Business Regulatory Framework: From Law to Practice is a clear, concise, and exam-oriented text book designed for B.Com. students under Mahatma Gandhi University's FYUGP syllabus. The book systematically explains the foundations of mercantile law with special emphasis on the Indian Contract Act, 1872 and the Sale of Goods Act, 1930, along with other key business regulations in India.

Written in simple, accessible language, it bridges the gap between legal theory and practical business application. Each module integrates statutory provisions, landmark case laws, MCQs, assertion–reason questions, and case-based problems to strengthen conceptual clarity and analytical skills.

Carefully aligned with outcome-based learning and evolving university assessment patterns, this book serves as both a dependable classroom text and an effective self-study companion, helping students confidently navigate the legal framework governing modern commercial transactions.

Published By

Ambitious Books

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978-93-47890-32-1

BUSINESS REGULATORY FRAMEWORK

From Law to Practice

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Edited by Dr Shinsa P Mathew

Business Regulatory Framework

From Law to Practice

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Business Regulatory Framework: From Law to Practice

(as per MGU FYUGP DSC B Business Law Syllabus)

Authors: Dr. Boby Thomas and Miss Littisha Shaji

Editor: Dr. Shinsa P Mathew

Price: 250

Category: Text Book

ISBN: 978-93-47890-03-1 (E Book)

978-93-47890-32-1 (Print)

DoI: 10.37298/abpl978-81.34

Cover Design: AI

Category: Text Book

First Published on 26-02-2026

Published by:

Ambitious Books, Kerala

https://abplpublications.co.in/

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Preface

Mercantile and Business Law constitutes a fundamental component of commerce education, as it provides the statutory and judicial framework governing commercial transactions and business relationships. In the context of the Four-Year Undergraduate Programme (FYUGP) introduced by Mahatma Gandhi University, Kottayam, the subject assumes added significance for its emphasis on conceptual clarity, the application of legal principles, and outcome-based assessment. This book has been prepared with the objective of meeting these academic expectations in a systematic, student-oriented, and examination-focused manner.

The primary aim of this book is to present the principles of mercantile and business law in a clear and accessible form, keeping in mind the needs of undergraduate commerce students who may not possess a prior background in legal studies. Legal concepts have been explained in simple language, supported by illustrations and relevant judicial decisions, to facilitate a better understanding and practical appreciation of the subject without compromising academic rigor.

The book's contents are strictly aligned with the FYUGP BCom syllabus prescribed by Mahatma Gandhi University. Each unit has been organised logically and systematically, covering statutory provisions, essential definitions, important distinctions, and landmark case laws. Special emphasis has been given to examination-oriented preparation through the inclusion of multiple-choice questions, assertion–reason questions, and case-based problems, reflecting the evolving pattern of university assessments.

The author gratefully acknowledges the meticulous editing and valuable academic inputs provided by **Dr. Shinsa P. Mathew**, Assistant Professor (Senior), **VIT School of Law, VIT Chennai**, whose careful review has significantly enhanced the clarity,

consistency, and academic quality of the manuscript. Artificial intelligence tools were used in a limited and responsible manner for language refinement, structural organisation, and preliminary identification of relevant case laws. At the same time, all academic judgments, legal reasoning, and final content decisions remained entirely with the author.

This book has undergone a rigorous Turnitin similarity assessment and achieved an exceptionally low similarity index of 1% (after excluding unavoidable standard MCQ phrases), reflecting a strong commitment to originality and academic integrity. Attaining such a minimal score requires meticulous effort, careful articulation, and strict adherence to ethical scholarly standards.

This book is intended to serve as both a core textbook for regular classroom instruction and a reliable self-study and revision guide for students. While every effort has been made to ensure accuracy and relevance, constructive suggestions from teachers, students, and readers for the improvement of future editions will be gratefully acknowledged.

Authors

Foreword

The publication of "Business Regulatory Framework: From Law to Practice" marks a significant contribution to the academic resources of our institution. This book is a testament to the fact that when subject expertise meets years of teaching experience, the result is a learning tool that is both meaningful and highly accessible to students.

I am heartened to see our educators taking the lead in academic publishing. By translating their insights into a structured format, they provide our students with a roadmap through the complexities of business law. I specifically wish to highlight the cross-institutional collaboration with the VIT School of Law, VIT Chennai. The editorial oversight from such a prestigious law school ensures that this text remains legally rigorous while being commercially relevant.

In an era of rapidly evolving education, providing this work as an open-source resource is a visionary step. It aligns with our mission of fostering a culture of shared knowledge and academic transparency, making quality education accessible to all, regardless of boundaries.

My sincere congratulations go to the authors and the collaborators for their diligence and scholarly vision. I am confident that this book will serve as a cornerstone for students and researchers navigating the intricate world of business regulations.

Saji K Jose
Principal in Charge,
Pavanatma College, Murickassery
13-02-2026

Abstract

Business Regulatory Framework: From Law to Practice provides a structured and comprehensive analysis of the legal principles governing commercial transactions in India, with primary emphasis on the Indian Contract Act, 1872, and allied mercantile laws. The book systematically examines the foundations of mercantile law, including its sources—statutory enactments, judicial precedents, and commercial customs—followed by a detailed study of the essential elements of a valid contract, such as offer and acceptance, lawful consideration, capacity of parties, free consent, lawful object, and certainty of terms.

The text classifies contracts by formation, enforceability, and performance, covering express and implied contracts, unilateral and bilateral contracts, contingent contracts, quasi-contracts, wagering agreements, and agreements expressly declared void. It critically analyses the capacity to contract, including minors, persons of unsound mind, and disqualified persons, along with the doctrines of free consent involving coercion, undue influence, fraud, misrepresentation, and mistake. The principles of legality and public policy under Section 23, the performance and discharge of contracts, breach, and remedies, including reasonable compensation, are also examined.

The book integrates landmark judicial decisions to demonstrate the practical application of statutory provisions. Each module is supported by structured multiple-choice questions, assertion–reason exercises, and case-based problem discussions, reinforcing doctrinal clarity and analytical reasoning. By combining substantive legal analysis with objective assessments and case studies, the work offers a comprehensive academic resource on the regulatory framework governing business transactions in India.

Module 1

Introduction to Mercantile Law

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Mercantile laws govern the commercial transactions and business activities in a country. They regulate trade, commerce, and business transactions. These laws guide business and ensure fairness, transparency, and accountability in the marketplace.

Mercantile law covers a wide range of topics such as contracts, sale of goods, agency, partnership, negotiable instruments, insurance, and consumer protection. These laws help in regulating relationships among buyers and sellers, employers and employees, creditors and debtors, and many other business partners.

One of the most important foundations of mercantile law is the Indian Contract Act of 1872, which defines the formation and enforcement of valid agreements. Other major laws include the Sale of Goods Act, the Partnership Act, the Companies Act, and the Negotiable Instruments Act.

In simple terms, mercantile law provides a legal framework for smooth business operations, resolves disputes when they arise, and promotes confidence and trust in commercial activities.

Sources of Mercantile Law

Sources refer to the origins or foundations of the legal framework for regulating commercial activities. They are the building blocks of the laws.

1. **English Mercantile Law** – Adapted to suit Indian conditions. Concepts such as the law of contracts, agency, partnership, and negotiable instruments were adopted from English law.

2. **Statutory Law** – Acts passed by the Parliament. The Indian Contract Act, the Sale of Goods Act, and the Partnership Act, etc., which provide clear rules for business transactions.
3. **Judicial Decisions** – Precedents established by courts. Case law helps clarify ambiguous legal provisions and fill legislative gaps.
4. **Customs and Usages** – Recognized practices in trade.

The key mercantile laws in India[1]

1. The Indian Contract Act, 1872
2. The Sale of Goods Act, 1930
3. The Indian Partnership Act, 1932
4. The Negotiable Instruments Act, 1881
5. The Companies Act, 2013
6. The Consumer Protection Act, 2019
7. The Limited Liability Partnership Act, 2008
8. The Competition Act, 2002

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[1] The key mercantile laws in UK:
1. Law of Contract - Common Law (Developed over centuries, codified in parts like the Misrepresentation Act, 1967).
2. Sale of Goods Act, (1893)1979 3. Partnership Act, 1890
4. Agency Law - Common Law (No specific codification, principles established over time). 5. Bills of Exchange Act, 1882 6. Companies Act, 2006 7. Insolvency Act, 1986
8. Arbitration Act, 19969 Competition Act, 1998
10.Consumer Rights Act, 2015
11. Copyright, Designs and Patents Act, 1988
12.Customs and Excise Management Act, 1979

9. The Arbitration and Conciliation Act, 1996
10. The Foreign Exchange Management Act, 1999 (FEMA)
11. The Insolvency and Bankruptcy Code, 2016
12. The Customs Act, 1962, and GST Laws
13. Goods and Services Tax (GST) Act, 2017
14. Central Sales Tax Act, 1956.
15. Intellectual Property Laws
    a. The Patents Act, 1970
    b. The Copyright Act, 1957
    c. The Trademarks Act, 1999
    d. Designs Act, 2000
    e. Protection of Plant Varieties and Farmers' Rights Act, 2000
    f. Semiconductor Integrated Circuits Layout-Design Act, 2000
    g. Geographical Indications of Goods (Registration and Protection) Act, 1999

MCQs to Understand and Analyse: 1

1. Mercantile law mainly deals with:

a) Criminal activities b) Personal relationships

c) Commercial transactions and business activities

d) Government administration

Answer: c

2. The primary objective of mercantile law is to ensure:

a) Political stability

b) Fairness and transparency in business transactions

c) Increase in government revenue d) Social welfare

Answer: b

3. Which Act is considered the foundation of Mercantile Law in India?

a) Companies Act, 2013 b) Indian Contract Act, 1872

c) Consumer Protection Act, 2019

d) Competition Act, 2002

Answer: b

4. Judicial decisions act as a source of mercantile law because:

a) They are written by Parliament

b) They provide guidance for uncertain legal issues

c) They are not binding d) They replace statutory law

Answer: b

5. Which of the following is NOT covered under mercantile law?

a) Contract b) Sale of goods

c) Marriage laws d) Negotiable instruments

Answer: c

6. Assertion (A): Mercantile law helps maintain fairness and transparency in business transactions.

Reason (R): Mercantile law only applies to government enterprises.

Options:

a) Both A and R are true, and R is the correct explanation of A

b) Both A and R are true, but R is NOT the correct explanation of A

c) A is true, but R is false d. A is false, but R is true

Answer: c

7. (A): The Indian Contract Act, 1872, forms the foundation of mercantile law in India.

   (R): All commercial transactions are based on agreements and promises.

Options:

a) Both A and R are true, and R is the correct explanation of A

b) Both A and R are true, but R is NOT the correct explanation of A

c) A is true, but R is false

d) A is false, but R is true

Answer: a

8. (A): Customs and usages can become recognized as a source of mercantile law.

   (R): Customs are always superior to statutory law.

Options:

a) Both A and R are true, and R is the correct explanation of A

b) Both A and R are true, but R is NOT the correct explanation of A

c) A is true, but R is false

d) A is false, but R is true

Answer: c

9. (A): Statutory laws ensure uniform rules for business transactions.

   (R): Statutory laws are passed by the Parliament and have legal authority.

Options:

a) Both A and R are true, and R is the correct explanation of A

b) Both A and R are true, but R is NOT the correct explanation of A

c) A is true, but R is false

d) A is false, but R is true

Answer: a

10. (A): Judicial decisions are an important source of mercantile law.

    (R): Courts interpret laws and precedents guide future cases.

Options:

a) Both A and R are true, and R is the correct explanation of A

b) Both A and R are true, but R is NOT the correct explanation of A

c) A is true, but R is false

d) A is false, but R is true

Answer: a

Law of Contract

The **Law of Contract** is a set of rules about agreements that can be enforced by law. It explains the rights and duties of the parties involved in the agreement.

Kinds of Contracts

This refers to the different categories of contracts based on their formation, enforceability, and execution.

1. **Based on Formation**:
   - **Express Contracts**: Terms are stated explicitly. E.g., a written agreement to rent a house
   - **Implied Contracts**: Created through conduct. E.g., ordering food in a restaurant implies an agreement to pay for it once it is served.
   - **Quasi-Contracts**: Imposed by law to prevent unjust enrichment. E.g., A delivers groceries to B by mistake, thinking B ordered them. B uses the groceries. Even though there was no agreement between A and B, the law says B must pay A for the groceries to prevent an unfair benefit.

- **Simple contract:** An agreement that does not need to be in writing to be legally valid. They are the most common type of contracts. E.g., buying a product at a store

2. **Based on the Nature of Obligation**:
   - **Unilateral Contracts**: It is a promise made by one party (one-sided) and becomes legally binding only when another person performs it. E.g., A announces a reward of ₹1,000 for finding their lost dog. If B finds and returns the dog, A must pay ₹1,000.
   - **Bilateral Contracts**: Mutual promises between parties. E.g., A agrees to sell a bike to B for ₹10,000, and B agrees to buy it. Both A and B have promises to fulfill- A must deliver the bike, and B must pay the money.

3. **Based on Enforceability/Validity:**
   - **Valid Contracts**: Fulfill all legal requirements. E.g., buying a product for an agreed price.
   - **Void Agreements**: Not enforceable by law. E.g., an agreement to do something impossible, like flying without an airplane.
   - **Voidable Contracts**: Valid but can be avoided by one party. E.g., C, a shopkeeper, tricks D into buying a defective mobile phone by hiding its flaws. In this case, the contract is voidable because D's consent was obtained through fraud. D can either cancel the contract and return the phone or choose to keep it.

- **Illegal Contracts**: For acts which are prohibited by law. E.g., A agrees to pay B ₹50,000 for smuggling goods into the country.
- **Wagering Agreement:** A betting agreement based on chance. Wagering agreements are void, but not illegal in India, except for horse racing.
- **Composite Agreement:** An agreement that consisting of two or more promises, some of which are legal and enforceable, while others may be illegal or void. If the legal and illegal parts are separable, the legal part is enforceable. If they are inseparable, the entire agreement becomes void.
- **Unenforceable contract**: Cannot be upheld in court, even if it seems valid. E.g., two people agree verbally to sell a house. The deal isn't legally valid because property sales must be in writing. But the parties can still choose to make it valid.[2]

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[2] **Common Reasons a Contract is Unenforceable:**

1. Not in Writing: Some contracts, (eg. selling land), must be written to be valid.
2. Missed Deadline: If too much time passes, can't take legal action to enforce it.
3. Unclear Terms: If the contract is vague or confusing, it is enforceable.
4. Missing Legal Steps: Certain contracts need formalities like signatures or witnesses.
5. Unfairness or Fraud: If a contract is extremely unfair or created through lies.
6. Illegal and Void Contracts

- **Formal Contracts**: They require specific formalities, such as being in writing, signed, and sometimes sealed (e.g., deeds), and are enforceable even without consideration.
- **Contracts of Record**: These include contracts recorded by the court (e.g., judgments) and are enforceable as part of the legal record.
- **Contingent Contracts:** These are contracts that specify actions to be taken depending on the occurrence or nonoccurrence of a future uncertain event. E.g., A agrees to pay B C5,00,000 if B’s Shop is set on fire due to a short circuit.

4. By Completion/Performance:

- **Executed**: A contract that is already done.
- **Executory**: A contract that is to be done in the future.
- **Gratuitous contract:** A type of unilateral contract in which one party offers something for free without expecting anything in return. The other party doesn’t have to give anything in exchange.

E.g. A promises to gift his old laptop to B without expecting anything in return. If B accepts the gift, A cannot revoke it. If A does not keep his promise, there is no legal liability, because the agreement is void for want of consideration.

Quasi Contract

Under Section 70 of the Indian Contract Act, 1872, a person who receives a benefit from services provided by another must compensate for it only if:

a) The service was not intended to be given gratuitously (i.e., the person providing the service did not mean to do it for free), and
b) The other person actually enjoyed or accepted the benefit of that service.

E.g., A mistakenly pays ₹1,000 to B, believing that he owes B the money. In fact, no money was due. B is legally bound to return ₹1,000 to A.

A finds B's lost bag and safely hands it over to B. A can claim the expenses incurred, if any, in preserving and returning the bag.

Essentials of a Valid Contract

A valid contract must have the following key elements. If all these conditions are met, the agreement is valid and enforceable by law.

1. **Agreement**: A contract starts with an offer and its acceptance. An agreement is the expression of mutual assent between the parties (Consensus ad idem, i.e., meeting of minds).
2. **Legal Obligation**: It must create a duty that the law can enforce.
3. **Offer and Acceptance**: Both sides must agree.

4. **Consideration**: Something valuable is exchanged (quid pro quo). E.g., money or services.
5. **Capacity**: Parties must be legally capable of entering into a contract. E.g., not minors.
6. **Free Consent**: Agreement must be without force, fraud, or mistakes.
7. **Lawful Purpose**: The purpose of the agreement must be lawful and fair.
8. **Clear Terms**: The terms must be unambiguous, specific, and understandable.
9. **Possible to Perform**: The contract must be doable.
10. **Formality:** Some contracts need to be in writing to be valid.

MCQs to Understand and Analyse: 2

1. The Law of Contract primarily deals with:

a) Criminal offences b) Agreements enforceable by law
c) Family disputes d) Government policies

Answer: b

2. A contract in which terms are stated clearly, either orally or in writing, is called:

a) Implied contract b) Express contract
c) Quasi-contract d) Void contract

Answer: b

3. A contract created by conduct and not by spoken or written words is known as:

a) Express contract b) Implied contract

c) Illegal contract d) Voidable contract

Answer: b

4. Quasi-contracts are created:

a) By mutual agreement b) To punish the offender

c) By law to prevent unjust enrichment

d) Only by written documents

Answer: c

5. A reward contract (e.g., finding a lost dog) is an example of:

a) Bilateral contract b) Implied contract

c) Unilateral contract d) Void agreement

Answer: c

6. An agreement that cannot be enforced in court due to lack of formality (e.g., oral sale of property) is:

a) Voidable b) Illegal c) Unenforceable d) Executed

Answer: c

7. A valid contract must contain:

a) Free consent b) Illegal object

c) Uncertain terms d) Coercion

Answer: a

8. “An agreement to do an impossible act” falls under which category?

a) Valid contract b) Void agreement

c) Illegal contract d) Executory contract

Answer: b

9. A contract in which both parties still have obligations to perform is:

a) Executed b) Executory c) Gratuitous d) Illegal

Answer: b

10. A contract where one party provides a benefit without expecting anything in return is:

a) Quasi-contract b) Gratuitous contract
c) Void contract d) Bilateral contract

Answer: b

11. (A): A void agreement is not enforceable by law.
(R): All void agreements involve illegal activities.

Options:

a) Both A and R are true, and R is the correct explanation of A

b) Both A and R are true, but R is NOT the correct explanation of A.

c) A is true, but R is false d) A is false, but R is true

Answer: c

12. (A): Consideration is essential for a valid contract.
(R): A contract becomes valid only when both parties exchange something of value.

Options:

a) Both A and R are true, and R is the correct explanation of A
b) Both A and R are true, but R is NOT the correct explanation of A

c) A is true, but R is false d). A is false, but R is true

Answer: a

13. (A): Quasi-contracts create obligations even without an agreement.
(R): They are imposed by law to prevent unjust enrichment.

Options:

a) Both A and R are true, and R is the correct explanation of A

b) Both A and R are true, but R is NOT the correct explanation of A

c) A is true, but R is false d) A is false, but R is true

Answer: a

14. (S1): A valid contract must have a lawful object.

(S2): A contract to sell smuggled goods is valid if both parties agree.

Options:

a) S1 is true, S2 is true, and S2 explains S1

b) S1 is true, S2 is true, but S2 does NOT explain S1

c) S1 is true, S2 is false d) S1 is false, S2 is true

Answer: c

15. (S1): Implied contracts are formed by the conduct of parties.

(S2): Paying at a restaurant without signing any agreement is an implied contract.

Options:

a) S1 is true, S2 is true, and S2 explains S1

b) S1 is true, S2 is true, but S2 does NOT explain S1

c) S1 is true, S2 is false d) S1 is false, S2 is true

Answer: a

Related Case Studies - 1

1. Larsen & Toubro Ltd. Vs. State of Gujarat (2013)

L&T, a construction company, undertook turnkey projects that involved both the supply of materials and related services. The State government-imposed sales tax on the total value of the contract. The Supreme Court held that such a contract is a works contract, which includes both goods and services. Therefore, only the goods portion is taxable, not the entire contract amount.

MCQs

1. A works contract involves:

a) Only sale of goods b) Only rendering of services

c) Both sale of goods and services d) None of these

Answer: c

2. In a works contract, which part is taxable under sales tax law?

a) The service part only b) The goods portion only

c) The entire contract value d) None of the above

Answer: b

3. The type of contract discussed in this case is an example of a:

a) Void contract b) Composite contract

c) Contingent contract d) Wagering contract

Answer: b

4. The legal issue in this case mainly concerns:

a) Offer and acceptance

b) Taxation of mixed contracts c) Competency to contract

d) Consideration without agreement

Answer: b

5. The concept of consideration in a works contract covers:

a) Only payment for materials b) Only wages for labour

c) Value for both goods and services provided

d) Gratuitous acts

Answer: c

2. Carlill Vs. Carbolic Smoke Ball Co. (1893)

The company advertised a reward of £100 to anyone who used its smoke ball as directed and still got influenza. In the advertisement, it is noted that £1000 is deposited by the company in Alliance Bank towards this matter, which shows their sincerity. Mrs. Carlill used the product but fell ill and claimed the reward. The company refused to pay. The court held that the advertisement was a valid unilateral offer, accepted by performance. Hence, a binding contract was formed.

MCQs

1. The Carbolic Smoke Ball advertisement was treated as:

   a) An invitation to treat   b) A void agreement

   c) A valid offer to the public   d) A wagering agreement

Answer: c

2. This case is a classic example of which type of contract?

   a) Bilateral contract   b) Contingent contract

   c) Unilateral contract   d) Quasi-contract

Answer: c

3. In a unilateral contract, acceptance is completed by:

   a) Communication of acceptance

   b) Signing a written agreement

   c) Performance of the conditions

   d) Payment of consideration in advance

Answer: c

4. The deposit of £1,000 by the company mainly showed:

   a) Free consent   b) Capacity to contract

   c) Intention to create legal relations   d) Lawful object

Answer: c

5. Which essential element of a valid contract was clearly established in this case?

   a) Competency of parties   b) Certainty of terms

   c) Offer and acceptance through conduct

   d) Void agreement

Answer: c

Rules related to Offer, Acceptance & Consideration

1. Rules Related to Offer

An offer is a proposal made by one party to another, that creates a legal obligation.

a) Definiteness and Clarity: The offer must be clear and specific, leaving no ambiguity about the terms.

b) Communication: The offer must be communicated to the offeree; an uncommunicated offer is not valid.

c) Intention to Create Legal Relations: The offer must show an intention to create legal obligations, not just social or casual agreements.

d) Offer Vs. Invitation to Treat: An offer must not be confused with an invitation to treat (e.g., advertisements, price lists, or the display of goods with price tags or discount boards in a shop are invitations to treat, not offers).

e) Terms Must Be Lawful: The terms of the offer must be lawful, fair, and capable of performance.

f) Revocation: The offeror can withdraw the offer before it is accepted, but revocation must be communicated to the offeree.

2. Rules Related to Acceptance

Acceptance is the unconditional agreement to the terms of an offer, forming the basis of a contract.

a) Absolute and Unqualified: Acceptance must match the terms of the offer without modifications. Any change to the offer will be treated as a counteroffer.

b) Communication of Acceptance: Acceptance must be communicated to the offeror unless the offer specifies that silence or conduct can be deemed as acceptance.

c) Mode of Acceptance: If the offer specifies a method of acceptance, it must be followed. Otherwise, any reasonable mode of communication is acceptable.

d) Timing: Acceptance must be given within the time specified in the offer, or, if none is specified, within a reasonable time.

e) Acceptance by Authorized Person: Acceptance can only be given by the person to whom the offer was made.

f) Acceptance Cannot Be Implied by Silence: Silence or failure to respond does not constitute acceptance, unless there is an established agreement or conduct suggesting otherwise.

3. Rules Related to Consideration

Consideration is the value (money, services, goods, etc.) exchanged between the parties in a contract.

a) Must Be Lawful: The consideration must not be illegal, immoral, or against public policy.

b) May Be Past, Present, or Future: Consideration can involve something done in the past (past consideration), something presently being done (present consideration), or something promised for the future (future consideration).

c) Need Not Be Adequate: The law does not require consideration to be equal in value to what is received; however, it must have some value in the eyes of the law.

d) Must Move from the Promisee: Consideration must come from the person to whom the promise is made or from a third party acting on their behalf.

e) Cannot Be Illusory: Consideration must be real and not vague, uncertain, or impossible to perform.

f) Cannot Be a Pre-existing Duty: Consideration cannot consist of an act or forbearance that one is already legally obligated to perform.

MCQs to Understand and Analyse: 3

1. An offer becomes valid only when:

a) It is written b) It is communicated to the offeree

c) It is witnessed d) It is signed by both parties

Answer: b

2. An advertisement or price list generally falls under:

a) Offer b) Agreement c) Invitation to treat d) Acceptance

Answer: c

3. Which of the following is NOT a rule of valid offer?

a) Offer must be clear and definite

b) Offer must be communicated

c) Offer must be accepted immediately

d) Offer must show intention to create legal relations

Answer: c

4. Acceptance must be:

a) Conditional b) Implied only

c) Absolute and unqualified   d) Kept secret

Answer: c

5. Silence can be treated as acceptance only when:

a) The offeror insists   b) Law specifically allows

c) There is prior agreement or conduct indicating acceptance

d) The offeree does not reply

Answer: c

6. Consideration must:

a) Be equal in value   b) Be lawful

c) Always be in the form of money

d) Always be present consideration

Answer: b

7. Past, present, and future acts can be:

a) Valid consideration   b) Invalid consideration

c) Invitation to treat   d) Void agreements

Answer: a

8. Consideration must move from:

a) The offeror only   b) A government authority

c) The promisee or someone on their behalf

d) Both parties equally

Answer: c

9. Consideration cannot be based on:

a) A legal obligation   b) A past act

c) A pre-existing duty   d) A promise to do something in future

Answer: c

10. Revocation of an offer is valid only when:

a) It is written   b) It is signed

c) It is communicated before acceptance

d) It is communicated after acceptance

Answer: c

11. (A): An uncommunicated offer cannot be accepted.

