

# **INTERPRETATION OF STATUTES (PAPER IV)**

## **Comprehensive Study Material for LL.B. (BAMU, Maharashtra)**

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## UNIT I: INTRODUCTION

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### CHAPTER 1: MEANING AND SCOPE OF INTERPRETATION OF STATUTES

#### 1.1 WHAT IS A STATUTE?

Before we understand interpretation, we need to know what a "statute" is.

Simple Definition:

A statute is a law passed by the legislature (Parliament or State Assembly). It is also called an "Act" or "enactment."

Examples:

- The Indian Penal Code, 1860
- The Companies Act, 2013
- The Indian Contract Act, 1872

## 1.2 WHAT IS INTERPRETATION?

Simple Definition:

Interpretation is the process of understanding and explaining the meaning of a statute.

Why do we need interpretation?

- Laws are written in words
- Words can have multiple meanings
- Situations change, but laws remain
- Judges need to apply old laws to new situations

Real-Life Example:

Imagine your college has a rule: "No vehicles in the campus."

- Does this include bicycles?
- Does this include ambulance in emergency?
- Does this include a toy car?

To answer these questions, you need to interpret the rule.

## 1.3 DEFINITIONS BY SCHOLARS

**Scholar**

**Definition**

Salmond

"Interpretation is the process by which the court seeks to ascertain the meaning of the legislature through the medium of authoritative forms in which it is expressed."

Gray

"The process by which a judge determines the meaning of a statute."

## **1.4 NEED FOR INTERPRETATION**

Why can't we just read the law and understand it?

### **1.4.1 Ambiguity in Language**

Words can have more than one meaning.

Example:

The word "bank" can mean:

- A financial institution
- The side of a river
- To tilt an aircraft

### **1.4.2 Broad Language**

Laws are written in general terms to cover many situations.

Example:

The Constitution says "reasonable restrictions" can be placed on fundamental rights. What is "reasonable" depends on the situation.

### **1.4.3 Changing Times**

Laws made 50 years ago need to apply to today's technology.

Example:

A law about "communication" made in 1900 didn't imagine the internet. Today, judges must interpret whether emails are covered.

### **1.4.4 Legislative Drafting Errors**

Sometimes laws have mistakes, gaps, or inconsistencies.

### **1.4.5 Casus Omissus**

Latin term meaning "a case omitted." Sometimes the legislature forgets to provide for a situation.

## **1.5 OBJECT OF INTERPRETATION**

The main object of interpretation is to find out the intention of the legislature.

What did the lawmakers want to achieve?

## 1.6 DIFFERENCE: INTERPRETATION vs CONSTRUCTION

Some scholars make a distinction:

### Interpretation

Finding the meaning of words

Literal meaning

What the words say

### Construction

Applying the meaning to situations

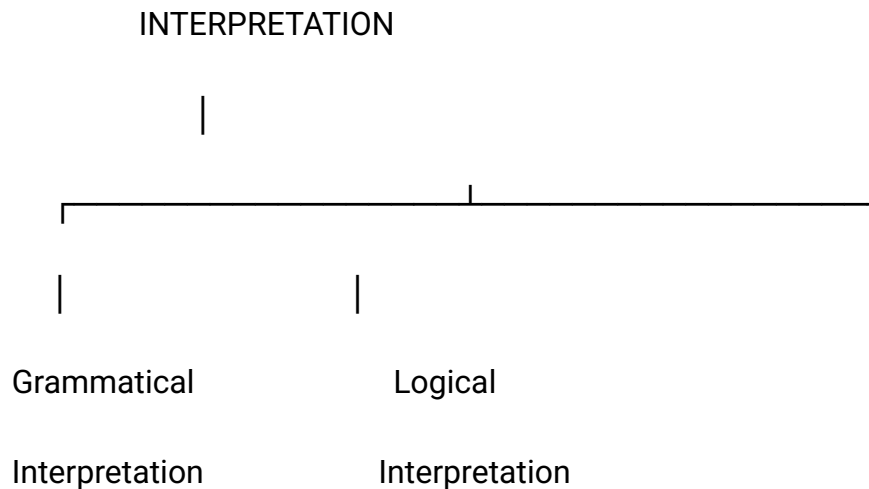
Logical meaning

What the words imply

However, in practice, these terms are used interchangeably.

## 1.7 TYPES OF INTERPRETATION

text



| |  
(Based on words) (Based on reason)

### **1.7.1 Grammatical Interpretation**

Meaning based on:

- Words used
- Grammar
- Dictionary meanings

### **1.7.2 Logical Interpretation**

Meaning based on:

- Purpose of law
- Context
- Reason and logic

## **1.8 RULES OF INTERPRETATION**

There are several rules that courts use:

Primary Rules:

1. Literal Rule
2. Golden Rule
3. Mischief Rule

Secondary Rules:

1. Ejusdem Generis
2. Noscitur a Sociis
3. Harmonious Construction
4. Beneficial Construction
5. Restrictive Construction

## **1.9 INTERNAL AIDS TO INTERPRETATION**

Things within the statute itself that help interpret it:

1. Title - Long title and short title
2. Preamble - Introduction stating purpose
3. Headings - Before sections
4. Marginal Notes - Notes in the margin
5. Definitions - In the interpretation clause
6. Provisos - Exceptions to sections
7. Explanations - Clarify meaning
8. Schedules - Lists at the end
9. Punctuation - Commas, semicolons

### **1.10 EXTERNAL AIDS TO INTERPRETATION**

Things outside the statute that help interpret it:

1. Dictionaries - Word meanings
2. Previous Laws - History of the law
3. Judicial Decisions - Precedents
4. Foreign Decisions - Other countries
5. Textbooks - Writings of experts
6. Constituent Assembly Debates - Discussions while making law
7. Law Commission Reports - Recommendations
8. Select Committee Reports

### **1.11 WHO INTERPRETS STATUTES?**

<b>Authority</b>	<b>Role</b>
Legislature	Makes laws
Executive	Implements laws

Judiciary

Interprets laws

Courts are the final authority on interpretation.

### **1.12 IMPORTANCE OF INTERPRETATION**

1. Rule of Law - Everyone knows what law means
2. Consistency - Same law applied similarly
3. Justice - Achieve fair results
4. Certainty - People know their rights
5. Flexibility - Old laws adapt to new times

### **1.13 SUMMARY**

- Interpretation means finding meaning of statutes
  - Needed because language is ambiguous
  - Object is to find legislative intent
  - Various rules and aids help in interpretation
  - Courts are final interpreters
- 

## **CHAPTER 2: THE LITERAL RULE OF INTERPRETATION**

### **2.1 WHAT IS THE LITERAL RULE?**

Simple Definition:

The Literal Rule means giving words their ordinary, natural, dictionary meaning. If the words are clear, they must be applied exactly as written.

Also called:

- Plain Meaning Rule
- Grammatical Interpretation
- Primary Rule

## 2.2 THE PRINCIPLE

"If the words of a statute are clear and unambiguous, they must be given their ordinary meaning."

The court's job is only to apply the law, not to change it.

## 2.3 REASONS FOR THE LITERAL RULE

Reason	Explanation
Separation of Powers	Legislature makes law, courts apply it
Democracy	Elected representatives make laws
Certainty	People know what law means
Predictability	Same words have same meaning
Respect for Legislature	Courts should not interfere

## 2.4 HOW THE LITERAL RULE WORKS

text

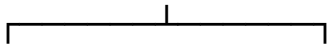
Step 1: Read the words of the statute

|



Step 2: Are the words clear and unambiguous?

|



|

|

YES

NO

|

|



Apply plain meaning    Use other rules

## 2.5 LEADING CASES ON LITERAL RULE

### Case 1: R v. Judge of the City of London Court (1892)

Facts:

A statute said appeals could be made "within 3 months." The question was whether the day of the decision was included or excluded.

Court's Decision:

The literal meaning of "within 3 months" was applied. The court counted 3 months from the day after the decision.

### Case 2: Fisher v. Bell (1961)

Facts:

A shopkeeper displayed a flick knife in his window with a price tag. A statute made it an offense to "offer for sale" such knives.

Issue:

Was displaying in a window an "offer for sale"?

Court's Decision:

Using literal rule, the court looked at contract law principles. In contract law, display is an "invitation to treat," not an "offer." Therefore, no offense was committed.

Result:

The shopkeeper was acquitted, even though Parliament clearly wanted to ban such knives.

### **Case 3: Whiteley v. Chappell (1868)**

Facts:

A statute made it an offense to impersonate "any person entitled to vote." The accused impersonated a dead person.

Issue:

Is a dead person "entitled to vote"?

Court's Decision:

Applying literal rule, a dead person is not "entitled to vote." Therefore, no offense. The accused was acquitted.

Note: This shows how literal rule can lead to absurd results.

### **Case 4: State of Kerala v. Mathai Verghese (1987) - Indian Case**

Facts:

A statute required sanction for prosecution of "any person who is or was a judge." The accused was a judge at the time of offense but retired when prosecution started.

Issue:

Does "who is or was" cover retired judges?

Court's Decision:

Supreme Court applied literal rule. The words "is or was" clearly cover both present and past judges. Sanction required.

