

CA Foundation **MATLAB** CTC Classes

CA Foundation BUSINESS LAW Dec 2023

ALL CASE STUDY – BASED Q & A

- 29 MARK'S -

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PAPER PATTERN –

- Question No. 1 (A) – 4 Marks – Contract Act
- Question No. 1 (B) – 4 Marks – Companies Act
- Question No. 3 (C) – 6 Marks – Contract Act
- Question No. 4 (B) – 6 Marks – Partnership Act
- Question NO. 5 (A) – 6 Marks – Sale of Goods Act
- Question NO. 6 (C) – 3 Marks – Companies Act

Total – 29 Mark's

Problem – 1

Mr. Rahul who is owner of a plot of land gave a newspaper advertisement that he wish to sell his plot of land situated near Mumbai Agra highway at Rs.2,500/Sq feet, after few days he gets a phone call from Mr. Mohit that he is interested in buying the plot, all the documents were sent by Rahul to Mohit for verification through WhatsApp and Mohit also took legal advice, everything done by Mohit for his satisfaction and after doing all this he finally agreed to buy the land at agreed amount, the terms of the contract between them were that price is to be paid in 5 Instalments, first instalment was to be paid after 15 days from the date of contract and then each Instalment is payable with gap of 2 weeks, and legal formalities of transfer of title etc to be done after all instalments have been paid off, in between Mr. Mohit fails to pay last 2 installments, can Mohit claim refund of amount already paid or is Mr. Rahul entitled to forfeit amounts already paid ?

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Solution:-

Provision: As per the provisions of the Indian Contract Act, 1872, when a contract becomes void, the party who has received any benefit under it must restore it to the other party or compensate the other party by the value of the benefit. It is called as restitution. One of the exceptions to this rule says, in a contract for sale of immovable property, reasonable amount received as an earnest money need not be refunded if the buyer fails to pay balance amount of consideration within agreed time. But if the amount paid is considerably large it cannot be forfeited as it would amount to penalty, thus unlawful.

Facts of the case: In the given case, Mr. Rahul agreed to sale his plot of land to Mr. Mohit, as an acceptance to the offer placed by Mr. Mohit on the basis of the invitations for offer made in the newspaper by him. They agreed to pay the price in 5 installments and legal formalities to be completed after all installments have been paid. Mr. Mohit paid first 3 installments promptly, but failed to pay last two installments.

Conclusion: Here, as the amount paid by Mr. Mohit is comparatively large than the earnest money. Thus, Mr. Rahul can deduct a reasonable amount as damages and is liable to refund balance amount.

Problem - 2

A Pencil must have ability of being used for writing, an eraser must be useful to erase and a sharpener must have sharpening ability. This is an example of condition as to _____.

Solution :-

Provision: According to section 16(2) of the Sale of Goods Act, 1930, where goods are bought by description from a seller who deals in goods of that description (whether he is the manufacturer or producer or not), there is an implied condition that the goods shall be of merchantable quality. Provided that, if the buyer has examined the goods, there shall be no implied condition as regards defects which such examination ought to have revealed. The expression "merchantable quality", though not defined, nevertheless connotes goods of such a quality and in such a condition a man of ordinary prudence would accept them as goods of that description. It does not imply any legal right or legal title to sell. Thus, the goods bought shall satisfy the purpose for which they are bought.

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Conclusion: Therefore, a pencil must have ability of being used for writing. An eraser must be useful to erase and sharpener must have sharpening ability. These, all are the conditions as to merchantability of goods.

Problem - 3

Mahesh asked Ankit if he can use Ankit's house which is otherwise vacant. Ankit agreed on the condition that Mahesh should pay some charges to Anmol (who is Ankit's brother). Ankit agreed for it and signed an agreement under which he promised to pay Rs.5,000 to Anmol till the time he is in possession of Ankit's house. Later on Mahesh refuses to pay the amount on the ground that he is not getting any consideration from Anmol to whom he has made promise to pay money. Can Anmol recover money from Mahesh?

