

LITERALLY INTERPRETING THE LAW- A APPRAISAL OF THE LITERAL RULE OF INTERPRETATION IN INDIA

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Literal rule of interpretation is one of the oldest methods of interpretation adopted by the judiciary. This article focuses on the rules to be kept in mind while using it. Further the position of this rule in the present times has been discussed.

INTRODUCTION

A "Statute" is the will of the Sovereign Legislature according to which the Governments function. The executive must act and the Judiciary in the course of Administration of Justice must apply the law as laid down by the said legislative will. Very often occasions will arise where the courts will be called upon to interpret the words, phrases and expressions used in the statute. In the course of such Interpretation, the Courts have, over the centuries, laid down certain guidelines which have come to be known as "Rules of Interpretation of Statutes" .More often than not the Statutes contain "Statement of Objects and Reasons" and also a "Preamble" both of which provide guidelines for Interpreting the true meaning of the words and expressions used in the Statute. Judges have to interpret statutes and apply them. The judges frequently use this phrase true meaning or literal or plain meaning. Literal Interpretation of a statute is finding out the true sense by making the statute its own expositor. If the true sense can thus be discovered. There is no resort to construction. It is beyond question, the duty of courts, in construing statutes, to give effect to the intent of law making power, and seek for that intent in every legitimate way, but first of all the words and language employed.

Statutes are embodiments of authoritative formulae and the very words which are used constitute part of law² .The interpretation or construction means the process by which the Courts seek to ascertain the intent of the Legislature through the medium of the authoritative form in which it is expressed. ³The law is deemed to be what the Court interprets it to be. The very concept of

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² AIYER,P.RAMNATHAN, LAW LEXICON 1134 (2nd ed.,Wadhwa and Co., ,2002).

³DEEPAK JAIN, *Interpretation of Statutes: A Treatise*

http://www.itatonline.org/articles_new/index.php/interpretation-of-statutes-a-treatise/.

‘interpretation’ connotes the introduction of elements which are necessarily extrinsic to the words in the statute.⁴ Though the words ‘interpretation’ and ‘construction’ are used interchangeably, the idea is somewhat different.⁵

INTERPRETATION AND CONSTRUCTION

Interpretation is the method by which the true sense or the meaning of the word is understood.⁶ The meaning of an ordinary word of the English language is not a question of law.⁷ According to Gray⁸, the process by which a judge constructs from the words of a statute book, a meaning which he either believes to be that of the legislature, or which, he proposes to attribute to it is interpretation. Salmond describes interpretation or construction as the process by which courts seek to ascertain the meaning of the legislature through the medium of authoritative forms in which it is expressed.⁹ Truly and literally speaking, interpretation differs from construction.¹⁰ According to Cooley,¹¹ interpretation differs from construction in that the former is the art of finding out the true sense of any form of words; construction on the other hand, is the drawing of conclusions respecting the subjects that are beyond the direct expression of the text. The term ‘construction’ has been explained in *CWT vs. Hashmatunnisa Begum*¹² to mean that something more is being got out in the elucidation of the subject-matter than can be got by strict interpretation of the words used. Judges have set themselves in this branch of the law to try to frame the law as they would like to have it. The intention of the Legislature is primarily to be gathered from the language used which means that attention should be paid to what has been said.¹³ As a consequence a construction which requires for its support addition or substitution of words or which result in rejection of words as meaningless has to be avoided.¹⁴

⁴ Justice G.P SINGH, PRINCIPLES OF STATUTORY INTERPRETATION 53(11th ed Wadhwa Nagpur 2008).

⁵ DEEPAK JAIN, *Interpretation of Statutes: A Treatise*

http://www.itatonline.org/articles_new/index.php/interpretation-of-statutes-a-treatise/.

⁶ N.S BINDRA, INTERPRETATION OF STATUTES 4 (9th edn Lexis Nexis Butterworths, 2002).

⁷ *Id.*

⁸ GRAY NATURE AND SOURCES OF LAW, 176(2nd edn.).

⁹ P J FITZGERALD,,SALMOND ON JURISPRUDENCE 152 (12th ed.,Universal Law Publishing Co.Pvt.Ltd.,2008).

¹⁰ BINDRA, *supra* note 5, at 6.

¹¹ Constitutional Limitation p.70; *See Also Id.*

¹² [1989] 176 ITR 98 (SC).

¹³ Gwalior Rayon Silk Mfg.Co.Ltd v. Custodian of Vested Forests, AIR 1990 SC 1747.