## 2.6 ADVANTAGES OF LITERAL RULE

### Advantage

### Explanation

Certainty

People know what law means

Easy to apply

Just read dictionary meaning

Respects Parliament

Courts don't make law

Prevents judicial activism

Judges stay within limits

## 2.7 DISADVANTAGES OF LITERAL RULE

### Disadvantage

### Explanation

Can lead to absurdity

As in *Whiteley v. Chappell*

Ignores purpose

Only looks at words

Language not always clear

Many words ambiguous

Can defeat legislative intent

As in Fisher v. Bell

## **2.8 WHEN LITERAL RULE APPLIES**

The literal rule applies when:

1. Words are clear and unambiguous
2. No absurdity results
3. No conflict with other provisions

## **2.9 EXCEPTIONS TO LITERAL RULE**

Courts will not apply literal rule when:

1. Words are ambiguous
2. Literal meaning leads to absurdity
3. Literal meaning defeats purpose of Act

## **2.10 MAXIMS RELATED TO LITERAL RULE**

### **Maxim**

### **Meaning**

Noscitur a sociis

Meaning known from associated words

Ejusdem generis

Of the same kind

Ut res magis valeat quam pereat

That the thing may rather have effect  
than perish

## 2.11 SUMMARY

- Literal rule gives words their ordinary meaning
  - It is the primary rule of interpretation
  - Advantages: Certainty, respects Parliament
  - Disadvantages: Can lead to absurd results
  - Courts apply it when words are clear
  - But will not apply if result is absurd
- 

## CHAPTER 3: THE GOLDEN RULE OF INTERPRETATION

### 3.1 WHAT IS THE GOLDEN RULE?

Simple Definition:

The Golden Rule is a modification of the Literal Rule. It says that words should be given their ordinary meaning, unless that leads to an absurd result, in which case the meaning may be modified to avoid the absurdity.

### 3.2 THE PRINCIPLE

"When the literal meaning leads to absurdity, inconsistency, or hardship, the court may modify the meaning to avoid such result."

### 3.3 WHY GOLDEN RULE?

The Literal Rule sometimes produces ridiculous results (as we saw in *Whiteley v. Chappell*). The Golden Rule allows courts to avoid these absurdities.

### 3.4 TWO VERSIONS OF THE GOLDEN RULE

### **3.4.1 Narrow Approach**

When words have two meanings, choose the one that avoids absurdity.

Example:

If a statute uses a word with multiple meanings, choose the meaning that makes sense.

### **3.4.2 Wide Approach**

When words have only one meaning, but that meaning leads to absurdity, the court may modify the meaning.

Example:

In extremely rare cases, the court may change the meaning to avoid absurdity.

## **3.5 LEADING CASES ON GOLDEN RULE**

### **Case 1: Grey v. Pearson (1857) - Origin of Golden Rule**

Facts:

This case established the Golden Rule.

Lord Wensleydale's Statement:

"The grammatical and ordinary sense of the words is to be adhered to, unless that would lead to some absurdity, or some repugnance or inconsistency with the rest of the instrument, in which case the grammatical and ordinary sense of the words may be modified, so as to avoid that absurdity and inconsistency, but no further."

### **Case 2: R v. Allen (1872)**

Facts:

Statute made it an offense for a person "being married" to marry another person during the life of the first spouse. Allen married another woman while his first wife was alive.

Issue:

Literally, he was married, so he couldn't marry again. But the act of "marrying" when already married is void. So was there an offense?

Court's Decision:

Applying Golden Rule, the court held that "marry" here means "go through a marriage ceremony." Otherwise, no one could ever be convicted because a second marriage is void. This interpretation avoided absurdity.

### **Case 3: Re Sigsworth (1935)**

Facts:

A son murdered his mother. Under the Administration of Estates Act, her property would go to her "issue" - which included the son. The literal rule would let the murderer inherit.

Court's Decision:

Applying Golden Rule, the court held the son could not inherit. The literal meaning would lead to absurd and repugnant result (allowing murderer to benefit).

### **Case 4: Lee v. Knapp (1967)**

Facts:

A statute required a driver to "stop" after an accident. The driver stopped briefly but didn't remain at the scene.

Issue:

Does "stop" mean stop and stay, or just stop momentarily?

Court's Decision:

Applying Golden Rule, "stop" means stop and remain for a reasonable time. Literal meaning (stop momentarily) would defeat the purpose of the Act.

### **Case 5: State of Punjab v. Qaiser Jehan Begum (1963) - Indian Case**

Facts:

A land acquisition statute required "hearing" the interested persons. The Collector didn't hear the claimant.

Issue:

Is "hearing" mandatory?

Court's Decision:

Supreme Court applied Golden Rule. The word "hearing" must be interpreted to mean proper opportunity to be heard. Otherwise, the provision would be meaningless.

### 3.6 COMPARISON: LITERAL RULE vs GOLDEN RULE

Aspect	Literal Rule	Golden Rule
Start with	Ordinary meaning	Ordinary meaning
If absurdity	Still apply	Modify meaning
Judicial discretion	Very limited	Some discretion
Result	May be absurd	Avoids absurdity
Certainty	High	Less certain

### 3.7 WHEN GOLDEN RULE APPLIES

The Golden Rule applies when:

1. Literal meaning leads to absurdity
2. Literal meaning leads to inconsistency
3. Literal meaning causes hardship
4. Literal meaning defeats purpose of Act

### 3.8 WHAT IS "ABSURDITY"?

Courts have interpreted "absurdity" to mean:

<b>Type</b>	<b>Example</b>
Repugnant	Allowing murderer to inherit
Inconsistent	Conflicting with other provisions
Unreasonable	Impossible to implement
Anomalous	Creates illogical results
Futile	Defeats purpose of Act

### **3.9 LIMITATIONS OF GOLDEN RULE**

1. Used sparingly - Only in clear cases
2. No rewriting - Courts cannot make new law
3. Absurdity must be clear - Not just undesirable
4. Modification minimal - Only to avoid absurdity

### **3.10 CRITICISM OF GOLDEN RULE**

<b>Criticism</b>	<b>Explanation</b>
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Vague

What is "absurd" is subjective

Uncertain

People can't predict outcome

Judicial law-making

Judges modify legislation

Limited use

Rarely applied

### **3.11 SUMMARY**

- Golden Rule modifies Literal Rule
  - Applies when literal meaning leads to absurdity
  - Words may be modified to avoid absurdity
  - Used sparingly
  - Example cases: Allen, Sigsworth, Lee v. Knapp
- 

## **CHAPTER 4: COMPARISON OF LITERAL AND GOLDEN RULES**

### **4.1 QUICK COMPARISON TABLE**

**Basis**

**Literal Rule**

**Golden Rule**

Meaning	Ordinary dictionary meaning	Modified meaning to avoid absurdity
Priority	Primary rule	Secondary (applied after literal)
Absurdity	Applied even if absurd	Avoids absurdity
Judicial role	Minimal	Some modification
Certainty	High	Less certain
Flexibility	Rigid	Flexible
Example case	Fisher v. Bell	R v. Allen

## 4.2 FLOWCHART: WHICH RULE TO APPLY?

text

READ THE STATUTE

|



\_\_\_\_\_

| Words clear? |

\_\_\_\_\_



\_\_\_\_\_

|                    |

YES

NO

|                    |



\_\_\_\_\_

\_\_\_\_\_

| Apply Literal | | Use other rules |

| Meaning | | (Mischief, etc.) |

\_\_\_\_\_

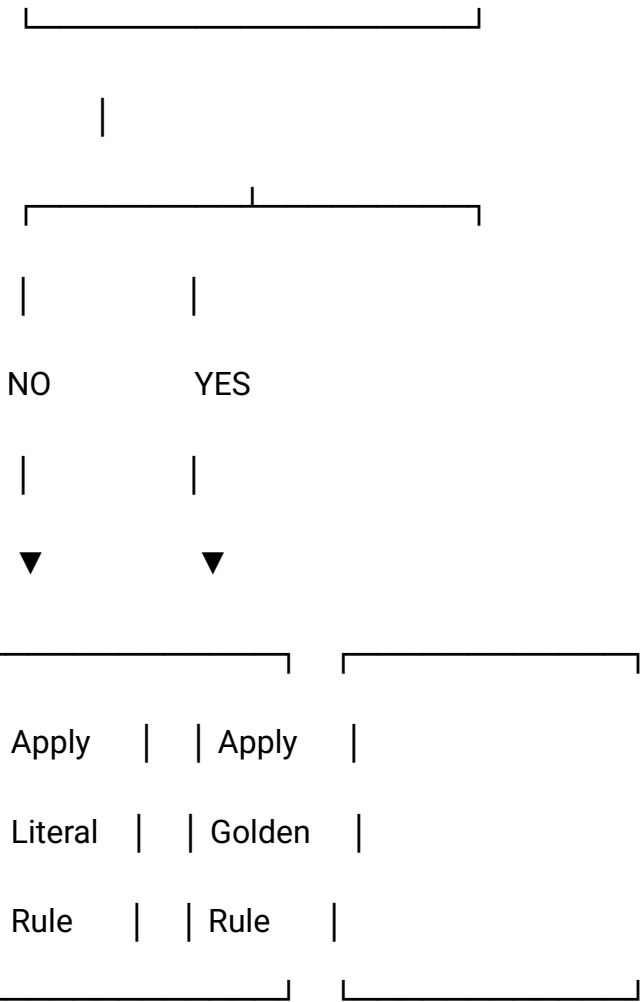
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| Does it lead to |

| absurdity? |



### 4.3 CONCLUSION

- Both rules start with ordinary meaning
- Golden Rule is exception to Literal Rule
- Golden Rule only applies when literal meaning is absurd
- Courts prefer literal rule for certainty
- Golden Rule provides flexibility to avoid injustice

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## UNIT II: BENEFICIAL & RESTRICTIVE CONSTRUCTION

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## CHAPTER 5: BENEFICIAL CONSTRUCTION

### 5.1 WHAT IS BENEFICIAL CONSTRUCTION?

Simple Definition:

Beneficial construction means interpreting a statute in a way that benefits the persons for whose benefit the statute was enacted.

