



INTERNATIONAL LAW  
JOURNAL

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**WHITE BLACK  
LEGAL LAW  
JOURNAL**  
**ISSN: 2581-  
8503**

*Peer - Reviewed & Refereed Journal*

The Law Journal strives to provide a platform for discussion of International as well as National Developments in the Field of Law.

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WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal providededicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

# **LITERAL RULE OF INTERPRETATION AND ITS RELEVANCE IN TODAY'S CONTEXT**

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## **ABSTRACT**

The earliest rule of interpretation is the literal rule, which is still used by judges around the world. The Literal Rule's logic is that it stops courts from making biased conclusions when dealing with political concerns. This regulation also prevents the courts from imposing sanctions. By interpreting existing laws, new laws can be created. This rule is based on the words of the author. As the legislation would be, the legislature and implication of this rule offers certainty in interpretation construed in accordance with the Legislature's directives. There are two sides to every coin. There are some drawbacks to using the Literal Rule of Interpretation. This at times results in the provisions being vague and absurd and inconsistent with the intention if the framers of the Statute. There cannot be a fixed rule for Interpretation and similarly, a statute cannot be drafted without having multiple interpretations. As Justice Donaldson contended, "the interpretation of statutes is a craft as much as a science and the judges, as craftsmen, select and apply the appropriate rules as the tools of their trade".

## **1. INTRODUCTION**

A "Statute" is the will of the Sovereign Legislature that governs the functioning of governments. The government must act, and the judiciary must apply the law as laid down by the legislative will in the administration of justice. The courts will be called upon to interpret the words, phrases, and expressions employed in the statute on a regular basis. Over the years, the courts have established specific principles known as "Rules of Interpretation of Statutes" in the course of such interpretation. Most statutes include a "Statement of Objects and Reasons" as well as a "Preamble," both of which serve as guides for interpreting the true meaning of the terms and idioms used in the statute. Judges are responsible for interpreting and applying laws. The word "real meaning" or "literal" or "clear meaning" is commonly used by judges. Finding the genuine meaning of a statute through literal



interpretation entails making the statute its own expositor. If the genuine sense may be discovered in this manner. There isn't any need for construction. 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 law<sup>1</sup>. 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.<sup>2</sup> The law is deemed to be what the Court interprets it to be. The very concept of 'interpretation' connotes the introduction of elements which are necessarily extrinsic to the words in the statute.<sup>3</sup> Though the words 'interpretation and construction' are used interchangeably, the idea is somewhat different.<sup>4</sup>

## **2. EMERGENCE OF INTERPRETATION**

The Judges were the part of the King's Council and played an important role in forming the statutes at that time so there was no problem while interpretation of statutes thus framed by them. Later on, the King became the sole Legislator of Law (with the advice of the Parliament) and thus, it became difficult to interpret as the intention behind the formation of some provisions was not understood by the Judges which gave rise to inconsistency. This was solved by finding out the King's will at the time of making the Statute and implementing the same. The revolution in the 17th Century abolished the King's rule and the doctrine of 'Separation of Power' came into vogue and it became the Judge's duty to perform the required interpretation. Thus, in this way the interpretation was focused on the intent of the statute and then the modern rules of interpretation were established namely, Literal Rule, Golden Rule & the Mischief Rule

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<sup>1</sup>Aiyer, P. Ramnathan, Law Lexicon 1134 (2nd ed., Wadhwa and Co., 2002)

<sup>2</sup>DEEPAK JAIN, Interpretation of Statutes: A Treatise, available at [http://www.itatonline.org/articles\\_new/index.php/interpretation-of-statutes-a-treatise/](http://www.itatonline.org/articles_new/index.php/interpretation-of-statutes-a-treatise/) (last visited 20/10/2021)

<sup>3</sup>Justice G.P SINGH, PRINCIPLES OF STATUTORY INTERPRETATION 53(11 ed Wadhwa Nagpur 2008).

<sup>4</sup>Supra note. 2



### **3. WHAT IS LITERAL RULE OF INTERPRETATION?**

The interpretation of statutes can be divided, broadly, into two types- functional and literal.<sup>5</sup> The primary rule of interpretation of statutes is known as literal rule of interpretation or “plain rule of construction” or “literal construction.” The Literal Rule means that the words need to be interpreted in the strict ordinary meaning and the scope of words should not be considered more than its ordinary meaning. The words are to be understood in their ordinary and natural meaning unless the object of the statute suggests otherwise.<sup>6</sup> The courts have held that the interpretation of statutes have to be in accordance with the literal meaning of the Statutes and have to be read in light of the Statements of Objects and Reasons, as well as the Preamble. This type of interpretation uses the literal meaning of the “words” in the statute as per the popular dictionary usage of the term or in the simple, plain sense.

