CHAPTER IV - RELATIONS OF PARTNERS TO THIRD PARTIES

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18. Partner to be agent of the firm

A partner shall act as the agent of the firm for the purpose of the firm's business.

> Subject to the provisions of this Act, a partner is the agent of the firm for the purpose of the business of the firm.

Section 18 of the Indian Partnership Act, 1932 makes every partner an agent of the firm. This follows from the definition of partnership in s. 4, under which the business is "carried on by all or any of them acting for all". Each partner therefore acts both as a principal, bound by what the other partners do, and as an agent, whose acts bind the other partners. This mutual agency is the real test of a partnership, as recognised in *Cox v. Hickman* (1860) 8 HLC 268. The agency is limited in two ways. First, it covers only acts done for the purpose of the firm's business, so a partner's private dealings, or acts plainly outside the firm's line of business, do not bind the firm. Second, it is subject to the other provisions of the Act. These include a partner's implied authority to do acts in the usual way of the firm's business (s. 19), any extension or restriction of that authority agreed among the partners (s. 20), authority in an emergency (s. 21), and the requirement that the act be done in the firm's name or in a way that shows an intention to bind the firm (s. 22). When a partner acts within this authority, the act becomes an act of the

firm (s. 2(a)), and all partners are jointly and severally liable for it (s. 25). The rule protects outsiders, who can deal with any one partner as they would with the firm as a whole. For example, A, B and C are partners in a firm dealing in electronic goods, and A, acting in the firm's name, buys 100 television sets on credit from a wholesaler for resale. Since the purchase is for the firm's business, A acted as the firm's agent. The firm, and B and C personally, are bound to pay the wholesaler, even though B and C knew nothing of the purchase. If A had instead bought a car for his family's personal use, the purchase would have had nothing to do with the firm's business. A would not have been acting as the firm's agent, so the firm would not be liable for it.

19. Implied authority of partner as agent of the firm

19.1 An act done by a partner, in the firm's name, to carry on the firm's business in the usual way binds the firm.

> (1) Subject to the provisions of section 22, the act of a partner which is done to carry on, in the usual way, business of the kind carried on by the firm, binds the firm. The authority of a partner to bind the firm conferred by this section is called his "implied authority".

Section 19(1) of the Indian Partnership Act, 1932 follows from s. 18, which makes every partner an agent of the firm for the purposes of its business. It sets out how far that agency reaches when the partners have not expressly defined it. A partner's act binds the firm if two conditions are met. First, the act must relate to business of the kind the firm carries on, judged by the nature of its trade. Second, it must be done in the usual way, meaning the way such business is ordinarily conducted by firms of that kind. This power is the partner's "implied authority". It arises from the partnership relation itself, so no express permission from the other partners is needed, and a third party dealing with the partner does not have to check whether the others agreed. The rule is made subject to s. 22, so the act must also be done in the firm's name, or in some other way that shows an intention to bind the firm; otherwise it binds only the partner personally. Implied authority is not unlimited. Unless trade usage or custom provides otherwise, s. 19(2) excludes certain acts from it: submitting a dispute to arbitration, opening a bank account in the partner's own name, compromising or giving up a claim of the firm, withdrawing a suit, admitting liability in a suit, acquiring or

transferring immovable property of the firm, and entering into partnership on the firm's behalf. Under s. 20, the partners may also extend or restrict this authority by agreement, but a restriction does not affect an outsider who deals with the partner without knowing about it. For example, A, B and C run a firm that trades in cloth. Without consulting B and C, A buys 500 metres of cotton fabric on credit from a supplier in the firm's name. Buying stock is a usual act in a cloth-trading business and was done in the firm's name, so the firm is bound and must pay the supplier. This holds even if B and C did not know of the purchase, and even if the partners had privately agreed that no partner would buy on credit, provided the supplier was unaware of that agreement. But suppose A, in the firm's name, buys a plot of land or a truckload of cement for resale. That act is not in the usual course of a cloth-trading business, and buying immovable property is in any case excluded by s. 19(2). So the firm is not bound unless B and C authorised or later ratified it, and A alone is liable to the seller.

19.2 A partner shall not, by his implied authority, submit a dispute relating to the firm's business to arbitration, open a bank account for the firm in his own name, compromise or give up any claim of the firm, withdraw a suit or proceeding filed for the firm, admit liability in a suit or proceeding against the firm, acquire or transfer immovable property for the firm, or enter into partnership on behalf of the firm, unless a usage or custom of trade allows it.

(2) In the absence of any usage or custom of trade to the contrary, the implied authority of a partner does not empower him to X

(a) submit a dispute relating to the business of the firm to arbitration,

(b) open a banking account on behalf of the firm in his own name,

(c) compromise or relinquish any claim or portion of a claim by the firm,

(d) withdraw a suit or proceeding filed on behalf of the firm,

(e) admit any liability in a suit or proceeding against the firm,

(f) acquire immovable property on behalf of the firm,

(g) transfer immovable property belonging to the firm, or

(h) enter into partnership on behalf of the firm.

Section 19(2) of the Indian Partnership Act, 1932 sets limits on a partner's implied authority. Every partner is an agent of the firm for the purposes of its business (s. 18). Under s. 19(1), any act a partner does to carry on, in the usual way, business of the kind the firm carries on binds the firm, and this power is called the partner's implied authority. Section 19(2) then names eight acts that fall outside that authority, even when they relate to the firm's business, because they are unusual or have serious consequences for all the partners. Without the other partners' consent, a partner cannot refer the firm's disputes to arbitration, which gives up the right to go to court. He cannot open a bank account for the firm in his own name, which would put firm money under his personal control. He cannot compromise or give up the firm's claims, withdraw a suit filed by the firm, or admit liability in a suit against the firm. Nor can he buy or sell immovable property for the firm, or make the firm a partner in another business. These are restrictions on implied authority only. A partner may still do any of these acts if the other partners have given him express authority, if the partners have extended his authority by contract (s. 20), or if an established usage or custom of the trade permits it. If he acts without such authority, the firm is not bound unless the other partners later ratify the act, and he may be personally liable to the third party for breach of warranty of authority. For example, P, Q and R run a firm dealing in electronic goods. Without consulting Q and R, P signs an agreement in the firm's name to buy a plot of land for ₹30 lakh. Buying immovable property falls under s. 19(2)(f) and P had no express authority, so the firm is not bound and the seller cannot enforce the agreement against Q and R, though P himself may be liable. Similarly, if a customer owes the firm ₹5 lakh and P accepts ₹2 lakh in full settlement without the others' consent, the compromise is outside his implied authority under s. 19(2)(c), and the firm can still recover the balance. By contrast, if P buys a stock of televisions from a supplier on credit, the firm is bound, because that is the usual way of carrying on its business and falls within s. 19(1).

