



C. U. SHAH UNIVERSITY Wadhwan City

FACULTY OF:- LAW (LL.M.)

SEMESTER: -III

CODE: - 5LW03BAL1

NAME: – BANKING LAW

Teaching and 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	
5LW03BAL1	BANKING LAW	6	0	0	6	6	30	1.5	70	3	---	---	---	100

Banking Law

Objectives of the course

A vitally important economic institution the banking system is deeply influenced by socio-political and economic changes. The emerging changes in India, particularly after the initiation of the planning process as an instrument of rapid economic development had moulded and affected the banking structure, policies, patterns and practices. A significant development in the banking system is diversification in banks financing. The commercial banks entered 'into the field of wide ranging financial assistance to industry, both large and small scale, requiring the need for social control of the banking system eventually leading to the nationalisation of banks.

The conventional banking system, found to be deficient for planned developmental purposes, paved the way for developmental banking. The fag end of the last millennium witnesses influx of foreign banking companies into India and a shift in the banking policy as part of the global phenomenon of liberalisation. The legal system is adopting itself into the new mores.

This course is designed to acquaint the students with the conceptual and operational parameters of banking law, the judicial interpretation and the new and emerging dimensions of the banking system. The course will comprise of about 42 units of one-hour duration each spread over a period of one semester.

Syllabus

1. Introduction

1.1 Nature and development of banking

1.2. History of banking in India and elsewhere -indigenous banking-evolution of banking in India - different kinds of banks and their functions.

1.3. Multi-functional banks - growth and legal issues.

2. Law Relating to Banking Companies in India

2.1. Company, government and its agencies.

- 2.1.1. On management
- 2.1.2. On accounts and audit
- 2.1.3. Lending
- 2.1.4. Credit policy
- 2.1.5. Reconstruction and reorganisation
- 2.1.6. Suspension and winding up
- 2.2. Contract between banker and customer: their rights and duties

3. Social Control over Banking

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- 3.1. Nationalization
- 3.2 Evaluation: private ownership, nationalisation and disinvestment
- 3.3. Protection of depositors
- 3.4. Priority lending
- 3.5. Promotion of under privileged classes

4. Promotion of under privileged classes

Promotion of under privileged classes

- 4.1 The Deposit Insurance Corporation Act 1961: objects and reasons
- 4.1.2 Establishment of Capital of DIC
- 4.1.3 Registration of banking companies insured banks, liability of DIC to depositors
- 4.1.4 Relations between insured banks, DIC and Reserve Bank of India

5. The Central Bank

- 5.1. Evolution of Central Bank
- 5.2. Characteristics and functions
- 5.3. Economic and social objectives
- 5.4. The Central Bank and the State - as bankers' bank
- 5.5. The Reserve Bank of India as the Central Bank ._
 - 5.5.1. Organisational structure
- 5.6. Functions of the RBI
 - 5.6.1. Regulation of monetary mechanism of the economy
 - 5.6.1.1. Credit control
 - 5.6.1.2. Exchange control
 - 5.6.1.3. Monopoly of currency issue
 - 5.6.1.4. Bank rate policy formulation
- 5.7. Control of RBI over non-banking companies
 - 5.7.1. Financial companies
 - 5.7.2. Non-financial companies

6. Relationship of Banker and Customer

- 6.1. Legal character
- 6.2. Contract between banker and customer
- 6.3. Banker's lien
- 6.4. Protection of bankers
- 6.5. Customers
 - 6.5.1. Nature and type of accounts
 - 6.5.2. Special classes of customers - lunatics, minor, partnership, corporations, local authorities
- 6.6. Banking duty to customers
- 6.7. Consumer protection: banking as service

7. Negotiable Instruments

- 7.1. Meaning and kinds
- 7.2. Transfer and negotiations
- 7.3. Holder and holder in due course
- 7.4. Presentment and payment

7.5. Liabilities of parties

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8. Lending by Banks

8.1. Good lending principles

8.1.1. Lending to poor masses

8.2. Securities for advances

8.2.1. Kinds and their merits and demerits

8.3. Repayment of loans: rate of interest, protection against pen"

8.4. Default and recovery

8.4.1. Debt recovery tribunal

9. Recent Trends of Banking System in India

9.1. New technology

9.2. Information technology

9.3. Automation and legal aspects

9.4. Automatic teller machine and use of internet

9.5. Smart card

9.6. Use of expert system

9.7. Credit cards

10. Reforms in Indian Banking Law

10.1. Recommendations of committees: a review

Select bibliography

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M. Hapgood (ed.), *Pagers' Law of Banking* (1989) Butterworths, Lorlodon

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K. Subrahmanyam, *Banking Reforms ain India* (1997) Tata Maigraw Hill, New Delhi.

