

10**SALE OF GOODS ACT, 1930****INTRODUCTION**

It is one of the special types of contract. Initially, it was the part of the Indian Contract Act, 1872. Later it was deleted and a separate sale of Goods Act was passed in 1930. It came into force on 1st July, 1930. It extends to whole of India except the State of Jammu & Kashmir.

CONTRACT OF SALE OF GOODS

As per Section 4(i) of the Sale of Goods Act, 1930, Contract of sale of Goods is a contract whereby the seller transfers or agrees to transfer the property in goods to the buyer for a price.

Essential Elements:

- There must be atleast two parties. (Bilateral Contracts)
- The subject matter of the contract must be goods.
- A price in money should be paid or promised.
- A transfer of property in goods from seller to the buyer must take place.
- It must be absolute or conditional.
- All other essentials of a valid contract must be present.

GOODS - MEANING

As per Sec 2(7), it means every kind of movable property other than actionable claims and money; and includes stock and shares, growing crops, grass and things attached to or forming part of the land which are agreed to be severed before sale or under the contract of sale.

- Money means current money and it includes rare and old coins.
- Actionable claim means what a person cannot make a present use of or enjoy, but can recover it by means of a suit or an action. Thus, a debt due to a man from another is an actionable claim and cannot be sold as goods, although it can be assigned. Under the provisions of the Transfer of Property Act, 1882, goodwill,

trade marks, copyrights, patents are all goods, so is a ship. As regards water, gas, electricity, it is doubtful whether they are goods.

CLASSROOM NOTES

TYPES OF GOODS

- **Existing Goods:** It means such goods which are in existence at the time of the contract of sale i.e. owned or possessed by the seller.

Examples:

- **Specific or Ascertained Goods:** It means goods identified and agreed upon at the time the contract of sale has been made.

Examples:

- **Generic / Unascertained Goods:** It means the goods which are not specifically identified but are indicated by description.

Examples:

- **Future Goods:** It means goods to be manufactured or produced or acquired by the seller after making the contract of sale.

Examples:

- **Contingent Goods:** It means the goods the acquisition of which by the seller depends upon a contingency which may or may not happen.

Examples:

DIFFERENCES BETWEEN SALE AND AGREEMENT OF SELL

	Sale	Agreement of Sell
1.	It is an executed contract.	It is an executory contract.
2.	Property in goods are transferred from seller to buyer when the contract is made.	Transfer of property in goods takes place at some future date.
3.	Seller cannot resell the goods as the property is with the buyer.	Seller can further resell the goods as the property in good remains with him.
4.	Risks passes to the buyer, as he becomes the owner.	Risks is with the seller as he remains the owner.
5.	Breach on part of buyer, seller can sue for the price and damages both.	Breach on part of buyer, seller can sue for damages only and not for the price.
6.	Sale is contract plus conveyance.	It is pure and simple agreement.
7.	In this, if goods are destroyed then loss will be of Buyer.	In this, if goods are destroyed by accident, loss will fall on seller.

DIFFERENCES BETWEEN SALE AND BAILMENT

	Sale	Bailment
1.	Property in goods is transferred from seller to buyer.	There is only transfer of possession of goods from bailor to bailee.
2.	Consideration is the price in terms of money.	Consideration may be gratuitous or non-gratuitous.

3.	Buyer may use the goods in any way he likes.	Bailee can use the goods only according to the bailor's direction.
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DIFFERENCES BETWEEN SALE AND CONTRACT FOR WORK AND LABOUR

	Sale	Contract for Work and Labour
1.	Property in goods is transferred from the seller to the buyer.	It is a contract for performing some work and not for transferring the property in goods.
2.	It involves the delivery of goods.	It involves exercise of skill and labour in rendering some work. It involves "the uses by means of money consideration".

