

Tutorial Notes

Class: B.Com (Prog.) Semester VI (DSE3)

Subject: Banking & Insurance.

Topic: Collecting Bankers and statutory protection for collecting Bankers.

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### **Meaning of Collecting Banker**

A Collecting banker is one who undertakes to collect cheques, drafts, bill, pay order, traveller cheque, letter of credit, dividend, debenture interest, etc., on behalf of the customer. For undertaking this collection, the collecting banker will be charging commission. Examples: ICICI Bank, HDFC Bank, SBI Bank etc.

### **Statutory protection to Collecting Banks under the negotiable instruments Act**

The protection provided by Section 131 is not absolute but qualified. A collecting banker can claim protection against conversion if the following conditions are fulfilled:

- 1. Good Faith and without Negligence:** Statutory protection is available to a collecting banker when he receives payment in good faith and without negligence. The phrase in “good faith” means honestly and without notice or interest of dishonesty or fraud and does necessarily require carefulness. Negligence means failure to exercise reasonable care. The banker should have exercised reasonable care and diligence.
- 2. Collection for a Customer:** Statutory protection is available to a collecting banker if he collects on behalf of his customer only. If he collects for a stranger or noncustomer, he does not get such protection. A bank cannot get protection when he collects a cheque as holder for value
- 3. Acts as an Agent:** A collecting banker must act as an agent of the customer in order to get protection. He must receive the payment as an agent of the customer and not as a holder under independent title. The banker as a holder for value is not competent to claim protection from liability in conversion. In case of forgery, the holder for value is liable to the true owner of the cheque.

**4. Crossed Cheques:** Statutory protection is available only in case of crossed cheques. It is not available in case uncrossed or open cheques because there is no need to collect them through a banker. Cheques, therefore, must be crossed prior to their presentment to the collecting banker for clearance.