Also called:

- Liberal construction
- Purposive construction
- Remedial construction

### 5.2 THE PRINCIPLE

"Statutes designed for the benefit of a particular class should be interpreted liberally to advance the remedy and suppress the mischief."

### 5.3 WHEN IS BENEFICIAL CONSTRUCTION APPLIED?

Beneficial construction applies to:

**Type of Statute**

**Example**

Social welfare laws

Labour laws

Beneficial legislation

Tenant protection

Remedial statutes

Consumer protection

Statutes for weaker sections

SC/ST protection

## **5.4 RULES FOR BENEFICIAL CONSTRUCTION**

1. Interpret liberally - Give words wide meaning
2. Advance the remedy - Achieve the purpose
3. Suppress the mischief - Remove the problem
4. Resolve doubts in favor of beneficiary

## **5.5 LEADING CASES ON BENEFICIAL CONSTRUCTION**

### **Case 1: Workmen v. Firestone Tyre & Rubber Co. (1973) - Indian Case**

Facts:

The Industrial Disputes Act was enacted to protect workers. The question was whether certain provisions applied retrospectively.

Supreme Court held:

Being a beneficial legislation, it should be interpreted liberally in favor of workmen. The purpose is to ensure social justice.

### **Case 2: Alembic Chemical Works v. Workmen (1961)**

Facts:

Interpretation of Payment of Bonus Act.

Supreme Court held:

The Act is beneficial legislation for workers. It must be interpreted so as to advance the object of the Act. Technicalities should not defeat the purpose.

### **Case 3: Bangalore Water Supply v. A. Rajappa (1978)**

Facts:

Definition of "industry" under Industrial Disputes Act was in question.

Supreme Court held:

Being a beneficial legislation, "industry" should be given wide meaning to include hospitals, educational institutions, etc. to protect workers.

**Case 4: Regional Director, ESI v. Francis de Costa (1996)**

Facts:

Interpretation of Employees' State Insurance Act.

Supreme Court held:

Social security legislation should receive liberal construction to promote the object. Beneficiaries should get maximum benefits.

**Case 5: Baldev Singh v. State of HP (2009)**

Facts:

SC and ST (Prevention of Atrocities) Act was being interpreted.

Supreme Court held:

This Act is for protection of marginalized sections. It must be interpreted liberally to achieve its object.

**5.6 PRINCIPLES OF BENEFICIAL CONSTRUCTION**

<b>Principle</b>	<b>Explanation</b>
Purposive approach	Look at purpose, not just words
Beneficiary oriented	Resolve doubts in favor of beneficiary
Avoid narrow interpretation	Don't restrict meaning unnecessarily

Social context

Consider social conditions

## **5.7 LIMITATIONS OF BENEFICIAL CONSTRUCTION**

1. Cannot rewrite statute - Only interpret
2. Clear language prevails - If words clear, cannot ignore
3. Not for all statutes - Only beneficial ones
4. Balance required - Don't harm others

## **5.8 EXAMPLE: RENT CONTROL LAWS**

Rent Control Acts are beneficial legislation for tenants.

Interpretation:

- "Tenant" given wide meaning
- Includes heirs and assignees
- Strict against landlords
- Eviction only on specified grounds

## **5.9 EXAMPLE: LABOUR LAWS**

Interpretation:

- "Workman" given wide meaning
- "Wages" liberally interpreted
- Benefits extended to maximum workers
- Technical defenses not allowed

## **5.10 SUMMARY**

- Beneficial construction applies to welfare laws
- Interpret liberally to benefit intended class
- Purpose is to advance remedy
- Used for labour laws, tenant protection, consumer laws
- Cannot override clear language

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## CHAPTER 6: RESTRICTIVE CONSTRUCTION

### 6.1 WHAT IS RESTRICTIVE CONSTRUCTION?

Simple Definition:

Restrictive construction means interpreting a statute narrowly, limiting its application to what is clearly expressed.

Also called:

- Strict construction
- Narrow interpretation

### 6.2 THE PRINCIPLE

"Statutes that impose burdens, take away rights, or create penalties should be interpreted strictly."

### 6.3 WHEN IS RESTRICTIVE CONSTRUCTION APPLIED?

Restrictive construction applies to:

**Type of Statute**

**Reason**

Penal statutes

Liberty at stake

Taxing statutes

Property at stake

Statutes taking away rights

Rights protected

Statutes interfering with liberty

Fundamental rights

## **6.4 LEADING CASES ON RESTRICTIVE CONSTRUCTION**

### **Case 1: Tolaram Relumal v. State of Bombay (1954)**

Facts:

Interpretation of a penal provision.

Supreme Court held:

Penal statutes must be strictly construed. If two interpretations are possible, the one favorable to the accused must be adopted.

### **Case 2: CIT v. Vadilal Lallubhai (1973)**

Facts:

Interpretation of a taxing statute.

Supreme Court held:

In taxing statutes, if there is doubt, it should be resolved in favor of the taxpayer. The subject is not to be taxed unless the words clearly impose the tax.

### **Case 3: State of Punjab v. Mohd. Iqbal Bhatti (2009)**

Facts:

A statute deprived a person of his livelihood.

Supreme Court held:

Statutes that deprive a person of his livelihood must be strictly construed. Clear language is required.

## **6.5 PRINCIPLES OF RESTRICTIVE CONSTRUCTION**

**Principle****Explanation**

Clear language required

Doubt resolved in favor of subject

No implication

Cannot imply what is not stated

Favorable interpretation

Choose meaning favorable to subject

Penalty strictly construed

No penalty without clear words

**6.6 COMPARISON: BENEFICIAL vs RESTRICTIVE****Aspect****Beneficial****Restrictive**

Applies to

Welfare laws

Penal, tax laws

Interpretation

Liberal

Strict

Doubt resolved in favor of

Beneficiary

Subject/accused

Purpose

Advance remedy

Protect rights

## **6.7 RESTRICTIVE CONSTRUCTION OF PENAL STATUTES**

Rules for Penal Statutes:

1. Strict interpretation - Cannot extend by implication
2. Favoring accused - Benefit of doubt to accused
3. No analogy - Cannot extend by comparing
4. Clear words - Penalty only if clearly provided

Case: Tolaram Relumal v. State of Bombay (1954)

The Supreme Court laid down:

"Penal statutes must be strictly construed. No court can, on equitable considerations, add or omit anything."

## **6.8 RESTRICTIVE CONSTRUCTION OF TAXING STATUTES**

Rules for Taxing Statutes:

1. Strict interpretation - Tax only if clearly imposed
2. In favor of taxpayer - Doubt resolved for taxpayer
3. Equity irrelevant - No equity in tax matters
4. Substance over form - Sometimes considered

Case: CIT v. Vadilal Lallubhai (1973)

"If the words are ambiguous and two constructions are possible, the one which favors the assessee must be adopted."

## **6.9 RESTRICTIVE CONSTRUCTION OF STATUTES TAKING AWAY RIGHTS**

Rules:

1. Clear language required - Cannot take away rights by implication
2. Presumption against change - Presume no change in common law

3. Fundamental rights - Very strict scrutiny

## **6.10 SUMMARY**

- Restrictive construction means narrow interpretation
  - Applies to penal, tax, and rights-taking statutes
  - Doubt resolved in favor of subject/accused
  - Protects liberty and property
  - Opposite of beneficial construction
- 

# **UNIT III: JUDICIAL INTERPRETATION**

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## **CHAPTER 7: JUDICIAL ACTIVISM**

### **7.1 WHAT IS JUDICIAL ACTIVISM?**

Simple Definition:

Judicial activism means judges using their power to interpret laws in a way that promotes justice, especially when the legislature or executive fails to act.

### **7.2 THE CONCEPT**

- Judges don't just apply law mechanically
- They consider social conditions
- They fill gaps in legislation
- They protect fundamental rights
- They check executive excesses

### **7.3 FEATURES OF JUDICIAL ACTIVISM**

<b>Feature</b>	<b>Explanation</b>
Pro-active	Judges take initiative
Social justice	Focus on weaker sections
Gap filling	Interpret to cover omissions
Rights protection	Enforce fundamental rights
Executive checking	Review administrative action

## **7.4 METHODS OF JUDICIAL ACTIVISM**

1. Public Interest Litigation (PIL) - Anyone can approach court
2. Expansive interpretation - Give wide meaning to rights
3. Directions to government - Order action
4. Continuing mandamus - Monitor implementation
5. Judicial review - Strike down unconstitutional laws

## **7.5 LEADING CASES ON JUDICIAL ACTIVISM IN INDIA**

### **Case 1: Kesavananda Bharati v. State of Kerala (1973) - Basic Structure Doctrine**

Facts:

Challenge to constitutional amendments.

Supreme Court held:

Parliament cannot destroy the basic structure of the Constitution. This was judicial activism to protect constitutional fundamentals.

### **Case 2: Maneka Gandhi v. Union of India (1978)**

Facts:

Passport was impounded without hearing.

Supreme Court held:

Article 21 (right to life) includes right to travel. Procedure established by law must be just and fair. Expanded meaning of Article 21.

### **Case 3: Vishaka v. State of Rajasthan (1997)**

Facts:

Sexual harassment at workplace. No law existed.

Supreme Court held:

Laid down guidelines (Vishaka Guidelines) for preventing sexual harassment at workplace until legislature makes law. This led to the Sexual Harassment Act later.

### **Case 4: MC Mehta v. Union of India (Various Cases)**

Facts:

Environmental protection cases.

