

# INDIAN CONTRACT ACT, 1872

## UNIT: 1

①

**Contract** Sec 2(h)

**Agreement** Sec 2(e)

**Enforceable by law**

↳ Court Case

**Offer**

**Acceptance**

**Consideration**

2(a)

2(b)

something in return

Contract = Agreement + Enforceability by law

Agreement = (Offer + Acceptance) + Consideration

Promise

Promise = Offer + Acceptance

for each other

Promise or every set of promise forming consideration

②

Difference b/w Agreement and Contract

↳ Refer slide

③

Essential Elements of valid contract (Sec 10)

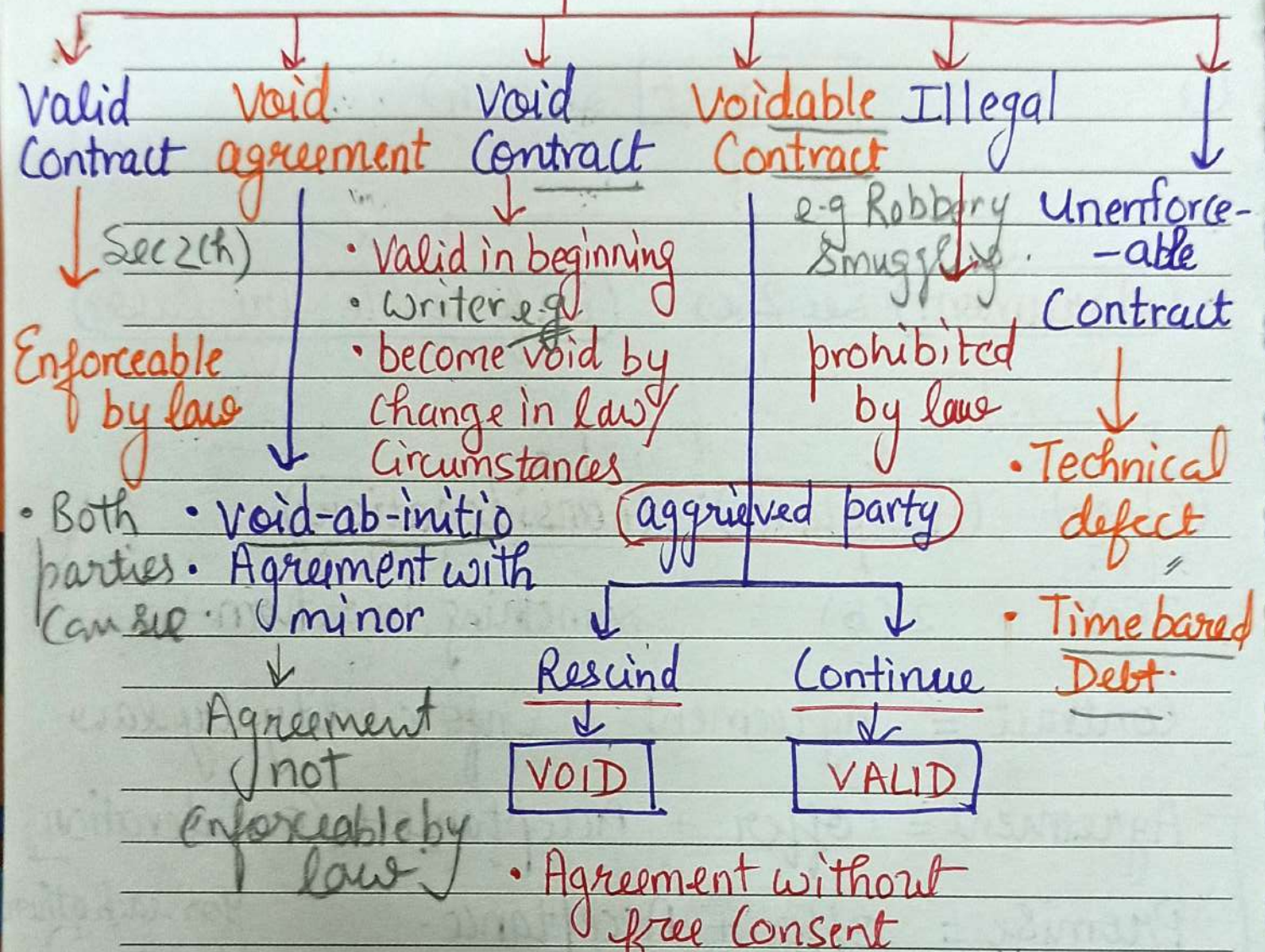
↳ Refer Slide

④

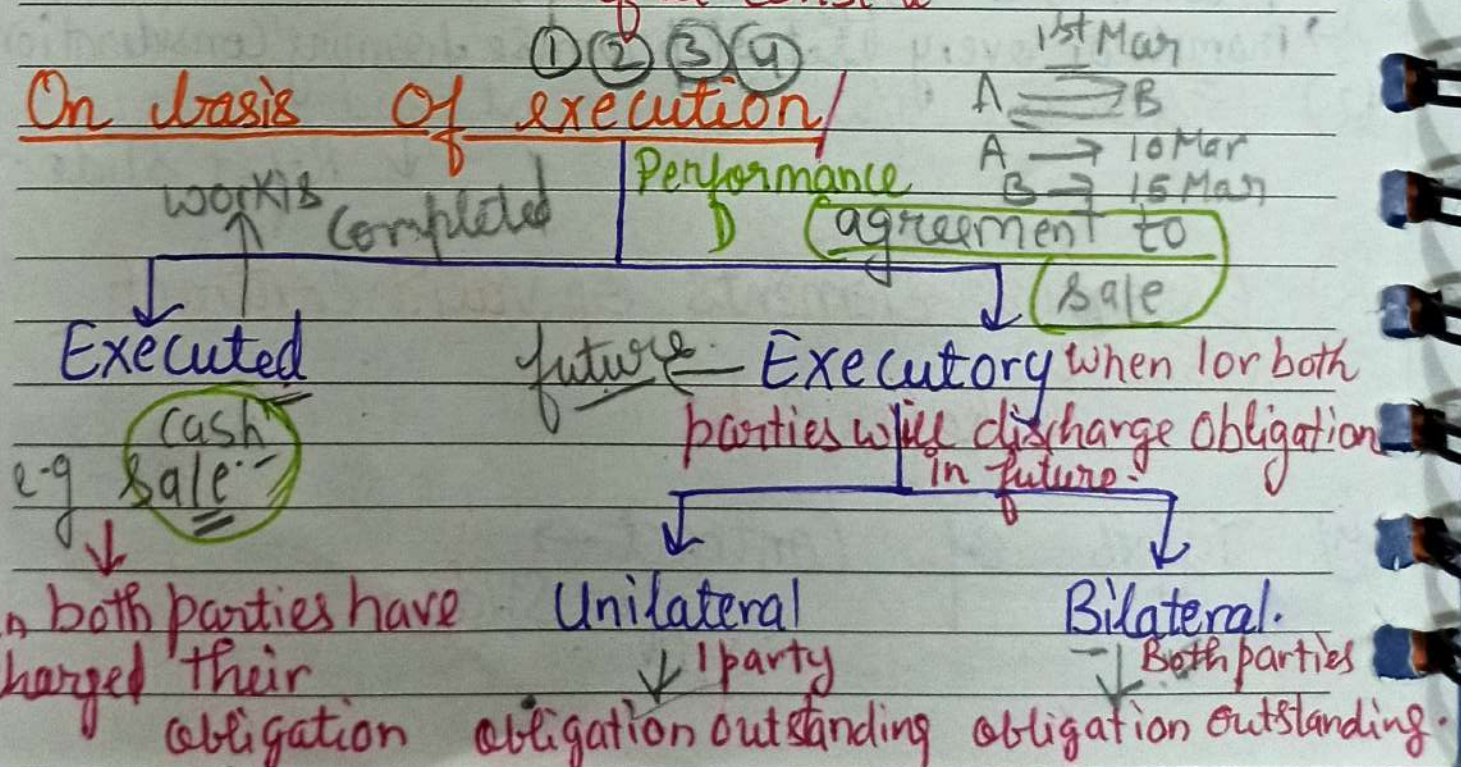
Types of Contract → Refer Slide



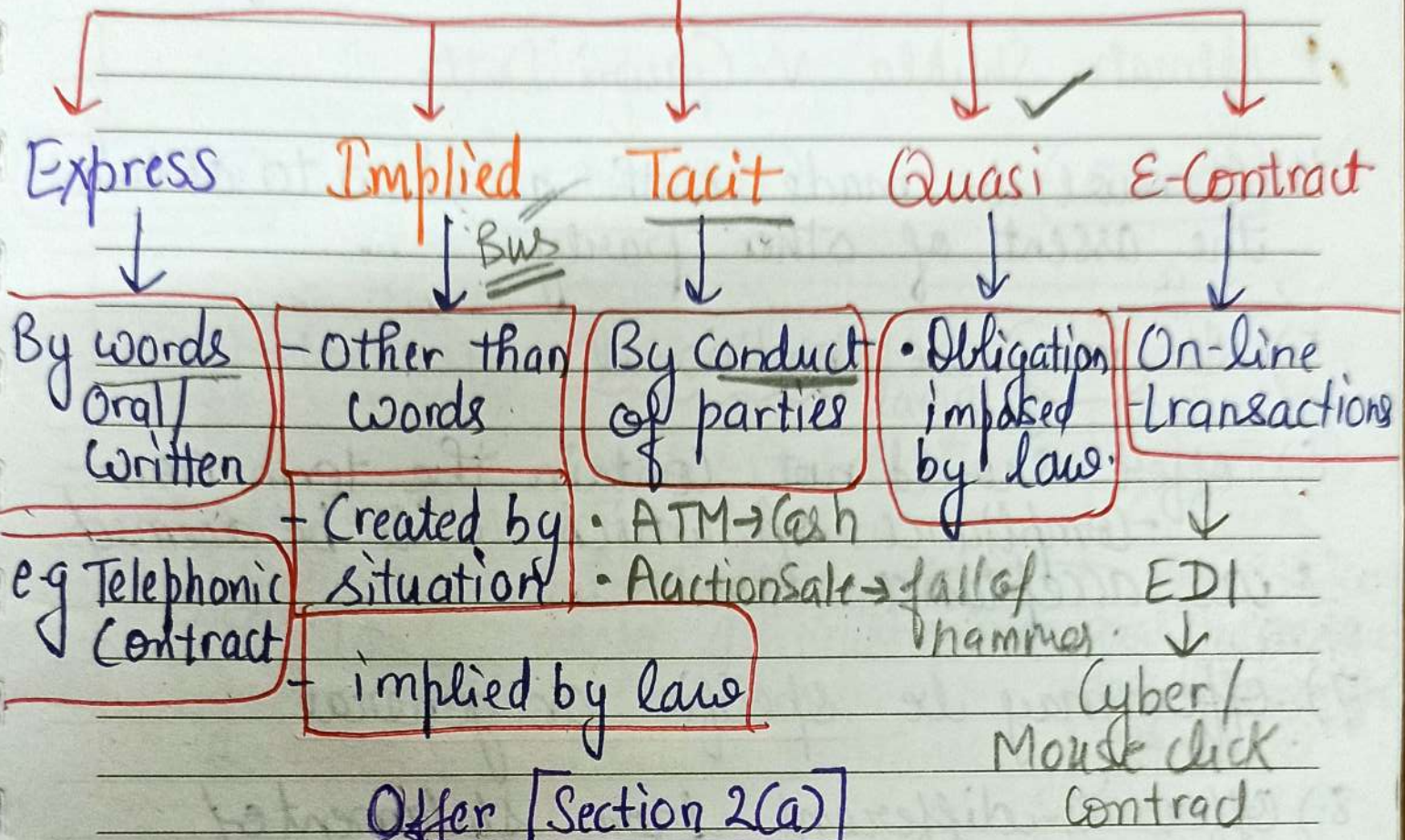
# (A) On basis of validity



# (B) On basis of execution/



# (C) On basis of formation / creation



## Offer [Section 2(a)]

Definition :-> When one person signifies to another his willingness to do or abstain from doing anything with a view to obtain assent of other party he is said to have made a proposal.

## Essentials of valid offer

- 1.) It must be capable of creating legal relations.
- 2.) It must be certain, definite not vague.



without knowledge offer can't be accepted

Date: \_\_\_\_\_

3) It must be communicated to the offeree

Lalmati Shukla V. Gauri Dutt

4) It must be made with a view to obtain the assent of other party.

5) It may be conditional → general offer

6) offer should not contain the term non-compliance of which will be deemed as acceptance.  
particular person → public

7) offer may be specific or general

8) offer is different from statement of intention, invitation to offer, prospectus etc.  
words → conduct

9) offer may be express or implied

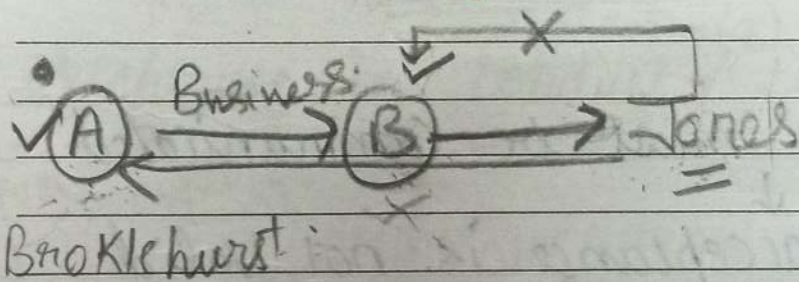
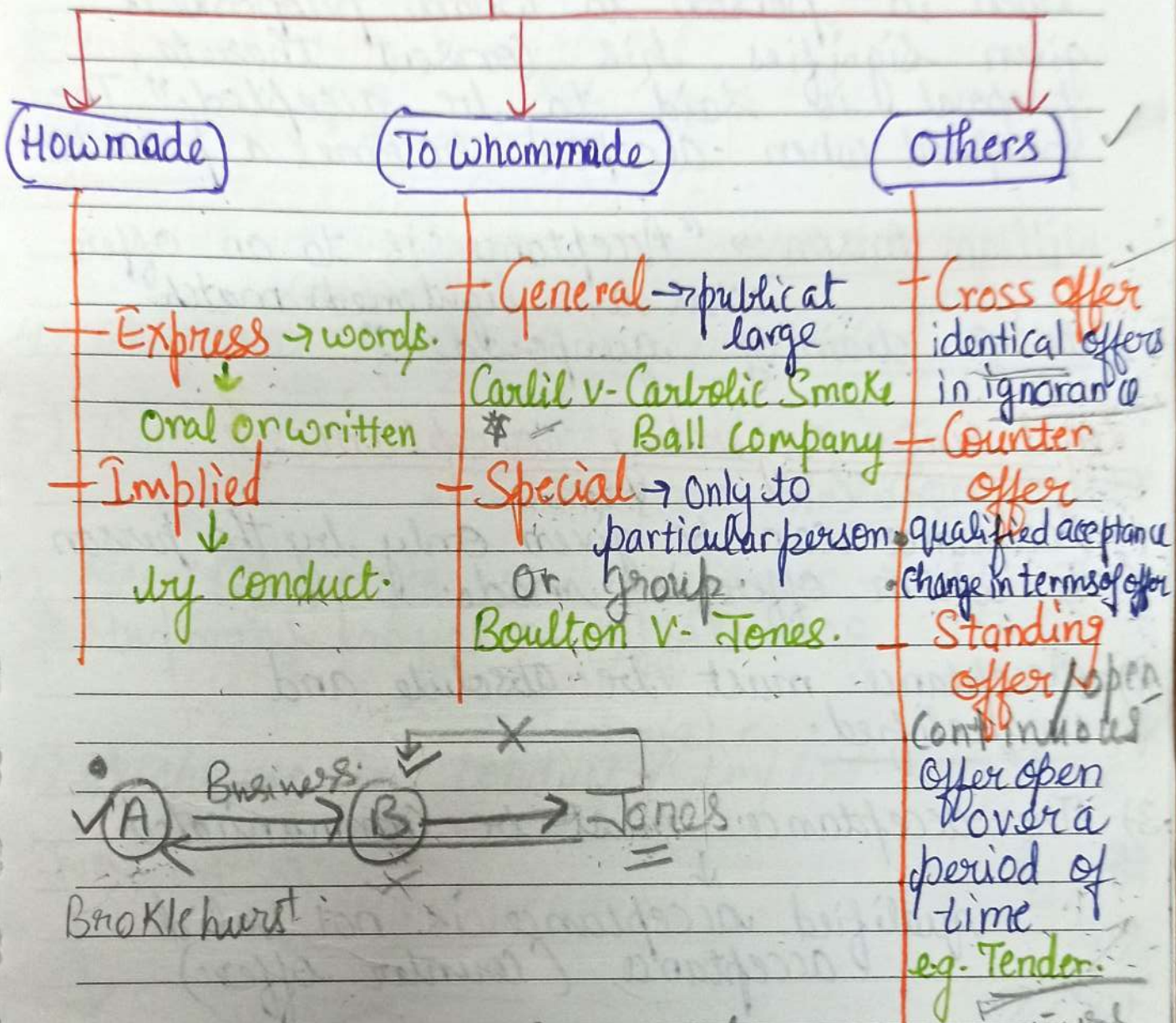
10) A statement of price is not an offer.

Difference between offer and Invitation to offer. → refer slide

Case law → ① Harvie V. Face

② Harvis V. Nickerson

# Types of offer

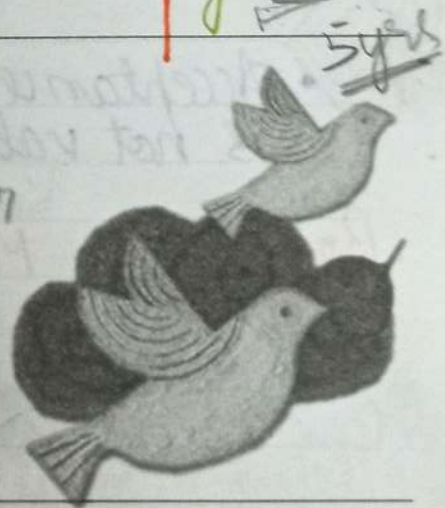


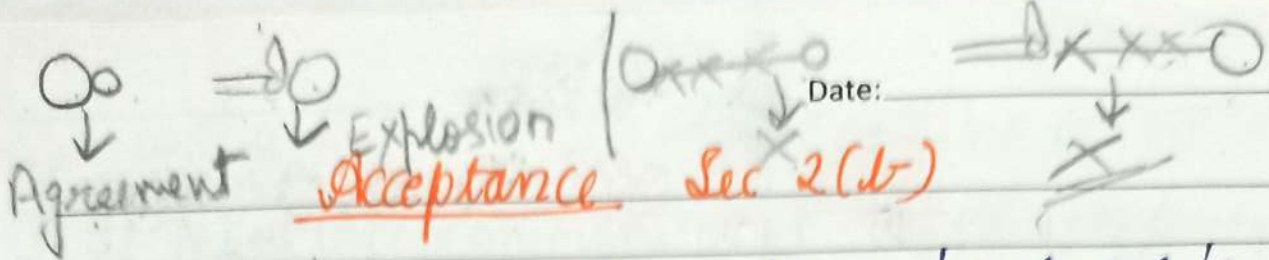
Conditional

In case of Counter offer  
original offer → lapse X

8 lac

10 lac X





"When a person to whom proposal is given signifies his consent thereto, proposal is said to be accepted." The proposal when accepted becomes a promise.

William Anson :-> "Acceptance is to an offer what a lightened match is to a train of gunpowder."

### Legal rules regarding acceptance :->

who can accept.

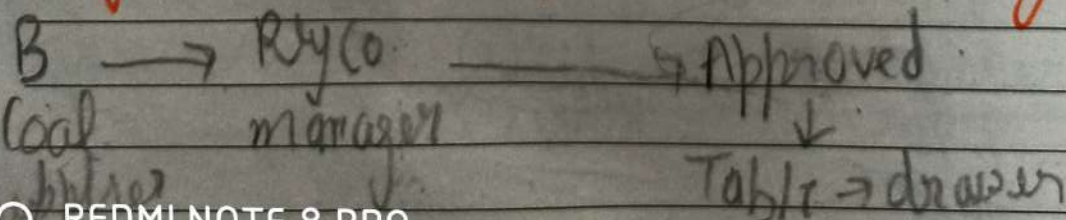
- 1) Acceptance can be given only by the person to whom offer is made. (specific)
- 2) Acceptance must be absolute and unqualified.   
 → counter offer   
 general offer → anyone from public

3) The acceptance must be communicated

↓  
 • qualified acceptance is not valid acceptance (counter offer)

• Acceptance without knowledge of offer is not valid acceptance (cross offer)

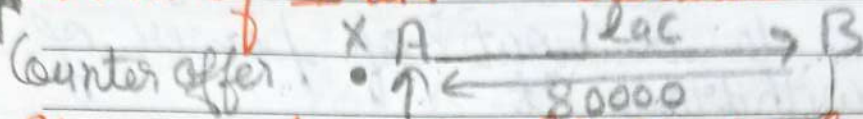
### Brogden v. Metropolitan Railway Company



A 280 pound B Date: \_\_\_\_\_

\* Neale v. Merrett. land - 80 pound - cheque  
counter offer. - 4 installments

\* Union of India v. Bahulal.



Bhagwan Das v. Girdhari Lal.

without knowledge → valid acceptance  
(Cross offer) X

- 4) Acceptance must be in prescribed mode  
(Fax, E-mail)
- 5) Time prescribed time limit → ✓  
↓  
→ reasonable time
- 6) Mere Silence is no acceptance → refer slide

\* felthouse v. Bindley.

7) Acceptance by conduct / Implied Acceptance.

June Appli form

COMMUNICATION

↓  
Nov → allotment

[A) Communication of offer: offer is said

to be communicated when it comes to the knowledge of the person to whom it is made i.e. offeree.

Case: Lalman Shukla v. Gauri Dutt.

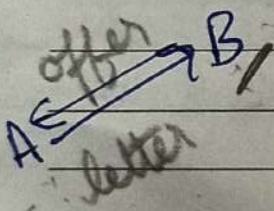
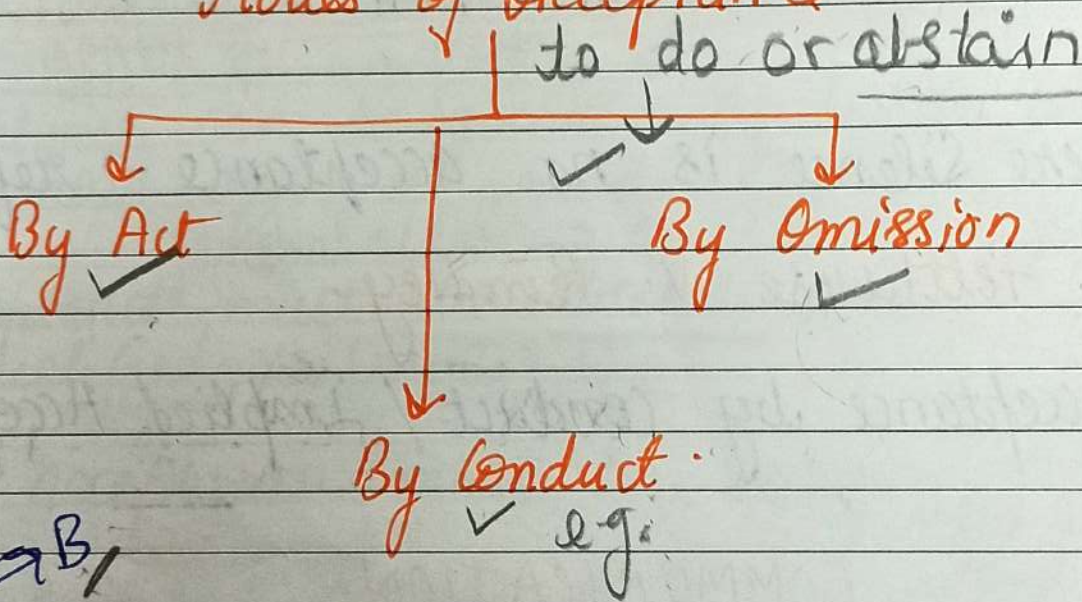


Communication of acceptance: →

(i) as against proposer: → when it is put in <sup>letter → Post</sup> course of transmission to him so as to be out of power of acceptor to withdraw it

(ii) As against acceptor: → when it comes to the knowledge of proposer.

Modes of Acceptance



1<sup>st</sup> Mar → offer letter → Post

↓  
15 Mar → B → recd

↓  
20 Mar → B → Acceptance letter

↓  
22 Mar → B → letter → Post

↓  
28 Mar → A recd. of 22.4.0. Speed  
30 Mar → A recd. " Post



Communication of offer → 15 Mar

Communication of acceptance →

for A → 20 Mar

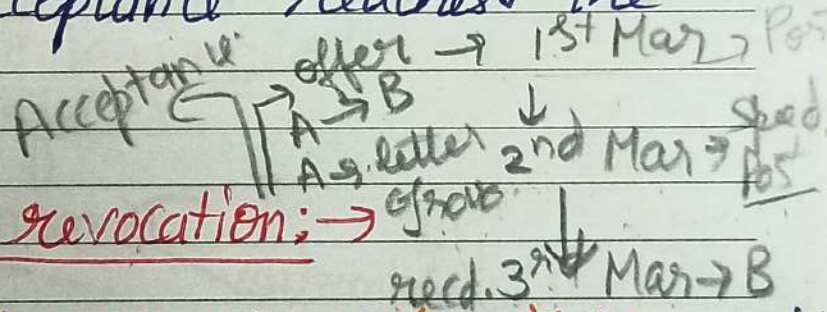
for B → 30 Mar

REVOCATION

Revocation of offer: → Offer can be revoked any time before acceptance

eg: Bid can be retracted before fall of hammer

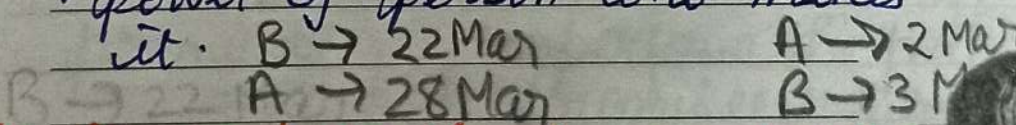
Revocation of acceptance: → Acceptance can be revoked anytime before the letter of acceptance reaches the offeror.



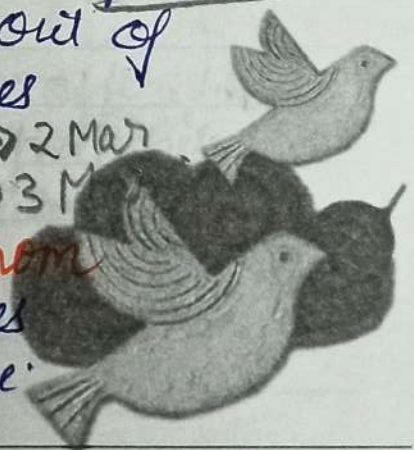
Communication of revocation: →

(i) as against the person who makes it: → when it is put in course

of transmission so as to be out of power of person who makes it.



(ii) As against the person to whom it is made → when it comes to his knowledge.

