

# Indian Partnership Act-1932

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# Introduction:-

Partnership Act came in to force  
on 1<sup>st</sup> Oct. 1932, without Sec.69  
and  
on 1<sup>st</sup> Oct. 1933 with section 69 .

Section 69 deals with non registration  
of partnership act.

Prior to the act it was governed under  
Indian Contract Act 1872.

Applicable to whole of India except  
the state of J & K .



# Definitions

According to Sec.4

“Partnership is the relationship between persons who have agreed to share profit of the business carried on by all or any one of them acting for all”



# Features of Partnership

- 1] Contract or agreement
- 2] Association of two or more persons  
(Max-10 Banking  
20 trading )
- 3] Nature of activity
- 4] Sharing of Profit
- 5] Mutual Agency



# Formation of Partnership

- Agreement between partner and firm is basis of formation of partnership firm.
- Such agreement may be oral or written.
- Written agreement is preferred to settle disputes in future



# Formation of partnership

- 1] Agreement-with clear discussion of rights and obligation of partner
- 2] Free Consent-all essential of valid contract must be fulfilled
- 3] Mutual confidence and good faith
- 4] Registration



# Partnership Deed

\*A document explain the rights and obligations of Partners of the firm.

\*May be oral or written

\*A written agreement cant settle future disputes easily

\*It should be drafted with care , signed by all partners and stamped properly

\*Each partner should possess of its copy

\*A copy must be submitted to the registrar of the firms at the time of registration

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## Partnership Agreement (Two Partners)



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PREVIEW  
→

# Contents of the partnership deed

- The format of the deed is depend on the circumstances. Generally it contains-
  - 1] Name of the firm and place of the business
  - 2] Name and address of the partners
  - 3] Date of commencement
  - 4] Nature and scope of the business
  - 5] Duration of partnership
  - 6] Profit & Loss sharing ratio



# Contents of the partnership deed

- 7] Capital & contribution made by partners
- 8] Interest on capital, loan and drawings
- 9] Salary, commission and remuneration of partners
- 10] methods of maintain books of A/c , audit and custody of cash
- 11] Rights, powers and duties of partners
- 12] Rules of admission, retirement and expulsion of partner.

# Duration of Partnership

## Partnership at Will

Period of partnership is not define

Can be dissolved at any time by notice

## Specific Partnership

Formed for specific period or venture

Get dissolved after specific period or venture



# Registration of Partnership



- \*In initial partnership Act-1932, there was no provision for registration of firm
- \*It was included in updated act 1933
- \*Due to non registration, proving the existence of firm and claim against the partner become impossible
- \* Partners deny their membership to avoid liability

# Registration of Partnership



- \* There was a demand for compulsory registration of partnership firm like England
- \* Such compulsion was not possible in India due to large numbers of small partnerships firms
- \* Even today registration is not compulsory but better for future contingencies

# Time of Registration

- \*Registration can be done at any time during the continuance of firm
- \* It is required for any legal interaction with/to the firm
- \*In Maharashtra, it should be done within one year from constitution or formation of firm
- \*It is optional , but when a firm desires to register --
- \*a penalty of Rs. 100 per day has to be pay from the date of commencement of the firm
- \*or from the date of amendment of act
- \*whichever is later

# Procedure of Registration

- \*A firm has to submit prescribed application form with the registrar where the firm is situated or proposed to situate
  - \*prescribed fees and copy of partnership deed must be attached
  - Registration application must be signed by all partners or by their agents if specially authorized
- (Pune Janata Sahakari Bank, Latur Branch and Dayanand Educational Society, Latur)

# Procedure of Registration

If the registrar is satisfied with the details submitted for registration of the firm, he will record the name of the firm in the registrar and the process will be completed

**Change in Particulars :-** Any type of variations regarding partners ,location or nature of the firm business should be updated in reasonable time. The registrar of the firm has a right to rectify the change in the registrar of the firm

# Effect of Non registration

- \*Partnership act dose not make registration compulsory
- \*It is necessary at one time or other
- \*An unregistered firm is not illegal association but partners may face many legal difficulties
  - 1] No suit against partners or firm
  - 2] No suit against third party
  - 3] Firm or partner can not use general contract principal to set off claim