20. Extension and restriction of partners implied authority

The partners may extend or restrict a partner's implied authority, but an act within that authority shall bind the firm unless the third party

knew of the restriction or did not know or believe that partner to be a partner.

> The partners in a firm may, by contract between the partners, extend or restrict the implied authority of any partner. Notwithstanding any such restriction, any act done by a partner on behalf of the firm which falls within his implied authority binds the firm, unless the person with whom he is dealing knows of the restriction or does not know or believe that partner to be a partner.

Section 20 of the Indian Partnership Act, 1932 builds on s. 19, under which every partner is the agent of the firm and has implied authority to bind it by acts done in the usual way of carrying on the firm's business. Section 20 lets the partners change the scope of that authority by agreement among themselves. They may extend it, for example by allowing a partner to borrow money or settle disputes by arbitration, which s. 19(2) otherwise excludes. They may also restrict it, for example by forbidding a partner to buy goods on credit above a set limit. An extension can be relied on freely, but a restriction works only between the partners and does not automatically protect the firm against outsiders. Outsiders are entitled to assume that a partner has the authority that partners in that kind of business usually have. So if a partner acts in breach of a restriction, but the act is within his usual implied authority, the firm is still bound to the third party. There are two exceptions. The firm is not bound if the third party knew of the restriction, or if the third party did not know or believe that the person was a partner, because then he did not deal on the strength of the partnership. The partner who broke the restriction may be liable to compensate the other partners for any loss, but that is a matter among the partners only. For example, A, B and C run a cloth business and agree that none of them will buy goods on credit worth more than ₹1 lakh without the others' consent. A buys cloth worth ₹3 lakh on credit from D for the firm. Buying cloth is within the usual course of a cloth business, and D did not know of the restriction, so the firm is liable to pay D, though A may have to answer to B and C for breaking their agreement. If D had known of the ₹1 lakh limit, the firm would not be bound beyond it. Likewise, if D believed A was only a salesman of the firm and not a partner, D could not hold the firm liable on the basis of A's implied authority as a partner.

21. Partners authority in an emergency

A partner shall, in an emergency, act to protect the firm from loss as a person of ordinary prudence would act in his own case, and such acts bind the firm.

> A partner has authority, in an emergency, to do all such acts for the purpose of protecting the firm from loss as would be done by a person of ordinary prudence, in his own case, acting under similar circumstances, and such acts bind the firm.

Section 21 of the Indian Partnership Act, 1932 gives a partner emergency authority, which is separate from and can go beyond the implied authority under s. 19. Normally a partner binds the firm only by acts done in the usual way of the firm's business (s. 19(1)), and that authority can be limited by agreement between the partners (s. 20). In an emergency, however, there may be no time to consult the other partners, and waiting could cause the firm loss. Section 21 therefore lets a partner do whatever is reasonably necessary to protect the firm from loss, even if the act is outside the usual course of business or beyond limits the partners have agreed among themselves. The authority has three conditions. First, there must be a real emergency. Second, the act must be done to protect the firm from loss, not for the partner's own benefit. Third, the act must be one that a person of ordinary prudence would do in his own case in similar circumstances. This is an objective test of reasonable conduct, not of what the partner personally thought was best. When these conditions are met, the act binds the firm as if every partner had authorised it, both against outsiders and among the partners. For example, A, B and C run a fruit-trading firm, and the partnership agreement says no partner may sell stock without the consent of all partners. While B and C are away and cannot be reached, a truckload of the firm's mangoes in A's charge starts to rot because a cold-storage unit has broken down. A sells the mangoes at once in the local market, at below the usual price, to avoid a total loss. The sale binds the firm, and B and C cannot later object that A acted without their consent, because a prudent person facing the loss of his own perishable goods would have done the same. If, however, A had used the situation to sell the firm's non-perishable stock cheaply to a relative when nothing was at risk, there would be no emergency and no protection from loss, so s. 21 would not cover the act.

22. Mode of doing act to bind firm

An act or instrument done on behalf of a firm shall bind the firm only if it is done or executed in the firm name, or in a manner that shows an intention to bind the firm.

> In order to bind a firm, an act or instrument done or executed by a partner or other person on behalf of the firm shall be done or executed in the firm name, or in any other manner expressing or implying an intention to bind the firm.

Section 22 of the Indian Partnership Act, 1932 sets the formal requirement for binding a firm. A partner is the agent of the firm for its business (s. 18) and, within his implied authority, can bind it by his acts (s. 19). Section 22 adds that the act must also be done *as an act of the firm*. The simplest way is to use the firm name, for example by signing "For M/s ABC & Co., X, Partner". The firm name is not compulsory. The firm is equally bound if the act is done in any other manner that expresses or implies an intention to bind it, such as a signature on the firm's letterhead, a reference to the firm in the body of the document, or surrounding circumstances that show the partner was acting for the firm. If a partner acts in his own name and nothing shows that he meant to act for the firm, the act is treated as his personal act. In that case he alone is liable, and the firm is not. The rule protects the firm from being burdened with partners' private dealings, and it gives outsiders a clear test for knowing whom they are dealing with. It applies only to the form of the act. A properly executed act still binds the firm only if it falls within the partner's actual or implied authority. For example, A and B are partners in "Sharma Traders", a firm dealing in cloth. A signs an order for 200 bales of cotton cloth "For Sharma Traders, A (Partner)". The firm is bound and must pay the supplier, because the order was made in the firm name for the firm's business. Similarly, if A signs only "A" on an order written on the firm's letterhead, and the order states that the goods are for the firm's shop, the firm is still bound, because the document implies an intention to bind it. But if A signs a promissory note simply as "A", and nothing in the note or the circumstances refers to the firm, the note is A's personal liability, and the holder cannot sue the firm on it.