¹⁴ Shyam Kishori Devi v. Patna Municipal Corporation, AIR 1966 SC 1678.

LITERAL RULE OF INTERPRETATION

Interpretation of statutes is of two types –they can be distinguished as “literal” and “functional”.¹⁵ The Courts have laid down that the Interpretation of the statutes must be in accordance with the literal meaning of the words and expressions read in the light of the "Statement of Objects and Reasons and the Preamble" of the Act". The Primary Rule of Interpretation of Statutes is called "Literal Interpretation" or "Literal Construction". It is also known as "Plain Rule of interpretation". In this form of interpretation the “words” used in the statute are construed according to their “literal” meaning or according to the popular and dictionary meaning of the term, in other words its plain sense. Chief Justice *Jervis* in *Abley v Gale*¹⁶ has explained the expression ‘literal meaning’. He points out that “if the precise words used are plain and unambiguous, in our judgment we are bound to construe them in their ordinary sense even though it too leads in our view of the case to an absurdity or manifest injustice. The words of a statute are to be first understood in their natural, ordinary or popular sense and phrases and sentences are construed according to their grammatical meaning, unless that leads to some absurdity or unless there is something in the context, or in the object of the statute to suggest the contrary.”¹⁷ The tendency is that by doing so, the courts give effect to the intention of the Parliament and the presumption is that the words themselves do, in such a case it is best to declare the intention of the law giver.¹⁸

It is a rule of construction of statutes that in the first instance the grammatical sense of the word is to be adhered to.¹⁹ The words of a statute must *prima facie* be given their ordinary meaning.²⁰ Where the grammatical construction is clear and manifest and without doubt, that construction ought to prevail unless there be some strong and obvious reason to the contrary.²¹ In other words the best possible interpretation of a statute would be to give its plain meaning. When the language of the statute is clear and unambiguous it is not necessary to look into the legislative

¹⁵ FITZGERALD *supra* 8.

¹⁶ 20 L.J.C.P (N.S) 233 (1851).

¹⁷ Crawford v. Spooner, (1846) 4 MIA 179.

¹⁸ SINGH, *supra* note 3.

¹⁹ Bharat Singh v. Management of New Delhi Tuberculosis Centre, New Delhi AIR 1986 SC 842.

²⁰ Oriental Insurance Ltd Co. v. Sardar Sadhu Singh, AIR 1994 Raj 44.

²¹ PUCL v. Union of India (2005) 5 SCC 363.

intent or object of the Act.²² It is when the language is vague that the legislative's intention is to be taken into consideration. There is no room for construction if there isn't any ambiguity. If the language of a statute is clear and unambiguous the court must give effect to it and it has no right to extend its operation in order to carry out the real or supposed intention of the legislature.²³ When the language is not only plain but admits of but one meaning the task of interpretation can hardly be said to arise. The duty of the court of law is simply to take the statute as it stands, and to construe its words according to their natural significance. If the words of the statute are in themselves precise and lucid, then no more can be necessary than to expound those words in their natural and ordinary sense.²⁴ A restrictive and exhaustive definition should be expanded or made extensive to embrace things which are strictly not within the meaning of the word as defined.

It doesn't look beyond the written words. If the words given in the statute are lucid and explicit, it is not for the judges to go beyond that language or words to try and establish what the legislative might have meant by using that word. It is also known as "Grammatical Interpretation"²⁵. The Courts have to follow this principle even if it results in irrationality or even if it is contrary to the policy or intention of legislature. It doesn't look beyond the *litera legis* which means letter of legislation.²⁶ It just looks at what law says. Words and phrases are to be construed by the courts in their ordinary sense, and the ordinary rules of grammar and punctuation have to be applied. If, applying this rule, a clear meaning appears, then this must be applied, and the courts will not inquire whether what the statute says represents the intention of the legislature. In order to determine the literal meaning of a statute the courts have to ascertain the ordinary meaning of a word in a statute by referring to a dictionary or scientific or any other technical works where the words have been used. This rule is also widely followed in India.

It is an elementary principle of the construction of statutes that the words have to be read in their literal sense. Thus, generally speaking, words and expressions would be given their plain and ordinary meaning which cannot be cut down or curtailed unless they in themselves are

²² Arul Nadar v. Authorised Officer, Land Reforms (1998) 7 SCC 157.

²³ MN RAO & AMITA DHANDA, N S BINDRA'S INTERPRETATION OF STATUTES 433(10th edn Lexis Nexis Butterworths, 2007).

²⁴ Corporation of City of Nagpur v. Employees AIR 1960 SC 675.