# Types of Partner

I] Active partner/Actual /  
Ostensible Partner :-

- \*Take active part in conduct and management of firm's business
- \*His act with third party is binding on copartner and firm
- \*work as full-fledged partner
- \*should give public notice of retirement to avoid liabilities after his retirement



# Types of Partner

## 2] Sleeping or Dormant Partner:-

- \* Invest Money and take share of profit but do not participate in day to day functions
- \* Does not take active part
- \* Unlimited liability, towards third party
- \* Can be retired without giving public notice



# Types of Partner

## 3] Silent Partner:-

- \*No voice in the management
- \*unlimited liability
- \*Share profit & loss
- \*can take active part in business but have less important



# Types of Partner

## 4] Nominal Partner:-

- \* Reputed person allow to use his name
- \* Do not invest or participate in management of firm
- \* Only gives his name to the firm
- \* Has no interest or involvement in business but liable for outsiders
- \* Dose not share profit or loss



# Types of Partner

## 5] Sub Partner:-

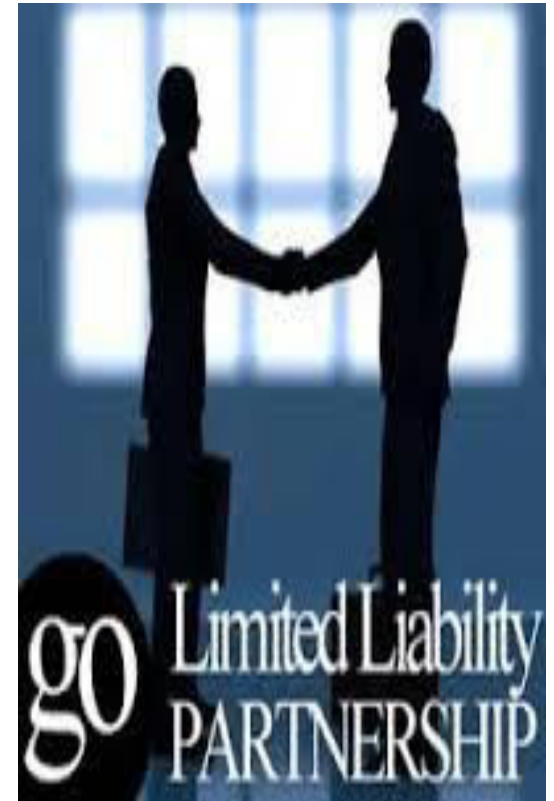
- \* When partner of a firm agrees to share profit with third person, that third person is called sub partner.
- \* Has no rights and duties towards the firm
- \* Has no liability
- \* Can not bind other partners or firm for his act



# Types of Partner

## 6] Partner in Profit only:-

- \* has a right to share profit only not liable for loss of firm
- \* has no voice in the management
- \* Not take any risk in the business
- \* But ready provide capital to the partnership



# Types of Partner

## 7] Minor Partner:-

- \* Can not become partner but can be admitted for benefits of the partnership
- \* Consent of the other partner is required
- \* Cannot be declared as insolvent
- \* After attending majority he can become partner and has rights like other partners



## Types of Partner

8] Partner by estoppels or holding out :-

- \* Others treat him as a partner due to his act or behavior
- \* When a person represents himself to be a partner is called as partner by estoppels
- \* He is liable as a partner but no way a partner
- \* He can not claim compensation for the liability



# Rights of partners

## 1] Right to take part in in the conduct of business :-

- \* Every partner has a right to take part in the conduct and management of the business
- \* Proportion of the capital contribution can not deny this right
- \* Right of the partners not taking active part can not be denied



## Rights of partners

### 2] Right to access of books of accounts :-

- \* Every partner (Active or Dormant) has a right of free access of all records, books and accounts of the business
- \* He can examine the accounts
- \* Can take copy of accounts



## Rights of partners

### 3] Right to interest on capital :-

- \* Can charge interest on the excess share of capital
- \* Such provision should be made in agreement
- \* Rate of interest should be fixed ,if no rate is fixed it should be 6%