Subodh Markandeya and Chitra Markandeye, *Law Relating to Foreign Trade in India: Being a Commentary on the Foreign Trade, (Development and Regulation) Act 1992*, Universal Law Publishing Co. Pvt. Ltd. Delhi.

R.S. Narayana, *The Recovery of Debts due to Banks and Financial Institutions Act, 1993 (51 of 1993)*, Asia Law House, Hyderabad.

M.A. Mir, *The Law Relating to Bank Guarantee in India* (1992), Metropolitan Book, New Delhi.

Anthony Pierce, *Demand Guarantees in International Trade* (1993) Sweet & Maxwell,

Ross Cranston (ed.) *European Banking Law: The Banker-Customer Relationship* (1999) LLP,. London

Mitra, *The Law Relating to Bankers' Letters of Credit and Allied Laws*, (1998) University Book Agency, Allahabad.

R.K Talwar, -*Report of Working Group on Customer Service in Banks*

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C. U. SHAH UNIVERSITY Wadhwan City

FACULTY OF:- LAW (LL.M.)

SEMESTER: -III

CODE: - 5LW03INL1

NAME: – INSURANCE LAW

Teaching and 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	
5LW03INL1	INSURANCE LAW	6	0	0	6	6	30	1.5	70	3	---	---	---	100

Insurance Law

Objectives of the course

As early as in 1601 one finds an excellent exposition of the insurance idea expressed in these words of an Act of British Parliament "the loss lighteth rather easily, upon many than heavily upon few". The insured person transfers from his own shoulders to the insurers, who, in return for agreeing to assume a potential risk of loss receive a payment known as premium. The insurers rely on the probability that only some of the losses, they insure against will in fact occur within any given period. They calculate, therefore, that they will be left with a profit. The insurer, on the other hand, is better able to risk his capital in trade since he knows that certain events which he cannot control, such as fire, shipwreck, will not cause him to lose his investment. The insurance idea is an old-institution of transactional trade. The age old form of insurance was the marine insurance. There is nothing like disaster to set men's minds to work. Consequently, in due course of time fire and life insurance, made their appearance. Within the last hundred years the insurance principle is being extended wider. Today one finds insurance cover for accidents, motor vehicles, glass, live stock, crop, burglary and various other disasters. Insurance is a device not to avert risks, calamities and disasters; but to mitigate their rigours and financial losses. The function of insurance is to spread such loss arising from risks of life over a large number of persons. The operational framework of insurance idea is provided by the general principles of contract. The insurance policy, being a contract, is subject to all the judicial interpretative techniques. Besides, the insurance idea has a compensatory justice component. This brings it in the arena of the law of tort as well. It is even suggested that a fully grown and developed law of insurance may, if not totally displace, decrease the significance of the law of tort. This course is designed to acquaint the students with the conceptual and operational parameters of insurance law in the context of the development of the general principles of law and judicial interpretation to inform the students about the use of law for the establishment of "just" order in insurance and to develop the appreciative and evaluative faculties of the students. The following

syllabus prepared with the above perspective will be spread over a period of one semester.

Syllabus

1. Introduction

- 1.1. Nature of insurance contract, various kinds of insurance, proposal, policy, parties, consideration, need for utmost good faith, insurable interest, indemnity
- 1.2. Insurance policy, law of contract and law of torts-future of insurance : need, importance and place of insurance
- 1.3. Constitutional perspectives- the Entries 24,25,29,30,47 of List 1 Union List; 23, 24, of List III

2. General Principles of Law of Insurance

- 2.1. Definition, nature and history
- 2.2. The risk - commencement, attachment and duration

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- 2.3. Assignment and alteration
- 2.4. Settlement of claim and subrogation
- 2.5. Effect of war upon policies

3. Indian Insurance Law: General

- 3.1. History and development
- 3.2. The Insurance Act 1938 and the Insurance Regulatory Authority Act 2000
- 3.3. Mutual insurance companies and cooperative life insurance societies
- 3.4. Double Insurance and re-insurance

