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20 One-Liners to Remember

Quick-fire facts for last-minute revision.

1. **The banker's right of set-off lets a bank adjust a customer's credit balance against that same customer's overdue debt.**
   It allows the bank to use money the customer holds with it to recover money the customer owes it, without going to court.

2. **Four conditions must be met for a valid set-off: lawful debt, debt due, same name and capacity, and a certain amount.**
   If even one of these four conditions fails, the set-off is invalid and can be challenged by the customer.

3. **A time-barred or legally disputed debt cannot be set off by a bank.**
   Only a debt that is legally recoverable qualifies as a lawful debt for the purpose of set-off.

4. **Only debts that are already due and payable qualify for set-off; future installments do not.**
   A bank cannot adjust a customer's balance against loan installments that have not yet fallen due.

5. **Accounts must be held in the same name and the same capacity for set-off to apply.**
   Personal funds cannot clear a trust debt, and joint account money cannot clear an individual's personal debt.

6 **The amount to be set off must be certain and ascertained, not merely estimated.**
The bank must know the exact sum owed before it can lawfully exercise the right of set-off.

7 **Set-off requires a mutual debtor-creditor relationship between the bank and the customer.**
Each party must owe the other something at the same time and in the same capacity for the amounts to be netted off.

8 **In a deposit account such as savings or current, the bank is the debtor and the customer is the creditor.**
The bank owes the depositor the balance standing in that account.

9 **In a loan or overdraft account, the customer is the debtor and the bank is the creditor.**
The customer owes the bank the outstanding loan or overdraft amount.

10 **The bank should normally serve notice on the customer before exercising the right of set-off.**
Notice gives the customer a fair chance to regularise the loan and avoids disputes like cheque dishonour.

11 **No prior notice is generally required for set-off in cases of insolvency, death, fraud, or a garnishee order.**
In these urgent situations the bank's claim is at immediate risk, so it may act without waiting for a notice period.

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12 **A joint account cannot be set off against the individual loan of just one of its joint holders.**
The joint account is held in a different combination of names and capacity than the individual borrower's account.

13 **A fixed deposit already pledged as security for another loan is not freely available for set-off.**
The FD is already under lien, so it cannot simultaneously be used to recover an unrelated overdue debt.

14 **Partners of a firm carry unlimited liability, so their personal account balances can be set off against the firm's debt.**
Because partners are personally liable for firm debts, the bank can recover from a partner's savings balance.

15 **A bank cannot set off a partner's personal loan against the firm's account unless the firm has guaranteed it.**
Recovery flows from partners to the firm under unlimited liability, not automatically from the firm to an individual partner's debt.

16 **A guarantor's account balances can be set off only after the bank has formally invoked the guarantee.**
The guarantor's liability becomes live only once the bank issues a demand notice and calls on the guarantee.

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17 **The right of appropriation decides which debt a payment is adjusted against, under Sections 59 to 61 of the Indian Contract Act, 1872.**

This applies when a customer with several debts makes a payment that does not clear all of them.

18 **Under Section 59 of the Indian Contract Act, the debtor has the first right to specify which debt a payment should clear.**

If the customer instructs the bank to apply a payment to a particular loan, the bank must follow that instruction.

19 **Under Section 60, if the debtor gives no instruction, the bank as creditor may appropriate the payment to any lawful debt, even a time-barred one.**

The right to choose passes to the bank only when the customer stays silent about how the payment should be applied.

20 **Under Section 61, if neither party specifies, the payment is applied to the oldest outstanding debt first under the FIFO rule.**

FIFO stands for First In, First Out, and it is the default rule when no appropriation instruction is given.

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