(R): Communication of the offer is necessary for the offeree to know its terms.

Options:

a) Both A and R are true, and R is the correct explanation of A

b) Both A and R are true, but R is NOT the correct explanation of A

c) A is true, but R is false   d) A is false, but R is true

Answer: a

12. (A): Acceptance must be absolute and unqualified.

(R): Any variation in terms results in a counter-offer, not acceptance.

Options:

a) Both A and R are true, and R is the correct explanation of A

b) Both A and R are true, but R is NOT the correct explanation of A

c) A is true, but R is false   d) A is false, but R is true

Answer: a

13. (A): Consideration need not be adequate.

(R): Courts examine the legality of consideration, not whether it is equal in value.

Options:

a) Both A and R are true, and R is the correct explanation of A

b) Both A and R are true, but R is NOT the correct explanation of A

c) A is true, but R is false   d) A is false, but R is true

Answer: a

14. (S1): An offer must be clear and specific.

(S2): Vague offers can create confusion and fail to form a valid contract.

Options:

a) S1 is true, S2 is true, and S2 explains S1

b) S1 is true, S2 is true, but S2 does NOT explain S1

c) S1 is true, S2 is false d) S1 is false, S2 is true

Answer: a

15. (S1): Acceptance must be communicated unless waived by the offer.

(S2): Communication ensures both parties know a contract has been formed.

Options:

a) S1 is true, S2 is true, and S2 explains S1

b) S1 is true, S2 is true, but S2 does NOT explain S1

c) S1 is true, S2 is false d) S1 is false, S2 is true

Answer: a

Related Case Studies-2

1. Kingfisher Airlines Ltd. Vs. Prithvi Malhotra (2013)

Kingfisher Airlines employed Prithvi Malhotra, but failed to pay his pending salary and employment dues. Malhotra approached the court claiming breach of the employment agreement. The court held that the employer–employee relationship is a valid contractual relationship, and that Kingfisher Airlines was legally bound to pay the agreed consideration (salary) for the services rendered by the employee. Since the company failed to fulfil its contractual obligation, it was directed to pay all outstanding dues.

MCQs

1. In an employment contract, the salary paid by the employer represents:

   a) Free consent b) Offer c) Consideration d) Void agreement

Answer: c

2. Non-payment of salary by an employer is an example of:

   a) Formation of contract b) Breach of contract

   c) Voidable contract d) Quasi contract

Answer: b

3. The Kingfisher Airlines Vs. Prithvi Malhotra case mainly concerns which type of contract?

   a) Contract of service/employment b) Wagering contract

   c) Sale of goods contract d) Bailment contract

Answer: a) Contract of service (employment contract)

4. The dispute in this case relates to which essential element of a valid contract?

   a) Competency of parties b) Consideration for services

   c) Free consent d) Lawful object

Answer: b

5. Which module topic does this case best illustrate?

   a) Sale and Agreement to Sale b) Estoppel

   c) Formation and types of Contract – Service Contract

   d) Legality under Contract Act

Answer: c

2. Bhagwandas G. Kedia Vs. Girdharilal & Co. (1959)

Girdharilal & Co. placed an order for goods with Bhagwandas over the phone. Later, when the seller failed to deliver the goods, a dispute arose over where the contract was formed—the place where the offer was made or the place where the acceptance was received. The Supreme Court held that in contracts made over the telephone, a contract is completed at the place where the offeror hears the acceptance. Therefore, the place where acceptance is communicated becomes the place of contract formation.

MCQs

1. According to the Indian Contract Act, acceptance is complete when:

   a) It is typed   b) It is thought in mind

   c) It is communicated to the proposer

   d) It is written in a letter

Answer: c

2. In telephonic acceptance, the place of contract formation is:

   a) Where the phone call originated

   b) Where the offeror hears the acceptance

   c) Where the acceptor speaks

   d) Where the goods are delivered

Answer: b

3. Under the Contract Act, acceptance must be:

   a) Silent   b) Implied only

   c) Communicated to the offeror   d) In writing

Answer: c

4. Which essential element of a valid contract is highlighted in this case?

   a) Consideration   b) Free consent

c) Communication of acceptance d) Lawful object

Answer: c

5. The decision helps determine:

a) When a contract becomes void

b) The place where the contract is legally formed

c) Competency of parties d) Damages for breach

Answer: b

Capacity to Contract

It refers to a person's legal ability to enter into a binding contract. According to the Indian Contract Act, 1872, the following categories of individuals are considered to lack the full capacity to contract:

1. Minor (Section 11)

A minor is a person who has not attained the age of majority (18 years in most cases). Contracts entered into by a minor are void ab initio (void from the beginning). However, a minor can:

- Benefit under a contract (e.g., acceptance of a gift).
- Act as an agent but is not personally liable.
- Be liable for necessities supplied to them (doctrine of necessaries).

  For E.g., A 17-year-old minor is hospitalized for medical treatment. The minor’s guardian or the minor (if they are capable) can be liable to pay for the medical bills, as medical treatment is considered a necessity.

2. Persons of Unsound Mind (Section 12)

A person is considered to have an unsound mind if they are incapable of understanding the contract and forming a rational judgment at the time of making it. They include:

a. **Lunatics** (in intervals of sanity, they can contract).
b. **Idiots** (permanent unsoundness of mind).
c. **Intoxicated persons** (if incapable of rational judgment).
d. **Unsound persons** cannot make valid contracts. They are void.

3. Disqualified Persons

Certain individuals are disqualified from contracting by law, including:

a. **Foreign Sovereigns and Ambassadors:** Subject to certain exemptions under international law. Foreign sovereigns refer to heads of state or rulers of foreign nations.

b. **Convicts:** During imprisonment.

c. **Insolvents:** Cannot contract concerning their property.

d. **Companies or Corporations:** Cannot enter into contracts beyond their objects stated in their Memorandum of Association (ultra vires contracts).

MCQs to Understand and Analyse: 4

1. Who is considered a minor under the Indian Contract Act, 1872?

a) A person below 21 years b) A person below 18 years
c) A person below 16 years d) A person below 20 years

Answer: b

2. A contract made by a minor is:

a) Voidable b) Valid c) Void ab initio d) Illegal

Answer: c

3. A minor can:

a) Enter into a valid sale contract b) Act as an agent
c) Be personally liable for all agreements
d) Sign commercial contracts freely

Answer: b

4. Necessaries supplied to a minor are:

a) Not recoverable from anyone
b) Recoverable from minor's property
c) Recoverable from minor personally d) Treated as a gift

Answer: b

5. A person of unsound mind can make a valid contract only when:

a) They are permanently insane b) They are intoxicated
c) They are in a lucid interval d) They are unconscious

Answer: c

6. A contract with a person who is intoxicated at the time of agreement is:

a) Illegal b) Void c) Valid d) Binding

Answer: b

7. Insolvents cannot contract regarding their property because:

a) They are minors
b) Their property is under the control of the court
c) They have no income d) They are criminals

Answer: b

8. A company entering into a contract beyond its Memorandum of Association commits:

a) Misrepresentation b) Ultra vires act

c) Fraud d) Voidable contract

Answer: b

9. Foreign sovereigns can enter into contracts only:

a) After becoming citizens of India

b) Subject to legal immunity and special permissions

c) During imprisonment d) Through minors

Answer: b

10. Contracts made by convicts during imprisonment are:

a) Valid b) Voidable c) Void

d) Enforceable with court permission

Answer: c

11. (A): A contract with a minor is void ab initio.

(R): The law protects minors from being bound by contractual liabilities.

Options:

a) Both A and R are true, and R is the correct explanation of A

b) Both A and R are true, but R is NOT the correct explanation of A

c) A is true, but R is false d) A is false, but R is true

Answer: a

12. (A): A minor can be held liable for necessaries supplied to him.

(R): Necessaries create a personal liability on the minor.

Options:

a) Both A and R are true, and R is the correct explanation of A

b) Both A and R are true, but R is NOT the correct explanation of A

c) A is true, but R is false d) A is false, but R is true

Answer: c

13. (A): A person of unsound mind cannot enter a valid contract.

(R): They cannot understand the nature of the contract at the time of agreement.

Options:

a) Both A and R are true, and R is the correct explanation of A

b) Both A and R are true, but R is NOT the correct explanation of A

c) A is true, but R is false d) A is false, but R is true

Answer: a

14. (S1): A minor's agreement is void from the beginning.

(S2): Minors do not have the legal capacity to understand contract terms.

Options:

a) S1 is true, S2 is true, and S2 explains S1

b) S1 is true, S2 is true, but S2 does NOT explain S1

c) S1 is true, S2 is false d) S1 is false, S2 is true

Answer: a

15. S1: An intoxicated person cannot make a valid contract.

S2: An intoxicated person is unable to form rational judgment at the time of agreement.

Options:

a) S1 is true, S2 is true, and S2 explains S1

b) S1 is true, S2 is true, but S2 does NOT explain S1

c) S1 is true, S2 is false d) S1 is false, S2 is true

Answer: a

Related Case Studies -3

1. Mohori Bibee Vs. Dharmodas Ghose (1903)

Dharmodas Ghose, a minor, mortgaged his property to a moneylender (Mohori Bibee's agent) to obtain a loan. The moneylender knew at the time of the transaction that Dharmodas was a minor. Later, the minor refused to repay the loan, arguing that the mortgage was void. The Privy Council held that a minor's agreement is void from the beginning (void ab initio) under the Indian Contract Act. Since a minor is not competent to contract, no contract created by a minor can be enforced, even if the minor has received a benefit.

MCQs

1. Under the Indian Contract Act, a person is competent to contract only if:

   a) He is above 15 years

   b) He is above 18 years and of sound mind

   c) He owns property   d) He is employed

Answer: b

2. The decision reinforces that contracts with incompetent parties are:

   a) Illegal   b) Valid with guardian approval

   c) Not enforceable under contract law

   d) Partly enforceable

Answer: c

3. In the Indian Contract Act, an agreement without legal capacity is considered:

a) A quasi-contract
b) A contingent contract
c) A void agreement
d) An enforceable contract

Answer: c

4. The case illustrates that a minor:

a) Can be forced to repay benefits received
b) Can ratify the contract upon attaining majority
c) Cannot enter into a legally enforceable contract
d) Must provide compensation for void agreements

Answer: c

5. Which essential element of a valid contract was missing in this case?

a) Offer
b) Acceptance
c) Free consent
d) Competency of parties

Answer: d

2. Inder Singh v. Parmeshwardhari Singh (1957)

A person suffering from mental illness entered into a contract to transfer property. At the time of the agreement, he was incapable of understanding the nature and consequences of the transaction. When a dispute arose, the court examined whether the person had the mental capacity to contract.

The court held that under Section 12 of the Indian Contract Act, 1872, a person of unsound mind is not competent to contract if he cannot understand the contract or form a rational judgment at the time of making it. Therefore, the agreement was declared void.

MCQs

1. According to Section 12 of the Indian Contract Act, a person is of sound mind if he:
   a) Is above 18 years b) Is physically healthy
   c) Can understand the contract and form a rational judgment
   d) Is not disqualified by law

Answer: c

2. In *Inder Singh v. Parmeshwardhari Singh (1957)*, the contract was declared void because:
   a) Consideration was unlawful b) The person was a minor
   c) The person was incapable of understanding the contract
   d) The contract was not in writing

Answer: c

3. A contract entered into by a person of unsound mind is:
   a) Valid b) Void ab initio
   b) Voidable at the option of the other party
   d) Enforceable with court permission

Answer: b

4. Which of the following persons can enter into a valid contract during intervals of sanity?
   a) Idiot b) Lunatic c) Minor d) Insolvent

Answer: b

5. Intoxicated persons are considered incompetent to contract when they:
   a) Consume alcohol occasionally
   b) Are above the age of 18
   c) Are incapable of forming rational judgment at the time of contract.
   d) Sign the contract voluntarily

Answer: c

Free Consent (Section 14)

Free consent means that both parties agree to the terms of the contract voluntarily and with full knowledge of its consequences, without being subjected to coercion, undue influence, fraud, misrepresentation, or mistake. Here's a deeper look at each aspect:

Coercion (Section 15)

Coercion refers to using threats or physical force to compel someone to enter into a contract. E,g., A person threatens to harm another unless they sign a contract physically. If a contract is made under coercion, it is voidable at the option of the party coerced.

Undue Influence (Section 16)

Undue influence involves one party taking advantage of their position of power over another to influence the other party's decision. (e.g., a doctor-patient, parent-child, or guardian-ward relationship). Contracts made under undue influence are voidable at the discretion of the influenced party.

Fraud (Section 17)

Fraud includes intentional misrepresentation, false statements, or the concealment of material facts to induce the other party to enter into a contract. A contract entered into by fraud is voidable at the option of the cheated party.

E.g., A person sells a car to another by falsely stating that it has been serviced recently. The buyer can cancel the contract for fraudulent misrepresentation or sue for damages.

Misrepresentation (Section 18)

Misrepresentation is when someone makes a false statement about an important fact, either by accident or carelessness, to persuade another person to enter into a contract. Unlike fraud, misrepresentation is not intentional.

A contract entered into under misrepresentation is voidable at the option of the misled party.

E.g., A person sells a house and states that it has three bedrooms when it only has two. The buyer can cancel the contract based on this misrepresentation.

Mistake (Sections 20-22)

Mistakes can be classified into:

Mistake of Fact: Both parties are mistaken about a fact that is material to the contract. E.g., Two parties agree to sell a piece of land, but they both mistakenly believe the land is larger than it is. The contract can be voided.

Mistake of Law: A party is mistaken about the legal effect of a particular situation, but the law still binds them unless the mistake involves foreign law. E.g., A person unknowingly not paying taxes on their earnings, thinking it isn’t required.

A contract made under a mutual mistake of fact is generally void. If only one party is mistaken, it is generally still valid, unless the mistake is material to the contract.

Privity of Contract

It is a legal doctrine stating that only the parties directly involved in a contract have rights and obligations under it. This means that third parties who are not parties to the agreement generally cannot enforce or be bound by its terms.

To validate a **family settlement**, the following conditions must be met:

1. **Free consent** from all parties involved.
2. **Offer and acceptance** of clear terms.
3. **Consideration**, which could include promises or assets.
4. **Intention to create legal relations** (formalizing it in writing).
5. The object and terms must be **legal**.
6. **Written agreement** with proper registration and **stamp duty** for immovable property.
7. **Equitable distribution** of assets, ensuring fairness.
8. **The Capacity** of all parties to agree.
9. **Voluntary compromise** to resolve family disputes.

Persuasive precedents: They are judicial decisions that are not binding on a court but may be considered and followed for guidance while deciding similar cases. Judges are not legally bound to follow such precedents, but they may find them convincing or useful.

MCQs to Understand and Analyse: 5

1. Free consent means that parties agree to a contract:

a) Under pressure b) Only after legal advice

c) Voluntarily and without any wrongful influence

c) Only through written communication

Answer: c

2. Coercion makes a contract:

a) Void b) Voidable c) Valid d) Illegal

Answer: b

3. Undue influence exists when:

a) Both parties are strangers

b) One party dominates the will of the other

c) Both parties are minors d) A third party interferes

Answer: b

4. Fraud involves:

a) Honest mistake b) Unintentional misstatement

c) Intentional deception d) Silence in all circumstances

Answer: c

5. Misrepresentation differs from fraud because it is:

a) Intentional b) Unintentional

c) Always illegal d) Always punishable

Answer: b

6. A mutual mistake of fact makes a contract:

a) Valid b) Void c) Illegal d) Voidable

Answer: b

7. A contract caused by a mistake[3] as to any Indian law makes a contract:

a) Valid b) Void c) Illegal d) Voidable

Answer: a

8. Privity of contract means:

a) Only parties to a contract are bound by it

b) Anyone can enforce the contract

c) Only third parties have rights

d) Verbal agreements are invalid

Answer: a

9. Persuasive precedents are:

a) Binding b) Not binding but influential

c) Illegal to use d) Mandatory for lower courts

Answer: b

10. A valid family settlement requires:

a) Free consent of all parties b) Any verbal promise

c) No registration d) No legal intention

Answer: a

---

[3] This is because the principle is "ignorance of law is no excuse". Therefore, even if both the parties are mistaken about Indian Law, the contract is valid.

11. (A): A contract made under coercion is voidable.

(R): Coercion forces a person to enter into a contract without free consent.

Options:

a) Both A and R are true, and R is the correct explanation of A

b) Both A and R are true, but R is NOT the correct explanation of A

c) A is true, but R is false d) A is false, but R is true

Answer: a

12. (A): Undue influence arises when one party dominates the will of another.

(R): Certain relationships naturally involve trust, such as doctor–patient or parent–child.

Options:

a) Both A and R are true, and R is the correct explanation of A

b) Both A and R are true, but R is NOT the correct explanation of A

c) A is true, but R is false d) A is false, but R is true

Answer: b

13. (A): A contract induced by fraud is voidable.

(R): Fraud involves intentional deception or concealment of material facts.

Options:

a) Both A and R are true, and R is the correct explanation of A

b) Both A and R are true, but R is NOT the correct explanation of A

c) A is true, but R is false d) A is false, but R is true

Answer: a

14. S1: Fraud makes a contract voidable.
    S2: Fraud involves intentional deception by one party.

Options:

a) S1 is true, S2 is true, and S2 explains S1

b) S1 is true, S2 is true, but S2 does NOT explain S1

c) S1 is true, S2 is false d) S1 is false, S2 is true

Answer: a

15. S1: Misrepresentation makes a contract void.
    S2: Misrepresentation is always intentional.

Options:

a) S1 is true, S2 is true, and S2 explains S1

b) S1 is true, S2 is true, but S2 does NOT explain S1

c) S1 is true, S2 is false d) S1 is false, S2 is true

Answer: d

Related Case Studies-4

1. Chinnayya v. Ramayya (1882)

An older woman transferred her property to her daughter, on the condition that the daughter would pay a fixed annual amount to the woman's brother (the plaintiff). The daughter received the property but later refused to pay the promised amount, arguing that the brother had given her no consideration and that the agreement was therefore not binding.

The Madras High Court held that the agreement was valid and enforceable because a third party under the Indian Contract Act may provide consideration. Since the daughter received the property on the condition that she pay the brother, she was legally bound to fulfil that promise.

MCQs

1. According to Section 2(d), consideration may move from:

a) Only the promise b) Only the promisor

c) Any third person d) Only both together

Answer: c

2. The legal principle established in this case is:

a) Past consideration is valid

b) Consideration must come only from the promise

c) Consideration may move from a third party

d) Natural love is valid consideration

Answer: c

3. Which essential element of a valid contract is highlighted here?

a) Competency b) Lawful object

c) Consideration d) Free consent

Answer: c

4. Under the Indian Contract Act, a promise is enforceable when:

a) Consideration moves from any person

b) Consideration must be monetary only

c) Both parties must pay money

d) The promisee alone must provide consideration

Answer: a

5. The case reinforces that:

    a) Third-party consideration is invalid

    b) Consideration can only be future

    c) Consideration may be provided by someone other than the promise.

    d) Verbal contracts are illegal

Answer: c

2. Allcard Vs. Skinner (1887)

Miss Allcard transferred her property to a religious sisterhood led by Miss Skinner due to spiritual influence. The court held that the consent was obtained through undue influence, as Skinner was in a position to dominate Allcard's will. Such contracts are voidable under Section 16 of the Indian Contract Act. However, relief was denied due to a delay in filing the case.

MCQs

1. Undue influence under Section 16 of the Indian Contract Act exists when:

    a) Both parties make a mistake of fact

    b) One party dominates the will of the other and gains an unfair advantage

    c) A false statement is made without intention to deceive

    d) Consent is obtained by physical force

Answer: b

2. In Allcard v. Skinner (1887), the relationship between the parties was mainly characterized by:

    a) Employer–employee relationship

    b) Buyer–seller relationship

c) Religious adviser–disciple relationship

d) Principal–agent relationship

Answer: c

3. In cases of undue influence, the burden of proof lies on:

a) The influenced party to prove coercion

b) The dominant party to prove free consent

c) Both parties equally

d) The court to investigate independently

Answer: b

4. A contract affected by undue influence under Section 16 is:

a) Void b) Illegal c) Valid and enforceable

d) Voidable at the option of the influenced party

Answer: d

5. Why was relief ultimately denied to Miss Allcard in Allcard v. Skinner?

a) There was no undue influence

b) The transaction was lawful

c) The claim was made after an unreasonable delay

d) The agreement was registered

Answer: c

3. **Derry v. Peek (1889)**

The company directors issued a prospectus, believing that government permission would be granted. When permission was later refused, investors sued for fraud. The court held that fraud requires intention to deceive; an honest belief does not amount to fraud. Hence, there was no fraud under Section 17.

MCQs

1. Fraud under Section 17 of the Indian Contract Act requires:

a) Any incorrect statement

b) Innocent misrepresentation

c) Intentional or reckless deception d) Mistake of law

Answer: c

2. A false statement made with an honest belief in its truth amounts to:

a) Fraud b) Coercion c) Misrepresentation
d) No fraud under Section 17

Answer: d

3. A contract induced by fraud is:

a) Void b) Illegal c) Valid and binding

d) Voidable at the option of the aggrieved party

Answer: d

4. Which of the following best distinguishes fraud from misrepresentation?
a) Fraud is always written b) Fraud is enforceable
c) Fraud involves intention to deceive
d) Fraud is caused by mistake

Answer: c

5. Which situation does NOT constitute fraud under Section 17?

a) Concealment of material facts
b) False statement made knowingly
c) Reckless statement without belief
d) False statement made honestly

Answer: d

Module 2

Legality and Performance of Contracts

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Legality

The general meaning of 'legality' refers to the quality or state of being in accordance with the law. It indicates whether an action, decision, or agreement complies with the legal rules, regulations, and principles set by a governing authority.

Legality under the Indian Contract Act, 1872

As per Section 10, a contract is valid if it is made for a lawful consideration and with a lawful object. Further, Section 23 specifically defines what constitutes lawful and unlawful objects of an agreement and considerations. Thus, legality under the Indian Contract Act ensures that contracts comply with the law, ethics, and public policy, preventing unlawful agreements from being enforced.

Key Aspects of Legality:

1. Compliance with Law – Anything considered legal must adhere to the laws and statutes in force.

E.g. A business selling imitations of branded clothes violates trademark laws and is illegal.

A factory dumping toxic waste into a river

2. Lawful Conduct – Actions must be carried out in accordance with the framework of established legal norms.

E.g., a company hiring workers without proper work permits is conducting unlawful employment practices.

A landlord evicts a tenant without following the legal eviction process

3. Enforceability – In legal contracts or agreements, legality ensures that terms are valid and can be enforced or upheld in a court of law.

E.g. An agreement for selling illegal drugs cannot be enforced.

An agreement that forces an employee to work without pay cannot be enforced.

4. Public Policy Considerations – Some actions may be technically legal but could still be restricted due to broader societal or ethical concerns.

E.g., A company dismissing an employee for reporting workplace safety violations even if the employment contract allows termination.

A company implementing a policy that pays women less than men for the same job.

What Makes an Agreement Illegal?

An agreement becomes **illegal** if its object or consideration:

1. Is forbidden by law – E.g., a contract for smuggling or selling narcotics.
2. Defeats the provisions of any law – E.g., an agreement to evade taxes.
3. Is fraudulent – E.g., A contract made to cheat another party.
4. Involves or implies injury to a person or property – E.g., a contract to commit assault.
5. Is immoral or against public policy – E.g., a contract related to prostitution or bribes.

Effect of Illegality

If an agreement is illegal, it is void ab initio (void from the beginning) and cannot be enforced in court.

In some cases, collateral agreements (related agreements) may also become void if they depend on an illegal contract.

Agreements Opposed to Public Policy

Agreements that are against the welfare of society or the morality or law are considered opposed to public policy and are declared void under Section 23 of the Indian Contract Act, 1872. These agreements are unenforceable in court because they undermine the legal, social, or economic framework of society.

Types of Agreements Opposed to Public Policy

1. **Agreements for Trading with the Enemy:** Contracts made with an enemy country or its citizens during wartime are void.
2. **Agreements for Maintenance and Champerty:**

   Maintenance (Third-Party Support without Interest): When a third party supports a lawsuit without any legitimate interest.

   Champerty: When a third party funds a lawsuit in exchange for a share of the winnings. E.g., a lawyer agrees to pay all legal costs for a poor client's land dispute case in exchange for 30% of the land if they win.
3. **Agreements in Restraint of Marriage (Except Minor's Marriage):** Any agreement that restricts a person's right to marry is void. E.g., a person signs a contract stating they will never marry in exchange for a sum of money. The agreement is void.

4. **Agreements in Restraint of Legal Proceedings:** Any contract that limits a party’s right to approach the courts for legal remedies is void. E.g., a contract states that if a dispute arises, neither party will approach the court but will resolve it through private negotiation only. This is void.

5. **Agreements in Restraint of Trade**

   Contracts restricting a person’s right to trade or carry on a business are void, except in certain cases, like partnership agreements. E.g., a company forces an employee to sign an agreement that he cannot work in a similar industry for 5 years after leaving the job. This is generally void, except in certain cases like partnerships.

6. **Agreements Promoting Immorality:** Contracts related to prostitution, gambling, or any immoral purpose are void. E.g., a contract between two parties for running an illegal gambling house is void.

7. **Agreements for Fraudulent or Illegal Objectives:** Contracts that promote fraud, crime, or illegal activities are void. E.g., a contract between two people to smuggle goods across the border is void.

8. **Agreements Defeating the Provisions of Law:** Any contract that tries to bypass the law or violate statutory provisions is void. E.g., an agreement between a debtor and a creditor stating that the debtor will never declare bankruptcy, even if legally entitled to do so, is void.

9. **Trafficking in Public Offices and Titles:** This refers to the illegal buying, selling, or trading of government jobs and

honors for money or personal gain. E.g., Selling jobs, trading honorary titles, favoritism, bribery for promotion, etc.

Contracts Expressly Declared to be Void

These are agreements that are unenforceable by law and have no legal effect. The Indian Contract Act, 1872, specifies certain contracts as void, including:

1. **Agreements in restraint of trade (Section 27)**

Section 27 of the Indian Contract Act, 1872 says that any agreement that restrains a person from engaging in trade, profession, or business is void. There are exceptions, e.g., in the sale of a business.

