

CURRICULUM AND SYLLABI

(5th Semester)

**LL.B
(Three-Year Program)**

SCHOOL OF LAW



RAFFLES

UNIVERSITY

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(Law of Evidence)

INTRODUCTION TO THE COURSE

Evidences are the basis for any legal system. This paper aims to acquaint students about the different types of recognized forms of evidences and its sources which are indispensable for any legal professional.

OBJECTIVES OF THE COURSE

The law of evidence is an indispensable part of both substantive and procedural laws. It imparts credibility to the adjudicatory process by indicating the degree of veracity to be attributed to 'facts' before the forum. This paper enables the student to appreciate the concepts and principles underlying the law of evidence and identify the recognized forms of evidence and its sources. The subject seeks to impart to the student the skills of examination and appreciation of oral and documentary evidence in order to find out the truth. The art of examination and cross-examination, and the shifting nature of burden of proof are crucial topics. The concepts brought in by amendments to the law of evidence are significant parts of study in this course.

TEACHING METHODOLOGY

As per the norms of the University for this Course there will be 6 classes per week. Clinical and tutorial form of learning should be followed. Teaching methodology will include Lectures-cum-discussion, Assignments, Projects and Presentations.

THE EVALUATION SCHEME

- Continuous Assessment- 40%
- Mid-Term- 20%
- End Term- 40%

COURSE OUTLINE

MODULE 1

GENERAL ISSUES RELATING TO LAW OF EVIDENCE

- History of statutory Evidence Law in India – Pre and post Indian Evidence Act, 1872 realities – Role of Judiciary, particularly the appellate judiciary in up- dating the Evidence Law rules by judicial creativity.
- The main features of the Indian Evidence Act 1861.
- Relationship between law of Evidence and substantive laws (Criminal and Civil laws) and procedural laws (Code of Criminal Procedure and Civil Procedure Code)
- Problem of applicability of Evidence Act
- Why rules of evidence have different significance under the Adversarial System and Inquisitorial System of Justice?

- Understanding the general concepts: 'Facts', 'Facts in issue', 'Relevant Fact', 'Evidence-Oral and Documentary', 'Direct and Circumstantial', 'Proved', 'Disproved' and 'Not Proved'.

MODULE 2

RELEVANCY AND ADMISSIBILITY OF FACTS

- **Logically relevant facts:**
 - The Doctrine of Res gestae (Section 6,7,8)
 - Special class of relevant facts relating to Conspiracy – section 10
 - The problems of relevancy of “Otherwise” irrelevant facts (Section 11)
 - Relevant facts for proof of custom (Section 13)
 - Facts concerning bodies & mental state (Section 14, 15)
- **Stated relevant facts**
 - Admissions and confessions
 - General principles concerning admission (Section 17, 23)
 - Differences between "admission" and "confession"
 - The problems of non-admissibility of confessions caused by "any inducement, threat or promise" (Section 24)
 - Inadmissibility of confession made before a police officer (Section 25)
 - Admissibility of custodial confessions (Section 26)
 - Admissibility of "information" received from an accused person in custody; with special reference to the problem of discovery based on a "joint statement" (Section 27)
 - Confession by co-accused (Section 30)
 - The problems with the judicial action based on a "retracted confession"
- **Dying Declarations**
 - The justification for relevance on dying declarations (Section 32)
 - The judicial standards for appreciation of the evidentiary value of dying declarations.
- Opinion of Third Person when relevant (Expert Opinion) - sections 45-51

Cases:

- State of Maharashtra v. Prafulla B. Desai (Dr.) (2003) 4 SCC 601
- R. M. Malkani v. State of Maharashtra, AIR 1973 SC 157
- Mirza Akbar v. Emperor, AIR 1940 PC 176
- Badri Rai v. State of Bihar, AIR 1958 SC 953
- Mohd. Khalid v. State of W.B. (2002) 7 SCC 334
- Jayantibhai Bhenkerbhai v. State of Gujarat (2002) 8 SCC 165
- Bishwanath Prasad v. Dwarka Prasad, AIR 1974 SC 117
- Central Bureau of Investigation v. V.C. Shukla, AIR 1998 SC 1406
- Veera Ibrahim v. State of Maharashtra, AIR 1976 SC 1167
- Pakala Narayana Swami v. Emperor PC 1939
- Aghnoo Nagesia v. State of Bihar, AIR 1966 SC 119 64
- Pulukuri Kottaya v. Emperor, AIR 1947 PC 67
- Bodhraj v. State of J. & K. (2002) 8 SCC 45
- Khushal Rao v. State of Bombay, AIR 1958 SC 22
- Sudhakar v. State of Maharashtra (2000) 6 SCC 671

- Patel HiralalJoitaram v. State of Gujrat (2002) 1 SCC 22
- Laxman v. State of Maharashtra (2002) 6 SCC 710
- Ram Narain v. State of U.P., AIR 1973 SC 2200, (1973) 2 SCC 86
- Santosh Kumar Singh v. State Th. Cbi , 2010 SC
- State Tr.P.S.LodhiColony,New v. Sanjeev Nanda, 2012 Del. HC
- VikasYadav v. State of U.P &Anr, 2009 Del. HC
- Manu Sharma vs. State (NCT of Delhi) (2010) 6 SCC 1
- Rabindra Kr. Pal @ Dara Singh v. Republic of India, 2011 SC

MODULE 3 ON PROOF

- Facts which need not be proved – sections 56-58
- Facts which the parties are prohibited from proving
- Doctrine of Estoppel – sections 115-117
- Privileged communications – sections 122-129
- Oral and documentary evidence – sections 59-78
- Exclusion of oral by documentary evidence – sections 91-92

Cases:

- R. S. Maddanappa v. Chandramma (1965) 3 SCR 283
- Madhuri Patel v. Addl. Commissioner, Tribal Development, AIR 1995 SC 94
- SanatanGauda v. Berhampur University, AIR 1990 SC 1075
- M.C. Vergheese v. T.J. Ponnann, AIR 1970 SC 1876 136
- State of U.P. v. Raj Narain, AIR 1975 SC 865

MODULE 4

ACCOMPLICE EVIDENCE & WITNESSES & THEIR COMPETENCY

- Section 133 read with section 114 illustrations (b)
- Child Witness – section 118
- Dumb Witness – section 119
- Hostile Witness – section 154

Cases:

- BhuboniSahu v. The King, AIR 1949, PC 257
- Haroon Haji Abdulla v. State of Maharashtra, AIR 1975 SC 856
- Ravinder Singh v. State of Haryana, AIR 1975 SC 856

MODULE 5

EXAMINATION OF WITNESSES

- General principles of examination cross examination and re-examination (Section 135-166)
 - Leading questions (Section 141-143)
 - Lawful questions in cross-examination (Section 146)
 - Compulsion to answer questions put to witness
 - Impeaching of the standing or credit of witness (Section 155)

Cases:

- State of Bihar v. Laloo Prasad (2002) 9 SCC 626 176

**MODULE 6
BURDEN OF PROOF**

- The general conception of onus probandi (Section 101)
- General and special exceptions to onus probandi
- The justification of presumption and of the doctrine of judicial notice
- Justification as to presumptions as to certain offences (Section 111A)
- Presumption as to dowry death (Section 113-B)
- The scope of the doctrine of judicial notice (Section 114)

PRESUMPTIONS

- Sections 4, 41, 105, 111-A, 112, 113, 113-A, 113-B, 114 and 114-A

Cases:

- Goutam Kundu v. State of West Bengal, AIR 1993 SC 2295 178

IMPORTANT NOTE:

The topics and cases given above are not exhaustive. The students are required to study the legislations as amended up-to-date and consult the latest editions of books.