²⁵ H.N TEWARI, LEGAL RESEARCH METHODOLOGY 95(Allahabad Law agency, Faridabad, 1997).

²⁶ AIYER, *supra* note 1 at, 1363.

clearly restrictive.²⁷ If the words of the statute are clear and unambiguous, it is the plainest duty of the court to give effect to the natural meaning of the words used in provision.²⁸ When the meaning of the words is plain, it is not the duty of Courts to busy themselves with supposed intentions .It, therefore, appears inadmissible to consider the advantages or disadvantages of applying the plain meaning whether in the interests of the prosecution or accused.²⁹In constructing a statutory provision, the first and the foremost rule of construction is the literary construction. All that we have to see at the very outset is what that provision says.³⁰ If the provision is unambiguous, and if from that provision, the legislative intent is clear, there is no need to call into aid other rules of construction of statutes.³¹ *Absoluta sentantia expositore non indigent*- plain words need no exposition.³² Such language best declares, without more, the intention of the law-giver, and is decisive of it.³³

The Literal rule follows the legal maxim,*verbis legis non est recelendum*, which means from the words of law there should be no departure.³⁴The meaning of a word is also affected by its context, which is reflected in the legal maxim *noscitur a sociis* which means that the meaning of an unclear word or phrase should be determined by the words immediately surrounding it.³⁵Courts interpret a particular word in the context in which it had been used. In *Keshavnanda Bharti v. State of Kerala*³⁶ J.Ray pointed out that a word gets its ‘colour’ in the context in which it is used. The word gathers its meaning not only in the context that it has been used but from the words used in similar conditions.³⁷ Salmond points out that a word will get its meaning from its context and that is the reason why the technical word ‘void’ may be interpreted as ‘voidable’.In *Bengal Immunity Co. Ltd. v. State of Bihar*,³⁸the Supreme Court observed-“It is also well settled that in interpreting an enactment the Court should have regard not merely to the literal meaning of the words used, but also take into consideration the antecedent history of the legislation, its

²⁷ Qwality Ice Cream Co v. Sales-tax Officer, New Delhi (1975) 11 Del LT 180.

²⁸ Manipal v. State of Karnataka AIR 1995 Kant 273.

²⁹ State of Haryana and Ors. v. Ch. Bhajan Lal and Ors.,1992CriLJ527.

³⁰ RAO *supra* note 22, at 438.

³¹ Hira Lal Ratanlal v. Sales Tax Officer, Kanpur, AIR 1973 SC 1034.

³² RAO *supra* note 22, at 440.

³³ SINGH, *supra* note 3.

³⁴ TEWARI, *supra* note 24, at 91.

³⁵ BLACKS LAW DICTIONARY 1084(17TH ed.).

³⁶ (1973) 4 SCC 225.

³⁷ State of Karnataka v. Union of India, (1977) 4 SCC 608.

³⁸ Bengal Immunity Co.Ltd.v.State of Bihar A.I.R.1955 S.C.661

purpose and the mischief it seeks to suppress.” A statute shall not be interpreted so as to be inconsistent with other statutes. In *All saints High School Hyderabad & others Vs. Government of Andhra Pradesh*,³⁹ it was observed-“Where an Act is expressed in a language of a generality which makes it capable, if read literally, of applying to matters beyond the relevant legislative power, the Court will construe it in a more limited sense so as to keep it within power.”The literal rule of interpretation restricts the courts to stick to the natural meaning of the given words .They have to confine themselves to the exact meanings of the words used in the statutes. The Judge cannot modify the language of the Act with the intention of making it in accordance of his views on what is right and reasonable. The court should attach ordinary meaning to the Statute even if it amounts to absurdity or irrationality. If the interpretation leads to absurdity it is not the duty of the judiciary to rectify it but it is the *onus* or in other words burden or load ⁴⁰ of the legislature to correct it. Under pure literal rule the court should always avoid reading with the context, but the contextual interpretation can be a slight modification. In case the meaning of a word has changed due to passage to time, the word should be taken to mean as to what it meant the statute was enacted. As the language changes from age to ago so there can be no hard and fast rule for legislative diction.⁴¹If in a certain provision there is a use of technical words, than in such situations the technical meaning of those words should be used. The traditional role of Literal Rule of Interpretation forbids the court to attach any other meaning other than the ordinary one.