DIFFERENCES BETWEEN SALE AND HIRE PURCHASE AGREEMENT

	Sale	Hire Purchase Agreement
1.	Property in goods is transferred to the buyer immediately at the time of contract.	The goods passes to the hirer upon payment of the last installment.
2.	Position of buyer is that of owner of goods.	Position of hirer is that of a bailee till he pays the last installment.
3.	Buyer cannot terminate the contract and is bound to pay the price of the goods.	Hirer may terminate the contract by returning the goods to owner without any liability to pay the remaining installments.
4.	Seller takes the risk of any loss resulting from the buyer's insolvency.	Owner takes no such risk for if hirer fails to pay the installment, he has the right to take back the goods. '

EFFECT OF PERISHING OF GOODS***Goods perishing before making a contract***

- Where in a contract of sale of specific goods, the goods without the knowledge of the seller have perished at the time of making the contract, the contract is void.
- If the seller was aware of the destruction and still entered into the contract, he is estopped from disputing the contract. Moreover, perishing of goods not only includes loss by theft but also where the goods have lost their commercial value.

CLASSROOM NOTES***Goods perishing after agreement to sell***

- Where there is an agreement to sell specific goods, and subsequently the goods without any fault of any party perish before the risk passes to the buyer, the agreement is thereby avoided. The provision applies only to sale of specific goods.
- If the sale is of unascertained goods, the perishing of the whole quantity of such goods in the possession of the seller will not relieve him of his obligation to deliver.

CLASSROOM NOTES

PRICE & ITS FIXING

Price is money consideration for the sale of goods and it constitutes the essence for a contract of sale. The price may be fixed:

- (i) at the time of contract by the parties themselves, or
- (ii) may be left to be determined by the course of dealings between the parties, or
- (iii) may be left to be fixed in some way stipulated in the contract, or
- (iv) may be left to be fixed by some third-party.

CONDITIONS & WARRANTIES

Condition

- If the stipulation forms the **very basis** of the contract or is **essential to the main purpose** of the contract, it is a **condition**.
- The **breach of the condition** gives the suffering party a right to treat the contract as **repudiated** (cancelled). Thus, if the seller fails to fulfil a condition, the buyer may treat the contract as repudiated, refuse the goods and, if he has already paid for them, recover the price. He **can also claim damages** for the breach of contract.

CLASSROOM NOTES

Warranties

- If the stipulation is **collateral to the main purpose** of the contract, i.e., is a subsidiary promise, it is a **warranty**.
- The effect of a **breach of a warranty** is that the suffering party **cannot repudiate** (cancel) the contract but **can only claim damages**.
- Thus, if the seller does not fulfil a warranty, the buyer must accept the goods and claim damages.

- Stipulation (condition) as to time of payment are not to be deemed conditions (and hence not to be of the essence of a contract of sale) unless such an intention appears from the contract.
- Whether any other stipulation as to time (e.g., time of delivery) is of the essence of the contract or not depends on the terms of the contract.

CLASSROOM NOTES

WHEN A CONDITION MAY BE TREATED AS WARRANTY

In the following cases, a breach of a condition is treated as a breach of a warranty:

Waiver by the buyer	The buyer may waive a condition. Once the buyer waives a condition, he cannot insist on its fulfillment.
Compulsory treatment by buyer	Where the contract is indivisible and the buyer has accepted the goods or part thereof, the breach of condition can only be treated as breach of warranty. Thus, the buyer cannot terminate the contract but can only claim damages from the seller.

CLASSROOM NOTES

IMPLIED WARRANTIES

Implied warranties are those which the *law presumes* to have been incorporated in the contract of sale inspite of the fact that the **parties have not expressly included** them in a contract of sale. The following are the implied warranties in the contract of sale:

Warranty as to possession	There is an implied warranty that the buyer shall have and enjoy quiet possession of the goods. If the buyer's possession is disturbed by anyone having superior title than that of the seller, the buyer may sue the seller for the breach of warranty. CLASSROOM NOTES
Warranty as to freedom from encumbrances	There is an implied warranty that the goods shall be so free from any charge or encumbrances in favor of any third party. If the goods are found subject to some charge in favor of third party, the buyer may sue the seller for damages. However, this warranty is not applicable where the buyer has been informed of such charge or has notice of the same. CLASSROOM NOTES
Warranty to disclose dangerous nature of goods	If the goods are inherently dangerous or likely to be dangerous to the buyer, it is the duty of the seller to warn the buyer of the probable danger which may arise out of its use. CLASSROOM NOTES
Warranty as to quality or fitness	There is an implied warranty as to quality of fitness for a particular purpose may be annexed by the usage of trade .