The purpose of interpretation is always to find out what the statute stands for, what is the defect it intends to remove and what is the remedy it seeks to advance<sup>7</sup>. The basic principle of the construction of statutes is that, the words have to be read and understood in their true literal sense. The Literal Rule is the first rule applied by the judges. The literal rule is also called grammatical rule by some jurists. The literal rule means that a judge has to consider what the statute says ‘literally’, i.e. its simple plain meaning without any ambiguity. It is said that the words themselves best declare the intention of the law- givers<sup>8</sup>. 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.<sup>9</sup>In the literal rule of interpretation, the law has to be considered as it is and the judges cannot go beyond ‘*litera legis*’. The literal interpretation is a means to ascertain the ‘*ratio legis*’ of the statute.

In the literal rule, the intention of the parliament while framing the statute, is the ordinary meaning of the words used. Justice Jervis, has described the meaning of literal rule in *Abley v Gale*. Lord Diplock observed in *Duport Steel Ltd v Sirs* that: Where the meaning of the statutory words is plain and unambiguous it is not then for the judges to invent fancied ambiguities as an excuse for failing to give

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<sup>5</sup> Gray Nature and Sources of Law, 176 (2nd edn.).

<sup>6</sup> *Crawford v Spooner*, (1846) 4 Moo Ind App 179, p 181.

<sup>7</sup> *Seventilal Maneklal Seth v. Commissioner of Income Tax (Central) Bombay*. (1968) 2 SCJ 129

<sup>8</sup> Deepak Jain, ‘Interpretation of Statutes: A Treatise’, [www.itatonline.org/articles\\_new/index.php/interpretation-of-statutes-a-treatise](http://www.itatonline.org/articles_new/index.php/interpretation-of-statutes-a-treatise).

<sup>9</sup> 20 L. J. C. P (N. S) 233 [1851]

effect to its plain meaning because they consider the consequences for doing so would be inexpedient, or even unjust or immoral. 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.<sup>10</sup> No judge can deviate from the meaning of the statute though decision maybe unjust. The words of a statute must prima facie be given their ordinary meaning<sup>11</sup>. The literal rule accepts supremacy of the Parliament: the right to make laws, even though sometimes, they seem absurd. In the literal rule of interpretation, there is no contrary meaning within the statute. Where there is no ambiguity in words, the question of intention ought not to be admitted.<sup>12</sup> The words are plain and clear under literal rule.

The literal rule helps the judge in administering justice in a neutral manner. When the language of the statute is clear and unambiguous it is not necessary to look into the legislative intent or object of the Act<sup>13</sup>. The literal rule puts a virtual boundary upon the judges from not deviating from the ordinary or literal meaning of the words used in the statute. When the language of the statute is uncertain or ambiguous on then the judge has the duty to interpret. The literal rule appreciates precision and certainty which help the reduction of litigation. The judges have to act upon the true intention of the legislature. The judges have no liberty to modify the law even if they feel that the true intention of the legislature have not been expressed rightly in the law.

#### **4. RULES TO BE FOLLOWED**

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.

##### **4.1 EJUSDEM GENERIS**

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. It means of the same kind or nature. According to this principle the words of a statute are to be understood in their context

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<sup>10</sup> Crawford v. Spooner, (1846) 4 MIA 179

<sup>11</sup> Oriental Insurance Ltd Co. v. Sardar Sadhu Singh, AIR 1994 Raj 44

<sup>12</sup> Paulus, Roman Jurist

<sup>13</sup> Arul Nadar v. Authorised Officer, Land Reforms (1998) 7 SCC 157

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*<sup>14</sup> 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*<sup>15</sup> 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.<sup>16</sup> The court will not apply ejusdem generis. But it will try to interpret something of the same kind.<sup>17</sup>

#### **4.2 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.<sup>18</sup> This rule signifies those 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 used without adding a new word. In *Parkinson v. Plunton*<sup>19</sup> 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

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<sup>14</sup> 1958)1LLJ500S.C

<sup>15</sup> AIR1958SC532.

<sup>16</sup> TEWARI,*supranote*24

<sup>17</sup>Ujjambai v State of Uttar Pradesh. AIR1962SC1621

<sup>18</sup> TRIPATHI,*supranote*40, at127

<sup>19</sup> (1954)1AllER201.

omissus, the defect can be remedied only by Legislation and not by judicial interpretation<sup>20</sup>. 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*<sup>21</sup>. 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*<sup>22</sup>.

