Insolvency and Bankruptcy Code-IBC

- Insolvency and Bankruptcy Code, 2016 was enacted for reorganization and insolvency resolution of corporate persons, partnership firms and individuals in a time bound manner for maximization of the value of assets.
- The Ecosystem of IBC is based on

1. **Adjudicating authority (AA)** - would be the National Company Law Tribunal (NCLT) for corporate insolvency.
   - It will entertain or dispose of any insolvency application, approve/ reject resolution plans, decide in respect of claims or matters of law/ facts thereof.

2. **Debt Recovery Tribunal (DRT)** has jurisdiction over individuals and partnership firms other than Limited Liability Partnerships.

3. **The Insolvency and Bankruptcy Board of India (IBBI)** - apex body for promoting transparency & governance in the administration of the IBC.
   - It will be involved in setting up the infrastructure and accrediting IPs (Insolvency Professionals (IPs) & IUs (Information Utilities)).

**Waterfall Mechanism under IBC**

- Section 53 of IBC deals with the waterfall mechanism, which gives priority to secured financial creditors over unsecured financial creditors.
- The mechanism says that if a company is being liquidated, these secured financial creditors must be first paid the full extent of their admitted claim, before any sale proceedings are distributed to any other unsecured creditor.
- The top most priority, however, is given to costs related to the liquidation process and dues of workmen of the corporate debtor.
- The dues of the workmen include all their salaries, provident, pension, retirement and gratuity fund, as well as any other funds maintained for the welfare of the workmen.

**Types of creditors**

- **Secured creditor** is generally a bank or other asset-based lender that holds a fixed or floating charge over a business asset or assets.
- When a business becomes insolvent, sale of the specific asset over which security is held provides repayment for this category of creditor.
- **Unsecured creditor** is an individual or institution that lends money without obtaining specified assets as collateral.
- This poses a higher risk to the creditor because it will have nothing to fall back if the borrower default on the loan.