Prescribed Books:

- Rattan Lal, Dhiraj Law: Law of Evidence
- Sarkar and Manohar, Sarkar on Evidence
- Vepa P. Sarathi, Law of Evidence
- M. Monir, Law of Evidence
- Avtar Singh, Principles of the Law of Evidence, Central Law Publication
- Albert S. Osborn, The Problem of Proof
- P. Nageshwara Rao, Law of Evidence

Prescribed Legislation:

The Indian Evidence Act, 1872

Indian Penal Code, 1860

Code of Criminal Procedure, 1973

(INTERPRETATION OF STATUTES AND PRINCIPLES OF LEGISLATION)

OBJECTIVE:

Statutes are framed by the legislature with the help of legal experts in very clear and express terms and it is perceived that there would be no room for their interpretation. It is, however, found that the Courts are busy unfolding the meaning of the terms and provisions of the statutes. Therefore, the duty of the judges is to interpret the statutes, so that their provisions would become meaningful and devoid of lacunas. Generally, the statutes are designed to meet and solve the problems of society. Different statutes are passed by the legislature dealing with different aspects of society. Therefore, this paper aims to make the students understand how these statutes are interpreted by the Courts. This paper aims to provide the students with exposure to different rules of interpretation. The paper also offers an understanding of the principles of legislation in law-making.

TEACHING METHODOLOGY

As per the norms of the University for this Course, there will be 6 classes per week. Clinical and tutorial forms of learning should be followed. The teaching methodology will include Lectures-cum-discussion, Assignments, Projects and Presentations.

THE EVALUATION SCHEME

- Continuous Assessment- 40%
- Mid-Term- 20%
- End Term- 40%

COURSE OUTLINE

Module 1 Introduction

- Meaning of Interpretation
- Need for Interpretation
- Understanding Statutes: Its Commencement, Operation, Repeal and Revival etc.

Module 2 Rules of Statutory Interpretation

- **Primary Rules:** Literal (Grammatical) Rule of Construction-Golden Rule of Construction-Mischief Rule (Heydon's Rule) of Construction-Harmonious Rule of Construction.
- **Secondary Rule:** Construction *Expositio*-Construction in *Bonam Partem- Noscitur a Sociis-Expressio Unius* Rule-*Ejusdem Generis* Rule-*Redendo Singula Singulis*

Module 3 Aides to Construction

- **Internal (Intrinsic) Aides:** Title, Preamble, Heading, Marginal Notes, Schedule, Interpretation Clauses, Illustration, Explanation and Proviso.

- **External (Extrinsic) Aides:** Historical Setting-History Parliamentary Legislation-International Convention-Reference to Legislation-Objects and Reason of the Act-Dictionaries-Text Books.

Module 4

Construction of Different Statutes

- Penal Statute
- Taxing Statute
- Constitution
 - Harmonious Construction
 - Pith and Substance
 - Eclipse
 - Severability
 - Colourable legislation

Module 5

Principles of Legislation and Presumption in Statutory Interpretation

- **Law Making:** Legislature, Executive and Judiciary-Process of Law Making-Relevancy of Each Steps-Draft-Bill-Act-Assent
- **Principle of Utility:** Presumption as to Validity and Territorial Operation-Presumption as to Operation of Statutes (Prospective & Retrospective)-Presumption Regarding Court's Jurisdiction

Suggested Readings

1. Amita Dhanda: N S Bindra's Interpretation of Statutes, LexisNexis India, Gurgaon.
2. Avtar Singh & Harpreet Kaur: Introduction to Interpretation of Statutes, LexisNexis India, Gurgaon.
3. Justice G P Singh (Revised by Justice A. K. Patnaik): Principles of Statutory Interpretation (Also including the General Clauses Act, 1897), LexisNexis India, Gurgaon.
4. P. St. J. Langan: Maxwell on the Interpretation of Statutes, LexisNexis India, Gurgaon.
5. N. S. Bindra: Interpretation of Statutes LexisNexis India, Gurgaon.
6. P. M. Bakshi: Statutory Interpretation of Statutes, Orient Publishing Company, Orient Publishing Company.
7. P. S. Narayan: Statutory Interpretation, Asia Law House, Asia Law House, Hyderabad.
8. M. P. Tandon: Interpretation of Statutes & Legislation, Allahabad Law Agency, Allahabad.
9. Bawa & Roy: Interpretation of Statues, Allahabad Law Agency, Allahabad.
10. A. B. Kafaltiya: Interpretation of Statues, Universal Law Publishing Co Pvt. Ltd.