23. Effect of admissions by a partner

An admission or representation made by a partner about the affairs of the firm, in the ordinary course of business, shall be evidence against the firm.

> An admission or representation made by a partner concerning the affairs of the firm is evidence against the firm, if it is made in the ordinary course of business.

Section 23 of the Indian Partnership Act, 1932 follows from the rule that every partner is an agent of the firm for the purpose of its business (s. 18) and has implied authority to bind it by acts done in the usual way of that business (s. 19). Since a partner acts for the firm, what a partner says about the firm's dealings can be used against the firm, as if the firm had said it. Two conditions must be met. First, the admission or representation must concern the affairs of the firm, such as its debts, contracts, dealings or accounts, and not the partner's private matters. Second, it must be made in the ordinary course of the firm's business, meaning while the partner is carrying on the firm's business in the usual way and not in a personal or unrelated setting. The section makes such a statement evidence against the firm, but not conclusive proof. The firm may still show that the admission was mistaken or untrue, unless the circumstances give rise to an estoppel, for example where a third party has relied on the representation and changed position. An admission made outside the ordinary course of business, or about matters unrelated to the firm, does not bind the firm under this section, although it may still bind the partner personally. For example, A, B and C are partners in a firm dealing in hardware. While settling accounts with a supplier, S, A writes a letter on the firm's behalf admitting that the firm owes S ₹3 lakh for goods supplied. If S later sues the firm, A's letter is admissible as evidence of the firm's liability against all the partners, because it concerns the firm's affairs and was made in the ordinary course of its business. The firm may still try to prove that the true amount owed was lower. But if A, in a private conversation with a friend, says that the firm once stood guarantee for a relative's loan, that statement was not made in the ordinary course of the firm's business, so it is not evidence against the firm under s. 23.

24. Effect of notice to acting partner

Notice to a partner who habitually acts in the firm's business, of any matter relating to the firm's affairs, shall be notice to the firm.

> Notice to a partner, who habitually acts in the business to the firm of any matter relating to the affairs of the firm operates as notice to the firm, except in the case of a fraud on the firm committed by or with the consent of that partner.

Section 24 of the Indian Partnership Act, 1932 follows from the principle that every partner is an agent of the firm for the purposes of its business (s. 18). Just as notice to an agent counts as notice to the principal, notice given to an active partner binds the firm, even if that partner never passes it on to the other partners. The firm cannot later argue that it did not know. Three conditions apply. First, the notice must be given to a partner who habitually acts in the firm's business. Notice to a sleeping or dormant partner, who takes no part in running the business, does not bind the firm. Second, the notice must concern a matter relating to the affairs of the firm, not the partner's private dealings. Third, the notice must have been given to the partner while he is a partner. The rule protects outsiders, who should not have to notify every partner separately. There is one exception: where that partner commits a fraud on the firm, or consents to one, notice to him is not treated as notice to the firm. A partner who is defrauding the firm cannot be expected to tell the firm about it, so imputing his knowledge to the firm would be unjust. For example, A, B and C are partners in a cloth business, and A regularly handles purchases and dealings with suppliers. A supplier, S, writes to A that a consignment already delivered is defective and that the firm must give notice of rejection within 7 days. A does not tell B or C. The firm cannot later claim it was unaware of the defect or of the deadline, because notice to A is notice to the firm. If the same letter had been given only to C, a dormant partner who never takes part in the business, it would not bind the firm. However, suppose A secretly arranges with S to supply substandard cloth at full price and share the profit, and S "notifies" A of the defects as part of their scheme. Here the firm is not bound by the notice, because A was committing a fraud on the firm.

25. Liability of a partner for acts of the firm

Every partner shall be liable, jointly with all the other partners and also severally, for all acts of the firm done while he is a partner.

> Every partner is liable, jointly with all the other partners and also severally, for all acts of the firm done while he is a partner.

Section 25 of the Indian Partnership Act, 1932 sets out how far a partner is personally liable for the firm's obligations. A firm is not a separate legal person from its partners, so its debts and liabilities are the partners' own. The liability is joint, meaning all the partners can be sued together. It is also several, meaning any one partner can be sued alone for the whole amount, so a creditor may pick whichever partner is most able to pay. The liability is unlimited: if the firm's assets fall short, a partner's personal property can be taken to satisfy the firm's debts. A partner who pays more than his share can recover the excess from the other partners under their mutual rights; this does not affect the creditor. "Act of a firm" means any act or omission by all the partners, or by any partner or agent of the firm, that gives rise to a right enforceable by or against the firm (s. 2(a)). Every partner is an agent of the firm for its business (s. 18), so acts done within his implied authority bind the firm and, through it, every partner (ss. 19 and 22). The words "while he is a partner" fix the period of liability. A partner is liable for acts done during his membership, and that liability continues after he retires unless the creditor agrees to release him (s. 32(1)). A person who joins the firm is not liable for acts done before he became a partner (s. 31(2)). A retiring partner remains liable to third parties for later acts of the firm until public notice of his retirement is given (s. 32(3)). A minor admitted to the benefits of partnership is not personally liable; only his share in the firm's property is liable (s. 30(3)). For example, A, B and C are partners in a trading firm, and A, acting in the ordinary course of business, buys goods worth ₹9 lakh on credit from D. If the firm fails to pay, D may sue A, B and C together, or may sue only B for the full ₹9 lakh, even though B took no part in the purchase. If the firm's assets are not enough, D may recover the balance from B's personal property, and B may then claim ₹3 lakh each from A and C. If E joined the firm after the purchase, E is not personally liable for this debt. If C retired after the purchase, C stays liable for it, but is not liable for debts the firm incurs after public notice of his retirement.

26. Liability of the firm for wrongful acts of a partner

The firm shall be liable for any loss, injury or penalty caused by a partner's wrongful act or omission done in the ordinary course of the firm's business or with the authority of the other partners.

> Where, by the wrongful act or omission of a partner acting in the ordinary course of the business of a firm, or with the authority of his partners, loss or injury is caused to any third party, or any penalty is incurred, the firm is liable therefore to the same extent as the partner.

