

Useful for PT/MAINS

STATUS AND POSITION OF MINOR IN PARTNERSHIP



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Position and Rights of a Minor in Partnership Firm

(Useful for PT/MAINS)

Section 30: Minors admitted to the benefit of Partnership.

Who can be a partner?

With combined effect of **section 2(e)** and **section 3**, reference is made from **section 10 of Indian Contract Act**. So any person of sound mind, major and not disqualified by law can be a partner.

In general an agreement with minor is void.

Related Case-

Mohori Bibi vs Dharmodar Ghose

But if contract with minor is separable in that case only to that extent it will be void not the whole contract.

If a minor is admitted into contract for benefits, then such contract is enforceable.

1. Minor may not be a partner in the firm but may be admitted to firm for benefits of partnership. (With the consent of all the partners)
2. Minor can have share in the property and of the profits of the firm. He may also have access to the accounts of the firm.
3. Minor's share is liable for the acts of the firm (**section 2a**) but liability shall not be personal. [not the unlimited liability like that of partners (**section 25**)]
4. Minor may not sue the partners for account or payment of his share of the property but only when he severs (*detach, cut off, separate*) connection with the firm.
Provided that in same case, all the partners consented or a partner entitled to do may elect to dissolve the firm by giving a notice. The court will proceed with settling of accounts as well as for dissolution of firm.

5. DOCTRINE OF ELECTION

Within six months of attaining majority or attaining knowledge that he had been admitted to the benefits of partnership (whichever date is later).

Minor turned major has to give notice that he has elected to become partner or not. The notice will only determine his position.

If he fails to give notice of his election not to become a partner, then after expiry of six months, he shall become a partner.

6. BURDEN OF PROOF

After the expiry of six months, the BOP of the fact that minor was not having knowledge as regard to the election is upon the minor itself.

7. When such person elects to become a partner-

- The liability of minor becomes unlimited from the date he has admitted for the benefits of partnership. (retrospective)
- His share in the property would be equivalent to the portion for which he was entitled as a minor.

8. When such person elects not to become a partner-

- His liability would continue as those of minor until he gives public notice.
- His share shall not be liable for any acts subsequent after the day of notice.
- He is entitled to sue the partners for his share.

9. If minor in mean time of six months, represents himself as partner in the firm and make believe to the third party of the same, then **section 28** will apply.

Related Study Material:

Read Indian Partnership Act, 1932 on one page.

Read Indian Contract Act, 1872 on one page.

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