

preface

to the third edition

The importance of this subject within the framework of legal studies cannot be over-emphasised. The courts have to administer justice according to law. The chief source of law is legislation. The other sources are precedents and customs. Every source of law finds its expression in a language. A language is the property of the people and not that of law, though some words may acquire special legal meaning and may become a part of the legal terminology. But by far a great bulk of the words used in a legal draft belongs to the ordinary language. What meaning is to be given to a word used in a legislation, custom or precedent or in a private deed or will? Even the dictionary does not give the clear-cut meaning of a word. It gives many alternative meanings applicable in different contexts and for different purposes so that no clear field for the application of a word becomes identified. A word of universal usage in all marriage laws, eg, is 'cruelty' as a ground for a matrimonial remedy or relief. Apparently the word is a very simple one. Initially the courts took it to mean some kind of a physical torture. Then there came cases in which there was no physical chastisement. Agony was delivered only to the mind. This came to be recognised as a 'mental cruelty' and, therefore, covered by the word 'cruelty'. Still subsequently there appeared before the courts cases in which there was neither physical nor mental cruelty, but only mutual unhappiness because of incompatibility. An unhappy combination came to be recognised as a cruel one. So long as such expansion of meaning takes place uniformly, the law will develop along healthy lines. But if one judge takes the narrow view and the other the broad view, the law will mean different things for different persons and soon there will be a race for window shopping for justice. Hence, it is necessary that there should be some rules of interpretation to ensure just and uniform decisions. Such rules are called the rules of interpretation. They are the subject-matter of this brief work of introductory nature.

The rules of interpretation are drawn from the general scope and intention of the instrument or legislation, from the nature of the transaction or the circumstances, from the legal rights of the parties independent of the instrument or law in question, and from many other relevant particulars. Interpretation is the process which is adopted for determination of the meaning of a writing, to determine from its known elements its true meaning or the intent of the framers of the documents. It is the art of finding out the true sense of any form of words, the sense which their author intended to convey. This art enables others to derive from the words the same idea which the author intended to convey and thereby to find out or collect the intention of a writer. The process involved is such that one source speaks something and another source picks it

up, discovers its meaning and applies it to do justice between others. It is not a science but an art to find out the meaning of words in the context of a given situation. It is to this field of art that the present study is dedicated to enable those who are interested in knowing the elements of the subject.

Case-laws are the only source of tracing developments in this field. Supreme Court cases in themselves constitute a huge body of case-materials on the subject. The present edition, therefore, concentrates only on Supreme Court decisions for locating the recent trends in judicial approach to this subject. Developmental activities, particularly those causing environmental pollution, have proved to be a rich source of case-law generation. Taxing statutes are also a constant source of engaging judicial attention as to the meaning of words used. Where the words used were 'floors with tiles', the court attributed knowledge to the legislature that in some building areas, floors go up with walls with the same material. The courts are under a duty not to do any violence to the words of the legislature. A statute cannot be looked at with a coloured glass. The courts have to go not by the scientific meaning but by popular meaning. A rent control legislation is for the benefit of both the tenant and the landlord and must be so construed. It is not a class legislation. This would seem to be a new approach. Many other trend-setting decisions of this kind have been brought in for enrichment of the present edition.

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preface to the second edition

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July 1st, 2005 Harpreet Kaur