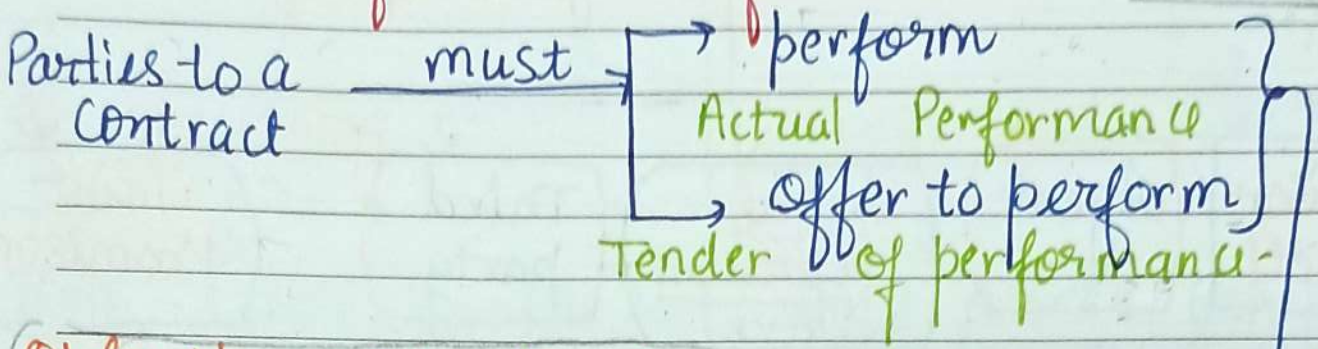


LLB Imp

## Modes of revocation of offer

- 1.) By notice.
- 2.) By lapse of time.  
June  
↓  
Nov. Allo.
- 3.) By non-fulfilment of condition precedent.
- 4.) By death or insanity.
- 5.) By counter offer.
- 6.) By non-acceptance of offer in prescribed manner.
- 7.) By subsequent illegality.  
↓  
change in law  
Demonetisation

# Performance of Contract (Sec 37)



## Obligation of parties to a Contract (Sec 37)

their respective premises

UNLESS

sacrifice dispensed with (waived)

excused by contract or other law.

impossible

Death  $\rightarrow$  legal representative

### Performance

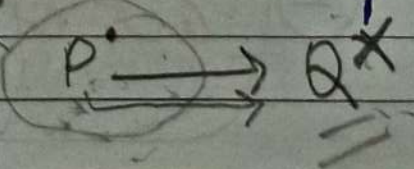
Actual

Attempted / offer to perform / Tender of performance

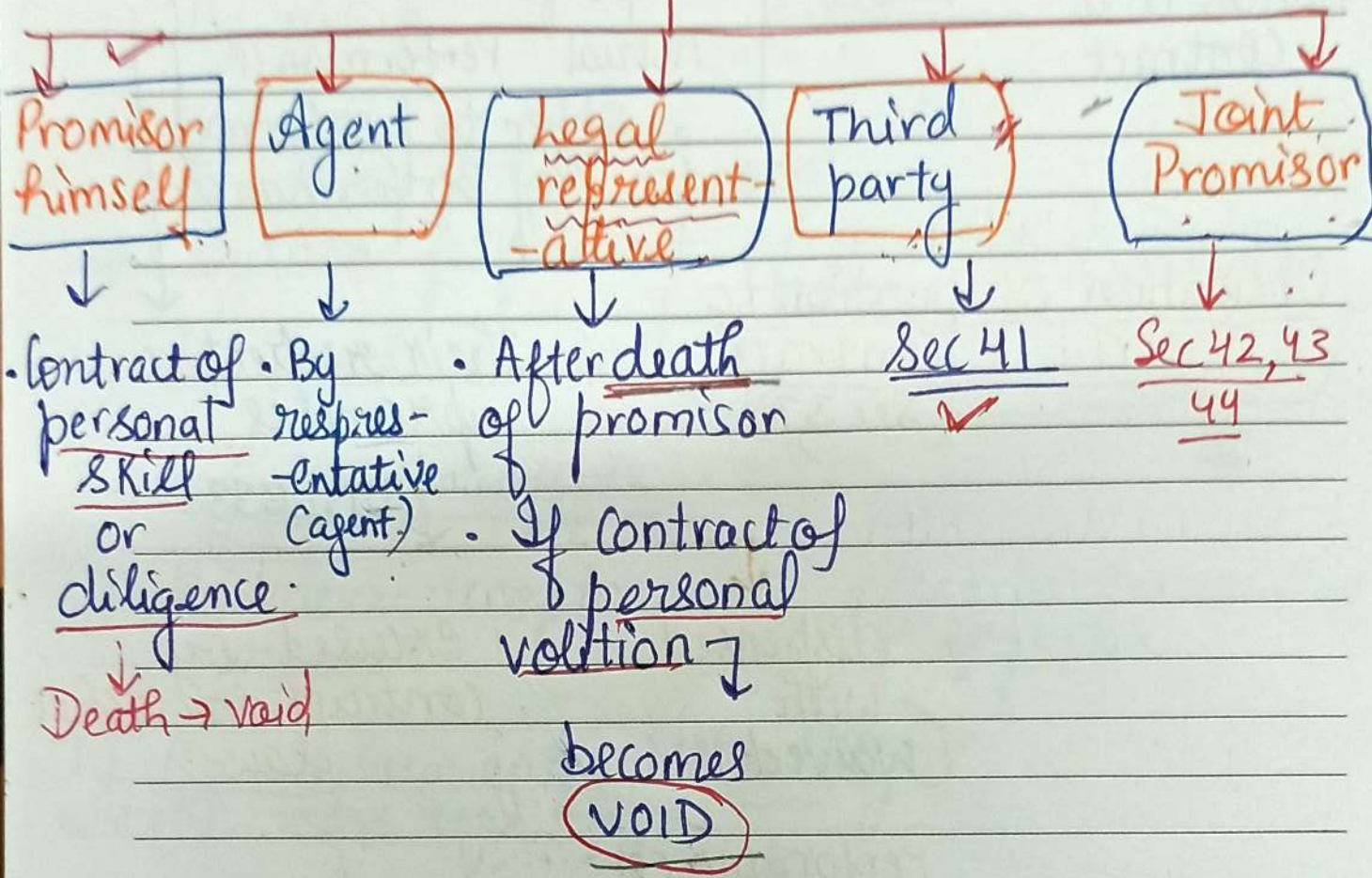
Both the parties have performed their respective premises.

Promisor has offered to perform the promise but promisee refuses to accept the performance.

discharged from liability



# By whom a contract may be performed



## Effect of accepting performance from Third person Sec 41

When promisee → accepts performance → then he can't enforce it against promisor.  
 i.e. promisor is discharged from his obligation although promisee has

- ① Neither authorised
- ② Not satisfied act of third party.

Example → Refer Slide.

Shoes  
Partly paid  
↓  
Call money X

Succession 30/11/2012

Assignment

Both assets (benefits) ✓  
& liabilities (burden) ✓  
are transferred

Only assets (benefits) are transferred  
not liabilities

↓ Liability ltd.  
Only to the extent of  
inherited  
property

Contract of personal skill can't be  
assigned

Effect of refusal to accept offer of performance

promisee Sec → 38

If promisor made offer of performance → but offeror refused to accept the performance

then promisor is

①

②

Not responsible for non-performance

Nor he loses his rights

i.e. ↓  
Promisor is discharged from his obligation

↓  
promisor can sue for damages



Section 42

Devolution of Joint Liabilities

During their lives they should jointly perform the promisor

After death → their legal representative + survivors

Section 43

Any one of Joint Promisors may be compelled to perform

• Promisee can compel any of the joint promisors to pay the whole amount and he afterwards claim contribution

• In case of insolvency the promise will be performed by solvent joint promisors.

• Equal Contribution in case of loss

Section 44

Effect of release of one of the joint promisor

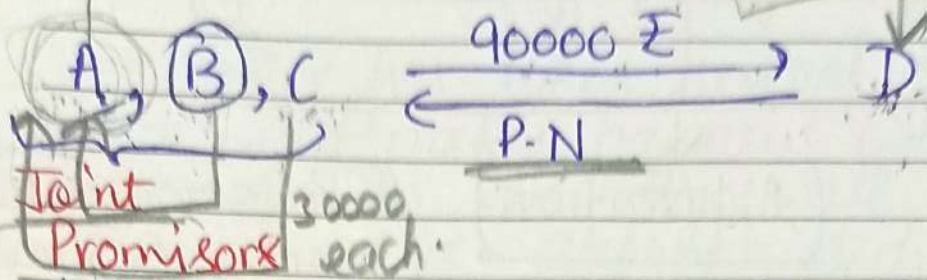
If promisee releases one of the joint promisor, other joint promisors are not released.

After being released also that joint promisor will remain liable towards other joint promisors.

Joint Promisor  $\rightarrow$  Liability

Date: \_\_\_\_\_

Joint as well as Several



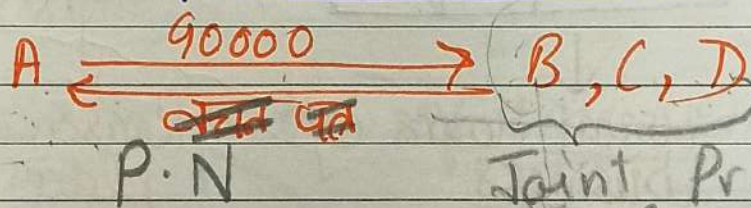
Sec 42 A, B, C  $\rightarrow$  30000 £ each  
A  $\rightarrow$  death A's legal representative + B + C

Sec 43 D  $\rightarrow$  A 90000 he has to pay afterwards can claim contribution (30000 £) each from B and C.

A  $\rightarrow$  Insolvent  $\rightarrow$  B, C 45000 each.

Sec 44 D has released A from liability B and C are not released. On being released also A will remain liable toward B and C.

Joint Promisee

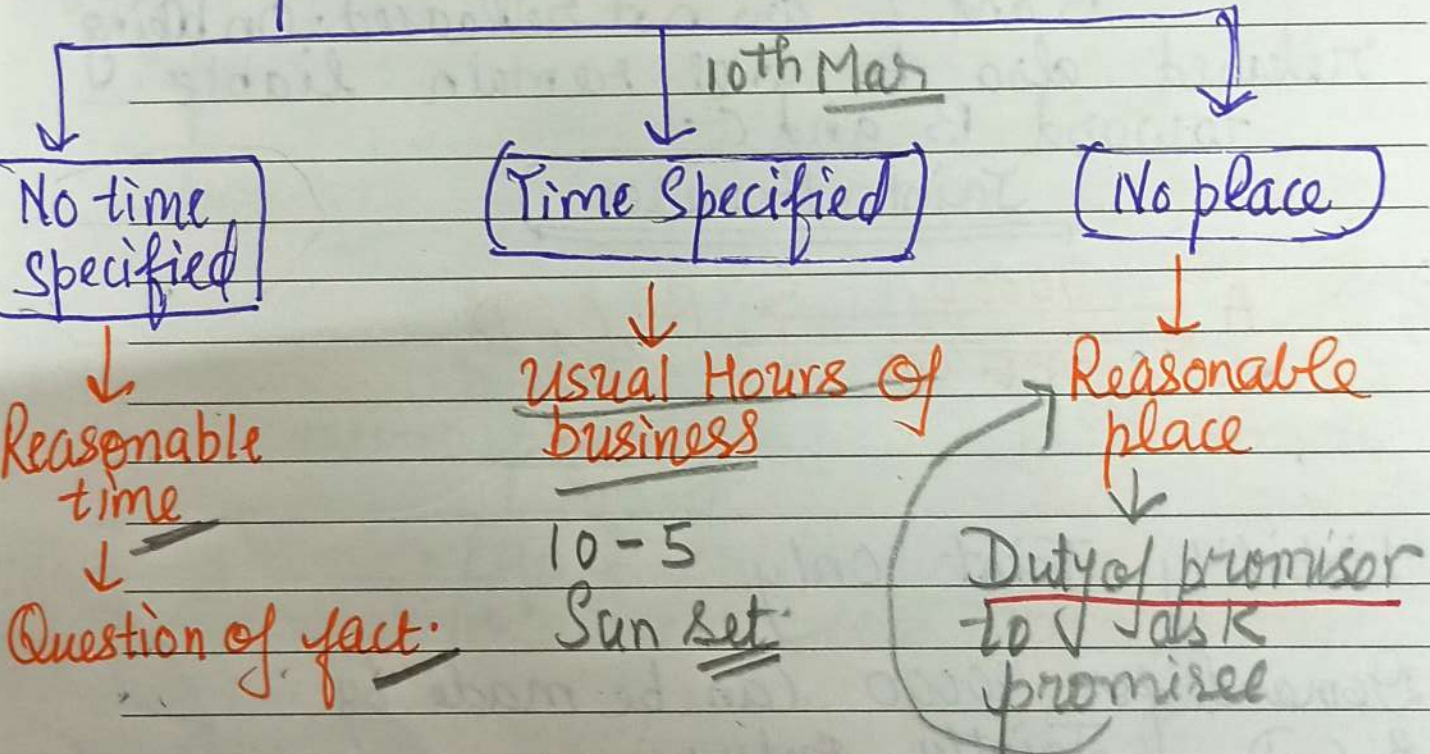
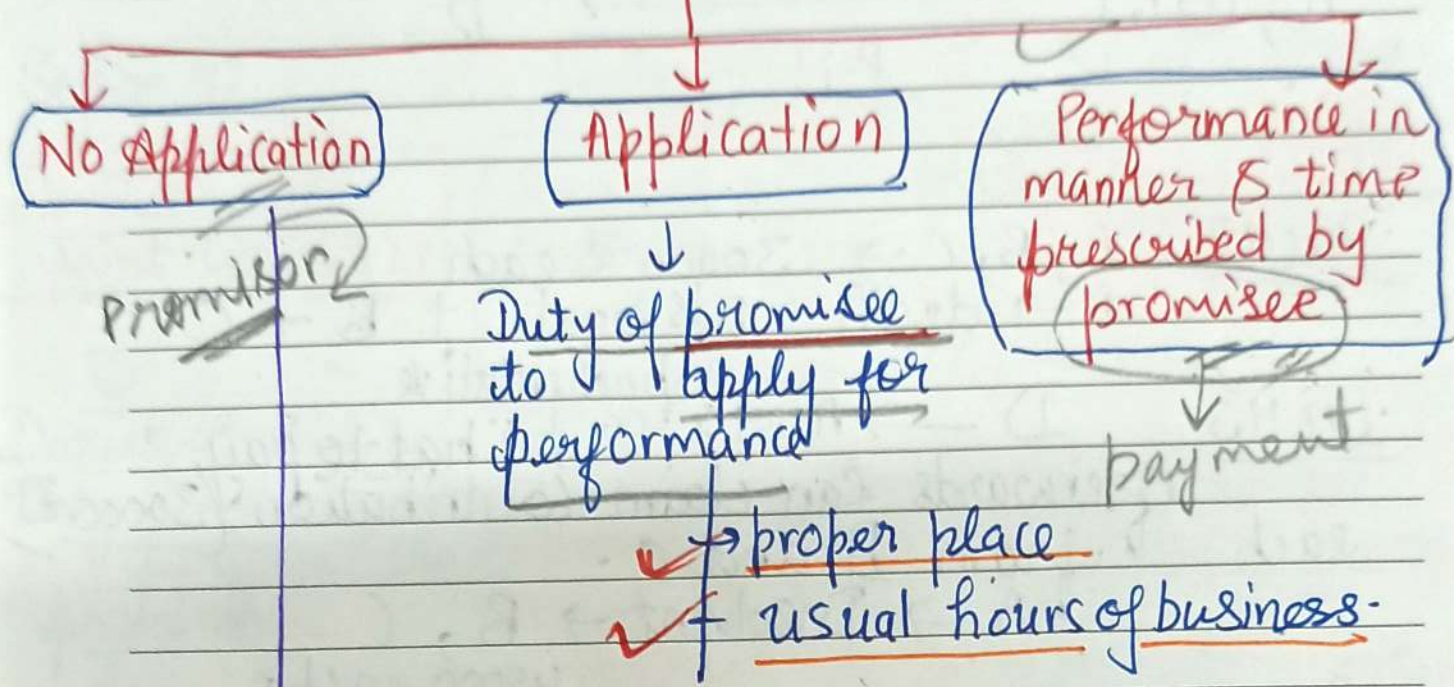


Joint Promisee  
Death

- Liability Joint Only
- Demand for 90000 can be made by B, C, D Jointly Only.
- Death  $\rightarrow$  Legal Representative.



# Time and place for performance of promise



Performance of reciprocal promises → from ICAI



V. Imp

Appropriation of payment: →

When debtor has taken several debts from a creditor and makes payment which is not sufficient to discharge all debts. Then the payment is appropriated according to following rules: →

1) Application of payment where debt to be discharged is indicated → debtor ✓

↓  
at desire of debtor

Whatever is paid is paid according to intention of payer

2) Application of payment where debt to be discharged is not indicated → debtor X

↓  
at desire of creditor

3) Application of payment where neither party appropriates

↓ → Time based debt → paid first

1500	500
500	250

In order of time (FIFO method.)

↓  
if debts are of same day (equal standing)

will be discharged proportionately.

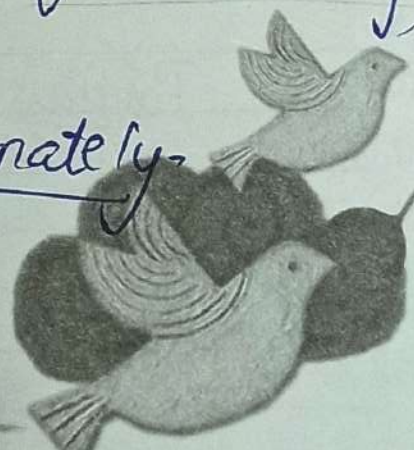
15000	10000	20000	30000
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① Debtor

② Creditor

③ FIFO → Time based debt

④ Same day → proportionately

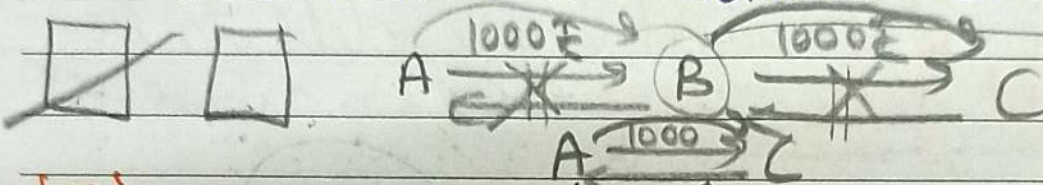


Contracts which need not be performed with consent of both the parties

① Effect of novation, rescission and alteration of contract →

Novel = new

Novation → New Contract is substituted for the old one. Parties can change



Rescission → Contract is cancelled with the consent of both the parties.



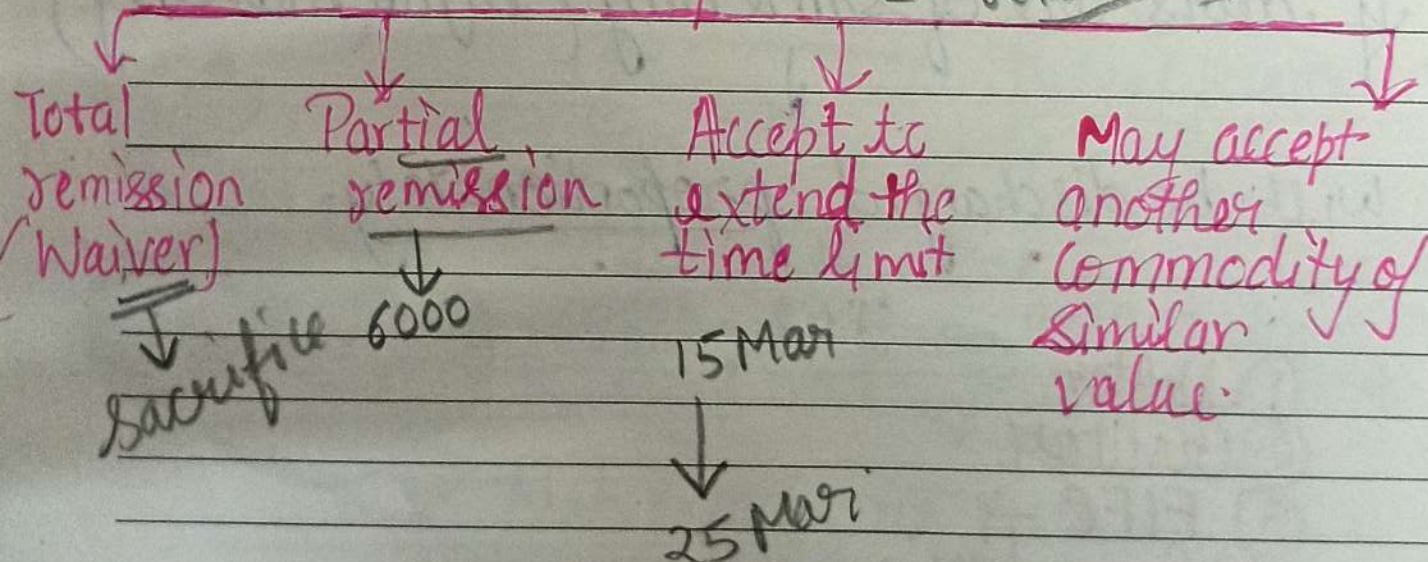
Alteration → Modification or change in original contract but the parties don't change



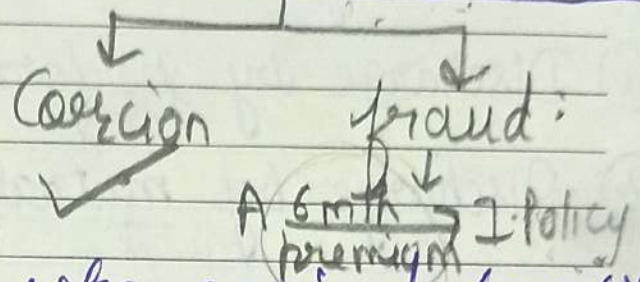
② Promises may waive or remit the performance of promise →

Remission

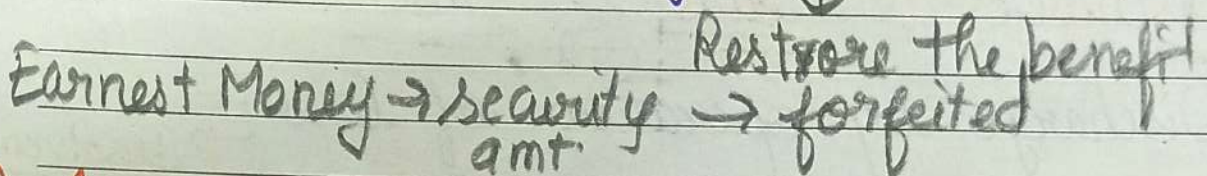
exempt → Ed  
rebate



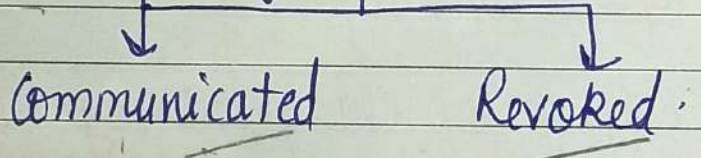
(3) Restoration of benefit under voidable Contract



(4) obligation of person who received benefit under void agreement or contract

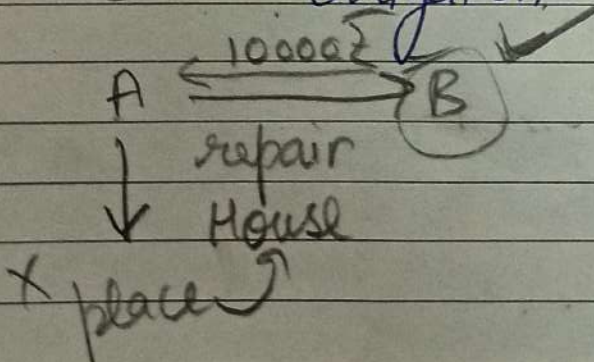


(5) Communication of rescission: -> On rescission of voidable contract rule of offer will apply.



(6) Effect of neglect of promisee to afford promisor reasonable opportunity / facility for performance ->

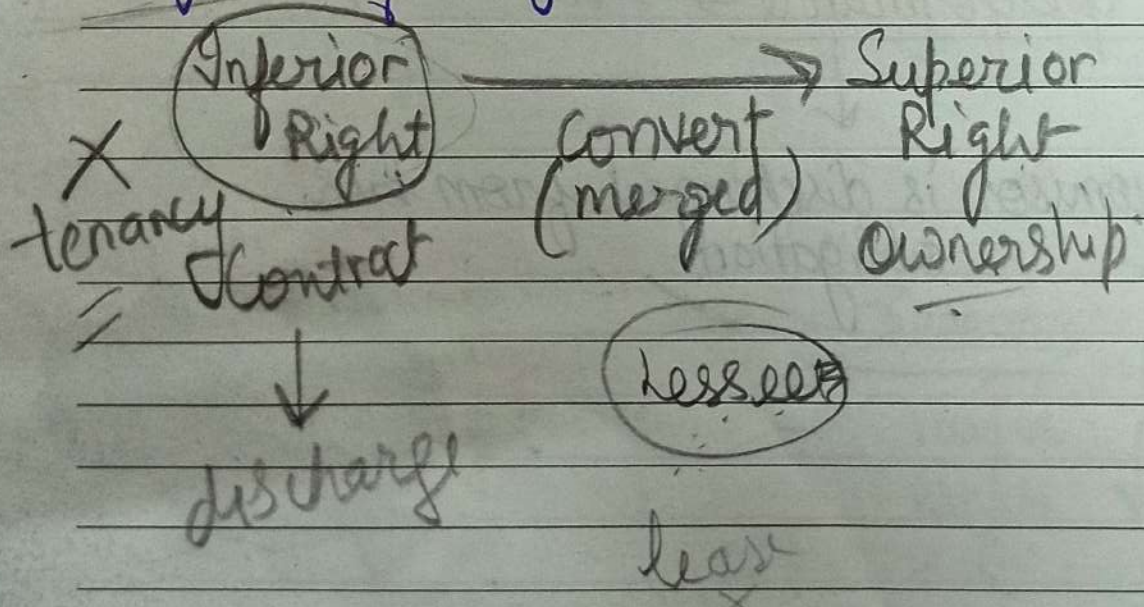
Promisor is discharged from his obligation.



✓ Imp

Discharge Of Contract: →

- ① Discharge by performance → Actual Attempted.
- ② Discharge by mutual agreement → Variation Rescission Remit.
- ③ Discharge by impossibility of performance (expiry)
- ④ Discharge by lapse of time.
- ⑤ Discharge by operation of law → death, personal skill, Insolvency.
- ⑥ Discharge by breach of contract.
- ⑦ Promisee may waive or remit performance of promise.
- ⑧ Effect of neglect of promisee to afford promisor reasonable facilities for performance.
- ⑨ Merger of rights.



①

## Unit 2: CONSIDERATION

⇒ quid pro quo  
↓

Something in return

⇒ Misa v. Currie → Consideration may consist of  
↓

Right, Interest  
Profit or Benefit  
↓

to one party

Forbearance, detriment,  
loss, responsibility  
suffered  
↓

suffered by the other

⇒ Sec 2(d) → Definition

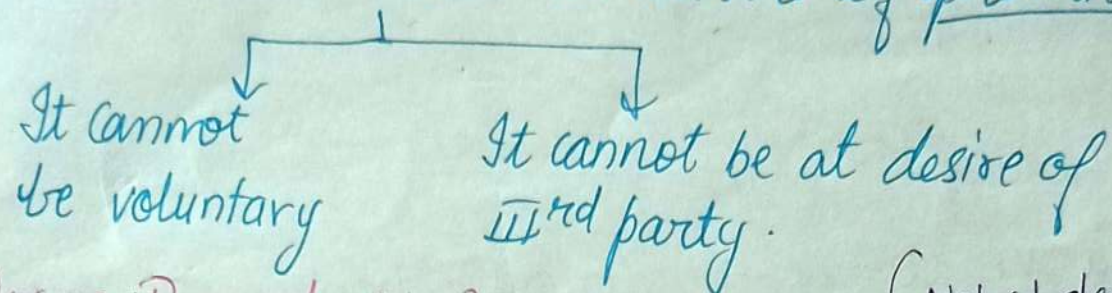
When at the desire of promisor, promisee or any other person

- + has done or abstained from doing something
- + does or abstains from doing something
- + promises to do or abstain from doing something

then such act, abstinence or promise is called consideration.