Section 26 of the Indian Partnership Act, 1932 makes a firm vicariously liable for the wrongful acts of its partners. Under s. 18, each partner is an agent of the firm, so the firm answers for wrongs a partner commits while acting as its agent, just as an employer answers for wrongs an employee commits in the course of employment. The firm is liable under either of two conditions. The first is that the partner acted in the ordinary course of the firm's business, meaning the act was the kind of thing done in carrying on that business, even if it was done improperly, negligently or dishonestly, and even if the other partners did not know of it. The second is that the partner acted with the authority of the other partners, whether express or implied, even if the act falls outside the ordinary course of business. "Wrongful act or omission" covers torts such as negligence, fraud, misrepresentation and defamation, as well as acts that attract a penalty under law, such as a fine for breaking tax or customs rules. The firm is liable "to the same extent as the partner": the injured third party can claim from the firm everything they could claim from the wrongdoing partner. Because the partners are jointly and severally liable for all acts of the firm (s. 25), every partner can be made personally liable for that amount, not only the one who did the wrong. The innocent partners may then seek indemnity from the wrongdoing partner, who must indemnify the firm for loss caused by his wilful neglect or fraud (s. 13(f)). If the wrongful act was neither in the ordinary course of business nor authorised, the firm is not liable, and only the partner who did it is personally responsible. In *Hamlyn v. John Houston & Co.* [1903] 1 KB 81, a partner bribed a clerk of a rival firm to disclose the rival's confidential information. The firm was held liable because obtaining trade information was within the general scope of its business, even though the method used was unlawful. For example, A, B and C run a goods transport firm. While delivering a customer's consignment in the firm's truck, A drives negligently and injures a pedestrian, P. A was acting in the

ordinary course of the firm's business, so the firm is liable to P for the full damages, and P may recover the whole amount from A, B or C personally. B and C may then claim indemnity from A. Similarly, if A, while clearing the firm's imported goods, misdeclares their value and customs imposes a penalty, the firm must bear that penalty. By contrast, if A gets into a private quarrel with his neighbour and assaults him, the act has nothing to do with the firm's business and was not authorised by B and C, so only A is liable and the firm is not.

27. Liability of firm for misapplication by partners

A firm shall make good the loss where money or property received from a third party is misapplied by a partner.

> Where
>
> (a) a partner acting within his apparent authority receives money or property from a third party and misapplies it, or
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> (b) a firm in the course of its business receives money or property from a third party, and the money or property is misapplied by any of the partners while it is in the custody of the firm, the firm is liable to make good the loss.

Section 27 of the Indian Partnership Act, 1932 makes the firm answerable to an outsider whose money or property a partner misuses. It covers two situations. Under clause (a), a partner acting within his apparent authority (the authority a third party may reasonably assume a partner has, given the firm's ordinary business under s. 19 and s. 22) receives money or property from a third party and misapplies it. Here the firm is liable even if the partner had no actual authority to receive it. Under clause (b), the firm itself receives the money or property in the course of its business, and while it is in the firm's custody a partner misapplies it. Here the firm is liable because it took charge of the property as a firm. The basis in both cases is that the third party dealt with the firm and should not suffer because one partner turned dishonest. The firm, and not the outsider, carries the risk of a partner's misconduct. Since every partner is jointly and severally liable for the firm's acts (s. 25), each partner can be made to pay the loss personally, including the innocent ones. The innocent partners may then seek indemnity from the defaulting partner (s. 13(f)). The firm is not liable where the partner acts outside his apparent authority, for instance by taking money for

something unconnected with the firm's business, and the property was never in the firm's custody. For example, A, B and C run a firm of chartered accountants. A client hands A ₹5 lakh to pay the client's income tax, which is a usual service of the firm. A pockets the money. Since A received it within his apparent authority, the firm must repay the client under clause (a), and B and C are each liable for the full amount even though they knew nothing of the fraud. Similarly, suppose the firm holds a client's share certificates in its office safe for safe custody as part of its business, and B secretly pledges them for a personal loan. The firm must make good the client's loss under clause (b). By contrast, if a client gave A money to buy a plot of land for the client, which falls outside an accounting firm's business, and A misused it, the firm would not ordinarily be liable. Only A would be answerable.

28. Holding out

28.1 Anyone who represents himself, or knowingly allows himself to be represented, as a partner in a firm shall be liable as a partner to anyone who gives credit to the firm on the faith of that representation.

> (1) Anyone who by words spoken or written or by conduct represents himself or knowingly permits himself to be represented, to be a partner in a firm, is liable as a partner in that firm to anyone who has on the faith of any such representation given credit to the firm, whether the person representing himself or represented to be a partner does or does not know that the representation has reached the person so giving credit.

Section 28(1) of the Indian Partnership Act, 1932 sets out the rule of "holding out", also called partnership by estoppel. A person who is not actually a partner can still be made liable as one if he creates the impression that he is a partner. That impression may arise in two ways. He may make the representation himself, by spoken or written words (for example, by describing himself as a partner or signing letters as one) or by conduct (for example, regularly taking part in managing the firm's business in the presence of outsiders). Or others may represent him as a partner and he knowingly permits it, meaning he is aware of the representation and does nothing to stop or correct it. Liability is not owed to the world at large. It is owed only to a person who, relying on the representation, gave credit to the firm by lending money, supplying goods on credit or otherwise trusting the

firm's ability to pay. The rule rests on estoppel: a person who has led another to act on a belief cannot later deny the truth of that belief to that person's loss. It does not matter whether the person held out knew that the representation had reached the creditor. What matters is that he made or allowed the representation and that the creditor relied on it. Holding out does not make the person a real partner. He gets no share of profits and no rights within the firm, but he is liable to that creditor as if he were a partner. The rule also does not catch someone whose name is used without his knowledge, because such a person has neither made nor knowingly permitted the representation. For example, A and B run a trading firm. C, a wealthy businessman and friend of A, is not a partner, but he allows his name to be printed on the firm's letterhead as a "partner" and attends meetings with suppliers. D, a supplier, sees the letterhead and, trusting C's standing, supplies goods worth ₹10 lakh to the firm on credit. If the firm fails to pay, D can sue C as a partner for the debt, because C knowingly permitted himself to be represented as a partner and D gave credit on the faith of that representation. This is so even if C never knew that the letterhead had been shown to D. By contrast, if E, another supplier, gave credit without ever knowing of C's supposed connection with the firm, E cannot hold C liable, because E did not rely on the representation. Similarly, if A had put C's name on the letterhead without C's knowledge, C would not be liable.

