legislature. Logical interpretation gives effect to the intention of the legislature by taking into account other circumstances permissible according to the rules settled in this behalf. ‘Proper construction’ is not satisfied by taking the words as if they were self-contained phrases. So considered, the words do not yield the meaning of a statute.

According to Gray, grammatical interpretation is the application to a statute of the laws of speech; logical interpretation calls for the comparison of the statute with other statutes and with the whole system of law, and for the consideration of the time and circumstances in which the statute was passed. It is the duty of the judicature to ascertain the true legal meaning of the words used by the legislature.

A statute is the will of the legislature and the fundamental rule of interpretation, to which all others are subordinate, and that a statute is to be expounded, according to the intent of them that made it. The object of interpretation is to find out the intention of the legislature.
The primary and foremost task of a court in interpreting a statute is to ascertain the intention of the legislature, actual or imputed. The words of the statute are to be construed so as to ascertain the mind of the legislature from the natural and grammatical meaning of the words which it has used. 'The essence of the Law', according to Salmond:
Lies in its spirit, nor in its letter, for the letter is significant only as being the external manifestation of the intention that underlies it. Nevertheless, in all ordinary cases, the courts must be content to accept the *litera legis* as the exclusive and conclusive evidence of the *sententia legis.* They must, in general, take it absolutely for granted that the legislature has said what it meant, and meant what it has said.

31.What is beneficial construction? Are there are any limitations on it.

Introduction:

Beneficial Construction

Beneficent construction involves giving the widest meaning possible to the statutes. When there are two or more possible ways of interpreting a section or a word, the meaning which gives relief and protects the benefits which are purported to be given by the legislation should be chosen. A beneficial statute has to be construed in its correct perspective so as to fructify the legislative intent.

It is also true that once the provision envisages the conferment of benefit limited in point of time and subject to the fulfillment of certain conditions, their non-compliance will have the effect of nullifying the benefit. There should be due stress and emphasis to Directive Principles of State Policy and any international convention on the subject.

There is no set principle of construction that beneficial legislation should always be retrospectively operated although such legislation is either expressly or by necessary intendment not made retrospective. Further, the rule of interpretation can only be resorted to without doing any violence to the language of the statute. In case of any exception when the implementation of the beneficent act is restricted the Court would construe it narrowly so as not to unduly expand the area or scope of the exception.

Limitations:

Where the courts find that by the application of the rule of beneficial construction, it would be re legislating a provision of statute either by substituting, adding or altering any provision of the act.

2. Where any word in a statute confers to a single meaning only. Then the courts should refrain from applying the rule of benevolent construction to the statute.

3. When there is no ambiguity in a provision of a statute so construed. If the provision is plain, unambiguous and does not give rise to any doubt, the rule of beneficial construction cannot be applied.

Case Laws

Case Law 1: Hindustan Lever Ltd v Ashok Vishnu Kate

The court stated that when a law is enacted for social welfare. The construction which extends the intended benefit to the people should be made.

Case Law 2: Noor Saba Khatoon v. Mohammad Quasim

The Supreme Court held in this case that the provision for maintenance under 125 of Civil Procedure Code and maintenance of children under 2 years are independent of each other and no legislation which is passed subsequent to it can affect the provisions.

32.What are the general principles applied in construing remedial structure? Explain.

Introduction:

Remedial statutes and statutes that have become enacted on call for of the everlasting public coverage normally acquire a liberal interpretation. On building a remedial statute the courts have to supply to it the widest operation which its language will allow. They have most effective to look that the precise case is in the mischief to be remedied and falls in the language of the enactment.

The labour and welfare law must be widely and liberally construed and at the same time as construing them due regard to the Directive Principles of State Policy and to any worldwide conference at the situation ought to receive via way of means of the courts. In MC Mehta v. State of Tamil Nadu the Child Labour (Prohibition and Regulation) Act, 1986 became construed. The Court, having regard to the Directive Principles in Acts 39(e), 39(f), 4(i), 45 and 47 of the Constitution, the essential rights in Act 24, the International conference at the proper of the kid, now no longer most effective directed a survey of child labour and its prohibition however additionally directed charge of Rs. 25,000 as contribution via way of means of the company to the Child Labour-Rehabilitation-cum-Welfare Fund or opportunity employment to parent/parent of the kid to ameliorate poverty and absence of finances for the welfare of the kid that's the primary reason of child labour.