by usage of trade

CLASSROOM NOTES

IMPLIED CONDITIONS

The implied conditions are those which are presumed by law to present in the contract. However, an implied condition may be negated or waived by an express agreement. The following conditions are implied in a contract of sale of goods unless the circumstances of the contract show a different intention:

Condition as to title	<p>In every contract of sale, there is an implied condition on part of the seller that:</p> <ol style="list-style-type: none"> a. In case of sale, he has ownership and right to sell the goods, and b. In an agreement to sell, he will have a right to sell the goods at the time when the property is to pass. <p>CLASSROOM NOTES</p>
Sale by description	<p>Where there is a contract of sale of goods by description, there is an implied condition that goods delivered by seller shall correspond with such description. If the goods does not correspond with the description, the buyer is not bound to accept and pay for the goods.</p> <p>CLASSROOM NOTES</p>

Sale by sample	<p>In a contract of sale by sample, there is an implied condition that:</p> <ul style="list-style-type: none"> • The bulk should correspond with the sample in quality; • The buyer shall have reasonable opportunity of comparing the bulk with the sample; and • The goods shall be free from any defect rendering them unmerchantable, which would not be apparent on reasonable examination of the sample. <p>CLASSROOM NOTES</p>
Sale by sample as well as by description	<p>Where the goods are sold by sample as well as by description the implied condition is that the bulk of the goods supplied must correspond both with the sample and the description. In case the goods correspond with the sample but do not tally with the description or vice versa, the buyer can repudiate the contract.</p> <p>CLASSROOM NOTES</p>

<p>Condition as to quality or fitness</p>	<p>There is no implied condition as to the quality or fitness for any particular purpose of goods supplied under a contract of sale. There is an implied condition as to the reasonable quality or fitness of goods if:</p> <ol style="list-style-type: none"> a) The particular purpose for which goods are required must have been disclosed by the buyer to the seller. b) The buyer must have relied upon the seller's skill or judgment of the seller to select the best goods and c) The seller has ordinarily been dealing in those goods. <p>However, there is no implied condition where:</p> <ol style="list-style-type: none"> a) The buyer has not disclosed to the seller any abnormal circumstances or b) The buyer buys a specified article under its patent or other trade name and c) Buyer has not relied upon the skill and judgment of seller.
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CLASSROOM NOTES

<p>Condition as to merchantable quality</p>	<p>Merchantable quality means that the goods should be resalable in the market under the particular description by which they are known. They are not merchantable if they have defects which make them unfit for ordinary use, or are such that a reasonable person knowing of their condition would not buy them.</p> <p>Where the goods are bought by description from a seller who deals in that type of goods, there is an implied condition that the goods</p>
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	<p>shall be merchantable quality.</p> <p>CLASSROOM NOTES</p>
<p>Condition as to wholesomeness</p>	<p>In a contract of sale of provisions and eatables, there is an implied condition that the goods shall be wholesome or sound, i.e. goods should be fit for human consumption.</p> <p>CLASSROOM NOTES</p>

CAVEAT EMPTOR

- The term *caveat emptor* is a Latin word which means “**let the buyer beware**”.
- It implies that while purchasing the goods, the buyer must be cautious. This principle states that, at the time of buying goods, the buyer must make reasonable examination of the goods to satisfy himself that the goods are suitable for his purpose.
- Section 6 provides that **there is no implied warranty or condition as to the quality or fitness for any particular purpose** for which the goods are supplied under a contract of sale.
- In simple words, it is not the seller’s duty to give to the buyer the goods which are fit for a suitable purpose of the buyer. It is up to the buyer to make proper

selection of goods according to his needs. If he makes a wrong selection, he cannot blame the seller if the goods turn out to be defective or do not serve his purpose.

CLASSROOM NOTES

Exceptions to the Doctrine of Caveat Emptor

- (1) Where the seller makes a false representation and the buyer relies on it.
- (2) When the seller actively conceals a defect in the goods which is not visible on a reasonable examination of the same.
- (3) When the buyer, relying upon the skill and judgement of the seller, has expressly or impliedly communicated to him the purpose for which the goods are required.
- (4) Where goods are bought by description from a seller who deals in goods of that description.

