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MINOR AS A PARTNER: RIGHTS, LIABILITIES, AND LEGAL PROTECTION

~ *Kshema Sangam*

ABSTRACT

The status of a minor in a partnership firm creates a rare point of contractual inability and commercial involvement. Whereas, general contract law prohibits the acceptance of any obligation by a minor, the partnership law is less strict and includes admitting a minor to the partnership benefits. The paper discusses law regarding minors in the form of partners, their rights, liability, and protection principles inherent in the law. The statutory provisions and judicial interpretations are critically assessed in terms of the law balancing the interests between economic activities and the necessity to protect the minors against exploitation and financial danger. The paper also gives the reasoning as to why minors should be afforded legal protection by referring to the public policy reasons and fair treatment. This study will help to better understand the legal position of minors in partnerships and evaluate the fact that the present framework is able to meet the protective role in the modern business environment and whether it is effective in the modern commercial operation.

INTRODUCTION

Partnerships became very important in the commercial activities as they allow individuals to pool capital, skill and effort with an aim of conducting business. Partnership is based on contractual relations of the partners, which in most cases presupposes legal capacity of going into a contract. In general rules of contract law, the incompetency of minors to enter into legally binding agreements exists. The partnership law, however, does not follow this strict

rule, when a minor can be admitted to the partnership benefits. This exemption puts a unique legal status on the position of the minors in business where participation is considered as well as protection against legal, and other financial liabilities.

These acts include the Indian Partnership Act of 1932¹ that acknowledges that although the minor is not a full-fledged partner, he or she has the right to share the proceeds and have access to the accounts, without being directly liable to the losses that a firm may incur. Meanwhile, the law has restrictions on the liabilities of the minor and gives protection to avoid the exploitation of the minor by the adult partners. This safeguarding technique is based on the public policy, which takes the best interest of minors rather than business expediency.

Although statutory, the rights and liabilities of minors in partnerships have been a matter of judicial interpretation and debate especially regarding third party claims and implications where a minor reaches majority. It is also important that the reasoning and efficiency of these legal protections are still the matter of interest in the contemporary commercial practice. This paper aims to discuss the legal status of minors that have become partners of a partnership, to analyse the rights and liabilities of these individuals and to determine the rationale behind emphasising special protection to these persons under the framework of the partnership law.

RESEARCH PROBLEM

1. What are the rights of a child admitted into the benefits of a partnership under Indian law of partnership and how well do they protect the rights in practice?
2. What is the legal and policy justification of the special protection of children in partnership structure, and is the current structure sufficient to balance the protection of children with commercial security?

¹ The Indian Partnership Act, No. 9 of 1932, India Code (1932).

DEFINITION OF MINOR UNDER INDIAN LAW

Under the Indian law, A minor is an individual who is below the age of 18 and the person who is considered to be above the age of 18 are considered to be majors. According to the Indian majority act, 1875², under section 3³ of this act, a person is said to be a major if he/she has completed the age of 18. However, the Act includes an important exception. When a court appoints a guardian for a minor's person or property, or when a Court of Wards takes over a minor's property, the age of majority is raised to 21 years. Until that age is reached, the individual is still considered a minor under the law. Under the Indian contract act, 1872⁴, A minor has limited legal capacity, A minor is considered to be incapable of entering into a valid and enforceable contract, this is specified under the section 11⁵ of Indian contract act, 1872.

In the case, *Mahori⁶Bibi versus Dharmodas Ghose*, a minor entered into a contract - Dharmodas Ghosh, the respondent, was a minor when he mortgaged his property to Brahmoo Dutt (represented by Mohori Bibi) in exchange for a loan of Rs. 20,000. At the time of the transaction, Dharmodas Ghosh's mother, as his legal guardian, had informed the lender in writing that Dharmodas was a minor and thus incapable of entering into a binding contract. Despite this notification, Brahmoo Dutt's agent proceeded with the mortgage transaction. However, only Rs. 8,000 of the total loan was advanced to Dharmodas Ghosh. Later, Dharmodas filed a case stating that since he was a minor when he executed the mortgage, the agreement was void and should be canceled. Brahmoo Dutt's executors appealed, arguing that Dharmodas had fraudulently misrepresented his age and that the law of estoppel should apply. They also contended that if the mortgage was cancelled, Dharmodas should repay the loan under section 64⁶ and 65 of Indian contract act⁷.