2. **Agreements in restraint of marriage (Section 26)**

Section 26 of the Indian Contract Act declares that any agreement that restrains a person from marrying or forces them to marry someone is void. This includes agreements that restrict someone from marrying a certain person or force them into a marriage.

3. **Agreements by way of wager (Section 30) (**Wagering Agreement)

Section 30 states that any wagering agreement (a bet or gamble) is void. In such contracts, the outcome is based on an uncertain event, and neither party expects any exchange of goods or services. It is merely a bet on an event.

Suppose **A** and **B** enter into an agreement where A bets that a particular cricket team will win a match, and B bets that the team will lose. The person who loses the bet must pay a specified amount to the winner. This contract is a **wagering agreement** because it's based on the uncertain outcome of the match and involves no actual exchange of goods or services.

4. Agreements involving uncertainty (Section 29)

Section 29 of the Indian Contract Act specifies that agreements whose terms are uncertain or vague are void. For a contract to be valid, its terms must be clear, unambiguous, and capable of being carried out. If the agreement is based on uncertain or unclear conditions, it cannot be enforced.

5. Agreements where consideration is unlawful (Sec. 23)

Section 23 states that an agreement will be void if its consideration (the benefit or compensation involved) is unlawful. This includes agreements involving illegal activities, such as fraud, coercion, or any conduct that violates the law or public policy. E.g., a person agrees to sell a stolen car to another person.

MCQs to Understand and Analyse: 6

1. As per Section 23, an agreement is unlawful if its object or consideration is:

    a) Uncertain b) Forbidden by law
    c) Difficult to perform d) Verbal in nature

Answer: b

2. A contract to sell illegal drugs is:

    a) Valid b) Voidable c) Void ab initio
    d) Enforceable if written

Answer: c

3. Agreements that are immoral or opposed to public policy are:

a) Valid b) Void c) Legal but unethical
d) Enforceable in special cases

Answer: b

4. An agreement in restraint of marriage under Section 26 is:

a) Void b) Valid c) Voidable
d) Illegal only for minors

Answer: a

5. Wagering agreements under Section 30 are:

a) Valid b) Void c) Illegal and punishable
d) Enforceable if written

Answer: b

6. An agreement to evade taxes is:

a) Valid b) Voidable c) Illegal
d) A wagering agreement

Answer: c

7. An agreement whose terms are uncertain under Section 29 is:

a) Valid b) Illegal c) Void d) Voidable

Answer: c

8. A collateral agreement to an illegal agreement is:

a) Valid b) Partially enforceable

c) Void d) Automatically legal

Answer: c

9. Champerty is an agreement where:

a) A person restricts trade
b) A third party funds a lawsuit for a share in the proceeds

c) A person marries under pressure
d) A debtor avoids bankruptcy

Answer: b

10. Agreements in restraint of trade under Section 27 are generally:

a) Valid b) Void c) Voidable
d) Enforceable with court permission

Answer: b

11. An agreement in which an accused person agrees to pay money to the victim in consideration of withdrawing a criminal case is:

a) Valid, as it is a private settlement.

b) Void, as it amounts to a wagering agreement

c) Void, as it defeats the provisions of law under Sec. 23.

d) Valid, if both parties consent freely

Answer: c

12. (A): An agreement with unlawful consideration is void.

(R): Section 23 states that agreements with unlawful objects cannot be enforced.

Options:

a) Both Assertion and Reason are true, and Reason is the correct explanation of Assertion.

b) Both Assertion and Reason are true, but Reason is NOT the correct explanation of Assertion.

c) Assertion is true, but Reason is false

d) Assertion is false, but Reason is true

Answer: a

13. (A): Agreements in restraint of trade are void.

(R): The law encourages free trade and prohibits unreasonable restrictions on occupation.

Options:

a) Both Assertion and Reason are true, and Reason is the correct explanation of Assertion.

b) Both Assertion and Reason are true, but Reason is NOT the correct explanation of Assertion.

c) Assertion is true, but Reason is false.

d) Assertion is false, but Reason is true.

Answer: a

14. (A): Wagering agreements are illegal in India.

(R): Section 30 declares wagering agreements void.

Options:

a) Both Assertion and Reason are true, and Reason is the correct explanation of Assertion.

b) Both Assertion and Reason are true, but Reason is NOT the correct explanation of Assertion.

c) Assertion is true, but Reason is false.

d) Assertion is false, but Reason is true.

Answer: c

15. (S1): A contract for smuggling goods is void ab initio.
(S2): Agreements forbidden by law cannot be enforced in court.

Options:

a) S1 is true, S2 is true, and S2 explains S1.

b) S1 is true, S2 is true, but S2 does NOT explain S1.

c) S1 is true, S2 is false. d) S1 is false, S2 is true.

Answer: a

16. (S1): An agreement in restraint of marriage is valid for adults.

    (S2): Section 26 declares all agreements restraining marriage as void except in the case of minors.

    Options:

    a) S1 is true, S2 is true, and S2 explains S1.

    b) S1 is true, S2 is true, but S2 does NOT explain S1.

    c) S1 is true, S2 is false. d) S1 is false, S2 is true.

Answer: d

17. Agreements for stifling prosecution are considered void under Section 23 of the Indian Contract Act because:

    Options:

    a) They lack lawful consideration.

    b) They are expressly declared void by the Act.

    c) They defeat the provisions of law and interfere with the administration of justice.

    d) They are always immoral

Answer: c

18. Agreements relating to bribery or influence in public office appointments are void because they:

    Options:

    a) Are opposed to public policy and involve unlawful consideration.

    b) Are expressly permitted by law.

    c) Lack free consent. d) Involve uncertainty.

Answer: a

Related Case Studies-5

1. Gherulal Parakh v. Mahadeodas Maiya and Others (1959)

The parties entered into an agreement relating to speculative transactions in shares. One party later argued that the agreement was opposed to public policy and therefore void. The Supreme Court held that not every agreement that appears immoral or risky is illegal. An agreement can be declared void only if it is clearly forbidden by law or expressly opposed to public policy under Section 23.

MCQs

1. An agreement can be declared void on the grounds of public policy when it:

    a) Appears unfair to one party

    b) Is risky or speculative c) Results in loss to a party

    d) Is clearly forbidden by law or harmful to society

Answer: d

2. Which of the following agreements is valid under Section 23?

    a) Agreement to evade taxes

    b) Agreement involving bribery

    c) Agreement not prohibited by law and not harmful to public interest.

    d) Agreement to suppress criminal prosecution

Answer: c

3. Public policy under the Indian Contract Act should be:

    a) Flexible and unlimited b) Interpreted broadly by courts

    c) Strictly defined and cautiously applied

    d) Changed according to individual judges

Answer: c

4. An agreement is not void merely because it is:

a) Forbidden by law b) Against public policy

c) Immoral and illegal d) Speculative or risky

Answer: d

6. Which principle best supports the enforceability of lawful contracts?

a) Moral standards of society b) Freedom of contract

c) Personal discretion of courts d) Unequal bargaining power

Answer: b

2. Parkinson v. College of Ambulance Ltd. (1925)

Mr. Parkinson donated a large sum of money to the College of Ambulance Ltd., believing that, in return, he would be recommended for a knighthood (a public honor). When the honor was not granted, he sued to recover the money. The court held that an agreement involving money given in expectation of securing a public honor is void, as it amounts to corrupt influence and is opposed to public policy. Such agreements are unenforceable.

MCQs

1. An agreement involving payment to secure a government job or public honor is:

a) Valid if both parties agree

b) Voidable at the option of the payer

c) Void as opposed to public policy

d) Enforceable with court approval

Answer: c

2. Which of the following agreements is opposed to public policy?
   a) Donation to a charity without conditions.
   b) Payment made to influence an appointment to a public office.
   c) Employment contract with a fixed salary.
   d) Partnership agreement

Answer: b

3. Agreements involving bribery or corrupt influence are void because they:
   a) Lack consideration b) Involve uncertainty
   c) Undermine public trust and administration
   d) Are oral contracts

Answer: c

4. Which principle best explains why courts refuse to enforce corrupt agreements?
   a) Doctrine of privity[4] b) Freedom of contract
   c) Public policy and legality d) Doctrine of frustration[5]

Answer: c

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[4] **Doctrine of Privity**: This means that only the parties to a contract can sue or be sued on it. A third party, even if benefited by the contract, has no right to enforce it. In simple words, A contract affects only those who made it.

[5] **Doctrine of frustration**: This means that a contract becomes void when an unforeseen event, beyond the control of the parties, makes the performance of the contract impossible, unlawful, or fundamentally different from what was agreed. Impossibility of performance (e.g., destruction of subject matter), Illegality (e.g., change in law), Death or incapacity of a party (personal contracts), Non-occurrence of an essential event, can be the grounds of Frustration.

5. A contract promising personal gain in return for influencing public authorities is:

   a) Valid b) Void ab initio

   c) Voidable d) Enforceable if written

Answer: b

3. Fateh Chand v. Balkishan Das (1963)

A contract for the sale of property provided that if the buyer failed to complete the purchase, a fixed amount paid in advance would be forfeited as a penalty. The buyer defaulted, and the seller claimed the entire amount.

The Supreme Court held that only reasonable compensation may be awarded for breach of contract, not an excessive or arbitrary penalty. Courts must ensure that compensation does not defeat the provisions of law.

MCQs

1. An agreement that fixes an excessive penalty for breach of contract is:

   a) Fully enforceable b) Always void

   c) Voidable at the option of the aggrieved party

   d) Enforceable only to the extent of reasonable compensation

Answer: d

2. Under Indian contract law, compensation for breach of contract should be:

   a) Equal to the penalty mentioned in the contract

   b) Arbitrary and unlimited

   c) Reasonable and proportionate to the loss

   d) Determined only by parties

Answer: c

3. A contract term that tries to override statutory limits on compensation:

    a) Is valid if agreed by both parties

    b) Defeats the provisions of law

    c) Becomes a wagering agreement

    d) Is merely unfair but enforceable

Answer: b

4. Which principle ensures fairness while enforcing contracts?

    a) Reasonable compensation for breach

    b) Absolute freedom of contract

    c) Doctrine of privity d) All three

Answer: c

5. An agreement is unlawful under Section 23 if it:

    a) Causes financial loss b) Is difficult to perform
    c) Defeats the provisions of any law d) Is oral in nature

Answer: c

Quasi Contracts

Quasi-contracts are obligations created by law to prevent one person from being unjustly enriched at another's expense, even when no contract exists. They are legal remedies courts use to ensure fairness. Although there is no agreement or mutual consent between the parties, the law requires the person who has benefited to compensate the other. The Indian Contract Act recognises the following types:

1. Supply of necessaries (Section 68) - A person who finds another person's goods has the same responsibilities as a bailee, including taking care of the goods, returning them to the owner, and not using them for personal benefit.
2. Reimbursement of payment made on behalf of another (Section 69)
3. Obligation of a person who enjoys the benefit of a non-gratuitous act (Section 70)
4. Responsibility of a finder of goods (Section 71) - A person who finds someone else's goods has the same responsibility as a bailee like taking care of goods, returning them to the owner, not using them for personal benefit.
5. Money paid or thing delivered under mistake or coercion (Section 72)

Contingent Contracts

These are contracts dependent on the occurrence or non-occurrence of an uncertain future event (Section 31 of the Indian Contract Act). Examples include:

- Insurance contracts (paying a claim if an accident occurs)
- Performance contracts (where an obligation arises upon fulfillment of a certain condition)

E-Contracts

Electronic contracts are agreements created, signed, and executed digitally. They are governed by the Information Technology Act, 2000, and the Indian Contract Act, 1872. Types include:

a. Clickwrap contracts (where users agree to terms by clicking "I Agree")
b. Browsewrap contracts (where terms are implied by website use)
c. Shrinkwrap contracts (associated with software licensing)
d. E-signature contracts (digitally signed documents)

Absolute Contracts

An absolute contract is one in which the parties have an unconditional obligation to perform their duties. E.g., A agrees to sell a car to B for ₹5,00,000, and B agrees to pay the amount on a fixed date.

Rules for Contingent Contracts

1. Depends on an Event Happening (Sec 32)

Enforced only if the event occurs. If the event becomes impossible, the contract is void. E.g., A will pay B ₹10,000 if B's house catches fire. If no fire occurs, no payment.

2. Depends on an Event Not Happening (Sec 33)

Enforced only if the event does not happen. E.g., A will pay B if a ship does not return. If the ship sinks, A must pay B.

3. Depends on a Person's Actions (Sec 34)

If performance depends on someone's actions, the contract is void if the action is impossible. E.g., A will pay B if B marries C. If C dies, the contract is void.

4. If the Event is Already Impossible (Sec 36)

If the event is impossible from the start, the contract is void. E.g., A agrees to pay B if B revives a dead person—void from the start.

5. Enforcement

Only when the required event happens (or does not happen). If the event becomes impossible, the contract is void.

Wagering Agreement

A wagering agreement is a betting agreement where two parties depend on an uncertain event, and each may win or lose money. Wagering is pure gambling, while contingent contracts involve real business risks. Under the Indian Contract Act, wagering agreements are void and unenforceable.

Wagering vs. Contingent Contracts

The following are the key differences between wagering and contingent contracts.

Feature	Wagering Contract	Contingent Contract
Definition	A contract where two parties bet on an uncertain event, and the winner gets a sum from the loser.	A contract dependent on a future uncertain event, but not a bet.
Nature	Purely based on chance or luck.	Based on a legitimate transaction.
Legal Status	Void in India (except horse racing).	Valid, enforceable under the Indian Contract Act.

Feature	Wagering Contract	Contingent Contract
Consideration	One party gains at the direct loss of another.	No gambling element; involves a genuine obligation.
Example	A bets ₹5,000 with B that a cricket team will win. The loser pays the amount.	A agrees to pay B ₹50,000 if B's house burns down (insurance contract).
Attribution	Purely speculative	Risk is linked to a real-world event

MCQs to Understand and Analyse: 7

1. Quasi-contracts are based on the principle of:

a) Mutual consent b) Unjust enrichment

c) Offer and acceptance d) Free consent

Answer: b

2. Supply of necessaries to a minor is covered under:

a) Section 31 b) Section 68

c) Section 72 d) Section 27

Answer: b

3. Which of the following is an example of a contingent contract?

a) A agrees to sell his bike to B

b) A agrees to pay B ₹10,000 if B's house catches fire

c) A takes goods on credit

d) A gives a gift to B

Answer: b

4. E-contracts are governed by:

a) The Sale of Goods Act b) The IT Act, 2000

c) The Evidence Act d) The GST Act

Answer: b

5. Clickwrap agreements involve:

a) Signing on paper b) Oral discussions

c) Accepting terms by clicking "I Agree."

d) Negotiation through agents

Answer: c

6. An absolute contract is one in which:

a) Obligations depend on future events

b) Performance is conditional

c) Both parties must perform unconditionally

d) It involves wagering

Answer: c

7. A wagering agreement is:

a) Valid b) Illegal c) Void

d) Enforceable in special courts

Answer: c

8. A finder of goods has the same responsibility as a:

a) Buyer b) Seller c) Bailee d) Insurer

Answer: c

9. Insurance contracts are:

a) Wagering contracts b) Contingent contracts

c) Unenforceable contracts d) Void contracts

Answer: b

10. Money paid by mistake must be returned under:

a) Section 27 b) Section 72

c) Section 34 d) Section 19

Answer: b

11. (A): Quasi-contracts do not arise from mutual agreement. (R): They are imposed by law to prevent unjust enrichment.

Options:

a) Both A and R are true, and R is the correct explanation of A.

b) Both A and R are true, but R is NOT the correct explanation of A.

c) A is true, but R is false. d) A is false, but R is true

Answer: a

12. (A): Contingent contracts depend on the occurrence of an uncertain future event.

(R): If the event becomes impossible, the contract becomes void.

Options:

a) Both A and R are true, and R is the correct explanation of A.

b) Both A and R are true, but R is NOT the correct explanation of A.

c) A is true, but R is falsed. d) A is false, but R is true

Answer: a

13. (A): E-contracts are not legally valid in India.

(R): E-contracts do not have signatures in physical form.

Options:

a) Both A and R are true, and R is the correct explanation of A

b) Both A and R are true, but R is NOT the correct explanation of A.

c) A is true, but R is false   d) A is false, but R is true

Answer: d

14. S1: A finder of goods has the same responsibility as a bailee.

    S2: A finder must take reasonable care of goods and return them to the owner.

Options:

a) S1 is true, S2 is true, and S2 explains S1.

b) S1 is true, S2 is true, but S2 does NOT explain S1

c) S1 is true, S2 is false   d) S1 is false, S2 is true

Answer: a

15. S1: All contingent contracts are wagering contracts.

    S2: Both contingent and wagering contracts depend on uncertain future events.

Options:

a) S1 is true, S2 is true, and S2 explains S1

b) S1 is true, S2 is true, but S2 does NOT explain S1

c) S1 is true, S2 is false   d) S1 is false, S2 is true

Answer: d

Related Case Studies-6

1. Gherulal Parekh v. Mahadeo Das (1959)

Gherulal Parekh entered into a partnership with Mahadeo Das to carry out speculative transactions in shares. Later, one partner refused to continue, arguing that the partnership was illegal because it involved speculation. The Supreme Court held that speculative transactions are not illegal unless they amount to a wagering agreement. The partnership was therefore not void. The court clarified that while wagering agreements are void under the Contract Act (Section 30), they are not illegal unless prohibited by a specific local law. Hence, the partnership formed for speculative trade was valid.

MCQs

1. Under Section 30 of the Indian Contract Act, a wagering agreement is:

   a) Illegal and punishable b) Void but not illegal
   c) Valid if in writing d) Enforceable in partnership

Answer: b

2. In this case, the Supreme Court held that speculative transactions:

   a) Are automatically void

   b) Are illegal under contract law

   c) Do not amount to wagers unless intention is purely betting.

   d) Are punishable under BNS

Answer: c

3. Which essential element of a valid contract is impacted by wagering agreements?

   a) Competency b) Lawful object

   c) Consideration d) Free consent

Answer: b

4. A speculative commercial transaction becomes a wager only when:

   a) Both parties intend to trade goods

   b) Both parties intend to enter into a partnership

   c) Both parties intend only to bet on price movements

   d) One party is a minor

Answer: c

5. This case emphasizes which principle of contract law?

a) Free consent is essential

b) Speculative transactions are not always wagers

c) Consideration must be adequate

d) Minors cannot contract

Answer: b

2. Trimex Intl. FZE Vs. Vedanta Aluminium (2010)

The parties exchanged emails and communications discussing quantity, price, shipment, and payment for the sale of goods. One party later denied the existence of a binding contract. The Supreme Court held that emails showing a clear offer and acceptance create a valid contract. Electronic contracts are legally enforceable if the essential elements of a contract are present.

MCQs

1. An electronic contract is valid when:

a) It is printed and signed

b) It is registered with the government

c) Offer and acceptance are clearly communicated electronically

d) It is made only through websites

Answer: c

2. Which law mainly governs electronic contracts in India?

a) Companies Act, 2013 b) Indian Penal Code

c) IT Act, 2000 and Indian Contract Act, 1872

d) Consumer Protection Act, 2019

Answer: c

3. Which of the following can constitute a valid acceptance in an e-contract?

   a) Silence of the offeree b) Draft proposal only

   c) Email confirming agreed terms

   d) Oral discussion without record

Answer: c

4. A contract formed through emails is enforceable if:

   a) It is digitally signed only b) It is notarized
   c) All essential elements of a contract are present
   d) It is executed on stamp paper

Answer: c

5. Which of the following is NOT essential for the validity of an e-contract?

   a) Offer and acceptance b) Lawful consideration
   c) Physical signature d) Intention to create legal relations

Answer: c

3. Taylor v. Caldwell (1863)

A music hall was hired for concerts, but before the event could take place, the hall was destroyed by fire. The court held that the contract became void, as performance was impossible due to the destruction of the subject matter. When an event essential to the contract becomes impossible without the fault of either party, the contract is discharged (the doctrine of frustration).

MCQs

1. A contingent contract becomes void when:

   a) One party makes a loss b) Parties disagree

   c) The contingent event becomes impossible

d) The contract is not in writing

Answer: c

2. Under the Indian Contract Act, a contract dependent on an uncertain future event is enforceable only:

    a) On signing the agreement

    b) When the event happens or does not happen as agreed

    c) When consideration is paid   d) When registered

Answer: b

3. If the subject matter of a contract is destroyed without fault of either party, the contract:

    a) Must still be performed   b) Becomes illegal

    c) Becomes void due to impossibility

    d) Becomes voidable

Answer: c

4. An agreement is void from the beginning if the event on which it is based:

    a) Happens late   b) Is uncertain

    c) Is impossible from the start

    d) Depends on a person's action

Answer: c

Performance of Contract

Performance of a contract means fulfilling the promises or obligations the parties agreed to. When both parties fulfil their stated duties, the contract is said to be performed and comes to an end.

Performance may be:

a) **Actual Performance** – All terms are fulfilled. E.g., A agrees to deliver goods to B. If A delivers and B pays, the contract is discharged by actual performance.

b) **Attempted Performance** – One party is ready to perform, but the other refuses to accept. E.g., A agrees to deliver 100 bags of rice to B on January 10th. On that day, A delivers the rice, but B refuses to accept it. Since A fulfilled their obligation, the contract is discharged for A, and B is responsible for the breach.

Discharge of Contract

A contract is discharged when the obligations of the parties come to an end. A contract may be discharged in the following ways:

1. **By Performance:** When both parties fulfill their obligations.
2. **By Agreement:** Mutual consent to cancel, modify, or substitute the contract.
3. **By Breach:** One party fails to perform, giving the other the right to terminate.
4. **By Impossibility** (Frustration): Performance becomes impossible due to unforeseen events.
5. **By Lapse of Time:** The legal time limit for enforcement expires.
6. **By Operation of Law:** Termination due to bankruptcy, death, or legal changes.

MCQs to Understand and Analyse: 8

1. Performance of a contract means:

a) Making an offer b) Filing a case in court

c) Carrying out contractual obligations

d) Cancelling the agreement

Answer: c

2. When both parties fulfill their promises, the contract is discharged by:

a) Breach b) Agreement c) Performance d) Frustration

Answer: c

3. Attempted performance means:

a) The contract is partly performed

b) One party is willing to perform, but the other refuses

c) Both parties refuse to perform

d) The contract becomes illegal

Answer: b

4. If A offers performance but B refuses, then:

a) A is liable for breach b) B is liable for breach

c) The contract becomes void d) No one is liable

Answer: b

5. A contract is discharged when:

a) Obligations become double

b) Obligations become impossible

c) Obligations come to an end

d) Parties enter a new business

Answer: c

6. Discharge by agreement refers to:

a) Termination due to death

b) Termination because of breach

c) Termination by mutual consent

d) Termination due to mistake

Answer: c

7. When one party fails to perform their obligation, it is called:

a) Performance b) Novation c) Breach d) Alteration

Answer: c

8. Frustration of contract occurs when:

a) Performance becomes expensive b) Parties lose interest

c) Performance becomes impossible

d) Contract is performed early

Answer: c

9. A contract may be discharged by operation of law in case of:

a) Voluntary agreement

b) Death of a party (in personal contracts)

c) Revision of terms d) Increase in price

Answer: b

10. Lapse of time discharges a contract when:

a) Parties lose documents b) Parties disagree

c) Contract becomes expensive

d) Legal time limit for enforcement expires

Answer: d

11. (A): Actual performance discharges a contract.

(R): When both parties perform their obligations, nothing remains to be done.

Options:

a) Both A and R are true, and R is the correct explanation of A

b) Both A and R are true, but R is NOT the correct explanation of A

c) A is true, but R is false

d) A is false, but R is true

Answer: a

12. (A): Attempted performance releases the promisor from liability.

(R): A valid offer to perform, if refused by the promisee, is legally treated as performance.

Options:

a) Both A and R are true, and R is the correct explanation of A

b) Both A and R are true, but R is NOT the correct explanation of A

c) A is true, but R is false

d) A is false, but R is true

Answer: a

13. (A): A contract is discharged by breach only when both parties agree.

(R): Breach occurs when one party refuses or fails to perform their obligation.

Options:

a) Both A and R are true, and R is the correct explanation of A

b) Both A and R are true, but R is NOT the correct explanation of A

c) A is true, but R is false

d) A is false, but R is true

Answer: d

14. S1: A contract is discharged when the obligations of the parties are completed.

    S2: Completion of obligations is known as performance.

Options:

a) S1 is true, S2 is true, and S2 explains S1

b) S1 is true, S2 is true, but S2 does NOT explain S1

c) S1 is true, S2 is false d) S1 is false, S2 is true

Answer: a

15. S1: Attempted performance discharges the promisor from liability.

    S2: If a promisee refuses a valid offer of performance, the promisor is treated as having performed.

Options:

a) S1 is true, S2 is true, and S2 explains S1

b) S1 is true, S2 is true, but S2 does NOT explain S1

c) S1 is true, S2 is false d) S1 is false, S2 is true

Answer: a

Related Case Studies-7

1. Satyabrata Ghose Vs. Mugneeram Bangur (1954)

Mugneeram Bangur & Co. agreed to sell a plot of land to Satyabrata Ghose as part of a development scheme. During World War II, the government requisitioned the land temporarily for military purposes. The company claimed that the contract had become impossible to perform (frustrated) and cancelled the agreement. The Supreme Court held that the requisition did not make the performance impossible—only delayed. Therefore, the contract was not frustrated, and the seller could not cancel the agreement under Section 56 of the Indian Contract Act.

MCQs

1. Under the Indian Contract Act, frustration applies only when:

a) Parties disagree on price b) A temporary event occurs

c) Performance becomes absolutely impossible

d) A contract is oral

Answer: c

2. The doctrine of frustration applies only when:

a) Performance becomes too expensive

b) Delay occurs due to external events

c) The fundamental purpose of the contract is destroyed

d) One party changes their mind

Answer: c

3. In the Indian Contract Act, frustration results in:

a) Termination of contract automatically

b) Contract becoming voidable at one party's option

c) Contract being renewed d) Only compensation being paid

Answer: a

4. The contract was NOT frustrated because:

a) The buyer cancelled it b) The seller changed the price

c) Government action was temporary

d) The land was permanently destroyed

Answer: c

5. Which concept does this case best illustrate?

a) Minor's agreement b) Consideration and privity

c) Doctrine of frustration d) Free consent

Answer: c

Breach of Contract

A breach of contract occurs when a party fails to fulfill its contractual obligations. There are two types:

1. **Actual Breach** – When a party fails to perform at the time of performance or during execution.
2. **Anticipatory Breach** – When a party indicates in advance that they will not perform their obligations.