CLASSROOM NOTES

PASSING OF PROPERTY OR TRANSFER OF OWNERSHIP (SECTIONS 18-20)

- (a) Risk follows the ownership, whether the delivery has been made or not. If the goods are lost or damaged by accident, then the loss falls on the owner of the goods at the time they are lost or damaged.
- (b) When there is a danger of the goods being damaged by the action of third parties, it is generally the owner who can take action.
- (c) In case of insolvency of either the seller or the buyer, it is necessary to know whether the goods can be taken over by the official assignee or the official receiver. It will depend upon whether the property in the goods was with the party adjudged insolvent.

Passing of Property in Specific / Ascertained Goods

1. Where there is an unconditional contract for the sale of specific goods in a deliverable state, the property in the goods passes to the buyer when the contract is made.
2. Where there is a contract for the sale of specific goods not in a deliverable state, i.e. the seller has to do something to the goods to put them in a deliverable state, the property does not pass until that thing is done by seller and buyer has notice of it. (Sec. 21)
3. When there is a sale of specific goods in a deliverable state, but seller is bound to weigh, measure, test or do something with reference to the goods for the purpose of ascertaining the price, the property to the goods for the purpose of ascertaining the price does not pass until such act or thing is done and the buyer has notice of it. (Sec. 22)
4. If goods are delivered to the buyer "on approval" or "on sale of return" basis then the property passes to the buyer when he signifies his approval or acceptance to the seller or he does not signify his approval or acceptance to the seller but retains goods beyond a reasonable time.

CLASSROOM NOTES

Passing of property in Unascertained Goods

- The property in unascertained or future goods does not pass until the goods are ascertained.
- The property in unascertained or future goods sold by description passes to the buyer when goods of that description and in a deliverable state are unconditionally appropriated.
- If there is a sale of a quantity of goods out of a large quantity, for example, 50 quintals of rice out of a heap in B's godown, the property will pass on the appropriation of the specified quantity by one party with the assent of the other.
- Delivery by the seller of the goods to a carrier or other buyer is sufficient to pass the property in the goods.

CLASSROOM NOTES**PASSING OF RISK (SEC. 26)**

- The general rule is that unless otherwise agreed the goods remain at the seller's risk until the property is transferred to the buyer, but when the property is

transferred to the buyer, the goods are at the buyer's risk whether delivery has been made or not.

- Rule is known as Resperit Demino i.e. the loss falls on the owner.
- But the parties may agree that risk will pass at the time different from the time when ownership is passed, e.g. the seller may agree to be responsible for the goods even after the ownership is passed to the buyer or *vice versa*.

Exceptions to the above general rule:

- (i) If there is agreement between the parties.
- (ii) If the delivery of goods are delayed either due to buyer's or seller's default, goods are at risk of party in default.
- (iii) Trade customs.

Relevant Case Laws:

- Consolidated Coffee Ltd. V. Coffee Board
- Multanmal Champalal V. Shah & Co.

Transfer of Title by Person not the Owner (Section 27-30)

The general rule is that only the owner of goods can sell the goods. Conversely, the sale of an article by a person who is not or who has not the authority of the owner, gives no title to the buyer. The rule is expressed by the maxim; "Nemo Dat Quod Non Habet" i.e. no one can pass a better title than he himself has.

Exception to the General Rule

- (a) **Sale by a mercantile agent:** A buyer will get a good title if he buys in good faith from a mercantile agent who is in possession either of the goods or documents of title to the goods with the consent of the owner.
- (b) **Sale by a co-owner:** A buyer who buys in good faith from one of the several joint owners who is in sole possession of the goods with the permission of his co-owners will get good title to the goods.
- (c) **Sale by a person in possession under a voidable contract:** A buyer buys in good faith from a person in possession of goods under a contract which is voidable, but has not been rescinded at the time of the sale.
- (d) **Sale by seller in possession after sale:** Where a seller, after having sold the goods, is in possession of the goods and again sells them to a person who buys in

good faith and without notice of the previous sale, such a buyer gets a good title to the goods.

