



## C. U. SHAH UNIVERSITY Wadhwan City

**FACULTY OF:-** LAW (B.A. or B.com LL.B.)

**SEMESTER:-** 6

**CODE:-** 4LW06CPC1

**NAME:-** **Civil Procedure Code & Limitation Act**

Teaching & evaluation scheme:-

Subject Code	Name of the Subject	Teaching Scheme (Hours)				Credits	Evaluation Scheme							
		Th	Tu	Pr	Total		Theory				Practical (Marks)			Total
							Sessional Exam		University Exam		Internal		University	
							Marks	Hrs	Marks	Hrs	Pr/Viva	TW	Pr	
4LW06CPC1	Civil Procedure Code & Limitation Act	5	0	0	5	5	30	1.5	70	3	---	---	---	100

### Syllabus :

#### 1. Introduction.

- 1.1. Concepts.
  - 1.1.1. Affidavit, order, judgement, decree, plaint, restitution, execution, decree-holder, judgement-debter, mesne profits, written statement.
  - 1.1.2. Distinction between decree and judgement and between decree and order.

## **2. Jurisdiction.**

- 2.1. Kinds.
  - 2.1.1. Hierarchy of courts.Suit of civil nature – scope and limits.
- 2.2. Res-subjudice and Resjudicata.
- 2.3. Foreign judgment – enforcement.
- 2.4. Place of suing.
- 2.5. Institution of suit.
- 2.6.1. Parties to suit : joinder, mis-joinder or non-joinder of parties : representative suit.
  - 2.6.1.1. Frame of suit : cause of action.
- 2.6.2. Alternative disputes resolution (ADR).
- 2.6.3. Summons.

## **3. Pleadings.**

Rules of pleading, signing and verification.

- 3.1.1. Alternative pleadings.
- 3.1.2. Construction of pleadings.
- 3.2. Complaint : particulars.
  - 3.2.1. Admission, return and rejection.
- 3.3. Written statement : particulars, rules of evidence.
  - 3.3.1. Set off and counter claim : distinction.
- 3.4. Discovery, inspection and production of documents.
  - 3.4.1. Interrogatories.
  - 3.4.2. Privileged documents.
  - 3.4.3. Affidavits.

#### **4. Appearance, examination and trial.**

- 4.1. Appearance.
- 4.2. Ex-parte procedure.
- 4.3. Summary and attendance of witnesses.
- 4.4. Trial.
- 4.5. Adjournments.
- 4.6. interim orders : commission, arrest or attachment before judgement, injunction and appointment of receiver.
- 4.7. Interests and costs.

#### **5. Execution.**

- 5.1. The concept.
- 5.2. General principles.
- 5.3. Power for execution of decrees.
- 5.4. Procedure for execution (ss.52-54).
- 5.5. enforcement, arrest and detection(ss.55.59).
- 5.6. Attachement (ss.60-64).
- 5.7. Sale(ss.65-97).
- 5.8. Dilivery of property.
- 5.9. Stay of execution.

#### **6. Suits in particular cases.**

- 6.1. By or against government (ss.79-82)
- 6.2. By aliens and by or against foreign rulers or ambassadors (ss.83-87A).
- 6.3. Public nuisance (ss.91-93).
- 6.4. Suits by or against firm.
- 6.5. Suits in forma pauperis.

- 6.6. Mortgages.
- 6.7. Interpleader suits.
- 6.8. Suits relating to public Charities.

**7. Appeals.**

- 7.1. Appeals from original decree.
- 7.2. Appeals from appellate decree.
- 7.3. Appeals from orders.
- 7.4. General provisions relating to appeal.
- 7.5. Appeal to the Supreme Court.

**8. Review, reference and revision.**

**9. Miscellaneous.**

- 9.1. Transfer of cases.
- 9.2. Restitution.
- 9.3. Caveat.
- 9.4. Inherent powers of courts.

**10. Law reform : Law Commission on Civil Procedure-amendments.**

**11. Law of Limitation.**

- 11.1. The concept – the law assists the vigilant and not those who sleep over the rights.
- 11.2. Object.
- 11.3. Distinction with laches, acquiescence, prescription.
- 11.1. Extension and suspension of limitation.

- 11.2. Sufficient cause for not filing the proceedings.
- 11.5.1. Illness.
- 11.5.2. Mistaken legal advise.
- 11.5.3. Mistaken view of law.
- 11.5.4. Poverty, minority and Purdha.
- 11.5.5. Imprisonment.
- 11.5.6. Defective vakalatnama.
- 11.6. Legal liabilities.
- 11.7. Foreign rule of limitation : contract entered into under a foreign law.
- 11.8. Acknowledgement – essential requisites.
- 11.9. Continuing tort and continuing breach of contract.

**Select bibliography.**

1. Mulla, code of Civil Procedure (1999), Universal, Delhi.
2. C.K. Thacker, code of Civil Procedure (2000), Universal, Delhi.

