

Public Opinion on Partnership under the Indian Partnership ACT 1932



M. Deepthi, M. Dhinesh

ABSTRACT: Partnership is considered as the relation between the persons who have agreed to share the profits of a business carried on by all or any of them acting all . Section 4 of the Indian Partnership Act, 1932 deals about Partnership. In this paper it is analysed that the division of profits is considered to be a essential element for the existence of partnership which also includes the sharing of profit and losses . A Partnership Agreement is defined as an arrangement that is agreed by all parties to the transaction and is a successful method of helping each of the partners to set up mutually acceptable goals, to share all the profits earned in the business equally. Partnership is a specific application of the principles of agency. Agreement of partnership need not be express , but can be inferred from the course of conduct of the parties to the agreement. Registration of the company is not mandatory it's an option according to the Indian Partnership Act ,1932. Partnership is one of the oldest forms of business relationships and it is also a special kind of contract , which is created out of an agreement. An empirical study is done where the samples are collected by using probability sampling and random sampling method. Samples of approximately 1592 respondents are collected . Using the spss tool the value of the chi square is found and the output of the research is chi square is that there is no significant association between the there is no association between the awareness of the rights and duties of partners and age and there is no association between partners entitled to share all the profits earned in business equally and gender. It is concluded that Partnership is a good form of doing business by making partners and achieving big goals . Nowadays Partnerships are still preferred by professionals , small trading and business enterprises.

Keywords: Partnership, 2persons, Agreement, Partnershipfirm, Profit.

I. INTRODUCTION

The term partnership is derived from the word “to part” which means “to divide”. Partnership is considered as the relation between the persons who have agreed to share the profits of a business carried on by all or any of them actions all .Person, who have entered into partnership with one another are identified as partners. When two or more persons carry on business to share profits and losses equally is usually considered as a Partnership Firm. Section 4 of the Indian partnership Act , 1934 defines partnership as the relationship among the persons who share the profits and losses equally .

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Partnership is a specific application of the principle of agency .Agreement of partnership need not be express , but can be inferred from the course of conduct of the parties to the agreement. According to the Indian Partnership Act,1932 the registration of the company is not compulsory its optional .

A partnership firm can be registered at any time during its existence. Partnership is a special Kind of contract and it's created out of an agreement. Partners are categorised as , Active partner, Sleeping partner, Nominal partner , Partner by Estoppel , Partner by Holding out, Minor partner , sub partner , Incoming partner.Partner for profits only .

All partners are free to form their own terms and conditions with respect to functioning in their partnership deed. The Indian Partnership Act, 1932 has also prescribed certain provisions regarding the rights and duties of partners in a firm and its dealt under Section 9-17 of the Indian Partnership Act, 1932 .

The partners can exercise the following rights and duties ,

Rights of Partners :

Right to take part in the conduct of the business ,Right to be consulted ,Right to access to books, Right to Indemnity, Right to claim remuneration, Right to receive Interest on capital , Right to be consulted at the time of admission of a partner , Right to use partnership property , Right to retire, Right not to be expelled.

Duties of Partners:

Duty to carry on business for common advantage, Duty to render true accounts ,
Duty to attend diligently, Proper use of firm's property.
Duty to indemnify loss, Duty to disclose full information,Duty to share loss equally , Duty not to transfer his rights and interest .

According to the Indian Partnership Act,1932 the registration of the company is not compulsory its optional . A partnership firm can be registered at any time during its existence. Few essential case laws has been discussed below,

Jayalaxmi Oil Mills vs Income Tax Commissioner.(“Website” n.d.)

The Andhra Pradesh High Court held in this case that ,registration is complete when the statement in the prescribed form signed and verified by all the partners Accompanied by the prescribed fee is presented to the Register .The act of the Registrar making an entry in the Register of firm is only a clerical act.

Cox vs Hickman (1860) (Encyclopedic 2013)

In this case , Smith and his son carried on the partnership business as Smith & son. Owing to financial crisis ,they assigned the business to certain creditors as trustees to catty on the business and discharge the debts.While the business was being managed by the trustees (creditors) , the plaintiff ,

Hickman supplied goods to the firm and sued the firm for payment. The defendant Cox, who was one of the trustees of the firm was sued as partner though he did not take part in the transaction. It was held that the defendant was not liable on the ground that there was no partnership.

