

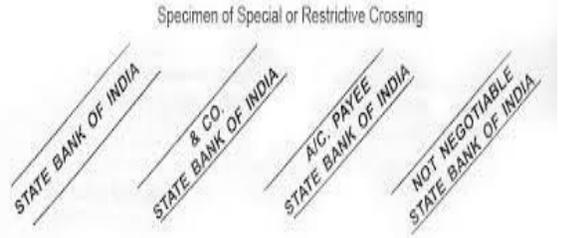
Business law

Lecture-29

1) Special Crossing – Section 124

▪ Meaning –

- ✚ It is also known as Restricted Crossing
- ✚ Two transverse lines are not necessary to be drawn
- ✚ Name of the banker is added across the face of the cheque
- ✚ The Name of the Banker may or may not carry the abbreviated word, '& Co.', 'Account payee' or 'Not Negotiable'
- ✚ Payment can be made **only through the bank mentioned** in the Crossing.
- ✚ Specially Crossed Cheques can never be converted to General Crossing.



▪ Effect of Special Crossing –

- ✚ It prevents the fraudulent transactions
- ✚ It is direction to the paying banker to pay the amount to the account holder of that bank, but not to others.
- ✚ If a cheque specially crossed on a particular bank, and if such cheque is presented in another bank, the paying bank should refuse the payment.
- ✚ Special crossing gives more protection than general crossing.

2) Account Payee Crossing –

▪ Meaning –

- ✚ It has developed in the trade and in common to use these terms on the left side of the cheque between the two transverse lines.
- ✚ However, there is no law mentioned about this type of crossing
- ✚ The terms mean that the amount should not be paid at counter but should be credited into the account of the payee only.
- ✚ However, the meaning of other crossings is also the same.
- ✚ This type of crossing only gives additional protection to the cheque.

▪ Effect of Account Payee Crossing –

- ✚ It is only in the form of direction to the receiving bank that the drawer desires to pay the particular cheque into bank which keeps the account of the payee.
- ✚ The collecting banker should credit the cheque only to the mentioned account of the payee.
- ✚ If the banker credits the cheque to another's account and not to the account of the payee, the banker shall be held responsible for his negligence, and shall be held liable to pay the compensation.

3) Not Negotiable Crossing – Section 130

▪ Meaning –

- ✚ A person taking a cheque crossed generally or specially, bearing in either case the words not negotiable shall not have, and shall not be capable of giving, a better title to the cheque than that which the person from whom he took it had.
- ✚ It gives more protection than General Crossing and Special Crossing
- ✚ It is a warning upon the paying and collecting bankers. Both of them should be very careful in the transaction of this type of cheques.

Note –

The words "Not Negotiable" do not mean "not transferable".

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▪ Objective –

- ✚ The true owner is protected by this type of crossing more perfectly.
- ✚ If it is stolen, the finder cannot cash it so easily. The good title cannot be passed to him.
- ✚ He will be compelled to return it to the true owner.
- ✚ The owner's right is preserved safely against any subsequent holder.

▪ Effects –

- ✚ It gives more protection and safe to the holder of the cheque.
- ✚ A third person cannot cash it so easily.
- ✚ It can be transferred like any other cheque.
- ✚ If the banker is negligent and transfers the amount of that cheque to another account, he will be held responsible and he will be liable to make the compensation to the sufferer.

Crossing after issue.

- ✓ Where a cheque is uncrossed, the holder may cross it generally or specially.
- ✓ Where a cheque is crossed generally, the holder may cross it specially.
- ✓ Where a cheque is crossed generally, or specially, the holder may add the words "not negotiable".
- ✓ Where a cheque is crossed specially, the banker to whom it is crossed may again cross it specially to another banker, his agent, for collection

When Banker may Refuse Payment –

In the following cases the banker may refuse to pay a customer's cheque:

- When the cheque is post-dated.
- When the banker has no sufficient funds of the drawer with him and there is no communication between the bank and the customer to honour the cheque.
- When the cheque is of doubtful legality.
- When the cheque is not duly presented, e.g., it is presented after banking hours
- When the cheque on the face of it is irregular, ambiguous or otherwise materially altered.
- When the cheque is presented at a branch where the customer has no account.
- When some persons have joint account and the cheque is not signed jointly by all or by the survivors of them.
- When the cheque has been allowed to become stale, i.e., it has not been presented within 3 months of the date mentioned on it.

When Banker must Refuse Payment –

In the following cases the banker must refuse to honour cheques issued by the customer –

- When a customer countermands payment i.e., where or when a customer, after issuing a cheque issues instructions not to honour it, the banker must not pay it.
- When the banker receives notice of customer's death.
- When customer has been adjudged an insolvent.
- When the banker receives notice of customer's insanity.

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- e) When an order of the Court, prohibits payment.
- f) When the customer has given notice of assignment of the credit balance of his account.
- g) When the holder's title is defective and the banker comes to know of it.
- h) When the customer has given notice for closing his account.

Protection of liability of the paying banker –

- **Where a cheque payable to order** purports to be endorsed by or on behalf of the payee, the drawee is discharged by payment in due course.
- **Where a cheque is originally expressed to be payable to bearer**, the drawee is discharged by payment in due course to the bearer thereof, notwithstanding any endorsement whether in full or in blank appearing, thereon, and notwithstanding that any such endorsement purports to restrict or exclude further negotiation.
- **Payment of cheque crossed generally** – Where a cheque is crossed generally, the banker on whom it is drawn shall not pay it otherwise than to a banker.
- **Payment of cheque crossed specially** - Where a cheque is crossed generally, the banker on whom it is drawn shall not pay it otherwise than to the banker to whom it is crossed, or his agent for collection.
- **Payment in due course of crossed cheque. –**
Where the banker on whom a crossed cheque is drawn has paid the same in due course, the banker paying the cheque, and (in case such cheque has come to the hands of the payee) the drawer thereof, shall respectively be entitled to the same rights, and be placed in the same position in all respects, as they would respectively be entitled to and placed in if the amount of the cheque had been paid to and received by the true owner thereof.
- **Payment of crossed cheque out of due course. –**
Any banker paying a cheque crossed generally otherwise than to a banker, or a cheque crossed specially otherwise than to the banker to whom the same is crossed, or his agent for collection, being a banker, shall be liable to the true owner of the cheque for any loss he may sustain owing to the cheque having been so paid.
- **Non-liability of banker receiving payment of cheque.– Section 131**
A banker who has in good faith and without negligence received payment for a customer of a cheque crossed generally or specially to himself shall not, in case the title to the cheque proves defective, incur any liability to the true owner of the cheque by reason only of having received such payment
In order to avail such protection, the banker needs to prove the following –
 - The banker has received the payment of crossed cheque.
 - That the collection was made by the bank on behalf of the customer.
 - That the collecting bank must have acted in in good faith.