Supreme Court held:

Ordered closure of polluting industries, conversion of buses to CNG, protection of forests. Activist approach to protect environment.

### **Case 5: Bandhua Mukti Morcha v. Union of India (1984)**

Facts:

Bonded labor in stone quarries.

Supreme Court held:

Expanded locus standi (who can file), treated letters as petitions, ordered release of bonded laborers. Active judicial role in social justice.

## **7.6 AREAS OF JUDICIAL ACTIVISM IN INDIA**

<b>Area</b>	<b>Examples</b>
Environment	CNG order, forest protection
Women's rights	Sexual harassment guidelines
Prisoners' rights	Right to speedy trial
Labour rights	Minimum wages enforcement
Education	Right to education
Health	Right to health care

## **7.7 ADVANTAGES OF JUDICIAL ACTIVISM**

<b>Advantage</b>	<b>Explanation</b>
Protects rights	When legislature fails

Social justice

Helps weaker sections

Checks executive

Prevents abuse of power

Fills gaps

Where law is silent

Dynamic interpretation

Law adapts to society

## **7.8 DISADVANTAGES OF JUDICIAL ACTIVISM**

### **Disadvantage**

### **Explanation**

Undemocratic

Judges not elected

Separation of powers

Courts overstep

Lack of expertise

Policy not court's domain

Uncertainty

Law becomes unpredictable

Implementation issues

Courts can't enforce fully

## 7.9 JUDICIAL RESTRAINT vs JUDICIAL ACTIVISM

Aspect	Judicial Activism	Judicial Restraint
Role	Pro-active	Passive
Interpretation	Expansive	Strict
Deference to legislature	Low	High
Gap filling	Yes	No
Policy making	Sometimes	Never

## 7.10 FAMOUS QUOTES ON JUDICIAL ACTIVISM

Justice PN Bhagwati:

"Judicial activism is the active process of implementation of the rule of law, essential for the preservation of a functional democracy."

Justice VR Krishna Iyer:

"The judiciary cannot be a silent spectator when the Constitution is being destroyed."

## **7.11 SUMMARY**

- Judicial activism means active judicial role
  - Judges interpret creatively to promote justice
  - Seen in PIL, environmental cases, rights protection
  - Advantages: Rights protection, social justice
  - Disadvantages: Undemocratic, separation of powers concerns
  - Important Indian cases: Kesavananda, Maneka Gandhi, Vishaka
- 

# **CHAPTER 8: JUDICIAL RESTRAINT**

## **8.1 WHAT IS JUDICIAL RESTRAINT?**

Simple Definition:

Judicial restraint means judges limiting their own power and deferring to the legislature and executive. They apply the law as written without adding their own views.

## **8.2 THE CONCEPT**

- Judges should not make policy
- They should apply law, not create it
- They should defer to elected branches
- They should exercise self-control
- They should avoid interfering in governance

## **8.3 FEATURES OF JUDICIAL RESTRAINT**

<b>Feature</b>	<b>Explanation</b>
Deference	Respect legislature and executive
Strict interpretation	Follow literal meaning
No gap filling	Leave gaps to legislature
Minimal interference	Only when clearly necessary
Political question	Leave policy to government

## **8.4 METHODS OF JUDICIAL RESTRAINT**

1. Strict construction - Literal meaning
2. Presumption of constitutionality - Assume laws valid
3. Avoiding constitutional questions - Decide on other grounds
4. Standing requirements - Only affected persons can sue
5. Mootness - Don't decide dead issues

## **8.5 LEADING CASES ON JUDICIAL RESTRAINT**

### **Case 1: AK Gopalan v. State of Madras (1950)**

Facts:

Challenge to preventive detention law.

Supreme Court held:

Applied strict interpretation. Held that "procedure established by law" means any procedure, not necessarily due process. Deferred to legislature.

Note: This was overruled later in Maneka Gandhi.

### **Case 2: State of Madras v. VG Row (1952)**

Facts:

Challenge to law restricting associations.

Supreme Court held:

While judicial restraint is important, courts must examine whether restrictions are reasonable. Balanced approach.

### **Case 3: Samsheer Singh v. State of Punjab (1974)**

Facts:

Whether President can act without advice.

Supreme Court held:

President acts on aid and advice of Council of Ministers. Shows judicial restraint in interpreting constitutional relationships.

### **Case 4: Supreme Court Advocates-on-Record Association v. Union of India (1993)**

Facts:

Judges appointment case.

Supreme Court held:

Created collegium system. Some call this activism, but court showed restraint by not claiming absolute power.

## **8.6 REASONS FOR JUDICIAL RESTRAINT**

**Reason**

**Explanation**

Democracy	Elected representatives make law
Separation of powers	Each branch has role
Expertise	Legislature has better information
Accountability	Elected officials accountable
Finality	Laws should be certain

## **8.7 ADVANTAGES OF JUDICIAL RESTRAINT**

<b>Advantage</b>	<b>Explanation</b>
Democratic	Respects elected bodies
Certainty	Law predictable
Stability	Less frequent changes

Separation of powers

Maintains balance

Expertise

Policy left to experts

## **8.8 DISADVANTAGES OF JUDICIAL RESTRAINT**

### **Disadvantage**

### **Explanation**

Injustice

Can't correct wrongs

Rigidity

Law doesn't adapt

Rights unprotected

When legislature fails

Status quo

Maintains existing inequalities

## **8.9 COMPARISON: ACTIVISM vs RESTRAINT**

### **Aspect**

### **Activism**

### **Restraint**

Judicial role	Creative	Passive
Interpretation	Purposive	Literal
Deference to legislature	Low	High
Rights protection	Aggressive	Cautious
Policy role	Sometimes	Never
Certainty	Less	More
Social change	Facilitates	Preserves

## **8.10 BALANCING ACTIVISM AND RESTRAINT**

Modern courts balance both:

1. Activism - When fundamental rights are violated
2. Restraint - When policy matters are involved
3. Activism - When legislature is silent
4. Restraint - When law is clear

## **8.11 INDIAN POSITION**

Indian courts have shown:

- Activism in PIL, environmental, rights cases
- Restraint in policy matters, economic decisions
- Balance in constitutional interpretation

## **8.12 SUMMARY**

- Judicial restraint means judges limiting their power
  - They defer to legislature and executive
  - Methods: strict construction, presumption of constitutionality
  - Advantages: Democratic, certain, respects separation of powers
  - Disadvantages: May allow injustice
  - Indian courts balance activism and restraint
- 

# **UNIT IV: PRESUMPTIONS IN INTERPRETATION**

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## **CHAPTER 9: PRESUMPTIONS IN STATUTORY INTERPRETATION**

### **9.1 WHAT IS A PRESUMPTION?**

Simple Definition:

A presumption is an assumption that courts make about what the legislature intended, unless the contrary is proved.

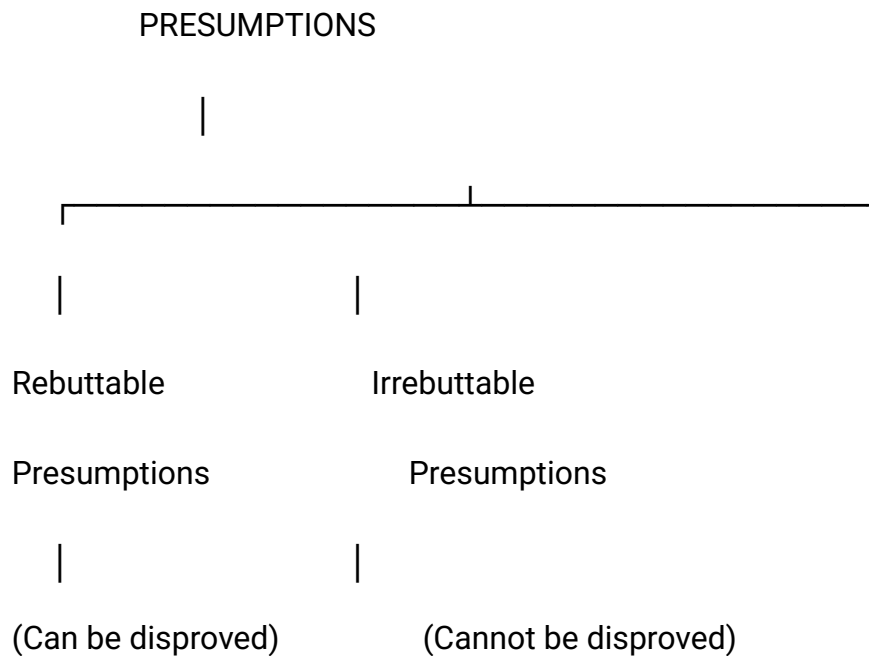
### **9.2 WHY PRESUMPTIONS?**

- Legislature is assumed to know law
- Legislature is assumed to act reasonably

- Legislature doesn't intend injustice
- Helps interpret ambiguous provisions

### 9.3 TYPES OF PRESUMPTIONS

text



### 9.4 IMPORTANT PRESUMPTIONS IN INTERPRETATION

#### 9.4.1 Presumption Against Retrospective Operation

Meaning:

Statutes are presumed to operate prospectively (for the future), not retrospectively (for the past).

Reason:

People should know the law before acting. Applying law backwards is unfair.

Exceptions:

- Procedural laws can be retrospective
- Beneficial legislation may be retrospective
- Clear words can make law retrospective

Case: Keshavlal Jethalal Shah v. Mohanlal Bhagwandas (1968)  
Supreme Court held that unless clearly expressed, statutes operate prospectively.

#### **9.4.2 Presumption Against Alteration of Common Law**

Meaning:

Statutes are presumed not to change the existing common law.