Solution :-

Provision: According to section 2(d) of the Indian Contract Act, 1872, when at the desire of the promisor, the promisee or any other person has done or abstained from doing, or does or abstains from doing or promises to do or abstain from doing something, such an act or abstinence or promise is called consideration for the promise. Consideration may move from promisee or any other person who is not a party to the contract. In other words, there can be a stranger to a consideration but not stranger to a contract [Chinnayya vs. Ramayya (1882)].

Facts of the case: In the given case, Mahesh asked Ankit to use his vacant house to which Ankit agreed on the condition that Mahesh should pay some charges to Amol, who is brother of Ankit. Both of them agreed and an agreement was signed under which Mahesh promised to pay Rs. 5,000 to Anmol till the time he is in possession of Ankit's house. Later, Mahesh refuses to pay the amount on the ground that he is not getting any consideration from Anmol to whom he has made promise to pay money.

Conclusion: Here, as consideration may move from anyone, though Mahesh is not getting anything from Anmol, he is getting consideration from Ankit in the form of using his house. Therefore, though Anmol is not a party to the contract, he can recover money from Mahesh.

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Problem - 4

X Limited's almost all the equity shares were held by Mr. Raju, he was also debenture holder of the company which had charge on company's asset. After few years the company goes into liquidation and its assets were insufficient to pay its creditors. Other secured creditors of the company claimed that Mr. Raju being owner of the company should not be allowed to have claim on company's assets as debenture holder. Can Mr. Raju have claim on the assets of the company as debenture holder?

Solution

Provision: As per the provisions of the Companies Act, 2013, corporate Veil refers to a legal concept whereby the company is identified separately from the members of the company. The term Corporate Veil refers to the concept that members of a company are shielded from liability connected to the company's actions. If the company incurs any debts or contravenes any laws, the corporate veil concept implies that members should not be liable for those errors. The separate legal entity is the unique feature of a company. In other words, when a company is registered, it is clothed with a legal personality and has almost same rights and powers as a human. Its existence is distinct and separate from that of its members. Equity shareholders are the owners of the company while preference shareholder, debenture holders, etc. are the creditors of the company. In the event of liquidation of the company, creditors are the first who are paid out from the assets of the company while after paying them all the balance would be paid to equity shareholders. (Salmon Vs. Salmon)

Facts of the Case: In the given case, Mr. Raju was the only shareholder of all the equity shares of X Limited and he was also the debenture holder of that company which had charge on company's assets. Later on, when company went into liquidation, its assets fell insufficient to pay its creditors. Other secured creditors of the company claimed that Mr. Raju being owner of the company should not be allowed to have claim on company's assets as debenture holder.

Conclusion: Though Mr. Raju, being equity shareholder of whole shares, is owner of the company, he is also the creditor. And Mr. Raju is a separate person and the company too is a separate legal entity. Being a debenture holder of the company, Mr. Raju is also the creditor and can rank as a creditor for debentures held by him.

Problem - 5

Mr. Kailash got an order for 2,000 liters of edible oil from Mr. Yogesh, rate was agreed to be Rs.100 per liter. As per their usage of trade Mr. Yogesh was supposed to transfer the money through RTGS only after that he will get delivery of goods. Even after 5 days of contract, Yogesh did not transfer the money, Kailash sold the goods after giving notice of his intention to re-sell to the buyer after waiting for one more week, Kailash finally sold the oil which was earlier sold to Yogesh to someone in the market @Rs.95 per liter (which is market rate of oil on that day) Can Kailash recover the loss of Rs. 5 per liter from Yogesh.

