



FACULTY OF JURIDICAL SCIENCES

COURSE: B.B.A.LL.B.

Semester: VIII

**SUBJECT: Alternative Dispute
Resolution**

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Lecture-4



LECTURE 4: Salient Features of the Act and Definition of Arbitration

Salient Features of the Arbitration and Conciliation Act,1996:-

The following are some salient features of the Act:-

- The Act emphasises the importance of the Arbitration agreement without which arbitration proceedings cannot be instituted. The arbitration agreement is a clause in a contract or an agreement between parties stating that any dispute will be referred to arbitration proceedings.
- The Act mentions that the arbitration agreement or arbitration clause must contain the following information – subject matter of dispute, timing of dispute (past/present/future), number of arbitrators, qualifications of arbitrators, jurisdiction and composition of tribunal.
- The Act empowers parties to choose the seat of the arbitral tribunal or place of arbitration, and the venue of the arbitration proceedings to be conducted by the tribunal.
- The parties can choose the rules relating to conduct of the arbitral tribunal and if so, must be specified in the arbitration agreement or arbitration clause
- True to the spirit of arbitration, the Act allows parties to choose the substantive law to be applied by the arbitration tribunal and this must also be mentioned in the arbitration agreement.
- The Act also specifies that the arbitration agreement must contain provisions regarding the mandate of the arbitration and the termination of this mandate.
- The Act also specifies the power and functions of the Tribunals, abolishes the umpire system (breaking of an impasse in an arbitration proceeding), allows new forms of conciliation, provides for finality of awards by the arbitrators, states rules for international applicability and enhances powers of the arbitrators.

Definition of Arbitration:-

According to Section 2(1)(a),”arbitration” means any arbitration whether or not administered by permanent arbitral institution.

In other words, Arbitration is a private process where disputing parties agree that one or several individuals can make a decision about the dispute after receiving evidence and hearing arguments.