The General Clauses Act, 1897 provides for the construction of orders rules etc. made under enactments. Section.20 of the Act says-“Where, by any Central Act or regulation, a power to issue any notification, order, scheme, rule form or bye-law is conferred, then expressions used in the notification, order scheme, rule form or bye-law, if it is made after the commencement of this Act, shall, unless there is anything repugnant in the subject or context, have the same respective meanings as in the Act or Regulation conferring the power.” As long as there is no ambiguity in the statutory language, resort to any interpretative process to unfold the legislative intent becomes impermissible.⁴² It is an established rule of construction that when the words of the

³⁹ All Saints High School Hyderabad & others Vs.Government of Andhra Pradesh,(1980) 25 C.C p.478s

⁴⁰AIYER, *supra* note 1, at 1363.

⁴¹ B.N.MANI TRIPATHI, ,JURISPRUDENCE-LEGAL THEORY 253 (17th ed Allahabad Law Agency,Faridabad,2006).

⁴² Keshavji Ravji & Co. vs. CIT [1990] 49 Taxman 87 (SC)

statute are clear, plain and unambiguous, then the courts are bound to give effect to that meaning, irrespective of the consequence. It is said that the words themselves best declare the intention of the law-giver.⁴³ If any statutory provision is capable of only one construction, then it would not be open to the court to put a different construction upon the said provision, merely because the alternative construction would lead to unreasonable or even absurd consequences.⁴⁴ The question of consequences and considerations of policy would be relevant only where the provision sought to be construed is capable of two constructions. In such a case, the court is not concerned with the results which may ensue from giving importance to the plain meaning of the words used by the legislature. If these results are unfortunate, it is for the legislature to take action to remedy the defects of the law as enacted; it is not for the courts to usurp the functions of the legislature, and by straining the meaning, and ignoring the clear terms of the law to seek to evade consequences which, in the opinion of the court, may prove ill-fraught.⁴⁵ It may be that the provisions of law have been badly drafted in the statute and that it does not express the real intention of the legislature, but that is a matter with which the court is not concerned.⁴⁶ It is a settled principle of interpretation that the court must proceed on the assumption that the legislature did not make a mistake and that it did what it intended to do.⁴⁷ If the result of the interpretation of a statute by this rule is not what the legislature intended, it is for the legislature to amend the statute, rather than for the courts to attempt the necessary amendment by investing plain language with some other than its natural meaning to produce a result which it itself thought the legislature must have intended.⁴⁸ It is however another elementary rule that the interpretation of an enactment is to be made of all parts together and not of one part by itself.⁴⁹ Such a survey is always indispensable even when the words are plain, for the true meaning of any passage in a statute is that which best harmonises with the subject and with every part, so that inconsistencies might be avoided and operative effect might be given to every provision of the statute, if a reasonable construction so permits.⁵⁰ Where there is no alternative but to admit that the fact is inconsistent and unintelligible, it is permissible to construe the Act in

⁴³ Spl Deputy Collector, LA Unit v. Dasari Ramulu 2001 AIHC 387 (AP).

⁴⁴ RAO, *supra* note 22, at 441.

⁴⁵ RAO, *supra* note 22, at 442.

⁴⁶ *Id.*

⁴⁷ Dadi Jagannadhan v. Jammulu Ramulu & Ors (2001) 7 SCC 71.

⁴⁸ HALSBURY'S LAWS OF ENGLAND, (4th ed, vol 44, para 864.)

⁴⁹ RAO, *supra* note 22, at 442.

⁵⁰ TEWARI, *supra* note 24, at 91.

a manner which might be regarded as dangerously near to the process of legislative enactment. If however, an intelligible construction can be put upon a provision; there is no justification for a construction which would necessitate the insertion of words which are not to be found therein.⁵¹ Courts not to make an assumption of intention before construction. There is nothing more dangerous and fallacious in interpreting a statute than first of all to assume that the legislature had a particular intention, and then having made up one's mind what that intention was, to conclude that the intention must be expressed in the statute, and then proceed to find it.⁵² Words have to be given their natural meaning, even if not in consonance with legislative intent. If the legislature has given a plain indication of its intention, it is our duty to endeavor to give effect to it, though, of course, if the word which they have used will not admit of such interpretation, their intention must fail.⁵³ The only alternative construction offered to us would lead to this result that the plain intention of the legislature has entirely failed by reason of a slight inexactitude in the language of the section. If we were to adopt that construction, we would be construing the Act in order to defeat its object into effect.⁵⁴

Ordinary and natural meaning of words should not be controlled by spirit of legislation. The spirit of law may well be an elusive and unsafe guide and the supposed spirit can certainly not be given effect to in opposition to the plain language of the sections of the Act and the rules made thereunder.⁵⁵ The plain meaning must be subject to context. The literal import to a particular language may be subject to modification and variation by the context, that is, the language surrounding and accompanying the terms in question.⁵⁶ A statute is not to be construed merely with reference to grammar, but should be construed reasonably in particular to give effect to the intent and purpose of the legislation, if the language permits.⁵⁷ The construction which leads to unconstitutionality or invalidity must be avoided.⁵⁸

RULES TO BE FOLLOWED

⁵¹ Public Prosecutor v. Subba Rao AIR 1966 AO 77.