- (e) ***Sale by buyer in possession:*** If a person has brought or agreed to buy goods, any sale by him to a buyer who takes in good faith, will give a good title to the buyer. In any of the above cases, if the transfer is by way of pledge or pawn only, it will be valid as a pledge or pawn.
- (f) ***Estoppel:*** If the true owner stands by and allows an innocent buyer to pay over money to a third-party, who professes to have the right to sell an article, the true owner will be estopped from denying the third-party's right to sell.
- (g) ***Sale by an unpaid seller:*** Where an unpaid seller has exercised his right of lien or stoppage in transit and is in possession of the goods, he may resell them and the second buyer will get absolute right to the goods.
- (h) ***Sale by person under other laws:*** A pawnee, on default in repayment, has a right to sell the goods, pawned and the buyer gets a good title to the goods. The finder of lost goods can also sell under certain circumstances. The Official Assignee or Official Receiver, Liquidator, Officers of Court selling under a decree, Executors, and Administrators, all these persons are not owners, but they can convey better title than they have.

CLASSROOM NOTES

DELIVERY

Delivery - Voluntary transfer of possession from one person to another

Actual or physical delivery takes place where the goods are handed over by the seller to the buyer or his agent authorised to take possession of the goods.

Constructive delivery takes place when the person in possession of the goods acknowledges that he holds the goods on behalf of and at the disposal of the buyer.

Symbolic delivery is made by indicating or giving a symbol. Here the goods themselves are not delivered, but the "means of obtaining possession" of goods is delivered, e.g, by delivering the key of the warehouse where the goods are stored, bill of lading which will entitle the holder to receive the goods on the arrival of the ship.

Rules as to Delivery

- (a) Delivery should have the effect of putting the buyer in possession.
- (b) The seller must deliver the goods according to the contract.
- (c) The seller is to deliver the goods when the buyer applies for delivery; it is the duty of the buyer to claim delivery.
- (d) Where the goods at the time of the sale are in the possession of a third person, there will be delivery only when that person acknowledges to the buyer that he holds the goods on his behalf.
- (e) It is no duty of the seller to send or carry the goods to the buyer unless the contract so provides. But the goods must be in a deliverable state at the time of delivery or tender of delivery.
- (f) The place of delivery is usually stated in the contract. Where it is so stated, the goods must be delivered at the specified place during working hours on a working day. Where no place is mentioned, the goods are to be delivered at a place at which they happen to be at the time of the contract of sale.
- (g) While the cost of obtaining delivery is said to be of the buyer, the cost of the putting the goods into deliverable state must be borne by the seller.

(h) If the goods are to be delivered at a place other than where they are, the risk of deterioration in transit will be borne by the buyer.

CLASSROOM NOTES

ACCEPTANCE OF GOODS BY THE BUYER

Acceptance of the goods by the buyer takes place when the buyer:

- (a) intimates to the seller that he has accepted the goods; or
- (b) retains the goods, after the lapse of a reasonable time without intimating to the seller that he has rejected them; or
- (c) does any act on the goods which is inconsistent with the ownership of the seller, e.g., pledges or resells. If the seller sends the buyer a larger or smaller quantity of goods than ordered, the buyer may:
 - (a) reject the whole; or
 - (b) accept the whole; or
 - (c) accept the quantity be ordered and reject the rest.

INSTALLMENT DELIVERIES

When there is a contract for the sale of goods to be delivered by stated instalments which are to be separately paid for, and either the buyer or the seller commits a breach of contract, it depends on the terms of the contract whether the breach is a repudiation of the whole contract or a severable breach merely giving right to claim for damages.

SUITS FOR BREACH OF CONTRACT

- Where the property in the goods has passed to the buyer, the seller may sue him for the price.
- Where the price is payable on a certain day, the seller may sue for the price, if it is not paid on that day.
- Where the buyer wrongfully neglects or refuses to accept the goods and pay for them, the seller may sue the buyer for damages for non-acceptance.
- Where the seller wrongfully neglects or refuses to deliver the goods to the buyer, the buyer may sue him for damages for non-delivery.
- If the buyer has paid the price and the goods are not delivered, the buyer can sue the seller for the recovery of the amount paid. In appropriate cases the buyer can also get an order from the court that the specific goods ought to be delivered.