A contract with a minor is void ab initio, which clearly means that it is void from the very beginning and cannot be enforceable by law. The concept of minor also exists in criminal law,

² The Indian Majority Act, No. 9 of 1875, India Code (1875).

³ The Indian Majority Act, No. 9 of 1875, § 3, India Code (1875).

⁴ The Indian Contract Act, No. 9 of 1872, India Code (1872).

⁵ The Indian Contract Act, No. 9 of 1872, § 11, India Code (1872).

⁶ *Mohori Bibee v. Dharmodas Ghose*, (1903) 30 I.A. 114 (P.C.).

⁶ The Indian Contract Act, No. 9 of 1872, § 64, India Code (1872).

⁷ The Indian Contract Act, No. 9 of 1872, § 65, India Code (1872).

a minor when held liable under the criminal law, the minor ⁸is dealt under the juvenile justice (care and protection of children) act, 2015. It guides the minor to be on a right path instead of punishing them for their offence committed.

Lastly when it comes to the aspect of legal right to vote, An individual who has attained the age of 18 is allowed to cast his/her respective vote and can be part of the legal voting mechanism that happens throughout the country to elect representatives who can represent the people or the citizens.

In essence a minor is someone who is under the age of 18 and has not yet attained the legal age of maturity according to law and a person who does not have the capacity to enter into any legal contracts.

LEGAL POSITION OF MINOR IN PARTNERSHIP

According to the Indian law a minor is any individual who has not yet reached the age of 18 years (Section 3, Indian Majority Act, 1875). The fact that a minor is incompetent to enter into a contract according to Section 11 of the Indian Contract Act, 1872 means that he cannot be a full-fledged partner in a partnership firm. The Indian Partnership Act, 1932⁹ however contains a limited exception as it does permit a minor to be transferred into the benefits of partnership.

Section 30 of the Indian Partnership Act, 1932 takes care of the legal status of a minor in partnership. Section 30(1)¹⁰ points out that a minor may not make partner, although with the agreement of all the partners he may be admitted as a partner. This is in that the minor is allowed to share in profits but not to take the liabilities of a partner.

Section 30(2)¹¹ provides that a minor who is admitted to the benefits of partnership is entitled to his portion of the profits which he agreed to share, and the right to access and view the accounts of the firm. The minor is however not liable to the losses of the firm. He is only liable to his portion of the partnership property. In CIT v. In its ruling in 1966, the Supreme Court stated that a minor, who was taken in the benefits of partnership, cannot be taxed as a

⁸ The Juvenile Justice (Care and Protection of Children) Act, No. 2 of 2016, India Code (2016).

⁹ The Indian Partnership Act, No. 9 of 1932, § 30, India Code (1932).

¹⁰ The Indian Partnership Act, No. 9 of 1932, § 30(1), India Code (1932).

¹¹ The Indian Partnership Act, No. 9 of 1932, § 30(2), India Code (1932).

partner, which stated again that a minor does not personally incur liability and that a minor cannot be a partner.

Regarding liability:

According to Section 30(3),¹² the minor is legally liable on the acts of the firm, but not the minor himself. This shields the minor against any contractual obligation as a result of partnership dealings.

In *Dwarkadas Khetan and Co. vs CIT (1961)*,¹³ the Supreme Court held that a deed of a partnership that reduces a minor to a full partner is invalid. Only benefits and not burdens of partnership of minor can be admitted.

Status on Reaching Majority:

Under Sub Clause 30(5)¹⁴ where a minor reaches majority or realises he/she is admitted into the benefits of partnership (whichever comes later), he/she has six months to determine whether to become a partner or not. This ruling will have to be published via a notification of the public.

In case, the minor opts to be a partner, he/she will be personally liable to all the acts of the firm as long as the date of their benefits admission (Section 30(7)).¹⁵

In case they do not intend to become a partner, their rights and liabilities persist until the date of public notice (Section 30(8)).

JUDICIAL INTERPRETATION

In *Sanyasi Charan Mandal v. The court*¹⁶ stated that the role of a minor in partnership is limited and protective in nature (*Krishnadhan Banerji, 1922*), which means that they do not subject minors to commercial risks which are beyond their strengths.

Finally, a minor could not be a partner because of contractual incapacity but could be made a partner under the benefits of partnership in Section 30 of the Indian Partnership act, 1932.

¹² The Indian Partnership Act, No. 9 of 1932, § 30(3), India Code (1932).

