

DIFFERENCE BETWEEN PARTNERSHIP AND JOINT HINDU FAMILY

Partnership	Joint Hindu family business
Agreement essential	No agreement necessary
No interest by birth	Interest by birth
Death – May dissolve partnership [Sec. 42]	Death – No effect
Partner can ask for account of profit and loss	No accounting mandatory
Each partner agent of other partner- for third person	No agency
Partner can bind his co-partner by debts borrowed	Manager / Karta has implied authority to contract debt – binding on all family property
Relation of partner through contract	Mutual rights result of survivorship
Minor enjoys certain advantages [Sec. 30]	Minor coparcener; have no such advantage

RIGHTS AND DUTIES OF PARTNER [Section 12-Section 17]

RIGHTS OF PARTNER

Unless otherwise agreed –

- Right to take part in the conduct of the business [Section 12(a)]
- Right to express opinion [Section 12(c)]
  - Decided by majority
  - No change in the nature of the business without consent of all
  - Power of majority has to be exercised in good faith
- Right to have access to books of the firm [Section 12(d)]
- Right to share profits [Section 13(b)]
- Right to interest on capital and advances [Section 13(c)]
- Right to indemnity [Section 13(e)]
  - Act done in ordinary and proper conduct of business
  - Emergency acts for protecting the firm

DUTIES OF PARTNERS

NOT subject to contract between the partners

- Duty to carry on business to greatest common advantage
  - Section 16(a) provides that if a partner derives any profit for himself from any transaction of the firm he shall account for that profit and pay it to the firm. The landmark case in the matter is *Bentley v. Craven* – Profit by selling his own sugar to firm
- Duty to be just and faithful to each other – utmost fairness
  - *Abbott v. Crump* – One partner commits adultery with another partner’s wife that can be a ground on which the Court may order dissolution of firm
- Duty to render true accounts
- Duty to render full information of all things affecting the firm [Section 9]
  - *Law v. Law* – When a partner waves his right of full disclosure, such partner can not subsequently repudiate the contract
- Duty to indemnify for fraud [Section 10]
- Duty to be diligent [Sections 12(b) and 13(f)]
  - To attend diligently to his duties in the conduct of the business of the firm [Section 12(b)].
  - If the firm suffers any loss by any willful neglect of the partner he shall indemnify the firm [Section 13(f)].
  - Landmark case is *Cragg v. Ford* – Cotton sale delayed
- Duty to properly use the firm’s property [Sections 14 and 15]
- Duty not to earn personal profits or to compete [Section 16]
  - Partner accountable to the firm for any personal profit –
    - From any transaction of the firm
    - Use of the property or business connection of the firm
    - From the use of the firm name
    - Important case being *Gorden v. Holland* – Sold land of firm and re-purchased the same

Landmark Judgment - Relation of Partners with one another

*Gattulal v. Gulab Singh*, AIR 1985 SC 547

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