### **4.3 EXPRESSIO UNIUS EST EXCUSIO 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.<sup>23</sup> 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 servant but a dangerous master”<sup>24</sup> Section 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 refer 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

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<sup>20</sup> *Smt. Tarulata Shyam vs. CIT* [1971] 108 ITR 345 (SC).

<sup>21</sup> A.I.R 1952 S.C 362

<sup>22</sup> *Commissioner of Income Tax, Central Calcutta v. National Taj Traders*, A.I.R 1980 S.C 481

<sup>23</sup> TRIPATHI, *supra* note 40, at 296

<sup>24</sup> *Coluhoun v. Brooks* (1886) 21 Q.B. D52



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<sup>25</sup>

## **5. POSITION IN INDIA**

According to the court in *Kanai Lal v Paramnidh*,<sup>26</sup> “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 later construction.”<sup>27</sup> 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*,<sup>28</sup> 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 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*" 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)* 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 e 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

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<sup>25</sup> P.ST. LANGANJ., MAXWELLINTERPRETATIONOFSTATUTES306(12<sup>th</sup>ed, LexisButterworths).

<sup>26</sup> A.I.R 1958 SC 907

<sup>27</sup> SINGH *supra* note 3

<sup>28</sup> A.I.R 1958 SC 107

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 bribe 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*, the Supreme court was faced with a question with the meaning of "vegetable", as it occurred in the CP 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".

It was therefore held that betel leaves were excluded from its purview, In the case of *Forest range Officer v. Khushboo Enterprise*: "The 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 *Vemma Reddy Kumarsawmy Reddy v. State of Andhra Pradesh*, "The 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 to be used. The Andhra Pradesh Land Reform (Ceiling on Agricultural Holdings) Act, 1973 was referred to for the compensation of the land.<sup>29</sup>

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. As long as there no ambiguity in the statutory language, resort to any interpretative process to unfold the legislative intent becomes impermissible. "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 accordance with the ordinary meaning of the words made long ago. Thus, making it unsuitable for the present times.

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<sup>29</sup>Alekhyia Reddy, *Literally Interpreting The Law- A Appraisal Of The Literal Rule Of Interpretation In India*, Manupatra. (<https://www.manupatra.com/roundup/338/Articles/Literally%20interpreting%20the%20Law.pdf>)

## **5.1 MERITS OF LITERAL RULE**

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 sources. 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. Moreover, if statements by promoters as to the intent of an act were allowed to prevail, this would contravene the constitutional rule that Parliament is 'sovereign only in respect of what it expresses by the words used in the legislation it has passed'. It is the elected Parliament that must enact new law and the way of securing that the will of elected legislators will triumph is to take the words enacted by their 'plain' meaning. As Lord Scarman asserted, '[The HOL] are to be governed not by Parliament's intentions but by Parliament's enactments. The literal rule also guarantees that the doctrine of the separation of powers is upheld. Lord Diplock in *Duport Steels Ltd v Sirs* claimed, 'the British Constitution...is firmly based upon the separation of powers: Parliament makes the laws, the judiciary interprets them'. For judges to 'fill up the gaps and make sense of the enactment' would 'be a naked usurpation of the legislative function under a thin disguise of interpretation'.

However, these advantages are undermined by the fact that the notion of any 'literal' meaning in an enactment is not itself a notion which is incontestable, nor free from any element of value judgments. Words can bear a meaning other than the more obvious one, therefore judges, albeit to differential degrees, can apply the meaning that they prefer on grounds of policy or principle. Eskridge is correct when stating that even the strictest adherence to statutory text cannot obliterate altogether the exercise of judicial discretion in hard cases. 'Courts must choose among various methods of statutory construction based upon their relative, rather than absolute, ability to constrain judicial usurpation of legislative powers.

## **5.2 DEMERITS**

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 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" which means the vagueness arises from words like "or", "and", "all" and other such words.<sup>30</sup> 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. 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." In case there 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 14/16 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. morally wrong then they cannot avoid giving the interpretation.

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. As long as there no ambiguity

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<sup>30</sup>Alekhya Reddy, *Literally Interpreting The Law- A Appraisal Of The Literal Rule Of Interpretation In India*, Manupatra. (<https://www.manupatra.com/roundup/338/Articles/Literally%20interpreting%20the%20Law.pdf>)



in the statutory language, resort to any interpretative process to unfold the legislative intent becomes impermissible. “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 accordance with the ordinary meaning of the words made long ago. Thus, making it unsuitable for the present times.

## **6. 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.

W H I T E   B L A C K  
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