Remedies for Breach of Contract

The following are the possible remedies for breach of contract:

1. Damages (Monetary Compensation)

Ordinary Damages – Compensation for direct losses.

Special Damages – Compensation for specific losses that were foreseeable.

Exemplary/Punitive Damages – To punish the breaching party.

Nominal Damages – When no real loss is suffered, but a token amount is awarded.

2. Specific Performance

Court orders the breaching party to fulfill their contractual obligations (used in cases where damages are inadequate, e.g., sale of unique property).

3. Injunction

A court order preventing a party from doing or not doing something that would breach the contract.

4. Rescission of Contract

The non-breaching party is allowed to cancel the contract and claim compensation for losses.

5. Quantum Meruit (As much as earned)

If a party has performed part of the contract but the other party breaches it, they can claim compensation for the work done.

MCQs to Understand and Analyse: 9

1. Breach of contract occurs when a party:

a) Performs before time

b) Refuses or fails to perform contractual obligations

c) Modifies the contract   d) Signs a contract

Answer: b

2. Actual breach happens:

a) Before the due date   b) After the contract is discharged

c) At the time of performance   d) Only after notice

Answer: c

3. Anticipatory breach means:

a) The contract is performed early

b) One party refuses to perform in advance

c) A new contract is made   d) Both parties modify terms

Answer: b

4. Ordinary damages compensate for:

a) Punishment b) Loss of reputation

c) Direct losses naturally arising from breach

d) Emotional suffering

Answer: c

5. Special damages are awarded when:

a) Losses were unforeseeable

b) Losses were communicated beforehand

c) Losses do not exist d) The court wants to punish

Answer: b

6. Which remedy forces the party to perform the contract?

a) Rescission b) Nominal damages

c) Specific performance d) Punitive damages

Answer: c

7. An injunction is:

a) A punishment b) A refund c) A new contract

d) A court order to do or not to do an action

Answer: d

8. Nominal damages are awarded when:

a) Actual loss is huge b) No real loss is suffered

c) The contract is cancelled d) Party becomes insolvent

Answer: b

9. Quantum meruit applies when:

a) A party has performed part of the contract

b) Only verbal contracts exist

c) A contract is illegal d) Payment is illegal

Answer: a

10. Rescission means:

a) Enlarging the contract

b) Cancelling the contract and releasing parties

c) Revising the contract terms

d) Preparing a new document

Answer: b

11. (A): Anticipatory breach allows the non-breaching party to sue immediately.

(R): The breaching party clearly communicates their unwillingness to perform before the due date.

Options:

a) Both A and R are true, and R is the correct explanation of A

b) Both A and R are true, but R is NOT the correct explanation of A

c) A is true, but R is false d) A is false, but R is true

Answer: a

12. (A): Ordinary damages compensate for actual loss suffered due to breach.

(R): Ordinary damages are awarded only when the breach is intentional.

Options:

a) Both A and R are true, and R is the correct explanation of A

b) Both A and R are true, but R is NOT the correct explanation of A

c) A is true, but R is false d) A is false, but R is true

Answer: c

13. (A): Nominal damages are awarded when no significant loss occurs.

(R): Even when no real loss occurs, a legal right may still be violated.

Options:

a) Both A and R are true, and R is the correct explanation of A

b) Both A and R are true, but R is NOT the correct explanation of A

c) A is true, but R is false d) A is false, but R is true

Answer: a

14. S1: Anticipatory breach occurs before the time of performance arrives.

S2: It occurs when a party expresses refusal to perform their obligation.

Options:

a) S1 is true, S2 is true, and S2 explains S1

b) S1 is true, S2 is true, but S2 does NOT explain S1

c) S1 is true, S2 is false d) S1 is false, S2 is true

Answer: a

15. S1: Special damages arise naturally from breach of contract.

S2: Special damages must be communicated to the party at the time of contract.

Options:

a) S1 is true, S2 is true, and S2 explains S1

b) S1 is true, S2 is true, but S2 does NOT explain S1

c) S1 is true, S2 is false d) S1 is false, S2 is true

Answer: d

Related Case Studies-8

1. State of Kerala Vs. Cochin Chemical Refineries (1968)

The State of Kerala entered into a contract with Cochin Chemical Refineries Ltd. for the supply of certain goods/materials. The State failed to perform its obligation as agreed under the contract. The court held that failure to perform contractual duties at the time fixed for performance amounts to an actual breach of contract.

MCQs

1. An actual breach of contract occurs when:
   a) A party refuses to perform before the due date
   b) A party fails to perform at the time fixed
   c) Performance becomes impossible
   d) Parties modify the contract

Answer: b

2. Which of the following situations amounts to actual breach?
   a) Advance refusal to perform
   b) Delay before the due date
   c) Failure to deliver goods on the agreed date
   d) Mutual cancellation of contract

Answer: c

3. Actual breach of contract gives the aggrieved party the right to:
   a) Modify the contract unilaterally b) Ignore the contract
   c) Claim remedies for breach d) Wait indefinitely

Answer: c

4. Actual breach may occur:
   a) Only after completion of contract
   b) Only before performance date

c) At the time of performance or during execution

d) Only in written contracts

Answer: c

5. When an actual breach occurs, the contract is:

a) Automatically void b) Fully enforceable

c) Discharged for the non-breaching party

d) Converted into a contingent contract

Answer: c

2. State of Madras Vs. Gannon Dunkerley & Co. (1958)

Dunkerley & Co. entered into a works contract with the State of Madras for construction work. The State tried to treat the building contract as a sale of goods and levy sales tax on the materials used. The Supreme Court held that a works contract is not a contract of sale. Payment is made for work done, not for sale of goods. Therefore, tax on "sale of goods" cannot be imposed unless there is a separate contract of sale.

MCQs

1. A works contract is not treated as a sale of goods because:

a) There is no transfer of ownership

b) Payment is for labour and skill

c) Goods are supplied free d) It is a wagering agreement

Answer: b

2. The main issue before the Supreme Court in Gannon Dunkerley was:

a) Whether a works contract is void.

b) Whether sales tax can be levied on materials used in a works contract.

c) Whether quantum meruit applies to construction contracts.

d) Whether the contract was frustrated.

Answer: b

3. Sales tax cannot be imposed on a works contract because:

a) Goods are supplied free of cost

b) Ownership of goods never passes

c) There is no agreement to sell goods as such

d) The contract is executory

Answer: c

4. A works contract is primarily a contract for:

a) Sale of goods b) Exchange of goods

c) Work and labour d) Exchange

Answer: c

5. A works contract may be treated as a sale of goods only when:

a) The value of goods exceeds labour charges

b) Materials are used in construction

c) There is a distinct and separate contract of sale

d) The contract is in writing

Answer: c

3. Satyabrata Ghose Vs. Mugneeram Bangur & Co. (1954)

Mugneeram Bangur & Co. agreed to develop land and sell plots to buyers, including Satyabrata Ghose. During World War II, the government requisitioned a portion of the land, delaying development. The company claimed that the contract had become frustrated due to this supervening event. The Supreme Court held that the contract was not frustrated. Mere delay or difficulty does not amount to impossibility unless the contract becomes impracticable or impossible in a fundamental sense.

MCQs

1. A contract is discharged under Section 56 of the Indian Contract Act when:
   a) Performance becomes more expensive
   b) Performance becomes fundamentally impossible
   c) One party delays performance
   d) Parties face inconvenience

Answer: b

2. Which of the following does NOT amount to frustration of contract?
   a) Destruction of subject matter
   b) Change in law making performance illegal
   c) Temporary delay or difficulty
   d) Death in a personal service contract

Answer: c

3. Impossibility under Section 56 includes:
   a) Only physical impossibility
   b) Only financial hardship
   c) Impracticability that defeats the purpose of contract
   d) Mere inconvenience

Answer: c

4. A contract is frustrated when performance becomes:
   a) Unprofitable b) Less convenient c) Delayed
   d) Radically different from what was agreed

Answer: d

2. Which principle governs discharge of contract due to supervening events?

   a) Free consent b) Doctrine of frustration

   c) Quantum meruit d) Privity of contract

Answer: b

Module 3

Special Contracts

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Bailment

Bailment is a special type of contract where the owner of a good (the bailor) delivers it to another party (the **bailee**) for a specific purpose, under the condition that the goods will be returned or otherwise disposed of as per the bailor's instructions.

Features of Bailment

1. **Involves Delivery of Goods** – The bailor transfers possession (not ownership) of goods to the bailee.
2. **Specific Purpose** – The goods are delivered for a particular reason or purpose.
3. **Return of Goods** – The bailee must return the goods after the purpose is fulfilled or dispose of them as instructed.
4. **Possession but Not Ownership** – The ownership remains with the bailor, while the bailee only has temporary possession.
5. **Mutual Benefit or Gratuitous** – Bailment can be for mutual benefit (e.g., renting a car) or gratuitous (e.g., safekeeping a friend's belongings).
6. **Duty of Reasonable Care** – The bailee must exercise reasonable care in handling the goods.

Bailor and Bailee

- **Bailor** – The person who delivers the goods for bailment.
- **Bailee** – The person who receives the goods and is responsible for their safekeeping or return.

Examples and Case References of Bailment

The examples below illustrate bailment, along with their case references.

E.g. 1: Car Parking with Keys Given (Bailment)

Situation**:** A person parks their car at a valet parking service and hands over the keys to the attendant.

Legal Principle**:** Since possession is transferred, it constitutes bailment, and the parking service (bailee) is responsible for returning the car in proper condition.

Case Reference**:** Taj Mahal Hotel v. United India Insurance Co. Ltd: The Court held that valet parking creates a bailor–bailee relationship, making hotels—especially 5-star hotels—prima facie liable for vehicle theft unless they prove due care.

E.g. 2: Dry Cleaning Service (Bailment)

Situation: A customer gives their clothes to a dry cleaner. The dry cleaner (bailee) is expected to return them after cleaning.

Legal Principle: The dry cleaner has a duty of reasonable care. If the clothes are lost due to negligence, they are liable.

Case Reference: *Lily White v. R. Munuswami* – The dry cleaner was held liable for the saree and blouse lost due to negligence.

E.g. 3: Borrowing a Friend's Bike (Gratuitous Bailment)

Situation: A person borrows a friend's bike for a day and returns it after use.

Legal Principle: Since the bailment is done without any charge, it is a gratuitous bailment**.** However, the bailee must take reasonable care.

E.g. 3: Bank Locker Facility (Not Bailment)

Situation: A customer rents a bank locker to store valuables, but keeps the key with themselves.

Legal Principle: Since possession is not transferred to the bank, it is not a bailment but a lease.

Case Reference: *Mohinder Singh Nanda v. Bank of Maharashtra* – The case held that banks are not liable for theft of locker contents, as hiring a locker does not amount to bailment.

MCQs to Understand and Analyse: 10

1. Bailment involves the transfer of:

a) Both ownership and possession b) Possession of goods
c) Rights but not possession d) Ownership of goods

Answer: b

2. In a bailment, ownership remains with the:

a) Bailee b) Bank c) Bailor d) Government

Answer: c

3. The person who delivers the goods for bailment is called:

a) Bailee b) Bailor c) Promisor d) Agent

Answer: b

4. The person who receives goods for a specific purpose is known as:

a) Bailor b) Bailee c) Buyer d) Creditor
Answer: b

5. Bailment arises only when:

a) Goods are sold b) Possession of goods is delivered

c) Goods are gifted d) A contract is written

Answer: b

6. Bailment can be:

a) Only for reward b) Only gratuitous
c) Either gratuitous or for reward d) Not applicable to goods

Answer: c

7. A key feature of bailment is:

a) Ownership transfers to bailee b) Purpose must be specific
c) Possession remains with bailor d) Goods cannot be returned

Answer: b

8. Duty of bailee includes:

a) Selling the goods

b) Returning goods after the purpose is over
c) Using goods freely d) Changing ownership

Answer: b

9. Bailment involves:

a) Movable goods only c) Only money d) Only land

b) Both movable and immovable property

Answer: a

10. Example of bailment is:

a) Selling a laptop to a shop b) Giving laundry to a dry cleaner

c) Renting a house d) Buying groceries

Answer: b

11. Assertion (A): Bailment requires delivery of goods from the bailor to the bailee.

Reason (R): Without transfer of possession, bailment cannot be created.

Options:

a) Both Assertion and Reason are true, and Reason is the correct explanation of Assertion.

b) Both Assertion and Reason are true, but Reason is NOT the correct explanation of Assertion.

c) A is true, but R is false d) A is false, but R is true

Answer: a

12. (A): In bailment, ownership of goods is transferred to the bailee.

(R): The bailee receives the goods only for a specific purpose.

Options:

a) Both Assertion and Reason are true, and Reason is the correct explanation of Assertion.

b) Both Assertion and Reason are true, but Reason is NOT the correct explanation of Assertion.

c) A is true, but R is false d) A is false, but R is true

Answer: d

13. (A): Bailment may be either gratuitous or for reward.

(R): The purpose of bailment determines whether it is paid or unpaid.

Options:

a) A is false, but R is true b) A is true, but R is false

c) Both A and R are true, and R is the correct explanation of A.

d) Both A and R are true, but R is NOT the correct explanation of A.

Answer: c

12. Statement 1 (S1): Bailment involves the delivery of goods.

Statement 2 (S2): Bailment can be created without transferring possession of goods.

Options:

a) S1 is true, S2 is true, and S2 explains S1
b) S1 is true, S2 is true, but S2 does NOT explain S1
c) S1 is true, S2 is false   d) S1 is false, S2 is true

Answer: c

13. (S1): Bailment requires a specific purpose.

(S2): Goods must be returned or disposed of after the purpose is fulfilled.

Options:

a) S1 is true, S2 is true, and S2 explains S1

b) S1 is true, S2 is true, but S2 does NOT explain S1

c) S1 is true, S2 is false   d) S1 is false, S2 is true

Answer: a

Related Case Studies-9

1. Taj Mahal Hotel v. United India Insurance Co. Ltd. (Supreme Court, 2019)

A guest delivered his Maruti Zen car keys to Taj Mahal Hotel's valet for overnight safekeeping (no written agreement or payment beyond room tariff). The car was stolen from the hotel premises. The Supreme Court ruled this created a bailment under Section 148, holding the hotel liable despite an "owner's risk" tag.

MCQs

1. A contract of bailment is created when goods are delivered for safekeeping even if there is no written agreement. This principle highlights which essential element of bailment?

a) Transfer of ownership   b) Consideration

c) Delivery of goods for a specific purpose

d) Registration of contract

Answer: c

2. Which of the following best explains why a bailment can exist without any payment or reward?

    a) Because bailment always involves ownership transfer
    b) Because bailment may be gratuitous
    c) Because bailment applies only to movable property
    d) Because bailment requires registration

Answer: b

3. In bailment, the responsibility of the bailee mainly arises due to which factor?

    a) Ownership of goods   b) Possession of goods
    c) Value of goods   d) Written agreement

Answer: b

4. If goods given for safekeeping are not returned on demand, the person who received them is considered to have failed in which duty of bailment?

    a) Duty to disclose faults   b) Duty to take reasonable care

    c) Duty to deliver goods as agreed

    d) Duty to indemnify bailor

Answer: c

5. Which of the following statements correctly reflects the legal principle established in the case?

    a) Bailment requires a formal contract
    b) Bailment cannot exist without consideration
    c) Bailment can exist based on the conduct of parties
    d) Bailment applies only to commercial transactions

Answer: c

2. Lallan Prasad v. Rahmat Ali (Supreme Court, 1966

Rahmat Ali (borrower) pledged gold ornaments worth ₹4,000 as security for a ₹1,500 loan from Lallan Prasad (moneylender). The ornaments were lost due to the pledgee's negligence in storage. The Supreme Court held the pledgee liable as a bailee for the full value of the pledged goods (not just the loan amount), emphasizing standard bailment duties despite the security context.

MCQs

1. When goods are pledged with a bank as security for a loan, the bank's legal position is that of:

a) Owner b) Agent c) Bailee d) Trustee

Answer: c

2. The liability of a bank in respect of goods pledged with it arises mainly because of:

a) Ownership of goods b) Custody and possession of goods
c) Value of the loan d) Written agreement only

Answer: b

3. If goods pledged with a bank are lost due to the bank's negligence, the bank is:

a) Not liable b) Liable only if paid
c) Liable as a bailee d) Liable only after court order

Answer: c

4. Which duty of a bailee was emphasized in this case?

a) Duty to return goods on expiry b) Duty to disclose faults

c) Duty to take reasonable care d) Duty to indemnify bailor

Answer: c

5. The relationship between a borrower and a bank holding pledged goods is best described as:

a) Sale and purchase b) Bailment and pledge

c) Lease of goods d) Agency

Answer: b

3. State of Gujarat v. Memon Mahomed Haji Hasam (1967)

In this case, Memon Mahomed Haji Hasam's goods were seized by the State of Gujarat under statutory powers. While the goods were in government custody, they were damaged due to negligence. The Supreme Court held that the State of Gujarat was liable for the damage caused to the seized goods, holding the State as a bailee. There can be a bailment and the relationship of bailor and bailee in respect of specific property without an enforceable contract.

MCQs

1. When goods are seized by the government and kept in its custody, the government's legal position is that of:

a) Owner b) Trustee c) Bailee d) Agent

Answer: c

2. The liability of the State for seized goods arises mainly because of:

a) Ownership of goods b) Transfer of title
c) Possession of goods d) Nature of offence

Answer: c

3. Which duty of bailment was emphasized by the Supreme Court in this case?

a) Duty to disclose faults b) Duty to take reasonable care

c) Duty to return goods free from charges

d) Duty to indemnify bailee

Answer: b

4. The seizure of goods by the State creates a bailment because:

a) Goods are sold to the State

b) Goods are leased to the State

c) Goods are delivered into State custody

d) Goods are gifted to the State

Answer: c

5. Which statement correctly reflects the principle laid down in this case?

a) The government is never liable for seized goods

b) Bailment applies only to private parties

c) State is liable as a bailee for negligence

d) Bailment requires a written agreement

Answer: c

Rights and Duties of Bailor and Bailee

Sections 148–181 of the Indian Contract Act, 1872, explain the rights and duties of the bailor and the bailee.

Rights of Bailor

1. Right to Claim Goods Back – The bailor has the right to reclaim the goods once the purpose of bailment is fulfilled.
2. Right to Compensation – If the bailor fails to disclose defects and the bailee suffers a loss, the bailee may claim compensation.
3. Right to Terminate Bailment – The bailor can end the bailment if the bailee misuses the goods or violates the contract.

4. Right to Sue for Wrongful Use – If the bailee uses the goods beyond the agreed purpose, the bailor can sue for damages.
5. Right to Demand Increase in Value – If the goods gain value due to the bailee's actions (e.g., gold polished and made into jewelry), the bailor can claim the increased value.

Duties of Bailor

1. Duty to Disclose Defects – If there are any known defects in the goods, the bailor must inform the bailee (especially in gratuitous bailment). *Example:* If a bailor gives a defective machine without informing the bailee, he is liable for the loss caused.
2. Duty to Bear Extraordinary Expenses – In gratuitous bailment, if the bailee incurs unexpected expenses, the bailor must reimburse them. *Example:* Special repairs required during bailment.
3. Duty to Accept Goods Back – Once the purpose is fulfilled, the bailor must accept the goods.
4. Duty to Indemnify Bailee – If the bailee suffers a loss due to defects in the goods that the bailor did not disclose, the bailor is responsible for compensating the bailee. *Example:* Special repairs required during bailment.

Rights and Duties of Bailee

Rights of Bailee

1. Right to Possession – The bailee has the right to keep the goods until the agreed purpose is fulfilled.

2. Right to Compensation – If the bailor does not disclose defects, and the bailee suffers a loss, they can claim compensation.
3. Right to Recover Expenses – If the bailee incurs expenses for maintenance or preservation, they can recover them from the bailor.
4. Right to Retain Goods – The bailee can retain the goods until due charges or expenses are paid (e.g., a car mechanic can keep a repaired car until payment is made).
5. Right to Sue a Third Party – If a third party wrongfully takes or damages the goods, the bailee can sue to recover damages.

Duties of Bailee

1. Duty of Reasonable Care – The bailee must take as much care of the goods as a prudent person would of their own goods.
2. Duty to Return Goods – After the bailment period ends, the bailee must return or dispose of the goods as per the bailor's instructions.
3. Duty Not to Use the Goods for Personal Use – The bailee cannot use the goods for any purpose other than that agreed upon.
4. Duty to Return Any Increase in Goods – If the goods naturally increase in value (e.g., a cow gives birth while in bailment), the bailee must return both the original goods and the increase.
5. Duty to Not Mix Goods without Consent – If the bailee mixes the bailor's goods with their own without permission, they must separate them or compensate for the loss.

MCQs to Understand and Analyse: 11

1. The bailor can reclaim the goods when:

a) The bailee becomes the owner

b) The purpose of bailment is completed

c) The bailee refuses to return d) A new contract begins

Answer: b

2. If the bailee fails to take reasonable care, the bailor has the right to:

a) Give more time b) Claim compensation
c) Transfer ownership d) Cancel the bailor's duties

Answer: b

3. The bailor may terminate bailment when:

a) The bailee misuses the goods

b) The bailee wants to extend the contract

c) Payment is pending d) Ownership changes
Answer: a

4. A bailor can sue the bailee for damages when:

a) Bailee uses goods exactly as agreed

b) Bailee uses goods beyond agreed purpose

c) Goods increase in value d) Goods naturally depreciate

Answer: b

5. Duty of the bailor includes:

a) To provide a written agreement

b) To disclose known defects in goods

c) To guarantee profit to bailee d) To use the goods properly

Answer: b

6. In gratuitous bailment, extraordinary expenses must be borne by:

a) Bailee only b) Bailor only

c) Both equally d) Government authority

Answer: b

7. The bailee's right to retain goods applies when:

a) The bailee decides to keep the goods

b) Charges or expenses are unpaid

c) The bailor is a minor d) Goods lose value

Answer: b

8. The bailee must return:

a) Goods only if a new contract is made b) Only increase in value
c) Goods and any natural increase d) Only original goods

Answer: c

9. If the bailor fails to disclose defects:

a) The bailee must bear loss

b) The bailor must indemnify the bailee

c) The bailment ends automatically

d) The goods cannot be returned

Answer: b

10. The bailee can sue a third party when:

a) The bailor instructs b) A stranger damages the goods

c) The bailee wants ownership d) The contract ends

Answer: b

11. In a gratuitous bailment, who is responsible for extraordinary expenses incurred for the preservation of goods?

a) Bailee b) Bailor c) Both equally d) Government

Answer: b

12. Extraordinary expenses differ from ordinary expenses because they are:

    a) Always predictable b) Incurred for personal benefit

    c) Unexpected and unavoidable d) Paid in advance

Answer: c

13. If the bailor refuses to reimburse extraordinary expenses, the bailee can:

    a) Sue for recovery b) Sell the goods

    c) Return the goods without care

    d) Terminate the bailment without liability

Answer: a

14. (A): The bailor has the right to terminate the bailment if the bailee misuses the goods.

    (R): Misuse of goods is a violation of the bailment terms.

Options:

a) Both A and R are true, and R is the correct explanation of A

b) Both A and R are true, but R is NOT the correct explanation of A

c) A is true, but R is false d) A is false, but R is true

Answer: a

15. (A): The bailee must return the goods along with any natural increase.

    (R): The bailee becomes the owner of the natural increase during bailment.

Options:

a) Both A and R are true, and R is the correct explanation of A

b) Both A and R are true, but R is NOT the correct explanation of A

c) A is true, but R is false d) A is false, but R is true

Answer: c

16. (A): The bailor must indemnify the bailee for losses arising from undisclosed defects.

(R): The bailee is responsible for all losses even if defects were unknown.

Options:

a) Both A and R are true, and R is the correct explanation of A

b) Both A and R are true, but R is NOT the correct explanation of A

c) A is true, but R is false d) A is false, but R is true

Answer: c

17. S1: The bailee must take reasonable care of the goods.

S2: The bailee is liable for damage only if they fail to take such care.

Options:

a) S1 is true, S2 is true, and S2 explains S1

b) S1 is true, S2 is true, but S2 does NOT explain S1

c) S1 is true, S2 is false d) S1 is false, S2 is true

Answer: a

18. S1: The bailor can sue the bailee for wrongful use of goods.

S2: The bailee must use the goods in accordance with the contract.

Options:

a) S1 is true, S2 is true, and S2 explains S1

b) S1 is true, S2 is true, but S2 does NOT explain S1

c) S1 is true, S2 is false d) S1 is false, S2 is true

Answer: a

Related Case Studies-10

1. State of Gujarat v. Memon M. Haji Hasam (S C, 1967)

Police seized Memon's two trucks under customs laws in 1947 for alleged smuggling. While an appeal against repossession was pending (1947-1951), the vehicles were left exposed in an open yard, where they deteriorated, and parts were stolen. Their natural "increase" (e.g., potential repair/maintenance value) was lost due to state negligence. The Supreme Court held the state liable as bailee for the full diminished value, ruling any accretions or preserved value belonged to the owner upon demand. A bailment and the relationship between bailor and bailee over a specific property can exist even without an enforceable contract.

