

LIMITED LIABILITY
THROUGH REGISTERED
COMPANIES AND PARTNERSHIPS

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PREFACE

An investor who invests his money into business will definitely wish to secure the maximum returns with minimum risk. To him, the concept of limited liability is of substantial importance and most attractive. However, his apparent choice of investment is limited. The only common form of business establishment available to him is that of registered companies. Of less obvious but possible, is that of partnership firms.

It is the object of this paper to provide a comprehensive study on the concept of limited liability, its historical account and methods of achieving the privilege of limited liability in registered companies as well as its possible application in the law of partnership.

This paper is not intended to be an exhaustive presentation covering every aspect of limited liability. In particular, only a brief attempt is made to deal with the procedural requirements in relation to the incorporation of companies under the Companies Act, 1965. And though (apart from partnership), by careful construction of contract, an investor can invest in any business, enjoy a yield that would vary with the profits of the business and yet not be liable to the debts of the business, it is beyond the scope of this paper to deal with them.

In completing this project paper, acknowledgement is due

ABSTRACT

This paper is presented in the following manner:

1. Historical introduction to limited liability
2. Limited liability through Registered Companies
3. Limited liability through Partnerships
- 4» Conclusion

The historical introduction deals primarily with the struggle to achieve limited liability that took place in England. It is of the writer's view that this is important so as to see and understand the present application of this concept. Although the U.K. Companies Act was passed in 1862, it was not until the case of *Salomon v Salomon* (1897) that the English courts had full grasp of the existence of a corporate entity conferred by the Act.

Chapter II of the paper deals with the privilege of limited liability through companies registered under the Companies Act, 1965. A duly registered limited company allows members to reap the advantage of limited liability while enjoying a varying rates of dividends. However, the concept of limited liability is not incapable of being removed. There are instances of such removal.

In the case of partnership, though the liabilities of partners are joint and unlimited, it will be seen in Chapter III that an investor may enjoy a sort of limited liability. There is no doubt that partners are liable to the last cent of their fortune, but this is not so in the case of a bona fide lender. To put it simply, one

can go ahead and invest in partnership but never be a partner thereof and so escape personal liability.

It is true to say that the ability to enjoy limited liability has turned the scale in favour of incorporation. However limited liability is not full-proof and not without its attendant costs. These shall be seen in the concluding Chapter.

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