⁵² Richardson v Austin 12 CLR 462.

⁵³ Curtis v Stovin 22 QBD 513.

⁵⁴ SINGH, *supra* note 3.

⁵⁵ Rananjaya Singh v Baijnath Singh AIR 1954 Sc 749.

⁵⁶ TEWARI, *supra* note 24, at 91.

⁵⁷ M Satyanarayana v State of Karnataka AIR 1986 SC 1162.

⁵⁸ Krishna Coconut co v East Godavari Coconut. AIR 1967 SC 973.

So far as literal rules of interpretation are concerned, they tend to operate restrictively. The following rules are to be kept in mind. These are the subsidiary rules to apply literal rule of interpretation.

Ejusdem Generis(*clausula generalis de residue non ea complectitur, quae non ejusdem generis cum, iis qua speciatim dicta fuerint*)-When particular words forming part of the same class or same category are followed by general words then the general words must be construed in the context of the particular words.⁵⁹ It means of the same kind or nature. According to this principle the words of a statute are to be understood in their context especially when general words are used in a summarizing or comprehensive manner. If there is some kind of ambiguity the word has to be interpreted in the light of words used earlier. If a man tells his wife to go to the market to buy vegetables, fruits, groceries and anything else she needs, the ‘anything else’ would be taken to mean food and grocery items due to the rule of *ejusdem generis* and not cosmetics or other feminine accessories. In *Workmen of Dimakuchi v. Dimakuchi Tea Estate*⁶⁰ the problem arose regarding the interpretation of “any person” whose services is not like worker or employer cannot be considered as ‘workman’. So the rule of *ejusdem generis* was applied. When a particular word is followed by general words the rule of interpretation is that these common words are limited to the same species or the same category as the particular word. In *State of Madras v. Shantabai*⁶¹ the question arose whether or not university is a ‘State’. The court held that it is not a State. The expression “all other articles whatsoever”, must be interpreted to mean only article of the same kind as those expressly dealt with by the statute.⁶² The court will not apply *ejusdem generis*. But it will try to interpret something of the same kind.⁶³

Casus Omissus-A point unprovided for by a Statute .The *Casus Omissus* rule provides that omissions in a statute cannot be supplied by judicial construction.⁶⁴ This rule signifies that omissions in a statute cannot as a general rule be supplied by interpretation .The Courts have the liberty only to remedy the logical defects in words and phrases used in the statute and the intention of the legislature. The court prefers the interpretation in accordance with the words

⁵⁹ A.N SAHA., MITRAS LEGAL AND COMMERCIAL DICTIONARY 257 (5th ed1994).

⁶⁰(1958)1LLJ500S.C

⁶¹ AIR 1958 SC 532.

⁶²TEWARI, *supra* note 24.

⁶³ Ujjambai v Stae of Uttar Pradesh. AIR 1962 SC 1621.

⁶⁴ TRIPATHI, *supra* note 40, at 127.

used without adding a new word. In *Parkinson v. Plunton*⁶⁵ while interpreting catering establishment in Wages Act, 1943 the House of Lords preferred the interpretation in accordance with the language used therein and did not extend to cover the boarding and lodging. The approach of the court is not to apply certain words which are not found in the statute. However, if the intention of the legislature is faulty, either too broad or too narrow, the Courts are bound to accept them as they are given and they cannot either add, alter, modify, deduct or amend from the given Statute, as such an action would amount to legislation rather than construction or interpretation. There is no scope for importing into the statute words which are not there. Such importation would be, not to construe, but to amend the statute. Even if there be a *casus omissus*, the defect can be remedied only by Legislation and not by judicial interpretation.⁶⁶ The duty of the Court to try and harmonise the various provisions of an Act passed by the legislature, but not to amend the words used by legislature. It is certainly not the duty of the Court to stretch the words used by the legislature to fill the gaps or omissions in the provisions of an Act, as given in *Hiradevi v. District Board*.⁶⁷ The purpose of the Legislature has to be established from the exact words of the Statute, where they arise in their accurate and precise form. But if the same is implied in vague and ambiguous language, the Courts may seek the aid of every reasonable and permissible aids to interpretation. This principle of *Casus Omissus* cannot be supplied by the Court except in case of clear necessity and when the reasons for it are found in the four corners of the Statute itself. In the case of *Commissioner of Income Tax, Central Calcutta v. National Taj Traders*.⁶⁸

