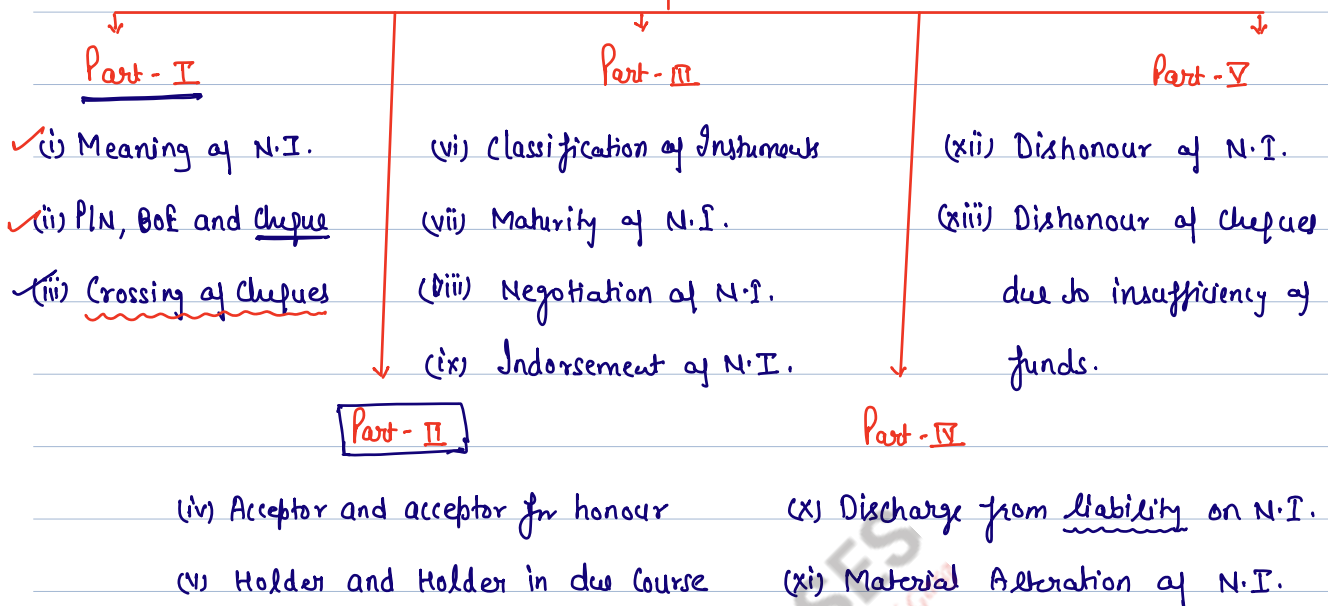


Chapter - 12 "Negotiable Instruments Act, 1881"



(i) Meaning and Characteristics of N.I. :

- An instrument which is freely transferable from one person to another
→ by mere (delivery) or by (indorsement and delivery)
- As per sec. 13 of N.I. Act, 1881, 3 kinds of N.I. exists - P/N, BoE and Cheque.
- N.I. are payable either to order or bearer.

Essential characteristics of N.I. : Written, Signed, freely transferable,
No defective title, unconditional promise or Order
Certainty as to sum, time and payee.
delivery.

- ✓ Presumptions as to N.I. : (i) Consideration (ii) date (iii) Time of acceptance
(sec. 118) (iv) Time of drawer (v) Order of indorsements
(vi) Stamp (vii) Holder.

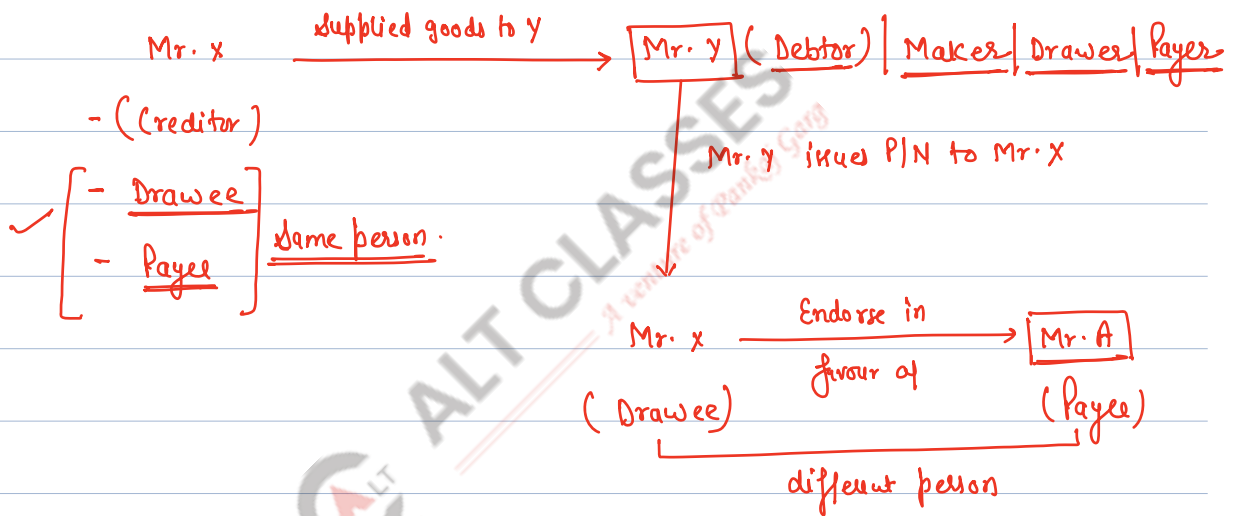
cii) P/N, BoE and Cheque:

