

Second Year – Fourth Semester

COURSE-III: OPTIONAL-II: BANKING LAW

Objectives:

Banking Institutions have become important players in the present day economy. They play pivotal role in the growth of trade, commerce and industry. Several policy initiatives and legislative amendment have changed the role of Banks from being mere economic institutions in to agents of social change. Appreciating the importance, the Government has enacted several enactments to direct, regulate and control the banks and banking operations, through Reserve Bank of India and Ministry of Finance.

The course is designed to primarily acquaint the students with operational parameters of banking law, and to teach the general principles of banking law and to develop appreciative faculties of the students in statutory as well as case-law in this area.

COURSE CONTENTS:

UNIT-1

Indian Banking Structure – Origin – Evolution of Banking Institutions – Types and functions of banks – Commercial Banks – Functions – Banking Companies in India – RBI – Constitution, Management and Functions – Banking Regulation Act, 1949 – State Bank of India – UTI, IDBI, RRB's – Local Banks.

UNIT-II

Employment of funds – Loans and Advances – guarantees – Advances secured by Collateral securities – Agency Services – Financing of Exports – Special Banking Services – Advances to Priority Sectors and Credit Guarantee schemes- Securitization Act, 2002.

UNIT –III

Law relating to Negotiable Instruments, 1881 Act (Read with the amended Act of 2002) – Negotiable Instruments – Kinds – Holder and holder in due course – Parties – Negotiation – Assignment – Presentment – Endorsement – Liability of parties – payment in due course – Special rules of evidence – Material alteration – Noting and protest – Paying Banker and collecting banker – Bills in sets – Penal provisions under NI Act – Banker's book evidence Act.

UNIT-IV

Banker and customer Relationship – Definition of banker and customer – General relationship – Special relationship – Banker's duty of secrecy, Banker's duty to honour cheques, Banker's lien, and banker's right to set off – Appropriation of payments – Garnishee order- Customer's duties towards his banker.

Opening of New Accounts – Special types of customers – Minor’s A/c, Joint A/c, Partnership A/c, Company’s A/C, Married Women’s A/c, Trust A/c, Joint Hindu family A/c – Illiterate persons, lunatics, executors – Precautions required in case of administrators, clubs, societies and charitable institutions to open an account.

UNIT –V

Ancillary Services and E-Banking : Remittances – General, DD, MT, TT, Traveller’s cheques, bank orders, credit card, debit/smart cards, safe deposit vaults, gift cheques, stock invest.

E-Banking – Definition – E-Banking includes – Internet banking, mobile banking, ATM banking, computerized banking-E – banking services – retail services – wholesale services – E – Cheque- authentication – cyber evidence – Banking Ombudsman.

PRESCRIBED BOOKS:

M.L.Tannan – Law of Banking.

M.S.Parthasarathy (Ed), Khergamvala – Negotiable Instruments Act.

Justice Bhaghabati Prasad Banerjee – Guide to Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002.

Reference Books:

Avtar Singh – Negotiable Instruments Act.

Basu – Review of Current Banking: Theory and Practice.

Paget – Law of Banking

L.C.Goyle – The Law of Banking and Bankers.

Relevant provisions of Information Technology Act, 2000.

COURSE-III: OPTIONAL-II: INSURANCE LAW

Objectives:

The insurance idea is an old-institution of transactional trade. Even from olden days merchants who made great adventures gave money by way of consideration, to other persons who make assurance, against loss of their goods, merchandise ships and things adventured. The rates of money consideration were mutually agreed upon. Such an arrangement enabled other merchants more willingly and more freely to embark upon further trading adventures. The operational framework of insurance idea is provided by the general principles of contract. The insurance policy, being a contract, is subject to all the judicial interpretative techniques of rules of interpretation as propounded by the judiciary. Besides, the insurance idea has a compensatory justice component. This course is designed to acquaint the students with the conceptual and operational parameters, of insurance law.

Course contents:

UNIT -1

Introduction: Nature – Definition – History of Insurance – History and development of Insurance in India – Insurance Act, 1938 – (main sections) Insurance Regulatory Authority Act, 1999; Its role and functions.

UNIT-II

Contract of Insurance: Classification of contract of Insurance – Nature of various Insurance Contracts – Parties there to – Principles of good faith – non disclosure – Misrepresentation in Insurance Contract – Insurable Interest – Premium: Definition – method of payment, days of grace, forfeiture, return of premium, mortality; the risk – meaning and scope of risk, Causa Proxima, Assignment of the subject matter.

UNIT-III

Life Insurance: Nature and scope of Life Insurance – Kinds of Life Insurance.

The Policy and formation of a life insurance contract – Event insured against Life Insurance contract – Circumstance affecting the risk – Amount recoverable under the Life Policy – Persons entitles to payment – Settlement of claim and payment of money – Life Insurance Act, 1956 – Insurance against third party rights – General Insurance Act, 1972 – The Motor Vehicles Act, 1988 – Sec. (140-176), Nature and Scope – Absolute or no fault liabilities, Third Party or compulsory insurance of motors vehicles – Claims Tribunal – Public Liability Insurance – Legal aspects of Motor Insurance – Claims – Own Damages Claims – Third Party Liability Claims.

UNIT-IV

Fire Insurance : Nature and scope of Fire Insurance – Basic Principles – Conditions & Warranties – Right & Duties of Parties – Claims – Some Legal Aspects. Introduction to Agriculture Insurance – History of Crop Insurance in India – Crop Insurance Underwriting, Claims, Problems associated with Crop Insurance – Cattle Insurance in India.

UNIT-V

Marine Insurance: Nature and Scope – Classification of marine policies. Insurable interest. Insurable values. Marine insurance and policy – Conditions and express warranties – Voyage deviation – Perils of sea – Loss – Kinds of Loss – The Marine Insurance Act, 1963 (Sections 1 to 91).

Prescribed Books:

K.S.N.Murthy and K.V.S.Sharma – Modern Law of Insurance in India.

M.H.Srinivasan – Principles of Insurance Law.

Reference Books:

E.R.Hardy Ivamy – General Principles of Insurance Law, relevant Chapters.

Insurance Act, 1938.

The Marine Insurance Act, 1963.

General Insurance (Business) (Nationalization) Act, 1972.

The Life Insurance Corporation Act, 1956.

Motor Vehicle Act, 1988.