28.2 The continued use of the old firm name, or of a deceased partner's name in it, shall not by itself make the deceased partner's legal representative or estate liable for acts of the firm done after his death.

> (2) Where after a partner's death the business is continued in the old firm name, the continued use of that name or of the deceased partner's name as a part thereof shall not of itself make his legal representative or his estate liable for any act of the firm done after his death.

Section 28(2) of the Indian Partnership Act, 1932 is an exception to the rule of "holding out" in s. 28(1). Under that rule, a person who by words or conduct lets others believe he is a partner is liable as a partner to anyone who gives credit to the firm on that belief. Without s. 28(2), it could be argued that when the surviving partners carry on business under a name that still includes the deceased partner's name, they are presenting him to the public as a partner, and his estate should answer for the firm's later debts.

Section 28(2) rejects that argument. A dead person cannot represent anything or consent to the use of his name, and firms often keep a long-established name for its goodwill. The estate is therefore protected from liability that arises only from the name being used. The words “of itself” matter here. The protection covers only liability based on the use of the name. If the legal representative actually becomes a partner, or personally holds himself out as one, he may still be liable for his own conduct. This fits with s. 35, under which the estate of a deceased partner is not liable for any act of the firm done after his death where the firm continues. For example, Sharma, Gupta and Verma carry on business as “Sharma & Co.” Sharma dies, and Gupta and Verma continue trading under the same name. Six months later they buy goods worth ₹5 lakh on credit from a supplier who believes Sharma is still a partner, and they fail to pay. The supplier cannot recover the debt from Sharma’s widow as legal representative, or from Sharma’s estate, merely because the firm still trades as “Sharma & Co.” The debt is the liability of Gupta and Verma. The position would be different if Sharma’s widow joined the business, or herself told the supplier that the family was still a partner. Her liability would then come from her own conduct, not from the name.

29. Rights of transferee or a partner’s interest

29.1 A transferee of a partner’s interest shall be entitled only to receive the transferring partner’s share of profits, and shall not interfere in the business of the firm while it continues.

> (1) A transfer by a partner of his interest in the firm, either absolute or by mortgage, or by the creation by him of a charge on such interest, does not entitle the transferee, during the continuance of the firm, to interfere in the conduct of the business, or to require accounts, or to inspect the books of the firm, but entitles the transferee only to receive the share of profits of the transferring partner, and the transferee shall accept the account of profits agreed to by the partners.

Section 29(1) of the Indian Partnership Act, 1932 sets out what a person gets when a partner transfers his interest in the firm. The transfer may be absolute (an outright sale or gift), by mortgage, or by creating a charge on that interest. In each case the transferee does not become a partner, because a partnership rests on mutual trust and agreement, and no one can be

brought in as a partner without the consent of all the existing partners (s. 31(1)). While the firm continues, the transferee therefore cannot take part in managing the business, cannot demand accounts, and cannot inspect the firm's books. His only right is to receive the share of profits that would have gone to the transferring partner, and he must accept the account of profits as the partners agree it. He cannot dispute that account unless it is shown to be fraudulent or made in bad faith, since the law does not protect fraud. The transferring partner stays a partner, keeps his rights and duties within the firm, and stays liable to third parties. The transferee's position improves only when the firm is dissolved or the transferring partner leaves it. He is then entitled, as against the remaining partners, to receive the share of the firm's assets to which the transferring partner was entitled, and to an account from the date of dissolution so that he can work out that share (s. 29(2)). For example, A, B and C are partners in a garment business, each sharing profits equally. A borrows ₹10 lakh from D and mortgages his interest in the firm to D as security. D is entitled to receive A's one-third share of the profits. However, D cannot attend partners' meetings, cannot question how B and C run the business, and cannot insist on inspecting the firm's books or calling for accounts. If the partners agree that the year's profit is ₹9 lakh, D must accept A's share as ₹3 lakh and cannot reopen that figure merely because he believes the profit should have been higher. If the firm is later dissolved, D may claim A's share of the firm's assets and ask for an account from the date of dissolution.

29.2 On dissolution of the firm, or when the transferring partner ceases to be a partner, the transferee shall be entitled to receive that partner's share of the firm's assets and to an account from the date of dissolution.

> (2) If the firm is dissolved or if the transferring partner ceases to be a partner, the transferee is entitled as against the remaining partners to receive the share of the assets of the firm to which the transferring partner is entitled, and, for the purpose of ascertaining that share, to an account as from the date of the dissolution.

Section 29(2) of the Indian Partnership Act, 1932 covers what a transferee of a partner's interest can claim once the partnership relationship of the transferring partner ends. A partner may transfer his interest in the firm, for example by sale or mortgage, but the transferee does not become a partner. While the firm continues, s. 29(1) keeps him at a distance. He cannot

interfere in the conduct of the business, demand accounts or inspect the books, and he is only entitled to the transferring partner's share of profits, which he must accept as the partners have agreed it. Section 29(2) widens his rights when either of two events happens: the firm is dissolved, or the transferring partner ceases to be a partner (by retirement, expulsion or death, for instance). At that point the transferee steps into the transferring partner's place for financial purposes. He can claim from the remaining partners the share of the firm's assets that the transferring partner would have been entitled to. He can also demand an account to find out what that share is, so he is no longer bound to accept the partners' own figures. The account runs from the date of dissolution, which means the share is worked out as at that date, after the firm's debts and liabilities are settled. His rights are limited to the transferring partner's entitlement. Since he takes only what that partner had, any amount the transferring partner owes the firm reduces the share. The provision does not make him a partner even then, and it gives him no right to take part in winding up the business. For example, A, B and C are equal partners in a trading firm. A sells his interest in the firm to X for ₹5 lakh. While the firm runs, X receives A's one-third share of profits as shown in the accounts the partners prepare, and he cannot inspect the books or object to how the business is managed. The firm is later dissolved on 31 March. X can now require B and C to render an account from 31 March. If, after the firm's creditors are paid and the partners' accounts are settled, A's one-third share of the remaining assets is worth ₹6 lakh, X is entitled to receive that ₹6 lakh. If A had drawn ₹1 lakh more than he was entitled to, X would receive only ₹5 lakh, because X takes A's interest subject to what A owed the firm. X would have the same right if, instead of dissolution, A had retired from the firm.