## Rights of partners

### 4] Right to share Profit:-

Every partner is entitled to share profit, irrespective of capital contribution

If different proportions (agreements) are stipulated this right can be variable



## Rights of partners

5] Right to interest on advance :-

If a partner makes any payment or advance beyond the amount of capital for firm's business, he has a right to take interest on such amount @ 6 %



## Rights of partners

### 6] Right to be consulted :-

- \* Every partner has a right to be consulted and heard before taking any firm's decision.
- \* Difference of opinion can be settled by majority
- \* Generally such provision is made in agreement
- \* Issues like admission of new partner & other important variation in firms activity should be consulted with every partner



# Rights of partners

## 7] Right to indemnity :-

If a partner has incurred some expenses  
or

make any payment from his own beyond  
the capital ,

he can claim indemnity for that.



# Rights of partners

## 8] Right to use Property:-

Every partner is the joint owner of the firm's property

He has a right to use it exclusively for firms business





# Rights of partners

9] Right to prevent new admission:-  
Every partner has a right to prevent admission of new partner into firm without his consent



# Rights of partners

## 10] Right to retire:-

partner can retire by giving notice where the firm is at will

## 11] Right to protect the firm:-

A partner has a power to act in an emergency to protect the firm from loss

## 12] Right to retain in firm:-

every partner has a right to continue in partnership and can not be expelled from firm unless agreed

# Rights of partners

13] Right to carry on competing business:-

- \* outgoing partner has a right to start competing business
- \* Can advertise the competing business
- \* But can not use name of old partnership
- \* Can not solicit the customer of the firm



# Duties of Partner

## Duties of Partner

Absolute  
Duties

Qualified  
Duties



# Absolute Duties

1] To carry business with greatest common advantage :-

- \* Each partner must perform for greatest common advantages of the firm
- \* He must use his skill and knowledge for the benefit of the firm
- \* he must conduct the business with best of his ability and secure maximum business
- \* Personal benefit should not be given importance



# Absolute Duties

## 2] Duty to render true account:-

- \*Every partner is bound to keep & render true ,proper and correct accounts to his copartners
- \*He should be able to explain accounts to the firm and produce voucher support
- \* No partner should earn any secret profit



# Absolute Duties

## 3] Duty to provide full information :-

- \* Each partner should communicate full information about the firm to other partners
- \* He should not hide any information as every partner is an agent of others
- \* partnership is based on at most good faith



# Absolute Duties

## 4] To be just and faithful to others :-

- \* Every partner must be just and faithful to his co-partner
- \* There must be mutual trust, confidence, Sprit of helpfulness and goodwill among partners.



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# Absolute Duties

5] to be liable jointly and severally :-

- \* The liability of the partner is double in nature, jointly and severally.
- \* Creditor can take action for his dues against all partner or any one of them



# Absolute Duties

## 6] Duty to indemnity for loss caused by fraud:-

If the firm suffers any loss even after at most care, the loss has to be born by firm and not by concerned partner

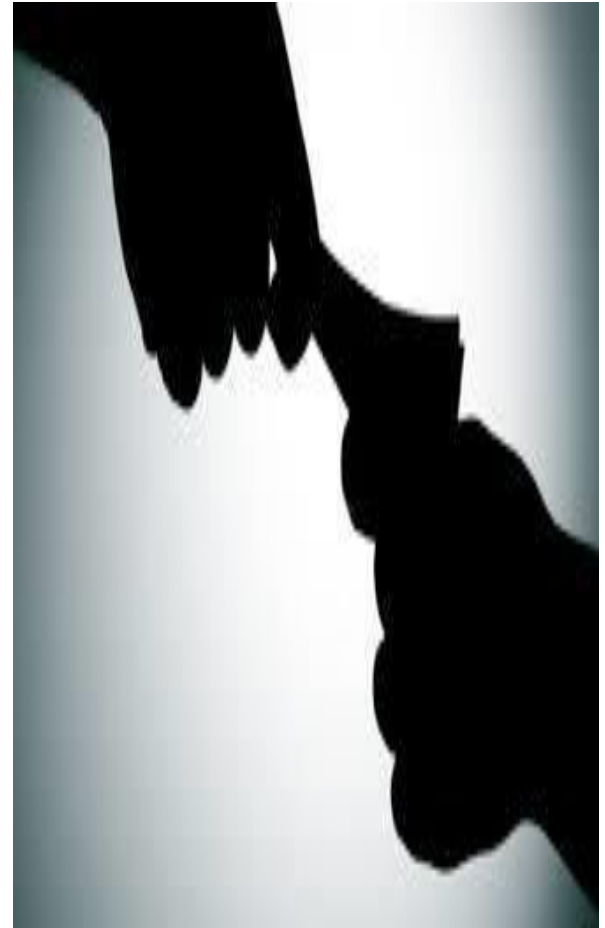
But if the partner causes loss of the firm by his neglect to fraud he is liable to make up the loss.