In case of a social advantage orientated rules just like the Consumer Protection Act 1986 the provisions of the client to gain the reason of the enactment however without doing violence to the language. If a segment of a remedial statute is able to constructions, that creation must be desired which furthers the coverage of the Act and is extra useful to the ones in whose interest the Act can also additionally had been passed. The liberal creation ought to float from the language used and the guideline of thumb does now no longer allow setting of an unnatural interpretation at the phrases contained with inside the enactment nor does it allow the elevating of any presumption that safety of widest amplitude ought to be deemed to had been conferred upon the ones for whose advantage the rules can also additionally had been enacted.

In case there may be an exception with inside the useful rules which curtail its operation, the Court in case of doubt must construe it narrowly in order now no longer to unduly amplify the location or scope of the exception. It has been held that a regulation enacted basically to advantage a category of individuals taken into consideration to be oppressed can be complete with inside the feel that to a point it blessings additionally the ones now no longer inside that magnificence, for example, tenants and landlords. The Control of Rent and Eviction Acts which appreciably restrict the grounds on which a tenant may be

evicted are basically to advantage the tenants however in addition they to a point advantage the owner can report a shape for eviction at the grounds noted with inside the Acts despite the fact that the tenancy has now no longer been terminated according to with the provisions of the Transfer of Property Act.

Kuldip Kaur v. Surinder Singh

In this example, the Supreme courtroom docket dealt with section 125(3) of the Cr PC. This phase offers for the recuperation of renovation granted in favour of a spouse or minor toddler via way of means of problem of a warrant if the order for renovation isn't always complied with 'without enough cause' and permits the magistrate if the quantity nonetheless stays unpaid to condemn the individual in opposition to whom the order is made to imprisonment for a duration of 1 month. The courtroom docket drew a difference among 'mode of enforcement' and 'mode of satisfaction' and held that even after a sentence of imprisonment, the individual worried remained responsible for arrests of renovation for non-price of which he changed into imprisoned and the legal responsibility for the price may be glad best via way of means of price and now no longer via way of means of struggling the sentence.

Bhagirath v. Delhi Administration

In this example, the Supreme Court held that the beneficent provisions of section 428, Cr PC directing set-off of the duration of pre-conviction detention in opposition to the 'term' of imprisonment is relevant even to instances wherein the sentence is imprisonment for existence and that this kind of sentence is likewise imprisonment 'for a term' with inside the phase.

33.Write a note on Reddeno Singule singlulis.

Introduction:

Reddendo Singula Singulis" is a Latin expression that implies referring to each to each; referring each expression or articulation to its comparing objects. In straightforward words "Reddendo singula singulis" implies that when a list of words has an adjusting stage toward the end, the expression refers just to the last. It is a standard of development utilized generally in circulating property. Where there are general word or portrayal, following a record of specific things, such broad words are to be built distributively, and if the overall words can apply to certain things and not to other people, the overall words are to be applied to those things to which they will, and not to those to which they

won't have any significant bearing; in other words, each expression, word or articulation is to be referred to its reasonable objects.

At the point when a list of words has a changing expression toward the end, the expression refers just to the final word, for example, firefighters, police officers, and specialists in an emergency clinic. Here, "in a medical clinic" just applies to specialists and not to firefighters or cops.

The Reddendo singula singulis rule concerns the utilization of words distributively. Where a complex sentence has more than one subject, it might be correct development to deliver each to each, by perusing the arrangement distributively and applying each object to its proper subject. A comparative guideline applies to the verbs and their subjects, and another grammatical feature.

The best example of Reddendo singula singulis is quoted from Wharton's Law Lexicon, "If anyone shall draw or load any sword or gun, the word draw is applied to sword only and the word load to gun only, the former verb to former noun and latter to latter, because it is impossible to load a sword or to draw a gun, and so of other applications of different sets of words to one another."[1] A typical application of this principle is where a testator says 'I devise and bequeath all my real and personal property to B'. The term devise is appropriate only to personal law.