Expressio unius est exclusio alterius-The express mention of one person or thing is the exclusion of another. Where the statutory language is plain and the meaning clear, there is no scope for applying the rule.⁶⁹ If a given word or phrase is competent of two interpretations, the express mention of one of the possibilities on a similar context excludes the other possibility. This rule may be used to denote the aim or intention of the Legislature, although it would not be safe to regard it as an obligatory rule of law. In the words of Lopes, L.J this maxim means “a valuable

⁶⁵ (1954) 1 All ER 201.

⁶⁶ Smt. Tarulata Shyam vs. CIT [1971] 108 ITR 345 (SC).

⁶⁷ A.I.R 1952 S.C 362.

⁶⁸ Commissioner of Income Tax, Central Calcutta v. National Taj Traders, A.I.R 1980 S.C 481

⁶⁹ TRIPATHI, *supra* note 40, at 296.

servant but a dangerous master”.⁷⁰Section 5 of the Transfer of Property Act,1882 defines “transfer of property”, which means, “an act by which living persons conveys property, in present or future, to one or more other living persons or to himself in and one or more other living persons and to “transfer property” or to himself is to perform such act.”The next paragraph provides that in this section “living person” includes a company or association or body of individuals whether incorporated or not .This clearly provides that “living person” not only means an individual or human being but can also refers to a company or association or body of individuals whether incorporated or not .However this rule may not always provide the answer to problems of construction. It is often the result of inadvertence or accident that this principle is applied and the maxim ought not to be applied when its application, having regard to the subject matter to which it is to be applied, leads to inconsistency or injustice. This maxim is also not used to extend the operation of a statute beyond the operation of a statute beyond the provision that it actually makes, e.g. a law enacted by Parliament for A, what is already a law for A and others, the new law will not change the law for others.⁷¹

PRESENT POSITION IN INDIA

In *Kanai Lal v.Paramnidh*⁷² the court said-“it must always be borne in mind that the first and primary rule of construction is that the intention of the Legislature must be found in the words used by the legislature.” It also added-“When the material words are capable of two constructions, one of which is likely to defeat or impair the policy of which is likely to defeat or impair the policy of the Act whilst the other construction is likely to assist the achievement of the said policy, then the courts would prefer to adopt the latter construction.”⁷³ This case basically dealt with the ejection of theka tenants under provisions of Calcutta Theka Tenancy Act, 1949. In *S.A.Venkataraman v. The State*,⁷⁴ the court said. This case dealt with Section 6 of the Prevention of Corruption Act. It was to do with taking a sanction from an appropriate authority .It considers only the present working employees as employees, those who have retired are not considered as employees. The court said, “In construing the provisions of a statute it is essential for a court, in the first instance, to give effect to the natural meaning of the words used therein,

⁷⁰ Coluhoun v. Brooks (1886)21 Q.B.D 52

⁷¹ P.ST.LANGAN J. ,MAXWELL INTERPRETATION OF STATUTES 306(12th ed, Lexis Butterworths).

⁷² A.I.R 1957 SC 907.

⁷³ SINGH, *supra* note 3.

⁷⁴ A.I.R 1958 SC 107.