Partnership is one of the oldest forms of business relationships and it is also a special kind of contract, which is created out of an agreement. Dissolution of firm means putting an end to the partnership business. The firm continues to exist even after the dissolution of partnership of one or more partners provides at least two partners continue to exist in the firm. The main aim of this study is to examine briefly about the Partnership under the Indian Partnership Act, 1932.

OBJECTIVES OF THE STUDY:

To determine the procedure and establishment of partnership, To explore the rights and duties of partners, To find out the essentiality of Partnership firm, To revealed the modes of dissolution of partnership firm and To establish a detailed study on partnership.

II. REVIEW OF LITERATURE

Elsbeth Deards(2001)(“[No Title]” n.d.) The author has explored the reforms to partnership law which is required benefits of the firm and has also determined certain rights of partner which is considered as an essential factor for the development of the business firm. **Paul Latimer(2016)**(Latimer 2016) The author has revealed the application of contractual principle of termination for repudiation to the contract of partnership and has also elaborated the special status of partnership contract and concluded that the repudiation might apply to the partnership contract only in limited circumstances. **Andree Seucan(2015)**(Seucan 2015) The author has covered the specific aspects of the partnership agreement .and also focused on partnership agreement has a synallagmatic nature or not the author has also explained the classification in unilateral and bilateral contracts and finally he analysed certain obligations of the parties of a partnership agreement. **Valerie Wildridge , Sue Childs Lynette Cawthra Bruce Madge(2008)**(“Error - Cookies Turned Off” n.d.) The authors have explored the procedure for creating a successful partnership and provided the guidelines for the people planning to set up a partnership and also for re-evaluating an existing partnership and concluded that the successful partnership working is all about human interaction and also requires long and complex process. **Matthew Clifford(2008)**(“[No Title]” n.d.) The author has discussed about the K-20 partnership and stated that partnership especially in the field of healthcare and business must improve the service between semi -autonomous organisations and should also involve people who work in different subdivision of the same organisation in order to achieve the goals. **Kevin Doran** (“Contracts for Partnership Agreements” n.d.) The author has revealed the contracts of partnership agreement and elaborated the essentiality of partnership. The author has stated that the general partnership is a form of business where two or more individuals agree to share the profits and losses and the partners are liable for the debt of the partnership which includes debts incurred by the partners. (“[No Title]” n.d.) General partnership and limited partnership are recognised by the Canadian law . A partnership is a voluntary

association of two or more legally competent persons .Accounting for a partnership is similar to accounting for a proprietorship. The partnership contracts is prepared by the lawyer in which the accountant may review it. **Mathias M Siems** (“Regulatory Competition in Partnership Law on JSTOR” n.d.) The author has examined the regulatory competition in Partnership Law and also addressed the partnership law of the US , UK , Germany . The author has focused on the use of a limited liability partnership outside its country of origin and concluded that the regulatory competition in company law has been extensively debated in the last few decades . **Dmitri Vinogradov& Elena Shadrina (2018)**(“[No Title]” n.d.) The authors have discussed the difference between public - private partnership and traditional public procurement. Partnership improves feasibility and also justifies public private partnership as a good form of public good provisions and demonstrated the difference from procurement. **Duc A. Nguyen, Michael J. Garvin, and Edwin E. Gonzalez (2018)**(“[No Title]” n.d.) The author has revealed the risk allocation in U.S public private partnership highways projects contract .Risk is often discussed in connection with public private partnership and they have examined the risks in the United States and concluded that some risks were retained by the public sector . **Marc van Buiten and Andreas Hartmann (2015)**(“[No Title]” n.d.) The authors have adopted an asset management perspective on the issue of contract duration in public - private partnership contracts and the authors have also explored the understanding of asset network level effects of important contractual parameters such as contract duration From the data the authors have determined the contract duration is elaborated that ultimately supports network accessibility. **JOCHEN SCHWEIZER (2016)**(“[No Title]” n.d.) The authors have clarified the complexity of contractual agreement between partners with alignment of their innovation objectives and their mutual contributions to the partnership and they found that central role of contractual complexity as a suitable and relevant concept to capture the nature of inter - organizational innovation partnership. **Istemi Demirag, Iqbal Khadaroo, Pamela Stapleton, Caral Stevenson (2012)**(Demirag et al. 2012) The authors have focused on the financial structure of public -private partnership and on their financiers and concluded that financial structure of the deals generates risk aversion in both debt and equity financier and lead to risk diffusion through a network of companies . PPP is private sector which manages the risk allocated to it. **Akintayo Opawole(2018)**(Opawole 2018) The author has developed the penalty measures against the defaults as a mechanism for protecting the interests of partners in PPP. The authors have concluded that project management studies on PPP were extended by the liabilities that are consequent to the defaults of private party. **WARNER FULLER** (“[No Title]” n.d.) The utilities of partnership as a business device will be greatly increased if the unfortunate consequences of a partner's death can be overcome or minimised. Increased use of partnership makes it probable that in the future greater attention will be paid to the possibility of partnership. **Elizabeth Wasserman (2010)**(Wasserman 2010)