Reason:

Common law is well-established. If legislature wants to change it, it must say so clearly.

Case: National Telephone Co. v. Baker (1893)

"Statutes are not presumed to make any alteration in the common law further or otherwise than the Act expressly declares."

#### **9.4.3 Presumption That Statute Does Not Exceed Jurisdiction**

Meaning:

Legislature is presumed to act within its constitutional powers.

Reason:

Legislature knows its limits and won't exceed them.

#### **9.4.4 Presumption Against Taking Away Private Rights**

Meaning:

Statutes are presumed not to interfere with private rights without compensation.

Reason:

Property rights are important. If government wants to take property, it must pay.

#### **9.4.5 Presumption That Statutes Do Not Bind the State**

Meaning:

The State is not bound by a statute unless expressly named or necessarily implied.

Reason:

The Crown (State) is not bound by law unless clearly stated.

Case: Province of Bombay v. Municipal Corporation of Bombay (1947)

Privy Council held that the State is not bound by statute unless expressly named or necessary implication.

#### **9.4.6 Presumption Against Violation of International Law**

Meaning:

Statutes are presumed not to violate international law.

Reason:

Courts assume legislature respects international obligations.

#### **9.4.7 Presumption That Words are Used in Correct Sense**

Meaning:

Legislature uses words correctly and consistently.

Reason:

Legislature is presumed to know the language and use it properly.

#### **9.4.8 Presumption That Legislature Knows the Law**

Meaning:

Legislature is aware of existing laws, judicial decisions, and legal principles.

Reason:

When making new law, legislature knows the legal context.

#### **9.4.9 Presumption Against Absurdity**

Meaning:

Legislature does not intend absurd results.

Reason:

Lawmakers are reasonable people who want sensible outcomes.

#### **9.4.10 Presumption Against Creating Injustice**

Meaning:

Legislature does not intend to cause injustice.

Reason:

Justice is the goal of all law.

## **9.5 PRESUMPTION OF CONSTITUTIONALITY**

Meaning:

Laws passed by legislature are presumed to be constitutional.

Burden of proof:

The person challenging the law must prove it is unconstitutional.

Case: Ram Krishna Dalmia v. Justice Tendolkar (1958)

Supreme Court laid down:

1. Presumption of constitutionality
2. Challenger must prove violation
3. Court will try to uphold law

## **9.6 PRESUMPTION OF TERRITORIAL OPERATION**

Meaning:

Statutes operate only within the territory of the legislature that made them.

Exception:

Some laws can have extra-territorial operation if clearly expressed.

## **9.7 REBUTTAL OF PRESUMPTIONS**

Presumptions can be rebutted by:

1. Express words - Statute clearly says otherwise
2. Necessary implication - Purpose requires otherwise
3. Context - Surrounding provisions indicate otherwise

## **9.8 SUMMARY TABLE OF PRESUMPTIONS**

**Presumption**

**Meaning**

**Exception**

No retrospective	Applies to future only	Clear words, procedural laws
No common law change	Preserves existing law	Clear expression
Within jurisdiction	Legislature acts within power	None - if exceeds, void
No taking of rights	Respects private rights	Clear words, compensation
State not bound	State not bound unless named	Express or implied
No international law violation	Respects international law	Clear words
Words in correct sense	Proper usage	Context may show otherwise
Legislature knows law	Aware of legal context	None

No absurdity

Intends reasonable  
result

None

Constitutionality

Law is valid

Proved otherwise

## **9.9 IMPORTANT CASE: STATE OF WEST BENGAL v. UNION OF INDIA (1963)**

Facts:

Whether Parliament can legislate on state matters.

Supreme Court held:

Presumption is that Parliament acts within its jurisdiction. But this presumption can be rebutted by showing violation of constitutional scheme.

## **9.10 SUMMARY**

- Presumptions are assumptions courts make
- They help interpret ambiguous provisions
- Most presumptions can be rebutted
- Key presumptions: against retrospectivity, against common law change, constitutionality
- Presumptions reflect what legislature is assumed to intend

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# **UNIT V: HARMONIOUS CONSTRUCTION**

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## **CHAPTER 10: HARMONIOUS CONSTRUCTION**

## **10.1 WHAT IS HARMONIOUS CONSTRUCTION?**

Simple Definition:

Harmonious construction means interpreting different provisions of a statute in a way that avoids conflict and makes all provisions work together harmoniously.

## **10.2 THE PRINCIPLE**

"When two provisions of the same statute appear to conflict, they should be interpreted so as to harmonize them and give effect to both."

## **10.3 WHY HARMONIOUS CONSTRUCTION?**

- Every part of statute has purpose
- Legislature doesn't intend contradiction
- All provisions should work together
- Avoids declaring parts void

## **10.4 RULES OF HARMONIOUS CONSTRUCTION**

1. Read together - Interpret provisions together, not separately
2. Avoid conflict - Try to reconcile differences
3. Give effect to all - Every provision should have meaning
4. Subordinate clause to main - If conflict, subordinate yields to main
5. Specific over general - Specific provision prevails over general

## **10.5 LEADING CASES ON HARMONIOUS CONSTRUCTION**

### **Case 1: Calcutta Gas Company v. State of West Bengal (1962)**

Facts:

Conflict between entries in legislative lists (Constitution).

Supreme Court held:

Apply harmonious construction. Read both entries together to avoid conflict. Give meaning to both.

### **Case 2: Raj Krishna Bose v. Binod Kanungo (1954)**

Facts:

Conflict between two provisions of Representation of People Act.

Supreme Court held:

Harmonious construction must be applied. Both provisions must be given effect by interpreting them consistently.

### **Case 3: State of Bombay v. FN Balsara (1951)**

Facts:

Conflict between fundamental rights and directive principles.

Supreme Court held:

Interpret harmoniously. Directive principles should guide interpretation of fundamental rights.

### **Case 4: Kailash Nath v. State of UP (1957)**

Facts:

Conflict between two provisions of Land Revenue Act.

Supreme Court held:

Courts must adopt harmonious construction to avoid conflict. Every effort should be made to reconcile provisions.

### **Case 5: Venkataramana Devaru v. State of Mysore (1958)**

Facts:

Conflict between right of religious denomination and right against untouchability.

Supreme Court held:

Harmonious construction required. Both rights must be given effect to the extent possible.

## **10.6 HARMONIOUS CONSTRUCTION OF CONSTITUTIONAL PROVISIONS**

Important Principle:

The Constitution must be read as a whole. No provision should be read in isolation.

Case: Kesavananda Bharati v. State of Kerala (1973)

Basic structure doctrine emerged from reading the Constitution harmoniously.

## 10.7 HARMONIOUS CONSTRUCTION vs OTHER RULES

Rule	Approach
Literal	Individual words
Golden	Avoid absurdity
Mischief	Purpose of Act
Harmonious	All provisions together

## 10.8 STEPS IN HARMONIOUS CONSTRUCTION

text

Step 1: Identify conflicting provisions

|

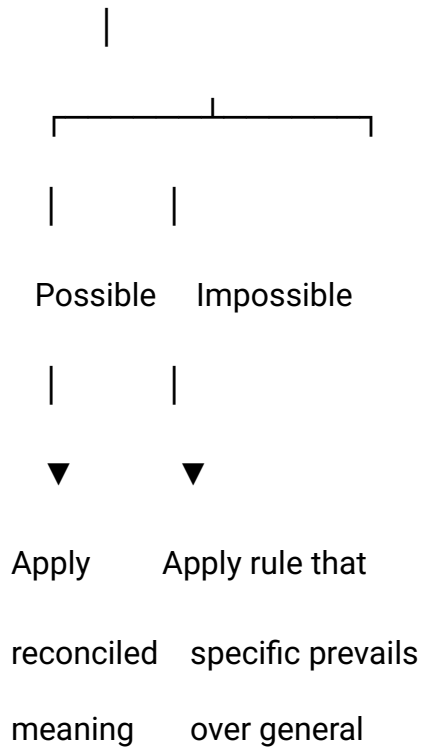


Step 2: Read them together as a whole

|



Step 3: Try to reconcile the conflict



## 10.9 MAXIMS RELATED TO HARMONIOUS CONSTRUCTION

### Maxim

### Meaning

Generalia specialibus non derogant

General things do not derogate from special things

Ut res magis valeat quam pereat

That the thing may rather have effect than perish

Verba ita sunt intelligenda

Words should be understood in context

## 10.10 SUMMARY

- Harmonious construction reconciles conflicting provisions
  - Gives effect to all parts of statute
  - Specific prevails over general
  - Essential for constitutional interpretation
  - Prevents declaring parts void unnecessarily
- 

## CHAPTER 11: AVOIDANCE OF ABSURDITY

### 11.1 WHAT IS AVOIDANCE OF ABSURDITY?

Simple Definition:

This rule says that while interpreting statutes, courts should avoid interpretations that lead to absurd, unreasonable, or irrational results.

### 11.2 THE PRINCIPLE

"An interpretation that leads to absurdity should be rejected in favor of one that leads to reasonable results."

### 11.3 WHY AVOID ABSURDITY?

- Legislature is presumed reasonable
- Law should make sense
- Justice requires sensible outcomes
- Absurd results defeat purpose

### 11.4 TYPES OF ABSURDITY

**Type**

**Example**



Facts:

Interpretation of limitation period.

Supreme Court held:

Interpretation that leads to absurd results must be avoided. Choose meaning that makes Act workable.