Application of the Principle of Reddendo Singula Singulis

P. Chandra Mouli Etc. And Ors. vs Union of India[2]

Where a sentence contains several antecedents and several consequents, they are to be perused distributively. That is, the words are to be applied to the subject to which they advance by setting most appropriate to relate and to which they are generally pertinent. This technique for restricting the impact of articulation which is too wide to even consider being interpreted in a real sense is most much of the time applied when the initial expressions of a Section are general and the succeeding parts direct specific occurrences.

34.Write a note on marginal note.

Introduction:

These are the side notes to the sections in the Act. It expresses the effect of the section. Mostly, marginal acts are not added to the sections, by the legislators themselves. Instead, they are added by the drafter later. Hence,

marginal notes cannot be used as an aid to interpretation unless the legislators have added them as in the Constitution of India.

The notes which are inserted alongside the sections of the concerning Act are referred to as the Marginal Notes or the side notes which express the effect of the sections which are being dealt. In olden days the marginal notes were considered for help when the enactment or the meaning of the enactment of the section was in question, however from the modern view or currently the marginal notes according to the courts have no role in interpreting the statutes, because the marginal notes are not inserted by the legal experts or the legislators or any authority dealing with the legislature but are inserted by the drafters due to which they are not considered to be a part of the statute. The marginal notes under the Indian Constitution were inserted by the Constituent assembly acting as an authority while interpreting the Indian Constitution, therefore the marginal notes under the constitution can be referred when any of the enactment is in question or in any situations of doubt or uncertainty. These marginal notes under certain exceptional situations can be inserted by the legislature, and which results in considering these marginal notes for helping in interpreting the act or the enactment.

i. In **Bengal Immunity Company vs. The State of Bihar**, it was held that the marginal notes could be relied on for interpretation of the provisions in Article 286 of the Constitution of India.

ii. In **Tara Prasad Singh vs. Union of India**, the court held that marginal notes are secondary in nature. The general content of the provision(s) is primary in nature.

iii. In **S.P. Gupta vs. President of India**, the apex court decided that if any conflict between the content and the marginal notes of a provision arises, then the marginal note is to be yielded. However, they may be looked into as an aid to interpretation in case of ambiguity. Marginal notes must not disturb the effect of explicit provisions of the legislature.

35.Explain the purpose of codifying and consolidating statute.

Introduction:

Codifying statutes

The purpose of this kind of statute is to give an authoritative statement of the rules of the law on a particular subject, which is customary laws. **For example- The Hindu Marriage Act, 1955 and The Hindu Succession Act, 1956.**

A codifying statute is which consist exhaustively the entire of the law upon a particular subject, the draftsman attempting to comprise in which code both the pre-existing statutory provisions and also, rules relating to the matters. Codifying statute systematizes case law as well as statutes.

It presents an orderly statement of the main rules of law on a given subject.

A codifying statute should be interpreted according to the normal canons of constructions and recourse to repealed enactments can be taken generally to solve any ambiguity.

While constructing the codifying Act, the language used in the statute is examined in the context, but at the same time, repealed statutes may not be referred.

The Presumption is that the same words used at different places in the same Act would bear the same meaning holds good and applicable.

Consolidating statutes

This kind of statute covers and combines all law on a particular subject at one place which was scattered and lying at different places. Here, the entire law is constituted in one place. **For example- Indian Penal Code or Code of Criminal Procedure.**

Consolidating statutes is a statute which collects the statutory provisions relating to given subject-matter, and embodies them in a single Act of Parliament. It does not contain the case law.

It presents the whole body of statutory law on the subject of repeal of a previous law

Consolidating statute should be interpreted according to the normal canons of constructions and recourse to repealed enactments can be taken only to solve any ambiguity.

The primary rule of construction of consolidating statutes is to examine the language used in the statute itself without any reference to the repealed statutes.

Judgment may refer to earlier State of law and the judicial decisions interpreting repealed Acts.

36.What is temporary statute? What are the effects of expiry of temporary statute.

Introduction:

A temporary Act (Statute) expires after a specified time unless its duration is extended by a fresh enactment or under powers conferred under the Act.
A statute is temporary when its duration is only for specified time and such Statute expires on expiry of the specified time unless it is repealed earlier. After expiry of the temporary Statute, it cannot be made effective merely by amending the same. The only remedy is to revive the expired Statute by and enacting a Statute in similar terms or by enacting a Statute expressly saying that the expired Act is herewith revived.