(a) Promissory Note: (Sec.4)

An instrument in writing, containing an unconditional undertaking

↓
signed by maker to pay a certain sum of money

↓
Only to, or to the order of a certain person or to the bearer of this instrument.



Note: A promissory note payable to bearer can be made only by RBI or the C.G. (Sec. 31 of RBI Act, 1934) [i.e. Currency Note]

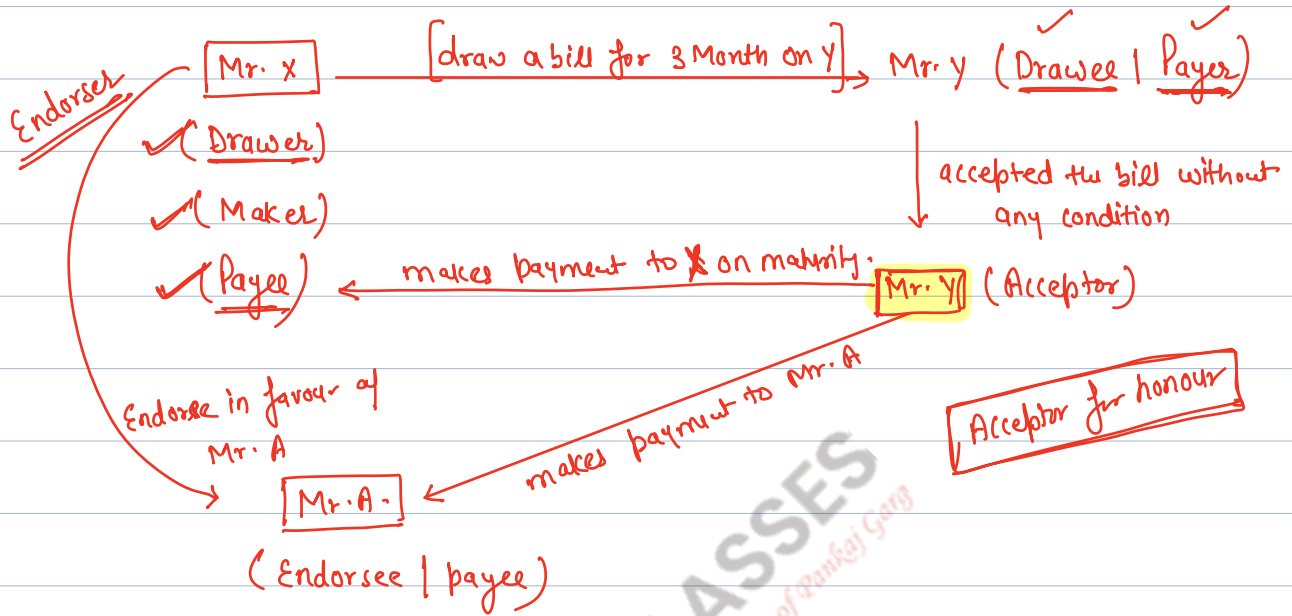
(b) Bills of Exchange (Sec.5):

An instrument in writing, containing an unconditional order

↓
signed by maker, directing a certain person to pay a certain sum of money

↓
Only to, or to the order of a certain person or to the bearer of the instrument.

Ex: Mr. X $\xrightarrow{\text{Sell goods to Mr. Y}}$ Mr. Y
 ✓ (Creditor) 3M credit (Debtor) ✓



(c) Cheque: (Sec. 6)

- A Bill of Exchange, drawn on a specified banker and not expressed to be payable otherwise than on demand (i.e. payable on demand)
- and includes - Electronic image of a truncated cheque and - cheque in electronic form.