(PRINCIPLES OF TAXATION LAW)

INTRODUCTION OF THE COURSE

The course is designed to help students to understand the technicality of the Taxation system. The Indian tax system is well structured and has a three-tier federal structure. The tax structure consists of the central government, state governments, and local municipal bodies. When it comes to taxes, there are two types of taxes in India - Direct and Indirect tax.

OBJECTIVES OF THE COURSE

The basic objective of taxation is to raise resources for the State. It can be used to reduce inequalities, and accelerate economic development, as a tool to regulate consumption, imports, and exports, in addition to its basic objective of raising revenues.

TEACHING METHODOLOGY

A case-study method shall be the main method of learning to be followed. The dialectic method of mooting and argumentation plays a very convincing procedure in learning. The information sharing and flow of information among the teacher and teachers have to work as bonding of the entire course. Case comments and book reviews can also be a method of research writing in this paper.

COURSE OUTLINE

Module-I Introduction

- Meaning of Tax
 - History of tax law in India
 - Fundamental principles relating to tax laws
 - Governmental financial policy, tax structure, and their role in the national economy.
 - Concept of tax:
 - Nature and characteristics of taxes
 - Distinction between:
 - Tax and fee
 - Tax and cess
 - Direct and indirect taxes
 - Tax evasion and tax avoidance
 - Scope of taxing powers of Parliament, state Legislature, and local bodies.
 - Canons of Taxation by Adam Smith and Additional/Modern Canons

Module-II General Perspective

- Important Definitions
 - a. Previous Year
 - b. Assessment Year
 - c. Income
 - d. Assesse
 - e. Person
 - f. Company
 - g. Average Rate of Income Tax
 - h. Business
 - i. Capital Asset
 - j. Total Income

- Charge (Section 4)
- Residential Status of Assesses
- Scope of Total Income
- Basic Concept of Total Deduction at Source (TDS)

Module-III

Central Board of Direct Taxes & Central Board of Indirect Taxes and Customs

- Constitution of CBDT
- Functions of CBDT
- Constitution of CBIT&C
- Functions of CBIT&C

Module-IV

Tax Avoidance, Tax Evasion, and Tax Planning

- Basic Concept of Tax Avoidance, Tax Evasion, and Tax Planning
- Reason for Tax Avoidance, Tax Evasion
- Distinction between Tax Avoidance and Tax Evasion
- Effect of Tax Avoidance and Tax Evasion
- DTAA – Double Tax Avoidance Agreement
- Tax Holiday, Bailout Package, and Money Laundering.

Module –V

Income Tax Authorities

- Hierarchy
- Appointment
- Powers: Search and Seizure- Section 132
 - a. Fulfillment of statutory Conditions
 - b. Test of “Reason to believe”.

Module –VI

Tax Policy for Developing Countries

- Tax Policy for Developing Countries
- Level of Tax Revenue
- Selecting the Right Tax System
- Tax Policy Challenges Facing Developing Countries

Case Studies:

1. SC upholds linking of Aadhaar number with PAN: [Justice K.S. Puttaswamy (RETD.) v. Union of India [2018] 97 taxmann.com 585 (SC)]
2. Discounts offered by Flipkart.com to buyers aren't intangible assets: ITAT: [Flipkart India Private Limited v. ACIT [2018] 92 taxmann.com 387 (Bangalore - Trib.)]
3. A gift received by an individual from HUF isn't exempt: ITAT: [Gyanchand M. Bardia v. ITO [2018] 93 taxmann.com 144 (Ahmedabad - Trib.)]
4. Sec. 68 additions not tenable on grounds that relatives gave gift without any occasion: High Court: [Pendurthi Chandrasekhar v. DCIT [2018] 91 taxmann.com 229 (Hyderabad)]
5. MasterCard shall have a PE in India and its fees for processing card payments are taxable as business income: AAR: [MasterCard Asia Pacific Pte. Ltd., In re. [2018] 94 taxmann.com 195 (AAR - New Delhi)]