★ Legal rules regarding consideration: →

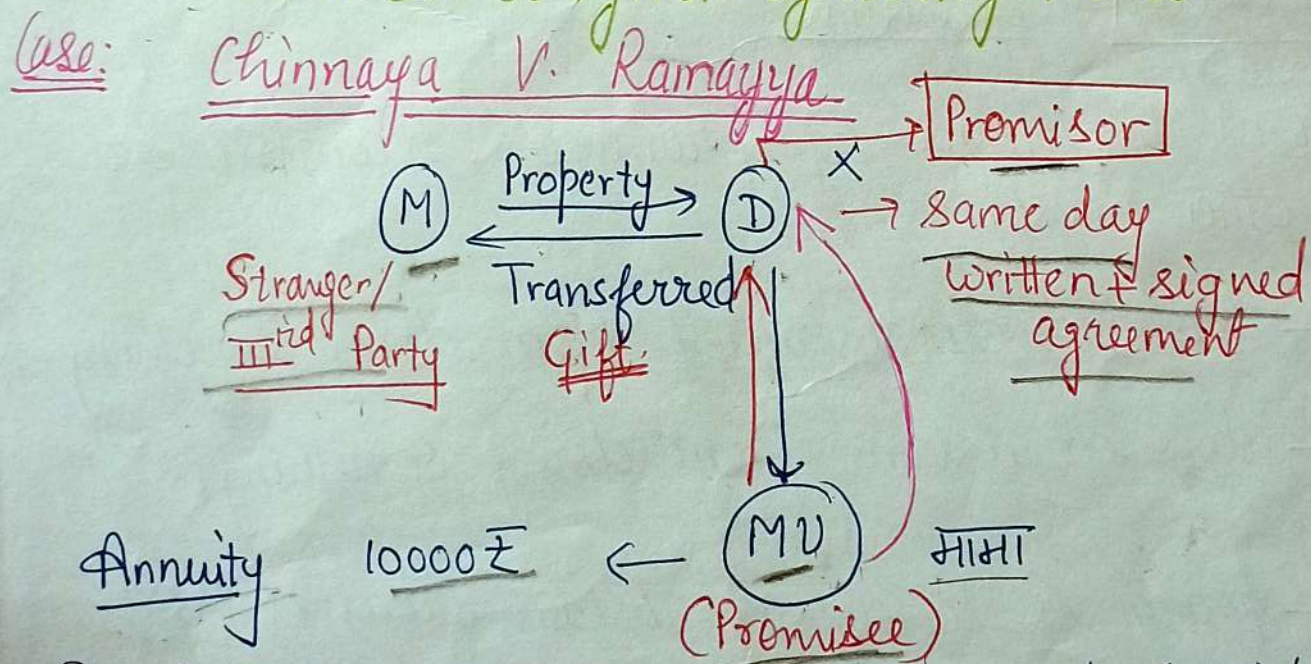
(i) Consideration must move at desire of promisor



Case: Durga Prasad V. Baldeo Collector (Not at desire of B)  
 Shopkeeper (B) Commission (D) Agency Contractor (D) Request Collector  
 (Promisor) on goods sold (Promisee) Market was to be constructed on desire of Collector. (3rd party)

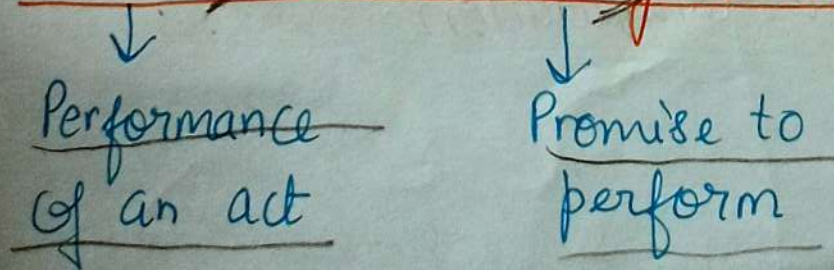
(ii) Consideration may move from promisee or any other person

Consideration can be given by stranger also.



Decision: There can be a stranger to consideration  
 So uncle can recover money from daughter.

(iii) Executed and Executory Consideration



(IV) Consideration may be past, present or future.

- Sec 2cd) → <sup>Consideration can be</sup> past, present, future
- In England there is no past consideration.
- Past Consideration is given at previous request
- Present    "    "    "    "    present    "
- future    "    "    "    "    future or succeeding request.

(V) Consideration need not be adequate

- There should be some consideration but it need not be adequate (proper)
- Consideration should be valuable in eye of law but it need not be exactly equal to value of promise exchanged

10 lac property → 1 lac  
          sold

↓  
Court has no problem provided it is supported by free consent

• Bolton v. Madden → It is for parties to decide at time of contract (consideration) not by the court.

Sec 25 Explanation 2

Due to inadequate consideration → Contract valid

VI Performance of what one is legally bound to perform

- e.g. ① Doctor  $\xleftarrow{10\text{lac}}$  Rich person  $\xrightarrow{\text{treat my son well}}$
- ② Police  $\xleftarrow{10\text{lac}}$  do catch thieves
- ③ Solicitor  $\xleftarrow{10\text{lac}}$  if wins the case. (already paid)

(VII) Consideration must be real and not illusory (4)

↓  
imaginary

↓  
impossible example

(VIII) Consideration must not be unlawful, immoral or opposed to public policy.

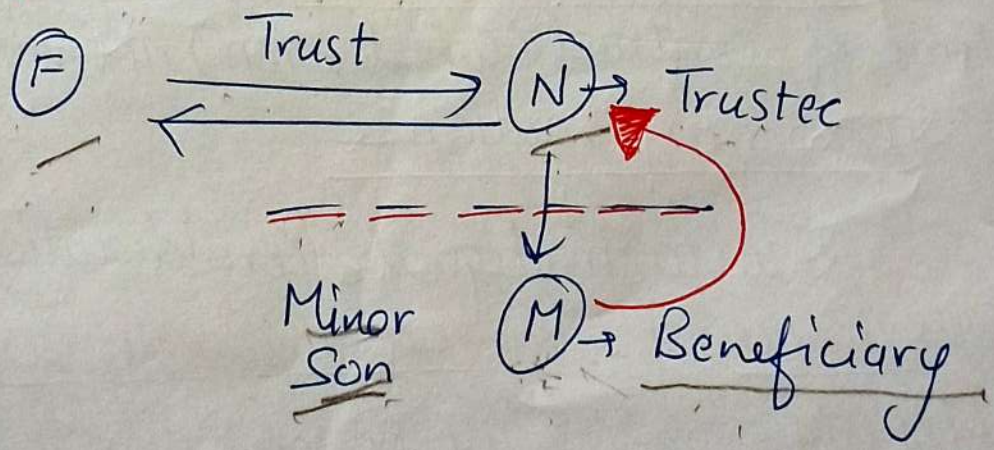
It should be + legal  
+ moral  
+ according to public policy

Doctrine of Privity of Contract <sup>Private</sup>

- Only the parties to a contract can sue each other no one else
- There can be a stranger to consideration but there cannot be a stranger to contract.
- Stranger to contract cannot sue.

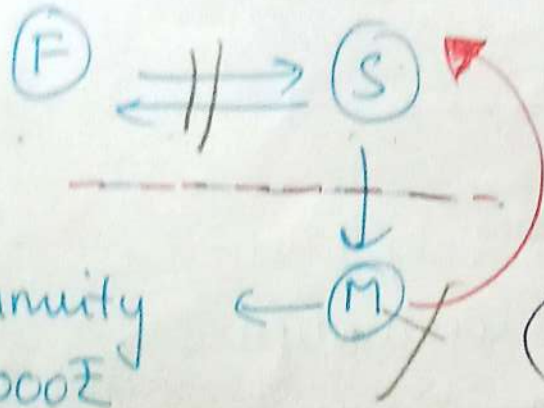
Exceptions → (Third party can sue.)

1. Beneficiary in case of trust





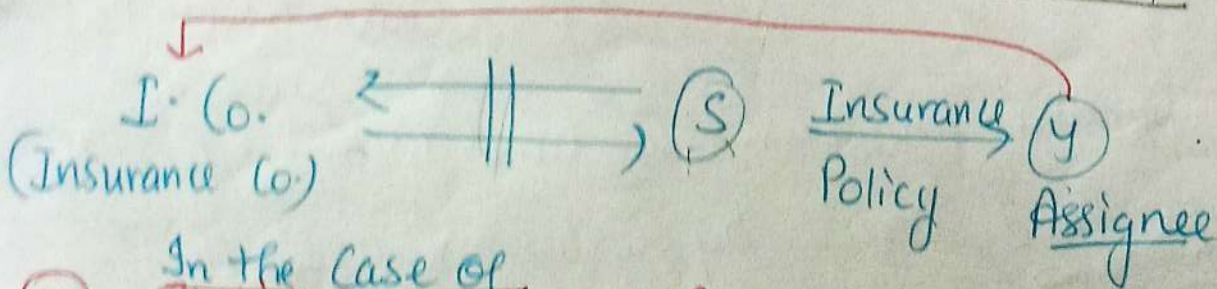
(2) In the case of a Family Settlement → Should be in writing. (5)



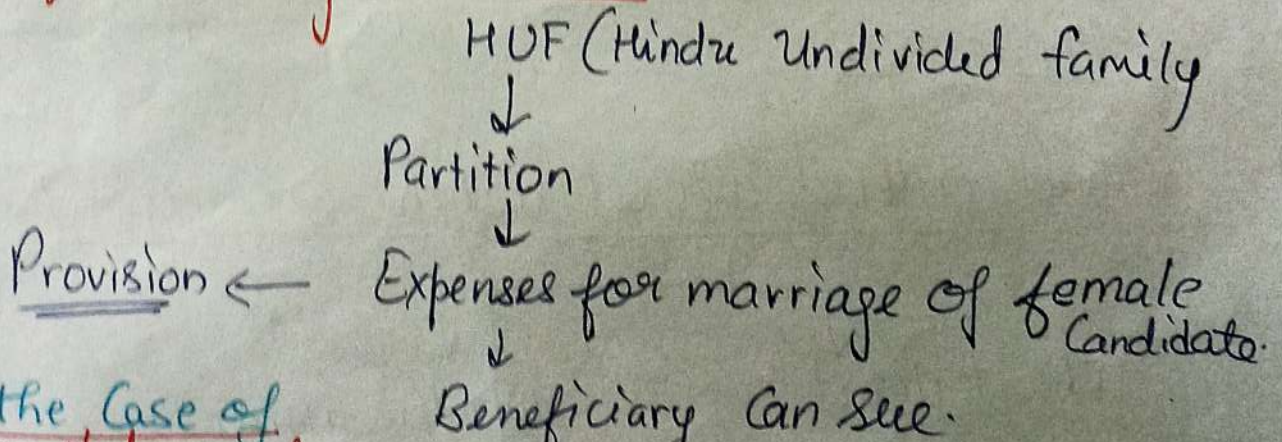
Annuity

(Also in case of Chinnaya V. Ramaya)

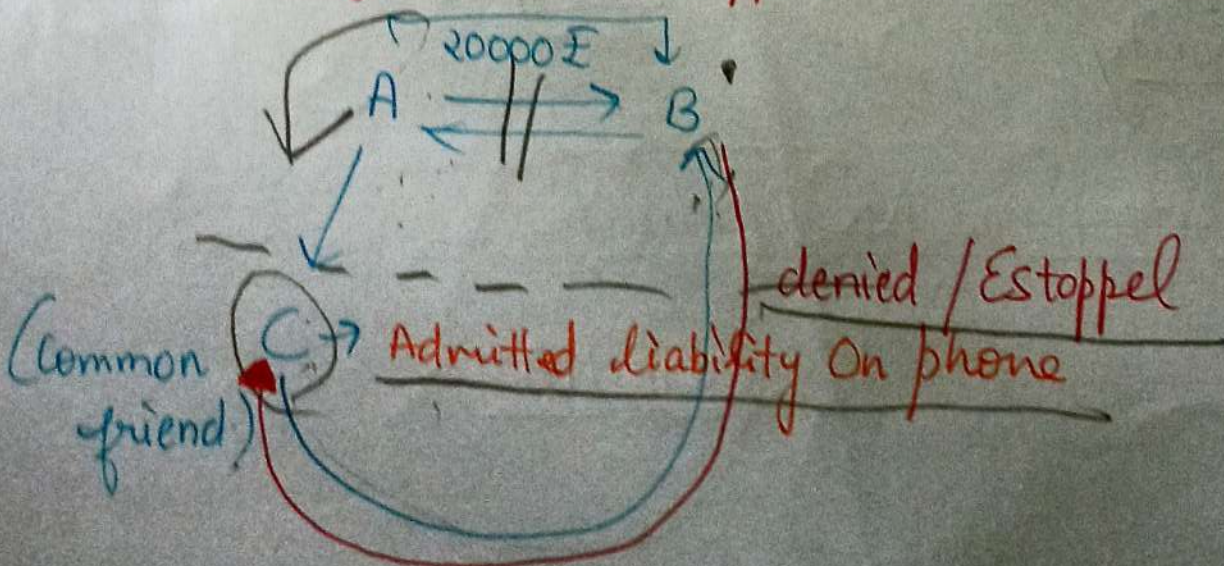
(3) In the case of 10000€ Assignment of Contract → Assignee / Nominee Can Sue.



(4) In the case of Specific Marriage Contract →



(5) In the case of Acknowledgement Or Estoppel



(6) In the case of  
Covenant running with land

(6)

A  $\xrightarrow{10 \text{ Acre land}}$  B

Condition  $\rightarrow$  Use Only 9 Acre for Construction as 1 acre reserved for A's son  $\rightarrow$  Chhote Lal

A died  
 $\downarrow$   
B started Construction on 10 Acre land  
 $\downarrow$   
Can Chhote Lal Sue B?

If a person purchases a land with notice that owner of land bound by certain duties affecting land the condition can be enforced by successor of seller

(7) Contract entered into through an agent.

Agent acted within scope of Authority

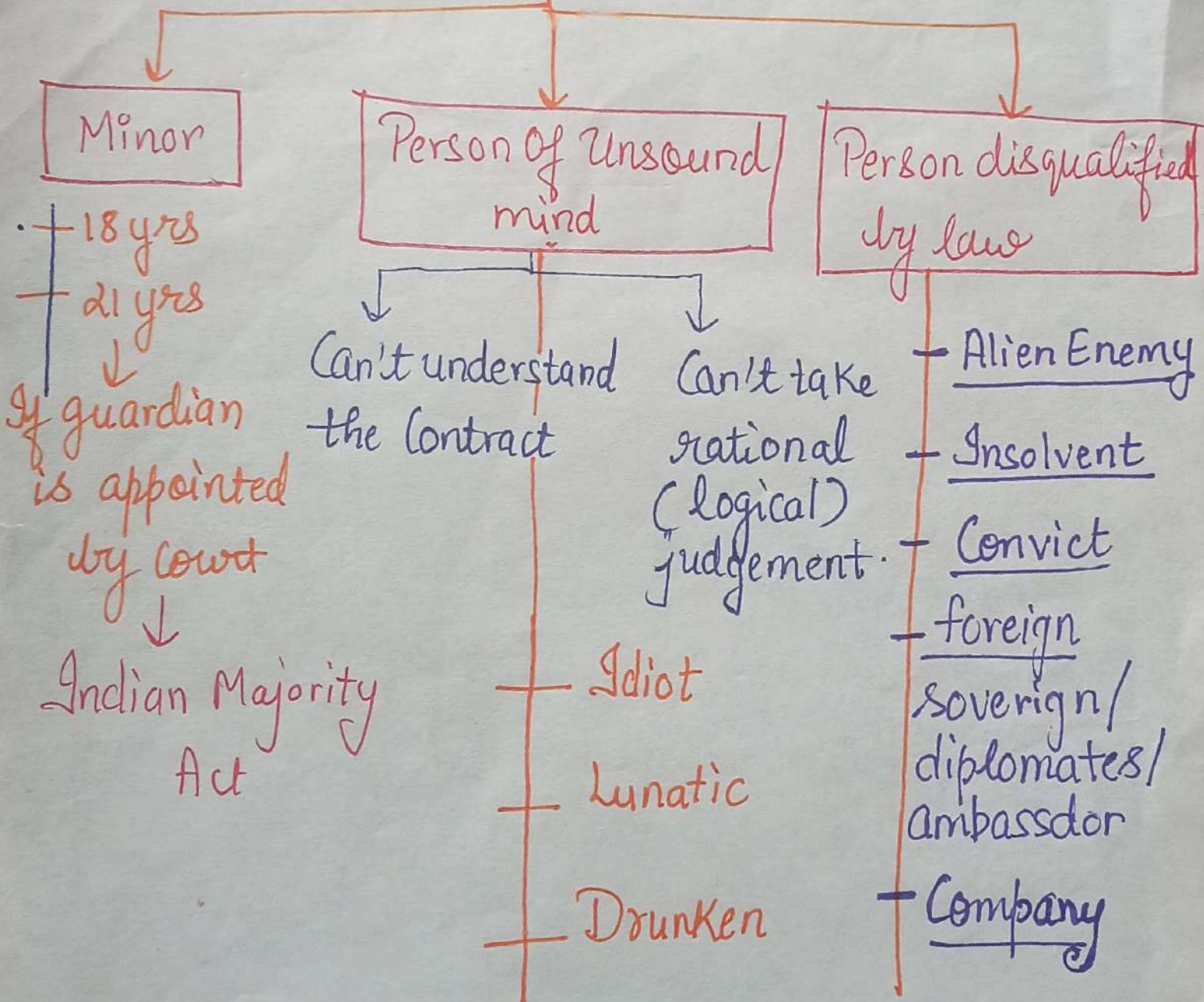
in the (Name) of Principal

No Consideration No Contract Section 25

$\downarrow$   
from ICAI

# UNIT 3: Essential Elements of Valid Contract

## Persons Incapable to Contract



## Unit 3: Essential Elements of Contract ①

### Position of Minor

1) A contract made with or by minor is void-ab-initio.

Imp.

Case: Mohori Bibi v. Dharmadas Ghosh

↓  
void from beginning.

2) No ratification after attaining majority:

major can't ratify the agreements made by him during minority because one which is void from beginning can't be ratified later on.

Minor on becoming  
e.g. Promissory Note

3) Minor can be beneficiary or take benefit out of contract →

e.g. Mortgage by minor → void ab initio

Mortgage in favour of minor → valid

② P.N by minor → void ab initio

P.N in favour of minor → valid.

③ Minor can be admitted to benefits of partnership

④ Minor can always plead minority → Rule of Estoppel does not apply in case of minor.

Even if minor has taken loan by false representation then also agreement is void-ab-initio.

(2)

5) Liability for necessities → Minor is never personally liable but in case of supply of necessities to minor claim will be reimbursed out of his property.

Necessaries → food, cloth, shelter, medical expenses, education, funeral expenses.

2 Conditions →

a) Necessaries

b) Minor should not have already sufficient supply of these necessities

Utility rather than ornament is criteria.

↓  
Necessaries

↓  
luxury

6) Contract by guardian → Guardian can make valid contract on behalf of minor if 3 conditions are satisfied →

a) Guardian should be competent to contract.

b) Contract should be for benefit of minor

c) Contract is entered by a certified guardian i.e. appointed by court

7) No Specific Performance

↳ Order of court to specifically perform the contract where damages are not adequate remedy.

8) No insolvency

9.) Partnership

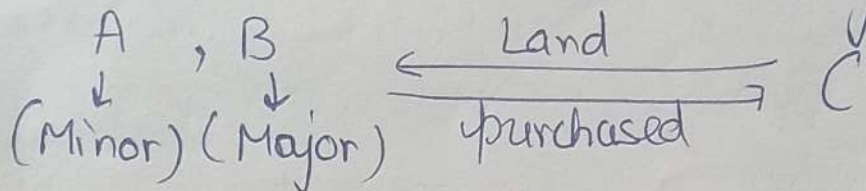
↳ Can't be partner but can be beneficiary

10.) Minor can be an agent.

11.) Minor can't bind parents or guardian

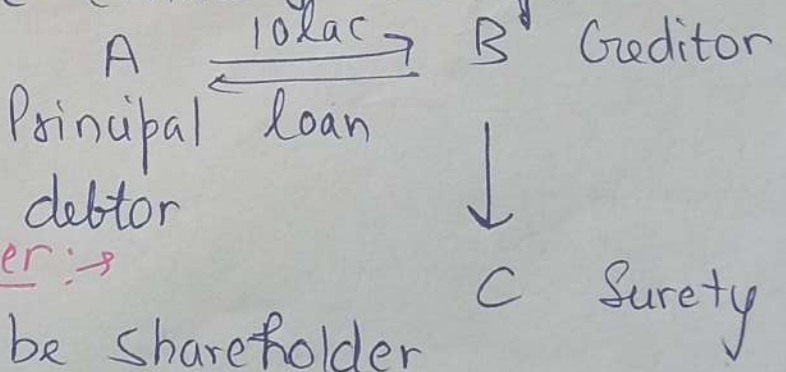
↳ will be liable only when minor is acting as their agent.

12.) Joint Contract by minor and adult :→ Minor is not liable Only adult will be liable



Only B is liable.

13.) Surety for minor :→ In contract of guarantee when adult is acting as a surety/guarantor for minor then the adult is personally liable. (Primary liability)



14.) Minor as shareholder :→

Generally he can't be shareholder

(Exception) :→ then he can be Sh. Holder

- ① Share fully paid up
- ② Application through legal guardian

15.) Liability for tort :→ tort = civil wrong

Minor is liable but not sent to jail → rehabilitation Centre.

X Consensus-ad-idem → No Contract

- ↳ Consent
  - + Same thing in same sense
  - + Meeting of minds

✓ → Jaipur

○ → Delhi

✓ → Sec 14

(C) Known person

Consent → free if not due to 5 reasons

VOIDABLE

- + Coercion → 15
- + Undue Influence → 16
- + fraud → 17
- + Misrepresentation → 18
- + Mistake → VOID
- ↓
- 20, 21, 22

## Coercion Section-15

(3)

- 1) Committing an act or threat to commit an Act forbidden by I.P.C. (or)
- 2) Unlawful detaining or threat to detain a property to prejudice of a person.

So as to induce the person to enter into contract is known as Coercion

\* Threat to commit suicide amounts to coercion.

⇒ It is immaterial (not imp.) that whether in that area IPC is applicable or not.

### Effect

- 1) Contract → voidable.
- 2) Aggrieved party has to restore the benefit.
- 3) If any payment has been received under coercion then restore the benefit / payment.  
(Defaulter Party-)

Example → (1) Threat to commit suicide.

(2) A says to B that if you will not transfer your property of 10 lac to me for ₹ 2 lac I will kill your only son.



## Undue Influence Section 16

(4)

Relationship exists between the parties that one party →

- 1 a) Dominates the will of the other party
- 2 b) He takes unfair advantage of his position
- 3 then this is known as Undue
- 4 Influence

### Essential Elements:

- 1) Relationship between the parties.
- 2) Position to dominate the will →
  - a) Real or apparent authority.
  - b) fiduciary relationship.
  - c) Mental Distress
  - d) Unconscious bargain
- 3) Intention is to take unfair advantage.
- 4) Burden of Proof → Aggrieved party.

Effect → Contract is voidable

Power of Court → In case of undue Influence  
Court has power to set aside the  
Contract or enforce it with modification

Example

## fraud Section 17

(5)

### Intention to deceive

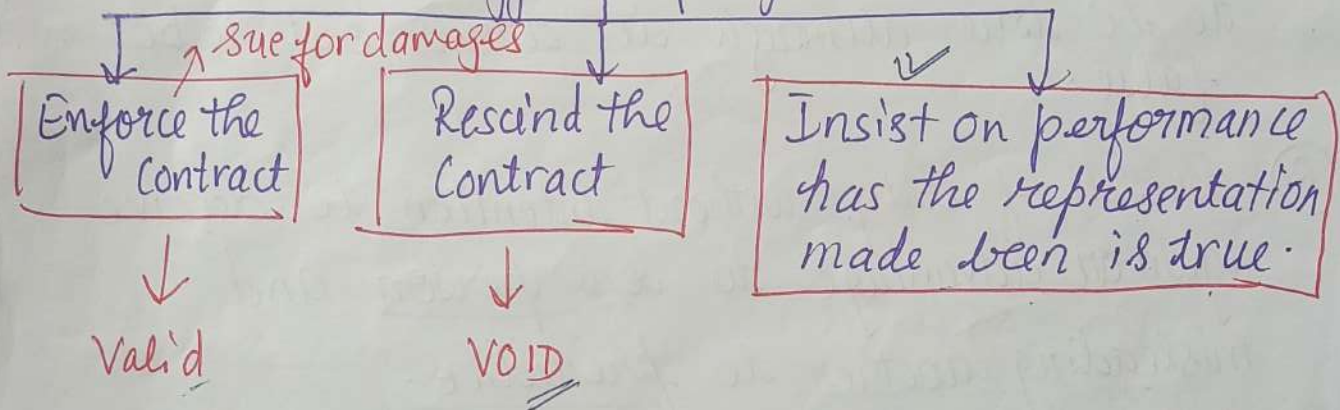
Followings are covered into fraud →

- 1) Making a statement or representation which a person himself does not believe to be true.
- 2) Active concealment of fact.
- 3) Promise made without intention of performing.
- 4) Act declared as fraudulent by law
- 5) Any act fitted to deceive others.

### Remedies in case of fraud →

Contract is  
VOIDABLE

Aggrieved party can



### v. Jubb Does Silence Amounts to fraud?

Generally silence does not amount to fraud.  
General rule is "Let the buyer beware"

Exception: →

- 1) Where there is duty to speak.
- 2) Where the silence is equivalent to speech.

Give examples of each point.

⑥ Duty to speak arises in following cases

- 1) Fiduciary Relationship: *Uberrim fidei*
  - 2) Insurance Contract.
  - 3) Marriage Contract.
  - 4) Contract of family settlement: father. son
  - 5) Share Allotment Contract: Prospectus.
- Contract of utmost good faith.

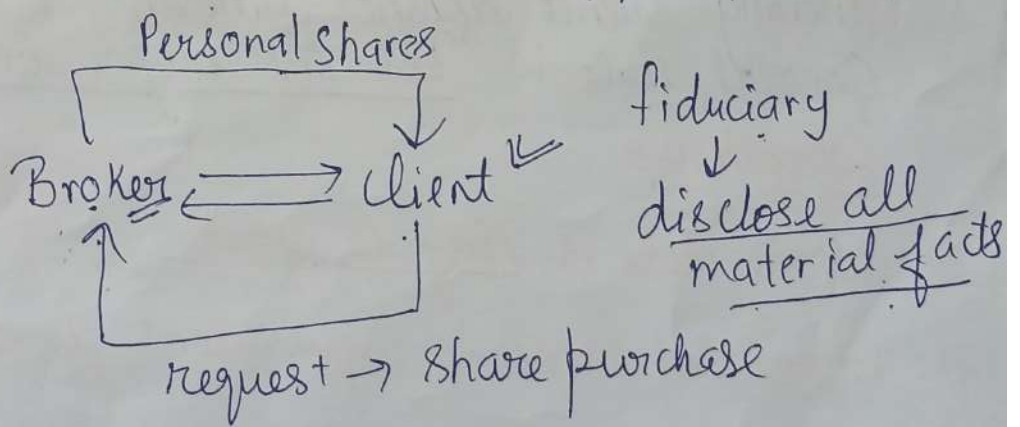
Misrepresentation → Sec 18

- innocently deceiving someone
- unintentional

① Positive Assertion / statement which a person believes to be true although it turns out to be false.

② Breach of duty without intention to deceive gain or advantage to one person and misleading another to prejudice.  
↳ harm.

③ Innocently inducing other party to agreement to make mistake related to the subject matter.



(7)

Effect of Contract done by Coercion, Undue Influence  
fraud, misrepresentation      Sec 19

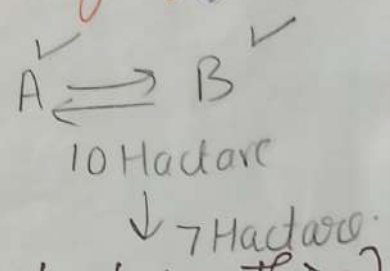
↓  
 VOIDABLE → Generally.

