

E-LEARNING MODULES
 TOPIC : CODE OF CIVIL PROCEDURE
 CLASS: LLB third year and BALLB fifth year
MODULE 9 Law of Limitation

Submitted by:
 Dr. Khakare Vikas
 Asso. Prof.
 Narayanrao Chavan Law College, Nanded
 SRTMUN College code127

	CONTENTS	NOTES
1	<p>Indian Limitation Act 1963</p> <p>Object</p> <p>It is basic requirement of justice is that every suit must be filed in the Court within the time prescribed for the same.</p> <p>All suits instituted after Limitation period is forbidden by this law of Limitation.</p> <p>It prescribes the period within which an existing right can be enforced by a person.</p>	
1.1	<p>Principles</p> <p>Interest republicae ut sit fines litum: (It is to the advantage of the State that there should be a limit to law suits.)</p> <p>Vigilantibus non dormantibus jura subvenient: (Laws come to the help of the vigilant, not of the sleepy.)</p>	
1.2	<p>Difinition</p> <p>"period of limitation" means the period of limitation prescribed for any suit, appeal or application by the Schedule and "prescribed period" means the period of limitation computed in accordance with the provisions of this Act. [Sec. 2 (j)]</p> <p>A law of Limitation prescribes the time at the end of which a person is liable to suit, shall become exempt from answering therein.</p>	
1.3	<p>Effect of Limitation Act</p> <p>The law of Limitation does not destroy the substantive right of a party.</p> <p>It simply bars remedy only.</p> <p>Limitation bars only the remedy and does not extinguish the title.</p>	

1.4	<p>Limitation and burden of proof</p> <p>The burden to prove that the proceeding instituted is within limitation is on plaintiff / applicant / appellant.</p>	
2	<p>BAR OF LIMITATION</p> <p>Every suit instituted, appeal preferred, and application made after the prescribed period shall be dismissed although limitation has not been set up as a defence. [Sec. 3]</p> <p>Section is applicable to following proceedings:</p> <ol style="list-style-type: none"> 1.Suit, 2.Application, and 3.Appeal. 	
3	<p>Extension of prescribed period in certain cases</p> <p>Any appeal or any application, may be, admitted after the prescribed period, if the appellant or the applicant satisfies the Court that he had sufficient cause for not preferring the appeal or making the application within such period. [Sec. 5]</p> <p>Examples of sufficient cause:</p> <p>Illness, imprisonment, poverty, minority, mistake of counsel, delay in obtaining copies of documents, laches on the part of court, etc.</p>	
4	<p>Legal disabilities</p> <p>Legal disabilities covered under this are: Minority, Lunacy, Idiocy.</p> <p>Where a person entitled to institute a suit or make an application for the execution of a decree, is at the time from which the prescribed period is to be reckoned, a minor or insane, or an idiot, he may institute the suit or make the application within the same period after the disability has ceased, as would otherwise have been allowed from the time specified therefor in the third column of the Schedule. [Sec. 6]</p>	
5	<p>Continuous running of time</p> <p>Where once time has begun to run, no subsequent disability or inability to institute a suit or make an application stops it. [Sec.9]</p>	
6	<p>COMPUTATION OF PERIOD OF LIMITATION</p> <p>While computation of Limitation period, each day is to be counted. But while counting certain days are to be excluded or not counted which are as under.</p>	

	<p>The day on which period begins to run; day of judgment, time required for copy of judgment/order/award/decreed is excluded [Sec.12]</p> <p>where an application for leave to sue or appeal as a pauper has been made and rejected, the time during which the applicant has been prosecuting in good faith his application for such leave shall be excluded [Sec. 13]</p> <p>The time during which plaintiff has been prosecuting in a court with due diligence, and such court, from defect of jurisdiction is unable to entertain it shall be excluded.[Sec. 14]</p> <p>Exclusion of time in certain other cases [S.15]</p>	
7	<p>Effect of death</p> <p>Where a person who would, if he were living, have a right to institute a suit or make an application dies before the right accrues or right accrues on death, limitation shall be computed from the time when there is a legal representative of the deceased capable of instituting such suit or making such application.</p> <p>Where a person against whom, if he were living, a right to institute a suit or make an application would have accrued dies before the right accrues, the period of limitation shall be computed from the time when there is a legal representative of the deceased against whom the plaintiff may institute such suit/application. [Sec. 16]</p>	
8	<p>Effect of fraud or mistake</p> <p>The suit or application is based upon the fraud of the defendant/respondent OR knowledge of the right or title on which suit or application is founded is concealed by the fraud of defendant/respondent OR for relief from the consequences of a mistake OR any document necessary to establish the right of the plaintiff or applicant has been fraudulently concealed from him--- The period of limitation shall not begin to run until the plaintiff or applicant has discovered the fraud or the mistake or could, with reasonable diligence, have discovered it; or in the case of a concealed document, until the plaintiff or the applicant first had the means of producing the concealed document or compelling its production [Sec. 17]</p>	

9	<p>Effect of acknowledgement in writing</p> <p>Where, before the expiration of the prescribed period for a suit or application in respect of any property or right, an acknowledgement of liability in respect of such property or right has been made in writing signed by the party against whom such property or right is claimed, or by any person through whom he derives his title or liability, a fresh period of limitation shall be computed from the time when the acknowledgement was so signed. [Sec. 18]</p>	
10	<p>Effect of payment on account of debt or of interest on legacy</p> <p>Where payment on account of a debt or of interest on a legacy is made before the expiration of the prescribed period by the person liable to pay the debt or legacy or by his agent duly authorised in this behalf, a fresh period of limitation shall be computed from the time when the payment was made. [Sec.19]</p>	
11	<p>CONTINUING BREACHES AND TORTS</p> <p>In the case of a continuing breach of contract or in the case of a continuing tort, a fresh period of limitation begins to run at every moment of the time during which the breach or the tort, as the case may be, continues.[S.22]</p>	
12	<p>SUITS FOR COMPENSATION FOR ACTS NOT ACTIONABLE WITHOUT SPECIAL DAMAGE</p> <p>In the case of a suit for compensation for an act which does not give rise to a cause of action unless some specific injury actually results there from, the period of limitation shall be computed from the time when the injury results. [S. 23]</p>	
13	<p>Acquisition of easement by prescription</p> <p>Where the access and use of light or air to and for any building have been peaceably enjoyed therewith as an easement, and as of right, without interruption, and for twenty years, and where any way or watercourse or the use of any water or any other easement (whether affirmative or negative) has been peaceably and openly enjoyed by any person claiming title thereto as an easement and as of right without interruption and for twenty years, the right to such access and use of light or air, way, watercourse, use of water, or other easement shall be absolute and indefeasible. [Sec. 25]</p>	

	Where the property over which a right is claimed belongs to the government that sub-section shall be read as if for the words "twenty years" the words "thirty years" were substituted.	
--	---	--

Questions for practice.

1. What is object of Limitation Act?
2. When court can condone delay for appeal?
3. What are effect of death on limitation?
4. What is prescription under the Limitation Act?

For more information and study read Code of Civil Procedure 1908 with commentary and case laws.