

(v) Holder and holder in due course:

(a) Holder (Sec. 8): Holder of a P/N, BoE or cheque means any person entitled in his name:

(a) to the possession of the N.I.

And

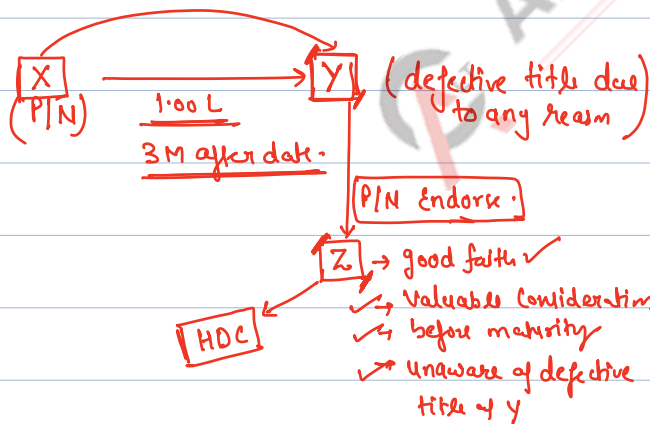
(b) to receive or recover the amount due thereon from the parties thereto.

Ex: X is having possession of a lost cheque. (Not a holder)

X cheque → favouring Y for ₹ 10000 drawn on SBI, for debt due to him from Y. but not delivered to Y. (Not a holder)

(b) Holder in [due course] (Sec. 9): means any person who for

consideration, became



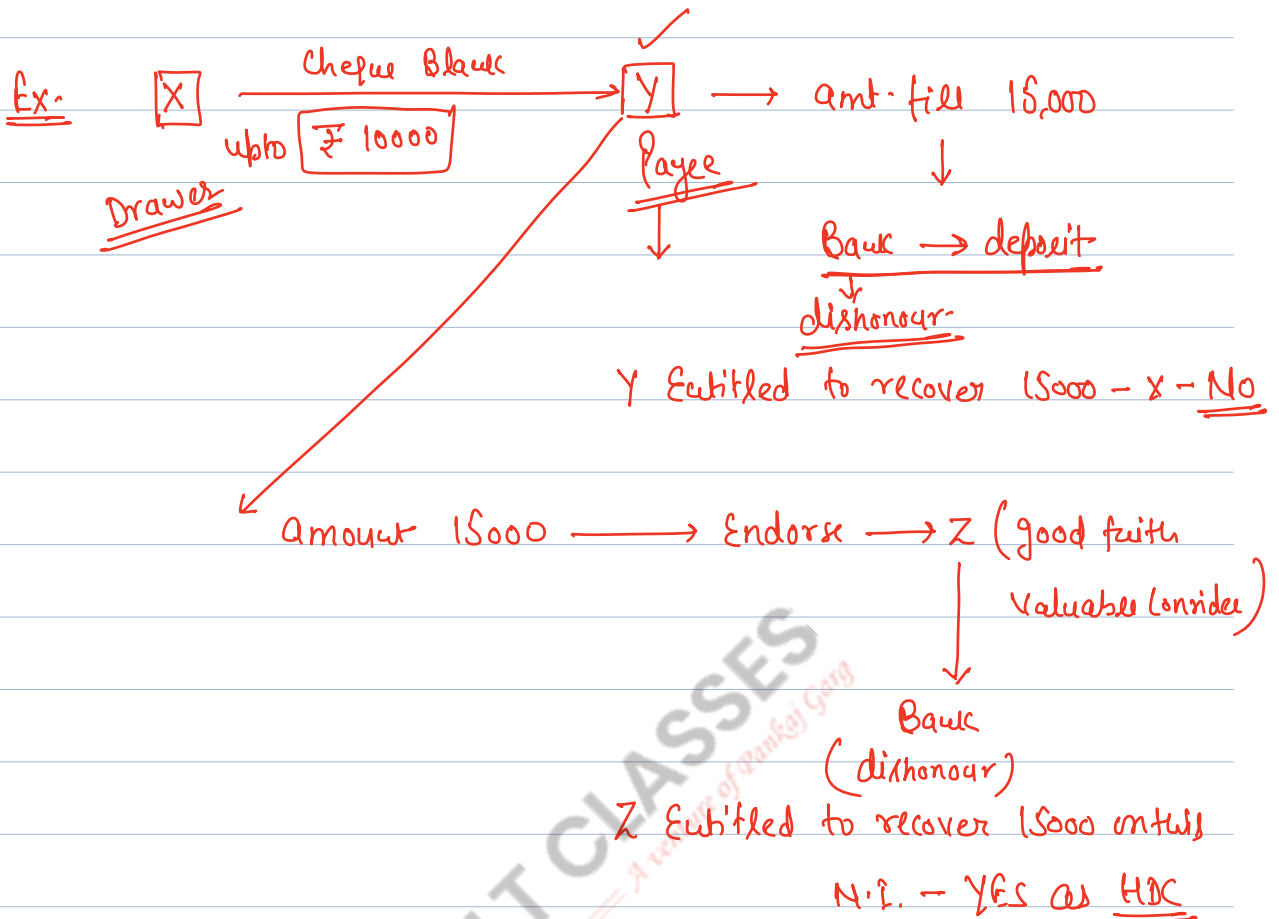
↓
the possessor of a P/N, BoE or Cheque (if payable to bearer)