The author has revealed the structure of partnership and stated that forming a business partnership and to figure out who is in partnership is the first step need to be taken and concluded that finding the right name for business is the essential step and it also leads to success of the business. **Ronald W. Mc Quaid(2000)**(“Website” n.d.)The author has explored the theoretical and policy issues concerning the reasons for developing and operating partnership. Promotion of urban and rural regeneration or economic development are analysed by the author which involves a wide range of private sector and local communities and concluded that partnership has a strategic , covering the aims of organisation dealing with major long-term issues or specific programs. **(2013)**(“Restrictive Covenants and Partnership Agreements” 2013) The article examines the ethics of common partnership restrictive covenants ,which includes the non-compete and prohibitions on solicitation of partners , employees and restrictions on using and taking documents. Law firm partnership are limited in terms they may include in their partnership agreements. **Mariëtte M. Van Huijstee , Mara Francken & Pieter Leroy(2008)**(“[No Title]” n.d.)The authors have examined the current academic knowledge on partnership for sustainable development and concluded that partnership has delivered many insights in their functioning and their role in contemporary society and the concept of partnership and sustainable development are more clearly linked discursively than empirically. **Amelia Clarke , Andrew Crane(2018)**(Clarke and Crane 2018) The authors have focused on the systematic change in the context of cross-sector partnership and also discussed about the contributions to thematic symposium and concluded that by future research there will be an enhancement in the literature in its next phase of development.

III. METHODOLOGY:

For the purpose of this study, descriptive research is used to portray accurately the public opinion on Partnership and rights and duties of Partner . The present study is based on primary data collection by the researcher and the secondary data from books , journals, and online sources. The present study used simple random sampling method for selection of samples because the population is too high. A total number of 1592 sample respondents in the age group 15-50 years .By using chi square the dependent variables are awareness about the rights and duties of the partners and partners entitled to share all the profit earned in business equally and independent variables are age and gender.

IV. ANALYSIS, DISCUSSION AND RESULTS:

Null Hypothesis: There is no significant association between the awareness of the rights and duties of partners and age.

Alternate Hypothesis: There is a significant association between the awareness of the rights and duties of partners and age.

Age * Are you aware of the rights and duties of partners?

Table :1 Cross Tabulation of age and awareness of the rights and duties of partners

			Are you aware of the rights and duties of partners?		Total
			No	Yes	
Age	15-30	Count	272	280	552
		% within Age	49.3%	50.7%	100.0%
	31-50	Count	471	372	843
		% within Age	55.9%	44.1%	100.0%
50 and above	Count	143	54	197	
	% within Age	72.6%	27.4%	100.0%	
Total		Count	886	706	1592
		% within Age	55.7%	44.3%	100.0%

Source:primary data.

Interpretation:

In the above cross tabulation , Out of 1592 respondents 552 of them are between 15- 30 years , 843 of thembetween 31- 50 years and 197 of them are above 50 years .