Exceptions

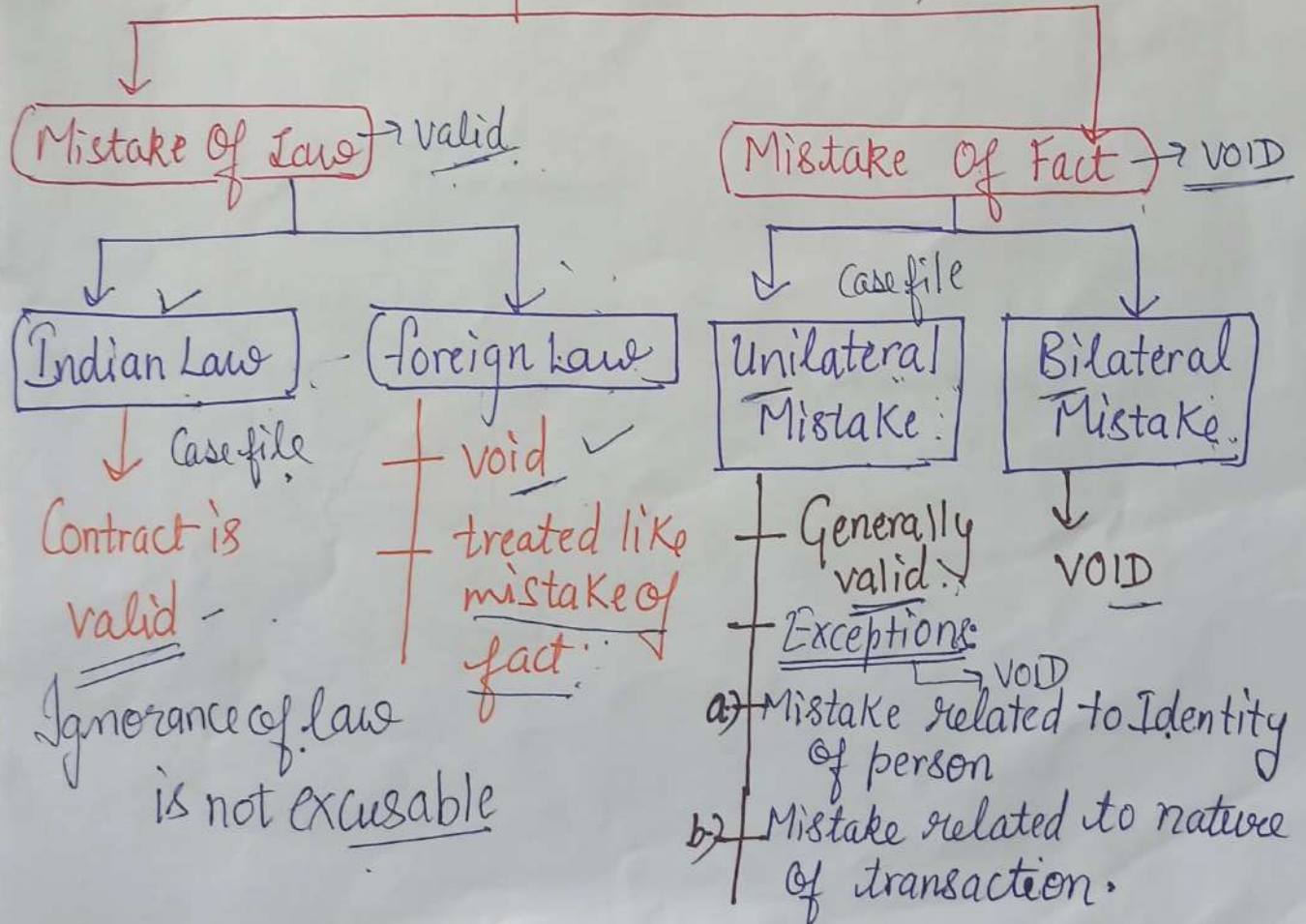
[In case of misrepresentation + fraud by silence]

1) If aggrieved party had means of discovering truth by ordinary diligence but worked with negligence.  
 ↓  
 Contract → valid.

2) If aggrieved party is not misled by fraud or misrepresentation.  
 ↓  
 Contract → valid.



Mistake (erroneous belief about something)  
 Section 20, 21, 22.



8

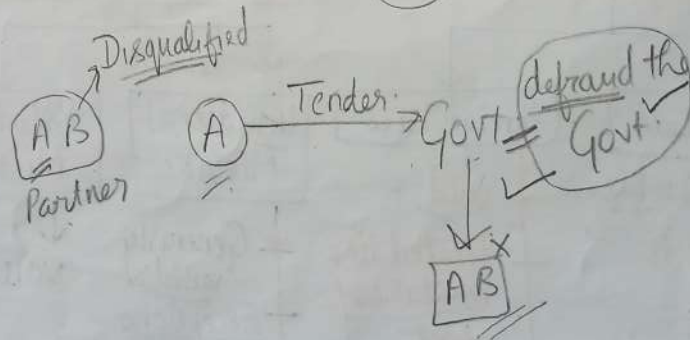
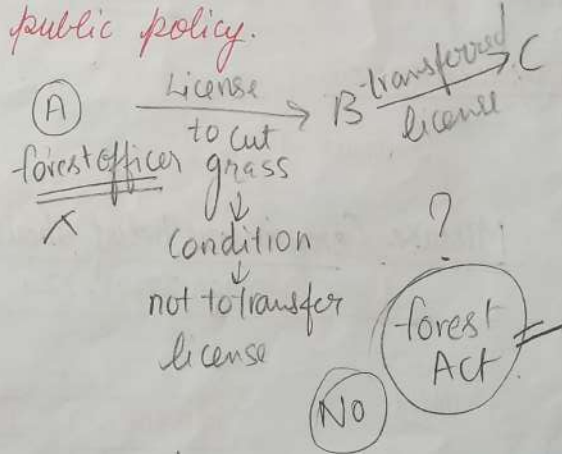
Unlawful Object & Consideration

Section 23

Contract → VOID

In the following cases there is unlawful object and consideration:->

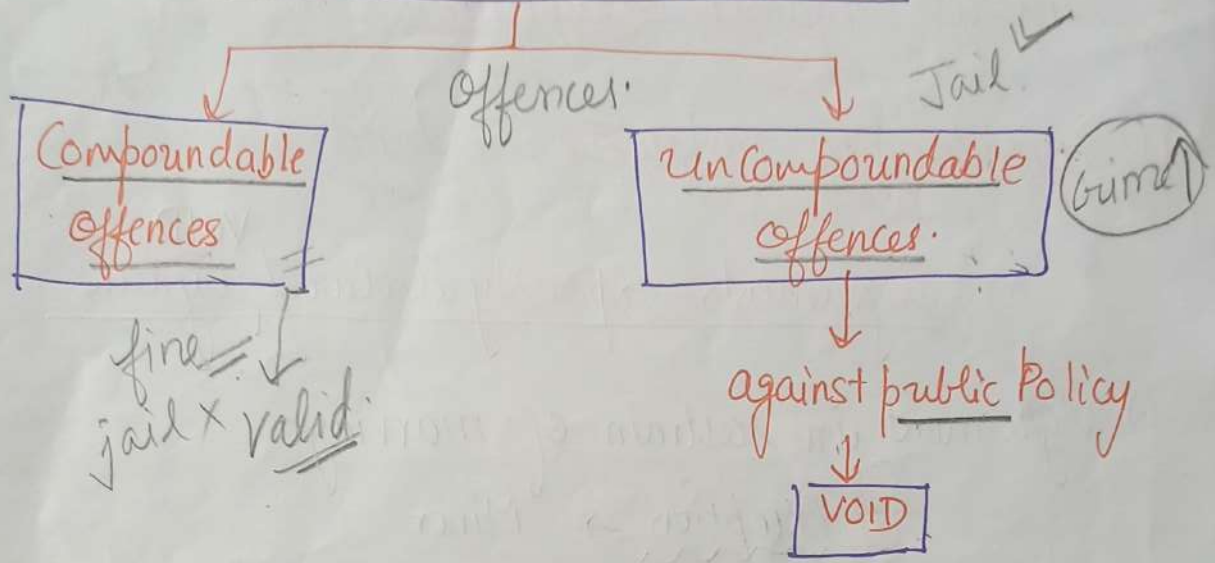
- 1) Prohibited by law / forbidden by law
- 2) Defeat the provisions of law.
- 3) Defeat any rule for the time being in force in India
- 4) Fraudulent:  $\downarrow$  H.C or S.C.  $\rightarrow$  employer's salary
- 5) Causing injury to a person or his property.
- 6) Immoral
- 7) Against public policy.



Agreements against Public Policy

- 1) Trading with alien enemy → C.G. license → VOID
- 2) Stifling Prosecution → an agreement to prevent proceeding from running into normal course using force.

Indian Criminal Procedure Code



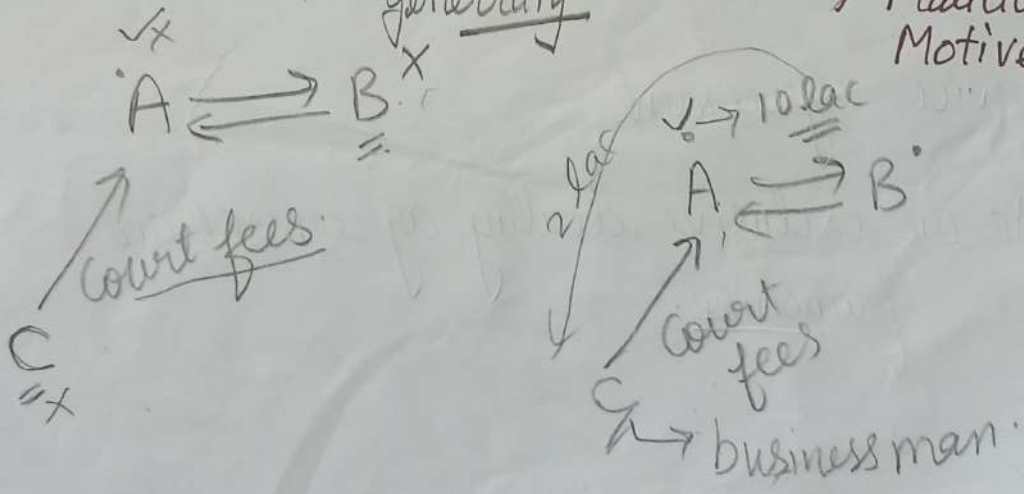
3) Maintanance and Champerty → promoting a litigation in which parties have interest

Case law: promoting a litigation in which party has no interest

England → VOID

In India valid unless → unreasonable/unjust / Malicious Motive

generally



4.) Traffic related to public offices. A → B  
Padam Vibhushan I.T Dept.  
20 lac

5.) Agreement to create monopolies

6.) Marriage brokerage agreements → Kills competition  
to negotiate marriage for reward. Marriage bureau  
Matrimony

7.) Interference in the course of justice. To give money to witness

8.) Interest against obligation ① Judge ← bribe.  
Pvt. officer → bribe. duty

9.) Consideration unlawful in part. illegal → VOID  
valid ← legal

Agreements expressly declared by law

1.) Agreement in restrain of marriage → VOID  
exception → Minor 18, 21 yrs.

2.) Agreement in restrain of trade → VOID

Exception: → ① Sale of goodwill → valid  
reasonable. (particular area) anywhere X  
" time pd forever X

Valid ② Partnership.

③ LLP → Existing + Retiring → valid  
pvt. practice not allowed → valid.

④ Trade Combination → valid

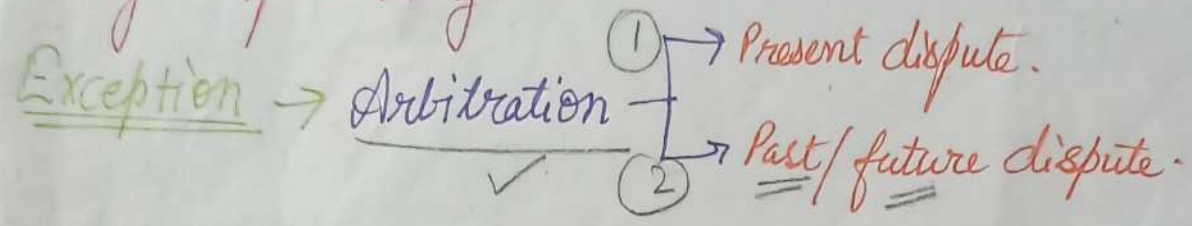
⑤ Service agreement → valid  
↓ Injunction

⑥ Sole or exclusive dealing agreement and franchise. ↓  
valid

③ Agreement in restraint of legal proceeding →

which one party is → Agreement by

- a) completely restrained from legal proceeding  
↓  
filing the case.
- b) Shortens / abridges the time period for starting legal proceeding.

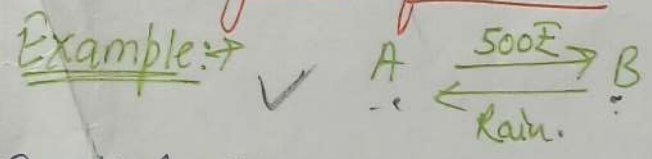


④ Agreement with uncertain meaning → (29)

⑤ Wagering Agreement → Wager = to bet. Sec → 30  
 Promise to pay money or money's worth on happening or non-happening of future uncertain event.

• It's a game of chance

Effect →



Maharashtra, Gujarat  
 ↳ Illegal  
 Rest of India → VOID

Essential Elements → Refer slide.

Transactions similar to wagering agreement: (Gambling)

- 1) Lottery transactions
- 2) Crossword Puzzle, Picture Competition. Price Competition  
Skill & intelligent
- 3) Speculative transactions
- 4) Horse race transactions → below ₹ 500 prize money is below ₹ 100



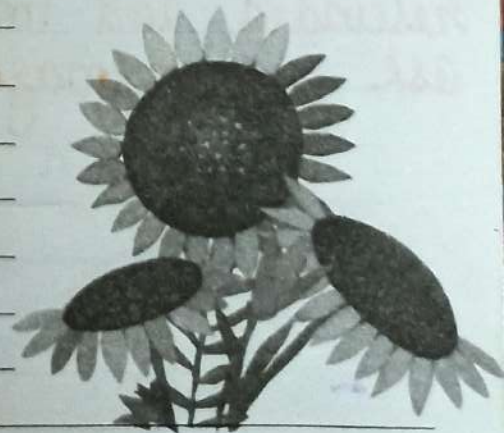
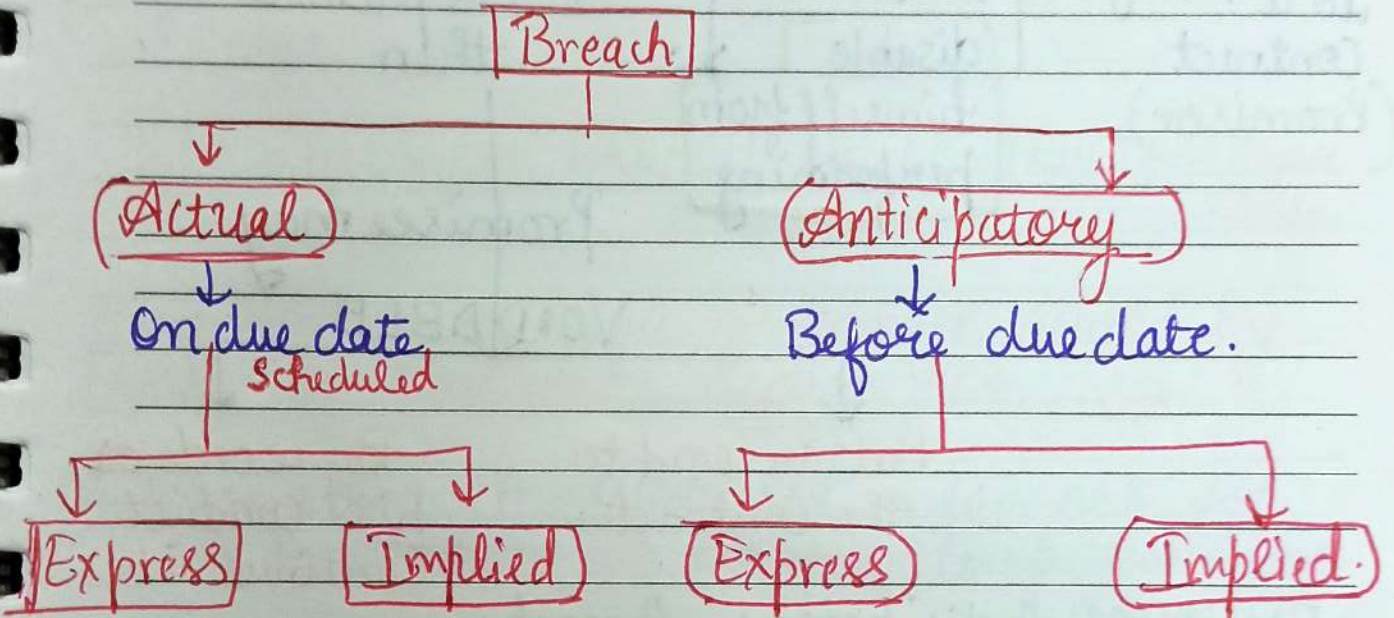
Transactions similar to wagering but not void:

- 1) Chit fund.
- 2) Commercial / Share market transactions.
- 3) Prize competition based on skill.
- 4) Insurance Contract.

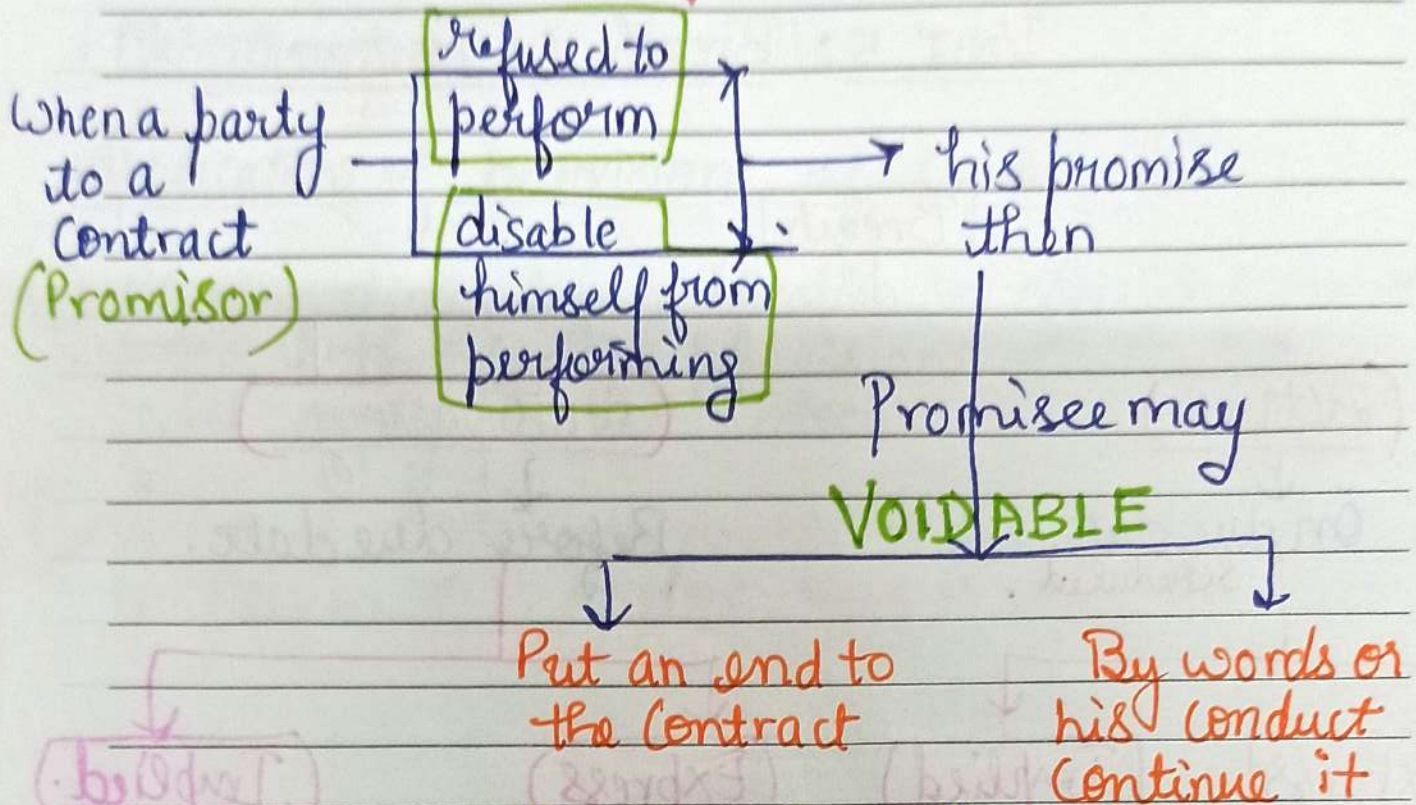
Date: \_\_\_\_\_

# Indian Contract Act, 1872

## UNIT 5: Breach of Contract



## Anticipatory Breach Section 39



### Effect of Anticipatory Breach

Promisee gets discharged from performance

2 OPTIONS

Treat the contract as rescinded and immediately ask for damages

treat contract as operative and wait for due date then hold the other party responsible

If any supervening impossibility happens then contract will get discharged

→ On due date Date: \_\_\_\_\_  
Actual Breach may be committed

① At the time when performance is due ✓

② During the performance of the contract. ✓ → X

## REMEDIES FOR BREACH OF CONTRACT: → Refer Slide.

Compensation for loss or damage caused by breach of contract Section 73

① When a contract is breached aggrieved party → Can ask for compensation or damages

② Compensation can be claimed for

↓  
damages which naturally arise in usual course of events

↓ C.P. = M.P.  
ORDINARY Damages

↓  
damages which the party knew in advance.

↓  
SPECIAL damages

③ Take reasonable steps to minimise the loss.

④ No compensation is payable for remote or indirect losses.



## Remedies

### (A) Damages from ICAI

Penalty and Liquidated damages →  
from slide (Section 74)  
(MCC Module)

(B) Rescission of Contract → Cancel the contract and ask for compensation

(C) Quantum Meruit: → from ICAI  
Handwritten sheet.

(D) Suit for Specific Performance

↓

It is the order of the court directing a person to specifically perform the contract as damages can't be ascertained in terms of money. (damages are not adequate remedy.)

(E) Suit for injunction: → It is the order of the court restraining a person from a wrongful act. It can be perpetual or temporary.

Party rightfully rescinding the contract



entitled to compensation (Sec 75)

eg. Singer and theatre manager

Indian Contract Act, 1872Unit 6: Contingent and Quasi ContractCONTINGENT CONTRACT Sec 31-36

Definition: → "A contract to do or not to do something if some event collateral to such event contract does or does not happen."

Event → future, uncertain, collateral.

eg. → Contract of Insurance, Indemnity Guarantee

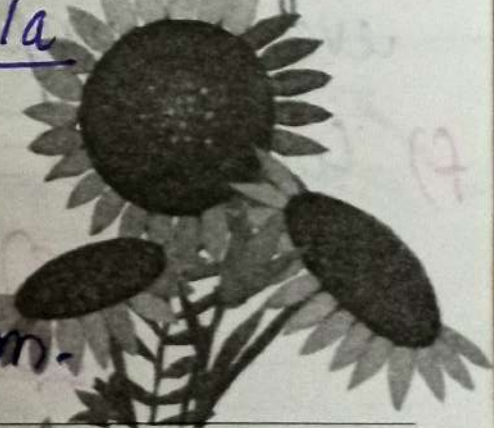
Essentials of a contingent contract: →

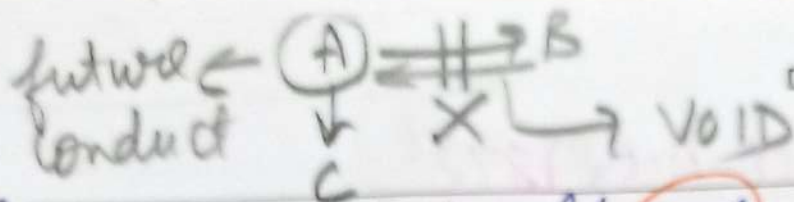
- 1) The performance of contingent contract depend on happening or non-happening of some event.
- 2) The event referred is collateral to the contract

Collateral event → Pollock & Mulla

An event, of which performance is neither directly promised nor the whole of the consideration.

main → wagering agreement





Date: \_\_\_\_\_ desire

(c) The event should not be mere will of the promisor. (for it he has to do some only effort)

(d) The event must be uncertain.

## Rules for Enforcement Of Contingent Contract

a) Enforcement of contract contingent on an event happening. happens → valid  
does not happen / impossible → void

b) Enforcement of contract contingent on an event not happening. does not happen → valid  
happen → void

c) Contingent on happening of specified event within fixed time. 1 yr → 106c

d) Contingent on not happening of specified event within fixed time.

e) A contract will become void if it is contingent upon future conduct of living person when living person does something to make the event impossible to happen.

Frost v. Knight.

f) Contingent on an impossible event.  
(Generally valid) ↓

QUASI CONTRACT VOID

" Quasi Contract " → Resembling a contract .

- No offer, No acceptance, even essential elements of contract (Sec 10) are absent but still it is a ~~real~~ **valid contract**.
- It is not a **real contract**. Here obligations are imposed by law
- Based on Principal of **Justice, Equity and good conscience**. → One who deserves what should get it.  
"No man can grow rich out of another persons loss."

Salient features (1) Always a right to money.

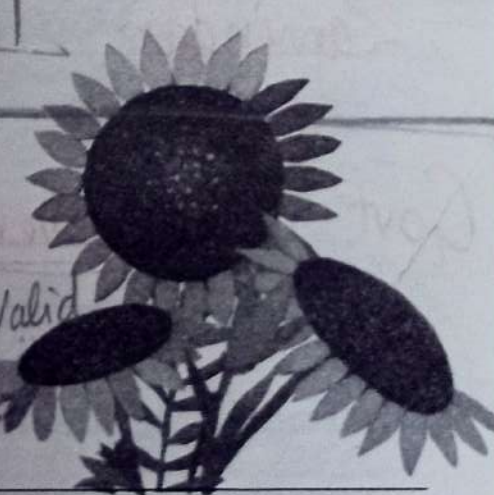
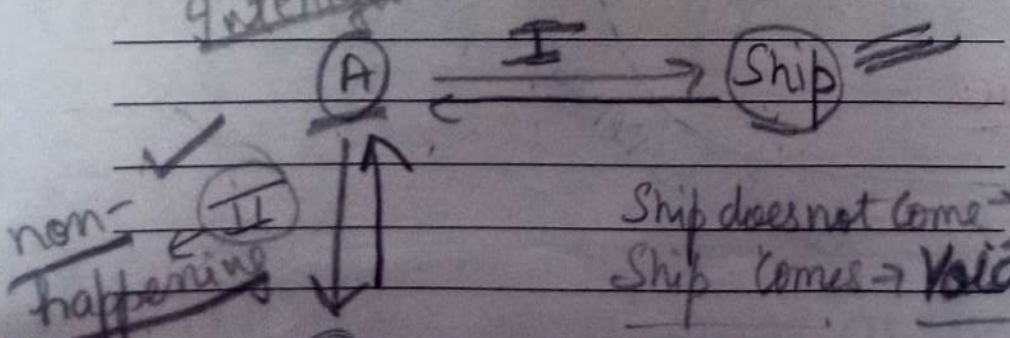
(2) Obligation imposed by law

(3) It is a right available against a particular person **Jus in personum**  
Right: personal.

Cases deemed as Quasi-Contract

Refer Slide from ICAI

Intelligent





① Claim for necessaries supplied to person incapable of contracting. Sec 68

Minor/ lunatic or person dependent on them

↓  
is supplied with necessaries

↓  
suited to their condition of life

↓  
will be reimbursed out of property of incapable person.

② Payment by an interested person. Sec 69

Interest. person makes a payment

↓  
which another is bound by law to pay

↓  
then he will be reimbursed by the person having actual liability.

✓ (A) ← land lease

Zamindar

→ (B) (Business)

Interested Person

↓  
Govt → land revenue.