Solution:-

Provision: According to section 54 of the Sale of Goods Act, 1930, the right of resale is a very valuable right given to an unpaid seller. In the absence of this right, the unpaid seller's other rights against the goods that is lien and the stoppage in transit would not have been of much use because these rights only entitled the unpaid seller to retain the goods until paid by the buyer. The unpaid seller can exercise the right to re-sell the goods, provided, he gives notice to the buyer of his intention to sell the goods. If after the receipt of such notice the buyer fails within a reasonable time to pay or tender the price, the seller may resell the goods. Further, on resale of the goods, the seller is also entitled to recover the difference between the contract price and resale price, from the original buyer as damages and can retain the profit if the resale price is higher than the contract price. The seller has the right to resale the goods which are perishable in nature without giving any notice to the original buyer.

Facts of the case: In the given case, Mr. Kailash got an order for 2,000 liters of edible oil from Mr. Yogesh at the rate Rs. 100 per liter. As per their usage of trade Mr. Yogesh was supposed to transfer the money through RTGS only after that he will get delivery of goods. But even after 5 days of contract, Mr. Yogesh did not transfer the money, thus, Mr. Kailash gave notice of his intention to resale the goods. After waiting for one more week, Mr. Kailash finally sold the oil which was earlier sold to Mr. Yogesh to someone in the market @Rs. 95 per liter i.e. at prevailing market price of that day due to which he incurred a loss of Rs. 5 per liter.

Conclusion: Here, Mr. Kailash sold the oil at lower price than the contracted price after giving a reasonable notice to Mr. Yogesh as no response to the notice was received from

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him. Thus, Mr. Kailash can recover the loss of Rs. 5 per liter of oil sold which is accrued to him due to the failure of Mr. Yogesh to fulfill the contract.

Problem - 6

Directors of a company appointed Mr. X as company secretary at a monthly salary of Rs.50,000, Mr. X worked for the company for around 6 months and then it was discovered that the right to appoint company secretary is not available to directors but this has to be done by shareholders in their meeting, hence Mr. X was immediately removed from his post, now the question was that can Mr. X be forced to refund the salary he has already received from the company for past 6 months ?

Answer:-

Provision: According to 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. The aim of rule of restitution is to put both the parties at par position.

Facts of the case: In the given case, directors of a company appointed Mr. X as company secretary at a monthly salary of Rs. 50,000, though directors were not in power to appoint him. Instead the rights to appoint company secretary is available to shareholders of the company in the meeting. But now it's been around 6 months that Mr. X worked for the company. Now, Mr. X was removed from the post and he was forced to refund the salary of past 6 months that he has already received from the company

Conclusion: Here, in the context of above provision, being contract between Mr. X and directors of company is void, Mr. X has to refund the salary of 6 months paid to him. But, Mr. X has the right to retain the reasonable amount according to his work.

Problem - 7

'N' an industrialist has been fighting a long drawn litigation with 'S' another industrialist. To support his legal campaign 'N' enlists the services of 'R' a legal expert stating that the amount of Rs. 5 lakhs would be paid, if 'R' does not take up the brief of 'S'. 'R' agrees, but at the end of the litigation 'N' refuses to pay. Decide whether 'R' can recover the amount promised by 'N' under the provisions of the Indian Contract Act, 1872.

Answer:

The problem as asked in the question is based on one of the essential elements of a valid contract as stated under Section 10 of the Indian Contract Act, 1872. In terms of the said section, "all agreements are contracts if they are made by the free consent of the parties competent to contract, for a lawful consideration and with a lawful object and are not expressly declared void". Thus, in order to be valid contract, such agreement must not be one which the law expressly declares to be either illegal or void.

A void agreement is one which does not have any legal effect. Certain agreements such as agreements in restraint of trade, marriage, legal proceedings etc., are void agreements since they have been identified as "opposed to public policy".

The given instance is based on the agreement in restraint of legal proceedings. This agreement restricts one's right to enforce his legal rights. Such an agreement has been expressly declared to be void under section 28 of the Indian Contract Act, 1872 as they are opposed to public policy.

Hence, "R" in the given case cannot recover the amount of Rs 5 lakhs promised by "N" because it is a void agreement and cannot be enforced by law.

Problem - 8.