30. Minors admitted to the benefits of partnership

30.1 A minor shall not be a partner in a firm, but may be admitted to the benefits of partnership with the consent of all the existing partners.

> (1) A person who is a minor according to the law to which he is subject may not be a partner in a firm, but, with the consent of all the partners for the time being, he may be admitted to the benefits of partnership.

Section 30(1) of the Indian Partnership Act, 1932 reflects the rule that a minor cannot enter into a valid contract. Under the Indian Contract Act,

1872, a minor's agreement is void, as the Privy Council held in *Mohori Bibee v. Dharmodas Ghose* (1903) 30 IA 114. Because a partnership arises from an agreement (s. 4), a minor cannot become a full partner. Whether a person is a minor depends on the law that applies to him, which in India is ordinarily the Indian Majority Act, 1875, fixing majority at 18. The Act still lets a minor share in a firm's advantages. If every partner for the time being consents, he may be admitted to the benefits of partnership. That makes him a beneficiary of the firm, not a partner who carries a partner's burdens. He is entitled to the agreed share of property and profits and may inspect and copy the firm's accounts (s. 30(2)). His share is liable for the firm's acts, but he is not personally liable (s. 30(3)). He cannot sue the partners for an account or for his share unless he is severing his connection with the firm (s. 30(4)). The consent must be unanimous, because admitting him changes how profits are shared among all the partners. The Supreme Court confirmed in *CIT v. Dwarkadas Khetan & Co.* AIR 1961 SC 680 that a minor cannot be a full partner and can only be admitted to the benefits of partnership. For example, suppose A, B and C run a cloth business as partners and, with the consent of all three, admit D's 15-year-old son E to the benefits of the partnership with a 10% share of profits. E receives his share and may inspect the books. If the firm cannot pay a debt, the creditors may proceed against E's share in the firm, but not against his personal property, such as a house he inherited. Had C refused consent, E could not have been admitted. Even with everyone's consent, E could not have become a full partner, because a minor cannot be a party to the partnership agreement.

30.2 A minor admitted to the benefits of partnership shall be entitled to the agreed share of the firm's property and profits, and may access, inspect and copy the firm's accounts.

> (2) Such minor has a right to such share of the property and of the profits of the firm as may be agreed upon, and he may have access to and inspect and copy any of the accounts of the firm.

This is Section 30(2) of the Indian Partnership Act, 1932. A minor cannot be a partner, because a partnership arises from a contract (s. 4) and a minor's agreement is void (*Mohori Bibee v. Dharmodas Ghose*, 1903). However, under s. 30(1), a minor may, with the consent of all the existing partners, be admitted to the benefits of an existing partnership. Section 30(2) sets out

what that admission gives the minor. First, the minor is entitled to whatever share of the firm's property and profits has been agreed. There is no fixed or equal share by law, and the agreement between the partners (usually made with the minor's guardian) decides it. Second, the minor may access, inspect and copy the firm's accounts. This lets the minor check that the agreed share is being correctly calculated and paid. The right covers the accounts only, not all the books and records of the firm, so the minor has no general right to look into its business affairs as a full partner would under s. 12(d). These rights balance the minor's protection under s. 30(3): the minor's share is liable for the firm's debts, but the minor is not personally liable. For example, A, B and C run a cloth business in partnership. With the consent of all three, D, aged 15, is admitted to the benefits of the partnership, and it is agreed that D will receive one-tenth of the profits and have a one-tenth share in the firm's property. If the firm makes a profit of ₹10 lakh in a year, D is entitled to ₹1 lakh. If D's guardian suspects that the profits are being understated, D may inspect the firm's profit and loss account and balance sheet and take copies of them. D cannot, however, insist on reading the firm's correspondence with suppliers or its other business papers, because the right under s. 30(2) extends only to the accounts.

30.3 A minor's share shall be liable for the acts of the firm, but the minor shall not be personally liable for any such act.

> (3) Such minor's share is liable for the acts of the firm, but the minor is not personally liable for any such act.

Section 30(3) of the Indian Partnership Act, 1932 sets the extent of liability of a minor who has been admitted to the benefits of a partnership under s. 30(1). A minor cannot be a full partner, because a minor's agreement is void (s. 11, Indian Contract Act, 1872; *Mohori Bibee v. Dharmodas Ghose* (1903)). With the consent of all the partners, though, a minor may share in the firm's benefits. In return, the minor's share in the firm's property and profits answers for the firm's debts and obligations, just as any partner's share does. The minor's liability stops at that share. Unlike an adult partner, who is jointly and severally liable without limit for the firm's acts (s. 25), the minor is not personally liable. Creditors of the firm cannot proceed against the minor's personal or separate property, and cannot hold the minor personally responsible for any shortfall, even if the firm's debts are larger

than the firm's assets. The limited protection lasts only while the minor is a minor. Within six months of attaining majority, or of coming to know of the admission to benefits, whichever is later, the person must give public notice of electing to become or not to become a partner (s. 30(5)). If they become a partner, or fail to give notice, they are personally liable for all acts of the firm since their admission to benefits (s. 30(7)). For example, P and Q run a firm and, with both their consent, admit R, aged 15, to the benefits of the partnership with a one-fifth share. The firm incurs a debt of ₹10 lakh to a supplier, and its assets amount to only ₹6 lakh. The supplier may recover from the firm's assets, including R's one-fifth share in them, and may proceed against P and Q personally for the balance. It cannot sue R personally or attach R's own house or savings, because R is liable only to the extent of his share. If R later attains majority and elects to become a partner, he becomes personally liable for all the firm's acts from the date he was first admitted to its benefits.

30.4 A minor admitted to the benefits of partnership shall not sue the partners for an account or for his share of the property or profits, except when severing his connection with the firm.

> (4) Such minor may not sue the partners for an account or payment of his share of the property or profits of the firm, save when severing his connection with the firm, and in such case the amount of his share shall be determined by a valuation made as far as possible in accordance with the rules contained in section 48:
>
> Provided that all the partners acting together or any partner entitled to dissolve the firm upon notice to other partners may elect in such suit to dissolve the firm, and thereupon the court shall proceed with the suit as one for dissolution and for settling accounts between the partners, and the amount of the share of the minor shall be determined along with the shares of the partners.