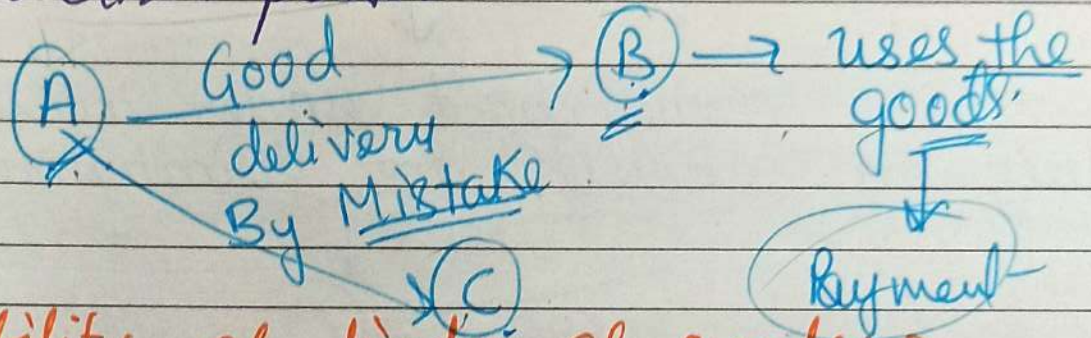
↓  
Govt → Auction

land revenue.

### ③ Obligation of person enjoying benefits of non-gratuitous Act for consideration.

- When a person has done act or delivered thing lawfully.
- he did not do so gratuitously.
- the other person enjoyed the benefit then he will be reimbursed by the other person.

e.g.



### ④ Responsibility of finder of goods → as bailee.

finder of lost goods has

a) take care of goods like a man of ordinary prudence.

b) no right to appropriate goods.

c) to restore the goods if owner is found.

→ not to mix goods with his own



Case: Hollins v. Fowler.

first right is of real owner but if real owner can't be found II<sup>nd</sup> right is of finder.

eg.

(A) → Garment shop

Coat → Branch ← Coat → try (Bailee)

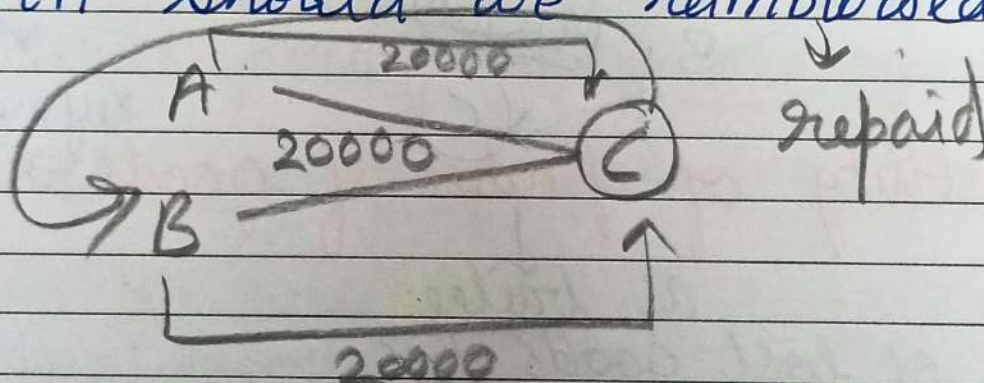
(left)

A → Phone → (Shop)

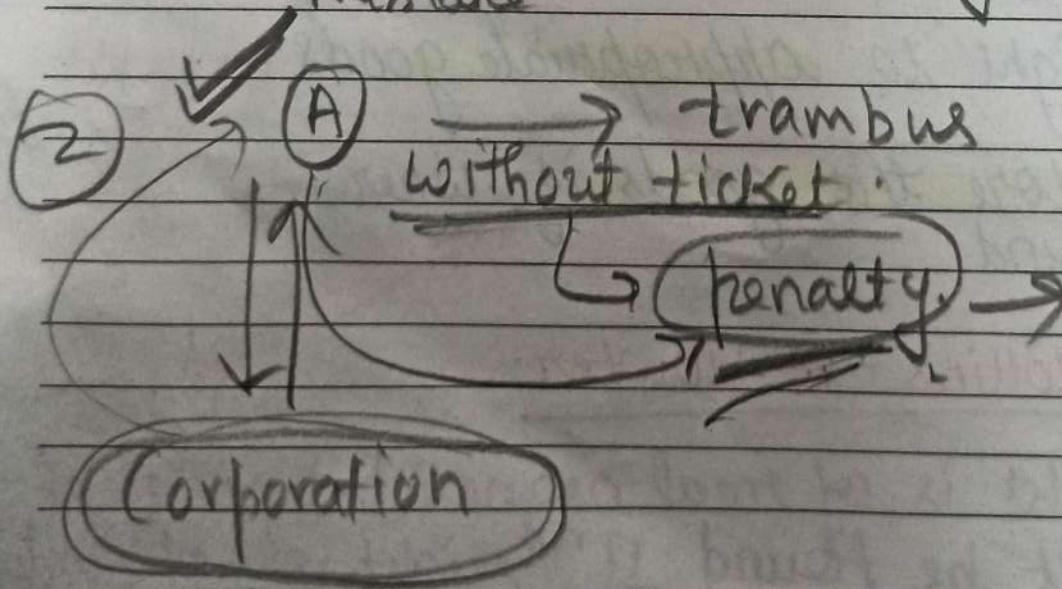
Missing

(5) Money paid by mistake or under coercion.

Money paid under mistake or coercion should be reimbursed.

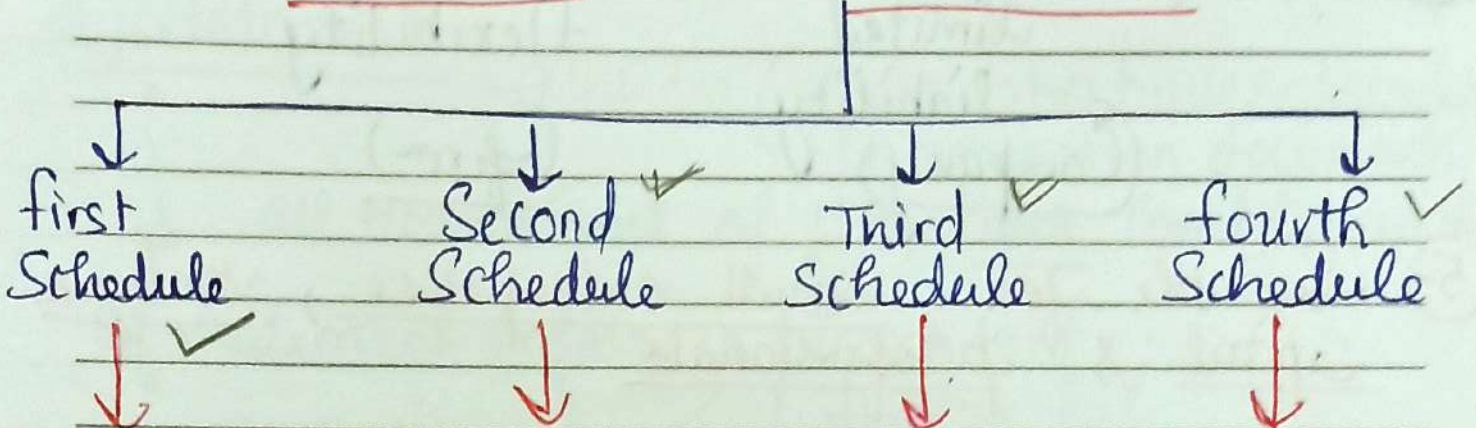


(1) A → Bg → Municipality tax payment  
mistake



# LIMITED LIABILITY PARTNERSHIP ACT, 2008

Object: → Makes provision for formation & regulation of LLP  
81 Section      4 Schedules



Mutual rights & duties of partners in absence of LLP agreement.

Firm → LLP

Pvt Co. → LLP

Unlisted public Co. → LLP.

MCA, ROC

will be governed by 1<sup>st</sup> schedule

C.G. → Rules

Need for new form of LLP.

① To meet with growth of Indian Economy.

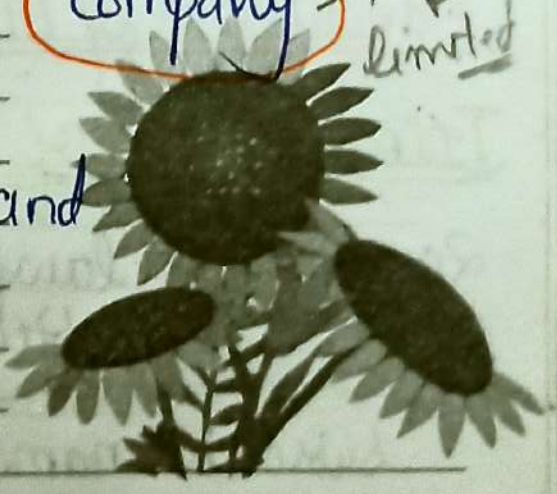
② New Corporate form alterate b/w

partnership firm flexibility  
LLP agreement

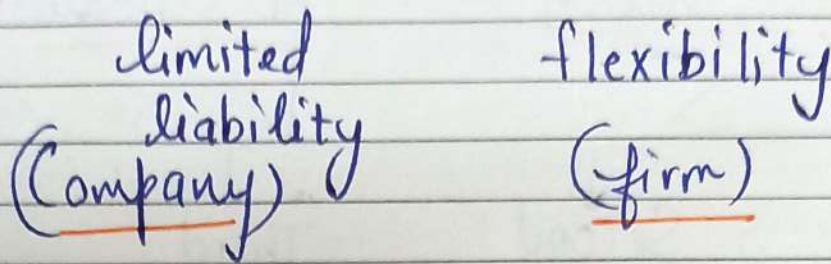
Company liability + limited

③ Enable professional expertise and entrepreneurial initiative

flexible, innovative and efficient manner.



④ Alternative Corporate Business Vehicle.



⑤ Suitable for small enterprise, venture capital & professionals

LLP → Meaning and Concept  
Refer Slide

Non-applicability of Indian Partnership Act 1932 on LLP

Section 4

Partner, Designated Partner → from ICA)

Characteristics of LLP → Refer Slide.

Advantages of LLP → Refer Slide.

Incorporation of LLP. ① Incorporation Document

2 or more persons → lawful object → view to earn profit ✓ first partner

Subscribe name to incorporation document

(3)

① Incorporation document + fees → Registrar of LP.

② Statement → Outsider CA/CS | ICWA/Advocate  
→ Insider (those who have subscribed Incorporation documents)

↓ all requirement of LP + Rules Complied with Act

↓ If statement → false → punishment  
+ 2yrs Jail  
+ 10000 - 5 lac

## ② Incorporation by registration

On being satisfied ROC  
within 14 days

↓ Register Incorporation Document.

↓ Issue CoI to LP

↓ Conclusive Evidence

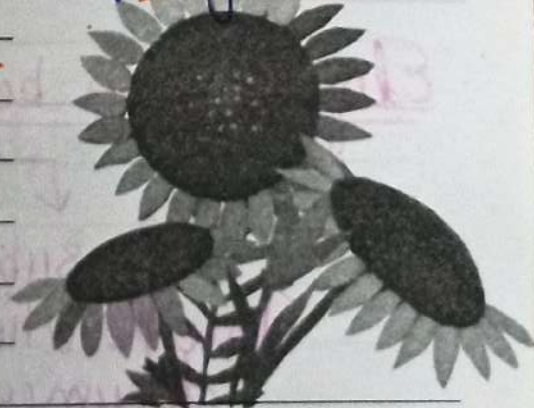
↓ Sign

↓ Seal of Registrar

## ③ Registered office of LP and changes

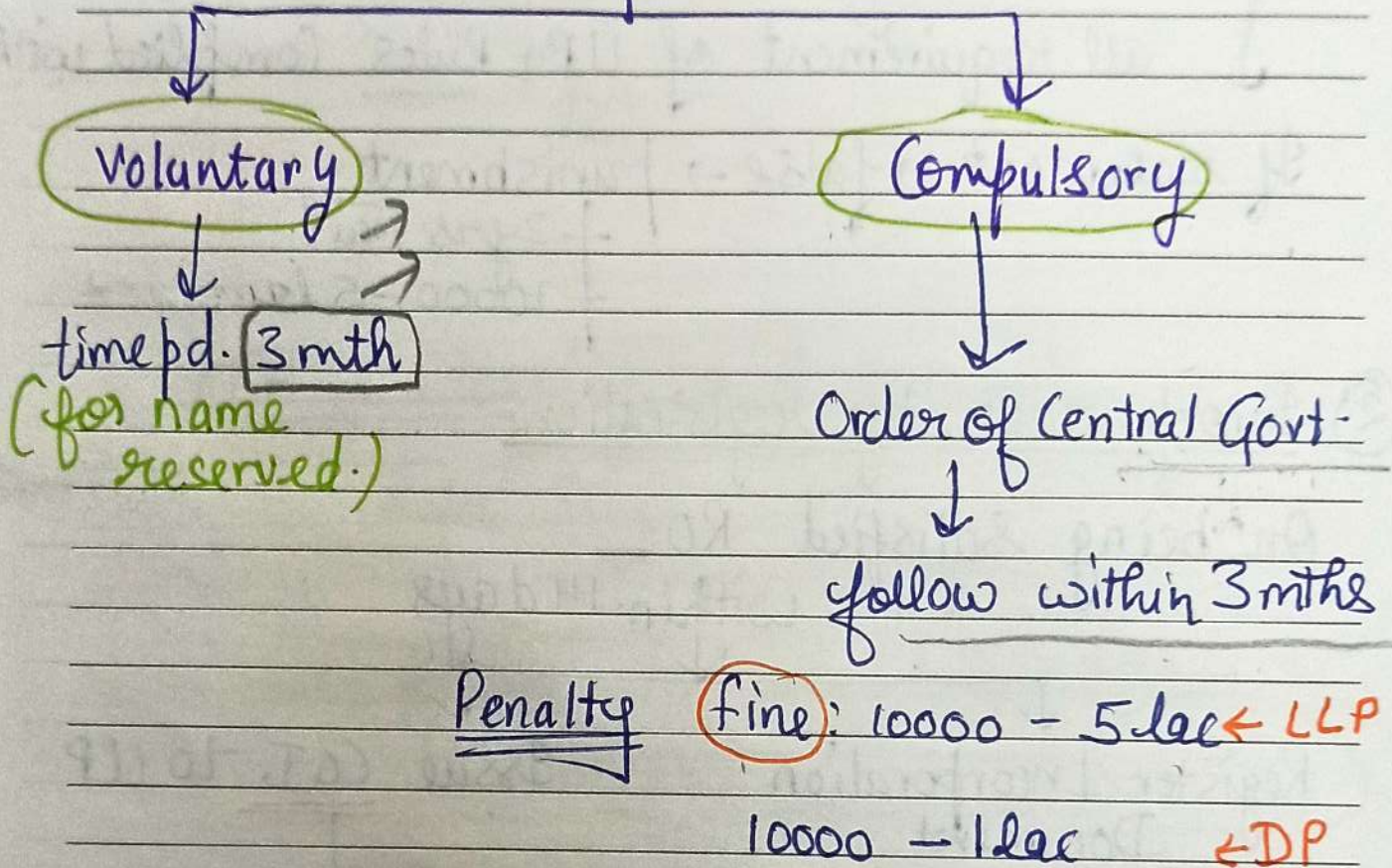
↓ notice to ROC

↓ Penalty → fine → 2000 ₹ to 25000 ₹



Effect of Registration → Refer Slide.

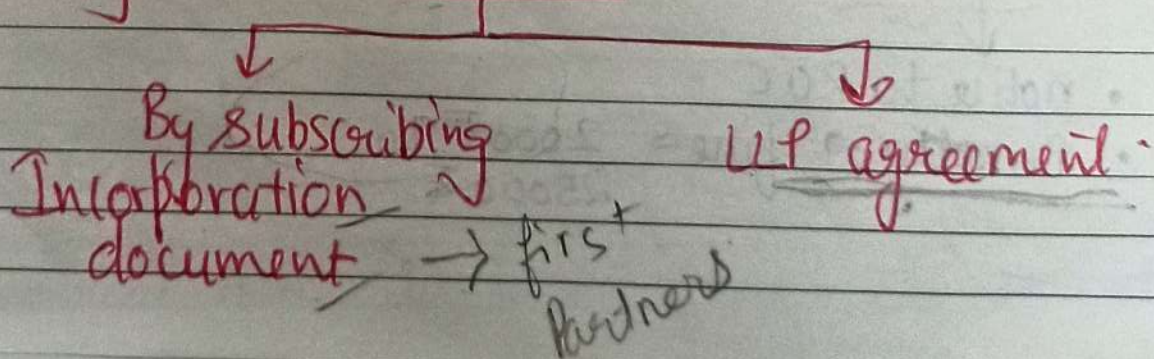
Change of Name Of LLP



Steps to Incorporate LLP Refer Slide

Partners and their relations

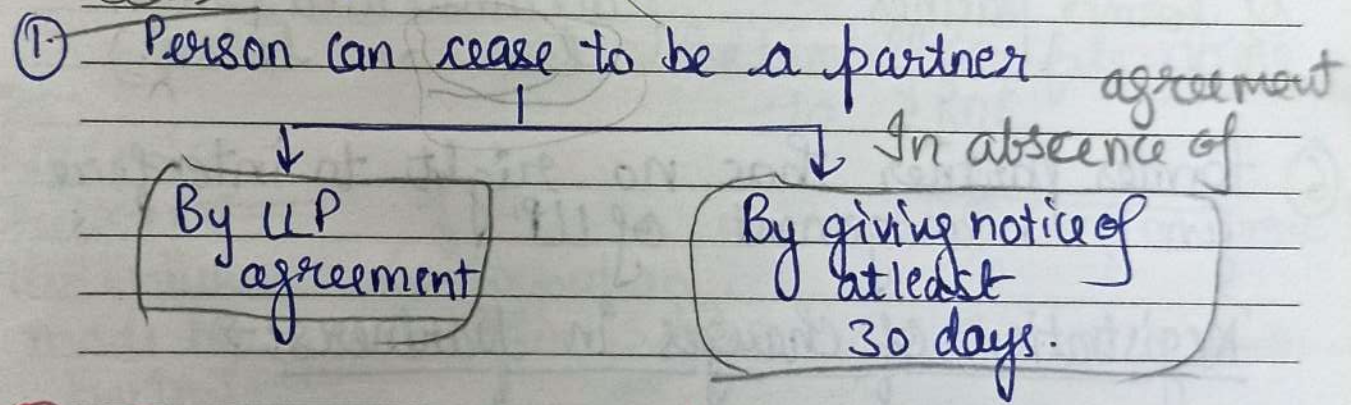
Eligibility to be a Partner



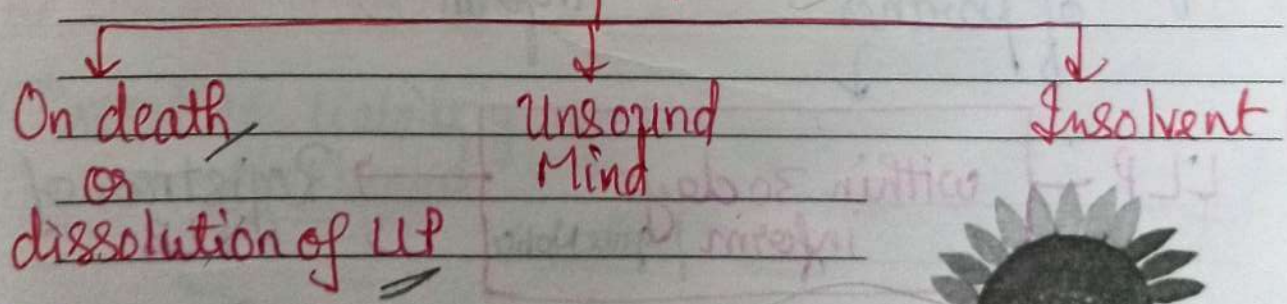
## Relationship of partners

- ① Mutual rights & duties → LP agreement.
- ② LP agreement + fees → Registrar of LP
- ③ Pre incorporation agreement → binding on LP  
if ratified by all partners.
- ④ In absence of LP agreement → Schedule 1<sup>st</sup>.

## Cessation of Partnership Interest



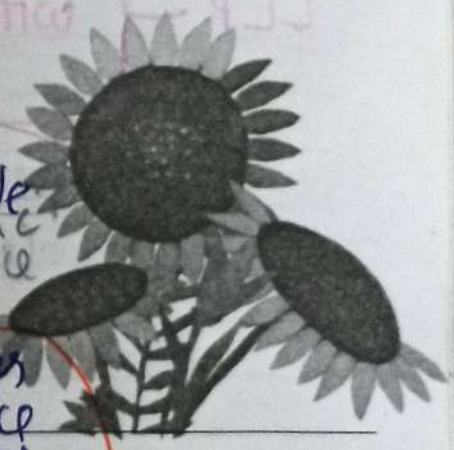
② Person ceases to be a partner



③ Former partner will still be liable as partner unless

innocent → III<sup>rd</sup> party has notice that former partner ceased to be a partner.

remedy → Public Notice  
former partner gave notice to Registrar





(4) former Partner is not discharged from past obligations

(5) former partner or person entitled to his share (death/Insolvency)

Shall receive

Capital Contribution of former partner

Right to share in (accumulated profit less " losses.)

(6) former partner has no right to interfere in management of LLP

Registration of changes in partners: →

1) change in names address of partner → 15 days inform → LLP

2) LLP → within 30 days inform / give Notice → Registrar of LLP.

a person becomes partner or ceases to be a partner.

③ Notice to RoC → signed by + authenticated + fees + Consent of incoming partner  
 ↓  
 DP

④ Penalty  
 LLP, DP, Partner → 2000 ₹ से 25000 ₹  
 Sign authenticated

⑤ Former partner has reasonable cause to believe  
 ↓  
 LLP may not file notice

He himself can file notice to RoC

RoC will register ← the notice made by partner.  
 If no Confirmation within 15 days  
 ← will confirm from LLP

## Extent and limitation of liability of LLP and partner

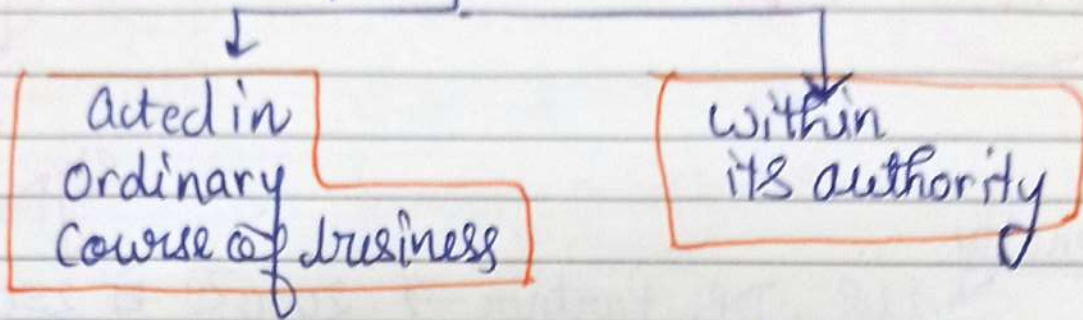
### Extent of liability of LLP

① LLP not bound → is not liable

↓  
 Partner has no authority to act  
 III<sup>rd</sup> party knows that partner has no authority to act.



② LLP is liable if partner



③ obligation of LLP are only obligation of LLP  
 LLP → untd Partners → ltd.

④ liability of LLP will be met out of property of LLP

### Extent of liability of partner

\* Not personally liable

\* Partner is personally liable for his own wrongful act or omission.

↓  
 fraud

Holding Out from ICA

Unlimited liability in case of fraud → from ICA

Whistle blowing → from ICA

financial disclosure → ,,

<u>Conversion into LLP</u>	firm → LLP	Second Schedule
	Pvt. Co. → LLP	Third "
	Unlisted Public Co → LLP	fourth "

### (A) Registration :-

① ROL on being satisfied → provision of various schedule LLP Act & Rules are complied → Register the document ↓ Issue Certificate of registration.

② LLP within 15 days → concerned registrars → Registrar of firm ROC.

③ → Partners of firm } On Conversion } will be bound by provisions of various schedules  
 → Shareholder of co.  
 → LLP formed

④ Effect of conversion will be as given in schedule.

### (B) Effect of Registration :-

① LLP will come into existence.

② All asset, rights, liability, obligation of (firm or co) transfer vest in



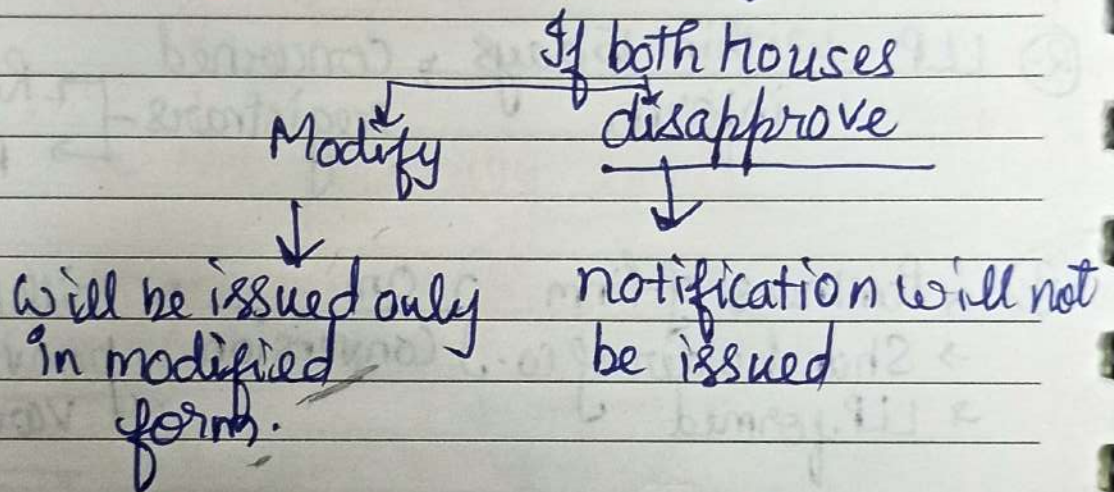
LLP

records of

~~V-Group~~Winding up and dissolution → from ICAIMiscellaneousApplication of provisions of Co-Act

① CG may direct by notification in official Gazette that certain provisions of Co-Act will apply to LLP also

② A copy of law laid in both houses for pd. of 30 days notification in of parliament



\* Electronically filed document with RoL and their certified copy will be admissible in evidence → equal validity with original document

Payment of additional fees . If document is filed <sup>not</sup> in prescribed time limit

then can be filed with additional fees of ₹ 100 p. day of delay → within a period of 300 days.

Differences → from ICAI

- LLP and firm
- LLP and company.

# Indian Partnership Act 1932

## Unit 1: General Nature of Partnership

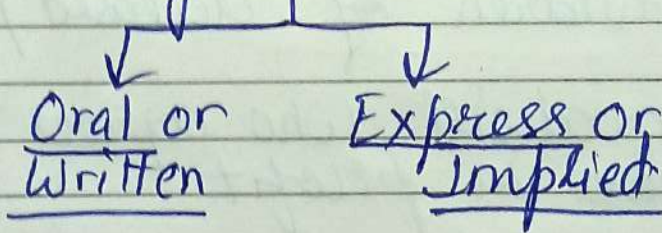
Partnership :- It is the relationship between 2 or more persons which arises out of agreement who have agreed to share profit of business carried on by all or any of them acting for all.

### Elements of partnership:

1) Association of 2 or more persons

↓  
Only natural person and person recognised by law can be partners.

2) Agreement :- Partnership arises only by agreement.



3) Business :- It includes + trade  
+ occupation  
+ profession

↓

Must be in existence	Acquisition of gain.
-------------------------	-------------------------



#### (4) Agreement to share profit →

In absence of agreement → equally

In event of losses unless agreed otherwise → profit sharing ratio.

§ Sharing of profit is prima facie evidence of partnership and not a conclusive evidence!

In following four cases there is sharing of profit but no partnership.