'X' agreed to become an assistant for 2 years to 'Y' who was practicing chartered accountant at Jodhpur. It was also agreed that during the term of agreement 'X' will not practice as a chartered accountant on his own account within 20 kms. of the office of 'Y' at Jodhpur. At the end of one year, 'X' left the assistantship of 'Y' and started practice on his own account within the said area of 20 kms. Referring to the provisions of the Indian Contract Act, 1872, decide whether 'X' could be restrained from doing so?

Answer -

Agreement in Restraint of Trade: Section 27 of the Indian Contract Act, 1872 deals with agreements in restraint of trade. According to the said section, every agreement by which anyone is restrained from exercising a lawful profession, trade or business of any kind, is to that extent void. However, in the case of the service agreements restraint of trade is valid. In an agreement of service by which a person binds himself during the term of agreement not to take service with anyone else directly or indirectly to promote any business in direct competition with that of his employer is not in restraint of trade, so it is a valid contract. In the instant case, agreement entered by X with Y is reasonable, and do not amount to restraint of trade and hence enforceable.

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Therefore, X can be restrained by an injunction from practicing on his own account in Jodhpur

Problem - 9 .

'X' entered into a contract with 'Y' to supply him 1,000 water bottles @ Rs 5.00 per water bottle, to be delivered at a specified time. Thereafter, 'X' contracts with 'Z' for the purchase of 1,000 water bottles @ Rs 4.50 per water bottle, and at the same time told 'Z' that he did so for the purpose of performing his contract entered into with 'Y'. 'Z' failed to perform his contract in due course and market price of each water bottle on that day was Rs 5.25 per water bottle. Consequently, 'X' could not procure any water bottle and 'Y' rescinded the contract. What would be the amount of damages which 'X' could claim from 'Z' in the circumstances? What would be your answer if 'Z' had not informed about the 'Y's contract? Explain with reference to the provisions of the Indian Contract Act, 1872.

Answer

BREACH OF CONTRACT: DAMAGES:

Section 73 of the Indian Contract Act, 1872 lays down that when a contract has been broken the party who suffers by such breach is entitled to receive from the party who has broken the contract compensation for any loss or damage caused to him thereby which naturally arose in the usual course of things from such breach or which the parties knew when they made the contract to be likely to result from the breach of it.

The leading case on this point is "Hadley v. Baxendale" in which it was decided by the Court that the special circumstances under which the contract was actually made were communicated by the plaintiff to the defendant, and thus known to both the parties to the contract, the damages resulting from the breach of such contract which they would reasonably contemplate, would be the amount of injury which would ordinarily follow from the breach of contract under these special circumstances so known and communicated.

The problem asked in this question is based on the provisions of Section 73 of the Indian Contract Act, 1872. In the instant case 'X' had intimated to 'Z' that he was purchasing water bottles from him for the purpose of performing his contract with 'Y'. Thus, 'Z' had the knowledge of the special circumstances. Therefore, 'X' is entitled to claim from 'Z' Rs 500/- at the rate of 0.50 paise i.e. 1000 water bottles x 0.50 paise (difference between the procuring price of water bottles and contracted selling price to 'Y') being the amount of profit 'X' would have made by the performance of his contract with 'Y'.

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If 'X' had not informed 'Z' of 'Y's contract then the amount of damages would have been the difference between the contract price and the market price on the day of default. In other words, the amount of damages would be Rs 750/- (i.e. 1000 water bottles x 0.75 paise).

