

UNIT – 5

Limitation Act 1963 Expanded

Object • Bar of Limitation • Computation • Condensation • Disability • Acknowledgement • Part Payment • Extinguishment

Civil Procedure Code & Limitation Act – Expanded

Unit Overview

This expanded unit provides a thorough study of the Limitation Act, 1963 – its object, the nature of the bar of limitation, rules of computation, condensation of delay under s.5, effect of legal disability, acknowledgement and part payment, exclusion of time, effect of fraud, and extinguishment of right to property. Practical examples and exam-oriented points are included.

LEARNING OBJECTIVES

What You Will Learn

01 Object

Explain the policy behind the Limitation Act

02 Bar

Understand that limitation bars the remedy

03 Computation

Correctly compute the period of limitation

04 Condensation

Apply s.5 for condensation of delay

05 Disability

Handle legal disability under ss.6-9

06 Acknowledgement

Use ss.18 and 19 to extend limitation

OBJECT

Object and Policy of the Limitation Act

The law of limitation is founded on public policy. It is a statute of repose, peace and justice that requires a person to enforce his right within a fixed time.

Diligence

Encourages prompt action by the right holder

Stale Claims

Prevents revival of old, forgotten claims

Evidence

Protects against loss of evidence due to passage of time

Finality

Gives certainty and finality to legal relationships

NATURE

Nature of the Law of Limitation

Procedural

Limitation is generally regarded as a procedural law

Bars Remedy

It bars the judicial remedy; it does not extinguish the right (except under s.27)

Can be Waived

Defendant can waive the plea of limitation

Court's Duty

Under s.3 the court must dismiss a time-barred suit even if limitation is not pleaded

SECTION 3

Section 3 – Bar of Limitation

Mandatory	Every suit instituted, appeal preferred and application made after the prescribed period shall be dismissed
Subject to	The provisions of the Act (ss.4 to 24 etc.)
Suo Motu	Court can and must raise the question of limitation itself
Plea	Although court notices it, it is still good practice to plead limitation

COMPUTATION 1

Computation of Period – Basic Rules

Starting Point	The period begins from the date prescribed in the Schedule (usually when the cause of action arises)
Exclusion of First Day	The day from which the period is to be reckoned is excluded (s.12)
Last Day	If the court is closed on the last day, the suit may be filed on the next day the court reopens (s.4)
Schedule	The Schedule to the Act contains the specific periods for different suits and applications

Exclusion of Time – Important Provisions

Section 12	Exclusion of time of proceeding in good faith in a court without jurisdiction, time for obtaining copies, etc.
Section 14	Exclusion of time spent in prosecuting another civil proceeding with due diligence and in good faith
Section 15	Exclusion of time during which proceedings are suspended, or injunction operates, etc.
Section 17	Effect of fraud or mistake – time begins when the fraud/mistake is discovered

CONDONATION

Condensation of Delay – Section 5

Any appeal or application may be admitted after the prescribed period if the appellant or applicant satisfies the court that he had sufficient cause for not preferring the appeal or making the application within such period.

Scope	Applies to appeals and applications; does not apply to suits
Sufficient Cause	A cause beyond the control of the party; liberal construction
Discretion	The power is discretionary; court balances the equities
Leading Cases	Collector, Land Acquisition v. Katiji – liberal approach; no presumption of negligence

DISABILITY 1

Legal Disability – Section 6

Covered Disabilities

Minority, insanity, idiocy

Effect

The person may institute the suit within the same period after the disability has ceased as would otherwise have been allowed

Example

If the period is 3 years and the minor becomes major, he gets 3 years from the date of majority

Successive Disability

If another disability supervenes, the period is further extended

DISABILITY 2

Sections 7, 8 and 9 – Disability Rules

Section 7	Disability of one of several persons – rules when they are jointly entitled
Section 8	Special exceptions for certain suits (e.g., suits for pre-emption)
Section 9	Once time has begun to run, no subsequent disability or inability to sue stops it
Important	Disability must exist at the time from which the period is to be reckoned

ACKNOWLEDGEMENT

Acknowledgement – Section 18

Effect	A fresh period of limitation is computed from the time when the acknowledgement was signed
Requirements	(1) In writing (2) Signed by the party against whom the right is claimed (3) Made before the expiration of the prescribed period
Contents	Must acknowledge the liability in respect of the right
Nature	It only extends limitation; it does not create a new cause of action

PART PAYMENT

Effect of Payment – Section 19

Effect	Payment of interest on a debt or part payment of principal starts a fresh period of limitation
Requirements	The payment must appear in the handwriting of, or in a writing signed by, the person making the payment
Purpose	Part payment is treated as an acknowledgement of the subsisting liability
Practical	Always obtain signed receipts or endorsements

SECTION 27

Extinguishment of Right – Section 27

Rule	At the determination of the period limited for instituting a suit for possession of any property, the right to such property is extinguished
Scope	Applies only to suits for possession of property
Effect	Not only the remedy but the right itself is extinguished
Adverse Possession	This is the foundation of the law of adverse possession

OTHER SECTIONS

Other Important Sections at a Glance

Section 4	Court closed – next working day
Section 12	Exclusion of time for obtaining copies, etc.
Section 14	Exclusion of time spent in wrong forum with due diligence
Section 17	Fraud or mistake – starting point postponed
Section 21	Addition of new plaintiff or defendant – effect on limitation

PRACTICAL 1

Practical Computation Tips

Identify Cause of Action

Pinpoint the exact date when the right to sue first accrued

Check Schedule

Look up the relevant Article in the Schedule for the period

Exclude Days

Apply s.12 and other exclusion provisions carefully

Disability & Acknowledgement

Always inquire about minority, letters of acknowledgement and part payments

PRACTICAL 2

Exam & Practice Points – Limitation

s.3 is Mandatory

Court must dismiss a time-barred suit even without a plea

s.5 is Liberal

But it does not apply to suits

s.18 & s.19

Most common methods of extending limitation in money claims

s.27

Only for possession suits – right is extinguished

Plead Facts

In the plaint or application, clearly state facts showing that the suit is within time

LANDMARK

Important Cases on Limitation

Collector, Land Acquisition v. Katiji	Liberal approach to “sufficient cause” under s.5
Balakrishnan v. M.A. Krishnamurthy	Sufficient cause should be liberally construed
State of West Bengal v. Administrator, Howrah Municipality	What constitutes sufficient cause
Sampuran Singh v. Niranjan Kaur	Acknowledgement under s.18

SUMMARY POINTS

Must-Remember Points

- Limitation is a statute of repose; it bars the remedy but (except under s.27) does not extinguish the right.
- Section 3 makes dismissal of a time-barred suit mandatory.
- Computation requires careful identification of the starting point and application of exclusion rules.
- Section 5 allows condensation of delay in appeals and applications on sufficient cause (liberal approach).
- Legal disability extends the period; once time starts, subsequent disability does not stop it (s.9).
- Written acknowledgement (s.18) and part payment (s.19) start a fresh period of limitation.
- Section 27 extinguishes the right to property after the limitation period for a possession suit expires.
- Always plead and prove facts showing that the proceeding is within time.