¹³ *Dwarkadas Khetan & Co. v. Comm'r of Income Tax, (1961) 41 I.T.R. 528 (S.C.)*.

¹⁴ The Indian Partnership Act, No. 9 of 1932, § 30(5), India Code (1932).

¹⁵ The Indian Partnership Act, No. 9 of 1932, § 30(7), India Code (1932).

¹⁶ *Sanyasi Charan Mandal v. The Court of Wards, (1922) I.L.R. 49 Cal. 708*.

The statute is very cautious in the way it balances commercial convenience and protection of minors, sites by giving rights to profit sharing and limiting the liabilities. This legal structure, which is also backed by judicial rulings, conveys that minors are not to be subjected to the hazards of business till they reach legal maturity.

RIGHTS OF A MINOR ADMITTED TO THE BENEFITS OF PARTNERSHIP

According to the Indian laws, a minor cannot enter into a contract since he is legally incompetent to do so according to Section 11 of the Indian Contract Act, 1872 thus becoming incapable of engaging in a partnership as nothing is more than a contractual relationship. But in realising the commercial facts and necessity of securing minors whilst leaving them to enjoy the comfortable results of family or business partnerships, the Indian Partnership Act, 1932, Section 30, provides a special clause, granting a minor the right to partake of the fruits of the union.

Statutory Framework: Section 30, Indian Partnership Act, 1932.

Section 30(1) makes it clear that a minor is not eligible to be a partner, though at the direction of the current partners he may be admitted being a partner. Such a confession does not make the confessor a partner but only gives an individual some limited rights.

Right to Share Profits

Section 30(2) provides the most important right of a minor; the right to a legally agreed percentage of the profits of the firm. The minor has the right to enjoy the financial benefits that come out of the partnership business without being subjected to the risks of the same. The Supreme Court upheld this in CIT v. Where the Court stated that a minor who had been admitted to the benefits of partnership can only receive profits and not be regarded as a full partner legally or taxation wise, Shah Mohandas Sadharam (1966).

Right to Receive and Inspect Accounts

Section 30(2) prohibits the denial of a minor by right to obtain, inspect and copy the accounts of the firm. This right is necessary to establish transparency and safeguard the minor against the possible exploitation of adult partners. The privilege is however limited to the inspection of accounts and does not go further to the inspection of other partnership documents and partaking in the management decisions.

Right to Accounts or Profits Suing:

Section 30(4) says that a minor can sue the partners to recover his portion of profits or accounts of the firm but on his own choice of severing his relationship with the firm. This limitation will make sure that the minor does not disrupt the internal operations of the firm as long as he is still enjoying the fruits of the firm.

Right to Limited Liability:

Though it is presented in form of protection, it functions as a valuable right. According to Section 30(3), the minor does not have personal liability of the firm. He is only liable to his amount of the partnership property. In *Dwarkadas Khetan and Co. vs. CIT (1961)* the Supreme Court made a categorical conclusion that all partnership acts which subject a minor to personal liability are invalid which has given credence to the protective purpose of the provision.

Right to Election on Achieving Majority:

On reaching the age of majority, the minor is given under Section 30(5) the right to decide whether he would become a partner or not. This decision should be decided in a period of six months and should be brought out via communication through the notice. The minor then remains a beneficiary without liability to the extent that such a notice is not given. This clause protects the individual autonomy of the person when he or she reaches the contractual capacity.

Judicial Perspective

In *Sanyasi Charan Mandal v.* The court noted that the law concerning minors in partnership is set to make sure that a minor enjoys commercial arrangements without the need to be exposed to commercial risks that he or she cannot bear legally.

To sum it up, rights of a minor who was admitted to benefits of partnership under Section 30 of Indian Partnership Act, 1932 are well-crafted to bring balance between economic participation and protection by law. By law, the rights of the minors to profit sharing, viewing of accounts, limited liability and the right to choose on reaching majority age protect the minors against the duty of a contract and yet still permits the minors to enjoy the benefits of partnerships. This protective and welfare approach has been held by judicial interpretations.