4. Life Insurance

- 4.1. Nature and scope
- 4.2. Event insured against life insurance contract
- 4.3. Circumstances affecting the risk
- 4.4. Amounts recoverable under life policy
- 4.5. Persons entitled to payment
- 4.6. Settlement of claim and payment of money

5. Marine Insurance

- 5.1. Nature and Scope
- 5.2. Classification of marine policies
 - 5.2.1. The Marine Insurance Act, 1963
 - 5.2.2. Marine insurance
 - 5.2.3. Insurable interest, insurable value
 - 5.2.4. Marine insurance policy - condition. - express warranties construction of terms of policy
 - 5.2.5. Voyage-deviation
 - 5.2.6. Perils of the sea
 - 5.2.7. Assignment of policy
 - 5.2.8. Partial laws of ship and of freight, salvage, general average, particular charges
 - 5.2.9. Return of premium

6. Insurance against Accidents

- 6.1. The Fatal Accidents Act, 1855
 - 6.1.1. Objects and reasons
 - 6.1.2. Assessment of compensation
 - 6.1.3. Contributory negligence,
 - 6.1.4. Apportionment of compensation and liability
- 6.2. The Personal Injuries (Compensation insurance) Act 1963
 - 6.2.1. Compensation payable under the Act
 - 6.2.2. Compensation insurance scheme under the Act-Compulsory insurance

7. Property Insurance

- 7.1. Fire insurance

7.2. The Emergency Risks (Factories) Insurance

7.3. The Emergency Risks (Goods) Insurance

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7.4. Policies covering risk of explosion

7.5. Policies covering accidental loss, damage to property

7.6. Policies covering risk of storm and tempest

7.7. Glass-plate policies

7.8. Burglary and theft policies

7.9. Live stock policies

7.10. Goods in transit insurance

7.11. Agricultural insurance

8. Insurance against Third Party Risks

8.1 The Motor Vehicles Act, 1988

8.1.1 Nature and scope

8.1.2 Effect of insolvency or death on claims of insolvency and death of parties, certificate of insurance

8.1.3 Claims tribunal: constitution, functions, application for compensation, procedure, powers and award

8.2 Liability Insurance

8.2.1 Nature and kinds of such insurance

8.2.2 Public liability insurance

8.2.3 Professional negligence insurance

9. Miscellaneous Insurance Schemes: New Dimensions

9.1 Group life insurance

9.2 Mediciam, sickness insurance

Select bibliography

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Peter Mac Donald Eggers and Patric Foss, Good Faith and Insurance Contracts (1998) LLP Asia, Hongkong

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E.R. Hardy Ivamy, General Principles of insurance Law (1979)

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FACULTY OF:- LAW (LL.M.)

SEMESTER: -III

CODE: - 5LW03RSW1

NAME: – Research Work

Teaching and 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	
5LW03RSW1	RESEARCH WORK		0	16	16	8	--	--	--	--	100	---	---	100

RESEARCH:

Practical Paper with the following components:

Doctrinal Research:

Each student would be assigned in advance a topic and asked to write a doctrinal research paper.

Non-Doctrinal Research:

The student would be asked to go out of the class room and library and make an empirical study of a problem which has social, economic moral or political dimension. Field data can be collected through any model of data collection.

Clinical Work:

The modalities can be evolved by the law school. One method is that the legal aid clinic of the law school can involve itself with other legal aid programmes in the area. Students are encouraged not only to work with the clinic but also to acquaint themselves with court proceedings, working of a business organization, tackling of labour disputes, drafting of business or other deeds and with public interest litigation.

Law Teaching

A topic would be assigned to the student in advance. He is required to handle a class for 25 to 30 minutes. Where LL.B. programme co-exists with LL.M. programme, the students may be asked to teach the LL.B. students.



C. U. SHAH UNIVERSITY Wadhwan City

FACULTY OF:- LAW (LL.M.)

SEMESTER:- III

CODE:- 5LW03SEM1

NAME:- Seminar

Teaching and 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	
5LW03SEM1	Seminar	0	0	0	0	4	---	----	---	---	50	--	---	50

SEMINAR:

Seminar project Work will be on some current topic of legal importance or inclusive of other disciplines. Practical training will be in the form of internship, organizing programmes etc.

Evaluation will be made by a Board of Examiners comprising of Dean, Supervisor and senior most faculty member and an External Examiner.