Section 30(4) of the Indian Partnership Act, 1932 limits the remedies of a minor who has been admitted to the benefits of a partnership with the consent of all the partners (s. 30(1)). The minor is not a full partner. He is entitled to his agreed share of the property and profits, and he may inspect and copy the firm's accounts (s. 30(2)). However, while he remains with the firm he cannot take the partners to court for an account or for payment of his share, so his position is protected without disturbing the running of the

business through litigation. He may sue only when he is leaving the firm. That can happen, for example, when he attains majority and elects within six months not to become a partner by giving public notice (s. 30(5)). In such a suit his share is fixed by a valuation made, as far as possible, in accordance with the rules in s. 48, which governs the settlement of accounts on dissolution: losses are first met out of profits, then capital, and the firm's assets are applied to pay third-party debts, then advances by partners, then capital, with any surplus divided in the profit-sharing ratio. The proviso gives the partners an option. When the minor sues, all the partners acting together, or any partner who is entitled to dissolve the firm by notice (as in a partnership at will, s. 43), may elect in that same suit to dissolve the firm. The court then treats the suit as one for dissolution and settlement of accounts among all the partners, and determines the minor's share together with theirs. This avoids two separate proceedings and a valuation of the minor's share alone while the business continues. For example, A and B carry on business in partnership and, with the consent of both, admit their nephew C, aged 15, to a one-fifth share of the profits. At 17, C believes the profits credited to him are too low, but he cannot sue A and B for an account while he remains with the firm, though he may inspect the books. On attaining majority at 18, C gives public notice that he will not become a partner and sues A and B for his share. The court values his share by applying the s. 48 rules as far as possible, and A and B must pay him that amount. If, however, the firm is a partnership at will and B, who could dissolve it by notice, elects in C's suit to dissolve the firm, the court proceeds with the suit as a dissolution suit. It settles accounts among A, B and C together and works out C's share in the same exercise.

30.5 A person admitted as a minor to the benefits of partnership shall, within six months of attaining majority or of learning of that admission (whichever is later), declare by public notice whether he will become a partner; if he gives no notice, he becomes a partner.

> (5) At any time within six months of his attaining majority, or of his obtaining knowledge that he had been admitted to the benefits of partnership, whichever date is later, such person may give public notice that he has elected to become or that he has elected not to become a partner in the firm, and such notice shall determine his position as regards the firm:

> Provided that, if he fails to give such notice, he shall become a partner in the firm on the expiry of the said six months:

Section 30(5) of the Indian Partnership Act, 1932 deals with a minor who has been admitted to the benefits of a partnership. Because a minor cannot contract, he cannot be a full partner (s. 30(1)). When he becomes an adult, the law requires him to decide his status. He has six months to do so, counted from the later of two dates: the day he attains majority, or the day he learns he was admitted to the benefits. Within that period he must give public notice that he has chosen either to become a partner or not to become one. For a registered firm, public notice means notice to the Registrar under s. 63 and publication in the Official Gazette and in at least one vernacular newspaper circulating in the district (s. 72). That notice settles his position in the firm. Under the proviso, if he gives no notice, the law treats his silence as a choice to become a partner, and he becomes one automatically when the six months end. Anyone who claims he did not know of his admission must prove it (s. 30(6)). The choice matters greatly. If he becomes a partner, whether by notice or by silence, he is personally liable to third parties for all acts of the firm since he was first admitted to its benefits (s. 30(7)). If he elects not to become a partner, his rights and liabilities remain those of a minor up to the date of the notice. His share is not liable for acts of the firm after that date, and he may sue the partners for his share (s. 30(8)). For example, R was admitted as a minor to the benefits of the registered firm “Sharma Traders” at the age of 15. He turns 18 on 1 January 2026 and has always known of his admission, so he has until the end of June 2026 to give public notice. If he does nothing, he becomes a partner when the six months end. He is then personally liable for all the firm’s debts and acts since he was first admitted, including a large loan the firm took when he was 16. If, instead, he publishes notice in time that he elects not to become a partner, he avoids that personal liability. His share is not liable for the firm’s acts after the notice, and he can claim his share from the partners. If R had first learned of his admission only on 1 March 2026, his six months would run from that later date.

30.6 Whoever claims that a person admitted to the benefits of partnership as a minor did not know of that admission until a date more than six months after attaining majority must prove it.

> (6) Where any person has been admitted as a minor to the benefits of partnership in a firm, the burden of proving the fact that such person had no knowledge of such admission until a particular date after the expiry of six months of his attaining majority shall lie on the persons asserting that fact.

Section 30(6) of the Indian Partnership Act, 1932 is a rule of evidence that supports s. 30(5). Under s. 30(5), a person admitted to the benefits of partnership as a minor must give public notice of whether he elects to become or not to become a partner. He must do this within six months of attaining majority, or of first learning that he had been admitted, whichever is later. If he gives no notice within that time, he automatically becomes a partner when the six months expire. He is then personally liable, like any partner, for all acts of the firm done since he was admitted to its benefits (s. 30(7)(a)). The law presumes that he knew of his admission by the time he attained majority, so the six-month period ordinarily runs from that date. A party who says it should run from a later date, because knowledge came later, has to prove that fact. In practice this is usually the former minor himself, who wants to show his time for electing had not run out so that he escapes partnership liability. It could equally be anyone else whose case depends on that later date. If the fact is not proved, the period is counted from the date of majority. For example, X was admitted to the benefits of partnership in a firm as a minor and attained majority on 1 January 2024. He gave no public notice. In 2025 a creditor sues the firm and seeks to hold X personally liable as a partner. X argues that he only learned of his admission on 1 October 2024, so his six months ran until 1 April 2025, and that he has since given notice that he does not wish to become a partner. Under s. 30(6), X must prove that he had no knowledge until 1 October 2024. If he cannot, the six months are counted from 1 January 2024, he is treated as having become a partner on 1 July 2024, and he is liable to the creditor.

30.7 A minor admitted to the benefits of partnership who becomes a partner shall be personally liable to third parties for all acts of the firm done since his admission to those benefits, and shall keep the share he held as a minor.

> (7) Where such person becomes a partner,
>
> (a) his rights and liabilities as a minor continue up to the date on which he becomes a partner, but he also becomes personally liable to third parties for

all acts of the firm done since he was admitted to the benefits of partnership, and

(b) his share in the property and profits of the firm shall be the share to which he was entitled as a minor.