# Absolute Duties

## 7] Duty ,not to assign his interest :-

- \*No partner can assign or transfer his partnership interest to any other person
- \* Can not make other person partner without consent of other partners
- \* can transfer his share of profit to third party but that third party can not take part in the conduct of the business



# Qualified Duties

I] To attend the duties diligently :-

- \* Every partner is bound to attend diligently the business of the firm
- \* In absence of any agreement he is not entitled to receive any remuneration

**Diligence**

Do your duty to the  
best of your ability!

# Qualified Duties

2] To account for personal profit derived:-

- \* If a partner earns any personal profit by using name or property of the firm, he must return it to the firm



# Qualified Duties

## 3] Duty to contribute the losses:-

If no separate agreement is made, every partner is bound to share losses equally with others



# Qualified Duties

3] Duty to indemnify for willful neglect:-

Due to guilty partner, if a firm suffers a loss (even for willful neglect in the conduct of business) such partner is bound to make compensation to the firm or other partners.



## Qualified Duties

### 5] Duty to work without remuneration :-

In ordinary course partner is not bound to receive remuneration for firm's business, but if such provision is made in partnership deed an active partner may be paid remuneration.





## Qualified Duties

6] Not to compete with the business of the firm :-

An Existing partner can not start similar business and compete with the business of the firm



# Qualified Duties

## 7] Duty to use firms property exclusively for the firm:-

- \* Partner can use firm's property exclusively for firms business,
- \* He can not use it for personal benefits.



# Qualified Duties

8] Duty to work within authority:-

- \*Every partner is bound to act within own scope of actual authority
- \* If he exceeds the authority he shall compensate other partners for the loss



# Dissolution of Partnership firm

Section 39 “ The dissolution of the partnership between or among all partners of a firm is called dissolution of the firm”

According to partnership act , Dissolution of partnership firm and dissolution of partnership are two different concepts.

# Dissolution of Partnership Firm

- \* When there is dissolution of partnership between or among all partners.
- \* Relationship among all partners is come to an end
- \* The business of the firm is closed down
- \* There is winding up of the firm