LIABILITIES OF A MINOR PARTNER IN CONTRACTS BEFORE ATTAINING MAJORITY

The capacity to enter a contract is a foundational requirement under Indian Contract Law for the creation of enforceable legal obligations. According to Section 11 of the Indian Contract Act, 1872, a minor lacks contractual capacity and therefore any agreement undertaken by a minor is legally void from the outset. Since a partnership is itself formed through a contractual agreement, a minor cannot assume the status of a full partner. However, the law provides for a limited exception under Section 30 of the Indian Partnership Act, 1932, which allows a minor to be admitted to the benefits of a partnership, subject to the unanimous consent of the existing partners. This statutory provision allows the minor to enjoy certain advantages while simultaneously placing strict limitations on their contractual liability.

Absence of Personal Contractual Liability

A minor who has admitted the advantages of a partnership shall not be held personally liable for any contracts entered by the partnership during the period of minority. The creditors of the partnership shall not be able to enforce their contractual claims against the minor personally or attach his personal properties. The minor shall enjoy immunity because of the legal principle that a minor cannot give valid consent in contract law.

Liability Limited to the Minor's Share in the Partnership

Although a minor who admitted to the benefits of a partnership is shielded from personal liability, the legal system does not provide absolute immunity. The minor's participation in the partnership, that is, the minor's interest in the partnership's property and profits, is liable to be applied towards the partnership's contractual obligations. This implies that although the minor's personal property remains unaffected, the minor's economic benefit that accrues from the partnership is liable to be applied towards the partnership's debts. This provision achieves a balance between the protection of minors and the need to provide creditors with a remedy that is not completely frustrated.

In the decision of the case *S.C Mandal v. Asutosh Ghose*¹⁷, it was held that the firm's creditors can only recover from the minor to the extent of their share in the firm's assets and the creditors cannot sue the minor. This case provides some insight into the financial liability of a minor and in the judgement of the case *Addepally Nageswara Rao and Bros v. CIT*¹⁸:

The Andhra Pradesh High Court decided that a minor's liability is limited only to the extent of the capital contributed or the benefits received in the profits of the firm. The court explicitly said that the minor's personal property (which is not brought into the partnership assets) cannot be held liable for firm debts.

No Role in Mutual Agency or Contractual Obligations

A fundamental feature of partnership is mutual agency, where each partner has the authority to bind the firm through contractual acts. However, a minor admitted only to the benefits of a partnership does not possess this authority. The minor cannot enter into contracts on behalf of the firm, nor can they be personally bound by contracts entered into by other partners. Since mutual agency arises from contractual consent, and a minor lacks such capacity, the law deliberately excludes the minor from this core aspect of partnership relations.

This position was affirmed by the Supreme Court in *Commissioner of Income-Tax v. Dwarkadas Khetan & Co.*¹⁹ The Court held that a minor cannot be made a full partner and any deed conferring rights of management, agency or personal liability upon a minor is invalid in law. The Court clarified that a minor may only be admitted to the benefits of partnership without any participation in mutual agency or contractual responsibilities.

Immunity from Losses and Insolvency

A minor partner cannot be compelled to bear contractual losses sustained by the firm. Such losses are required to be absorbed entirely by the adult partners. Additionally, since the minor

¹⁷ *Sanyasi Charan Mandal v. Asutosh Ghose*, (1915) 42 Indian Law Reports Calcutta 225 (Calcutta High Court); reported at AIR 1915 Cal. 482 (Cal.).

¹⁸ *Addepally Nageswara Rao and Brothers v. Commissioner of Income-Tax*, (1971) 79 ITR 306 (Andhra Pradesh High Ct.).

¹⁹ *Commissioner of Income-Tax, Bombay v. Dwarkadas Khetan & Co.*, (1961) AIR 680, 41 ITR 528, 2 SCR 821 (Supreme Court of India).

bears no personal contractual liability, insolvency proceedings cannot be initiated against the minor for partnership debts.

POSITION ON REACHING MAJORITY

A partnership firm comes into existence through a contract between persons competent to contract. On reaching majority, the law requires the individual to make a conscious decision about their association with the firm. Within six months of reaching majority or from the date when the minor becomes aware of their admission to the benefits of partnership the individual must decide whether to continue in the firm as a partner or to withdraw from it. This decision must be made known through a public notice, failing which legal consequences follow.

If the individual chooses to become a partner, they acquire all the rights and responsibilities of a regular partner. Their liability becomes personal and unlimited, and it is not confined to acts done after attaining majority. Instead, the law treats them as a partner from the date they were originally admitted to the benefits of partnership, making them responsible for earlier acts of the firm as well.