Section 30(7) of the Indian Partnership Act, 1932 sets out what happens when a person who was admitted to the benefits of partnership as a minor becomes a full partner. That happens in one of two ways. Under s. 30(5), within six months of attaining majority, or of learning that he had been admitted to the benefits, whichever is later, he must give public notice of whether he elects to become a partner. If he chooses to become a partner, or simply gives no notice in time, he becomes a partner when the six months expire. Clause (a) has two parts. First, his rights and liabilities as a minor continue until the date he becomes a partner. Under s. 30(3), those are a right to his agreed share of property and profits, and liability limited to that share; he is not personally liable during minority. Second, once he becomes a partner, his liability to third parties reaches back to the date he was first admitted to the benefits. He becomes personally liable, with his own assets and without limit, for every act of the firm from that date, including debts the firm incurred while he was still a minor. The law treats his decision to stay on as an adoption of the firm's past dealings. Clause (b) states that his share in the property and profits stays the same as the share he had as a minor, unless the partners agree otherwise. The opposite case is s. 30(8): if he gives notice that he will not become a partner, his rights and liabilities remain those of a minor until the notice date, and he is not liable for the firm's acts after that date. For example, A is admitted at age 15 to the benefits of the firm P & Co. with a 20% share. While A is still a minor, the firm borrows ₹10 lakh from a bank. A turns 18 and gives no public notice within the next six months, so he becomes a partner when that period ends. The loan is still unpaid. Under s. 30(7)(a), A is personally liable to the bank for the whole debt, even though the firm borrowed the money during his minority, and the bank may recover it from A's personal property as well as from the firm's assets. As between A and the firm, his rights until he became a partner were only those of a minor. Under s. 30(7)(b), his share stays at 20%. If A had instead given public notice within the six months that he did not wish to become a partner, he would not have been personally

liable for the loan. His share in the firm could still have been used to meet it, as s. 30(3) allows.

30.8 A person admitted to the benefits of partnership as a minor who elects, on attaining majority, not to become a partner shall remain liable only as a minor up to the date of his public notice, shall not be liable for the firm's acts after that date, and shall be entitled to sue the partners for his share of the property and profits.

> (8) Where such person elects not to become a partner,
>
> (a) his rights and liabilities shall continue to be those of a minor under this section up to the date on which he gives public notice,
>
> (b) his share shall not be liable for any acts of the firm done after the date of the notice, and
>
> (c) he shall be entitled to sue the partners for his share of the property and profits in accordance with sub-section (4).

Section 30(8) of the Indian Partnership Act, 1932 sets out what happens when a minor who was admitted to the benefits of a partnership (s. 30(1)) chooses, after reaching majority, not to join the firm as a full partner. Under s. 30(5), he must make this choice by giving public notice within six months of attaining majority, or of first learning that he had been admitted to the benefits, whichever is later. If he gives no notice in that time, he becomes a partner automatically. Public notice is given as s. 72 requires, usually by notifying the Registrar of Firms and publishing it in the Official Gazette and a local newspaper. If he does give notice of his election not to become a partner, three consequences follow. First, until the date of the notice his position stays that of a minor beneficiary under s. 30: his share in the firm's property and profits is liable for the firm's acts, but he is not personally liable (s. 30(3)). Second, his share is not liable for any act of the firm done after the date of the notice, so later debts and obligations of the firm cannot be recovered from it. Third, he may sue the remaining partners for his share of the property and profits. Under s. 30(4), a minor beneficiary cannot ordinarily sue for an account or for payment of his share unless he is severing his connection with the firm. Electing not to become a partner is that severance, so the bar is lifted, and his share is valued as nearly as possible according to the rules for settling accounts in s. 48. For example, A, B and C run a firm in which D was admitted to the benefits of partnership as

a minor with a 10% share in profits. D turns 18 on 1 January 2026, and on 1 April 2026, within six months, he gives public notice that he will not become a partner. A debt the firm incurred in February 2026 may be recovered from D's 10% share, because his position as a minor beneficiary continued until 1 April. D is not personally liable for it, so his own separate property is safe. A loan the firm takes in May 2026 cannot be recovered from D's share at all, because it was taken after the date of the notice. D may then sue A, B and C for the value of his 10% share in the firm's property and his share of profits up to 1 April 2026, to be worked out under s. 48. If D had stayed silent beyond 1 July 2026, he would have become a partner under s. 30(5). Under s. 30(7) he would then have been personally liable for all acts of the firm done since he was first admitted to its benefits.

30.9 Sub-sections (7) and (8) shall not affect a former minor's liability for holding out under section 28.

> (9) Nothing in sub-sections (7) and (8) shall affect the provisions of section 28.

Section 30 of the Indian Partnership Act, 1932 deals with a minor admitted to the benefits of a partnership. Within six months of attaining majority, or of learning that he was admitted to the benefits, whichever is later, he must give public notice of whether he elects to become a partner (s. 30(5)). Sub-section (7) sets out the position if he becomes a partner: he is personally liable to third parties for all acts of the firm since he was first admitted to its benefits. Sub-section (8) sets out the position if he elects not to become a partner: his rights and liabilities stay those of a minor up to the date of the public notice, and his share is not liable for acts of the firm done after that notice. Sub-section (9) keeps section 28, the rule of holding out, fully in force alongside these rules. Under section 28, anyone who by words spoken or written or by conduct represents himself, or knowingly allows himself to be represented, as a partner is liable as a partner to anyone who gave credit to the firm on the faith of that representation. So a person who has formally elected not to become a partner under sub-section (8) cannot use that election as a shield if he afterwards behaves as though he were a partner. His liability then arises from section 28, not from sub-section (7). The election protects him only so long as his conduct matches it. For example, M was admitted to the benefits of the firm "Ram & Co." while a minor. On

attaining majority he gives public notice that he will not become a partner, so under sub-section (8) the firm's later acts do not bind him or his share. However, he keeps attending the firm's business meetings, signs letters as "Partner, Ram & Co." and assures a supplier, S, that he is a partner. Relying on this, S supplies goods worth ₹5 lakh on credit to the firm. When the firm fails to pay, M cannot point to his public notice to escape liability. Because of section 30(9), section 28 applies, and M is liable to S as if he were a partner, since S gave credit on the strength of M's representation.