(iii) Crossing of Cheques:

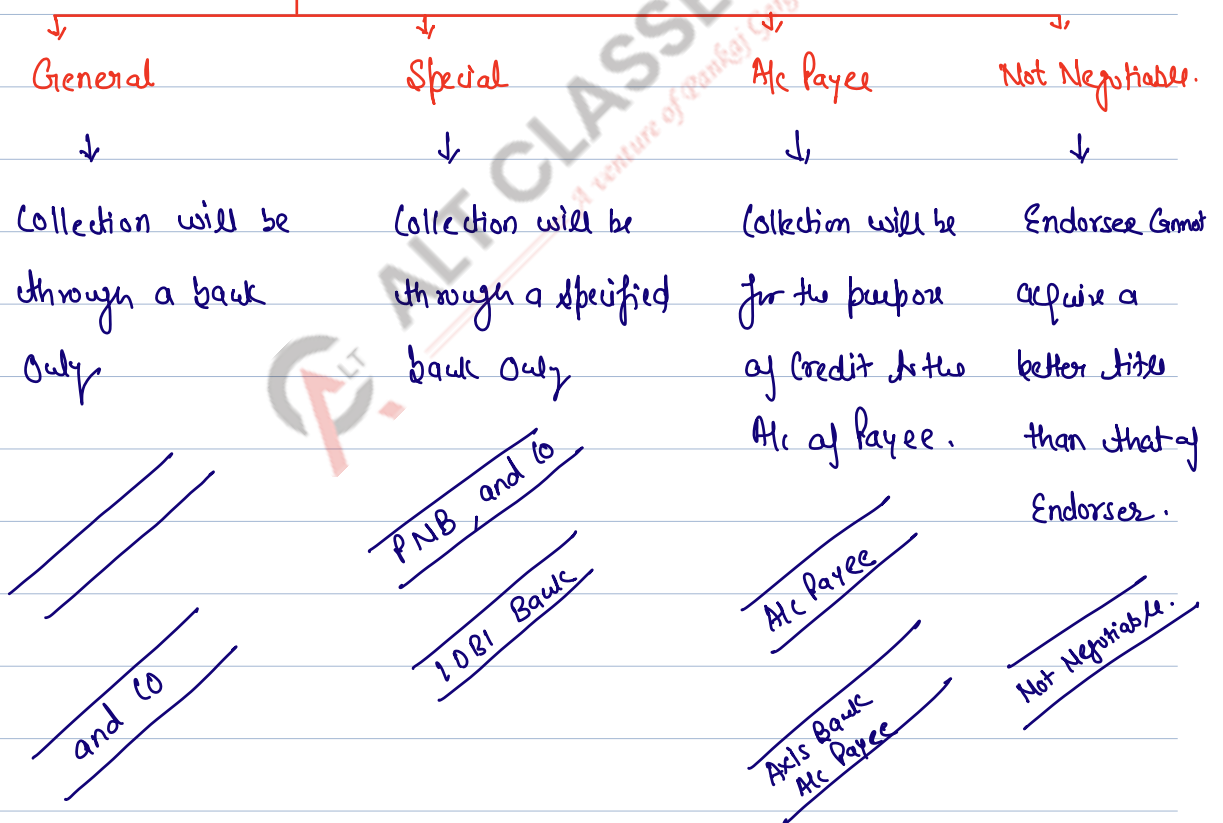
(a) Meaning: Instruction to the drawee (bank) that the payment is not to be made at the counter, but through a bank

(b) Objects of crossing: (i) Crossing assures that only the rightful holder of the cheque gets payment.

(ii) Crossing does not affect the transferability.

(iii) Crossing is a material alteration that does not affect the right of a holder.

(c) Types of Crossing:



(d) Who may Cross:

(i) Drawer	→	generally		specialty		A/c Payee		Not Negotiable
(ii) Holder	→	"		"		"		"
(iii) Banker	→	"		"		"		"

(F) Protection of liability of Paying Bank and Collecting Bank:

(I) Paying Banker: Banker who makes the payment of a crossed cheque.

(Drawee) General Crossing → payment to any bank.

Special " → " to bank specified on the cheque.

Sec. 85: In case of a cheque payable to order, which purports to be endorsed by or on behalf of the payer, banker is discharged, if payment is made in due course.

If a cheque is payable to bearer, banker is discharged by payment in due course, to the holder of the cheque.

Sec. 128: In case of payment of a crossed cheque in due course, the banker paying the cheque and drawer thereof, be entitled to same rights and they be entitled to, if the cheque had been paid to true owner.

Sec. 129: If payment of a crossed cheque is made out of due course, paying banker shall be liable to true owner of the cheque for any loss he may sustain.

II Collecting Banker: Bank which receives payment of a crossed cheque

Sec. 131: on behalf of its customers.

↳ Collecting bank shall not incur any liability to true owner of a cheque, if collecting bank have acted in good faith and without negligence.