Table : 2 Chi-Square Tests

	Value	df	Asymp. Sig. (2-sided)
Pearson Chi-Square	32.008 ^a	2	.000
Likelihood Ratio	33.075	2	.000
N of Valid Cases	1592		

Source: primary data.

a. 0 cells (0.0%) have expected count less than 5. The minimum expected count is 87.36.

Interpretation:

Using Chi-square analysis, it is tested whether there is awareness about the rights and duties of partners. P value is less than 0.05, which shows that the null hypothesis is accepted and therefore there is no association between the awareness of the rights and duties of partners and age.

Gender * Do you agree that Partners are entitled to share all the profits earned in the business equally ?

Nullified Hypothesis: There is no significant association between the gender and partners entitled to share all the profits earned in business equally.

Alternate Hypothesis: There is a significant association between the gender and partners entitled to share all the profits earned in business equally.

Table:3 CrossTabulation of Gender and Partners entitled to share all the profits earned in business equally.

	Do you agree that Partners are entitled to share all the profits earned in the business equally ?					Total
	Agree	Disagree	Neutral	Strongly agree	Strongly disagree	

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Gender	Female	Count	103	85	118	222	40	568
		% within Gender	18.1%	15.0%	20.8%	39.1%	7.0%	100.0%
	Male	Count	259	128	223	318	69	997
		% within Gender	26.0%	12.8%	22.4%	31.9%	6.9%	100.0%
	Transgender	Count	7	12	4	0	4	27
		% within Gender	25.9%	44.4%	14.8%	0.0%	14.8%	100.0%
Total	Count	369	225	345	540	113	1592	
	% within Gender	23.2%	14.1%	21.7%	33.9%	7.1%	100.0%	

Source: Primary data.

Interpretation:

In the above Cross Tabulation out of 1592 respondents 568 of them are Female, 997 of them are Male and 27 of them are transgender.

Table 4 : Chi-Square Tests

	Value	df	Asymp. Sig. (2-sided)
Pearson Chi-Square	46.868 ^a	8	.000
Likelihood Ratio	49.357	8	.000
N of Valid Cases	1592		

Source: Primary data.

Interpretation:

Using Chi-square analysis, it is tested whether the partners are entitled to share all the profits earned in business equally. P value is less than 0.05, which shows that the null hypothesis is accepted and therefore there is no association between partners entitled to share all the profits earned in business equally and gender.

V. DISCUSSION:

All partners are free to form their own terms and conditions with respect to functioning in their partnership deed. Agreement of partnership need not be express, but can be inferred from the course of conduct of the parties to the agreement. Partnership is one of the oldest forms of business relationships and it is also a special kind of contract, which is created out of an agreement. Using Chi-square analysis, it was tested whether there is awareness about the rights and duties of partners. P value is less than 0.05, which shows that the null hypothesis is accepted and therefore there is no association between the awareness of the rights and duties of partners and age. Using Chi-square analysis, it is tested whether the partners are entitled to share all the profits earned in business equally. P value is less than 0.05, which shows that the null hypothesis is accepted and therefore there is no association between partners entitled to share all the profits earned in business equally and gender.

VI. CONCLUSION

Partnership is a form of business organization, where two or more persons join together for jointly carrying on some business. All partners are free to form their own terms and conditions with respect to functioning in their partnership deed. Agreement of partnership need not be express, but can be inferred from the course of conduct of the parties to

the agreement. According to the Indian Partnership Act, 1932 the registration of the company is not compulsory its optional. A partnership firm can be registered at any time during its existence. Partnership is one of the oldest forms of business relationships and it is also a special kind of contract, which is created out of an agreement. By using chi square out of 1592 respondents the results were that there is no significant association between the there is no association between the awareness of the rights and duties of partners and age and there is no association between partners entitled to share all the profits earned in business equally and gender. It can be concluded that even though Partnership is a good form of doing business by making partners and achieving big goals it is essential for entrepreneurs to pursue their business and carrying out their profits by working together with their partners in such a way to share the profits and losses equally. For the past decades partnership business has a rapid growth and its considered as legal business and nowadays Partnerships are still preferred by professional, small trading and business enterprises.

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