Effects of Expiry of Statutes -

When a Temporary Act expired Section 6 of the General Clauses Act 1897, which in terms is limited to repeals, has no application. The effect of expiry, therefore, depends upon the construction of the Act itself.

(a) Legal proceeding under expired Statute -

These type of questions often arises in connection with the legal proceeding in relation to a matter connected with the temporary Act. The answer to such questions depends on the construction of the Act as a whole. The legislature very often and enacts in the Temporary Act a saving provision similar in effect to Section 6 of the General Clauses Act 1897. But in the absence of such provision, the normal rule is that proceeding against the person under the temporary statute ipso facto terminates as soon as stated expires, a person, therefore, cannot be prosecuted and convicted for an offense against the act after its expiration in absence of the saving provision, and if prosecution has not ended before the date of expiry of the Act, it will automatically terminate as a result of termination of the Act.

(b) Notifications, Orders, Rules etc made under temporary Statutes -

In case a Temporary Act expired, the general rule is that any appointment, order, notifications schemes, rule form or bye-law made or issued under the Temporary Act also comes to an end with the expiry of such act and will not be continued even the provision of the expired Act are re enacted, the reason being that Section 24 of the General Clauses Act 1897 does not apply to such a situation.

(c) Expiry does not make destitute care for all the purposes -

A temporary Statute even in absence of a savings provision like Section 6 of the General Clauses Act 1897, is not dead for all the purposes. The nature of right and obligation resulting from the provisions of a Temporary Act and their character may have to be regarded in determining whether the said right or obligation is enduring or not. The person who has been prosecuted and sentenced during the continuance of temporary Act for violating its provision cannot be released before he serves out his sentence even if the temporary Act expires before the expiry of the full period of sentence.

(d) Repeal by Temporary Statute -

A Statute with which is repealed by temporary statute revives on expiry of repealing Statute will depend upon the construction of repealing Statute.

Relevant Case Law.

S.Krishnan vs State of Madras AIR 1951 SC 301

In this case, the Court held that a person's detention under the temporary Statute relating to preventive detention will automatically come to an end on the expiry of the Statute.

37.Write a note on legal fiction.

Introduction:

Legal fiction is an assumption and acceptance of something as fact by a court, although it may not be, so as to allow a rule to operate or be applied in a manner that differs from its original purpose while leaving the letter of the law unchanged. A legal fiction is created typically to achieve such varied aims as convenience, consistency, equity, or justice.

For example, where a court cannot exercise in personam jurisdiction over a defendant, it can bring that defendant under its jurisdiction via quasi in rem subtype 2 jurisdiction. The latter is a form of personal jurisdiction that uses a defendant's property to satisfy a claim against them, and is a legal fiction because it treats the owner of the property as a defendant although the subject of the suit is technically the property itself.

legal fiction, a rule assuming as true something that is clearly false. A fiction is often used to get around the provisions of constitutions and legal codes that legislators are hesitant to change or to encumber with specific limitations. Thus, when a legislature has no legal power to sit beyond a certain midnight but has five hours more of work still to do, it is easier to turn back the official clock from time to time than it is to change the law or constitution.

38.Explain the role of legislative history in interpretation of interpretation of statutes.

Introduction:

Parliamentary History consists of ingredients of the statute that are in their original form, i.e. when they were presented before the legislature before its enactment. The ministry which would have introduced the bill would have definitely come up with the necessity of the same, and provided a ground for the enactment of the statute, also known as the Statements of Objects and Reasons, which is of utmost significance. Parliamentary History would also include the reports of debates held in the Parliament and those passed by the different committees of the Parliament, resolutions passed by the two houses of the Parliament, and amendments to the bill, if any.

Earlier, Parliamentary History was not considered as an aid in the interpretation of a statute. This view came from the traditional English legal

system, and the Supreme Court of India also followed in its footsteps. However, in cases that came before the court later on, this view changed to include Parliamentary History under external aids to interpretation.

