



FACULTY OF JURIDICAL SCIENCES

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Special classes of Customer:

1. INTRODUCTION • BANK DON'T HAVE ANY SPECIAL CUSTOMER AS SUCH, BUT HAVE SOME SPECIAL PROCEDURE TO TREAT THEIR SOME KIND OF CUSTOMER. • Every person is legally capable of opening an account with a banker if the banker is satisfied as to the customer's bona fides and If he is willing to enter into the necessary business relations with the banker. • The banker is entitled to reject such an application for opening an account if such person is an undesirable person. • Those who are distinguished from other types of ordinary customers by some special features. Hence, they are called as special types of customers. • They are to be dealt with carefully while operating and opening the accounts.
2. . SPECIAL TYPE OF CUSTOMERS ARE : • Minors • Married women • Illiterate person • Lunatics • Company • Partnership • Trust
3. . MINOR Who is a Minor ? • According to sec. 3 of the Indian majority act, 1875, a minor is a person who has not attained the age of 18 and in case a guardian is appointed by court, it is 21. Under Indian law every person domiciled in India shall attain the majority on his completing the age of 18 years and not before. Under the England law, a person is minor until he completes his 21 years.
4. . General Principles of Law • A minor is under a legal incapacity to enter into a contract. • For the protection of his interest and the management of his property, he should have a guardian of his person and property. • Sec. 27 of The Guardian and wards act, 1890; The general duty of guardian consists in the doing of acts which are necessary or reasonable and proper for the benefit of the minor or for the realization, protection or benefit of the minor's estate. • It is only the guardian recognized by law who can deal with the minor's property. In all the systems of personal law, the father is the natural guardian of a minor during his life time. • Sec. 6 of The Hindu Minority & Guardianship Act 1956. Provides that in the case of minor the natural guardian is the father and after him the mother. • Deposit account of minor can be opened by the bank and operation can be allowed by his natural guardian. Sometimes the court appoints, as the guardian of minor, some person who is not a natural guardian. In such cases the guardian appointed by the court should be allowed to operate
5. OPENING THE ACCOUNT • The banker may open an account but he has to be careful that the account will never be allowed to be overdrawn. • The banker may open a saving bank account not a current account as it incures no responsibility or liability to the minor. • The saving bank account may be opened in any of the following ways: 1. In the name of minor himself. 2. In the joint name of minor and his/her guardian. 3. In the name of guardian in the following ways "ABC, natural guardian of XYZ"
6. When an account is the in name of minor alone is opened by his guardian and only guardian operates the same, the account opening form as also the cheaques etc. may be signed by guardian.♣ ACCOUNT IN MINOR'S NAME AND OPERATIOS BY GUARDIAN :- ⦿ MINOR'S JIONT ACCOUNT WITH GUARDIAN :- • The lawful guardian has authority to deal with minor's money, entered into certain contract and give valid discharge or receipt for money, on

behalf of the minor. The banker can make the guardian liable for all the transactions of the minor. • The lawful guardian may be natural guardian or the guardian appointed by the court. While opening minor's account jointly with the guardian it is usually for banks to obtain a form called minorship declaration form which contains the DOB of minor, signed by guardian himself. ∞ At the time of opening of the account of minor the bank should record genuine date of birth of the minor. ♣ Hence the minor can validly draw a cheque. ♣ Sec. 26 of Negotiable Instrument Act 1881 provides that, a minor may draw, endorse, deliver and negotiate a negotiable instrument. ♣ An account can be opened by a minor himself. There is nothing unlawful in such case. ♣ ACCOUNT IN THE NAME OF MINOR :- ∞

7. MINOR AS AGENT :- • A minor may not be legally capable of entering into a contract in his own name, but there can be no objection to he is acting as an agent for another person competent to contract. The principle will be held responsible to the third party for the acts of his minor agent. The principal cannot hold the minor agent personally responsible for any wrongful act. MINOR AS PARTNER :- • A minor can be admitted to the benefit of partnership with the consent of all the partners but he will not be liable for the losses or debts of the firm within 6 months after majority, he should repudiate the liability as partner. Otherwise he will be liable as partner.
8. RESERVE BANK'S DIRECTIVES :- • RBI has advised the banks to allow opening of minors account with mother as guardian. Thus, banks are now permitted to open account of minor in the guardianship of the mother, even if the father of minor is alive.
9. LEGAL POSITION OF MARRIED WOMEN • A current account may also be opened in the name of married women. Opening an account constitutes a binding contract with the married women. She has power to draw cheque and give a sufficient discharge and bonafide dealing with the account cannot subsequently be questioned to the prejudice of the banker. • The Hindu Married women are governed by The Hindu Succession Act 1956 • In case of married women belong to other than Hindu religion, the status is governed by Indian Succession Act 1925 and The Married Women's Property Act 1874. ∞ MARRIED WOMEN
10. If the debt is taken for the supply of necessaries of life to the wife, in case the husband defaults in supplying the same to her. The husband shall not be liable for the debts taken by his wife in any other circumstances. The creditor may in that case recover his debt out of the personal assets of the married women. } If the loan is taken with his consent or authority; and } LIABILITY OF HUSBAND - In case of debt taken by a married women, her husband shall not be liable except in the following circumstances: ∞
11. PARADANASHIN WOMEN A paradanashin women observes complete seclusion in accordance with the custom of her own community. She does not deal with the people, other than the members of her own family. as she remains completely secluded, a presumption in law exists that: • Any contract entered into her might have been subject to undue influence; and • The same might not have been made with her free will and with full understanding of what the contract

actually means The banker should, therefore, take due precaution in opening of an account in name of paradanashin women. As the identity of such women cannot be ascertain the banker generally refuses to open aa account in her name.⌘