→ lender / creditor of money who agrees to receive share in profit

→ Servant / agent as remuneration

→ widow / children of deceased partner

→ Seller of goodwill who agrees to receive share in profit

#### (5) Business carried on by all or any of them acting for all → Mutual Agency

- True test of partnership
- Cardinal principle of partnership
- One for all and all for one.
- Every partner is principal as well as agent

- ① Agreement
- ② Sharing of profit
- ③ Mutual Agency

Date: \_\_\_\_\_

③

Differences from ICAI → Partnership & Co.  
 Partnership & HUF  
 Partnership & Coownership  
 Partnership & Club  
 Partnership & Association

## Types of partnership:

With regards to duration

With regards to extent of business

Partnership at will

Partnership for fixed period

Particular partnership

General partnership

Time duration not fixed

Time duration fixed

for particular event, task or adventure

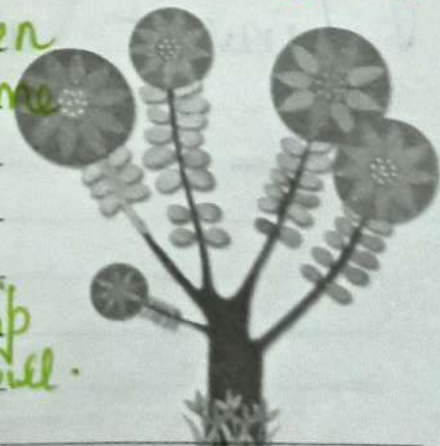
for business as a whole

Can be dissolved by giving notice

If continued even after expiry of time

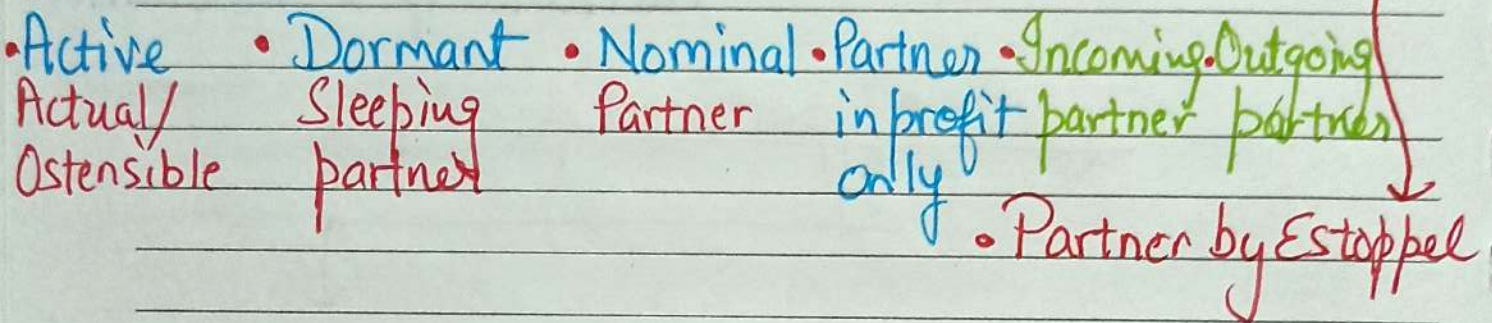
No provision as to determination of business of the firm.

effect like partnership at will.





## Types of Partners



### Partner by Estoppel / Holding Out (Section 28)

When a person by his words or by his conduct

↓  
represents himself

↓  
knowingly permits himself

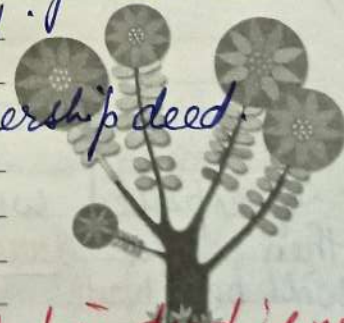
represent himself as a partner of firm but actually he is not a partner

↓  
then he is liable like a partner to any person who believing on him invest money in the firm.

## Unit 2: → Relation of partners

### Rights of Partners

- 1) Right to take part in conduct of business →  
If he is restricted by other partner  
injunction order.
- 2) Right to be consulted → to give his opinion.  
In 2 cases decision of majority is also valid.  
a) Expulsion      b) Daily routine matters.
- 3) Right of access to books →
  - Available to all partners
  - Should be exercised bona fide
- 4) Right to remuneration → Generally no such right  
Exceptions → a) Express provision in partnership deed.  
b) Custom and usage of trade.
- 5) Right to share profit → profit sharing ratio  
• In absence of agreement → equally.
- 6) Interest on Capital → Generally not allowed  
• Given only in case of profit.  
Exceptions:
  - a) Express provision in partnership deed.
  - b) Custom and usage of trade
  - c) Statutory provision.  
It is given at the rate provided in deed if no rate then @ 6% p.a.



7) Interest on advances → @ 6% p.a.  
 always payable

8) Right to be indemnified → In case of emergency a partner has incurred certain expenses which were →  
 a) Necessary to save firm from loss  
 b) He acted like a man of ordinary prudence  
 then he will be indemnified by firm.

9) Right to stop admission of new partner →

10) Right to retire/dissolve the firm →

Partnership at will → by giving notice  
 other → with consent of all.

11) Right not to be expelled → Sec 33  
Conditions →

- 1) Express provision in partnership deed
- 2) By majority
- 3) In good faith → in interest of firm  
 → Prior notice  
 → Reasonable opportunity of being heard

- If expelled without fulfillment of condition then it's irregular expulsion and effect will be Null and Void.

## Rights of Outgoing partner

7

### 12. Right of Outgoing partner to Carry on Competing business

Restrictions: →

- Competitive business
- advertise

- He can't use old firm's name.
- He can't represent himself as a partner of old firm.
- He can't solicit customers of old firm.

### 13. Rights of outgoing partner to share subsequent profit.

When a partner dies or retires  
and other partners carry on business without final settlement of accounts

He has 2 rights

- 1) Right to receive share in profit.
- or
- 2) To receive interest @ 6% p.a. whichever is beneficial.

## Duties of partners [Sec 9, 10]

- 1) General Duties • Carry on business to greatest common advantage
  - Be just and faithful to each other
  - Render true a/c and full information to other partners.

- 2) To indemnify for fraud or wilful neglect.
- 3) To attend duties diligently without remuneration.
- 4) To share losses
- 5) To account/refund any profit.
- 6) To account and pay for profit of competing business.

### Personal Profit earned by partners

- ① If a partner derives any profit for himself from →
- a) any transaction with firm
  - b) from use of property of firm
  - c) from business connections of "
  - d) from firm's name

↓  
He is bound to account for that profit and refund it back to the firm.

- ② If a partner carries on competitive business (same nature as business carried on by firm)
- ↓

He is bound to account for that profit and refund it back to the firm.

## Implied Authority of a partner :->

↓

- It is the capacity to bind the firm
- An act of partner will be covered in his implied authority if 3 conditions are satisfied.

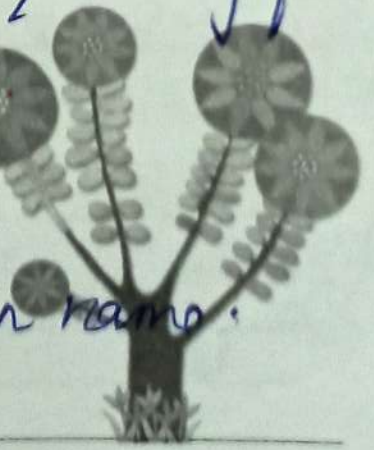
- a) Act done should be done in Ordinary course of business.
- b) Act done should be in usual way.
- c) Act should be done in name of firm.

Followings are covered within implied authority of partner.

- Movable property  $\neq$  pledge  $\neq$  sell  $\neq$  purchase
- Buy goods
- He may borrow money by pledging goods contract debts and pay debts
- He may draw, make, endorse transfer Negotiable instrument  
 (Only in case of banking / trading firm.)

## Acts beyond implied authority

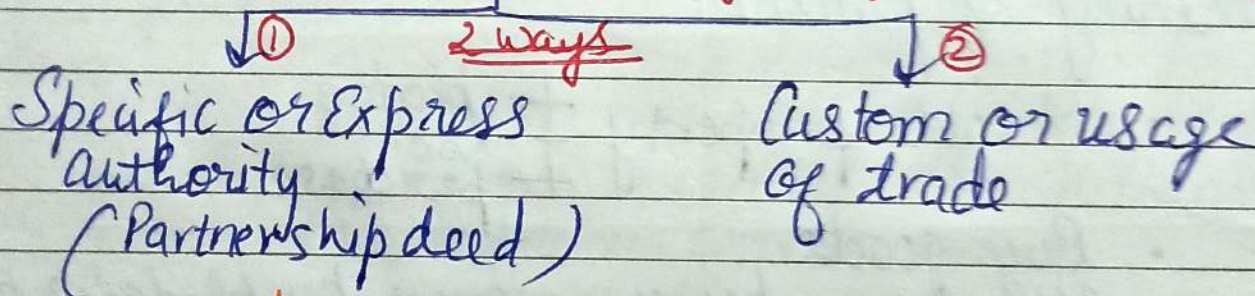
- 1) Submit dispute to arbitration
- 2) Open bank a/c in his own name.



REDMI NOTE 8 PRO AI QUAD CAMERA

- 3) Compromise or relinquish any claim in a suit.
- 4) Withdraw a suit filed by firm.
- 5) Admit a liability in a suit.
- 6) Acquire immovable property.
- 7) Transfer immovable property.
- 8) Enter into partnership on behalf of firm.

### Extension & Restriction of Implied Authority



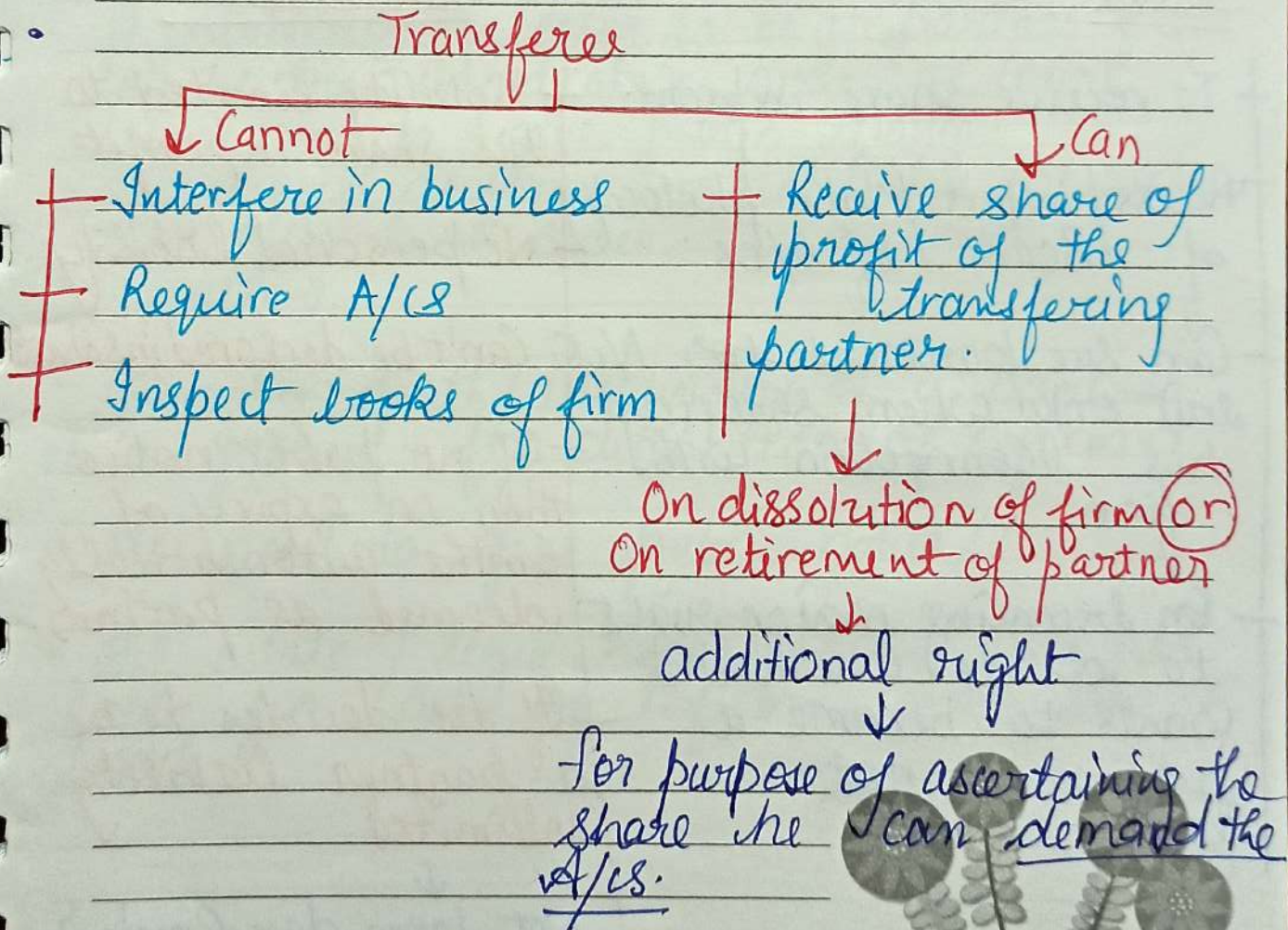
But III<sup>rd</sup> party will be liable only if →

III<sup>rd</sup> party knows  
about restriction.

III<sup>rd</sup> party does not  
know that he is  
dealing with a partner  
(negligent/not misled.)

## Rights of transferee of Partner's Interest [Sec 29]

- A partner can transfer his interest to an outsider but he cannot make him partner in his place
- As partnership relation based on mutual trust and confidence transferee does not get all rights of a partner



- Interest is included in partnership property so it can be transferred just like any other property.



## Minor's Position in Partnership Sec-30

- Minor cannot be a partner but he can be admitted to benefits of partnership with consent of other partners.

### Minor

#### Rights

- To receive share in profit.
- Access/inspect/take photocopy of Books of A/cs.
- Can sue partners for A/cs but only when severing his connection with firm.
- On becoming major right to decide whether he wants to become a partner or not.

#### Liabilities

- Liability limited to his share in profit.
- No personal liability.
- Can't be declared insolvent.
- If no public notice then on expiry of 6mths automatically deemed as partner.
- If he decides to be a partner liability unlimited.
- Not from day of majority but from day he was admitted to benefits of partnership.

## Reconstitution / Legal consequences of partner coming in or going out

① Introduction of New partner → with consent of other partners

② Retirement →  
 + With consent of all  
 + Express agreement  
 + By giving notice

③ Expulsion →

Section (33) Conditions

④ **Insolvency** → Ceases to be a partner from date of the adjudication order of court

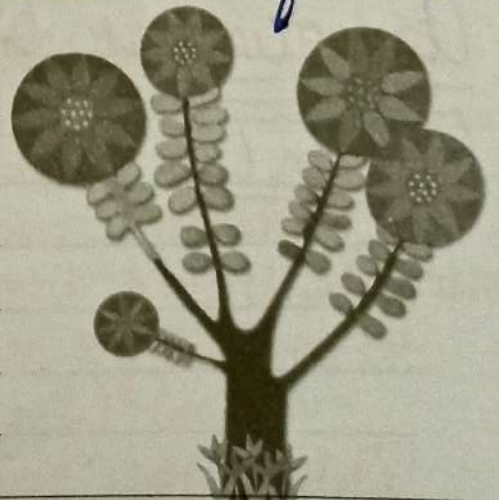
- No need to give public notice.
- He as well as firm are not liable for each other after court order

⑤ **Death** →

- Generally death/insolvency of a partner is a ground for dissolution of firm.

- No need to give public notice

- His estate / legal representative are not liable for act of firm done after his death.

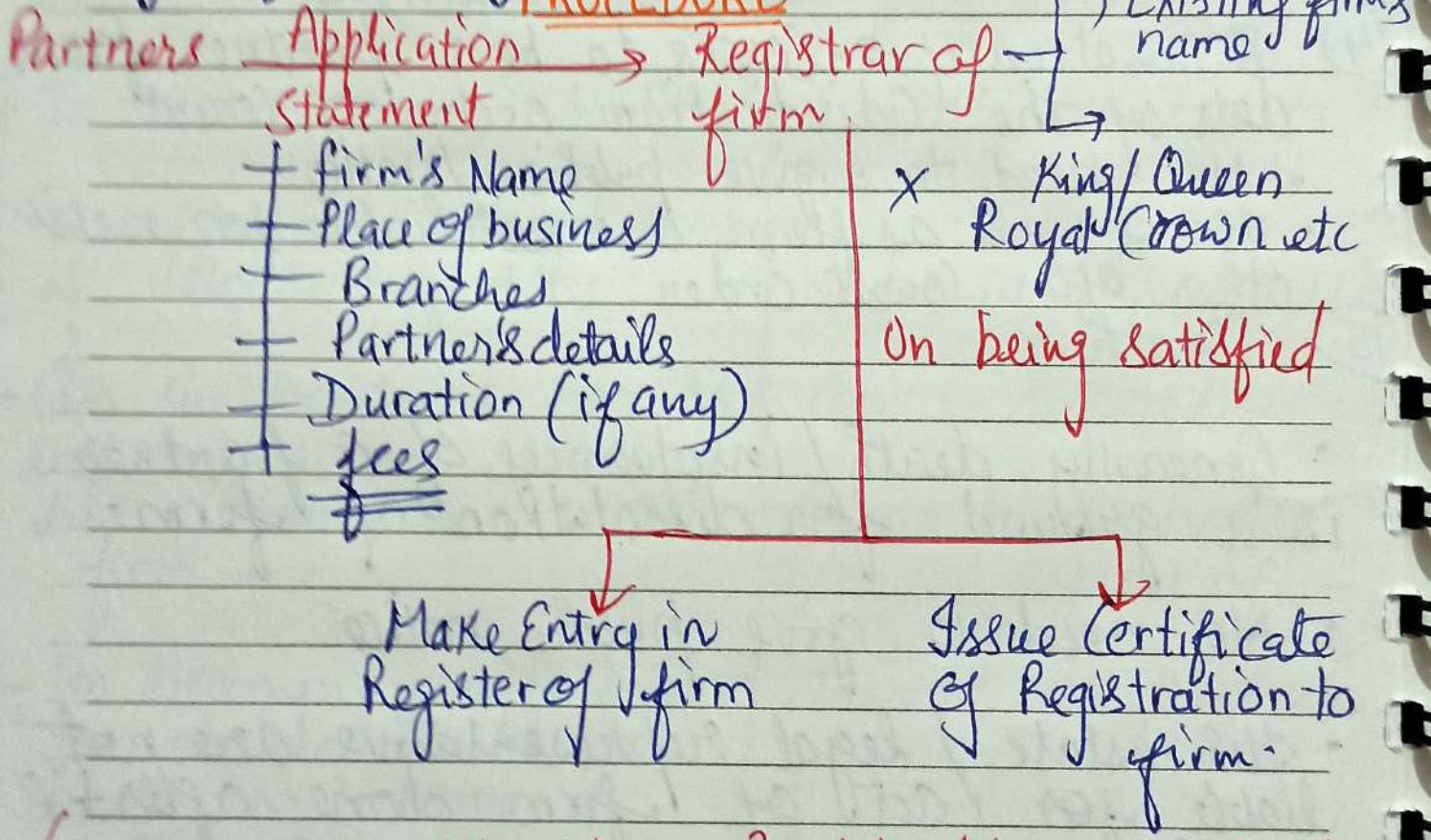


# Unit 3: Registration & Dissolution

## Registration

- Registration of firm is optional / voluntary
- It can be done anytime in the lifetime of firm.
- It is desirable as capacity to sue comes only after registration.

### PROCEDURE



## Consequences of Non-Registration of the firm

Section 69 →

- + No suit against 3<sup>rd</sup> party
- + Set off above ₹ 100 not allowed
- + Partners can't sue other partner or firm
- + 3<sup>rd</sup> party can sue firm.

Exceptions:- Non-registration does not effect the following →

- 1) Right of III<sup>rd</sup> party to sue.
- 2) Right of partners to sue in case of dissolution.
- 3) Official receiver / assignee in case of insolvent
- 4) Set off upto ₹ 100.

Example from ICAI

Dissolution

Discontinuation / End of jurid (legal) relationship between all the partners is dissolution of firm.

Differences b/w Dissolution of firm & partnership  
from ICAI

Mode of Dissolution

Without order of Court

- ① By agreement
- ② Compulsory dissolution
- ③ On happening of contingency
- ④ By Notice

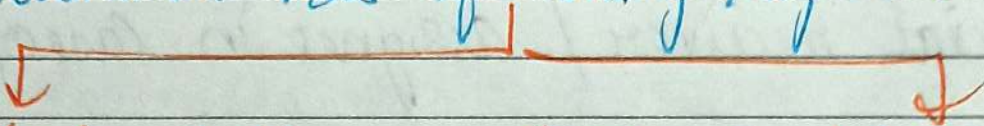
With the order of Court

- ① Insanity
- ② Misconduct
- ③ Permanent Incapacity
- ④ Persistent breach of agreement
- ⑤ Transfer of Interest
- ⑥ Continuous losses
- ⑦ Just and equitable ground.

## Consequences of Dissolution

① Continuing liability until public Notice

② Rights to enforce winding up → Partner on dissolution has following rights →



Have property of firm applied for payment of firm's debts.

Have surplus distributed among partners in profit sharing ratio.

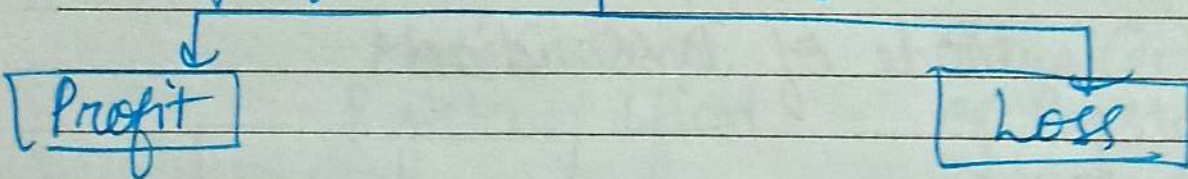
③ Continuing authority of partners



Necessary to wind up the firm.

To complete unfinished transactions.

④ Liability for settlement of a/c.



+ 3<sup>rd</sup> party debt paid off

+ Advances "

+ Capital "

+ If surplus distributed among partners in profit sharing ratio.

+ from previous yr profits

- Capital of partners will be used

- If deficiency brought by the partners in profit sharing ratio.

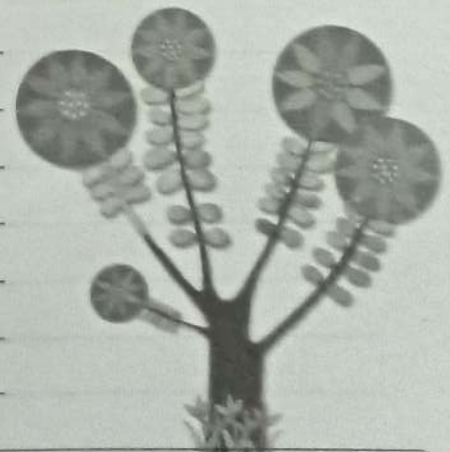
⑤ Payment of firm debts and separate debts

↓  
firm's debts will be paid firstly out of firm's property

↓  
if surplus distributed b/w partners

↓  
Partner's personal debts/ separate debts will be firstly paid out of their separate property

↓  
if anything remains it can be used for payment of firm's debts



## Liabilities of partners to third parties :-

1) Contractual liability / liability of a partner for acts of firm :- (Sec 25.)

a) Partner's liability → Joint as well as several

b) Act of firm → act done by all partners or any one acting for all. (enforceable by or against firm)

2) Liability for tort or wrongful act :- (Sec 26)

firm is liable for the tort or wrongful act done by partner if partner acted in →

a) Ordinary course of business

b) Within the authority of partner

3) Liability for misappropriation by a partner (Sec 27.) →

firm is liable if →

a) partner acted within his authority.

b) Ordinary course of business.

Chapter VII

Indian Contract Act

Date: 1<sup>st</sup> July 1930

Sales Of Goods Act, 1930

→ Applies to whole of India

+ New provision

UNIT I:

Contract of Sale ⇒ A contract where by <sup>→ Sale</sup> seller transfers or agrees to transfer (property) in goods to buyer for a price is called Contract of Sale.  
ownership

Sale ⇒ executed  
↓  
Immediate transfer

Agreement to sale  
↓  
In future      Exeutory.  
On happening of condition.

Essential Elements Of Contract Of Sale ⇒

- 1) At least 2 parties → buyer  
→ seller.
- 2) Subject matter of Contract of Sale → goods
- 3) Price in money should be paid or promised  
It can be partly in goods and partly in money.
- 4) Transfer of property must take place  
offer to buy or sell by 1 party  
acceptance by the other party.



5) Contract of sale can be absolute or conditional.

↓  
Complete

6) All essential elements of valid contract should be present.

↓  
Sec 10

Differences from ICAI.

→ {  
Sale - Agreement to sale  
Sale - Hire purchase  
Sale - Bailment  
Sale - Contract of work & labour

Definitions →

Goods → Chart from ICAI  
8 types

Types of Goods

(A) Existing goods Goods which are in existence at the time of contract. Owned and possessed by seller.

↓  
Specific

goods identified or agreed upon at the time of contract of sale

↓  
Ascertained

goods identified or agreed upon after contract of sale

↓  
Uncertained

goods not specifically identified or ascertained at time of contract  
↓  
sold by description or sample

(B) Future Goods :- Goods which are

- Manufactured
- Acquired
- Produced

} by seller  
↓  
after contract of sale

(C) Contingent Goods :- The acquisition of goods depend on uncertain contingency i.e. happening or non-happening of event.

Delivery Of Goods voluntary transfer of possession from seller to buyer is known as delivery of goods

[Sec 2(2)]

1) Actual Delivery :- Physical delivery of goods from seller to buyer.

2) Symbolic Delivery :- Something is given as a token or symbol of transfer of something else.

e.g. Handing over of document of title of goods  
Handing over of keys of → warehouse godown.

3) Constructive delivery: → Here the goods are with the agents.

- There is no change in physical custody of goods.
- Also known as delivery by acknowledgement or attornment.

eg. A warehouseman holding the goods of B agrees to hold them on behalf of C.

A → Agent    B → Seller    C → Buyer

Document of Title of Goods: → Sec 2(4)

- They are used in ordinary course of business as a proof of possession or control over goods.

- Can be transferred by  $\left\{ \begin{array}{l} \text{endorsement} \\ \text{delivery} \end{array} \right.$

eg → Bill of lading, Railway Receipt, Dock warrant, Multimodal transport documents, Warehouse Keeper's Certificate, Wharfinger's Certificate etc.

Exceptions → 1) Mate Receipt → Mere acknowledgement for receipt of goods.

2) Share Certificate → Document showing title of goods. It can't be transferred by endorsement and delivery.



## Ascertainment of Price Sec 9, 10

Section 9 Price can be fixed in following ways

- ① In Contract → By parties
- ② In the manner fixed by the contract  
e.g. by valuer
- ③ In course of dealing.

If Price can't be fixed in above 3 ways pay Reasonable Price

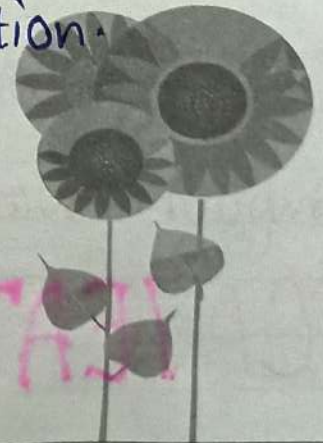
## Sec 10 Ascertainment of Price by III<sup>rd</sup> party.

- Price can be fixed by III<sup>rd</sup> party if third party fixes price contract is valid. If III<sup>rd</sup> party is unable to fix the price contract is void.
- If goods are delivered or appropriated  
↓  
pay reasonable price
- If a party to a contract prevents the ~~other~~ III<sup>rd</sup> party from deciding price  
↓  
aggrieved party can sue for compensation.

## UNIT 2: CONDITION & WARRANTY

Stipulation as to time: → In contract of sale time of payment is not essence. Time of delivery is important not the time of payment which time is essence decided as per contract.