6. The market value of other business assets is not relevant to determining the FMV value of unlisted shares of a co.: [Minda S M Technocast (P.) Ltd. v. ACIT [2018] 92 taxmann.com 29 (Delhi - Trib.)]
7. Domain registration fee received by 'GoDaddy' is taxable as royalty: ITAT: [Godaddy.com LLC v. ACIT [2018] 92 taxmann.com 241 (Delhi - Trib.)]
8. HC upheld additions on basis of 'window-dressed' financials prepared for bank loans: [Binod Kumar Agarwala v. CIT [2018] 94 taxmann.com 422 (Calcutta)]
9. 'Sachin Tendulkar' entitled to vacancy allowance as he failed to find a tenant for a vacant flat: [Sachin R. Tendulkar v. DCIT [2018] 96 taxmann.com 253 (Mumbai - Trib.)]
10. Sum received on relinquishment of 'right to sue is the non-taxable capital receipt: ITAT: [Bhojison Infrastructure (P.) Ltd. v. ITO [2018] 99 taxmann.com 26 (Ahmedabad - Trib.)]
11. AO should apprise counsel on all facts to avoid delays in the disposal of cases: HC: [PCIT v. Grasim Industries Ltd [2018] 94 taxmann.com 81 (Bombay)]
12. Mushroom farming is an agricultural operation even if vertical space is used instead of horizontal space on soil: [DCIT v. Inventaa Industries (P.) Ltd. [2018] 95 taxmann.com 162 (Hyderabad - Trib.)]
13. Delhi HC directs I-T Dept. to allow the filing of ITR without Aadhaar No.: [Shreyasen, & Anr. v. Union of India & ORS [2018] 95 taxmann.com 256 (Delhi)]
14. No capital gain tax on 'Power of Attorney holder just because the real owner didn't file ITR: ITAT: [Samir Trikambhai Patel v. ITO [2018] 96 taxmann.com 291 (Ahmedabad - Trib.)]
15. Brand promotion by 'Shilpa Shetty is not an international transaction in absence of a prerequisite agreement: [Shilpa Shetty v. ACIT [2018] 96 taxmann.com 443 (Mumbai - Trib.)]
16. The compensation received by 'Jackie Shroff for withdrawing the criminal case was a capital receipt and not taxable: [ACIT v. Jackie Shroff - [2018] 97 taxmann.com 277 (Mumbai - Trib.)]
17. Reopening of cases of Rahul Gandhi and Sonia Gandhi is valid as they failed to disclose shares allotted more than FMV: HC: [Sonia Gandhi v. ACIT [2018] 97 taxmann.com 150 (Delhi)]
18. ITAT grants stay of demand for non-deduction of tax by 'Uber' from the payment made to drivers: [Uber India Systems (P.) Ltd. v. JCIT [2018] 98 taxmann.com 199 (Mumbai - Trib.)]
19. Excess share premium not taxable in hands of closely held co. if its shareholders are relatives: ITAT: [Vaani Estates (P.) Ltd. v. ITO [2018] 98 taxmann.com 92 (Chennai - Trib.)]
20. No concealment penalty if the assessee has a bonafide belief that notional income isn't taxable: ITAT: [DCIT v. Shah Rukh Khan [2018] 93 taxmann.com 320 (Mumbai - Trib.)]
21. Australia has taxing rights under Australia-India DTAA even if there is no provision in its domestic law: Australian Court: [Satyam Computer Services Ltd. (Now Tech Mahindra Limited) v. Commissioner of Taxation [2018] 98 taxmann.com 358 (FC-Australia)]
22. Madras HC quashes proceedings initiated under Black Money Act against the Chidambaram family: [Srinidhi Karti Chidambaram v. PCIT [2018] 99 taxmann.com 181 (Madras)]
23. Sum received by Sushmita Sen as compensation for being sexually harassed is not taxable: [Sushmita Sen v. ACIT [2018] 99 taxmann.com 252 (Mumbai - Trib.)]
24. Payment of advance salary to defeat the purpose of demonetization won't come under the purview of Benami transaction: [G. Bahadur v. ACIT [2018] 100 taxmann.com 179]

(PBPTA – AT)]

25. Priyanka Chopra shall pay tax on the car gifted to her by 'Toyota' for brand promotion: Mumbai ITAT: [Priyanka Chopra v. DCIT [2018] 89 taxmann.com 286 (Mumbai - Trib.)]