If the individual decides not to become a partner and issues the required public notice, they are not personally liable for any acts of the firm done after such notice. Their share in the firm's property also stands protected from future liabilities. However, they stay entitled to claim their share of profits and property from the firm. Where no public notice is given within the prescribed period, the law presumes acceptance of partnership, and the individual is considered to have become a partner with full liability.

In the case of *Raghava Chariar v. Srinivasa Raghava Chariar*²⁰, the court held that if a minor, after attaining majority, fails to give public notice within the prescribed time, he is deemed to

²⁰ A.T. Raghava Chariar v. O.A. Srinivasa Raghava Chariar, (1917) ILR (Madras) 308 : 36 Ind. Cas. 921 : (1916) 31 MLJ 575 (Madras High Court) (Apr. 5, 1916).

have become a partner. Hence, he will be personally liable for the actions of the firm. This case highlights the significance of public notice in partnership law.

LEGAL PROTECTION PROVIDED TO MINOR PARTNERS

The legal safeguard provided to minors in Indian contract law is grounded on the presumption that minors do not have the maturity and legal knowledge to comprehend the legal and financial implications of contractual obligations. Section 11 of the Indian Contract Act, 1872 declares a minor to be incompetent to contract and any contract entered into by a minor is void ab initio. This provision embodies a welfare-oriented policy which gives importance to the interests of minors over commercial certainty.

The major reason for this safeguard is to avoid the possibility of exploitation due to unequal bargaining power. Adults are presumed to own more experience and legal knowledge, and the law casts the burden of prudence on them and not on the minors. To make minors contractually liable, either directly or indirectly, would make them vulnerable to serious financial danger and would thus defeat the very purpose of their incapacity.

Within this protective framework, the restricted scope of the doctrine of restitution supports the minors. Restitution is permissible only if the minor has acquired tangible property and the money is still traceable in the minor's possession. The law is very particular about not allowing the recovery of money or compensation for the loss, to ensure that restitution is not used to enforce a void contract. The protective shield is further strengthened by other doctrines related to minors. Under Section 68 of the Contract Act, a party supplying necessaries to a minor is to be compensated only out of the minor's property, if any, without imposing any personal liability on the party. Likewise, the doctrine of estoppel is not applicable to the minor, even if there is misrepresentation of age, since the application of estoppel would indirectly bind the minor to a void contract. The doctrine of prohibition on ratification, even after majority, also ensures that an adult does not gain any unfair advantage by contracting with a minor and seeking ratification at a later date. Further, the courts can also declare conditional restoration under the Specific Relief Act in the case of a minor seeking equitable relief. Taken together, these rules show that the Indian legal system follows a fair yet cautious approach in protecting minors from liability without allowing them to abuse the law of legal incapacity.

In the case of *Khan Gul vs. Lakha Singh*²¹, the Court held that minors, even if they misrepresent their age to induce a contract, are not bound by estoppel under Section 115 of the Indian Evidence Act and in the case of *Jagar Nath Singh v. Lalta Prasad*²² even if the minor misrepresented age. The Court held that estoppel cannot operate against a minor.

CONCLUSION

The legal treatment of minors in partnership firms under Indian law reflects a deliberate effort to preserve the contractual integrity of partnership while responding to practical business realities. By clearly distinguishing between partnership status and entitlement to benefits, the law avoids diluting the essential element of contractual capacity that underpins partnership relations. Judicial pronouncements have played a crucial role in clarifying this distinction and preventing attempts to indirectly impose partnership obligations on minors.

The framework governing a minor's transition on attaining majority further strengthens legal certainty by requiring a definitive election, supported by public notice, thereby protecting the interests of the firm, third parties, and the individual concerned. This mechanism ensures that partnership obligations arise only from informed and voluntary consent, rather than by implication or convenience.

Overall, the legal position of minors in partnership demonstrates coherence and consistency in principle and application. It accommodates economic participation without undermining foundational doctrines of contract law, and it reinforces the idea that commercial efficiency cannot override legal capacity. In doing so, the law maintains a stable partnership structure while upholding the broader objectives of fairness, predictability, and legal discipline in commercial relationships.

²¹ *Khan Gul v. Lakha Singh*, (AIR 1928 Lah 609, 111 Ind. Cas. 175, (1928) ILR 9 Lah 701) (Lahore High Court Apr. 2, 1928).

²² *Jagar Nath Singh & Ors. v. Lalta Prasad & Ors.*, 1 Ind. Cas. 562 (Allahabad High Court Aug. 13, 1908).