UNPAID SELLER (SEC 45 – 54)

Seller is deemed to be an unpaid seller, when:

- Whole of the price has not been paid or tendered and seller had an immediate right of action for the price.
- bill of exchange or other negotiable instrument was given as payment, but the same has been dishonoured, unless this payment was an absolute and not a conditional payment.

Rights of Unpaid Seller against Goods

- Right of lien or retention.
- Right of stoppage in transit.
- Right of resale.
- Right to withhold delivery.

Right of Lien or Retention (Sec. 47 - 49 & 54)

It can be exercised on the goods for the price while he is in possession until the payment of price of such goods. It can be exercised in following cases:

- (i) Where goods have been sold without any stipulation as to credit.
- (ii) Where goods have been sold on credit but the term of credit has expired.

(iii) Where buyer becomes insolvent.

This right depends upon physical possession. It can only be exercised for the non-payment of price.

This right is terminated under following circumstances:

- a. Where he delivers goods to carrier or bailee for the purpose of transmission to buyer without reserving the disposal right.
- b. Where buyer or his agent lawfully obtains possession of goods.
- c. Where seller has waived the right of lien.
- d. By estoppel.

CLASSROOM NOTES

Right of Stoppage in Transit (Sec. 50 - 52)

It means right to stop the further transit of goods, to resume possession and to hold the same till the price is paid.

It can be exercised in following cases:

- (i) Seller must be unpaid.
- (ii) He must have parted with the possession of goods.
- (iii) Goods are in transit.
- (iv) Buyer has become insolvent.
- (v) Right is subject to provisions of the Act.

Goods are deemed to be in transit from the time they are delivered to carrier or other bailee- for transmission, until buyer or his agent takes delivery of them.

This right is lost under following cases:

- (i) Buyer taking delivery
- (ii) Acknowledgment by carrier
- (iii) Delivery to ship
- (iv) Wrong denial to deliver by carrier

- (v) Sub sale
- (vi) Goods in possession of ship's master acting as buyer's agent.

Right of Resale (Sec. 54)

It can be exercised in following cases:

- a. Where the goods are of perishable nature, buyer need not be informed of the intention of resale.
- b. Where he gives notice to the buyer of his intention to resell the goods, the buyer does not within a reasonable time pay or tender the price.
- c. Where the right is expressly reserved in the contract.

If no notice has been given to the buyer of intention to re-sell, unpaid seller cannot claim any damages and buyer will be entitled for all profits.

Unpaid seller can recover from buyer the balance amount (if any) on resale.

If notice has been given to buyer, then profits origin out of sale of goods won't be shared with buyer. Only seller will hold the samples.

Rights to Withhold Delivery

- It is exercised if the property in goods has not passed to the buyer.
- It is in additions to above 3 rights.
- However if the property has not been passed the unpaid seller has a right of withholding delivery similar to and co-extensive with his rights of lien and stoppage in transit.

Rights of Unpaid Seller against Buyer

Suit for Price (Sec. 55)

Seller may sue —

- (a) Where the property has passed to the buyer and he wrongfully neglects or refuses to pay for goods.

- (b) Where the property has not passed and price is payable on a certain day irrespective of delivery and buyer wrongfully neglects or refuses to pay such price.

Suit for Damages for Non-Acceptance (Sec. 56)

The seller may sue the buyer for non-acceptance, where he wrongfully neglects or refuses to accept and pay for the goods.

AUCTION SALES (SEC. 64)

- It is a mode of selling property by inviting bids publically and the property is sold to the highest bidder.
- It is a public sale where goods are offered to be taken by bidders.
- Auctioneer is only an agent of seller.
- Following rules apply —
 - a. When goods are put up for sale in lots, each lot is treated to be the subject of a separate contract of sale.
 - b. Sale is complete when the auctioneer announces its completion by fall of hammer or in another customary manner.
 - c. Right to bid may be reserved expressly by or on behalf of seller.
 - d. If such right is not reserved, it is not lawful for the auctioneer knowingly to take any bid from seller.
 - e. Sale may be notified to be subject to a **reserve** or **upset price**.
 - f. If seller makes use of pretended bidding to raise the price, sale is voidable at the buyer's option.