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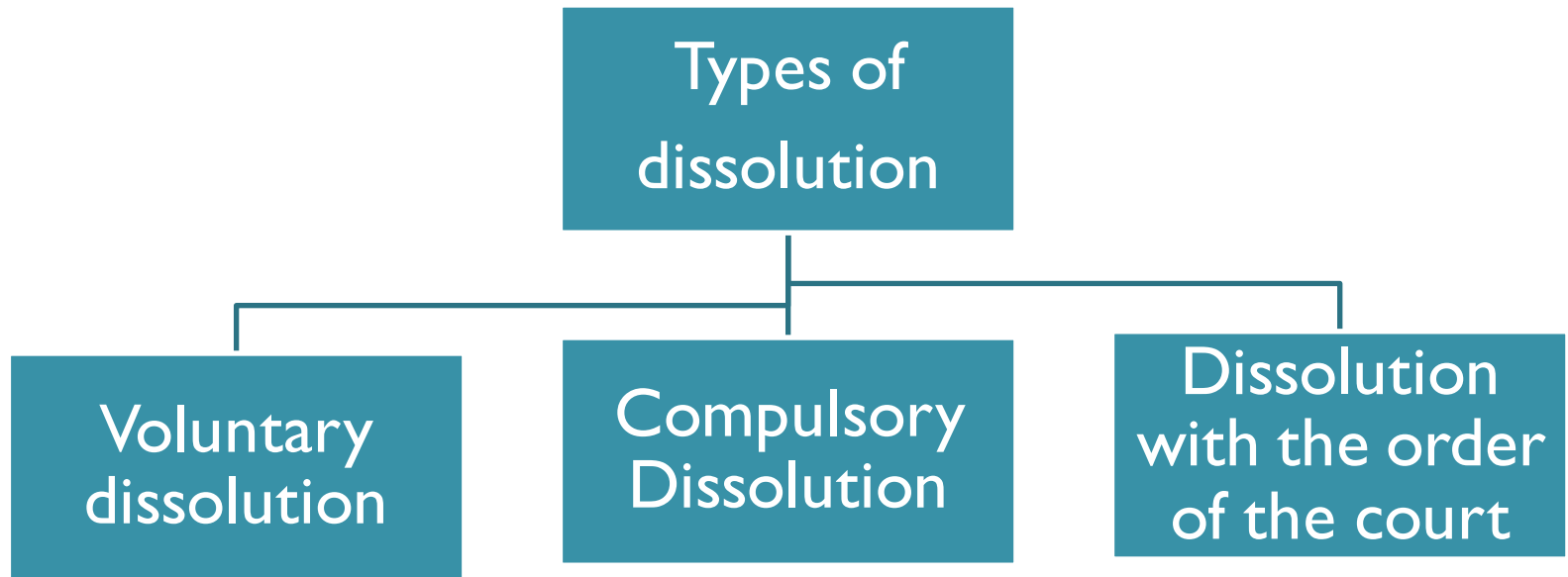


# Dissolution of Partnership

- \* There is variation or change in the relationship of the partner
- \* The change is due to incoming or outgoing partner
- \* There is reconstitution of the firm
- \* Rules regarding various firm's activity may get changed
- \* The business of the firm is continued



# Kinds of modes of dissolution



Splitting the property after a Law Firm Dissolution.



# Voluntary Dissolution

- 1] By agreement:-  
with the consent of all partners
- 2] By Notice:- In case of partnership at will, if any partner by notice express his intention to dissolve the firm
- 3] On happening of certain contingencies:-  
in following conditions with mutual consent of all partners
  - i] after specific period
  - ii] completion of specific project or venture
  - iii] death of a partner
  - iv] insolvency of a partner





## 2] Compulsory Dissolution

- 1] when all partners or all the partner except on are declared as insolvent
- 2] If the firms business is declared as illegal or unlawful



# 3] Dissolution by order of court

Under section 44 court may order to dissolve the firm in following cases

1] Unsound mind of partner- if partner becomes lunatic or unfit for the contract, such partner, his friend or relative may file a case to dissolve the firm

2] Permanent incapacity – if a partner become permanently incapable to act as partner



## 3] Dissolution by order of court

3] Improper conduct:-  
when a partner is guilty  
of misconduct, which  
affect the business of the  
firm, the court may  
dissolve such firms

- \* Frauds ,
- \* regular neglect of duties
- \* holds back accounting  
books

are some type of  
misconducts



### 3] Dissolution by order of court

#### 4] Willful or persistent breach of agreement :-

When a partner frequently breach partnership agreement and other find it impossible to carry on the business court may order for dissolution of such form



### 3] Dissolution by order of court

#### 5] Transfer of interest:-

If a partner transfer the whole of the interest to a third party or sell of his share in the profit, other partners may file case to dissolve the firm.



### 3] Dissolution by order of court

#### 6] Continuous losses :-

If the court is of the opinion that specific firm cannot earn any profit or there is no possibility of earning profit in future

Court may direct to dissolve such firms



# 3] Dissolution by order of court

## 7] Just and equitable

When court considered it just and equitable that firm should be dissolve