Text Book

1. Principles of Taxation Law 2019 By Thomson Reuters
2. Principles of Taxation & Tax Law-I - S.R Myneni 2017
3. Amar Law Publication's Principle of Taxation Law for LLB Paperback – 1 January 2017
4. Taxmann's Guide to Taxation Laws (Amendment) Act 2019 (2020 Edition) Paperback – 1 January 2019
5. V. K. Gupta's Income Tax Ready Reckoner AY 2020-21 and 2021-22 As Amended by Taxation Laws - Finance Act of 2020. - English Paperback. Paperback – 1 January 2020
6. Principles of Taxation Laws with Goods and Service Tax Act, 2017 (GST) by Prof. Ullas Kumar Saha | 1 January 2019

Reference Book

1. Principles of Taxation for Business and Investment Planning, 2014 Edition by Sally Jones and Shelley Rhoades-Catanach | 16 April 2013
2. Lectures on Law of Taxation (Income Tax and GST) by P.K. Singh | 1 January 2018
3. Principles of Taxation by V. Gaurishankar | 1 January 2007
4. Principles of International Taxation by Angharad Miller and Lynne Oats | 21 January 2015
5. A C Sampath Iyengar, The Law of Income Tax, Bharat Law House
6. Chaturvedi and Pithisaria's Income Tax Law
7. Girish Ahuja & Ravi Gupta, Direct Tax- Law and Practice
8. Girish Ahuja & Ravi Gupta, Direct Taxes Ready Reckoner (Bharat Publication)
9. Kanga, Palkhiwala and Vyas, The Law and Practice of Income Tax (Lexis Nexis Butterworths)
10. Vinod K Singhania and Kapil Singhania, Taxman's Direct Tax- Law and Practice.

(ALTERNATIVE DISPUTE RESOLUTION)

INTRODUCTION TO THE COURSE

The resolution of dispute forms a large part of the justice delivery system. India has a long tradition of resolving disputes through Alternative Dispute Resolution methods viz Nya Panchayat System. At present there are about 30 million cases pending in the Indian Courts.

A major step to expedite judicial process in this direction was initiated by the Central Government by enactment of the Arbitration and Conciliation Act, 1996 which made significant changes in the law of Arbitration. Institutions such as Lok Adalats have been given statutory recognition by the Legal Services Authorities Act, 1987. The Code of Civil Procedure, 1908 has been amended by incorporating Section 89 and Order X, Rules 1A, 1B, and 1C, making it obligatory on the courts to explore the settlement of disputes by ADR Methods in pending suits, which will create more demand for trained Arbitrators, conciliators and Mediators, to cater to the needs of more than 10,000 courts spread all over the country.

The need of the hour is to create an awareness of ADR Methods among the people and to prepare a large pool of trained professionals in the field of ADR who will be able to practice these ADR Methods to resolve disputes.

OBJECTIVE OF THE COURSE

The main objectives of the Course are

1. Understand the strengths and weakness of various dispute resolution methods.
2. Explain primary dispute resolution process and functions
3. Develop techniques and skill to make effective use of ADR methods.
4. Describe and explain the ADR movement.
5. Compare and contrast various legal implications of each method.
6. Train participants to be effective Arbitrators, Conciliators and Mediators.

TEACHING METHODOLOGY

As per the norms of the university in this course there will be 6 classes per week. Teaching methodology will include Lectures-cum-discussion, Assignments, Projects and Presentations.

