

Indian Contract Act, 1872.

Application Based Questions

[Till Unit 4- Performance of Contract]

1. Mr. Grabbar, an old man, by registered deed of gift, granted certain landed property to Ms. Basanti, his daughter. By the terms of the deed, it was stipulated that an annuity of Rs. 20000 should be paid every year to Mr. Saamba, who was the brother of Mr. Grabbar. On the same day Ms. Basanti made a promise to Mr. Saamba and executed in his favour an agreement to give effect to the stipulation. Ms. Basanti failed to pay the stipulated sum. In an action against her by Mr. Saamba, she contented that since Mr. Saamba had not furnished any consideration, he has no right of action. Examining the provisions of the Indian Contract Act, 1872, decide, whether the contention of Ms. Basanti is valid?

Tips to Read Question & Write Answers

1. Read the last line first to know what is actually asked in the question so that we get an idea that question is based on which topic. From the last line of this question it is clear that question is on types of contract.
2. If you don't get idea from these then read the in-between lines of the question. Eg- An old man (these words hint towards the case law - Chinnaiya vs Ramayya), should be paid to his brother (This line confirms that question is from Chinnaiya vs Ramayya)
3. Now, read the whole question and identify the parties to the contract. Here, Promisor - Mr. Grabbar, Promisee - Ms. Basanti and Beneficiary - Mr. Saamba.
4. The ans must be in 3 or 4 parts and 4th part must be the concluding part.
5. To increase the length of the answer, we can write the required case law & explain it in short summarized manner.

Ans [Provision & what is said in provision]
In India, consideration may proceed from promisee or any other person who is not a party to the contract [First, talk about the facts]. The definition of consideration given in Sec 2(d) makes that proposition clear. According to the definition when at the desire of the promisor, the promisee does something such act is consideration.

In other words, there can be a stranger to consideration but not stranger to a contract. [Conditions]

(Imp line)

In the given problem, Mr. Gabbax has entered into a contract with Ms. Basanti, but Mr. Saamba has not given any consideration to Ms. Basanti but the consideration did not flow from Mr. Gabbax to Ms. Basanti and such consideration from third party is sufficient to enforce the promise of Ms. Basanti, the daughter, to pay an annuity to Mr. Saamba. Further the deed of gift and promise made by Ms. Basanti to Mr. Saamba to pay the annuity were executed simultaneously and therefore they should be regarded as one transaction & there was sufficient consideration for it. [Solution related to provision]

Conclusion:-

Thus a stranger to the contract cannot enforce the contract but a stranger to the consideration may enforce it. Hence, the contention of Ms. Basanti is not valid. [Conclusion]

[To increase the length of the answer we can write the case law and explain it in short. [Case law & explanation]

[Conclusion]

if case law is explained]



2. Mr. Fredricks entered into an agreement with Mr. Pradyuman to purchase Fredrick's motor car for Rs. 10 Lakhs within a period of three months. A security amount of Rs 40000 was also paid by Mr. Hasmukhlal to purchase the car in terms of the agreement. Even after lapse of another three month period, Mr. Fredricks neither responded to Mr. Pradyuman, nor to his phone calls. After lapse of another period of six months, Mr. Fredricks contacted Mr. Pradyuman and denied to purchase the motor car. He also demanded back the security amount of Rs. 40000 from Mr. Pradyuman. Referring to the provisions of the Indian Contract Act, 1872, state whether Mr. Pradyuman is required to refund the security amount to Mr. Fredricks.

Also examine the validity of the claim made by Mr. Hasmukhlal, if the motor car would have been destroyed by an accident within the three months agreement period.

Ans] In the terms of the provisions of Section 65 of the Indian Contract Act, 1872, when an agreement is discovered to be void or when a contract becomes void, any person who has received any advantage under such agreement or contract is bound to restore it, or to make compensation for it to the person from whom he received it.

Referring to the above provision, we can analyze the situation as under,

The contract is not a void contract. Mr. Pradyuman is not responsible for Mr. Fredricks negligence. Therefore, Mr. Pradyuman can rescind the contract and retain the security amount since the security is not benefit received under the contract, it is a security that the purchaser would fulfill his contract and is ancillary to the contract for the sale of motor car.

Regarding the second situation given in the question, the agreement becomes void due to the destruction of motor car, which is the subject matter of the agreement here.

Therefore, the security amount by Mr. Pradyuman is required to be refunded back to Mr. Fredericks.

3. Mr. Bade owned a motor car. He approached Mr. Chote and offered to sale his motor car for Rs. 800000. Mr. Bade told Mr. Chote that the motor car is running at a rate of 25 kmpl. Both the fuel meter & speed meter of the car were working perfectly. Mr. Chote agreed with the proposal of Mr. Bade and took delivery of the car by paying Rs 8 lakh to Mr. Bade.

After 10 days, Mr. Chote came back with the car and stated that the claim made by Mr. Bade regarding fuel efficiency was not correct & therefore there was a case of misrepresentation.

Referring to the provisions of the Indian Contract Act, 1872, decide & write whether Mr. Chote can rescind the contract on above ground.

Ans As per the provisions of Section 19 of the Indian Contract Act, 1872, when consent to an agreement is caused by coercion, fraud or misrepresentation, the agreement is a contract voidable at the option of the party who consent was so caused.

A party to contract, whose consent was caused by fraud or misrepresentation, may, if he think fit, insist that the contract shall be performed, and that he shall be put in the position in which he would have been if the representations made had been if the representations made had been true.

Exception :- If such consent was caused by misrepresentation or by silence, fraudulent within the meaning of Sec 17, the contract, nevertheless, is not voidable if the party whose consent was so caused had the means of discovering truth with ordinary diligence (expectation)

In the situation given in the question, both the fuel meter and speed meter of the car were working perfectly, Mr. Chote had the means of discovering the truth with ordinary diligence (Activity Expected From). Therefore, the contract is not voidable. Hence, Mr. Chote cannot rescind the contract on the above ground.