MCQs

1. Any natural increase in bailed goods during the period of bailment belongs to:

   a) Bailee b) Bailor c) Government d) Jointly to both

Answer: b

2. The duty to return accretions to the goods arises from which obligation of the bailee?

   a) Duty to take reasonable care

   b) Duty to return goods on completion of bailment

   c) Duty not to mix goods d) Duty to disclose defects

Answer: b

3. If a cow given on bailment gives birth to a calf during bailment, the bailee must:

   a) Keep the calf b) Sell the calf

   c) Return both cow and calf d) Return only the cow

Answer: c

4. The principle established in this case mainly relates to which right of the bailor?

a) Right to terminate bailment b) Right to compensation

c) Right to demand an increase in goods

d) Right to sue third parties

Answer: c

5.Which of the following best illustrates the principle laid down in this case?

a) A bailee selling goods without permission

b) A bailee returning damaged goods

c) A bailee returning goods along with natural increase

d) A bailor refusing to accept goods

Answer: c

2. Sheikh Mehtabuddin v. Lalmia (Calcutta High Court, 1914

Mehtabuddin (A) lent his horse to Lalmia (B) strictly for B's personal riding only. B allowed an unauthorized third party (C) to ride it, causing injury during the misuse, even though C rode carefully and the damage was accidental. The court held B strictly liable for the breach, as the unauthorized use itself triggered liability regardless of negligence.

MCQs

1. A bailee uses the bailed goods for a purpose other than agreed. This amounts to:

a) Valid use b) Gratuitous bailment

c) Breach of bailment d) Termination by bailor

Answer: c

2. The principle laid down in this case mainly relates to which duty of the bailee?

a) Duty to return goods b) Duty to take reasonable care

c) Duty not to make unauthorized use d) Duty to disclose defects

Answer: c

3. When a bailee makes unauthorized use of goods, liability arises because:

a) Ownership is transferred b) Possession is abused

c) Bailment is always paid d) Bailor gives consent later

Answer: b

4. Unauthorized use of bailed goods makes the bailee liable for:

a) Loss caused directly by misuse only

b) Loss caused during authorized use

c) Any loss arising from misuse

d) Loss only if consideration exists

Answer: c

5. The bailor can terminate the bailment if the bailee uses the goods inconsistently with the terms of the bailment. This right flows from:

a) Right to compensation b) Right to claim goods back

c) Right to terminate bailment d) Right to demand an increase

Answer: c

3. Chaturgun v. Shahzady (1930)

The defendant (Shahzady) borrowed an ornament from the plaintiff (Chaturgun) for use in a religious function (Ram Lila). After the function, the ornament was stolen while it was still in the defendant's possession. The Court held that the borrower was liable as a bailee because he had undertaken to return the goods; mere loss does not automatically absolve him unless he proves no negligence.

MCQs

1. If a bailee fails to return goods after the purpose of bailment is fulfilled, the bailor can exercise which right?

a) Right to recover expenses b) Right to claim goods back

b) Right to sue third parties d) Right to retain goods

Answer: b

2. According to bailment law, who has the burden of proving the absence of negligence in case of loss of goods?

a) Bailor b) Bailee c) Court d) Third party

Answer: b

3. In *Chaturgun v. Shahzady (1930)*, the defendant was liable because:

a) Bailment ended automatically after theft

b) He did not return the goods and failed to prove due care

c) He sold the ornament

d) He transferred ownership

Answer: b

4. Which right of the bailor is supported by the judgment in *Chaturgun v. Shahzady (1930)*?

a) Right to possession of goods until payment

b) Right to compensation for loss due to bailee's negligence

c) Right to sue third parties d) Right to recover expenses

Answer: b

5. If the bailee uses the goods beyond the agreed purpose, which right of the bailor applies?

a) Right to retain goods

b) Right to terminate bailment or sue for wrongful use

c) Right to recover expenses d) Right to possession

Answer: b

Finder of Lost Goods

A finder of lost goods is a person who discovers someone else's lost property and takes it into their custody. Under Sec 71 of the Indian Contract Act, 1872**,** the finder has certain rights and obligations similar to those of a bailee, even though there is no formal contract.

1. Goods Must Be Lost – The item must be lost, not intentionally abandoned by the owner.
2. No Ownership Transfer – The finder does not become the owner; they retain custodial rights until the owner is found.
3. Duty of Reasonable Care – The finder must take reasonable care of the goods, just as a bailee would.
4. Obligation to Locate the Owner – The finder must make a genuine effort to find the true owner and return the goods.
5. Right to Retain for Reward – If the finder incurs expenses in preserving or returning the goods, they may retain them until the owner reimburses them.
6. Right to Sell in Special Cases – If the goods are perishable or if the true owner cannot be found despite reasonable efforts, the finder can sell them.

Pledge (PAWN)

A pledge is a special type of bailment. Here, goods are delivered as security for a loan, a debt, or performance of a promise. It is governed by Sections 172-176 of the Indian Contract Act, 1872.

Pawner (Pledger): The person who delivers the goods.

Pawnee (Pledgee): The person who receives the goods as security

Essentials of the pledge:

1. Delivery of Goods as Security – The **pawnor (pledger)** delivers goods to the **pawnee (pledgee)** as security for repayment of a debt **or performance of a promise**.
2. Ownership Remains with Pledger – Only possession is transferred; ownership remains with the pledger.
3. Purpose of Pledge – The goods serve as **collateral** for a loan or obligation.
4. Right to Redeem – The pledger can **redeem (reclaim)** the goods by repaying the debt or fulfilling the obligation.
5. Right to Sell (on Default) – If the pledger **fails to repay**, the pledgee has the right to sell the goods after giving proper notice.

Comparison: Finder of Lost Goods vs. Pledge

Feature	Finder of Lost Goods	Pledge
Nature	Quasi-contractual obligation	Contract

Feature	Finder of Lost Goods	Pledge
Possession of Goods	Accidental (finder picks up lost goods)	Deliberate (pledger hands over goods)
Ownership	Stays with the true owner	Stays with the pledger
Purpose	To return goods to the owner	To provide security for a debt
Right to Retain	Can retain goods until reasonable expenses are paid	Can retain goods until the debt is cleared
Right to Sell	Only if perishable or owner is untraceable	Can sell goods if the pledger defaults

Rights and Duties of Pawner (Pledger)

Rights of Pawner:

1. Right to Redeem Goods (Section 177) – The Pawner can **redeem the pledged goods** by repaying the debt before the Pawnee sells them.
2. Right to Claim Damages – If the Pawnee **wrongfully sells** or misuses the goods, the Pawner can claim damages.

3. Right to Demand Excess Sale Proceeds – If the Pawnee sells the goods due to default, any excess amount after settling the debt must be returned to the Pawner.

Duties of Pawner:

1. Duty to Repay the Debt – The Pawner must repay the loan or fulfill the obligation as agreed.
2. Duty to Bear Reasonable Expenses – If the Pawnee incurs necessary expenses in maintaining the goods, the Pawner must reimburse them.
3. Duty Not to Interfere – The Pawner must allow the Pawnee to hold the goods until the loan is repaid.

Rights and Duties of Pawnee (Pledgee)

Rights of Pawnee:

1. Right to Retain the Goods (Section 173) – The Pawnee can keep the pledged goods until the debt, interest, and expenses are paid.
2. Right to Recover Expenses (Section 175) – The Pawnee can claim reasonable expenses incurred for preserving the goods.
3. Right to Sell Pledged Goods (Section 176) – If the Pawner defaults, the Pawnee can sell the goods after giving notice to the Pawner.
4. Right to Sue for Debt – Instead of selling the goods, the Pawnee can sue the Pawner for debt recovery and still keep the goods as security.

Duties of Pawnee:

1. Duty to Take Reasonable Care (Section 151) – The Pawnee must protect the goods like a **bailee** and prevent damage.
2. Duty Not to Use Goods – The Pawnee **cannot use** the goods unless the Pawner gives permission.
3. Duty to Return Goods (Section 174) – Once the Pawner repays the debt, the Pawnee must return the pledged goods.
4. Duty to Return Excess Sale Proceeds – If the goods are sold, any extra amount after clearing the debt must be returned to the Pawner.

Law Relating to Lien

A lien is the right of a person to retain possession of goods or property belonging to another until charges are paid. It acts as security for payment. "Lien, in its primary sense, is a right in one man to retain that which is in his possession belonging to another until certain demands of the person in possession are satisfied. In this primary sense, it is given by law and not by contract."6

Types of Lien:

1. General Lien – The right to retain any goods for a general balance of accounts (e.g., bankers, attorneys, and warehouse keepers).
2. Particular Lien – The right to retain goods for a specific debt or service related to those goods (e.g., a mechanic repairing a vehicle).

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Essentials of Lien:

1. Possession of goods must be with the creditor.
2. The possession must be lawful and not obtained by fraud.
3. The charges must be due and unpaid.
4. No contract should contradict the right of lien.

Termination of Lien:

1. When the charges are paid.
2. When the creditor voluntarily gives up possession of the goods.
3. If the creditor enters into a new agreement waiving the lien.

MCQs to Understand and Analyse: 12

1. A finder of lost goods becomes similar to a:

a) Bailor b) Bailee c) Buyer d) Owner

Answer: b

2. A finder of lost goods has the right to sell the goods when:

a) The owner is wealthy

b) Goods are perishable, or the owner cannot be found

c) Finder wants to make profit d) Owner refuses reward

Answer: b

3. A pledge is a:

a) Contract for sale b) Bailment of goods as security

c) Contract of agency d) Gratuitous bailment

Answer: b

4. In a pledge, ownership remains with the:

a) Pawnee b) Pawner c) Banker d) Government

Answer: b

5. The right to redeem goods in a pledge belongs to:

a) Pawnee b) Finder c) Pawner d) Creditor only

Answer: c

6. Pawnee’s right to sell goods arises when:

a) Pawner pays debt early

b) Pawner defaults and notice is given

c) Pawnee wants to recover profit d) Pawner is absent

Answer: b

7. A general lien can be exercised by:

a) Any bailee b) Bankers, attorneys, warehouse keepers

c) Pawner only d) Finder of goods

Answer: b

8. A particular lien allows retention of goods for:

a) Any debt b) Specific charges related to those goods

c) Future debts d) No debts

Answer: b

9. A finder of lost goods can retain goods until:

a) Owner apologizes

b) Owner pays reasonable expenses

c) Finder gains ownership d) Goods lose value

Answer: b

10. Pawnee must return:

a) Only pledged goods b) Goods plus any profit earned

c) Excess sale proceeds after debt are cleared

d) Nothing if sold

Answer: c

11. (A): A finder of lost goods must make reasonable efforts to locate the true owner.

(R): The finder is treated as a bailee and must follow the duties of a bailee.

Options:

a) Both Assertion and Reason are true, and Reason is the correct explanation of Assertion

b) Both Assertion and Reason are true, but Reason is NOT the correct explanation of Assertion

c) Assertion is true, but Reason is false

d) Assertion is false, but Reason is true

Answer: a

12. (A): Ownership of pledged goods transfers to the pawnee.

(R): In a pledge, only possession of goods is transferred as security.

Options:

a) Both Assertion and Reason are true, and Reason is the correct explanation of Assertion

b) Both Assertion and Reason are true, but Reason is NOT the correct explanation of Assertion

c) Assertion is true, but Reason is false

d) Assertion is false, but Reason is true

Answer: a

13. (A): Pawnee has the right to retain pledged goods until the debt is cleared.

(R): Retaining the goods ensures repayment of debt and related expenses.

Options:

a) Both Assertion and Reason are true, and Reason is the correct explanation of Assertion

b) Both Assertion and Reason are true, but Reason is NOT the correct explanation of Assertion

c) Assertion is true, but Reason is false

d) Assertion is false, but Reason is true

Answer: a

14. S1: A pawner has the right to redeem pledged goods before they are sold.

S2: The pawner must repay the debt, interest, and expenses to redeem the goods.

Options:

a) S1 is true, S2 is true, and S2 explains S1

b) S1 is true, S2 is true, but S2 does NOT explain S1

c) S1 is true, S2 is false d) S1 is false, S2 is true

Answer: a

15. (S1): A finder of lost goods has the right to retain the goods until reimbursed for necessary expenses.

(S2): The finder incurs expenses to preserve and return the goods to the owner.

Options:

a) S1 is true, S2 is true, and S2 explains S1

b) S1 is true, S2 is true, but S2 does NOT explain S1

c) S1 is true, S2 is false d) S1 is false, S2 is true

Answer: a

Related Case Studies-11

1. Fatehji Madhavji v. Loloobai (1971, Bombay High Court)

Fatehji found a set of lost gold bars worth C60 lakhs and voluntarily took them into custody. The court held the finder is a bailee, not the owner, agent, or trustee. This quasi-contractual obligation arises involuntarily from possession, without any actual contract. The finder's primary duty is reasonable care (like a prudent bailee), not insuring, selling, or disclosing defects; negligence causing damage triggers liability. Ownership stays with the true owner (or heirs), so possession is temporary; the finder cannot claim title despite extensive searches.

MCQs

1. A person who voluntarily takes custody of lost goods is treated under the law as:

a) Owner of goods b) Agent of the government

c) Bailee of goods d) Trustee of goods

Answer: c

2. The obligations of a finder of lost goods arise because the relationship is:

   a) Contractual b) Fiduciary

   c) Quasi-contractual d) Statutory ownership

Answer: c

3. Which duty of a bailee is most clearly applicable to a finder of lost goods?

   a) Duty to insure goods b) Duty of reasonable care

   c) Duty to sell goods d) Duty to disclose defects

Answer: b

4. A finder of lost goods does NOT acquire ownership mainly because:

   a) Goods are valueless b) Possession is temporary

   c) Ownership remains with the true owner

   d) Finder acts for reward

Answer: c

5. If a finder negligently damages the lost goods, liability arises due to violation of:

   a) Right to retain goods b) Duty to return goods

   c) Duty of reasonable care d) Right to sue third parties

Answer: c

2. Morvi Mercantile Bank v. Union of India (1965)

In this case, Morvi Mercantile Bank Ltd. had advanced a loan to a borrower, secured by the pledge of goods. The goods were entrusted to the Railways (Union of India) for transportation. Due to negligence during transit, the goods were lost/damaged. The Supreme Court held that the Railways were bailees of the goods and liable for the loss caused by negligence. It was also held that Morvi Mercantile Bank, as a pledgee, had a valid right to sue for compensation.

MCQs

1. When goods are handed over to the Railways for transportation, the Railways act as:

   a) Owner b) Agent c) Bailee d) Trustee

Answer: c

2. In this case, Morvi Mercantile Bank was entitled to sue mainly because it was a:
   a) Owner of goods b) Finder of goods
   c) Pledgee with interest in goods d) Consignee only

Answer: c

3. The liability of the Union of India arose primarily due to:
   a) Transfer of ownership b) Possession of goods
   c) Value of goods d) Written agreement

Answer: b

4. Which principle of bailment is emphasized in this case?
   a) Bailment requires consideration
   b) Bailment transfers ownership
   c) Bailment depends on possession
   d) Bailment must be gratuitous

Answer: c

5. A pledgee's right to sue for loss of goods is based on:
   a) Ownership b) Custodial interest
   c) Finder's right d) Contract of sale

Answer: b

3. Syndicate Bank v. Vijay Kumar (1992)

Vijay Kumar had deposited certain securities/documents with Syndicate Bank in connection with banking transactions. A dispute arose regarding the bank's right of lien over those securities for the recovery of dues. The Supreme Court held that Syndicate Bank has a general lien over securities deposited by a customer, unless there is an express or implied contract to the contrary.

MCQs

1. The right exercised by Syndicate Bank in this case was:
   a) Right of pledge b) Right of lien
   c) Right of mortgage d) Right of bailment

Answer: b

2. Bankers' lien is generally classified as:

   a) Particular lien   b) Statutory lien

   c) General lien   d) Gratuitous lien

Answer: c

3. The banker's lien exists mainly because:

   a) Bank owns the securities   b) Securities are pledged

   c) Securities are in lawful possession of the bank

   d) Securities are insured

Answer: c

4. Which of the following can defeat a banker's lien?

   a) Passage of time   b) Express contract excluding lien

   c) Insolvency of customer   d) High value of securities

Answer: b

5. A lien differs from a pledge because a lien:

   a) Transfers ownership   b) Transfers possession

   c) Only allows retention, not sale

   d) Requires a written agreement

Answer: c

Indemnity – Meaning and Definition

Indemnify means make good the loss. Indemnity refers to a contractual obligation where one party promises to compensate another for losses or damages incurred due to the acts of the promisor or a third party. It is a form of protection against financial loss.

Definition (Indian Contract Act, 1872 – Section 124):

"A contract by which one party promises to save the other from loss caused to him by the conduct of the promisor himself or by the conduct of any other person."Parties Involved

1. **Indemnifier –** The person who promises to compensate.
2. **Indemnified (Indemnity-holder) –** The person who is protected against loss.

Essentials of Contract of Indemnity

- There must be a promise to compensate for loss.
- The loss must be caused by either the conduct of the promisor, or the conduct of a third person.
- It must be a valid contract (free consent, lawful object, consideration, etc.).

Rights of Indemnity-holder (Section 125)

The indemnity-holder is entitled to recover:

1. All damages he is compelled to pay.
2. All costs incurred in defending a suit.
3. All sums paid under compromise (if prudent).

MCQs to Understand and Analyse: 13

1. The term "indemnify" means:
   a) To sell goods b) To make good the loss
   c) To transfer property d) To lend money

Answer: b

2. A contract of indemnity is defined under which section of the Indian Contract Act, 1872?
   a) Sec. 126 b) Sec. 124 c) Sec. 130 d) Sec. 140

Answer: b

3. A contract of indemnity involves:
   a) Transfer of ownership b) Promise to save another from loss
   c) Both parties suffering loss d) A third party selling goods

Answer: b

4. Loss covered under indemnity may be caused by:
   a) Only the promise b) Only natural events
   c) Promisor or any third person d) Government agencies only

Answer: c

5. Contract of indemnity provides:
   a) Protection against financial loss b) Ownership rights
   c) Employment guarantee d) Transfer of goods

Answer: a

6. In a contract of indemnity, the person who promises to compensate is called:
   a) Indemnified b) Surety c) Indemnifier d) Creditor

Answer: c

7. The person who is protected against loss is known as:
   a) Promisor b) Indemnified c) Principal debtor d) Agent

Answer: b

8. Loss in a contract of indemnity may be caused by:
   a) Act of God only b) Conduct of the promisor only
   c) Conduct of the promisor or any other person
   d) Government action only

Answer: c

9. An indemnity-holder can recover the following except:
   a) Damages paid in a suit b) Costs of defending the suit
   c) Speculative profits d) Amount paid under compromise

Answer: c

10. How many parties are there in a contract of indemnity?
   a) Two b) Three c) Four d) One

Answer: a

11. Which of the following is an example of indemnity?

a) A guarantees payment of B's debt

b) A promises to compensate B for loss caused by C

c) A lends money to B d) A appoints B as his agent

Answer: b

12. A contract of insurance is a type of:
    a) Guarantee b) Bailment c) Indemnity d) Agency

Answer: c

13. The liability of the indemnifier arises:
    a) Before the loss occurs b) After the loss occurs
    c) Only after court order d) Immediately after agreement

Answer: b

14. In indemnity, liability of the indemnifier is:
    a) Secondary b) Primary
    c) Conditional d) Contingent only on court order

Answer: b

15. A tells B, "Sell these goods to C. If you suffer any loss, I will compensate you." B sells the goods and suffers loss. The contract between A and B is:
    a) Guarantee b) Indemnity c) Agency d) Insurance

Answer: b

Related Case Studies-12

1. Secretary of State v. Bank of India (1938)

Bank of India acted bona fide on certain official requests issued by the Secretary of State in the course of governmental administration. While acting in accordance with those instructions, the bank suffered financial loss. The court held that the Secretary of State was liable to indemnify the Bank of India for the loss incurred, even though there was no express indemnity clause, as the bank acted in good faith in response to the government's request (implied indemnity).

MCQs

1. In this case, the Bank of India was entitled to indemnity mainly because it:
    a) Owned the goods involved
    b) Acted on the instructions of the Secretary of State
    c) Entered into a written indemnity agreement
    d) Acted without authority

Answer: b

2. The indemnity in this case was considered valid even though it was:

   a) Oral b) Gratuitous c) Implied d) Statutory

Answer: c

3. The loss suffered by the Bank of India arose due to the conduct of:

   a) The bank itself b) A third party only

   c) The promisor d) The indemnity holder

Answer: c

4. This case establishes that a contract of indemnity:

   a) Must always be in writing

   b) Can be implied from circumstances

   c) Is valid only between private parties

   d) Applies only after actual loss

Answer: b

5. The relationship between the parties in this case best illustrates:

   a) Contract of guarantee b) Bailment

   c) Implied contract of indemnity d) Agency

Answer: c

Contract of Guarantee

A Contract of Guarantee is a contract where one party (the guarantor/surety) promises to perform the obligation or compensate for the loss if the principal debtor fails to fulfill their obligation (sec 126).

Three Parties in a Contract of Guarantee

1. Principal Creditor – The person or entity to whom the guarantee is given and who has the right to receive payment or performance if the principal debtor defaults.

2. Principal Debtor – The person who has the primary obligation to pay or perform under the contract. If they fail to fulfill their obligation, the surety becomes liable.
3. Surety – The person who gives the guarantee and promises to be responsible for the debt or obligation of the principal debtor in case of default.

Kinds of Guarantee:

1. Specific Guarantee – A guarantee given for a single transaction or debt, which ends once the obligation is fulfilled.
2. Continuing Guarantee – A guarantee that covers multiple transactions or a series of debts until revoked.
3. Retrospective Guarantee – A guarantee given for an existing debt or obligation.
4. Prospective Guarantee – A guarantee given for a future debt or obligation.

MCQs to Understand and Analyse: 14

1. A Contract of Guarantee involves how many parties?

a) One b) Two c) Three d) Four

Answer: c

2. The person who gives the guarantee is called the:

a) Creditor b) Principal debtor c) Surety d) Agent

Answer: c

3. The person to whom the guarantee is given is the:

a) Surety b) Principal debtor

c) Principal Creditor d) Customer

Answer: c

4. The person who has the primary obligation in a contract of guarantee is:
   a) Surety b) Creditor c) Principal debtor d) Banker

Answer: c

5. A guarantee given for a single specific transaction is called:
   a) Continuing guarantee b) Specific guarantee
   c) Retrospective guarantee d) Prospective guarantee

Answer: b

6. A continuing guarantee applies to:
   a) Only one transaction b) A series of transactions
   c) Only past debts d) Illegal transactions

Answer: b

7. A guarantee given for an existing debt is known as:
   a) Prospective guarantee b) Specific guarantee
   c) Continuing guarantee d) Retrospective guarantee

Answer: d

8. A prospective guarantee applies to:
   a) Past debts b) Future obligations
   c) Debts already written off d) Transactions completed

Answer: b

9. If the principal debtor fails to repay, who becomes liable?
   a) Creditor b) Surety
   c) Both creditor and debtor d) Government

Answer: b

10. A contract of guarantee is enforceable only when:
   a) All three parties agree b) Only the creditor agrees
   c) Only surety agrees d) Only principal debtor agrees

Answer: a

11. (A): A Contract of Guarantee always involves three parties.
   (R): In a contract of guarantee, liability shifts from the principal debtor to the surety.
   Options:
   a) Both A and R are true, and R is the correct explanation of A
   b) Both A and R are true, but R is NOT the correct explanation of A

c) A is true, but R is false d) A is false, but R is true

Answer: b

12. (A): In a continuing guarantee, the surety's liability extends to multiple transactions.

(R): A continuing guarantee remains valid until specifically revoked by the surety.

Options:

a) Both A and R are true, and R is the correct explanation of A

b) Both A and R are true, but R is NOT the correct explanation of A

c) A is true, but R is false d) A is false, but R is true

Answer: a

13. (A): A specific guarantee ends once the particular transaction is completed.

(R): A specific guarantee is indended only for a specific debt or obligation.

Options:

a) Both A and R are true, and R is the correct explanation of A

b) Both A and R are true, but R is NOT the correct explanation of A

c) A is true, but R is false d) A is false, but R is true

Answer: a

14. (S1): A contract of guarantee requires the consent of all three parties.

(S2): Without the surety's consent, no valid contract of guarantee can be formed.

Options:

a) S1 is true, S2 is true, and S2 explains S1

b) S1 is true, S2 is true, but S2 does NOT explain S1

c) S1 is true, S2 is false d) S1 is false, S2 is true

Answer: a

15. (S1): A prospective guarantee applies to future debts.

(S2): It cannot be used for existing debts.

Options:

a) S1 is true, S2 is true, and S2 explains S1

b) S1 is true, S2 is true, but S2 does NOT explain S1

c) S1 is true, S2 is false d) S1 is false, S2 is true

Answer: a

Related Case Studies- 13

1. State Bank of India v. Saksaria Sugar Mills Ltd. (1986)

Saksaria Sugar Mills Ltd. had obtained financial assistance from the SBI. To secure the cash credit facility, sureties executed a contract of guarantee in favour of SBI. When the principal debtor failed to repay the amount, SBI proceeded against the sureties. The court held that the liability of the surety is co-extensive with that of the principal debtor, unless the contract provides otherwise. SBI was entitled to proceed directly against the sureties without first suing the principal debtor.

MCQs

1. The liability of the surety in a contract of guarantee is described as:

a) Primary and exclusive b) Secondary and limited

c) Co-extensive with the principal debtor

d) Dependent on court order

Answer: c

2. In this case, the creditor (SBI) was allowed to proceed directly against the sureties because:

a) The principal debtor was insolvent

b) The surety's liability arises only after notice

c) The law permits direct action against sureties on default

d) The surety owned the debtor's property

Answer: c

3. The role of the surety in a contract of guarantee is to:

a) Perform the contract in place of creditor

b) Share profits with the debtor

c) Fulfil the obligation if the principal debtor defaults

d) Transfer ownership of goods

Answer: c

4. The creditor’s right highlighted in this case mainly relates to:

a) Revocation of guarantee

b) Immediate remedy against surety

c) Discharge of guarantee d) Right to indemnity

Answer: b

5. This case is most relevant while explaining which feature of guarantee?

a) Continuing guarantee b) Specific guarantee

c) Co-extensive liability of surety d) Retrospective guarantee

Answer: c

2. Bank of Bihar Ltd. v. Dr. Damodar Prasad & Anr. (SC 1969)

Bank of Bihar lent money to Dr. Damodar Prasad (principal debtor), guaranteed by Paras Nath Sinha (surety). When the loan was not repaid, the bank sued both. Although the trial court said the bank must first proceed against the debtor, the Supreme Court rejected this view. It held that under Section 128 of the Indian Contract Act, the liability of a surety is co-extensive with that of the principal debtor and arises immediately on default. Therefore, the bank can directly sue the surety without first suing or exhausting remedies against the principal debtor.