Legislative history:- The basis for legislative history of a statute can be summed up as Statement of reasons for a Bill, Committee Reports, Review of existing law and need of changes, if any, and Parliamentary debates etc. A judge , while interpreting a provision of a statute, may take assistance of such material, as an aid, to give reasons for his decision. How to trace the will of a legislator, who is no more? Alternatively, to track the will of a legislator, there is a clue. According to *Francois Geny*, Social needs, comparative law and history, ideals which are prevalent at that point of time are to be considered for interpretation of a statute. The English Judge, in *Fothergill vs. Monarch Airlines Ltd*, it was held that 'Although on a literal interpretation in an English legal context 'loss' was to be differentiated from 'damage', that was not an appropriate method of interpretation of an international convention, such as the Warsaw Convention, which was incorporated by statute into English law.'.

In **Ashwini Kumar Ghose v. Arabinda Bos***e*[2], the then Chief Justice of India, Patanjali Shastri, stated that the Statements of Objects and Reasons should not be taken as an external aid to interpretation because it is presented during the course of the processing of the bill, and during that period the bill undergoes several changes, meaning thereby the Statements would also be liable to amends. But in **State of West Bengal v. Subodh Gopal Bose**[3], Justice S. R. Das took into account the Statements of Objects and Reasons to determine the socio-political and economic condition of the bill introduced, even though he fully supported the view in *Ashwini Kumar*[4]'s case.

In **Indira Sawhney v. Union of India**[5], the Supreme Court, while interpreting Article 16(4) of the Indian Constitution, mentioned the speech Dr. B. R. Ambedkar gave in the Constituent Assembly stating that the expression 'backward class of citizens' was not defined. The Court held that even though Parliamentary debate cannot be binding upon the courts, it can be taken into account to determine the context, background and intent of the legislature.

39.Rules of interpretation of statutes are not rules of law.

Introduction:

It is a fundamental principle that the conflicted word of a statute must be read in its entire context while doing the interpretation. The purpose, intention of the legislature and object of that act should remain in the mind while doing the process of interpretation. There are some principles of interpretation that should be taken care air at the time of statutory interpretation:

- The intention of the legislature
- The statute must be read as a whole while interpreting any specific law of the statute
- The interpretation must be done in a way that the law should be capable of implementing.
- If the meaning of the word is clear and unambiguous, the effect must be given regardless of the outcome.
- The process of construction should be the combination of the literal and opposite approach
- If the literal construction leads to absurdity, the construction must be shifted to another rule of interpretation
- According to the rule of interpretation, if two or more than two provisions of the same statute are conflicting with each other, in that situation the court will try to construe the provisions in such a way to give the effect for both the provisions by maintaining the harmony between both the laws.

- The golden rule of interpretation
- The mischief rule of interpretation
- The doctrine of harmonious construction

Hence, **t**he above principles are helping to interprets of any legislations directly and indirectly but these principles cannot become rule of Laws

40.Explain the importance of social, political and economic developments and scientific intervention as the external aid to construction.

Social, political and economic development

A Statute must be interpreted to include circumstances or situations which were unknown or did not exist at the time of enactment of the statute.
Any relevant changes in the social conditions and technology should be given due weightage.

Case Law: S.P. Gupta vs. Union of India
It was stated that statute cannot be interpreted without taking into account the social, economic and political setting in which it is intended to operate.

The interpretation of a statute should be done including the circumstances and situations which were not present at the time when the law was made.

For example, as per the **essentials of a valid contract,** the **acceptance of an offer** can be communicated through the letter. But in today's time, we can communicate acceptance through email or mobile.
The acceptance done through email and mobile is considered a valid acceptance. However, it was not written in the Act when it was made.

SP Gupta vs Union of India
It was stated by the Supreme Court of India that a **statute must be interpreted by including social, economic and political development.**

Scientific Inventions

It may so happen that once a statute is brought into force, certain developments related to the provisions of the statute may take place. In such a case, when the statute is interpreted, regard must be given to those later developments, specially in the field of science and technology, which is an ever-evolving field. The contemporary society is not stationary; development in every sphere is taking place at a rapid pace. Thus, these developments need to be taken into consideration while statutes made to govern these developments are being construed.

In **State v. J. S. Chawdhry**, Section 45 of the Indian Evidence Act, 1872, was in question. The section mentions only handwriting experts and not typewriting experts since typewriters were invented much later, while in the instant case the party on behalf of the state wanted to use the opinion of typewriting experts. The Supreme Court had earlier stated that the opinions of typewriting experts could not be used, but in the instant case, the Supreme Court ruled in opposition to its own view and held such opinion as admissible.

BY

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