OR

the payee or indorsee thereof (if payable to order)

before the amount mentioned in it became payable and

without having sufficient cause to believe that any defect existed in the title of the person from whom he derived his title.



Notes:

- (1) Holder and holder in due course of a forged instrument cannot enforce payment thereon.
- (2) In the event of payment of a forged instrument, payee cannot retain the money.
- (3) A HDC is protected when there is a defect in the title.
- (4) In case of a gifted instrument, transferee cannot be a HDC, though his title is good and bonafide. (as a holder)
- (5) A holder in due course is privileged to have a good title inspite of the fact that title of the transferor was defective.

(6) Payment in due course (Sec. 10):

means payment in accordance with apparent tenor of the instrument in good faith and without negligence



to any person having possession of the instrument

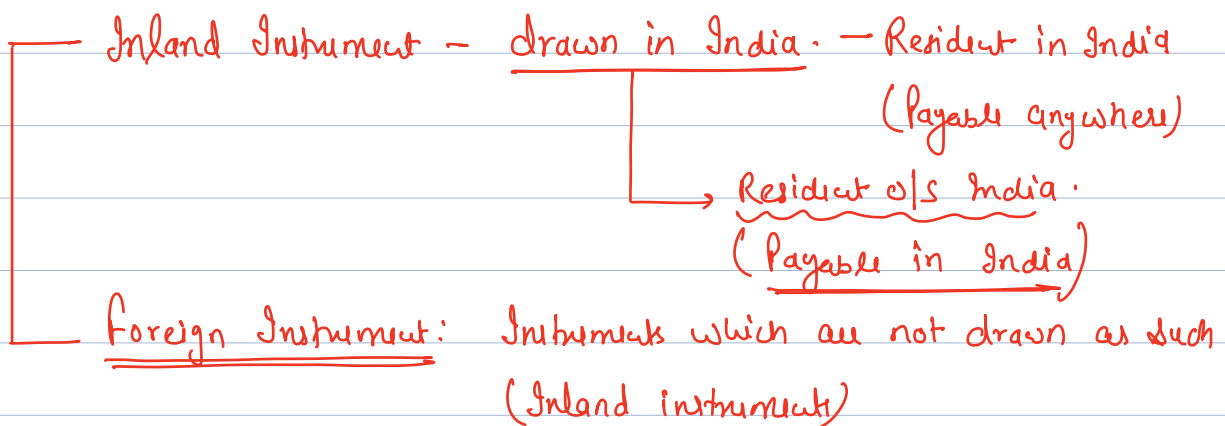
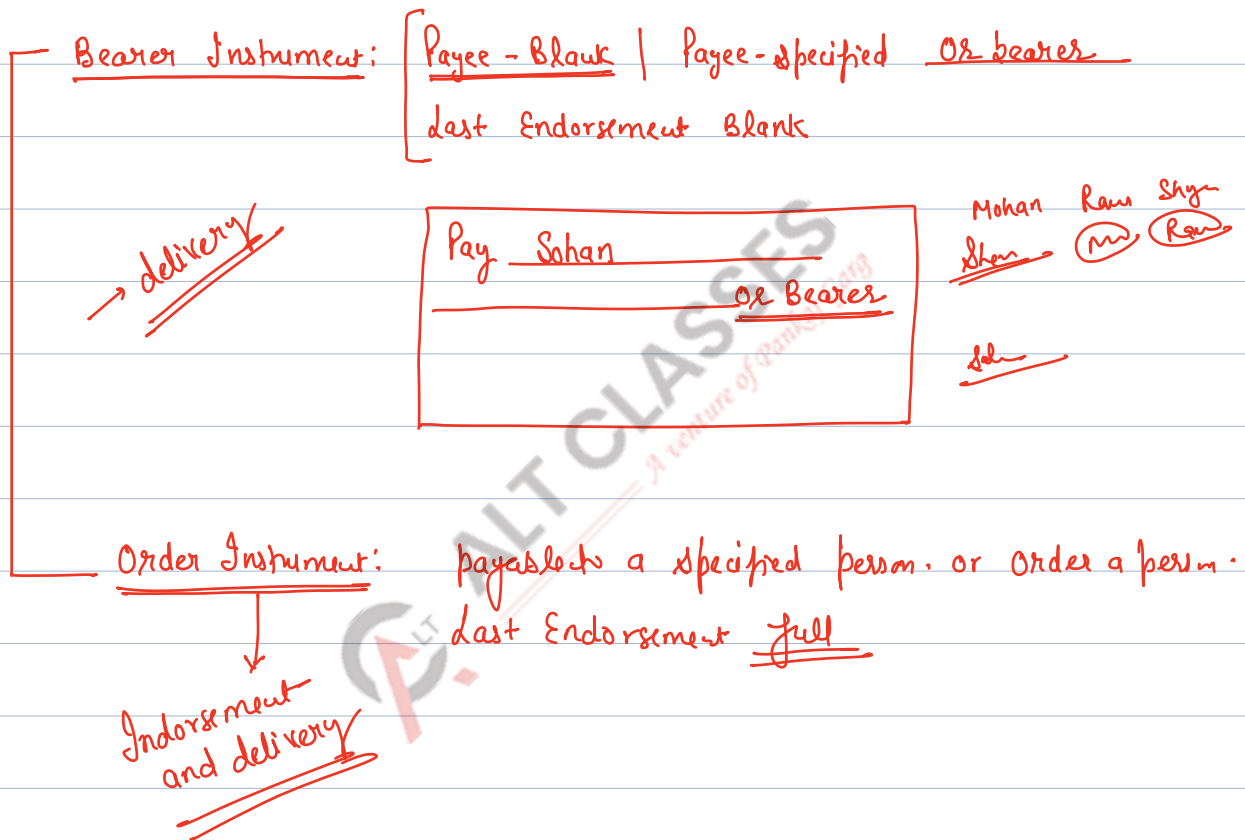