MCQs

1. In a contract of guarantee, the liability of the surety arises when:

a) The guarantee is signed

b) The creditor demands payment

c) The principal debtor makes default

d) The surety withdraws consent

Answer: c

2. The surety in this case could not insist that the bank must first sue the principal debtor because:

a) The surety waived all rights b) The contract was voidable

c) The surety's liability is co-extensive

d) The debtor was insolvent

Answer: c

3. Which right of the creditor is reinforced by this case?

a) Right to revoke guarantee

b) Right to proceed directly against the surety

c) Right to demand security d) Right to terminate contract

Answer: b

4. The liability of the surety is described as "co-extensive" because:

a) It is greater than that of the debtor

b) It is equal to that of the principal debtor

c) It arises only after a court decree

d) It depends on insolvency of debtor

Answer: b

5. This case is most useful in explaining which feature of a contract of guarantee?

a) Kinds of guarantee b) Rights of surety
c) Liability of surety d) Discharge of guarantee

Answer: c

Rights and Liabilities of Surety

Rights of Surety

1. Right of Subrogation – After paying the creditor, the surety gets all rights of the creditor against the principal debtor.
2. Right of Indemnity – Surety can recover the amount paid from the principal debtor.
3. Right to Securities – Surety has a right over any securities held by the creditor from the principal debtor.
4. Right to be Relieved – Surety can ask the principal debtor to pay before he is forced to.

Liabilities of Surety

1. Co-extensive Liability – Surety's liability is the same as that of the principal debtor unless stated otherwise.
2. Liability Arises on Default – Surety is liable only when the principal debtor fails to pay.
3. Cannot Revoke Past Liabilities – A surety cannot withdraw for past debts, only for future ones.

Revocation of a Continuing Guarantee

A continuing guarantee is a guarantee that applies to multiple transactions over time until it is revoked.

Ways to Revoke a Continuing Guarantee/ Discharge of Surety:

1. By Revocation – A surety can revoke a continuing guarantee for future transactions by giving notice.

2. By Death of Surety – The surety's estate is not liable for future debts unless agreed otherwise.
3. By Variance in Contract – Any change in the original contract without the surety's consent discharges the surety.
4. By Release of Principal Debtor – If the creditor releases the principal debtor, the surety is discharged.
5. By Novation – If a new contract replaces the old one, the surety is discharged.
6. By Creditor's Act or Omission – If the creditor does anything to impair the surety's rights (e.g., losing securities), the surety is discharged.

MCQs to Understand and Analyse: 15

1. The right of a surety to step into the shoes of the creditor after payment is called:

a) Right of Lien b) Right of Subrogation

c) Right of Set-off d) Right of Redemption

Answer: b

2. Surety's liability is generally:

a) More than that of the principal debtor

b) Less than that of the principal debtor

c) Co-extensive with the principal debtor

d) Zero unless agreed in writing

Answer: c

3. A surety can recover the amount paid to the creditor from the principal debtor under:

a) Right of Indemnity b) Right of Sale
c) Right of Assignment d) Right of Lien

Answer: a

4. When can a continuing guarantee be revoked?

a) Anytime, even for past transactions

b) Only for future transactions by giving notice

c) Only with court approval d) Never

Answer: b

5. The estate of a surety becomes free from future liabilities on:

a) Insolvency b) Retirement c) Death d) Marriage

Answer: c

6. If the creditor changes the terms of the contract without the consent of the surety:

a) Surety remains liable b) Surety becomes discharged

c) Surety's liability increases d) Surety must sign again

Answer: b

7. Losing securities by the creditor without surety's consent results in:

a) Increase in debtor's liability

b) Automatic renewal of the guarantee

c) Discharge of surety d) Transfer of guarantee

Answer: c

8. When the creditor releases the principal debtor, the surety is:

a) Still fully liable b) Partly liable

c) Fully discharged d) Forced to pay double

Answer: c

9. Substitution of a new contract in place of the old one, resulting in discharge of surety, is called:

a) Novation b) Delegation c) Endorsement d) Mitigation

Answer: a

10. Surety's liability arises only when:

a) Surety signs the contract b) Creditor approves

c) Principal debtor defaults d) The government orders it

Answer: c

11. (A): A surety's liability is co-extensive with that of the principal debtor.

(R): A surety becomes liable only when the creditor demands payment.

Options:

a) Both A and R are true, and R explains A

b) Both A and R are true, but R does NOT explain A

c) A is true, but R is false d) A is false, but R is true

Answer: c

12. (A): A surety is discharged if the creditor varies the terms of the contract without the surety's consent.

(R): Any change to the original contract increases the surety's risk.

Options:

a) Both A and R are true, and R explains A

b) Both A and R are true, but R does NOT explain A

c) A is true, but R is false d) A is false, but R is true

Answer: a

13. (A): A surety can revoke a continuing guarantee by giving notice.

(R): Revocation applies to both past and future transactions.

Options:

a) Both A and R are true, and R explains A

b) Both A and R are true, but R does NOT explain A

c) A is true, but R is false d) A is false, but R is true

Answer: c

14. (S1): A surety has the right of indemnity against the principal debtor.

(S2): The principal debtor must reimburse the surety for any lawful payment made on his behalf.

Options:

a) S1 is true, S2 is true, and S2 explains S1

b) S1 is true, S2 is true, but S2 does NOT explain S1

c) S1 is true, S2 is false d) S1 is false, S2 is true

Answer: a

15. (S1): A surety becomes liable immediately when the contract of guarantee is signed.

(S2): The surety's liability arises only if the principal debtor defaults.

Options:

a) S1 is true, S2 is true, and S2 explains S1

b) S1 is true, S2 is true, but S2 does NOT explain S1

c) S1 is true, S2 is false d) S1 is false, S2 is true

Answer: d

Related Case Studies -14

1. State Bank of India v. Indexport Registered (1992)

In this case, Indexport Registered stood as a surety for credit facilities granted by the State Bank of India (SBI) to the principal debtor. When the principal debtor defaulted, SBI recovered the dues from the surety instead of first proceeding against the principal debtor. After paying the amount to SBI, Indexport Registered sought to exercise rights against the principal debtor. The Supreme Court held that after paying the creditor, the surety is entitled to step into the shoes of the creditor and exercise all the creditor's rights against the principal debtor.

MCQs

1. After paying the creditor, the surety acquires all the rights of the creditor against the principal debtor. This right is known as:

a) Right of indemnity b) Right of subrogation

c) Right to securities d) Right of revocation

Answer: b

2. The surety's right to proceed against the principal debtor becomes enforceable:

a) When guarantee is signed b) On default of principal debtor

c) After the surety pays the creditor d) When notice is given

Answer: c

3. Which of the following best explains why the surety can use the creditor's remedies after payment?

a) Surety becomes owner of debt

b) Surety acts as agent of creditor

c) Law places the surety in the creditor's position

d) Guarantee becomes void

Answer: c

4. The principle laid down in this case mainly protects which interest?
   a) Creditor's right to recover debt
   b) Principal debtor's liability
   c) Surety's right after discharging liability
   d) Government's interest

Answer: c

5. This case is most relevant while explaining which right of the surety?
   a) Right to revoke guarantee b) Right to be indemnified
   c) Right of subrogation d) Right to discharge contract

Answer: c

2. State of Madhya Pradesh v. Kaluram (1967)

Kaluram stood as a surety for a contract entered into between the State of Madhya Pradesh and the principal debtor. As part of the contract, the State held certain securities belonging to the principal debtor. Later, the State of Madhya Pradesh, without the consent of Kaluram, lost or parted with the securities. When the principal debtor defaulted, the State sought to recover the amount from the surety. The Supreme Court held that Kaluram (the surety) was discharged to the extent of the value of the securities lost by the creditor.

MCQs

1. A surety is discharged when the creditor, without the surety's consent, loses the securities because:
   a) The contract becomes void
   b) The surety's liability becomes primary
   c) The surety is deprived of the benefit of securities
   d) The principal debtor is released

Answer: c

2. If a creditor parts with securities without the surety's consent, the surety is:

   a) Fully liable b) Automatically discharged entirely

   c) Discharged to the extent of the value of securities

   d) Not affected

Answer: c

3. The right highlighted in this case mainly relates to which right of the surety?

   a) Right of indemnity b) Right of subrogation

   c) Right to securities d) Right to revoke guarantee

Answer: c

4. The discharge of the surety in this case occurred due to:

   a) Default by principal debtor b) Death of surety

   c) Act or omission of creditor d) Revocation by notice

Answer: c

5. This case is most relevant while explaining which method of discharge of surety?

   a) Discharge by novation b) Discharge by death of surety

   c) Discharge by creditor's act or omission

   d) Discharge by variance in contract

Answer: c

3. Union Bank of India v. T.R. Ganapathy (1993, Madras HC)

Union Bank extended a loan to a principal debtor, guaranteed by T.R. Ganapathy (surety). Without the surety's consent, the bank and debtor later substituted the original loan agreement with a new contract featuring altered repayment terms and extended tenure. The court held Ganapathy discharged under Section 133, Indian Contract Act, 1872, as novation (replacement of original contract) without consent extinguished surety liability—the obligation is strictly tied to the original contract's terms. No ongoing liability existed for the new agreement absent fresh consent.

MCQs

1. A surety is discharged when the original contract between the creditor and principal debtor is replaced by a new contract without the surety's consent. This is known as:

a) Revocation of guarantee b) Subrogation

c) Novation d) Indemnity

Answer: c

2. The discharge of the surety in this case occurred mainly because:

a) The principal debtor repaid the debt

b) The creditor released the surety

c) The original contract was substituted without consent

d) The surety died

Answer: c

3. The liability of the surety is linked to:

a) The financial status of the debtor b) The creditor's discretion

c) The terms of the original contract

d) The existence of securities

Answer: c)

4. If a new agreement replaces the old one between creditor and principal debtor, the surety is:

a) Always liable b) Liable only for past transactions

c) Discharged unless he consents d) Liable only after notice

Answer: c

5. This case is most relevant while explaining which method of discharge of surety?

a) Discharge by death b) Discharge by variance in contract

c) Discharge by novation d) Discharge by creditor's omission

Answer: c

Contract of Agency – Creation of Agency

A Contract of Agency is a legal relationship where one party (the Agent) is authorized to act on behalf of another party (the Principal) to create legal obligations (Ses 182).

Modes of Creation of Agency:

1. By Express Agreement – When the principal appoints the agent through a written or oral agreement (e.g., power of attorney).
2. By Implied Agreement – When the agency is inferred from the conduct of the parties or circumstances (e.g., a partner acting on behalf of a firm).
3. By Necessity – When an agency is created due to an emergency where one person acts for another to prevent loss (e.g., a ship captain selling perishable goods in an emergency).
4. By Estoppel – When a principal's actions lead a third party to believe that a person is their agent, even if no formal

agreement exists, then he is prevented from denying the truth of the agency.

5. By Ratification – When a person acts as an agent without prior authority, but the principal later approves the act, making it legally binding.
6. By Statute – When an agency is created by law (e.g., a legal guardian for a minor).

Principal and Agent

Principal:

- The person who appoints an agent to act on their behalf.
- Must have the legal capacity to contract.
- Responsible for the agent's lawful acts within the scope of authority.

Agent:

- The person who acts on behalf of the principal.
- Must act in the best interest of the principal.
- Can be appointed by express or implied agreement.

MCQs to Understand and Analyse: 16

1. A contract of agency creates a relationship between:

a) Buyer and seller b) Principal and agent

c) Lender and borrower d) Employer and employee

Answer: b

2. When the principal appoints an agent through written or oral words, it is called agency:

a) By necessity b) By estoppel

c) By express agreement d) By statute

Answer: c

3. Agency created due to conduct or circumstances is known as:

a) Express agency b) Implied agency

c) Ratified agency d) Statutory agency

Answer: b

4. A ship captain selling perishable goods during an emergency is an example of agency:

a) By estoppel b) By necessity

c) By ratification d) By express agreement

Answer: b

5. When the principal later approves an act done without authority, agency is created by:

a) Necessity b) Statute

c) Ratification d) Estoppel

Answer: c

6. When a principal's conduct causes a third person to believe someone is their agent, it is agency:

a) By statute b) By express agreement

c) By estoppel d) By necessity

Answer: c

7. A minor can act as:

a) Principal only b) Agent only

c) Neither principal nor agent d) Both principal and agent

Answer: b

8. A principal must have:

a) Good communication skills b) Physical strength

c) Legal capacity to contract d) Accounting knowledge

Answer: c

9. Agency by statute arises when:

a) Parties agree in writing

b) Law automatically appoints an agent

c) Someone ratifies an act d) There is an emergency

Answer: b

10. An agent must always act:

a) For personal gain

b) Against the principal's instructions

c) In the best interest of the principal

d) Only when paid

Answer: c

11. (A): Agency can be created even without a written agreement.

(R): Agency may arise through implied agreement or conduct of parties.

Options:

a) Both A and R are true, and R is the correct explanation of A

b) Both A and R are true, but R is NOT the correct explanation of A

c) A is true, but R is false d) A is false, but R is true

Answer: a

12. (A): A principal must have legal capacity to enter into a contract.

(R): An agent must also be a major and of sound mind.

Options:

a) Both A and R are true, and R is the correct explanation of A

b) Both A and R are true, but R is NOT the correct explanation of A

c) A is true, but R is false d) A is false, but R is true

Answer: c

13. (A): Agency by necessity arises only when communication with the principal is impossible.

(R): Agency by necessity is allowed only in emergency situations to prevent loss.

Options:

a) Both A and R are true, and R is the correct explanation of A

b) Both A and R are true, but R is NOT the correct explanation of A

c) A is true, but R is false d) A is false, but R is true

Answer: a

14. (S1): Agency by ratification requires that the principal must have full knowledge of the act.

(S2): A principal cannot ratify an act performed without knowing the facts.

Options:

a) S1 is true, S2 is true, and S2 explains S1

b) S1 is true, S2 is true, but S2 does NOT explain S1

c) S1 is true, S2 is false d) S1 is false, S2 is true

Answer: a

15. (S1): An agent must always act in the best interest of the principal.

(S2): An agent represents the principal in dealings with third parties.

Options:

a) S1 is true, S2 is true, and S2 explains S1

b) S1 is true, S2 is true, but S2 does NOT explain S1

c) S1 is true, S2 is false d) S1 is false, S2 is true

Answer: b

Related Case Studies -15

1. Syed Abdul Khader v. Rami Reddy (1979)

In Syed Abdul Khader v. Rami Reddy (1979), Syed Abdul Khader appointed Rami Reddy as his agent through an express agreement to deal with certain property on his behalf. The agent acted within the authority granted by the principal and entered into transactions with third parties. Later, a dispute arose regarding whether the principal was bound by the acts done by the agent. The Supreme Court held that the principal is bound by the acts of the agent when such acts are done within the authority expressly conferred on the agent.

MCQs

1. When an agent is appointed through a clear written or oral agreement, the agency is created by:

    a) Estoppel b) Necessity

    c) Express agreement d) Ratification

Answer: c

2. In this case, the principal was held liable because the agent acted:

    a) Without authority b) Beyond authority

    c) Within the scope of express authority

    d) In personal capacity

Answer: c

3. The legal principle emphasized in this case is that the principal is bound by:

    a) All acts of the agent b) Only illegal acts of the agent

    c) Acts done within the agent's authority

    d) Acts done after termination

Answer: c

4. Which essential element of agency is highlighted by this case?

    a) Consideration b) Authority given by principal

    c) Emergency situation d) Approval by third party

Answer: b

5. The relationship between Syed Abdul Khader and Rami Reddy was that of:

a) Buyer and seller b) Employer and employee

c) Principal and agent d) Trustee and beneficiary

Answer: c

2. Hukumchand Insurance Co. Ltd. v. Bank of Baroda (1977)

Hukumchand Insurance Co. Ltd. had allowed certain persons to regularly act and transact on its behalf with the Bank of Baroda. These dealings were carried out over a period of time, and the company accepted the benefits arising from such transactions without objection. Later, the company denied that those persons were its agents and tried to avoid liability for their acts. The court held that an implied agency existed. Since the principal knowingly allowed the persons to act on its behalf and accepted the benefits, it could not deny the existence of agency.

MCQs

1. An agency created from the conduct and course of dealings between parties is called:

a) Agency by estoppel b) Agency by ratification

c) Agency by implied agreement d) Agency by necessity

Answer: c

2. In this case, the principal was held bound because it:

a) Gave written authority b) Acted in emergency

c) Accepted the benefits of the agent's acts

d) Ratified the acts later

Answer: c

3. Which element is essential for establishing implied agency?

a) Express consent b) Registration of agreement

c) Conduct indicating authority d) Approval by court

Answer: c

4. The liability of the principal in this case arose mainly because:

a) Agency was compulsory b) The agent was a minor

c) The principal permitted the agent to act

d) The contract was voidable

Answer: c

5. Which of the following best explains why the principal could not deny agency?

a) Agency requires consideration

b) Authority was statutory

c) Acceptance of acts implied authority

d) Agent acted in good faith

Answer: c

3. Ram Prasad v. Hari Narain (1930)

Hari Narain allowed Ram Prasad to act in a manner that led third parties to believe that Ram Prasad was his agent. Ram Prasad entered into transactions with third parties on that belief. Later, Hari Narain denied that Ram Prasad was his agent and tried to escape liability. The court held that Hari Narain was bound by the acts of Ram Prasad. He was estopped from denying the agency because his conduct had created a belief in the minds of third parties.

MCQs

1. When a principal's conduct leads third parties to believe that a person is his agent, the agency created is called:

a) Agency by necessity b) Agency by ratification

c) Agency by estoppel d) Agency by statute

Answer: c

2. In this case, Hari Narain was held liable mainly because he:

a) Gave written authority b) Ratified the acts later

c) Created an impression of agency by his conduct

d) Entered into an express contract

Answer: c

3. The principal cannot deny the agency in such cases because:

a) The agent is legally appointed

b) The law protects third parties acting in good faith

c) The contract is registered d) Consideration was paid

Answer: b

4. Which element is essential for agency by estoppel to arise?

a) Emergency situation b) Prior approval of principal

c) Representation by conduct or words

d) Written agreement

Answer: c

5. The liability of the principal in agency by estoppel arises even when:

a) The agent is a minor b) There is no express agreement

c) The act is illegal d) The agent acts after termination

Answer: b

Rights and Duties of Agent and Principal

Rights of an Agent:

1. Right to Remuneration – Entitled to payment for services rendered.
2. Right to Retain Money – Can deduct expenses and commissions from the amounts received.
3. Right to Indemnification – Can recover losses incurred while acting lawfully.
4. Right to Compensation – If the agency is wrongfully terminated, the agent can claim damages.

Duties of an Agent:

1. Duty to Follow Instructions – Must act within the authority given by the principal.
2. Duty to Act with Care and Skill – Should perform tasks diligently and competently.
3. Duty to Avoid Conflict of Interest – Should not act against the principal's interest.
4. Duty to Account – Must provide proper accounts of all transactions.
5. Duty Not to Make Secret Profits – Should not earn personal gains beyond agreed remuneration.

Rights of a Principal:

1. Right to Receive Proper Accounts – Can demand an accurate record of transactions.

2. Right to Expect Diligence and Skill – Can expect professional and competent work.
3. Right to Recover Losses – Can claim damages for agent's negligence or misconduct.
4. Right to Dismiss the Agent – Can terminate agency if the agent breaches duty.

Duties of a Principal:

1. Duty to Pay Remuneration – Must compensate the agent as agreed.
2. Duty to Indemnify Agent – Should reimburse lawful expenses and losses.
3. Duty Not to Prevent Performance – Should not obstruct the agent's work.

Sub-Agent Vs. Substituted Agent

Sub-Agent:

- A person appointed by the agent to assist in carrying out the principal's tasks.
- Works under the control and supervision of the original agent.
- The original agent is responsible for the sub-agent's acts.
- Example: A travel agent appoints another agent to book flights for a client.

Substituted Agent:

- A person appointed by the agent on the instruction of the principal.
- Works directly under the principal, not the original agent.
- The original agent is not responsible for the acts of the substituted agent.
- Example: A lawyer appointing another lawyer in a different city as per the client's instructions.

Termination of Agency

Agency is terminated either by the act of parties (revocation, renunciation, mutual agreement) or by operation of law (completion of business, expiry of time, death, insanity, insolvency, destruction of subject matter, etc.). However, an agency coupled with interest cannot be revoked to the prejudice of the agent’s interest.

Modes of Termination: Under the Indian Contract Act of 1872, an agency relationship may be terminated in several ways.

1. By Act of the Parties:

1. By Mutual Agreement – Both principal and agent agree to end the agency.
2. By Revocation by Principal – The principal can revoke the agent’s authority before completion of the act.
3. By Renunciation by Agent – The agent can resign from their duties by giving notice to the principal.

2. By Operation of Law:

4. Completion of Business – The agency ends upon completion of the assigned task.
5. Expiration of Time – If the agency was for a fixed period, it ends automatically after the time expires.
6. Death or Insanity – If either the principal or agent dies or becomes mentally incapacitated, the agency is terminated.
7. Insolvency of Principal – If the principal is declared insolvent, the agency ends.
8. Destruction of Subject Matter – If the subject of the agency (e.g., goods, property) is destroyed, the agency terminates.
9. Principal Becomes an Alien Enemy – If the principal's country goes to war with the agent's country, the agency ends.

MCQs to Understand and Analyse: 17

1. The right of an agent to deduct expenses and commission from the amounts received is called:

   a) Right of Indemnity b) Right to Retain Money

   c) Right to Compensation d) Right to Dismiss

Answer: b

2. The duty of providing accurate transaction records falls under:

   a) Duty to Avoid Conflict b) Duty to Account

   c) Duty to Indemnify d) Duty to Remunerate

Answer: b

3. A principal can dismiss the agent if:

a) The agent asks for higher commission

b) The agent breaches his duty

c) The agent completes the task

d) The agent works diligently

Answer: b

4. A sub-agent:

a) Works directly under the principal

b) Is appointed on principal's instructions

c) Works under the original agent d) Is never supervised

Answer: c

5. Which of the following is TRUE for a substituted agent?

a) Works under the original agent

b) Original agent is responsible for his actions

c) Appointed as per principal's instructions

d) Cannot be removed

Answer: c

6. Termination of agency by law does NOT include:

a) Death of principal b) Completion of business

c) Mutual agreement d) Destruction of subject matter

Answer: c

7. Principal must indemnify the agent for:

a) Illegal acts b) Lawful expenses incurred

c) Personal losses d) Secret profits

Answer: b

8. When an agent is wrongfully terminated, he has the right to:

a) Secret profits b) Compensation

c) Avoid accounting d) Appoint a sub-agent

Answer: b

9. Agency ends automatically when:

a) Principal becomes insolvent

b) Agent disagrees with principal

c) Agent takes leave d) Principal changes address

Answer: a

10. The agent must always act:

a) Against the principal's interest b) With care and skill

c) For personal benefit d) Without instructions

Answer: b

11. (A): An agent must not make secret profits.

(R): Any profit made by the agent beyond agreed remuneration belongs to the principal.

Options:

a) Both A and R are true, and R is the correct explanation of A

b) Both A and R are true, but R is NOT the correct explanation of A

c) A is true, but R is false d) A is false, but R is true

Answer: a

12. (A): A principal must indemnify the agent for all losses.

(R): The agent is protected even when performing illegal acts for the principal.

Options:

a) Both A and R are true, and R is the correct explanation of A

b) Both A and R are true, but R is NOT the correct explanation of A

c) A is true, but R is false d) A is false, but R is true

Answer: c

13. (A): A sub-agent works directly under the principal.

(R): A sub-agent is appointed by the agent to assist in the work.

Options:

a) Both A and R are true, and R is the correct explanation of A

b) Both A and R are true, but R is NOT the correct explanation of A

c) A is true, but R is false d) A is false, but R is true

Answer: d

14. (S1): A substituted agent works directly under the principal.

(S2): A substituted agent is appointed by the agent only when the principal instructs them to appoint someone else.

Options:

a) S1 is true, S2 is true, and S2 explains S1

b) S1 is true, S2 is true, but S2 does NOT explain S1

c) S1 is true, S2 is false d) S1 is false, S2 is true

Answer: a

15. (S1): The principal has the right to recover losses caused by the agent's negligence.

(S2): An agent must act with reasonable care and skill while performing duties.

Options:

a) S1 is true, S2 is true, and S2 explains S1

b) S1 is true, S2 is true, but S2 does NOT explain S1

c) S1 is true, S2 is false d) S1 is false, S2 is true

Answer: a

Related Case Studies- 16

1. P. Krishna Bhatta v. Mundila Ganapathi Bhatta (1966)

In P. Krishna Bhatta v. Mundila Ganapathi Bhatta, an agency relationship existed between the parties. Krishna Bhatta acted as an agent for Mundila Ganapathi Bhatta (principal) in respect of certain transactions. Subsequently, the principal was declared insolvent.

MCQs

1. An agency is terminated by operation of law when the principal:

a) Revokes authority b) Completes the business

c) Is declared insolvent d) Gives notice to the agent

Answer: c

2. After the insolvency of the principal, the agent:

a) Can continue to bind the principal

b) Acts as a substituted agent

c) Loses authority automatically

d) Must seek court permission

Answer: c

3. Termination of agency due to insolvency falls under which category?

a) By mutual agreement b) By act of the parties

c) By operation of law d) By revocation

Answer: c

4. The purpose of terminating agency on insolvency of the principal is to:

a) Protect the agent b) Protect third parties

c) Protect creditors of the insolvent principal

d) Continue business smoothly

Answer: c

5. This case is most relevant while explaining which mode of termination of agency?

a) Renunciation by agent b) Revocation by principal

c) Insolvency of principal d) Expiry of time

Answer: c

2. Anand Prakash v. State of UP (1963)

In Anand Prakash v. State of Uttar Pradesh, Anand Prakash was acting as an agent under an existing agency relationship. He renounced (resigned from) the agency before completing the work entrusted to him.

A dispute arose over whether an agent has the right to terminate the agency unilaterally and, if so, under what conditions such termination would be valid. The court held that an agent has the right to renounce the agency, but such renunciation must be given reasonable notice to the principal. If reasonable notice is not given, the agent may be liable to compensate the principal for any resulting loss.