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**C. U. SHAH UNIVERSITY**  
**Wadhwan City**

**FACULTY OF:-** LAW (B.A. OR B.COM LL.B.)

**SEMESTER:-** 6

**CODE:** 4LW06EVD1

**NAME:** – Evidence Act

Teaching & evaluation scheme:-

Subject Code	Name of the Subject	Teaching Scheme (Hours)				Credits	Evaluation Scheme							
		Th	Tu	Pr	Total		Theory				Practical (Marks)			Total
							Sessional Exam		University Exam		Internal		University	
							Marks	Hrs	Marks	Hrs	Pr/Viva	TW	Pr	
4LW06EVD1	Evidence Act	5	0	0	5	5	30	1.5	70	3	---	---	---	100

**Syllabus.**

**1. Introductory.**

- 1.1. The main features of the Indian Evidence Act 1861.
- 1.2. Other acts which deal with evidence (Special reference to CPC, Cr.PC).
- 1.3. Problem of applicability of Evidence Act.
  - 1.3.1. Administrative.
  - 1.3.2. Administrative Tribunals.
  - 1.3.3. Industrial Tribunals.
  - 1.3.4. Commissions of Enquiry.
  - 1.3.5. Court-martial.
- 1.4. Disciplinary authorities in educational institutions.

## **2. Central Conceptions in Law of Evidence.**

- 2.1. Facts : section 3 definition : distinction – relevant facts / facts in issue.
- 2.2. Evidence : oral and documentary.
- 2.3. Circumstantial evidence and direct evidence.
- 2.1. Presumption (Section 4).
- 2.2. “Proving”, “not providing” and “disproving”.
- 2.3. Witness.
- 2.4. Appreciation of evidence.

## **3. Facts : relevancy.**

- 3.1. The doctrine of res gestae (Section 6,7,8,10).
- 3.2. Evidence of common intention (Section 10).
- 3.3. The problems of relevancy of “Otherwise” irrelevant facts (Section 11).
- 3.4. Relevant facts for proof of custom (Section 13).
- 3.5. Facts concerning bodies & mental state (Section 14, 15).

## **4. Admissions and confessions.**

- 4.1. General principles concerning admission (Section 17, 23).
- 4.2. Differences between “admission” and “confession”.
- 4.3. The problems of non-admissibility of confessions caused by “any inducement, threat or promise (Section 24).
- 4.4. Inadmissibility of confession made before a police officer (Section 25).
- 4.5. Admissibility of custodial confessions (Section 26).
- 4.6. Admissibility of “information” received from accused person in custody; with special reference to the problem of discovery based on “joint statement” (Section 27).
- 4.7. Confession by co-accused (Section 30).

- 4.8. The problems with the judicial action based on a “retracted confession”.

## **5. Dying Declarations.**

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

## **6. Other statements by Persons who cannot be called as Witnesses.**

- 6.1. General principles.
- 6.2. Special problems concerning violation of women’s rights in marriage in the law of evidence.

## **7. Relevance of Judgements.**

- 7.1. General principles.
- 7.2. Admissibility of judgements in civil and criminal matters (Section 43).
- 7.3. “Fraud” and “Collusion” (Section 44).

## **8. Expert Testimony.**

- 8.1. General principles.
- 8.2. Who is an expert ? : types of expert evidence.
- 8.3. Opinion on relationship especially proof of marriage (Section 50).
- 8.4. The problems of judicial defence to expert testimony.

## **9. Oral and Documentary Evidence.**

- 9.1. General principles concerning oral evidence (Section 59-60).



- 9.2. General principles concerning Documentary Evidence (Section 67-90).
- 9.3. General Principles Regarding Exclusion of Oral by Documentary Evidence.
- 9.4. Special problems : re-hearing evidence.
- 9.5. Issue estoppel.
- 9.6. Tenancy estoppel (Section 116).

## **10. Witnesses, Examination and Cross Examination.**

- 10.1. Competency to testify (Section 118).
- 10.2. State privilege (Section 123).
- 10.3. Professional privilege (Section 126, 127, 128).
- 10.4. Approval testimony (Section 133).
- 10.5. General principles of examination and cross examination (Section 135-166).
- 10.6. leading questions (Section 141-143).
- 10.7. lawful questions in cross-examination (Section 146).
- 10.8. Compulsion to answer questions put to witness.
- 10.9. Hostile witness (Section 154).
- 10.10. Impeaching of the standing or credit of witness (Section 155).

## **11. Burden of Proof.**

- 11.1. The general conception of onus probandi (Section 101).
- 11.2. General and special exceptions to onus probandhi.
- 11.3. The justification of presumption and of the doctrine of judicial notice.
- 11.4. Justification as to presumptions as to certain offences (Section 111A).
- 11.5. Presumption as to dowry death (Section 113-B).
- 11.6. The scope of the doctrine of judicial notice (Section 114).

## **12. Estoppels.**

- 12.1. Why estoppel ? the rationale (Section 115).