THE EVALUATION SCHEME

- Continuous Assessment- 40%
- Mid-Term- 20%
- End Term- 40%

MODULE 1

ALTERNATIVE DISPUTE RESOLUTION (ADR)

- ❖ ADR – Concept and Meaning Objectives of Arbitration Historical Developments Differences of Arbitration with other methods, Relevance in the Present Scenario
- ❖ Conciliation – Appointment of Conciliator – Rights and Duties of Conciliator – Interaction between conciliator and parties – Communication – Confidentiality – Legal Counseling – Different facets of legal counseling – Duties and responsibilities of Counselor

- ❖ Mediation – Objectives of Mediation – Models and Approaches – Stages of Mediation –Mandate of the Mediator – Role of the Mediator – Duties and Responsibilities of the Mediator
- ❖ Negotiation – Theories of Negotiation–Different strategies of Negotiation – Models/Types of Negotiation – Duties and Responsibilities of Negotiator.
- ❖ Dispute Resolution through Lok Adalat – Different types of Lok Adalat – Nyaya Panchyats and Grama Nyayalayas – Important provisions of Legal Services Authorities Act, 1987 – Fast Track Arbitration – Section 89 of Civil Procedure Code, 1908.
- ❖ Criminal Justice System–Victim vis-à-vis Offender mediation and reparation– Offences–Plea Bargaining–Charge Bargaining–Sentence Bargaining–Fast Track Criminal Courts

MODULE 2

INDIAN LAW ON ALTERNATIVE DISPUTE RESOLUTION

- ❖ Arbitration – Types of Arbitration – Adjudicatory, Non – adjudicatory, Institutional and Ad-hoc mandatory Arbitration.
- ❖ Arbitration and Conciliation Act, 1996
- ❖ Arbitral Tribunals–Appointment of Arbitrators–Eligibility and qualifications of Arbitrators–Powers and functions–Competency and Jurisdiction of Arbitrators.
- ❖ Arbitral proceedings–Procedural justice for parties–Rules of procedure and Evidence, Statement of Claims and Defence; Hearings and Written proceedings–Interim Measures–Settlement Awards.
- ❖ Determination of Applicable Law–Choice of Law–Proper law of Contract and Conflict of law principles
- ❖ Awards–Kinds of Awards–Rules of Guidance–Form and contents of awards–Correction and
- ❖ Interpretation of award–Additional award–Setting aside of Awards–Appealable Orders–Enforcement of Awards–Legality and Fairness of Arbitral Awards–Reasoned Awards.
- ❖ Evolution of Conciliation as a mode of Dispute Settlement–Role of Conciliator– Conciliation proceedings–Scope and Nature of award by the Conciliator.
- ❖ Two Tier Arbitration Procedure under Indian Laws
- ❖ Scope and Extent of Judicial Intervention in Arbitration Process–Role of Courts–Setting Aside Arbitration Awards on Grounds of Public Policy, Fraud, and Partiality–Recent Trends and developments.

MODULE 3

INTERNATIONAL COMMERCIAL ARBITRATION

- ❖ Meaning and kinds of International Commercial Arbitration
- ❖ Development of International Arbitration – International Non-Commercial Arbitration and International Commercial Arbitration –International Commercial Arbitration Institutions viz. ICC, CiArb, DAC, ICA etc. – Rules of these Major International Arbitral Institutions- Global Application of International Arbitration Rules.
- ❖ Constitution of Arbitral Tribunal

- ❖ Appointment of Arbitrators–Powers, Duties and Jurisdiction of Arbitral Tribunal–Code of Conduct of Arbitrators–Rules of Arbitration Proceedings–Principle of Party Autonomy.
- ❖ Nationality of Parties–Applicable Law–The intervention of domestic courts in International Commercial Arbitration–Interim remedies by Courts–Conflict of Law Principles as applicable to International Arbitrations–Sovereign Immunity and International Commercial Arbitration
- ❖ UNCITRAL Model Law, 1985–Uniformity in International Commercial Arbitration Laws in various countries–Enforcement of Foreign Arbitral Awards–State practice with respect to enforcement of foreign arbitral awards–Geneva Convention, 1927 and New York Convention, 1958.
- ❖ International Arbitrations under the Arbitration and Conciliation Act, 1996–Comparative analysis of ADR system in selected Countries.
- ❖ Dispute Resolution under GATT–WTO Dispute Settlement Mechanism–ICSID Convention.

