

UNIT 1

INTRODUCTION TO BUSINESS LAWS

LAW

Is a body of principles recognized and applied by the state in administration of justice. The law is a system of rules that a society or government develops in order to deal with crime, business agreements, and social relationships.

Law is not static.

“Ignorance of law is not an excuse”

BUSINESS LAW/MERCANTILE LAW

It refers to those legal rules which govern and regulate business transactions (trade, commerce and industry). It deals with contractual situations and right and obligations arising out of mercantile transactions between mercantile persons. Business laws establish the rules that all businesses should follow.

Sources of Business Law

Indian mercantile law is based largely upon the English mercantile law.

1) English mercantile law

- a) Common law
- b) Equity
- c) Statute law
- d) Case Law
- e) Merchant law

2) Customs and usages

3) Statute law

4) Case laws

1. English Mercantile Law

The English law is the most important source of Indian mercantile law. Many rules of English law have been incorporated into Indian law through statutes and judicial decisions. The sources of English law are:

A. Common Law

This law is known as judge made law. It is based upon customs and practices handed down from generation to generation. It is the oldest unwritten law. The English Courts developed these over centuries.

B. Equity

Equity is also unwritten law. It is based upon concepts of justice developed by the judges whose decisions become precedents. It grew as a system of law supplementary to the common law and covered the deficiencies of the common law. Its rules were applied in cases where the rules of common law were considered harsh and oppressive.

C. Statute Law

Statute law is one, which is laid down in the Acts of Parliament. Hence, it acts as the most superior and powerful source of law. It overrides any rule of common law or Equity.

D. Case Law

This is also an important source of the English mercantile law. It is built upon the decisions of the Judges. It is based on the principle that what has been decided in earlier case is binding in similar future case also unless that there is a change in the circumstances of the case.

E. Law Merchant

It is also one of the important sources of English mercantile law. It was that branch of law which was based on customs and usages prevalent amongst merchants and traders. It developed during fourteenth and fifteenth centuries and was recognized.

2. Statute Law

The Indian Contract Act, 1872, the Sale of Goods Act, 1930, the Companies Act, 1956 are some of the examples of the statute law. The law making power in India is vested in Parliament and the state legislature.

3. Judicial Decisions

Judicial decisions are also called as case laws. This is a source of law based upon previous judicial decisions which have to be followed in similar future cases. The Courts in deciding cases involving similar points of law also follow them.

4. Customs and Usage

Customs and usage plays an important role in regulating business transactions. Most of the business customs and usage have been already codified and given legal sanctions in India. Some of them have been ratified by the decisions of the competent Courts of law. When a custom is accepted by a court and is incorporated in a judicial decision, it becomes a legally recognized custom.

Scope of Business law

The scope of mercantile law is very wide and varied. It includes law relating to contracts, partnership, sale of goods, negotiable instruments, companies etc.

- The Indian Contract Act, 1872
- The Sale of Goods Act, 1930
- The Partnership Act, 1932

- The Negotiable Instruments Act,1881
- The Companies Act,1956
- The Patents Act,1970
- The Trade and Merchandise Marks Act,1958
- The Consumer Protection Act,1986
- Environmental Protection Act,1986