Problem – 10

Mr. X who is dealer of crackers and fireworks ordered goods worth Rs.5 Lacs from a trader of Shivakashi one month before the Diwali, the delivery which usually takes place 1 week, in this case took 4-5 weeks and the goods were delivered on the day of Diwali itself, Mr. X now intends to either return the goods or pay 20-30% less as the same goods needs to be sold at lower prices over the year, is Mr. X entitled to do so,

Answer:-

Provision: According to section 55 of the Indian Contract Act, 1872, when a party to a contract promises to do certain thing at or before the specified time, and fails to do any such thing at or before the specified time, the contract, or so much of it as has not been performed, becomes voidable at the option of the promisee, if the intention of the parties was that time should be of essence of the contract. Further, section of the Sale of Goods Act, 1830, unless otherwise agreed, the goods remain at the seller's risk until property therein has passed to the buyer. After that event they are at the buyer's risk, whether delivery has been made or not. But if delivery has been delayed by the fault of the seller of the buyer, the goods shall be at the risk of the party in default, as regards loss which might not have arisen but for the default.

Facts of the case: In the given case, Mr. X, dealer of crackers and fireworks, ordered goods worth Rs. 5 lacs from trader Shivakashi one month prior the Diwali, with an usual delivery time of 1 week. But it took around 4-5 weeks and delivered the goods on the day of Diwali. Thus, Mr. X intends to either return the goods or pay lesser amount to recover the loss that he may sustain by selling goods at lower prices over the year.

Conclusion: Here, time was the essence of the contract as Mr. X ordered goods to sale them during the peak period of demand during Diwali season. But due to the fault of Shivakashi, delivery of goods got delayed. Thus, Mr. X can return the goods or can claim reduction in price to the extent loss suffered by him.

Problem - 11

Kamala promises to marry Suresh if he helps Kamala in getting divorce from his husband who is a regular drinker of alcohol, Suresh appoints an advocate to fight on Kamala's behalf, afterwards Court grants divorce to Kamala and her husband. When Suresh asks Kamala to marry him, she refuses, can Kamala be compelled to marry Suresh, and if not then can Suresh get back the money he spent on fighting the case?

Answer:-

Provision: According to the provisions of the Indian Contract Act, 1872, agreements inferring with marital duties are opposed to public policy. An agreement in contemplation of divorce is immoral and thus it is void-ab-initio. The rule of restitution says, benefits if any received under a contract which becomes void, it must be restored. The principle of restitution is that a person who has been unjustly enriched at the expense of another is required to make restitution to that other. But, this rule would not be applicable in the contracts which are void from the beginning.

Facts of the case: In the given case, Kamala promised to marry Suresh if he helps Kamala in getting divorce from his husband who is a regular drinker of alcohol. Thus, Suresh appoints advocate for the same and pays fees to him. Afterward, court grants divorce to Kamala and her husband. But, when Suresh asked Kamala to marry him, he refused.

Conclusion: Here, above contract is immoral and void-ab-initio. Thus, Suresh can neither compel Kamala to marry him nor can get back the money spent by him on fighting the case.

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Problem - 12

Rahul is a small trader who intentionally spoke on a phone call with his friend to create an impression that he is owner of a shopping mall, all this conversation was made while Rahul was with his friend Sonali, later Rahul asked Sonali for marriage and Sonali agreed believing that Rahul is a owner of a shopping mall. Before their marriage Sonali came to know about truth as a result she refused to marry Rahul, is Sonali entitled to do so ?

Solution:-

Provision: As per the provisions of the Indian Contract Act, 1872, mistake may be defined as innocent or erroneous belief which leads the party to misunderstand the others. Mistake may be either Bilateral or Unilateral. A unilateral mistake is generally not allowed as a defense in avoiding a contract. But in certain cases, the consent given by a party under an error or mistake which is so fundamental as goes to the root of the agreement. In such case the agreement is void. Mistake as to the identity of the person contracted with also makes the contract void.

Facts of the case: In the above case, Rahul intentionally spoke on a phone call with his friend to create an impression that he is owner of a shopping mall, while he was with his friend Sonali. So, Sonali agreed to marry with Rahul believing that he is owner of a shopping mall. But before their marriage she came to know the truth that Rahul is a small trader. So she refused to marry him.

Conclusion: Here, there is mistake caused by Sonali as to the identity of Rahul which turned the contract void. Thus, Sonali can refuse to marry Rahul contract being void.

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