MODULE 4

CONCILIATION, MEDIATION & NEGOTIATIONS

- ❖ Conciliation: Introduction Overview, Purposes and Uses.
- ❖ Mediation: Introduction Overview, Purposes and Uses.
- ❖ Negotiations: Introduction Overview, Purposes and Uses

MODULE 5

PRACTICAL APPLICATION OF ADR METHODS IN DIFFERENT FIELDS AND AREAS

- ❖ Labour and Industrial Disputes
- ❖ Commercial and Financial Disputes
- ❖ Family and Matrimonial Disputes
- ❖ Consumer Disputes
- ❖ Accident Claims

(LABOUR LAWS)

Part – A: THE INDUSTRIAL DISPUTES ACT

Module I

Aims and Objects of the Industrial Disputes Act. 1947

- Investigation & Settlement of Industrial Disputes – General (section 3-15)
- Dispute Settlement Machinery: Conciliation and Adjudication
- Conciliation/Mediation as a Dispute Settlement Mechanism
- Adjudication: Voluntary Adjudication/Arbitration and Compulsory Adjudication

Module II

Reference of the Industrial Dispute

- Nature & Scope of the Power of the Appropriate Government under section 10, 10A
- Jurisdiction of Adjudicatory Authorities.

Module III

Awards and Settlements

- Settlement: Nature, Duration and Termination
- Awards: Nature and Duration
- Judicial Review of Industrial Awards

Module IV

Managerial Prerogative

- Domestic Enquiry and Disciplinary actions with special reference to the Industrial employment (Standing Orders) Act, 1946

Module V

Powers of the Adjudicatory Authorities

- Power in cases of Discharge/Dismissal (section 11A)
- Restraints on Managerial Prerogatives (section 33, 33A)

General Reading:

1. Report of the National Commission on Labour (1969)
2. Report of the Second National Commission on Labour (2002)
3. Report of the Committee on Fair Wages (1948)

Prescribed Legislations:

1. The Industrial Disputes Act. 1947
2. The Industrial Employment (Standing Orders) Act. 1946

PART – B WAGES

Module-VII

(i) The Minimum Wages Act, 1948

- Concept; kinds- (a) Minimum wage; (b) Fair Wage; (c) Living Wage
- Machinery under the Act for the Fixation of Minimum Wage

(ii) The Payment of Wages Act, 1936

- Salient Features, Authorised deductions (sec. 7-13),
- Authority for Adjudication of claims: (sec 17- 18),
- Penalty for offences under the Act.

Module VIII

Social Security; The Workmen's Compensation Act, 1923 (Sec.1-10, 12, 14, 14A, 17,20 & 25)

- **The Workmen's Compensation Act, 1923:** Definitions, Aims & Object, Liability of Employer, Notional Extension & Defences, Determination of Amount of compensation, Compensation when due-Penalty for default, Contracting Out (Sec.17), Appointment & Powers of Commissioner (Sec.19-31)

Prescribed Books:

1. P. Malhotra, *The Law of Industrial Disputes* (6th ed., 2004)
2. B. Pai, *Labour law in India* (2001)
3. L. Malik (Rev.), *K.D. Srivastava's Industrial Employment (Standing Orders) Act. 1946* (4th ed., 2000)
4. L. Malik's *Industrial Law* (21st ed., 2008)
5. C. Srivastava (Rev.) *Labour Law and Labour Relation: Cases and Materials* (3rd ed., 2007)
6. D. Srivastava, *Minimum Wages Act, 1948* (1995)
7. L. Malik, K.D. Srivastava's *Commentaries on Payment of Wages Act, 1936* (5th ed., 1998)

Prescribed Legislations:

1. The Minimum Wages Act. 1948
2. The Payment of Wages Act. 1936