if. those words are clear enough”. Apparently clear and simple language at times in its analysis is so ambiguous as to present great difficulty in construction .regarding Article 105(2) of the Constitution which provides that ‘no member of the Parliament shall be liable to any proceeding in respect of anything said or any vote given by him in Parliament’, The Supreme Court in *Tej Kiran Jain v. N.Sanjeeva Reddy*⁷⁵ held that the Article means what it says in language which could not be plainer. In the case of *P.V Narshima Rao v. State(Central Bureau of Investigation)*⁷⁶ When Mr.P.V.Narshima Rao was the Prime Minister, the government faced a no-confidence movement, which was defeated later on. However they were few members who were accused of the offence of giving and taking bribes and the President of Rashtriya Mukti Morcha filed a complaint, against the P.V.Narishma Rao, alleging charges of corruption, with the Central Bureau of Investigation. However Article 105 of the Indian Constitution which gives provisions for the powers and privileges of the members of the House of Parliament. It was held by a majority of three judges that a member who voted in Parliament after receipt of bribr cannot be prosecuted as his prosecution would be a proceeding in respect of a vote given by him and barred by Article 105(2). In another case *Ramavtar Budhaiprasad v. Assistant Sales Tax Officer*,⁷⁷ , the Supreme court was faced with a question with the meaning of “vegetable”, as it had occurred in the C.P and Berar Sales Tax Act, 1947 as amended by Act of 1948,whether the word vegetables included betel leaves or not. The Supreme Court held that “being a word of everyday use it must be construed in its popular sense”.⁷⁸It was therefore held that betel leaves were excluded from its purview. In the case of *Forest range Officer v. Khushboo Enterprise*,⁷⁹The question in the case was whether sandal wood oil is “wood oil” as used in the Section 2(f) of the Kerala Forest Act,1961.The argument referred to a technical dictionary which defined wood-oil as a natural produce of the forest. Hence it was held that sandalwood oil was a wood-oil. In the case of *VemmaReddy Kumarsawmy Reddy v. State of Andhra Pradesh*,⁸⁰The dispute was regarding the excess of land possessed by the appellant, and this was surrendered by them, however it had cashew-nut plantation. The trees in the surrendered land were fruit bearing. The court stated that in construing if it was plain and ambiguous than the primary rule of interpretation was supposed

⁷⁵ (1971) 1 SCR 612.

⁷⁶ (1998) 4 SCC 626.

⁷⁷ A.I.R 1961 SC 1325.

⁷⁸TRIPATHI, *supra* note 40, at 127.

⁷⁹ A.I.R 1994 SC 120.

⁸⁰ (2006) 2 SCC 670.

to be used. The Andhra Pradesh Land Reforms(Ceiling on Agricultural Holdings) Act 1973 was referred to for the compensation of the land.

APPRAISAL OF PRINCIPLE

It may be paradoxical that plain meaning rule is not plain and requires no construction, starts with a premise that the words are plain, which is itself a conclusion reaches after construing the words.⁸¹The rule, that plain words require no construction, starts with the premise that the words are plain, which is itself a conclusion reached after construing the words. It is not possible to decide whether certain words are plain or ambiguous unless they are studied in their context and construed.⁸²The rule therefore, in reality means that after you have construed the words and have come to the conclusion that they can bear only one meaning, your duty is to give effect to that meaning. For a proper application of the rule to a given statute, it is necessary, therefore, to determine first whether the language used is plain or ambiguous. As pointed out by Lord Buckmaster, “by any ‘ambiguity’ is meant a phrase fairly and equally open to diverse meanings”.

MERITS

The advantages while using literal rule of interpretation. Literal rule of interpretation being a traditional rule of interpretation is often advocated by jurists of the plain meaning rule who claim that it prevents courts from taking sides in legislative or political issues. They also point out that ordinary people and lawyers do not have extensive access to secondary sources⁸³. It is also argued, that extrinsic evidence should not be allowed to vary the words used by the testator or their meaning. It can help to provide for consistency in interpretation.

CRITICISMS OF THE LITERAL RULE OF INTERPRETATION

There are certain defects of the literal rule of interpretation. The defects may be of two types Logical defect which constitutes of ambiguity, inconsistency and incompleteness and the second type is absurdity or irrationality. **Ambiguity** occurs where a term or an expression used in a statute has not one but various meanings, and it is not clear which one particular meaning it

⁸¹ SINGH, *supra* note 3.

⁸² D. Saibaba v. Bar Council of India and Anr AIR 2003 SC 2502.

⁸³ Plain Meaning Rule, http://en.wikipedia.org/wiki/Plain_Meaning_Rule..

represents at which particular context or place. So here the court will have to go beyond the statute and yet stick to the same literal words of the statute to ascertain its meaning. Also the ambiguity sometimes is “syntactic”⁸⁴ which means the vagueness arises from words like “or”, “and”, “all” and other such words. For example if a punishment for a certain crime is “fine or imprisonment or both”, the court can imprison the accused or impose a fine or impose a fine as well as imprison him. If the language of the statute is clear and unambiguous, the Court cannot discard the plain meaning, even if it leads to an **injustice**.⁸⁵ The words cannot be understood properly without the context in which it is used. The strict adherence to this principle may cause injustice and sometimes it might give results which are quite contrary to general intention of the statute or common sense.⁸⁶ In case there is some lacuna or omission in the statute which prevents it from giving a complete idea, or it makes it logically **incomplete**, it is the duty of the court to make up the defect by adding or altering something, but the court is not allowed to do more than that. It is permissible only in cases where the statutes are inapplicable in their present form, which is incomplete. For the change, either alteration or addition the court looks into the matters which will probably help it in ascertaining the intention of the legislature. It is not necessary that judges would always find some or the other means to help them in cases of defective texts. There will be some cases where they might find nothing of this kind. They may ascertain the intention of the legislature which presumably, would have had the defect come to notice.