## **11.6 WHEN IS ABSURDITY AVOIDED?**

Courts avoid absurdity when:

1. Literal meaning leads to impossible result
2. Literal meaning leads to contradiction
3. Literal meaning defeats purpose
4. Literal meaning causes injustice
5. Literal meaning is unreasonable

## **11.7 RELATIONSHIP WITH GOLDEN RULE**

The Golden Rule is specifically designed to avoid absurdity:

- Literal Rule → Absurdity → Golden Rule applies

## **11.8 RELATIONSHIP WITH HARMONIOUS CONSTRUCTION**

- Harmonious construction avoids logical absurdity (contradiction)
- Both seek sensible interpretation

## **11.9 SUMMARY**

- Avoid interpretations leading to absurdity
  - Legislature intends reasonable results
  - Golden Rule specifically addresses this
  - Courts choose workable meanings
  - Absurdity can be logical, practical, or moral
-

# UNIT VI: STRICT & EQUITABLE CONSTRUCTION

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## CHAPTER 12: STRICT CONSTRUCTION

### 12.1 WHAT IS STRICT CONSTRUCTION?

Simple Definition:

Strict construction means interpreting a statute exactly as written, without adding or implying anything. Words are given their narrowest possible meaning.

### 12.2 THE PRINCIPLE

"If there is doubt about the meaning, choose the interpretation that is most favorable to the subject and least interfering with rights."

### 12.3 WHEN IS STRICT CONSTRUCTION APPLIED?

Type of Statute	Reason
Penal statutes	Liberty at stake
Taxing statutes	Property at stake
Statutes taking away rights	Rights protected

Exclusionary clauses

Ousting court jurisdiction

## **12.4 RULES OF STRICT CONSTRUCTION**

1. Clear words required - No penalty or tax without clear words
2. No implication - Cannot imply what is not stated
3. Benefit of doubt - Resolve doubt in favor of subject
4. Narrow meaning - Give words their narrowest meaning

## **12.5 LEADING CASES ON STRICT CONSTRUCTION**

### **Case 1: Tolaram Relumal v. State of Bombay (1954)**

Supreme Court held:

Penal statutes must be strictly construed. If two interpretations possible, adopt the one favorable to accused.

### **Case 2: CIT v. Vadilal Lallubhai (1973)**

Supreme Court held:

Taxing statutes strictly construed. Doubt resolved in favor of taxpayer.

### **Case 3: State of Punjab v. Mohd. Iqbal Bhatti (2009)**

Supreme Court held:

Statutes depriving livelihood must be strictly construed.

## **12.6 STRICT CONSTRUCTION OF PENAL STATUTES**

Key Principles:

1. Actus non facit reum nisi mens sit rea - An act does not make a person guilty unless the mind is guilty
2. Nullum crimen sine lege - No crime without law
3. Nulla poena sine lege - No punishment without law

## **12.7 STRICT CONSTRUCTION OF TAXING STATUTES**

Key Principles:

1. Subject not to be taxed without clear words
2. If ambiguity, in favor of taxpayer
3. Equity not relevant - No tax on equitable grounds

## **12.8 STRICT CONSTRUCTION OF STATUTES OUSTING JURISDICTION**

Key Principles:

1. Courts have inherent jurisdiction
  2. Ouster requires very clear words
  3. Strictly construed against ouster
- 

# **CHAPTER 13: EQUITABLE CONSTRUCTION**

## **13.1 WHAT IS EQUITABLE CONSTRUCTION?**

Simple Definition:

Equitable construction means interpreting a statute in a way that achieves justice and fairness, even if it means departing slightly from literal meaning.

## **13.2 THE PRINCIPLE**

"Statutes should be interpreted to promote equity, justice, and good conscience."

## **13.3 WHEN IS EQUITABLE CONSTRUCTION APPLIED?**

**Situation**

**Reason**



Supreme Court held:

Social security laws equitably construed to maximize benefits.

### 13.6 COMPARISON: STRICT vs EQUITABLE

<b>Aspect</b>	<b>Strict Construction</b>	<b>Equitable Construction</b>
Approach	Narrow	Broad
Focus	Words	Justice
Applies to	Penal, tax laws	Welfare, beneficial laws
Doubt resolved in favor of	Subject/accused	Beneficiary
Judicial discretion	Limited	More

### 13.7 MAXIMS RELATED TO EQUITABLE CONSTRUCTION

<b>Maxim</b>	<b>Meaning</b>
--------------	----------------

Aequitas sequitur legem

Equity follows the law

He who seeks equity must do equity

Fairness requires fairness

He who comes to equity must come  
with clean hands

No unfair advantage

### **13.8 SUMMARY**

- Strict construction: narrow, literal, favors subject
  - Applies to penal, tax, rights-taking statutes
  - Equitable construction: broad, just, favors beneficiary
  - Applies to welfare, beneficial laws
  - Cannot override clear language
- 

## **UNIT VII: LEGISLATIVE INTENT**

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### **CHAPTER 14: LEGISLATIVE INTENT**

#### **14.1 WHAT IS LEGISLATIVE INTENT?**

Simple Definition:

Legislative intent means what the legislature wanted to achieve by passing the law. It is the purpose, object, and aim of the statute.

## 14.2 WHY IS LEGISLATIVE INTENT IMPORTANT?

- All interpretation seeks to find intent
- Words are means to express intent
- Courts must give effect to intent
- Intent resolves ambiguity

## 14.3 HOW TO FIND LEGISLATIVE INTENT?

### 14.3.1 Internal Aids (Inside the Statute)

<b>Aid</b>	<b>What it Shows</b>
Preamble	Objects of Act
Title	Subject matter
Headings	Context of sections
Definitions	Meaning of terms
Statement of Objects and Reasons	Purpose (sometimes used)

### 14.3.2 External Aids (Outside the Statute)

**Aid****What it Shows**

Law Commission Reports

Problem addressed

Constituent Assembly Debates

What framers intended

Select Committee Reports

Changes made

Earlier law

What was changed

Dictionaries

Word meanings

**14.4 INTENT vs LETTER OF LAW****Letter of Law****Intent of Law**

What words say

What words mean

Literal meaning

Purpose

Form

Substance

Principle: When letter and intent conflict, intent prevails (if clear).

## **14.5 LEADING CASES ON LEGISLATIVE INTENT**

### **Case 1: Heydon's Case (1584) - Mischief Rule**

Established that courts should consider:

1. What was the law before?
2. What was the mischief?
3. What was the remedy?
4. Why was remedy chosen?

### **Case 2: Bengal Immunity Co. v. State of Bihar (1955)**

Supreme Court held:

Interpretation must effectuate legislative intent. Look at purpose, not just words.

### **Case 3: KP Varghese v. ITO (1981)**

Supreme Court held:

Taxing statutes must be interpreted to effectuate legislative intent, not defeat it.

### **Case 4: RBI v. Peerless General Finance (1987)**

Supreme Court held:

Interpretation must keep legislative intent in mind. Read statute as whole.

## **14.6 INTENT AND CONTEXT**

Principle: Words take meaning from context.

Case: State of West Bengal v. Union of India (1963)

Constitutional provisions must be read in context of whole Constitution.

## **14.7 INTENT AND MISCHIEF**

Mischief Rule (discussed later) is specifically designed to find legislative intent.

## **14.8 SUMMARY**

- Legislative intent is the purpose of the law
  - All interpretation seeks to find intent
  - Found through internal and external aids
  - When words and intent conflict, intent prevails
  - Context helps find intent
- 

# **CHAPTER 15: MANDATORY AND DIRECTORY PROVISIONS**

## **15.1 WHAT ARE MANDATORY PROVISIONS?**

Simple Definition:

Mandatory provisions are those that must be strictly followed. Non-compliance makes the act void or illegal.

## **15.2 WHAT ARE DIRECTORY PROVISIONS?**

Simple Definition:

Directory provisions are those that should be followed, but non-compliance does not necessarily make the act void.

## **15.3 THE PRINCIPLE**

"Some statutory requirements are essential (mandatory); others are merely procedural (directory). Non-compliance with mandatory provisions invalidates the act."

## **15.4 HOW TO DISTINGUISH?**

Courts use the following tests:

### **15.4.1 Language Test**

<b>Words Used</b>	<b>Usually</b>
"Shall"	Mandatory
"May"	Directory
"Must"	Mandatory
"Should"	Directory

But: This is not conclusive. Context matters.

#### **15.4.2 Consequences Test**

If non-compliance causes:

- Serious prejudice → Likely mandatory
- No serious prejudice → Likely directory

#### **15.4.3 Purpose Test**

If provision is:

- Essential to purpose → Mandatory
- Merely procedural → Directory

#### **15.4.4 Historical Context**

- Previous practice considered

### **15.5 RULES FOR DETERMINING**

<b>Factor</b>	<b>Points to Mandatory</b>	<b>Points to Directory</b>
Language	"Shall", "must"	"May", "should"
Consequence	Severe	Minor
Purpose	Substantive	Procedural
Public interest	High	Low
Rights affected	Fundamental	Minor

## **15.6 LEADING CASES**

### **Case 1: State of UP v. Babu Ram Upadhya (1961)**

Facts:

Police regulations used "shall" regarding disciplinary proceedings.

Supreme Court held:

Use of "shall" raises presumption of mandatory. But court must consider context and consequences.

### **Case 2: Mannalal Khetan v. Kedar Nath Khetan (1977)**

Facts:

Company law provision requiring certain number of directors.

Supreme Court held:

This is mandatory. Non-compliance makes the act void.

### **Case 3: Sharif-ud-Din v. Abdul Gani Lone (1980)**

Facts:

Election law provision about time for filing nomination.

Supreme Court held:

Time provisions in election law are mandatory. Non-compliance invalidates.