12. LENDING IN JOINT ACCOUNT - • According to Sheldon and fiddler's practice of law and banking, a banker should have lend money to a parties to a joint account, either by means of an overdraft or in any other way, without obtaining from each of the parties and undertaking to be severally as well as jointly liable to pay the loan. Te banker has no right to set off the credit balance in a join account except in respect of another joint account of same parties.⌘
13. PRECAUTION TO BE TAKEN BY BANKER IN CASE OF MARRIED WOMEN 1. Banker can open an account in the name of married women. But he should observe that there is a credit balance in her account. 2. It applies for overdraft or loan, he should seek suitable securities, preferable her own, which can be attached in future by the courts, if necessary. 3. Banks usually require a married women be independently advised by her own solicitor when depositing security for the account of another persons. A married women of full age may enter into a contract of guarantee and this contract is enforceable only against her separate estate. 4. In case of an illiterate women, there thumb impression should be obtain on the account opening form and identification card. In view of the above difficulties, a banker is well advised to entertain the application by a married women to open an account but not for a overdraft facilities.⌘
14. Examination of document: For opening an account of company bank obtain following documents. i. Certificate of incorporation and certificate of commencement of business. ii. Memorandum of association. iii. Articles of association.⌘Company In dealing with companies, a banker has to be very careful because the law relating to such companies is permissive, a company is separate legal entity to that of its directors and shareholders and it will need its own bank account. Companies usually go for current account as they are need to withdraw cash at any time.
15. Copy of the board's resolutions The banker should obtain a certified copy of the resolution passed by the board of directors of the company containing the following in regard to the opening of bank account : i. Appointing the bank concerning as the banker of the company. ii. Naming the person and persons who are authorized to operate the bank account on behalf of the company. iii. Stating the name of the persons who are authorized to execute the documents on behalf of the company, or in whose presence the seal of the company will be affixed to the accounts. iv. Authorizing the advances and stating all the details of such advances.⌘
16. Money borrowed without authorization used by company The company cannot repudiate its liability to repay if the money has been used for the benefit of the company.⌘ The borrowing power of the company Borrowing powers, with or without restrictions, are generally specified in the MOA and AOA of a company. Except in the case of a trading company it is necessary that the power to borrow is specially given by its MOA and AOA. This power is however subject to sec. 293(1)(d) of the companies act, 1956. ⌘ Issue of cheques by the company Before

a company can be bound by a cheque or a negotiable instrument, one of the essential conditions is that the instrument on its face must show that it has been drawn, made, accepted or endorsed by company. This may be done either by showing the name of the company itself on the instrument, or by the statement of the person making the instrument that he is doing so on behalf of the company. θ Specimen signature of persons authorized to operate Signature of the persons who are authorized to operate the account of the company θ

17. Winding of a Company • It is deemed to have commenced from the date on which petition for such winding up is presented, or • In the case of voluntary winding up from the date on which an extra- ordinary resolution to this effect is passed • With commencement of winding up, the director to cease to have power to operate on the account, therefore banks do not pay cheques signed by the directors after winding up. • Liquidator appointed and should be allowed to operated upon the accounts of the company only for the purpose of winding up of its affairs.θ Insolvency of director • In case one of the directors become insolvent or an undischarged bankrupt, he cannot act as a director of a limited company. The bank does not permit operations in the account by the insolvent directors. θ
18. Precaution to be taken by the banker: i. The banker should ascertain that the company borrows only for the purposes mentioned in its MOA and within the limits, if any, specified therein. ii. A certified copy of the resolution of the board of directors passed and should be obtained by the banker for his own record. iii. The BOD should also pass a resolution certifying that the company's borrowings, including the proposed borrowings, are with in the limit specified by the companies act or the limit sanctioned by the shareholders at their general meeting.

MCQS:

6. Contracts by lunatics in India are.....

- a) Always void
- b) Always valid
- c) Always voidable
- d) At times voidable

7. The best procedure for opening an account in the name of a minor X and the guardian Y would be under the style.....

- a) 'X' Account
- b) 'b'-Account- Minor

c) 'y' in trust for X

d) 'y' account

8. The balance of a joint A/c in the name of X,Y,Z Should be paid on the death of X.....

a) To the legal representative of x

b) To Y and Z

c) To Y or Z

d) TO the legal representative of X,Y and Z

9. The most undesirable customer is.....

a) A minor

b) A married Woman

c) An unregistered firm

d) An undischarged bankrupt

10. A customer's letter of instructions without any stamp, in Connection with the operations of his account is known as.....

a) Power of attorney

b) Authority letter

c) Probate

d) Mandate