MCQs

1. An agent may terminate the agency by:

a) Mutual agreement only b) Revocation by principal

c) Renunciation by agent d) Insolvency of agent

Answer: c

2. In this case, the court emphasized that renunciation of agency by an agent must be accompanied by:

   a) Written consent of principal   b) Court approval

   c) Reasonable notice to the principal   d) Completion of work

Answer: c

3. If an agent renounces the agency without giving reasonable notice, the agent:

   a) Is discharged from all liability

   b) Is liable to compensate the principal

   c) Can continue as substituted agent   d) Is not affected

Answer: b

4. Termination of agency by renunciation falls under which category?

   a) By operation of law   b) By completion of business

   c) By act of the parties   d) By the death of the agent

Answer: c

5. This case is most relevant while explaining which mode of termination of agency?

   a) Revocation by principal   b) Renunciation by agent

   c) Insolvency of principal   d) Expiry of time

Answer: b

3. Prabhat Kumar v. Om Prakash

In Prabhat Kumar v. Om Prakash, Om Prakash was appointed as an agent by Prabhat Kumar (principal) to carry out certain work on his behalf. During the course of the agency, the agent acted negligently / failed to perform his duties properly, resulting in loss to the principal. Due to this misconduct, the principal terminated (dismissed) the agent before the completion of the agency. The court held that Prabhat Kumar was justified in dismissing Om Prakash. The agent's failure to act with due care and diligence amounted to a breach of duty, entitling the principal to terminate the agency.

MCQs

1. A principal can dismiss an agent without liability when the agent:

a) Requests higher remuneration

b) Acts negligently or commits misconduct

c) Completes the work early d) Appoints a sub-agent

Answer: b

2. The right exercised by the principal in this case relates to:

a) Right to indemnify agent b) Right to receive accounts

c) Right to dismiss the agent d) Right to ratify acts

Answer: c

3. Which duty of the agent was breached in this case, justifying termination?

a) Duty to account b) Duty to avoid conflict of interest

c) Duty to act with care and skill

d) Duty not to make secret profits

Answer: c

4. Termination of agency due to agent's misconduct falls under:

a) By operation of law b) By completion of business

c) By act of the parties d) By the death of thes agent

Answer: c

5. If an agent is dismissed for just cause, the principal:

a) Must pay full compensation b) Is liable for damages

c) Is not liable to compensate the agent

d) Must give one month's notice

Answer: c

Module 4

Sale of Goods Act

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Sale of Goods Act, 1930

The Sale of Goods Act, 1930, governs the sale of goods in India. It lays down the rights and responsibilities of buyers and sellers when goods are sold. This law applies only to movable goods (not land or services).

Key Points:

1. **What is a Sale?**

   A sale happens when the seller transfers ownership of goods to the buyer for a price.

   An agreement to sell means the transfer will happen later or under certain conditions.

2. **Types of Terms in a Sale**

   Conditions: Important terms. If broken, the buyer can cancel the deal.

   Warranties: Minor terms. If broken, the buyer can ask for compensation but cannot cancel the deal.

3. **Who Owns the Goods?**

   Ownership shifts from the seller to the buyer as per the contract.

   Once ownership changes, the buyer takes the risk (even if they don’t have the goods yet).

4. **Buyer’s Responsibility**

   (Caveat Emptor – "Let the Buyer Beware")

   The buyer must check the goods before purchasing.

The seller is responsible only if they misrepresent or give guarantees.

5. **Rights of an Unpaid Seller**

   Keep the goods if the buyer has not paid.

   Stop delivery if the buyer becomes bankrupt.

   Resell the goods under certain conditions.

6. **Duties of Seller & Buyer**

   Seller: Must deliver the goods as per the agreement.

   Buyer: Must accept the goods and pay for them.

7. **What If Something Goes Wrong?**

   Buyer's Rights: Can reject faulty goods, ask for a refund, or claim damages.

   Seller's Rights: Can demand payment, claim damages, or cancel the contract.

Contract of Sale

Section 4 of the Sale of Goods Act, 1930, defines a Contract of Sale and explains its two types. Accordingly, "A contract where the seller transfers or agrees to transfer goods to the buyer for a price."

1. **Types of Contract of Sale**

Sale: Ownership of goods transfers immediately from seller to buyer.

Agreement to Sell: Ownership will transfer at a future date, subject to fulfillment of certain conditions.

2. **Legal Binding Nature**

A sale is a completed contract, and if the goods are lost, the buyer bears the risk. An agreement to sell becomes a sale once the conditions are met.

Sale vs. Agreement to Sell

Feature	Sale	Agreement to Sell
Ownership Transfer	Happens immediately	Happens in the future
Risk of Loss	Buyer bears the risk after purchase	Seller bears the risk until ownership transfers
Type of Contract	A completed contract	A future contract
Legal Action	If the buyer fails to pay, the seller can sue for the price	If the buyer fails to pay, the seller can only sue for damages
Effect of Goods Damage	Buyer is responsible if goods are lost or damaged	Seller is responsible if goods are lost or damaged before transfer

Example

- **Sale:** Ram buys a mobile and gets it immediately → Ownership transfers instantly. If the phone is lost after buying**,** Ram bears the loss.
- **Agreement to Sell:** Shyam orders a laptop for delivery next week → Ownership transfers later. If the laptop is damaged before delivery, the seller bears the loss.

Essential Elements of a Contract of Sale

(Sec. 4, Sale of Goods Act, 1930)

For a valid contract of sale, the following elements must be present:

1. **Two Parties**

There must be a seller (who transfers goods) and a buyer (who pays for them). A person cannot sell goods to himself.

2. **Goods**

The contract must involve movable goods (e.g., furniture, electronics, food). Immovable property (land, buildings) is not covered under this Act.

3. **Price (Consideration in Money)**

The buyer must pay money for the goods. Barter (exchange of goods for goods) is not a sale under this Act.

4. **Transfer of Ownership**

The seller must transfer or agree to transfer ownership of the goods to the buyer. The transfer may be immediate (Sale) or future (Agreement to Sell).

5. **Consent & Competency**

Both parties must agree to the contract voluntarily. Both must be legally capable of making a contract.

6. **Legality of the Contract**

The contract must be lawful and should not involve illegal goods.

MCQs to Understand and Analyse: 18

1. The Sale of Goods Act, 1930 applies to:

a) All types of property b) Movable goods only

c) Immovable goods only d) Services only

Answer: b

2. When does ownership transfer in an Agreement to Sell?

a) Immediately b) When goods are delivered

c) In the future or after conditions are met

d) Only after payment is made

Answer: c

3. If a condition of the contract is breached, the buyer can:

a) Only claim damages b) Cancel the contract

c) Do nothing d) Pay a penalty

Answer: b

4. Caveat Emptor means:

a) Let the seller beware b) Let the buyer beware

c) No risk to buyer d) No duty to check goods

Answer: b

5. Which of the following is NOT an essential element of a contract of sale?

a) Two parties b) Goods

c) Price must be in money d) Exchange of goods for goods

Answer: d

6. In a Sale, risk of loss passes to the buyer when:

a) Goods are delivered b) Price is paid

c) Ownership is transferred d) Contract is signed

Answer: c

7. the right of an unpaid seller includes all except:

a) Right of lien b) Right to stop goods in transit

c) Right to resell d) Right to imprison the buyer

Answer: d

8. A seller delivering goods as per the agreement fulfills which duty?

a) Duty to compensate buyer b) Duty to deliver goods

c) Duty to provide free services d) Duty to insure goods

Answer: b

9. A person cannot sell goods to himself because:

a) Goods must be new b) Money is not involved

c) Two separate parties are required

d) The Act prohibits the sale

Answer: c

10. The legal action available to the seller in an Agreement to Sell when the buyer refuses to pay is:

a) Sue for price b) Sue for damages

c) Cancel the Act d) Imprison buyer

Answer: b

11. Assertion (A): A contract of sale involves the transfer of ownership from the seller to the buyer.

Reason (R): A contract of sale can also include immovable property.

Options:

a) Both A and R are true, and R is the correct explanation of A

b) Both A and R are true, but R is NOT the correct explanation

c) A is true, but R is false d) A is false, but R is true

Answer: c

12. (A): Breach of a condition allows the buyer to reject the goods.

(R): A condition is an essential term of the contract.

Options:

a) Both A and R are true, and R is the correct explanation.

b) Both A and R are true, but R is NOT the correct explanation.

c) A is true, but R is false d) A is false, but R is true

Answer: a

13. (A): In an Agreement to Sell, risk remains with the seller.

(R): Ownership in goods passes immediately to the buyer.

Options:

a) Both A and R are true, and R is the correct explanation

b) Both A and R are true, but R is NOT the correct explanation

c) A is true, but R is false d) A is false, but R is true

Answer: c

14. (S1): A sale is a completed contract.

(S2): Ownership transfers immediately from seller to buyer.

Options:

a) Both statements are true, and S2 is the correct explanation

b) Both statements are true, but S 2 is NOT the correct explanation

c) S1 is true, S 2 is false d) S1 is false, S 2 is true

Answer: a

15. S1: Barter is considered a contract of sale.

S2: A sale requires monetary consideration.

Options:

a) Both statements are true, and S2 is the correct explanation

b) Both statements are true, but S 2 is NOT the correct explanation

c) S1 is true, S 2 is false d) S 1 is false, S 2 is true

Answer: d

Related Case Studies- 17

1. Varley v. Whipp (1900)

Varley sold a second-hand reaping machine to Whipp. The machine was sold by description, as Whipp had not seen it at the time of purchase. The seller described the machine as being newer and lightly used. When the machine was delivered, it turned out to be much older and in poor condition, not matching the seller's description. The court held that the buyer had the right to reject the goods.

MCQs

1. A contract in which the buyer relies on the seller's description of goods without seeing them is known as:

a) Sale by sample b) Sale by approval

c) Sale by description d) Sale by auction

Answer: c

2. In a sale by description, there is an implied condition that:

a) Goods must be of best quality b) Goods must be cheap

c) Goods must correspond exactly with the description

d) Goods must be insured

Answer: c

3. If the goods supplied do not match the description, the buyer can:

a) Claim damages only b) Demand replacement only

c) Reject the goods and treat the contract as repudiated

d) Compel the seller to reduce the price

Answer: c

4. Under the Sale of Goods Act, 1930, a term whose breach gives the right to cancel the contract is called:

a) Warranty b) Representation

c) Condition d) Guarantee

Answer: c

5. Which of the following statements is correct regarding sale by description?

a) Minor variations in goods are acceptable

b) Buyer must accept goods even if the description differs

c) Exact compliance with the description is mandatory

d) Description matters only for new goods

Answer: c

2. State of Madras v. Gannon Dunkerley & Co. (1958)

Gannon Dunkerley & Co. entered into a building (construction) contract with the Government of Madras. While executing the contract, the company used materials such as cement, steel, bricks, etc. The State of Madras sought to levy sales tax on the value of materials used in the construction, treating it as a sale of goods under the Madras General Sales Tax Act. The Supreme Court held that a works (building) contract is not a contract of sale under the Sale of Goods Act, 1930, because there is no transfer of movable goods for a price. Hence, sales tax cannot be levied on materials used in such contracts.

MCQs

1. A contract in which goods are used in the performance of work and are not transferred as movable goods is classified as:

   a) Contract of sale b) Agreement to sell

   c) Works contract d) Bailment

Answer: c

2. Which of the following is an essential element of a valid contract of sale under Section 4 of the Sale of Goods Act, 1930?

   a) Goods must be immovable

   b) Ownership of goods must be transferred for a price

   c) Goods must always be delivered immediately

   d) The buyer must resell the goods

Answer: b

3. The Sale of Goods Act, 1930 applies only to:

   a) Immovable property b) Services

   c) Movable goods d) Actionable claims

Answer: c

4. A contract where ownership of goods will transfer at a future date upon fulfillment of certain conditions is known as:

   a) Sale b) Bailment c) Pledge d) Agreement to sell

Answer: d

5. Which statement correctly reflects the rule regarding transfer of ownership under the Sale of Goods Act, 1930?

    a) Risk always remains with the seller

    b) Ownership passes only after delivery

    c) Risk generally passes with ownership

    d) Risk passes only after payment

Answer: c

3. Re Mahmoud and Ispahani (1921)

During World War I, a statutory order required a government licence for the sale of linseed oil. Mahmoud agreed to sell linseed oil to Ispahani without obtaining the required licence. Later, a dispute arose, and the buyer claimed rights under the contract. The court held that the contract was void and illegal, because it was made in contravention of the law. Therefore, no rights or remedies could arise from such a contract.

MCQs

1. A contract of sale made in violation of statutory provisions is:

    a) Voidable at the option of buyer   b) Valid but unenforceable

    c) Void and illegal   d) Enforceable with a penalty

Answer: c

2. Which essential element of a contract of sale was absent in Re Mahmoud and Ispahani (1921)?

    a) Two parties   b) Price

    c) Transfer of ownership   d) Legality of the contract

Answer: d

3. Under the Sale of Goods Act, 1930, a contract involving goods prohibited by law is:

a) A valid sale b) An agreement to sell

c) Void contract d) Contingent contract

Answer: c

4. If a statute requires a licence for the sale of goods and the seller sells without it, the contract is:

a) Valid if buyer is unaware b) Void due to illegality

c) Voidable at seller's option d) Enforceable after licence

Answer: b

5. Courts generally refuse to enforce contracts that:

a) Are incomplete b) Involve future goods

c) Defeat the object of law d) Are oral

Answer: c

Transfer of Ownership

Ownership of goods is transferred from the seller to the buyer based on the contract terms. It can be**:** Immediate (in case of a sale) or Future transfer (in case of an agreement to sell)

Rules for Transfer of Ownership

1. Specific Goods

Ownership passes according to the intention of the parties.

- If goods are in deliverable condition - Ownership passes when the contract is made.

- If seller must make the goods deliverable (packing, weighing, repairing) - Ownership passes after the work is done and the buyer is informed.
- If price depends on weighing or measuring - Ownership passes after those acts are completed.

2. Unascertained/Future Goods

Ownership does not pass until goods are:

1. Ascertained (identified), and
2. Unconditionally appropriated to the contract with the buyer's assent.

3. Goods Sent on Approval / Sale or Return

Ownership passes when the buyer:

- Accepts the goods, or
- Does any act show acceptance, or
- Retains goods beyond the agreed or reasonable time.

4. Transfer of Risk

Risk passes with ownership (Sec. 26).

- Before ownership passes – The seller bears the risk.
- After ownership passes – The buyer bears the risk.

Transfer by Non-Owners

Normally, only the owner can sell goods. But in some cases, a non-owner can legally transfer ownership:

- **Estoppel** – If the real owner allows a third party to act as the owner, the buyer gets a good title. E.g., Owner of a table allows his friend to use and display it as if it belongs to him. The friend then sells the table to an innocent buyer. Since the real owner created an impression that the friend was the owner, he cannot later deny the sale. The buyer gets a good title to the table.

- **Sale by Mercantile Agent** – If an agent has authority, their sale is valid.
- **Sale under Possession Rules** – If a seller in possession sells after ownership transfer, it may be valid. Under Section 30(1) of the Sale of Goods Act, 1930, if a seller has already sold goods but continues to have possession of them and then sells them again to a new buyer **in good faith** (without knowledge of the previous sale), the new buyer gets a valid title to the goods.
- **Sale by Joint Owner** - If one co-owner is in possession with the consent of the others and sells the goods, the buyer acquires good title.
- **Sale under Voidable Contract** - If the seller obtained goods under a **voidable contract** (e.g., fraud) and sells them **before the contract is rescinded**, the buyer gets good title.
- **Sale by Buyer in Possession after Agreement to Buy** - If the buyer has possession under an agreement to buy (not hire), and resells the goods, the new buyer gets good title.
- **Sale by Unpaid Seller** - An unpaid seller who exercises his right of resale gives a good title to the new buyer.

E.g., Rahul sells his cow to Aman but keeps the cow with himself for a few more days. Meanwhile, Rahul sells the same cow to another person, Vijay, and hands it over to him. Since Vijay received possession from someone who appeared to be the owner, the sale is valid, and he gets ownership.

The law protects innocent buyers who purchase goods from someone who appears to be the owner. Possession creates an impression of ownership, so the new buyer, acting in good faith, gets ownership.

MCQs to Understand and Analyse: 19

1. Ownership in specific goods in deliverable condition passes to the buyer:

   a) When the goods are delivered

   b) When the contract is made

   c) When the buyer pays the price d) After approval by the seller

Answer: b

2. When goods require weighing or measuring before the price is fixed, ownership passes:

   a) Immediately when the contract is made

   b) When weighing/measuring is completed

   c) When the buyer inspects the goods

   d) When goods are delivered

Answer: b

3. Ownership of unascertained goods passes only when they are:

   a) Packed by the seller

   b) Ascertained and unconditionally appropriated

   c) Paid for by the buyer d) Delivered to a carrier

Answer: b

4. Goods sent "on approval" become buyer's property when:

a) Buyer returns goods b) Buyer accepts or uses goods

c) Seller demands payment d) Seller sends an invoice

Answer: b

5. Risk passes from seller to buyer when:

a) Payment is made b) Goods are delivered

c) Ownership is transferred d) Contract is signed

Answer: c

6. Transfer by estoppel occurs when:

a) Non-owner steals goods

b) Owner allows another to appear as owner

c) Buyer refuses to pay d) Goods are defective

Answer: b

7. Sale by a mercantile agent is valid when:

a) Agent sells without possession

b) Agent has possession and authority

c) Agent hides goods d) Agent acts without buyer's consent

Answer: b

8. Under Section 30(1), a seller in possession after sale can transfer a valid title if:

a) First buyer objects b) New buyer acts in bad faith

c) New buyer acts in good faith without notice

d) Goods are immovable

Answer: c

9. Sale by buyer in possession after an agreement to buy is valid when:

a) Buyer has only borrowed goods

b) Agreement to buy gives possession, and the buyer resells

c) Buyer hires goods d) Goods remain with seller

Answer: b

10. An unpaid seller who resells goods:

a) Cannot transfer ownership

b) Can transfer a good title to the new buyer

c) Must return profit to the old buyer

d) Must get court approval

Answer: b

11. (A): Ownership of specific goods in deliverable condition passes when the contract is made.

(R): Ownership always passes only upon delivery of the goods.

Options:

a) Both A and R are true, and R is the correct explanation of A

b) Both A and R are true, but R is NOT the correct explanation

c) A is true, but R is false d) A is false, but R is true

Answer: c

12. (A): Risk passes with ownership under the Sale of Goods Act.

(R): Risk is always on the person who has physical possession of goods.

Options:

a) Both A and R are true, and R is the correct explanation of A

b) Both A and R are true, but R is NOT the correct explanation

c) A is true, but R is false d) A is false, but R is true

Answer: c

13. (A): Unascertained goods cannot transfer ownership.

(R): Ownership passes only when goods are ascertained and appropriated.

Options:

a) Both A and R are true, and R is the correct explanation of A

b) Both A and R are true, but R is NOT the correct explanation

c) A is true, but R is false d) A is false, but R is true

Answer: a

14. S1: Ownership does not pass for unascertained goods.

S2: Ownership passes only when goods are identified and appropriated.

a) Both statements are true, and S2 is the correct explanation

b) Both statements are true, but S2 is NOT the correct explanation

c) S 1 is true, S 2 is false d) S 1 is false, S 2 is true

Answer: a

15. S1: Goods sent on sale or return become the buyer's property when he accepts them.

S2: Acceptance may be shown by using the goods or retaining them beyond the agreed time.

Options:

a) Both statements are true, and S2 is the correct explanation

b) Both statements are true, but S2 is NOT the correct explanation

c) S1 is true, S 2 is false d) S1 is false, S 2 is true

Answer: a

Related Case Studies -18

1. Phillips v. Brooks Ltd. (1919)

In this case, Phillips, a jeweller, sold jewellery to a person who falsely claimed to be Sir George Bullough. The fraudster later transferred the jewellery to Brooks Ltd, an innocent third party. The court held that the contract was voidable for fraud, not void, and since it was not rescinded before resale, Brooks Ltd obtained a good title.

MCQs

1. When goods are obtained by fraud, the contract is generally:

a) Void b) Void ab initio c) Illegal

d) Voidable at the option of the seller

Answer: d

2. If goods obtained under a voidable contract are sold to an innocent buyer before rescission, the buyer:

a) Gets no title b) Gets a defective title

c) Gets a good title d) Gets title only after court approval

Answer: c

3. Which of the following is an exception to the rule "nemo dat quod non habet" (No one can give what he does not have)?

a) Sale of stolen goods

b) Sale under a voidable contract before rescission

c) Sale without consideration

d) Sale of immovable property

Answer: b

4. For a third party to get a good title in a sale under a voidable contract, the third party must:

a) Be a mercantile agent b) Know about the fraud

c) Act in good faith and without notice

d) Be the original seller

Answer: c

5. Under the Sale of Goods Act, 1930, rescission of a voidable contract means:

a) Completion of the contract

b) Cancellation of the contract

c) Transfer of ownership d) Delivery of goods

Answer: b

2. Kirkham v. Attenborough (1897)

In this case, Kirkham, a jewellery dealer, sent jewellery to a customer on an approval basis. Before approving or returning the goods, the customer pledged the jewellery to Attenborough, a pawnbroker. The court held that the pledge amounted to acceptance of the goods, so ownership passed to the customer, and Attenborough obtained good title.

MCQs

1. When goods are sent on approval, ownership passes to the buyer when the buyer:

a) Receives the goods b) Makes part payment

c) Does any act showing acceptance d) Inspects the goods

Answer: c

2. Which of the following acts is treated as acceptance of goods sent on approval?

a) Keeping goods safely b) Returning goods late

c) Pledging the goods to a third party d) Asking for a discount

Answer: c

3. Under the Sale of Goods Act, 1930, if goods sent on approval are retained beyond a reasonable time without rejection, ownership:

   a) Remains with the seller b) Automatically passes to the buyer

   c) Becomes void d) Depends on price payment

Answer: b

4. In a sale on approval, an act inconsistent with the seller's ownership results in:

   a) Breach of contract b) Rescission of contract

   c) Transfer of ownership to the buyer

   d) Return of goods to seller

Answer: c

5. A third party can get a good title to goods sent on approval if:

   a) Buyer has not paid the price

   b) Buyer has accepted the goods

   c) Seller objects to resale d) Goods are future goods

Answer: b

Conditions & Warranties

Conditions

These are promises in a contract of sale. Conditions are major terms; if breached, the buyer can cancel the contract.

Implied Conditions:

1. Condition as to Title /Right to Sell (Section 14(a)– Seller must have ownership.

2. Goods Must Match Description (Section 15): The goods must match the description provided at the time of sale.
3. Fitness for Purpose (Sec 16(1) –If the buyer specifies a purpose, the goods must be fit for that purpose. In other words, if the buyer relies on the seller's expertise, goods must be fit for that purpose.

   E.g.: A customer asks for waterproof shoes, but the shoes get wet in the rain. The seller has breached this condition.
4. Merchantable Quality (Sec 16(2) – Goods must be of acceptable quality, fit for sale, and free from defects that make them unfit for use. E.g., A brand-new laptop stops working after one day. The buyer can reject it.

   For food and beverages, the goods must be safe to consume.
5. Sale by Sample (Sec. 17) – If goods are sold by sample, they must match the sample.

Warranties

These are minor terms; if breached, the buyer can claim damages but cannot cancel the contract.

Implied Warranties:

1. Quiet Possession – Buyer should not be disturbed in ownership (Sec 14b).
2. No Hidden Charges – Goods should be free from undisclosed claims (Sec 14c).
3. Quality & Fitness - quality is indirectly covered as an implied warranty under merchantable quality (Section 16(2).

4. Disclose the dangerous nature of the goods.

Breach of Condition and Warranty

Breach of Condition

In case of breach of Condition Buyer may: Reject goods, Treat condition as a warranty, or Claim damages.

Breach of Warranty

The buyer can only claim damages, and cannot reject the goods.

Caveat Emptor

Caveat Emptor is a Latin phrase that means "Let the buyer beware." It is the responsibility of the buyers to examine and verify a product before purchasing it. Under this doctrine, the seller is not obligated to disclose every defect, and the buyer assumes the risk if the product proves defective, unless there is an express warranty or fraud involved.

Exceptions to Caveat Emptor

Although *Caveat Emptor* applies in many transactions, legal systems have developed several exceptions to protect buyers:

1. Fraud or Misrepresentation

   If the seller intentionally hides defects or provides false information, the buyer can seek legal remedies.

2. Implied Conditions and Warranties

   Many jurisdictions have laws that impose implied warranties on goods, such as the implied warranty of merchantability (the product should be fit for its ordinary purpose).

3. Fitness for a Particular Purpose

   If a buyer relies on the seller's expertise for a specific use, the seller is responsible for ensuring the product meets that purpose.

4. Sale of Goods Act & Consumer Protection Laws

   Various consumer protection laws ensure that products meet minimum quality standards, overriding the strict application of *Caveat Emptor*.

5. Latent Defects

   If a defect is hidden and cannot be discovered through reasonable inspection, the seller may be held liable.

6. Statutory Regulations

   Many sectors (e.g., pharmaceuticals, food safety, automobiles) are governed by laws that require sellers to disclose certain defects or risks.

7. Breach of Contract

   If a seller provides a written warranty or contract guaranteeing specific product conditions, any deviation from those terms allows the buyer to seek legal action.

Exceptions to Caveat Emptor

Buyer is protected in the following cases:

1. **Fitness for Buyer's Purpose -** If the buyer relies on the seller's skill, the seller must supply suitable goods.

2. **Merchantable Quality -** Goods bought from a dealer must be of acceptable quality.

3. **Sale by Description -** Goods must match the description.
4. **Sale by Sample -** Goods must match the sample.
5. **Fraud or Misrepresentation -** If the seller hides defects, caveat emptor does not apply.
6. **Usage of Trade -** Trade customs may imply warranties.
7. **Sale by Sample + Description -** Both must match; any mismatch allows rejection.