CLASSROOM NOTES

TRADING CONTRACTS INVOLVING RAIL OR SEA TRANSIT

These contracts are made when goods are to be shipped by sea. Under this various conditions are attached to the contract by parties, or by custom and practice of merchants. It includes:

- (a) Free on Board (F. O. B.)
- (b) Free on Rail (F. O. R.)
- (c) Cost Insurance & Freight (C. I. F. or C. F. I.)
- (d) Ex - Ship.

CLASSROOM NOTES**Free On Board (F. O. B.)**

- Under this contract, it is the seller's duty to put the goods on board at his own expense.
- As soon as they are put on board, the ownership along with the risk, passes to the buyer.
- Seller must notify the buyer immediately when the goods are put on board.
- If seller fails to do so, goods will be at seller's risks.
- Buyer must get them insured on receipt of notification.

Free on Rail (F. O. R.)

- Similar to F. O. B.

Cost Insurance and Freight (C. F. I, or C. I. F.)

- It refers to a contract of insured goods.
- Seller bears both the expenses of putting the goods on board as well as the freight and insurance charges.
- Proper documents have to be transferred.
- On receiving the documents, buyer has to first pay and then take delivery.
- Buyer can reject the goods, if they are not according to the contract.

Ex – Ship

- Seller is required to arrange for shipment of goods till such inland destination as the buyer indicates.
- Goods travel at seller's risks.
- Seller is not bound to insure them.
- Buyer is not bound to pay for them unless they are ready for unloading from the ship and all freight charges are paid.

Multiple Choice Questions

1. The objective of the Sale of Goods Act, 1930 is to define and amend the law relating to —
(a) Sale of Immovable Properties
(b) Sale of Goods
(c) Agreements to Sell
(d) All of the above.
2. The Sale of Goods Act, 1930 extends to the whole of India, except the state of —
(a) Maharashtra (b) Jammu and Kashmir
(c) Tamilnadu (d) Uttar Pradesh.

3. The Sale of Goods Act, 1930 came into force in —

- (a) 1st day of July, 1930
- (b) 1st day of September, 1930.
- (c) 1st day of January, 1930
- (d) 31st day of December, 1930.

4. The unrepealed provisions of the ' Act shall continue to apply to contracts for the sale of goods, save insofar as they are inconsistent with the express provisions of the Sale of Goods Act.

- (a) Transfer of Property Act (b) Indian Evidence Act
- (c) Indian Contract Act (d) Partnership Act.

5. The term “Goods” is defined in section of the Sale of Goods Act, 1930.

- (a) 2(5) (b) 2(6)
- (c) 2(7) (d) 2(8).

6. Which of the following are not included in the term "Goods" under the Sale of Goods Act —

- (a) Stock and Shares (b) Actionable Claims
- (c) Growing Crops, Gross etc. (d) Personal Use of Property.

7. Transfer of Actionable claim(s) is governed by the provisions of the Sale of Goods Act.

- (a) True (b) Partly True
- (c) False (d) None of the above.

8. “Jubilee Coins” are goods within the meaning of Section (27) of the Sale of Goods Act.

- (a) True (b) Partly True
- (c) False (d) None of the above.

9. Under the Sale of Goods Act, “ .Goods” means goods which are not in existence at the time of making the contract of Sale.

- (a) Ascertained Goods (b) Future Goods

(c) Specific Goods (d) Perishable Goods

10. To constitute a valid sale, there must be atleast —

- (a) One Party (b) Two Parties
- (c) Three Parties (d) Four Parties.

11. When goods are given by the buyer as consideration for the goods received from the seller it is called —

- (a) Sale (b) Agreement to sell
- (c) Barter (d) Bailment.

12. In an Agreement to sell, the property in goods is transferred in —.

- (a) Past
- (b) Present
- (c) Future
- (d) There is no transfer to property at all.