### **Case 4: Dattatraya Moreshwar v. State of Bombay (1952)**

Facts:

Provision requiring consultation before action.

Supreme Court held:

"Consultation" may be directory, but if it affects rights, it could be mandatory.

## **15.7 EFFECT OF NON-COMPLIANCE**

<b>Type</b>	<b>Effect</b>
Mandatory	Act void, illegal
Directory	Act valid, but may attract penalty

## **15.8 EXAMPLES**

Example 1 - Mandatory:

Section says: "The notice shall be given within 30 days." If notice given on 31st day, it's invalid.

Example 2 - Directory:

Section says: "The application shall be in blue ink." If filed in black ink, application is still valid (if no prejudice).

## 15.9 PRESUMPTION

- Presumption is that "shall" is mandatory
- But presumption can be rebutted
- Court examines:
  - Object
  - Context
  - Consequences

## 15.10 SUMMARY

- Mandatory provisions must be strictly followed
  - Directory provisions are guidelines
  - "Shall" suggests mandatory, "may" suggests directory
  - Consequences determine classification
  - Non-compliance: mandatory → void; directory → valid
- 

# UNIT VIII: RULES OF STATUTORY INTERPRETATION

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## CHAPTER 16: THE MISCHIEF RULE (HEYDON'S RULE)

### 16.1 WHAT IS THE MISCHIEF RULE?

Simple Definition:

The Mischief Rule means interpreting a statute to suppress the mischief (problem) that the law was intended to cure and advance the remedy.

## 16.2 ORIGIN - HEYDON'S CASE (1584)

This is one of the oldest rules of interpretation, dating back to 1584.

Lord Coke's statement in Heydon's Case:

For the true interpretation of statutes, four things must be considered:

1. What was the common law before the Act? (The prior law)
2. What was the mischief for which the common law did not provide? (The problem)
3. What remedy did Parliament resolve to provide? (The solution)
4. What is the true reason for the remedy? (The purpose)

## 16.3 THE PRINCIPLE

"Interpret the statute in a way that suppresses the mischief and advances the remedy."

## 16.4 THE FOUR STEPS EXPLAINED

Step	Question	Purpose
1	What was the law before?	Know the background
2	What was the problem?	Identify the mischief
3	What solution was provided?	Understand the remedy
4	Why this remedy?	Find legislative intent

## 16.5 WHY MISCHIEF RULE?

- Focuses on purpose, not just words
- Prevents defeat of legislative intent
- Adapts law to social conditions
- Promotes justice

## 16.6 LEADING CASES ON MISCHIEF RULE

### Case 1: **Smith v. Hughes (1960)**

Facts:

A statute made it an offense for prostitutes to "solicit in the street." The defendants solicited from balconies and tapped on windows.

Issue:

Were they "in the street"?

Court's Decision:

Applying Mischief Rule, the court looked at the purpose - to clean up streets and enable people to walk without being solicited. The mischief was soliciting that could be seen from the street. Therefore, they were guilty even though not physically in street.

### Case 2: **Corkery v. Carpenter (1951)**

Facts:

Statute made it an offense to be drunk "while in charge of a carriage" on the highway. The accused was drunk while riding a bicycle.

Issue:

Is a bicycle a "carriage"?

Court's Decision:

Applying Mischief Rule, the purpose was to prevent drunk persons from using vehicles on highway. A bicycle is a vehicle. Therefore, guilty.

### Case 3: **Bengal Immunity Co. v. State of Bihar (1955) - Indian Case**

Facts:

Interpretation of sales tax provisions.

Supreme Court held:

Applied mischief rule to understand constitutional scheme. Looked at the problem federalism was meant to solve.

**Case 4: KP Varghese v. ITO (1981)**

Facts:

Interpretation of income tax provision.

Supreme Court held:

The mischief rule requires us to look at the problem the provision was meant to solve. Interpretation must advance remedy.

**Case 5: Workmen v. Firestone Tyre (1973)**

Supreme Court held:

Industrial Disputes Act - mischief was exploitation of workers. Interpretation must advance worker protection.

**16.7 COMPARISON: LITERAL vs MISCHIEF**

<b>Aspect</b>	<b>Literal Rule</b>	<b>Mischief Rule</b>
Focus	Words	Purpose
Looks at	Dictionary meaning	Problem before Act
Result	May defeat purpose	Advances remedy
Age	Modern	Old (1584)

Use

Common law

Remedial statutes

## 16.8 MISCHIEF RULE AND BENEFICIAL CONSTRUCTION

- Beneficial construction applies mischief rule
- Both focus on purpose
- Both advance remedy

## 16.9 ADVANTAGES OF MISCHIEF RULE

### Advantage

### Explanation

Purpose-oriented

Achieves legislative intent

Flexible

Adapts to situations

Just results

Avoids technicality

Socially relevant

Addresses real problems

## 16.10 DISADVANTAGES

### Disadvantage

### Explanation

Less certain

Purpose can be debated

Judicial discretion

Judges decide purpose

Historical research

Need to find old law

## **16.11 SUMMARY**

- Mischief Rule looks at purpose
  - Four questions from Heydon's Case
  - Suppress mischief, advance remedy
  - Used in Smith v. Hughes, Bengal Immunity
  - Especially useful for remedial statutes
- 

## **CHAPTER 17: EJUSDEM GENERIS RULE**

### **17.1 WHAT IS EJUSDEM GENERIS?**

Pronunciation: Ey-yoos-dem gen-er-is

Meaning: "Of the same kind" or "of the same class"

### **17.2 THE PRINCIPLE**

"When general words follow specific words, the general words are limited to the same kind as the specific words."

### **17.3 SIMPLE EXPLANATION**

If a list of specific things is followed by general words, the general words apply only to things of the same category as the specific list.

#### **17.4 EXAMPLE**

Statute says: "No dogs, cats, or other animals in the restaurant."

Question: Does "other animals" include elephants?

Answer: No. Dogs and cats are domestic pets. "Other animals" means other domestic pets, not wild animals.

#### **17.5 CONDITIONS FOR EJUSDEM GENERIS**

For this rule to apply, the following conditions must be met:

<b>Condition</b>	<b>Explanation</b>
1. Specific words	There must be a list of specific words
2. Common category	Specific words must form a class
3. General words	General words must follow
4. No clear intent	No contrary intention shown

#### **17.6 WHEN EJUSDEM GENERIS DOES NOT APPLY**

The rule does not apply when:

1. Only one specific word - Need at least two to form a class
2. Words of different classes - Specific words not of same category
3. General words come first - Rule applies when general follows specific
4. Contrary intent shown - Statute shows different intention
5. Wide meaning intended - Legislature clearly meant broad coverage

## **17.7 LEADING CASES ON EJUSDEM GENERIS**

### **Case 1: Powell v. Kempton Park Racecourse (1899)**

Facts:

A statute prohibited betting houses, offices, or other places for betting. The accused used a ring in open air for betting.

Issue:

Is an open air ring covered by "other places"?

Court's Decision:

No. The specific words (houses, offices) indicated enclosed places. "Other places" meant other enclosed places, not open air. Eiusdem generis applied.

### **Case 2: State of Bombay v. Ali Gulshan (1955) - Indian Case**

Facts:

A statute allowed requisition of land for "roads, streets, lanes, or other purposes."

Issue:

Could land be requisitioned for a hospital?

Court's Decision:

No. The specific words all related to communication/transportation. "Other purposes" meant other communication purposes, not hospitals.

### **Case 3: UPSE Board v. Hari Shankar (1979)**

Facts:

Electricity Act used words "works, lines, or other apparatus."

Issue:

Does "other apparatus" include meters?

Court's Decision:

Yes. Works and lines are electrical equipment. Meters are same class. Eiusdem generis applied.

#### **Case 4: Amar Chandra v. Excise Deptt. (1973)**

Facts:

Excise Act allowed search of "any place, vehicle, vessel, or other conveyance."

Issue:

Does "other conveyance" include aircraft?

Court's Decision:

Yes. Vehicle and vessel are conveyances. Aircraft is same class.

### **17.8 ILLUSTRATIONS**

Illustration 1:

"Cricket, football, hockey, and other games" - "Other games" means other sports, not card games.

Illustration 2:

"Tables, chairs, sofas, and other furniture" - "Other furniture" means other household furniture, not industrial machinery.

Illustration 3:

"Rifles, pistols, and other weapons" - "Other weapons" means other firearms, not swords.

### **17.9 RATIONALE FOR THE RULE**

- Legislature provides specific examples
- General words catch similar items
- Prevents unlimited expansion
- Reflects legislative intent

### **17.10 CRITICISM**

## Criticism

## Explanation

Class determination

How to define the class?

Arbitrary

Different judges may see different classes

Defeats purpose

May unduly restrict

## 17.11 SUMMARY

- Eiusdem generis = of the same kind
  - General words limited by specific words
  - Requires specific words forming class
  - Does not apply if contrary intent
  - Example: houses, offices → other places (enclosed)
- 

## CHAPTER 18: NOSCITUR A SOCIIS

### 18.1 WHAT IS NOSCITUR A SOCIIS?

Pronunciation: Nos-ki-tur a so-shi-is

Meaning: "A word is known by the company it keeps."

### 18.2 THE PRINCIPLE

"The meaning of a word is to be judged by the words associated with it."

### 18.3 SIMPLE EXPLANATION

You can understand a word's meaning by looking at the other words around it. Words take color from their companions.

### 18.4 EXAMPLE

Phrase: "Tables, chairs, and other articles"

If we don't know what "articles" means, we look at "tables" and "chairs" - they are furniture. So "articles" means other furniture items.