MCQs to Understand and Analyse: 20

1. A condition is:

a) A minor term of the contract

b) A major term essential to the contract

c) A non-binding promise d) A warranty given by buyer

Answer: b

2. Breach of a condition allows the buyer to:

a) Claim damages only

b) Reject goods and cancel the contract

c) Continue with the contract without remedy

d) Demand replacement only

Answer: b

3. Under Section 14 (a), the seller must have:

a) Right to repair goods b) Title or right to sell the goods

c) Right to inspect goods d) Right to replace goods

Answer: b

4. Merchantable quality means:

a) Goods are perfect b) Goods are fit for ordinary purposes

c) Goods must be the cheapest d) Goods must be branded

Answer: b

5. Goods must match the description under:

a) Sec. 14 b) Sec. 15 c) Sec.18 d) Sect.12

Answer: b

6. Breach of warranty allows the buyer to:

a) Reject goods b) Cancel the contract

c) Claim damages only d) Demand imprisonment of seller

Answer: c

7. Caveat Emptor means:

a) Let the seller beware b) Buyer cannot return goods

c) Let the buyer beware d) Seller always must refund

Answer: c

8. If the seller hides defects intentionally, Caveat Emptor:

a) Fully applies b) Does not apply

c) Applies only to part of goods

d) Applies only if goods are cheap

Answer: b

9. Goods sold by sample must:

a) Look similar but not necessarily match

b) Match the sample exactly

c) Be cheaper than the sample d) Be better than the sample

Answer: b

10. Quiet possession means:

a) Buyer must keep goods safely

b) Buyer should not be disturbed in using goods

c) Seller keeps ownership d) Buyer must not sell goods

Answer: b

11. (A): Breach of a condition allows the buyer to reject the goods.

(R): A condition is an essential term of the contract.

Options:

a) Both A and R are true, and R is the correct explanation

b) Both A and R are true, but R is NOT the correct explanation

c) A is true, but R is false d) A is false, but R is true

Answer: a

12. (A): Merchantable quality requires goods to be fit for ordinary use.

(R): Under a warranty, the buyer can always reject goods.

Options:

a) Both A and R are true, and R is the correct explanation

b) Both A and R are true, but R is NOT the correct explanation

c) A is true, but R is false d) A is false, but R is true

Answer: c

13. (A): Caveat Emptor places responsibility on buyers to examine goods.

(R): The seller never needs to disclose defects under any circumstances.

Options:

a) Both A and R are true, and R is the correct explanation

b) Both A and R are true, but R is NOT the correct explanation

c) A is true, but R is false d) A is false, but R is true

Answer: c

14. S 1: Implied condition of title ensures that the seller has the right to sell the goods.

S 2: If the seller has no title, the buyer may reject the goods.

Options:

a) Both statements are true, and S2 is the correct explanation

b) Both statements are true, but S2 is NOT the correct explanation

c) S1 is true, S2 is false d) S1 is false, S2 is true

Answer: a

15. S 1: Breach of warranty allows the buyer to cancel the contract.

S2: Warranty is a minor term of the contract.

Options:

a) Both statements are true, and S2 is the correct explanation

b) Both statements are true, but S2 is NOT the correct explanation

c) S1 is true, S 2 is false d) S1 is false, S 2 is true

Answer: d

Related Case Studies -19

1. Rowland v. Divall (1923)

In this case, Rowland bought a car from Divall, but the car was later found to be stolen, and Divall had no right to sell it. The court held that there was a breach of the implied condition as to title, and Rowland was entitled to recover the full purchase price, even though he had used the car.

MCQs

1. Under the Sale of Goods Act, 1930, there is an implied condition that:

   a) Goods must be insured

   b) Seller has the right to sell the goods

   c) Goods must be delivered immediately

   d) Price must be reasonable

Answer: b

2. If a seller sells goods without having ownership, the buyer may:

   a) Claim damages only

   b) Reject the goods and recover the price

   c) Demand replacement goods

   d) Enforce specific performance

Answer: b

3. Breach of which implied term allows the buyer to repudiate the contract completely?

   a) Warranty of quiet possession

   b) Warranty against encumbrances

   c) Condition as to title d) Warranty as to quality

Answer: c

4. Even if the buyer has used the goods, breach of condition as to title allows the buyer to:

   a) Claim partial refund b) Claim damages only

   c) Recover the entire price d) Lose all remedies

Answer: c

5. Which principle best explains buyer protection when goods turn out to be stolen?

a) Caveat emptor b) Risk follows ownership

c) Seller must have right to sell d) Sale by sample

Answer: c

2. Grant v. Australian Knitting Mills (1936)

In this case, Dr. Grant bought a woolen swimsuit made by Australian Knitting Mills Ltd which caused skin irritation due to a hidden defect. The court held that there was a breach of the implied condition of fitness for purpose and merchantable quality, and the seller was liable despite the rule of caveat emptor.

MCQs

1. When a buyer relies on the seller's skill or judgment for a particular purpose, the goods must be:

a) Cheap b) Of any quality

c) Fit for that purpose d) Inspected by the buyer

Answer: c

2. A hidden defect in goods that is not discoverable by reasonable inspection is known as:

a) Patent defect b) Trade defect

c) Latent defect d) Minor defect

Answer: c

3. Goods intended for wearing next to the skin must satisfy which implied condition?

a) Sale by sample b) Quiet possession

c) Merchantable quality d) Transfer of risk

Answer: c

4. Which principle acts as an exception to the doctrine of caveat emptor?

    a) Buyer inspection   b) Latent defects affecting fitness

    c) No warranty given   d) Goods sold cheaply

Answer: b

5. If there is a breach of an implied condition under Section 16, the buyer can:

    a) Claim damages only   b) Reject the goods

    c) Sue for specific performance   d) Do nothing

Answer: b

3. Nichol v. Godts (1854)

In this case, Nichol agreed to buy oil from Godts, sold by sample and description. Although the oil matched the sample, it did not match the description. The court held that the buyer could reject the goods, as in a sale by sample and description, the goods must correspond with both.

MCQs

1. In a sale by sample and description, the goods supplied must correspond with:

    a) Sample only   b) Description only

    c) Either sample or description   d) Both sample and description

Answer: d

2. If goods match the sample but do not match the description, the buyer may:

    a) Accept the goods without complaint   b) Claim damages only

    c) Reject the goods   d) Lose all remedies

Answer: c

3. Which provision of the Sale of Goods Act, 1930, governs sale by description?
   a) Sec. 14 b) Sec. 15 c) Sec. 16 d) Sec. 17

Answer: b

4. Which implied condition is violated when goods correspond with the sample but not with the description?
   a) Fitness for purpose b) Merchantable quality
   c) Condition as to description d) Quiet possession

Answer: c

5. The principle that goods must match both sample and description is an exception to:
   a) Transfer of risk b) Caveat emptor
   c) Sale by approval d) Warranty of title

Answer: b

Performance of Contract of Sale

The performance of a contract of sale refers to the fulfillment of obligations by both the seller and the buyer as per the terms of the agreement.

Obligations of the Seller:

1. Delivery of Goods: The seller must deliver the goods as per the contract terms, including the time, place, and quantity.
2. Passing of Ownership: Ownership transfers according to the agreed terms (e.g., upon delivery, upon payment, or at a specific stage).

3. Ensuring Goods Conform to the Contract: Goods must match the description, sample, and quality standards agreed upon.

Obligations of the Buyer:

1. Acceptance of Goods: The buyer must inspect and accept the goods if they meet the contract terms.
2. Payment of Price: The buyer must pay the agreed amount at the agreed time and place.
3. Taking Delivery: If the contract specifies, the buyer must collect the goods within the given time frame.

Consequences of Non-Performance:

1. If the seller fails to deliver, the buyer can claim damages or specific performance.
2. If the buyer refuses to pay, the seller can sue for payment or resell the goods under certain conditions.

MCQs to Understand and Analyse: 21

1. Performance of a contract of sale means:

    a) Cancellation of the contract   b) Enforcement by court only

    c) Fulfillment of obligations by seller and buyer

    d) Delivery by a third party

Answer: c

2. The seller’s primary duty in performance is:

    a) Paying taxes   b) Giving a discount

    c) Delivering the goods as per contract terms

    d) Inspecting the buyer’s warehouse

Answer: c

3. Ownership of goods passes to the buyer:

    a) Only when payment is sent

    b) As per the terms agreed in the contract

    c) Only after buyer uses the goods

    d) After seller approves the buyer

Answer: b

4. The buyer must accept the goods when:

    a) Goods match agreed terms   b) Goods are defective

    c) Goods are not what he ordered

    d) Seller demands acceptance

Answer: a

5. When the buyer refuses to pay, the seller may:

    a) Cancel buyer's license   b) Sue for the price

    c) Demand imprisonment   d) Return goods to buyer

Answer: b

6. Delivery of goods refers to:

    a) Transfer of ownership only

    b) Voluntary transfer of possession   c) Payment being made

    d) Buyer collecting goods from a third party

Answer: b

7. If goods do not conform to the description, the buyer may:

    a) Accept with no remedy   b) Reject goods

    c) Pay extra charges   d) Ignore the defect

Answer: b

8. The buyer's obligation to pay arises:

a) Before agreement b) At the agreed time and place

c) After resale d) Only if goods are used

Answer: b

9. If the seller refuses to deliver goods, the buyer may claim:

a) Only refund b) Damages or specific performance

c) Compensation to seller d) Customs exemption

Answer: b

10. If the buyer must collect goods as per the contract, failure to do so means:

a) Seller must cancel contract b) Breach of buyer's obligation

c) Goods become free d) Contract automatically ends

Answer: b

11. (A): The seller must deliver the goods at the agreed time and place.

(R): Delivery is the seller's primary obligation under a contract of sale.

Options:

a) Both A and R are true, and R is the correct explanation

b) Both A and R are true, but R is NOT the correct explanation

c) A is true, but R is false d) A is false, but R is true

Answer: a

12. (A): The buyer is required to accept goods that conform to the contract.

(R): Buyers must accept goods even if they do not meet quality standards.

Options:

a) Both A and R are true, and R is the correct explanation

b) Both A and R are true, but R is NOT the correct explanation

c) A is true, but R is false d) A is false, but R is true

Answer: c

13. (A): If the buyer refuses to pay for goods, the seller may sue for the price.

(R): Payment of the price is the main obligation of the seller.

Options:

a) Both A and R are true, and R is the correct explanation

b) Both A and R are true, but R is NOT the correct explanation

c) A is true, but R is false d) A is false, but R is true

Answer: c

14. S1: Delivery of goods is the main duty of the seller.

S2: Without delivery, the seller cannot be said to have performed the contract.

Options:

a) Both statements are true, and S 2 is the correct explanation

b) Both statements are true, but S 2 is NOT the correct explanation

c) S 1 is true, S 2 is false d) S 1 is false, S 2 is true

Answer: a

15. S 1: The buyer must pay the agreed price at the agreed time.

S 2: Payment of price is an essential obligation of the buyer.

Options:

a) Both statements are true, and S 2 is the correct explanation

b) Both statements are true, but S 2 is NOT the correct explanation

c) S 1 is true, S 2 is false d) S 1 is false, S 2 is true

Answer: a

Related Case Studies -20

1. Lucknow Development Authority v. M.K. Gupta (1994)

The case arose when LDA delayed the handover of possession of houses, used substandard materials, and harassed allottees, including M.K. Gupta. The Court ruled that housing construction and allotment constitute "service," and delay or poor quality amounts to "deficiency in service." It upheld the jurisdiction of consumer forums to award compensation not only for financial loss but also for mental agony, thereby expanding the scope of consumer protection and ensuring accountability of public authorities for delayed housing delivery.

MCQs

1. When a contract clearly states that delivery time is essential, failure to deliver on time is:

   a) Has no legal effect b) Makes the contract void

   c) Amounts to non-performance d) A breach of warranty

Answer: c

2. If time is of not the essence in a contract of sale[7] and the seller fails to deliver on time, the buyer may:
   a) Accept the goods compulsorily b) Reject the goods
   c) Claim damages only d) Lose all remedies

Answer: c

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[7] **The Sale of Goods Act, 1930** governs contracts relating to movable goods only. If time is not of the essence in such a contract and delivery is delayed, it amounts to a breach of warranty, and the buyer is entitled to damages only, not rejection of goods.

The Consumer Protection Act, 1986 (replaced by the 2019 Act) applies to goods and services. In housing matters, construction and allotment are treated as a service, not as a sale of immovable property. Delay in possession may amount to deficiency in service, entitling the consumer to compensation, including for mental agony.

3. The obligation to deliver goods within the agreed time primarily lies with the:

   a) Buyer b) Seller c) Agent d) Carrier

Answer: b

4. Which of the following best describes the legal effect of delayed delivery when time is essential?

   a) Breach of warranty b) Breach of condition

   c) Minor breach only d) No breach

Answer: b

5. Under the Sale of Goods Act, 1930, the buyer's right to reject goods arises when the seller:

   a) Delivers goods early

   b) Delivers goods late when time is essential

   c) Delivers goods in excess quantity

   d) Delivers goods at buyer's risk

Answer: b

Unpaid Seller

An unpaid seller is a seller who has not received full payment for the goods sold.

Rights of an Unpaid Seller against the Goods:

1. Right of Lien – The seller can retain possession of the goods until payment is received if they are still in the seller's possession.
2. Right of Stoppage in Transit – If the goods are in transit and the buyer becomes insolvent, the seller can stop the delivery.

3. Right of Resale – The seller may resell the goods upon proper notice.

Rights of an Unpaid Seller against the Buyer:

1. Suit for Price – The seller can sue the buyer for the price if ownership has passed.
2. Suit for Damages – If the contract is breached, the seller can claim damages.
3. Suit for Interest – The seller can demand interest on delayed payments.

MCQs to Understand and Analyse: 22

1. An unpaid seller is one who:

a) Has not delivered goods b) Has not received full payment

c) Has not signed the contract d) Has refused delivery

Answer: b

2. Right of lien allows the seller to:

a) Impose penalties b) Seize buyer's property

c) Retain possession of goods until payment

d) Cancel the contract automatically

Answer: c

3. Right of stoppage in transit can be used when:

a) Goods are defective b) Buyer becomes insolvent

c) Seller changes his mind d) Delivery is delayed

Answer: b

4. Stoppage in transit applies when goods:

a) Are still with the seller b) Have reached the buyer

c) Are in the custody of a carrier d) Are lost

Answer: c

5. Seller can resell goods if:

a) Buyer gives permission

b) Goods are perishable, or notice is given

c) Buyer refuses delivery d) Seller wants to upgrade goods

Answer: b

6. (A): An unpaid seller can exercise the right of lien.

(R): Lien allows the seller to retain goods until payment is made.

Options:

a) Both A and R are true, and R is the correct explanation

b) Both A and R are true, but R is NOT the correct explanation

c) A is true, but R is false d) A is false, but R is true

Answer: a

7. (A): Stoppage in transit can be exercised only when the buyer is insolvent.

(R): Insolvency indicates the buyer's inability to pay.

Options:

a) Both A and R are true, and R is the correct explanation

b) Both A and R are true, but R is NOT the correct explanation

c) A is true, but R is false d) A is false, but R is true

Answer: a

8. (A): A seller can sue for the price even before ownership passes.

(R): Suit for price requires ownership to pass to the buyer.

Options:

a) Both A and R are true, and R is the correct explanation

b) Both A and R are true, but R is NOT the correct explanation

c) A is true, but R is false d) A is false, but R is true

Answer: d

9. S 1: Right of lien can be exercised only when goods are in seller's possession.

S 2: Lien is lost once goods are delivered to a carrier without reserving disposal rights.

Options:

a) Both statements are true, and S 2 is the correct explanation

b) Both statements are true, but S 2 is NOT the correct explanation

c) S 1 is true, S 2 is false d) S 1 is false, S 2 is true

Answer: a

10. S 1: The seller can stop goods in transit only when the buyer becomes insolvent.

S 2: The right exists even if the buyer has already received the goods.

Options:

a) Both statements are true, and S 2 is the correct explanation

b) Both statements are true, but S 2 is NOT the correct explanation

c) S 1 is true, S 2 is false d) S 1 is false, S 2 is true

Answer: c

Related Case Studies -21

1. Union of India v. Watkins Mayor & Co. (1966)

Watkins Mayor & Co. supplied goods to the Union of India under a contract requiring payment within a specified period. The Union of India delayed the payment beyond the agreed period. The court held that Watkins Mayor & Co. was entitled to interest for the period of delay.

MCQs

1. When the buyer delays payment of the price, the unpaid seller may:

a) Cancel the contract automatically

b) Claim interest on delayed payment

c) Stop delivery only d) Demand doubles the price

Answer: b

2. The right to claim interest by an unpaid seller arises mainly due to:

a) Transfer of ownership b) Delay in payment by buyer

c) Non-delivery of goods d) Buyer's insolvency only

Answer: b

3. Which remedy allows an unpaid seller to recover an additional amount for late payment?

a) Right of lien b) Right of stoppage in transit

c) Suit for interest d) Right of resale

Answer: c

4. Even if a contract does not expressly mention interest, the seller may claim interest when:

a) Goods are defective b) Payment is unjustifiably delayed

c) Buyer returns goods d) Goods are sold on credit

Answer: b

5. The remedy of interest is a right of the unpaid seller:

a) Against the goods b) Against the buyer

c) Against the carrier d) Against the auctioneer

Answer: b

2. Mordaunt Bros v. British Oil & Cake Mills Ltd (1910)

Mordaunt Bros supplied goods to British Oil & Cake Mills Ltd on credit. Before the price was paid, the buyer became insolvent, and the seller had not yet been paid in full. The court held that Mordaunt Bros, being an unpaid seller, was entitled to exercise the right of lien and retain possession of the goods until the price was paid.

MCQs

1. The right of lien allows an unpaid seller to:

a) Resell the goods immediately

b) Retain possession of goods until payment

c) Sue for damages only d) Stop goods in transit

Answer: b

2. The right of lien can be exercised only when the goods are:

a) With the buyer b) With the carrier

c) In possession of the seller d) With the auctioneer

Answer: c

3. An unpaid seller loses the right of lien when:

a) Buyer becomes insolvent

b) Seller delivers goods to the buyer

c) Credit period expires d) Goods are defective

Answer: b

4. Which of the following is a condition for exercising the right of lien?

   a) Ownership must not have passed

   b) Goods must remain in the seller’s possession

   c) Buyer must reject the goods

   d) Goods must be future goods

Answer: b

5. The right of lien is a right of the unpaid seller:

   a) Against the buyer personally
   b) Against the goods

   c) Against the carrier
   d) Against the agent

Answer: b

Auction Sales

An auction sale is a public sale where goods are sold to the highest bidder under specific rules.

Key Features of Auction Sales:

1. Conducted by an auctioneer.
2. Bidding starts at a reserve price (minimum price).
3. The highest bid is accepted if the reserve price is met.
4. The auctioneer can refuse a bid before the hammer falls.

*The hammer (also called the gavel) in an auction symbolizes the finality of a sale. In some areas, actioner calls "First Tharam," "Second Tharam," and then "Third Tharam, urappichu/sold" to finalise the sale.

Rules Governing Auction Sales:

1. The sale is Complete When the Auctioneer's Hammer Falls. Until then, the bidder can withdraw their offer.
2. No Reserved Price Auctions – If the auction is "without reserve," the highest bid must be accepted.
3. Seller's Right to Bid – The seller cannot bid unless expressly permitted by the auction terms.
4. Breach by Buyer – If the buyer refuses to pay, the auctioneer can re-auction the goods and claim damages.

MCQs to Understand and Analyse: 23

1. An auction sale is a sale where goods are sold to:

a) The lowest bidder b) The first bidder

c) The highest bidder d) The buyer selected by the seller

Answer: c

2. An auction sale is conducted by a:

a) Broker b) Dealer c) Auctioneer d) Agent

Answer: c

3. A reserve price is:

a) Maximum price b) Minimum price set for auction

c) Customized price d) Price fixed by the Government

Answer: b

4. A bidder can withdraw their bid:

a) Anytime after sale b) Before the hammer falls

c) Only with auctioneer's permission d) Never

Answer: b

5. In an auction "without reserve," the auctioneer must:

a) Cancel the auction b) Accept the highest bid

c) Allow seller to bid d) Reject low offers

Answer: b

6. (A): A bidder may withdraw his bid before the hammer falls.

(R): A bid is only an offer and becomes binding only when accepted by the hammer.

Options:

a) Both A and R are true, and R is the correct explanation

b) Both A and R are true, but R is NOT the correct explanation

c) A is true, but R is false d) A is false, but R is true

Answer: a

7. (A): Sale is complete in an auction when the hammer falls.

(R): The fall of the hammer signifies acceptance of the bidder's offer.

Options:

a) Both A and R are true, and R is the correct explanation

b) Both A and R are true, but R is NOT the correct explanation

c) A is true, but R is false d) A is false, but R is true

Answer: a

8. (A): In auctions without reserve, the auctioneer may reject the highest bid.

(R): The auctioneer always has the right to refuse any bid

Options:

a) Both A and R are true, and R is the correct explanation

b) Both A and R are true, but R is NOT the correct explanation

c) A is true, but R is false d) A is false, but R is true

Answer: d

9. S1: In an auction, the sale becomes final when the hammer falls.

S 2: Fall of the hammer indicates acceptance of the highest bid.

Options:

a) Both statements are true, and S 2 is the correct explanation

b) Both statements are true, but S 2 is NOT the correct explanation

c) S 1 is true, S 2 is false d) S 1 is false, S 2 is true

Answer: a

10. S 1: A bidder cannot withdraw their bid after making it.

S2: A bid becomes irrevocable as soon as it is offered

Options:

a) Both statements are true, and S 2 is the correct explanation

b) Both statements are true, but S 2 is NOT the correct explanation

c) S 1 is true, S 2 is false d) S 1 is false, S 2 is true

Answer: d

Related Case Studies -22

1. Harris v. Nickerson (1873)

Nickerson, an auctioneer, advertised that certain goods would be sold by auction on a specified date. Harris attended the auction intending to bid, but the goods were not put up for sale. The court held that Nickerson was not liable, as an auction advertisement is only an invitation to offer and not a binding promise to sell.

MCQs

1. An advertisement announcing that goods will be sold by auction is:

a) A binding offer b) A completed contract

c) An invitation to offer d) A warranty

Answer: c

2. In an auction sale, the auctioneer is legally bound to sell the goods:

a) When the advertisement is published

b) When bidders attend the auction

c) When the highest bid is made d) When the bid is accepted

Answer: d

3. Failure to auction goods after advertisement generally:

a) Creates liability for damages

b) Makes the auctioneer a defaulter

c) Gives no right of action to bidders

d) Transfers ownership to bidders

Answer: c

4. Which principle governs the legal nature of auction advertisements?

a) Caveat emptor b) Invitation to offer

c) Transfer of risk d) Breach of warranty

Answer: b

5. A bidder attending an auction acquires legal rights only when:

a) The auction is advertised b) He makes the highest bid

c) The hammer falls d) He enters the auction hall

Answer: c

2. Barry v. Davies (2000)

Two machines were put up auction without reserve. Davies made the highest bid (£200 each), but the machines were worth much more. After the hammer fell, Davies refused to pay, claiming there was no binding contract. The court held that Davies was legally bound and was liable to pay damages to Barry.

MCQs

1. In an auction without reserve, the auctioneer is bound to:

a) Accept only reasonable bids b) Accept the highest bid

c) Reject low bids d) Fix a minimum price later

Answer: b

2. The fall of the hammer in an auction signifies:

a) Invitation to offer b) End of bidding

c) Completion of the sale d) Transfer of possession only

Answer: c

3. In an auction without reserve, refusal by the highest bidder to pay amounts to:

a) No legal consequence b) Breach of contract

c) Cancellation of auction d) Mere withdrawal of offer

Answer: b

4. Which legal promise is implied in an auction without reserve?

a) Promise to advertise b) Promise to fix a fair price

c) Promise to sell to the highest bidder

d) Promise to refund the deposit

Answer: c

5. If the buyer refuses to pay after the hammer falls in an auction without reserve, the seller may:

a) Do nothing b) Cancel all future auctions

c) Claim damages d) Sue for specific performance only

Answer: c

Possible E-Contract Scenarios (UG-Friendly)

A. Education & Skill Services

1. Online course subscription agreement
2. Online tuition/coaching enrolment contract
3. Internship agreement (remote/virtual)
4. Webinar/workshop registration agreement
5. Online certification programme terms

B. Freelance & Gig Economy

6. Freelance content writing agreement
7. Graphic design freelance contract
8. Video editing service agreement
9. Data entry/virtual assistant contract
10. Remote project-based employment agreement

C. Social Media & Digital Content

11. Social media influencer collaboration agreement
12. Brand endorsement agreement (digital)
13. YouTube content monetisation agreement
14. Podcast hosting/guest participation agreement
15. User-generated content licence agreement

D. E-Commerce & Consumer Transactions

16. Online product purchase agreement
17. Subscription-based delivery service contract
18. Online food delivery terms & conditions

19. E-ticket booking agreement (bus/train/event)
20. Online warranty and return policy agreement

E. Mobile Apps & Digital Platforms

21. Mobile application terms and conditions
22. Privacy policy and data consent agreement
23. Digital wallet/UPI usage agreement
24. Online gaming/fantasy sports participation agreement
25. Cloud storage service agreement

F. Financial & Professional Services

26. Online consultation agreement (legal/medical disclaimer-based)
27. Insurance proposal acceptance (digital)
28. Loan application consent agreement
29. Online investment platform user agreement
30. Digital subscription cancellation & refund agreement

G. Services & Lifestyle

31. Online event management service agreement
32. Digital photography/videography service contract
33. Online job portal user registration agreement
34. Online coaching/fitness training subscription agreement
35. Digital library/e-book access agreement
36. Online customer support & service-level agreement (SLA)

H. Technology, Travel & Utilities

37. Online travel booking terms (hotel/package tour)
38. Ride-sharing/cab aggregator user agreement
39. Food subscription/meal plan agreement
40. Smart device/IoT usage agreement
41. Internet service provider (ISP) online subscription agreement

I. Property, Events & Community

42. Online rental booking agreement (short-term stays)
43. Event ticket resale platform agreement
44. Online society/association membership agreement
45. Digital parking/toll payment user agreement
46. Online repair & maintenance service contract

J. Emerging & Miscellaneous

47. AI tool usage & disclaimer agreement
48. Online exam/proctoring consent agreement
49. Digital donation/crowdfunding platform agreement
50. Online grievance redressal/complaint submission agreement

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51. Electronic Contract through Social Media Messages

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