

Business law

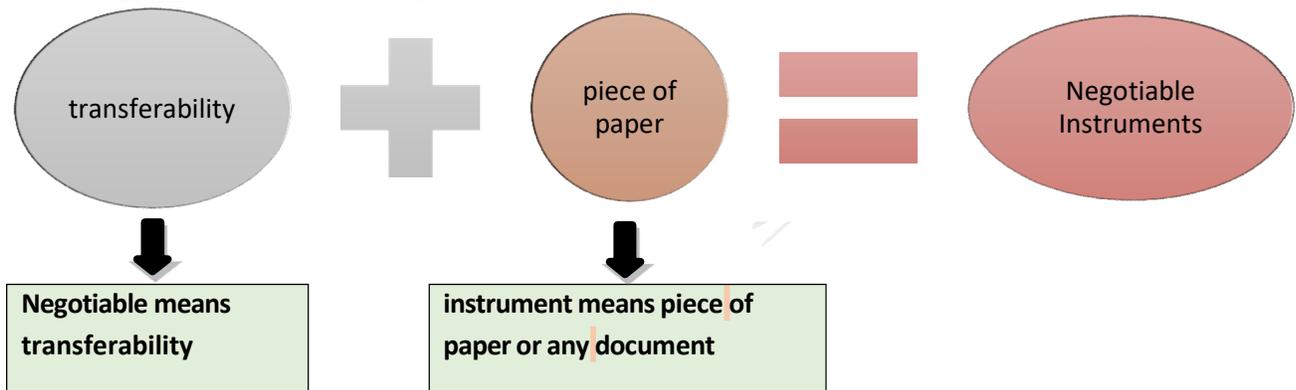
Lecture-21

NEGOTIABLE INSTRUMENT ACT, 1881

➤ Introduction –

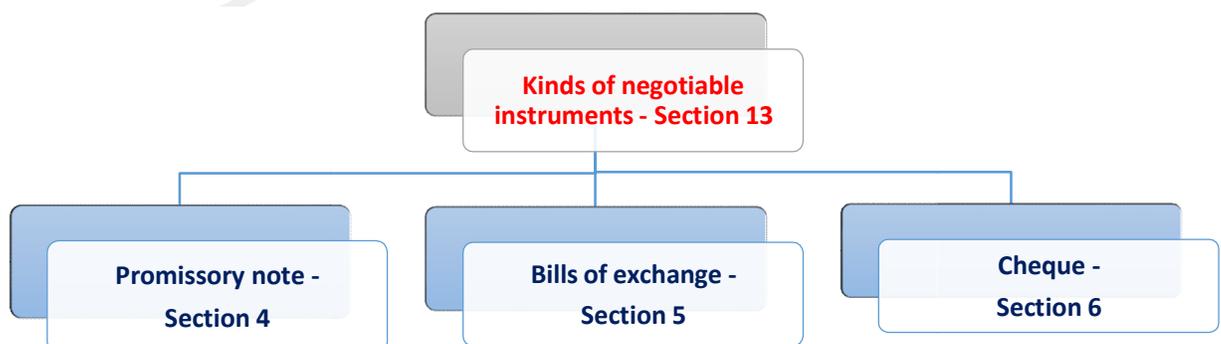
- This Act is enacted to define and amend laws relating to promissory note, bills of exchange and cheque.
- This Act is **applicable to whole of India** including Jammu and Kashmir.
- This act came into force on **1st March 1882**.

➤ Meaning of Negotiable instrument –



• A negotiable instrument is

- actually a **written document and is transferrable**.
- This document specifies **payment to a specific person or the bearer of the instrument** at a specific date.
- **Act does not define 'Negotiable instruments' however section 13 provides for 3 kind of negotiable instrument viz. promissory note, bills of exchange and cheque.**



Features of Negotiable Instruments –

- 1) It should be **in writing**
- 2) **Freely transferable.**

3) It should create a **right of a person to receive money and a corresponding liability of a person to pay money.**

4) **Holder's title free from defects –**

a) A holder in due course acquires a good title irrespective of any defect in a previous holder's title.

b) **A holder in due course is one who receives the instrument:**

- **for consideration;**
- **without notice as to the defect in the title of the transferor; i.e. in good faith and**
- **before maturity**

5) **Transferability –**

A negotiable instrument can be **transferred infinitum**, i.e., can be transferred any number of times, till its payment.

Presumptions – Section 118

A negotiable instrument is subject to certain **presumptions** (Section 118).

a) **Consideration –**

It shall be presumed that every negotiable instrument was made or drawn for consideration, and that every such instrument when it was accepted, indorsed, negotiated or transferred, was accepted, indorsed, negotiated or transferred for consideration.

b) **Date –**

It shall be presumed that every negotiable instrument bearing a date was made or drawn on such date.

c) **Time of acceptance –**

It shall be presumed that every accepted bill of exchange was accepted within a reasonable time after its date and before its maturity.

d) **Transfer –**

It shall be presumed that every transfer of the negotiable instrument was made before its maturity.

e) **Order of Indorsement –**

It shall be presumed that the indorsements were made in the order in which they appear thereon.

f) **Stamp –**

It shall be presumed that an instrument is duly signed and stamped.

The above presumptions are rebuttable by evidence to the contrary.