One of the problems of literal rule is that it breeds absurdity. Sometimes the court might ascertain a certain meaning to the statute which was never the intention of the legislature. The traditional rule of literal interpretation forbids the court to attach any meaning other than the ordinary one. It closes the doors for any type of judicial innovation, thereby imposing a restriction on the Courts. Since the rule is to stick to the exact words of the statute few lawmen say that it is like imposing a rule even when you know that it is not right. If the court applies literal rule and feels that the interpretation is morally wrong then they cannot avoid giving the interpretation.⁸⁷

⁸⁴ FITZGERALD, *supra* note 8, at 136.

⁸⁵ CIT vs. T.V. Sundaram Iyyengar [1975] 101 ITR 764 (SC)

⁸⁶ AIYER, *supra* note 1, at, 254.

⁸⁷ SINGH, *supra* note 3.

Some criticize this rule by saying that the rule emphasis on the erroneous assumption that words have a fixed meaning. In fact, words are imprecise, leading justices to impose their own prejudices to determine the meaning of a statute. According to the Black's law dictionary, "This type of construction treats statutory and contractual words with highly restrictive readings."⁸⁸ As long as there is no ambiguity in the statutory language, resort to any interpretative process to unfold the legislative intent becomes impermissible.⁸⁹ About the principle of plain meaning, it has been observed more than often, that it may look somewhat paradoxical that plain meaning rule is not plain and requires some explanation. With a change in policies and legislation, the statutes cannot still be interpreted in accordance with the ordinary meaning of the words made long ago. Thus making it unsuitable for the present times.

RELATION BETWEEN LITERAL RULE AND THE OTHER RULES.

The other types of rules of interpretation are the Golden Rule and the Mischief Rule. The golden rule is a slight modification of the Literal Rule. It is considered a part of the literal construction. In this case the court can depart from the ordinary meaning of the words; here it tends to avoid absurdity. Mischief rule is to remove the mischief in a statute. Literal rule is the most ancient rule used in interpretation. Where there is an inconsistency, the judiciary will attempt to provide a harmonious interpretation.⁹⁰

AIDS TO CONSTRUCTION

It is well settled that a long title of an act is admissible as an aid to its construction. The long title often precedes the preamble must be distinguished with the short title, the former taken along with the preamble or even in its absence is a good guide regarding the object, scope or purpose of the Act, the latter being only an abbreviation for purposes of reference is not a useful aid of construction.⁹¹ The preamble of a statute like the long title is a part of the Act and is an admissible aid to construction. Although not an enacting part, the preamble is expected to express the scope, object and purpose of the Act more comprehensively than long title. It may recite the ground and cause of making the statute, the evils sought to be remedied. The Preamble

⁸⁸ BLACKS LAW DICTIONARY, 17TH ed; p.308

⁸⁹ Keshavji Ravji & Co. vs. CIT [1990] 49 Taxman 87 (SC).

⁹⁰ SINGH, *supra* note 3.

⁹¹ Vacher & Sons v. London Society of Compositors, (1911) All ER Rep 241.

of the Constitution, Headings, marginal notes, punctuation, illustrations, definition clauses, proviso, explanations, schedules and transitional provision could be regarded as internal aids to construction.

CONCLUSION

Literal rule of interpretation is the primary rule. Under this rule of interpretation the Courts interpret the statutes in a literal and ordinary sense. They interpret the words of the statute in a way that is used commonly by all. It is incumbent on the court to use the grammatical meaning. The statutes should be construed in such a manner as though there is no other meaning except the literal meaning. It is an old and traditional rule of interpretation. It is used not only in England where it originated but also in India. The Courts while interpreting statutes have to keep few things in mind. It must realize that a provision is ambiguous only if it contains a word or phrase which has more than one meaning. If the interpretation is open to different meanings in one context it is ambiguous but if it is susceptible to different meaning in different contexts it is plain. The art of correct interpretation would depend on the ability to read what is stated in plain language, read between the lines, read 'through' the provision, examining the intent of the Legislature and call upon case laws and other aids to interpretation.