### 18.5 DIFFERENCE: EJUSDEM GENERIS vs NOSCITUR A SOCIIS

Aspect	Ejusdem Generis	Noscitur a Sociis
Applies to	General words after specific list	Any word in context
Requires	List of specific words forming class	Associated words
Effect	Limits general words	Gives color to words
Scope	Narrower	Wider

### 18.6 LEADING CASES ON NOSCITUR A SOCIIS

**Case 1: State of Bombay v. Hospital Mazdoor Sabha (1960)**

Facts:

Interpretation of "industry" in Industrial Disputes Act. The Act defined industry to include "any business, trade, undertaking, manufacture or calling of employers."

Issue:

Does "undertaking" include hospitals?

Supreme Court held:

Applying noscitur a sociis, "undertaking" takes color from business, trade, manufacture - all commercial activities. Hospital not commercial, so not covered.

Note: This was later overruled in Bangalore Water Supply case.

### **Case 2: Rajasthan State Electricity Board v. Mohan Lal (1967)**

Facts:

Whether Electricity Board is "industry."

Supreme Court held:

Applying noscitur a sociis, the words associated with "industry" indicate commercial activity. Board is commercial, so covered.

### **Case 3: Ahmedabad Pvt. Primary Teachers' Association v. Administrative Officer (2004)**

Facts:

Interpretation of "educational institution" in certain context.

Supreme Court held:

Words take meaning from context. Noscitur a sociis applies - look at associated words.

### **Case 4: Kailash Nath v. State of UP (1957)**

Facts:

Interpretation of land revenue terms.

Supreme Court held:

Associated words help determine meaning. Noscitur a sociis applied.

## **18.7 APPLICATION IN CONSTITUTIONAL INTERPRETATION**

Case: State of Madras v. Champakam Dorairajan (1951)

Facts:

Interpretation of fundamental rights.

Supreme Court held:

Rights must be read in context of other provisions. Noscitur a sociis applies to constitutional interpretation.

## 18.8 MAXIMS RELATED

### Maxim

### Meaning

Noscitur a sociis

Known by associates

Verba accipienda sunt secundum  
subjectam materiam

Words are to be understood according  
to the subject matter

## 18.9 ILLUSTRATIONS

Illustration 1:

"Instruments, machinery, and equipment" - "Equipment" likely means industrial equipment.

Illustration 2:

"Books, journals, and other publications" - "Publications" means printed materials, not digital.

Illustration 3:

"Banks, financial institutions, and other lenders" - "Lenders" means financial lenders, not friends lending money.

## 18.10 SUMMARY

- Noscitur a sociis = known by associates
  - Words take color from context
  - Broader than ejusdem generis
  - Helps determine ambiguous words
  - Widely used in statutory interpretation
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## **UNIT IX: CONSTITUTIONAL INTERPRETATION**

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### **CHAPTER 19: INTERPRETATION OF THE CONSTITUTION**

#### **19.1 WHAT IS CONSTITUTIONAL INTERPRETATION?**

Simple Definition:

Constitutional interpretation means understanding and explaining the meaning of the Constitution. It is different from interpreting ordinary statutes.

#### **19.2 WHY IS CONSTITUTIONAL INTERPRETATION DIFFERENT?**

<b>Feature</b>	<b>Ordinary Statute</b>	<b>Constitution</b>
Nature	Ordinary law	Supreme law
Amendment	Easier	Difficult

Duration	May be temporary	Permanent
Scope	Specific subject	Broad framework
Rights created	Statutory rights	Fundamental rights

## **19.3 PRINCIPLES OF CONSTITUTIONAL INTERPRETATION**

### **19.3.1 Harmonious Construction**

Meaning: All parts of Constitution must be read together to avoid conflict.

Case: Kesavananda Bharati v. State of Kerala (1973)

Basic structure doctrine emerged from harmonious reading.

### **19.3.2 Purposive Interpretation**

Meaning: Constitution should be interpreted to achieve its purposes.

Case: Maneka Gandhi v. Union of India (1978)

Article 21 given broad, purposive meaning.

### **19.3.3 Living Document Approach**

Meaning: Constitution is a living document that grows with society.

Case: Francis Coralie v. UT of Delhi (1981)

Right to life includes right to live with dignity.

### **19.3.4 Literal Rule (Limited Application)**

Words given ordinary meaning, but context of Constitution considered.

### **19.3.5 Doctrine of Pith and Substance**

For deciding legislative competence:

- Look at true nature of law
- Not just form but substance

### **19.3.6 Doctrine of Colourable Legislation**

- Legislature cannot do indirectly what it cannot do directly
- If it appears to do one thing but really does another, it's "colourable"

## **19.4 RULES SPECIFIC TO CONSTITUTIONAL INTERPRETATION**

### **19.4.1 Liberal Interpretation**

Fundamental rights given liberal interpretation.

Case: Unni Krishnan v. State of AP (1993)

Right to education derived from right to life.

### **19.4.2 Presumption of Constitutionality**

Laws presumed constitutional. Burden on challenger.

### **19.4.3 Reading Down**

If a provision is too broad, courts may "read it down" to save it.

### **19.4.4 Severability**

If part of law is unconstitutional, only that part struck down if it can be separated.

## **19.5 BASIC STRUCTURE DOCTRINE**

Case: Kesavananda Bharati v. State of Kerala (1973)

Held:

Parliament cannot destroy the basic structure of the Constitution even by amendment.

What is Basic Structure?

Not exhaustively defined, but includes:

<b>Element</b>	<b>Case</b>
Supremacy of Constitution	Kesavananda
Rule of law	Indira Gandhi v. Raj Narain
Separation of powers	Kesavananda
Judicial review	Minerva Mills
Federalism	SR Bommai
Secularism	SR Bommai
Sovereign democratic republic	Kesavananda
Fundamental rights (some)	Minerva Mills

## **19.6 INTERPRETATION OF FUNDAMENTAL RIGHTS**

Principles:

1. Liberal construction - Rights given widest meaning
2. Harmonious construction - Rights read with directive principles
3. Reasonableness - Restrictions must be reasonable

Case: Maneka Gandhi v. Union of India (1978)  
Article 21 expanded to include many rights.

## **19.7 INTERPRETATION OF LEGISLATIVE LISTS**

Doctrine of Pith and Substance:

- Look at true nature of law
- Incidental encroachment allowed

Doctrine of Colourable Legislation:

- Cannot do indirectly what cannot do directly
- Legislature cannot "color" law to hide real purpose

## **19.8 INTERPRETATION OF DIRECTIVE PRINCIPLES**

Principles:

- Not enforceable by courts
- But fundamental in governance
- Guide interpretation of fundamental rights

Case: State of Bombay v. FN Balsara (1951)  
Directive principles help interpret fundamental rights.

## **19.9 LEADING CASES ON CONSTITUTIONAL INTERPRETATION**

### **Case 1: AK Gopalan v. State of Madras (1950)**

Issue: Meaning of "procedure established by law"

Held: Strict interpretation. Procedure means any procedure.

### **Case 2: Maneka Gandhi v. Union of India (1978)**

Issue: Whether procedure must be fair

Held: Overruled Gopalan. Procedure must be just, fair, reasonable.

**Case 3: Kesavananda Bharati v. State of Kerala (1973)**

Issue: Extent of amending power

Held: Basic structure cannot be destroyed.

**Case 4: Minerva Mills v. Union of India (1980)**

Issue: Balance between fundamental rights and directive principles

Held: Harmony between them is basic structure.

**Case 5: SR Bommai v. Union of India (1994)**

Issue: Secularism as basic structure

Held: Secularism is part of basic structure.

**19.10 METHODS OF CONSTITUTIONAL INTERPRETATION**

<b>Method</b>	<b>Meaning</b>	<b>Use</b>
Textual	Words of Constitution	Primary
Historical	Original intent	Helpful
Structural	Structure of Constitution	Important
Doctrinal	Previous cases	Follow precedent

Comparative

Other countries

Guidance

Prudential

Consequences

Avoid chaos

## **19.11 SUMMARY**

- Constitutional interpretation is special
  - Principles: harmonious construction, purposive, living document
  - Basic structure doctrine limits amendments
  - Fundamental rights liberally construed
  - Pith and substance for legislative competence
  - Presumption of constitutionality
- 

# **GENERAL SUMMARY FOR QUICK REVISION**

## **UNIT I: INTRODUCTION**

- Interpretation: Finding meaning of statutes
- Literal Rule: Ordinary dictionary meaning
- Golden Rule: Modify to avoid absurdity

## **UNIT II: BENEFICIAL & RESTRICTIVE**

- Beneficial: Liberal for welfare laws
- Restrictive: Narrow for penal/tax laws

## **UNIT III: JUDICIAL INTERPRETATION**

- Activism: Pro-active judicial role

- Restraint: Defer to legislature

## **UNIT IV: PRESUMPTIONS**

- No retrospectivity
- No common law change
- Constitutionality
- State not bound unless named

## **UNIT V: HARMONIOUS CONSTRUCTION**

- Reconcile conflicting provisions
- Give effect to all
- Avoid absurdity

## **UNIT VI: STRICT & EQUITABLE**

- Strict: Penal, tax laws
- Equitable: Welfare laws

## **UNIT VII: LEGISLATIVE INTENT**

- Purpose of law
- Mandatory vs Directory

## **UNIT VIII: RULES**

- Mischief Rule: Suppress mischief, advance remedy (Heydon's Case)
- Ejusdem Generis: General words limited by specific
- Noscitur a Sociis: Words known by associates

## **UNIT IX: CONSTITUTIONAL**

- Harmonious construction
- Basic structure doctrine

- Living document approach
- Pith and substance