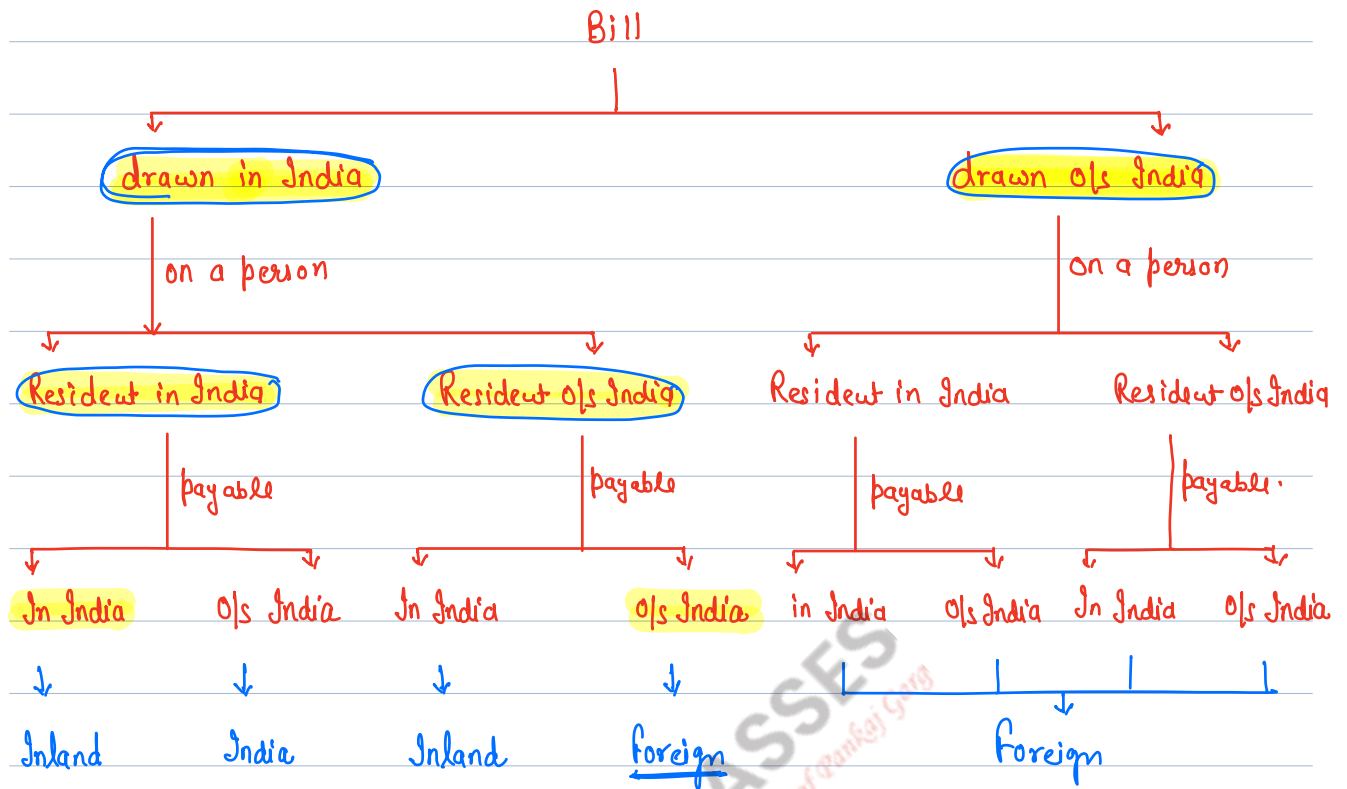
under circumstances which do not afford a reasonable ground for believing that the payee is not entitled to receive the payment.

H.w.: Written practice of 2 Questions (Exam)

(vi) Classification of negotiable Instruments:

- (a) Bearer and Order Instruments
- ✓ (b) Inland and Foreign "
- (c) Inchoate and Ambiguous "
- (d) Demand and Time "





Inchoate Instrument: Incomplete Instrument -

Sec 20:

Amount not filled up - drawer - authority - holder
to fill upto certain limit
(E.g. 5000)

✓ Ambiguous Instrument: Nature not defined - may P/N or BoE.

Holder - Optim - Treat

Demand Instrument: payable on demand - at sight

- on presentment

Time Instrument: payable after a fixed period.

after sight.

on a specified date

on happening of a certain event.