- 12.2. Estoppel, res judicata and waiver and presumption.
- 12.3. Estoppel by deed.
- 12.4. Estoppel by conduct.
- 12.5. Equitable and promissory estoppel.
- 12.6. Questions of corroboration (Section 156-157).
- 12.7. Improper admission and of witness in civil and criminal cases.

**Select Bibliography.**

1. Avtar Singh, Principles of the Law of Evidence (1992), Central Law Agency, New Delhi.

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**FACULTY OF:-** LAW (B.A. OR B.COM. LL.B.)

**SEMESTER:-** 6

**CODE:** 4LW06IOS1

**NAME:** – Interpretation of Statutes

Teaching & evaluation scheme:-

Subject Code	Name of the Subject	Teaching Scheme (Hours)				Credits	Evaluation Scheme							
		Th	Tu	Pr	Total		Theory				Practical (Marks)			Total
							Sessional Exam		University Exam		Internal		University	
							Marks	Hrs	Marks	Hrs	Pr/Viva	TW	Pr	
4LW06IOS 1	Interpretation of Statutes	5	0	0	5	5	30	1.5	70	3	---	---	---	100

## Syllabus :

### 1. Principles of Legislation.

- 1.1. Law –making-the legislature, executive and the judiciary.
- 1.2. Principles of utility.
- 1.3. Relevance of John Rawls and Robert Nozick – individual interest to community interest.
- 1.4. Operation of these principles upon legislation.
- 1.5. Distinction between morals and legislation.

### 2. Interpretation of Statutes.

- 2.1. Meaning of the term 'statutes'.
- 2.2. Commencement, operation and repeal of statutes.
- 2.3. Purpose of interpretation of statutes.

### **3. Aids to Interpretation.**

- 3.1. Internal aids.
  - 3.1.1. Title.
  - 3.1.2. Preamble.
  - 3.1.3. Headings and marginal notes.
  - 3.1.4. Sections and sub-sections.
  - 3.1.5. Punctuation marks.
  - 3.1.6. Illustrations, exceptions, provisos and saving clauses.
  - 3.1.7. Schedules.
  - 3.1.8. Non-obstante clause.
- 3.2. External aids.
  - 3.2.1. Dictionaries.
  - 3.2.2. Translations.
  - 3.2.3. Travaux Preparatoires.
  - 3.2.4. Statutes in pari material.
  - 3.2.5. Contemporanea Exposito.
  - 3.2.6. Debates, inquiry commission reports and Law Commission Reports.

### **4. Rules of Statutory Interpretation.**

- 4.1. Primary Rules.
  - 4.1.1. Literal rule.

- 4.1.2. Golden rule.
- 4.1.3. Mischief rule (rule in the Heydon's case)
- 4.1.4. Rule of harmonious construction.
- 4.2. Secondary Rules.
  - 4.2.1. Noscitur a sociis.
  - 4.2.2. Eiusdem generis.
  - 4.2.3. Reddendo singula singulis.

## **5. Presumptions in statutory interpretation.**

- 5.1. Statutes are valid.
- 5.2. Statutes are territorial in operation.
- 5.3. Presumption as to jurisdiction.
- 5.4. Presumption against what is inconvenient or absurd.
- 5.5. Presumption against intending injustice.
- 5.6. Presumption against impairing obligations or permitting advantage from one's own wrong.
- 5.7. Prospective operation of statutes.

## **6. Maxims of Statutory Interpretation.**

- 6.1. Delegatus non potest delegare.
- 6.2. Expressio unius exclusio alterius.
- 6.3. Generalia specialibus non derogant.
- 6.4. In pari delicto potior est conditio possidentis.
- 6.5. Ultes valet potior quam pareat.
- 6.6. Expressum facit cessare tacitum.
- 6.7. In bonam partem.

## **7. Interpretation with reference to the subject matter and purpose.**

- 7.1. Restrictive and beneficial construction.
  - 7.1.1. Taxing statutes.

- 7.1.2. Penal statutes.
- 7.1.3. Welfare legislation.
- 7.2. Interpretation of substantive and adjunctival statutes.
- 7.3. Interpretation of directory and mandatory provisions.
- 7.4. Interpretation of enabling statutes.
- 7.5. Interpretation of codifying and consolidating statutes.
- 7.6. Interpretation of statutes conferring rights.
- 7.1. Interpretation of statutes conferring powers.

## **8. Principles of Constitutional Interpretation.**

- 8.1. Harmonious construction.
- 8.2. Doctrine of pith and substance.
- 8.3. Colourable legislation.
- 8.4. Ancillary powers.
- 8.5. "Occupied field".
- 8.6. Residuary power.
- 8.7. Doctrine of repugnancy.

### **Select bibliography :**

1. G.P. Singh, Principles of Statutory Interpretation, (7<sup>th</sup> Edition) 1999, Wadhwa, Nagpur.
2. V. Sarathi, Interpretation of Statutes, (1984) Eastern, Lucknow.

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