Basis	Condition	Warranty
Meaning	Stipulation → essential to main purpose of contract.	Stipulation → collateral to main purpose of contract.
Rights in case of breach.	Aggrieved party can ↙ ↘ Repudiate Contract    Ask for damages	Aggrieved party ↓ can claim damages only.
Conversion of stipulation	Breach of condition may be treated as breach of warranty.	Breach of warranty can't be treated as breach of condition.
Section	12(2)	12(3)
Example		

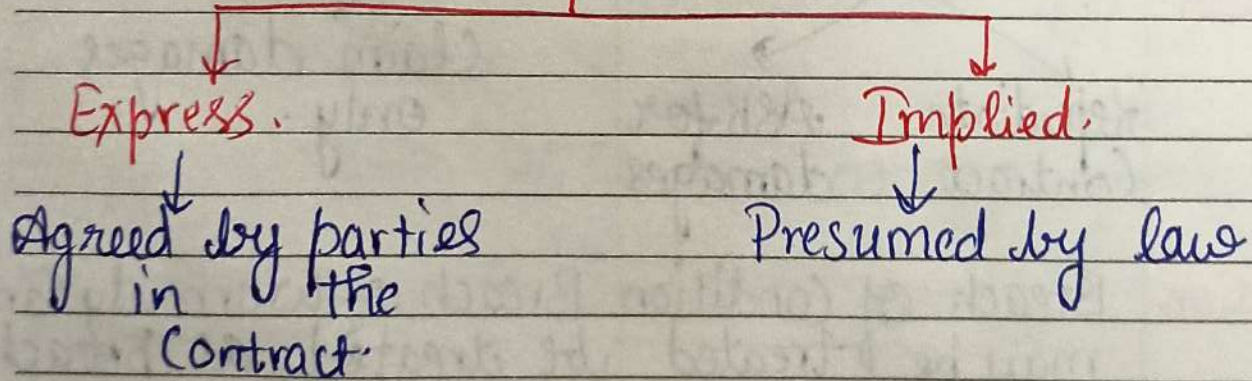


TANU

Imp  
When breach of Condition treated as breach of warranty. Section 13

- (1) Buyer waives the performance of condition.
- (2) Buyer elects to treat breach of condition as breach of warranty.
- (3) Contract is non-severable and buyer has accepted the goods.
- (4) Where fulfillment of condition or warranty is excused by law by reason of impossibility or otherwise.

### Condition & Warranty



Implied Conditions → Chart from ICAI

Implied Warranty → Chart from ICAI

CAVEAT EMPTOR → Section 16

Let the buyer beware.

It is for the buyer to make proper selection of goods. If goods turn out to be defective he cannot hold the seller responsible / liable.

It is duty of buyer to satisfy himself before buying goods that goods will serve the purpose. If goods turn out to be defective and he relies on his own skill & judgement he can't hold seller responsible.

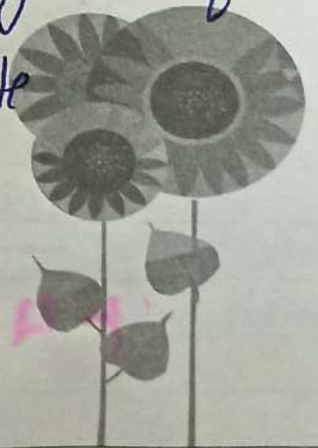
Example: →

Exceptions: →

① Fitness as to quality or use: →

- a) Buyer made known to seller purpose of purchase
  - b) Buyer relied on seller's skill & judgement
  - c) Seller's business to supply goods of that description
- then seller is liable

Case: Priest v. Last.





- 2.) Goods purchased under patent or brand name: → then implied condition of quality or fitness is not applicable i.e. in that case neither seller nor buyer is liable person having brand name will be liable.
- 3.) Seller actively conceals a defect or is guilty of fraud.
- 4.) Goods sold by description.
- 5.) Goods of merchantable quality,
- 6.) Sale by sample.
- 7.) Sale by sample as well as description.
- 8.) Trade Usage: → Implied warranty or condition as to quality of fitness may be annexed to usage of trade  
↓  
If seller deviates from this  
↓  
then doctrine of Caveat Emptor is not applicable.

# TRANSFER OF OWNERSHIP & DELIVERY OF GOODS

## Goods

## Passing Of Property:

(A) SPECIFIC & ASCERTAINED When parties intend to pass

1) Specific Goods in deliverable state unconditional contract

immediately i.e at the time of contract.

2) Specific Goods to be put into deliverable state  
 + packing  
 + polishing  
 + grading.

a) when they are put in deliverable state.

b) Give notice to buyer.

3) Specific goods in deliverable state but seller has to do something in order to ascertain price.  
 + Weighing  
 + Measurement  
 + Testing.

a) When such act is done.

b) Give notice to buyer.

(B) UNASCERTAINED

When goods are ascertained.

1) Sale of Unascertained goods by description.

When unconditional appropriation of goods is done.

↓  
 Selection of goods with consent of both seller & buyer.

2) Delivery to the Carrier as soon as goods are delivered to carrier for purpose of transmission to the buyer provided seller has not reserved the right of disposal of goods.

### (C) GOODS SENT ON APPROVAL or "Sale or Return" (Section 24)

- (1) When buyer signifies his approval or acceptance to the seller. When buyer notifies the seller.
- (2) Buyer does not signify his approval but retains the goods without giving notice of rejection. On expiry of fixed time limit or reasonable time limit.
- (3) Buyer does something which is equivalent to accepting the goods. e.g. pledges or sells the goods. Buyer adopts the transaction or does something which is inconsistent with right of seller. When such act or adoption is done (pledge or sell.)

(D) Reservation of right of disposal of goods. (Sec 25)

When conditions are fulfilled.

↓  
from MCC

## RISK PRIMA FACIE PASSES WITH OWNERSHIP (Sec-26)

General Rule → जिसकी Ownership उसका Risk  
i.e. owner will bear risk.

### Exceptions →

- 1) जो Delay करायेंगा वो Risk उठाएगा।  
Party at whose default delivery is delayed will bear risk no matter whose ownership is
- 2) Duties and liabilities of seller or buyer as bailee of goods will remain unaffected. i.e. Bailee will bear risk  
e.g. Hire Purchase.

## TRANSFER OF TITLE, Sec 27-30

Nemo dat quod non-habet.

↓  
No one can transfer better than he himself has.

↓  
i.e. Only the owner can transfer the goods.

e.g. Hire Purchase, Stolen Property.



Date: \_\_\_\_\_

Exceptions → Sale by non-owners  
↓  
Sale is valid.

1) Sale by Merchantile Agent →

- a) Merchantile agent
- b) Possession with consent of owner.
- c) Bona fide purchaser.

2) Sale by one of joint owners →

- a) Joint owner
- b) Possession with consent of other joint owners
- c) Bona fide purchaser.

3) Sale by person in possession under voidable contract.

- a) Possession under voidable contract
- b) Contract has not been rescinded yet.
- c) Bona fide purchaser.

4) Sale by one who has already sold goods but continues in possession thereof → seller has possession  
ownership of buyer.

↓  
Bona fide purchaser will get good title

5.) Sale by buyer obtaining possession before property vested in him.

Buyer has possession } → Bonafide  
Ownership of seller } purchaser  
will get good  
title.

6.) Effect of Estoppel: →

Where Owner is estopped  
by conduct from denying Seller's Authority  
to sell ↓

Bonafide purchaser will get good title.

7.) Sale by unpaid Seller →



Bonafide Purchaser will get good title.

8.) Sale under other provisions →

(i) Sale by official receiver / liquidator

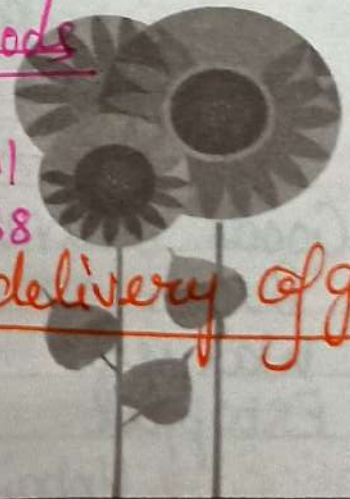
(ii) Sale by finder of lost goods -

(iii) Sale by pawnee / pledgee.

Rules regarding delivery of goods

↓  
Give chart from ICAI  
page 2-38

Rules related to acceptance of delivery of goods  
↓  
from ICAI



## Unit 4: Unpaid Seller

### Definition (Sec 45)

- a) Whole of Price not tendered
- b) Bill of exchange or other N.I given as conditional payment & dishonoured

### Rights of Unpaid Seller against Goods

- (A) RIGHT OF LIEN → Seller must have possession of goods  
 ↓  
 Also known as Right to retain the goods

#### Conditions :->

- a) Goods sold without stipulation of credit → payment is not done.
- b) Goods sold with stipulation of credit & credit pd. is expired → payment is not done.
- c) Buyer may or may not be insolvent

#### TERMINATION :->

- ① Goods delivered to carrier or bailee
- ② Buyer or his agent obtains possession.
- ③ Waiver
- ④ Estoppel

Exception :-> Unpaid Seller does not lose right of lien even if he has obtained a decree for price of goods.

## ③ RIGHT OF STOPPAGE IN TRANSIT Date: \_\_\_\_\_

Seller has parted with the possession of goods

↓  
Goods are in transit

↓  
Buyer must be insolvent

↓  
Also K/a right to regain goods

↓  
Seller himself or by giving notice to carrier can stop goods in transit.

Conditions →

- ① Unpaid seller
- ② Parted with possession
- ③ Goods in transit
- ④ Buyer → insolvent
- ⑤ Right is subject to provisions of the Act.

Termination : →

- 1.) Buyer/Bailee obtains delivery
- 2.) Carrier acknowledges buyer
- 3.) Carrier wrongfully refuses to deliver goods to buyer.
- 4.) Carrier hired by buyer
- 5.) Ship chartered by buyer
- 6.) Part delivery done in order to complete full delivery transit comes to end for remaining goods also.



## Effect of subsale or pledge by buyer

Buyer → subsale the goods → unpaid seller's

are not effected

← { + Right of lien  
+ Right of Stoppage in transit

### Exceptions:

1) Seller has assented to subsale/pledge

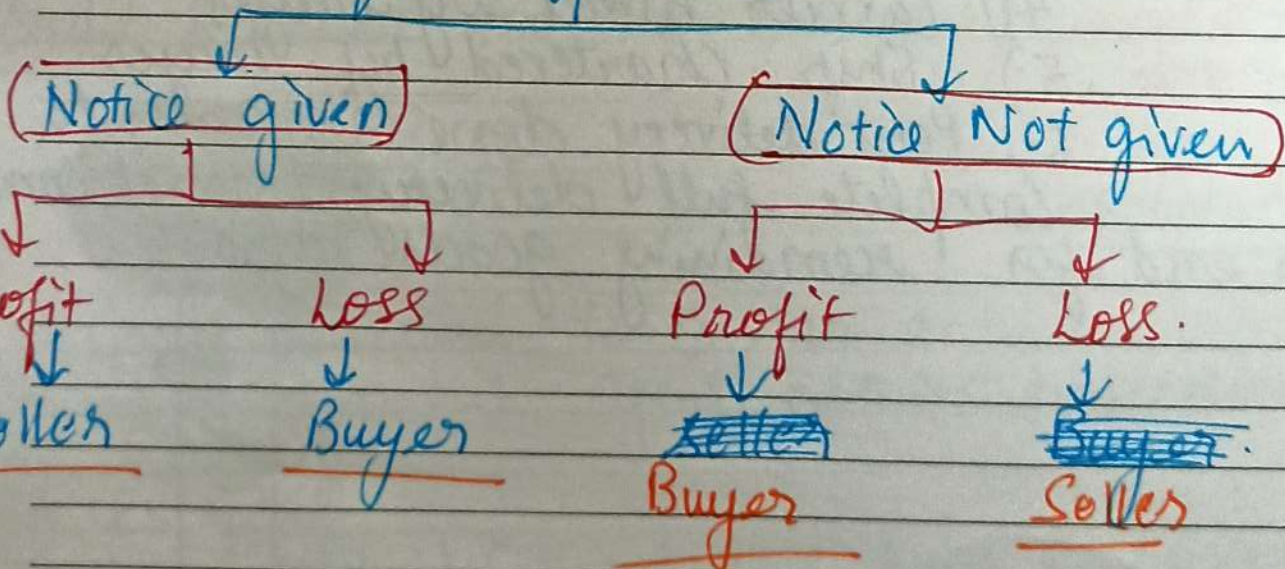
2) Document of title transferred from buyer to bonafide purchaser.

### Right of Resale:

1) Perishable goods → seller can sell without notice

2) If goods are not perishable it is duty of seller to give notice of resale

### Effect of resale



(3) Unpaid seller exercised right of lien, stoppage in transit then resells goods  
 ↓  
 Bonafide purchaser will get good title

(4) Seller has expressly reserved right of resale

↓  
 Seller not required to give notice.

(5) Property in goods not passed to buyer  
 ↓  
 Seller has Right of withholding delivery of goods  
 ↓  
Quasi lien.

### Rights of Unpaid Seller against buyer

- Sue for price
- Sue for damages for non-acceptance
- Repudiation of contract before due date
- Suit for Interest.

### Remedies of buyer against the seller

- Damages for non-delivery
- Suit for specific performance
- Suit for breach of warranty
- Repudiation of contract before due date.
- Suit for interest.



- Auction Sale :-  $\rightarrow$  • Method of selling the goods publicly.  $\rightarrow$  highest bidder
- Auctioneer is agent of seller

### Rules of Auction Sale [Section 64]

- 1) Where goods are sold in lots  $\rightarrow$  Every lot is separate subject matter of contract of sale.
- 2) Completion of contract of sale  $\rightarrow$  fall of hammer or in any other customary manner.
- 3) Right to bid may be reserved  $\rightarrow$  by seller
- 4) Where the sale is not notified by seller  $\rightarrow$  i.e. right to bid is not reserved. then also if
  - $\rightarrow$  seller bids
  - $\rightarrow$  employs a person to bid
  - $\rightarrow$  auctioneer knowingly accepts bid
 not lawful  $\downarrow$  fraudulent.
- 5) Reserve Price / upset price  $\rightarrow$  Minimum Price below which auction sale is not valid
- 6) Pretended Bidding  $\rightarrow$  voidable at option of buyer.

# Companies Act, 2013

①

## Applicability

- ① New Co. + Existing Co.
- ② Insurance Co. (unless Co. Act, 2013 is against IRDA / Insurance Act.)
- ③ Banking Co. (unless Co. Act, 2013 is against Banking Regulation Act.)
- ④ Electricity Co. (unless Co. Act, 2013 is against Electricity Act.)
- ⑤ Co. governed by Special Act  
e.g. RBI, LIC, GIC
- ⑥ C.G. may notify in Official Gazette.

Definition: Sec 2(20)

↓

Co. registered under this Act or any previous Company Law

## CHARACTERISTICS OF COMPANY → CLAPS

### ① Separate Legal Entity

②

- Unique & distinctive feature of company.
- On registration company is clothed with legal personality.
- Company is separate from its members

#### Two Main points: →

- Company altogether different from
  - subscribers to memorandum or
  - members who compose it
- Even a member of company can contract with the company.

#### Case Law →

Macure v. Northern Assurance Company Ltd.

# Macure v. Northern Assurance Co. Ltd

(M) → Timber Merchant

One Man Company  
(Holding all shares  
except one.)

↓  
Insured timber in  
his own name

Decision: → A member  
does not have any  
insurable interest in  
property of  
company.

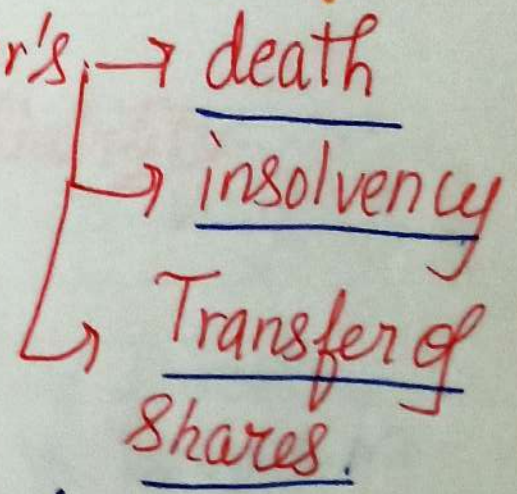
↓  
All timber destroyed  
by fire

↓  
Insurance Co. denied  
it to compensation

↓  
As insurance should  
have been in name of company.

## ② Perpetual Succession

- Members may come or go but the company goes on.
- Company is made by law and can be destroyed only by law.
- Shares may change hands infinitely but that doesnot affect the existance of company.
- There is no effect of member's



↓

On existance of company.

### ③ Limited liability →

⑤

① Company limited by share → liability of members is limited

a) Nominal value of shares or  
b) Unpaid amount

② Company limited by guarantee →

guaranteed amount

③ Unlimited company →

Unlimited liability.



05

SATURDAY | DECEMBER

6  
2/0/2/0

Created by law.

④ Artificial Legal Person: →

• Created by process other than natural birth

• Company can do everything like a natural person except → - Can't marry.

- Can't take oath.

- Can't work like professional

- Can't be sent to jail.

• It works through human agency

(BOD) Board of Directors

Thus a company is called artificial  
legal person

7  
2/0/2/0

DECEMBER | FRIDAY

04

5. Common Seal

- Symbol of Incorporation
- Affixed on all imp. documents
- Authorised signature of company

• In UK made optional in 2006

• In 2015 made optional in India by Co. Amendment Act, 2015.

• Relic of medieval times

Alternative mode of authorisation

for companies who do not opt to have common seal.

• signature of 2 directors  
or

• 1 director or 1 company secretary

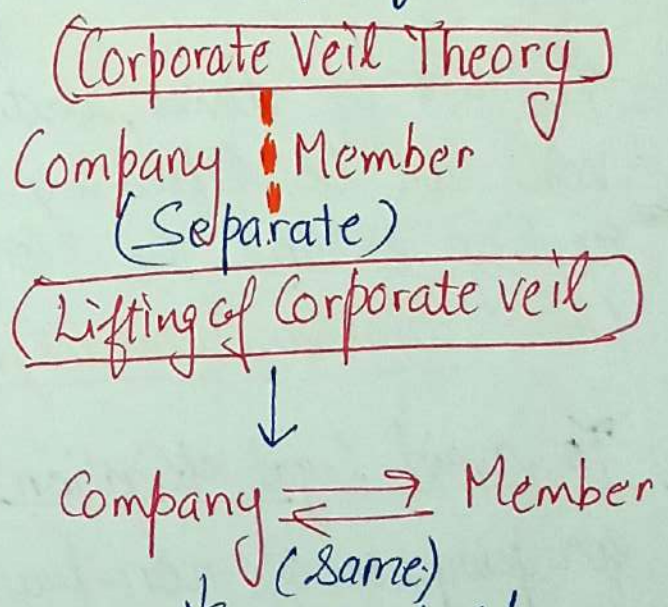
# Corporate Veil theory

Salomon V. Salomon & Company Ltd.

Decision: -> Salomon is different from Salomon & Co. Ltd. So the payment will be firstly made to the Salomon (Separate Legal Entity)

## Lifting of Corporate Veil (Exceptions to Separate legal entity)

If the company is formed for fraud or dishonest purposes then court can disregard / ignore the corporate personality. Court will look behind the corporate facade and hold company and member as one unit



i.e. members will be held responsible for wrongful acts done by the company.

08/07/18

(9)

Lifting of Corporate Veil can be done in following cases:->

1.) To determine the character of the company i.e. to find out whether Co-enemy or friend:->

• Company → artificial person → Can't be friend or foe.

• Test of Control is adopted.

- If persons having control over affairs of company are residing in enemy country company is deemed as enemy company

Case:-> Daimler Co. Ltd v. Continental Tyre & Rubber Company Ltd.

2.) To protect revenue/tax:-> If the company is formed for purpose of evading payment of taxes, duties and stamp duty corporate veil can be lifted by the court to see into the reality behind the corporate facade.

Case: Dinshaw Maneckjee Petit Case

3.) To avoid legal obligation:-> If the company is formed for purpose of non-payment of workmen dues to be paid in the form of bonus corporate veil can be lifted by the court

Case: Workmen employed in ARIL v. ARIL

(10)

# Types of Companies

On basis of liability.

e.g. Bharat Eggs Producers Association

Non-profit, Charitable

**Company Limited by Guarantee**

- Sec 2(21)
- liability of members limited to guaranteed amount

↓ MOA

→ members can be called to discharge their liability only at the time of winding up

→ Initial working capital  
↓  
not from members but in form of charges, fees, donation, endowment

e.g. RIL, NTPC

**Company Limited by Share**

99% Companies

- 2(22)
- liability of members limited to unpaid amount

→ during life time of Company or at the time of winding up

→ Initial working capital  
↓  
from members

Trust

Amway India Enterprises Pvt Ltd

**Unlimited liability Company**

- 2(92)
- liability of members is unlimited → MOA

→ Only at the time of winding up

→ liability of members is shortfall of assets to payment of liability

→ Personal liability - Can extend even upto their personal assets

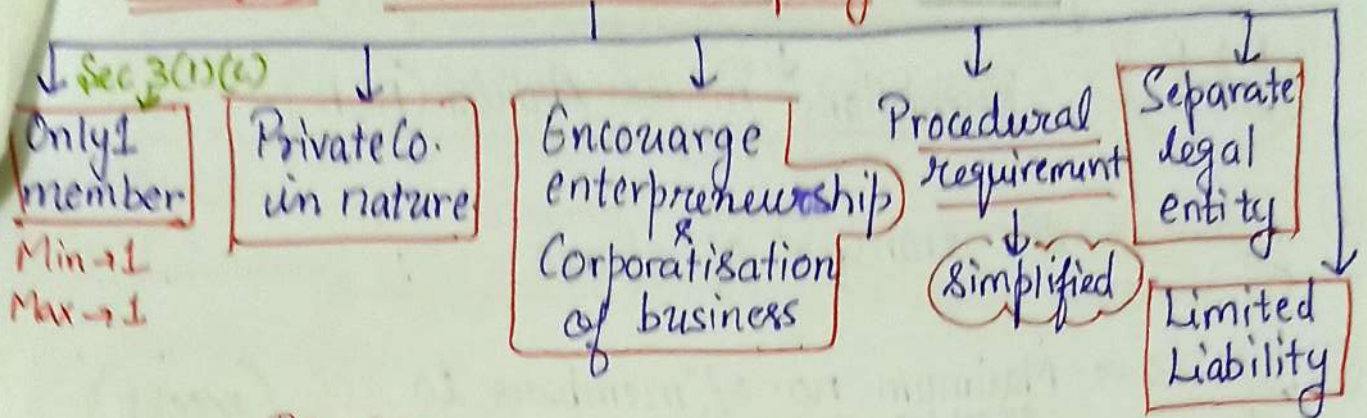
12

## Narendra Kumar Agarwal v. Saroj Maloo

- ① Reasons for refusal to register transfer of Interest by a member are different in both the companies.
- ② Members of guarantee company get certain privileges (special rights) not available to normal shareholders.

### Similarities

- 1.) separate legal entity
- 2.) Limited liability.



- Name of Nominee to be given in MOA  
 Consent  $\rightarrow$  Writing
- Nominee Can withdraw his consent as well as member can change nominee  $\rightarrow$  by giving notice
- Minor  $\rightarrow$  Can't be member or nominee of OPC.
- Only Natural person<sup>①</sup>, Indian Citizen<sup>②</sup> and Indian resident<sup>③</sup> can be  $\left. \begin{array}{l} \text{+ member} \\ \text{+ nominee} \end{array} \right\}$  of OPC
- Indian Resident  
 $\hookrightarrow$  stayed in India for at least 182 days in the previous year
- Sec. 8 Co. Can't convert into OPC.
- OPC Can't operate in Non-Banking financial Corporation (NBFC) activities.
- Minimum 1 director (the only member can also be director.) Max  $\rightarrow$  15//
- OPC voluntary Can't convert into any other Company unless 2 years have elapsed from date of its incorporation except where  
paid up sh. Capital  $>$  50 lac  
Avg. Annual Turnover  $>$  2 crore (200 lac)
- Penalty  $\rightarrow$  10000 + 1000 per day. till default continues.

13

RLP

Private Company Sec 2(68)  
Restrictions in its Articles (NON)

- ① Restricts the transfer of shares LAC
- ② Limits → Maximum no. of members to 200 (except OPC)
  - except:
    - Employees cum members
    - Ex-employees cum members
- ③ Prohibition to invite the public to subscribe its securities

\* Joint share holders are counted as one.

Minimum → 2 Members  
Maximum → 200 members.

- No minimum Capital requirement.
- Small Company and OPC are private Company

Imp Small Company Sec 2(85)

It means a Company other than public Company →

- Paid up sh. Capital < 50 lac or such higher amount as may be prescribed not exceeding 10 crore.
- Turnover < 2 crore or such higher amount as may be prescribed not exceeding 100 crore.

Exceptions → This section doesnot apply to

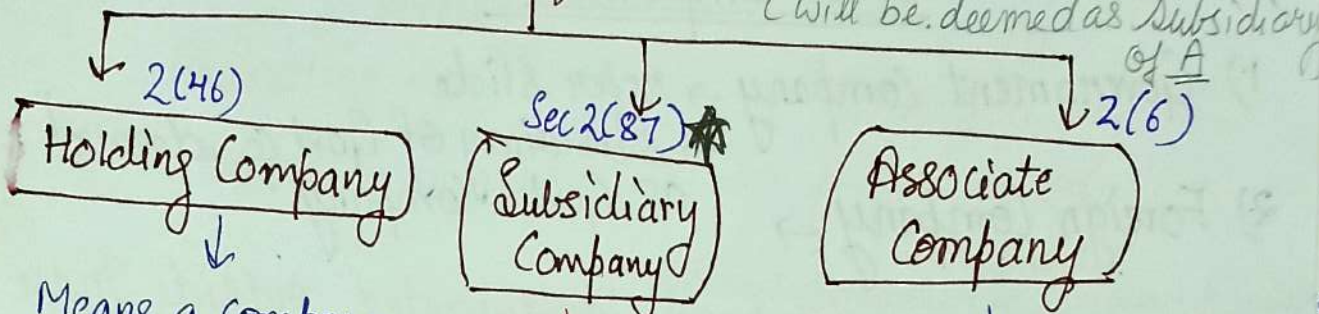
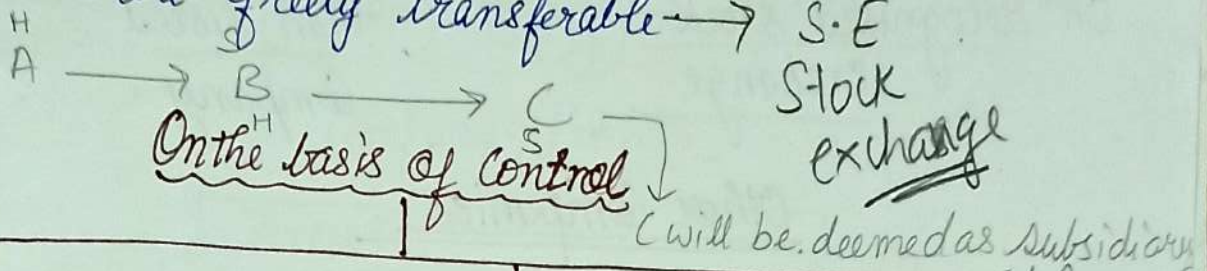
- ✓ Section 8 Company
- ✓ Holding and subsidiary
- ✓ Company governed by special Act.

(They are small sized private companies.)



Public Co. Sec 2(71)

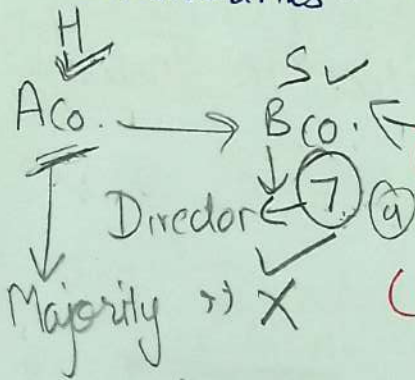
- One which is ~~not~~ a private company.
- No minimum Capital requirement.
- Minimum  $\rightarrow$  7 members Maximum  $\rightarrow$  ~~2~~ No limit.
- Subsidiary of public company is also deemed as public company.
- Shares are freely transferable  $\rightarrow$  S.E Stock exchange



Means a company which has subsidiary/subsidiaries.

a company in which the holding company  $\rightarrow$

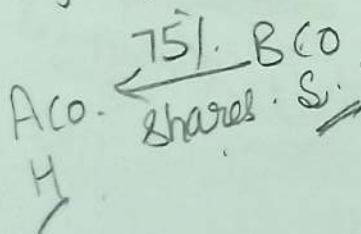
a company in which the other company has



- (i) Controls the composition of BOD or
- (ii) exercises or controls more than one half of total share capital on its own or along with its subsidiaries.

significant influence

Control of at least 20% of total voting power or control



Total Share Capital  $\rightarrow$  paid up equity Share Capital + preference share Capital (Convertible)

Note:  $\rightarrow$  Shares held in fiduciary Capacity will not be counted in 20% limit.

