

ISSUE: Whether the partnership is liable when the cheque is signed by one of the partner

HELD: The court held that even 1 party signed the cheque; it will bind the partnership as stated under Section 8 of the Partnership Act (PA)

e. The third party must have knowledge that the particular partner has no authority to act on behalf in the partnership

- If a third party has no knowledge that a particular partner has no authority to act on behalf of the partnership, the partnership is still liable

Nature of the liability for debts and obligation

- **Section 11 of PA**
- **Joint liability** - a third party can sue all of the partnership

Action can be taken against one or all partners, only one action

If taken against one, others cannot later be sued.

A partner who is judged liable can claim contribution from other partners.

E.g: A, B and C are partners. If the plaintiff sues A and B, but not C, C cannot be sued later. Judgment will be given against A and B.

- **Several Liability** - a third party can also sue any one of the partners
Meaning action can be taken against the deceased separately.

A partner can be sued individually.

E.g: A, B and C are partners. The plaintiff can sue A, B and C as a firm and later can sue each partner individually.

A company's or partnership debt cannot be set off against the debt owed to a member of the partners since it is joint and not joint and several liability.

Refer ***Re Pennington***

However if the cause of action is different, the action can be brought.

- Therefore, we have two actions here i.e. **one against the alive partners**-they are jointly liable. And **one against the dead partner's representative** and known as several liability.
- The procedure is that, a third party needs to see the partnership first then only sue the partners individually
- It is **not material** whether the partner is a **sleeping partner** or a **secret partner**