On the basis of Access to Capital

Listed Company → SEBI

a company whose securities are listed on recognised stock exchange → NSE BSE

Unlisted Company

a company other than listed company.

Other Companies

1) Government Company → refer slide

→ subsidiary of Govt Co. deemed as Govt. Company

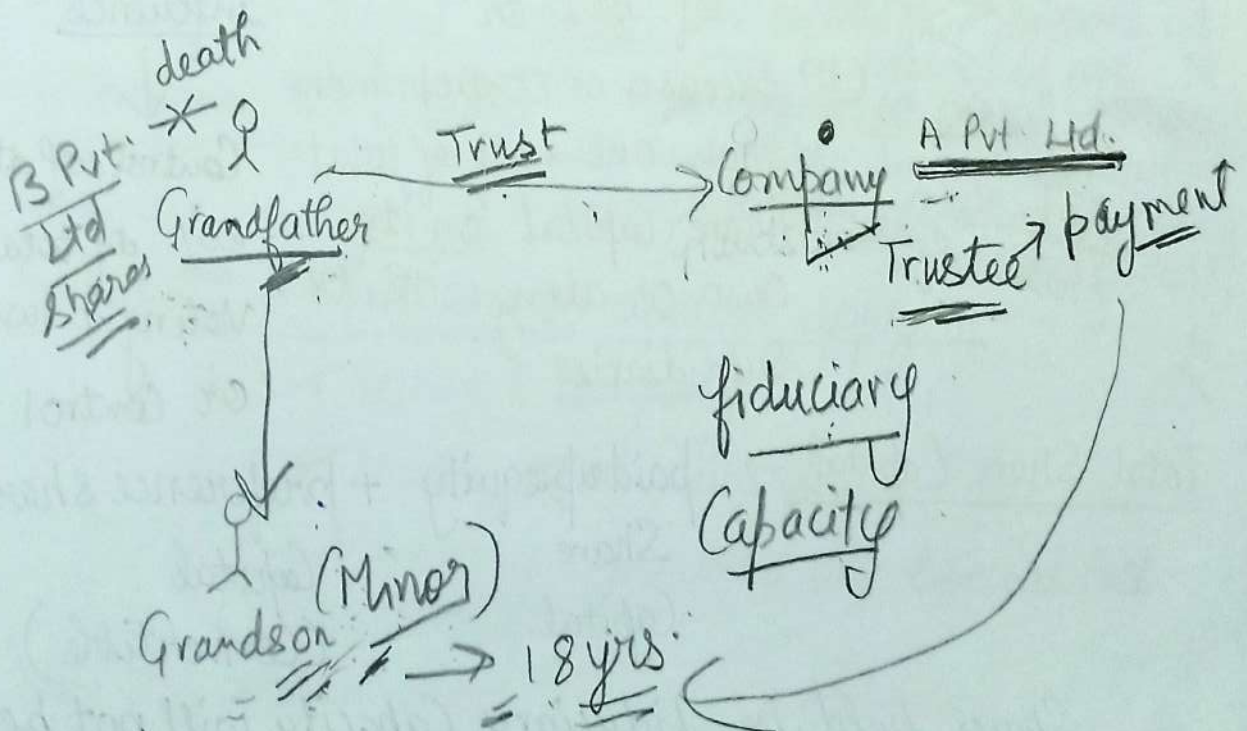
2) Foreign Company →

RBI

Company incorporated outside India

which

- a) has place of business → in India either → physically or electronically
- b) conducts business activities in India.



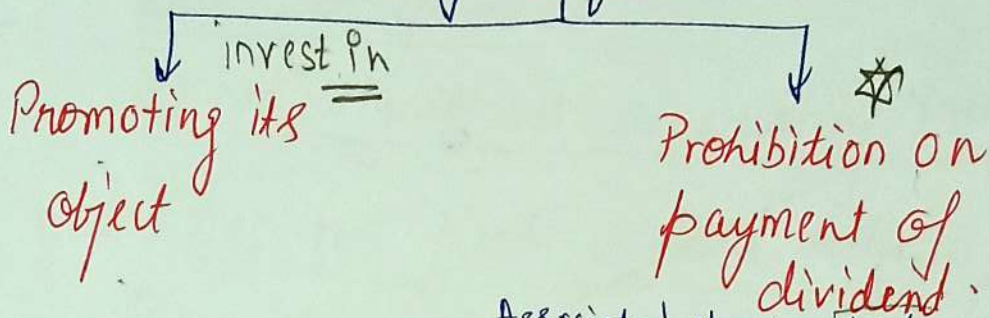
# formation of companies with charitable object (16)

## Sec 8 Company

These Companies are formed to →

- promote charitable object of Commerce, art, science, sports, education, research, social welfare, religion, charity, environment etc.

Company → Profit



Examples → FICCI, ASSOCHAM, National Sports Club of India etc.

Associated Chamber of Commerce & Industry of India

FICCI → Federation of Indian Chambers of Commerce & Industry

Penalty: →

① Company → 10 lac to 1 Crore fine

② Directors & Officers → • 3 yrs → Jail (or)  
• 25000 - 25 lac → fine  
or • both

③ If affairs of company are conducted fraudulently

↓  
Sec 447 penalty for fraud

↓  
6mth - 10 yrs jail  
fine → upto 3 times amount involved in fraud.



# Conditions for a institute to notified as PFI

① formed under Central or state Act.

② Govt-Co. definition

## Formation of Company

Promoters → Refer Slide

Requirement: →

- Sec 3(1)(a) → Lawful object 7 or more person → public Co.
- Sec 3(1)(b) → 2 or more person → private Co.
- Sec 3(1)(c) → 1 person → OPC

## Documents required to be filed with Registrar of Companies → Sec 7

- 1) MOA / AOA → signed → all requirement of Co. Act + Rules Complied
- 2) Declaration: Outsider + Insider
  - Person engaged in formation of Co. → Outsider
  - Named in AOA as manager director / Secretary. → Insider
- 3) Declaration: → Subscribers + first Directors
  - Practising CA/CS / ICWA / Advocate → member → AOA

- a) not guilty of offence → related to promotion formation management
- b) Not Convicted of offence → fraud & misfeasance → in last 5 years
- c) All information given → true & correct breach of duty.

④ Address for Correspondance.

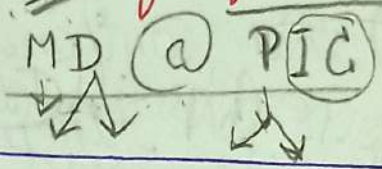
⑤ Particulars of Subscribers

name with surname, address, nationality, proof of identity

⑥ Particulars of first directors

also give  
DIN = Director Identification Number.

⑦ Interest of first directors and their consent



Writing

On being satisfied ROC will register the documents and issue COI → Certificate of Incorporation

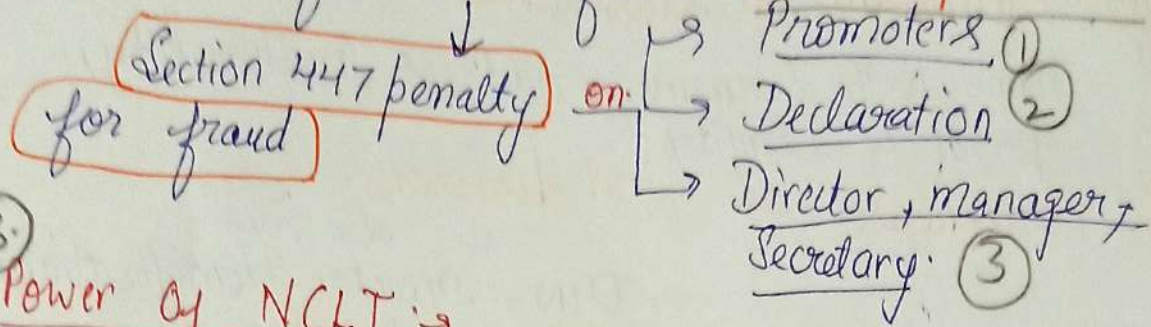
Company will be allotted CIN → Corporate Identity Number

Company has to maintain all documents related to incorporation → Registered office throughout life of the Co.

① Company <sup>to be</sup> formed by giving false information, Suppression of material facts (Pre incorporation)

Sec 447 penalty for fraud  
will apply → on guilty persons

(2) Company already formed by giving false information  
Suppression of material facts (Post incorporation)

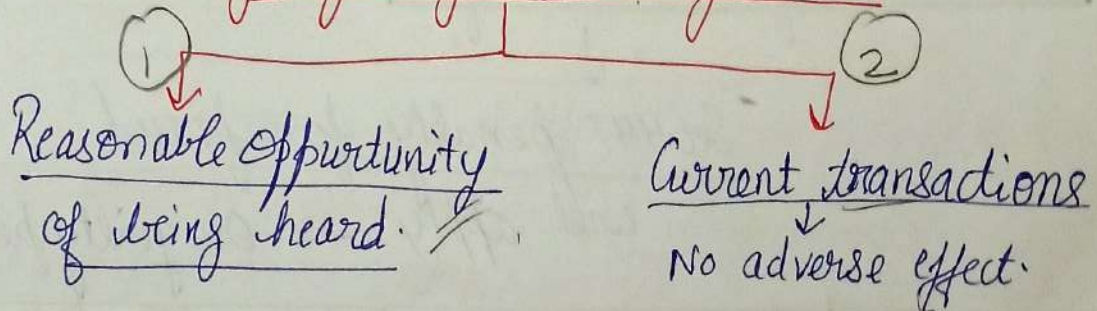


(3) Power of NCLT :->

On any complain received by National Company Law Tribunal that company is formed by giving false information ----- then NCLT can give following orders :->

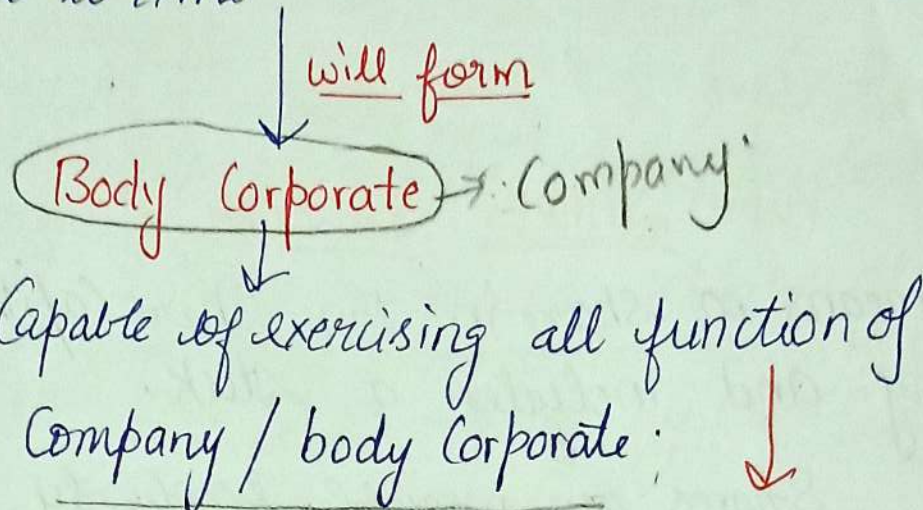
- 1) For regulation of management in interest of Shareholder, creditors, public
- 2) Members liability -> unlimited
- 3) Winding up of company.
- 4) ask the ROC to strike off name of company from register of companies Short cut -
- 5) Any other order which it thinks fit.

Points to be considered before giving any order by NCLT



## Effect of Registration/Incorporation (21) Sec 9

On and from date of incorporation all subscribers to MOA (members) or person who becomes members from time to time



↓  
CLAPS

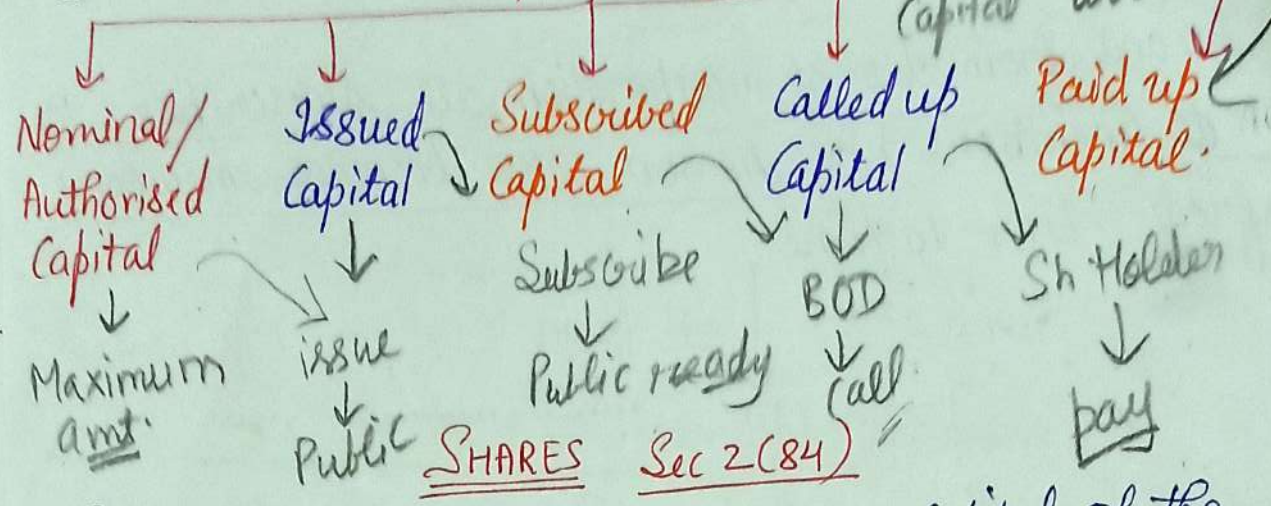
## Effect of registration of MOA/AOA Section 10

MOA/AOA when registered Co. ↔ Members  
will form binding contract/agreement between  
Company and members → individually signed  
↓  
to observe all provisions of MOA/AOA

- All money payable by any member to the company shall be deemed as debt due to the company.



# Classification of Capital

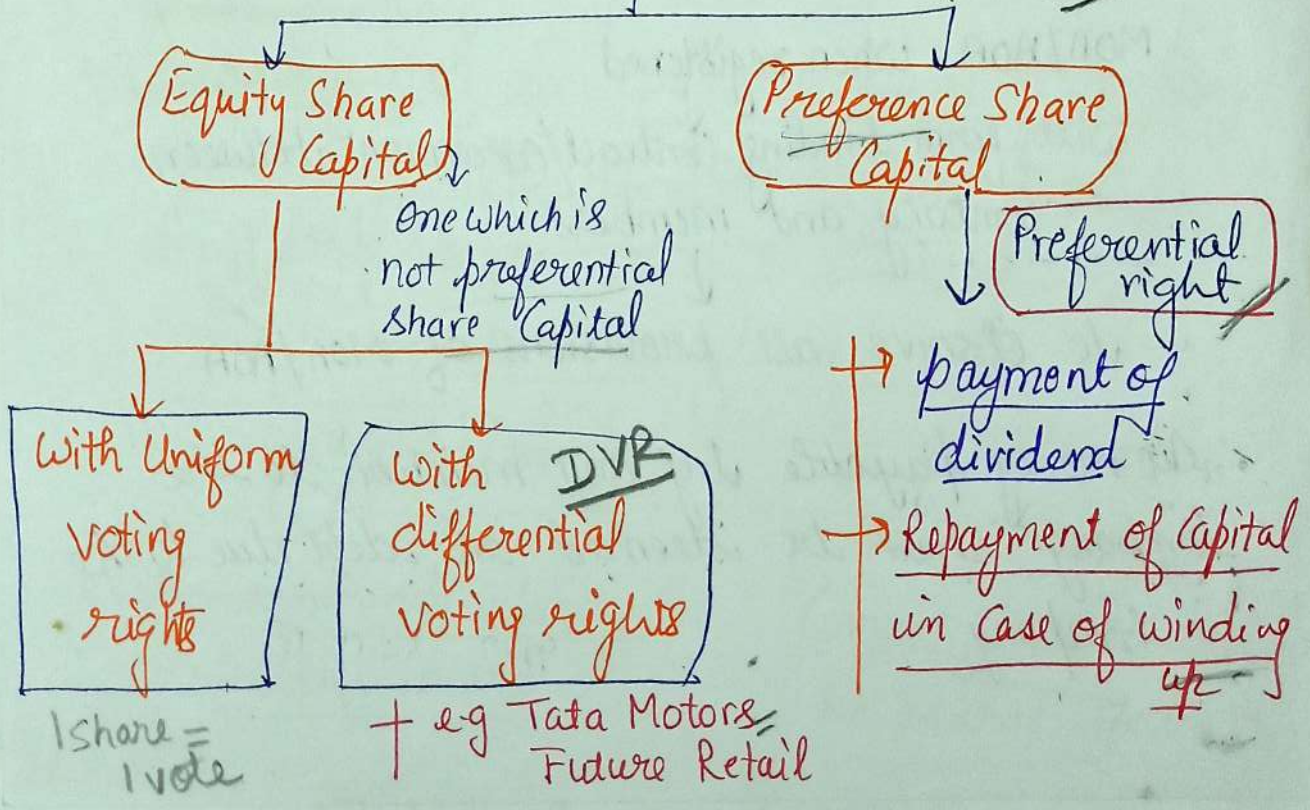


Share means a share in the share capital of the company and includes a stock.

Shares are movable property

Physical Shares shall be numbered & dated  
 Sh. Certificate  
 a/c. depository

## Kinds of Share Capital



# Memorandum of Association (MOA)

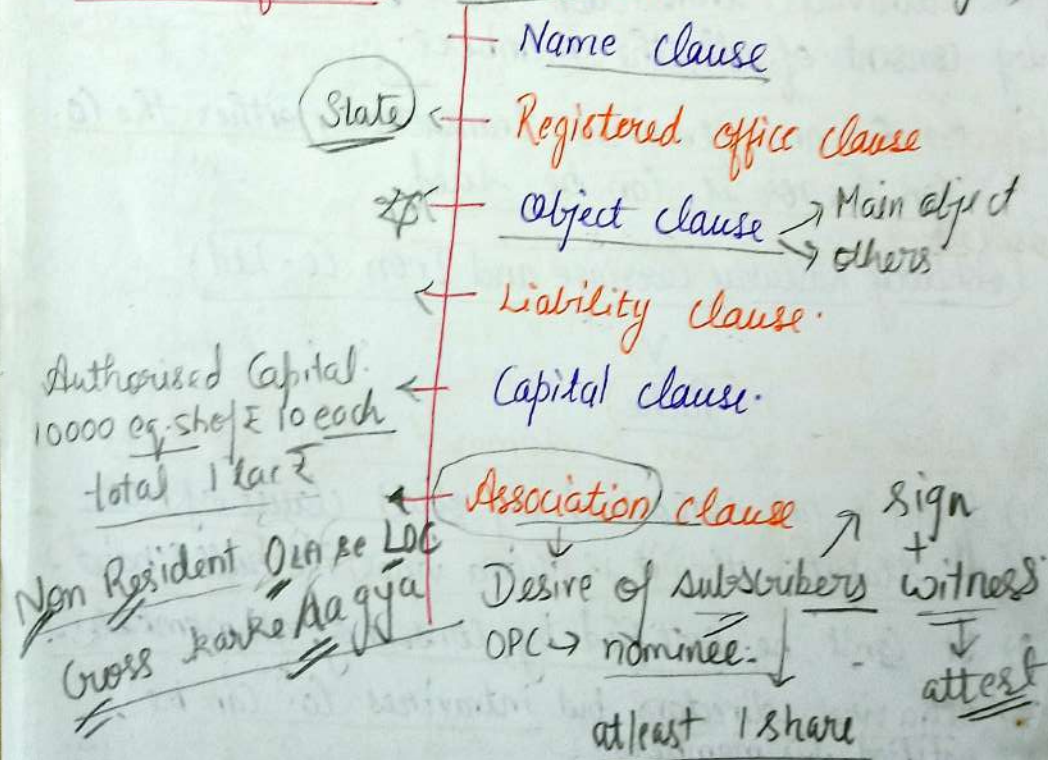
23

- Constitution of Company
- Charter of Company
- Foundation on which Company stands / built.

## Object of MOA / format → Schedule I

- possible scope of operation Table A, B, C, D, E
- enable sh. holder / (creditors) those who deal with Company  
↓  
to know power and activities of Company.
- Shareholder can know purpose for which his money will be used and risk taken by him (SWOT analysis)

## Contents of MOA → 6 clauses.



(24)

## Doctrines of ultra vires

ultra → beyond / outside  
vires → power

- It means beyond the power of the company
- If an act is not only outside the power of the directors but also outside the power of the company then it is known as ultra vires

- Null & void
- Inoperative
- Not binding on the company

- An ultravires transaction can't be ratified even by consent of all the members. (Unanimous) approval
- Effect → On an ultravires transaction neither the Co. can sue nor it can be sued.

Case law →

Ashbury Railway Carriage and Iron Co. Ltd

v.

Riche

The whole doctrine can be summed up as follows: →

- 1) If act is not authorised by object clause of MOA or statute then it is ultra vires i.e. null & void.
- 2) It can't be ratified by consent of all members.
- 3) ultra vires (directors) but intravires Co. can be ratified by members.
- 4) ultravires AOA → Can be ratified by members by S.R

75% ← Special resolution

# Doctrine of ultra Vires

Protects company

## Advantages

- ① It protects the interest of shareholders and creditors.
- ② It is useful for the members in restraining the activities of directors.

## Disadvantages

- ① It is only a nuisance as prevent the Co. from doing an activity agreed by all.
- ② Its purpose is defeated as now object clause can be easily altered by passing SR. 75!

## Articles of Association (AOA) → SR

- Rules & regulations for internal management of the company. Magna Carta "Most imp. <sup>Business</sup> Document"
- Byelaws of the company according to which directors officers are required to perform their duties. MOA V. AOA
- Articles are subsidiary / subordinate to MOA. (Ashbury Railway Co. V. Riche)
- It regulates domestic management of company.
- It is useful to the auditors while doing the audit to study them.

Contents of AOA → Refer slide

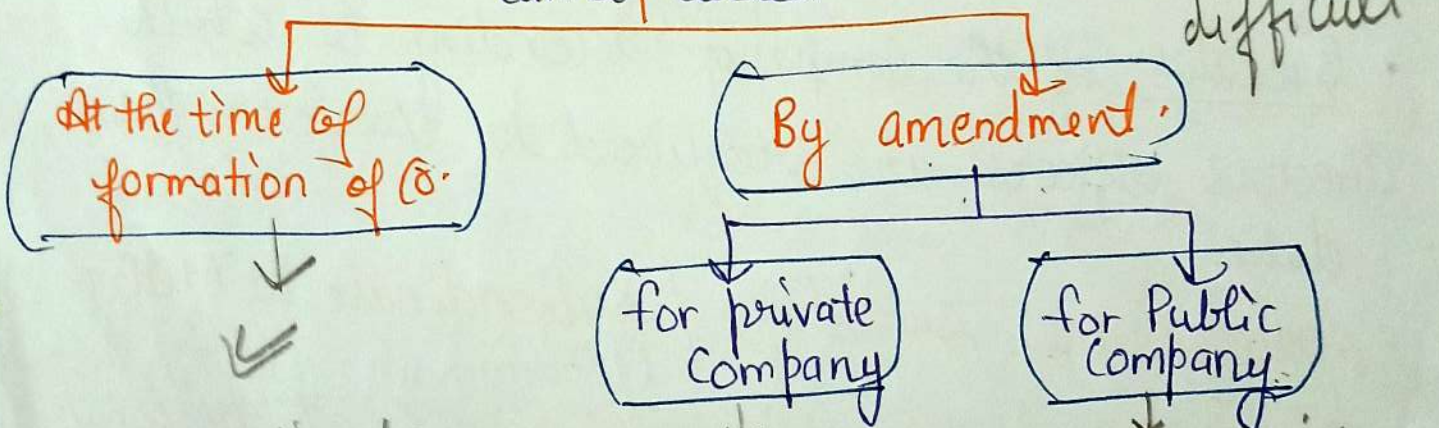
## 26) Contents of AOA

- It contains rules & regulations for management of company.
- In addition to matter given in Co Act and Rules company can also give additional matter in AOA.

- Entrenchment provision → "to protect something" <sup>100%</sup> <sub>90%</sub>  
↓  
Company can make more strict rules for alteration of AOA i.e. specified provisions of AOA can be altered only if condition more restrictive than SR is met with.

### Entrenchment provision

Can be added



- Give notice to RoC & Entrenchment <sup>Consent of all members</sup>
- Model Articles → Table F, G, H, I, J Schedule I
- Co. may adopt them as it is or with modification
- If a Co. is made after commencement of Co. Act, 2013 and doesnot make any modification in Model AOA then it will be deemed that model articles are registered AOA of the company.

# Doctrine of Constructive Notice

27

Sec 399 → Right of Inspection <sup>→ implicit deemed presumed</sup>

Any person on payment of nominal fees can inspect any document kept with Registrar

- Can make record ✓
- Photocopy ✓
- Extract ✓

→ MOA/AOA  
→ COI  
→ Special Resolution (SR)

SG employee

MOA/AOA → public document when registered

Co → Artificial person

So it is duty of any person dealing with Co. to inspect these documents and make sure contract is within the power of the company but whether he reads them or not it will be presumed that he has knowledge of content of MOA/AOA

By Constructive notice is meant: →

- a) whether a person reads MOA/AOA or not it will be presumed that he has not only read them but also understood them.
- b) He not only has constructive notice of MOA/AOA but also of all related documents registered with ROC for e.g. S.R ✓

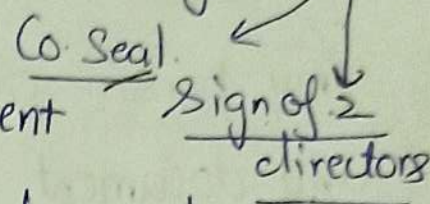
## DOCTRINE OF INDOOR MANAGEMENT (OR) → outsider

It is exception to doctrine of constructive notice. It is not duty of outsider to have notice/knowledge of internal affairs of the company. If an act is authorized by MOA/AOA the outsider can presume that formalities for doing act has been observed by Co.

# Royal British Bank v. Turquand

T was liquidator of insolvent Co. This Co. has given bond of 2000 £ to Royal British Bank.

When RBB sued the Company for payment



Co. said that under AOA they only have power to borrow amount authorised by Company resolution

Resolution was passed but limit not decided.

It was held that BOND is VALID

RBB can presume that Company has passed the necessary resolution because ordinary resolution are not required to be registered with ROC. It is not duty of outsiders (RBB) to look into internal affairs of Company.

Exceptions: → This doctrine is not applicable in following cases: →

a) Actual or Constructive Knowledge of Irregularities → This Turquand Rule

does not protect the person who have knowledge of irregularity e.g. directors, promoters etc.

Case: Howard v. Patent Ivory Manufacturing Co.  
AOA → Debenture → Member → D.R.

b) Suspicion of Irregularity → This doctrine does not reward negligent person. If

transaction is unusual or not in ordinary course of business then it is duty of outsider to make inquiry if negligent then Company is not responsible

Case: Anand Bihari Lal v. Dinshaw and Company

(c) Forgery :-> forgery is at nullity Doctrine of Indoor management is not applicable in case of forgery. Forgery does not give any title to anyone.

Case: Ruben v. Great Fingall Consolidated