13. “Contract of Sale” under section 4 of the Sale of Goods Act, 1930 comprises of—

- (a) Both executory and executed contracts of sale
- (b) Executory contract of sale
- (c) Executed contract of sale
- (d) Concluded contract of sale.

14. In an agreement to sell, where goods lie with the Seller, the risk of loss of goods remains with —

- (a) Either Buyer or Seller
- (b) Buyer only
- (c) Seller only
- (d) Buyer and Seller to the extent of their shares.

15. Where goods are not specific and ascertainable at the time of the making of the contract, it shall —

- (a) become void
- (b) become voidable at the option of the buyer
- (c) operate as an agreement to sell
- (d) become a valid contract of sale.

16. Section 8 of the Sale of Goods Act, dealing with goods perishing before sale, in its application is —

- (a) Confined to contract of sale (b) Confined to agreement to sell
- (c) Either (a) or (b) (d) Neither (a) nor (b).

17. Under Sec 8 of the sale of Goods Act, 1930 a contract of sale of goods can be avoided where the goods have perished / damaged —

- (a) Due to the fault neither of the Buyer nor the Seller
- (b) Due to the fault of the Buyer
- (c) Due to the fault of the Seller
- (d) Due to the fault of either the Buyer or the Seller.

18. In a contract of sale, the price may be —

- (a) Fixed by the contract
- (b) Agreed to be fixed in a manner thereby agreed
- (c) Determined by course of dealings between the parties
- (d) All of the above.

19. The prima facie evidence of a “Reasonable Price” u/s 9 of the Sale of Goods Act, is _____.

- (a) Market Price
- (b) Current price
- (c) Price as determined by the court
- (d) Reuse Price.

20. Under Section 11 of the Sale of Goods Act, 1930 the time of payment can be of the essence of the contract —

- (a) by agreement between the parties
- (b) by operation of law
- (c) both (a) and (b)
- (d) either (a) or (b).

21. Condition or warranty in a contract of sale, constitutes stipulation with reference to—

- (a) Time (b) Price
- (c) Goods (d) Delivery.

22. A “Warranty” under the Sale of Goods Act, has been defined as a stipulation —

- (a) Collateral to the main purpose of the contract
- (b) With regard to time
- (c) Essential to the main purpose of the contract
- (d) All of the above.

23. The breach of a “Condition” in a contract of sale of goods give the right to —

- (a) Repudiate the contract (b) Claim for damages only
- (c) Either (a) or (b) (d) Both (a) and (b).

24. In cases where there is a breach of condition by the seller, the buyer —

- (a) May retain the goods though he has the right to reject them
- (b) Has no right to retain the goods but only to reject the goods
- (c) Has no right to reject the goods
- (d) Has no remedy at all.

25. The Buyer shall have and enjoy quiet possession of the goods. This is an _____
u/s 14 of the Act.

- (a) Implied Warranty as to Title
- (b) Implied Condition as to Title
- (c) Implied Warranty as to Possession
- (d) Implied Condition as to Possession.

26. In case of sale by description, there is an implied _____ that the goods shall correspond to description.

- (a) Warranty
- (b) Condition
- (c) Stipulation
- (d) Description.

27. In a sale of goods by description, it is sufficient that the goods are —

- (a) Fit for the purpose for which they were wanted though not in accordance to description.
- (b) Merchantable though not in accordance to description
- (c) Wholesome, even if they do not correspond to description
- (d) The same as that of their description.

28. Implied condition as to quality or fitness does not apply if —

- (a) Buyer discloses to the seller, the exact purpose for which goods are required.
- (b) Buyer indicates to the seller that he relies on the seller's skill or judgement
- (c) Seller's business is to sell goods of such description
- (d) Buyer reserves the right to examine the goods and check its quality.

29. Implied condition as to merchantable quality applies to sale of goods —

- (a) Under a patent or other trade name
- (b) By description only
- (c) Either (a) or (b)
- (d) Both (a) and (b)

30. The principle of "Caveat Emptor" as found in Sec 16 of the Sale of Goods Act, means that the—

- (a) Let the Buyer be aware
- (b) Buyer must take a chance
- (c) Seller must take care
- (d) Seller must take a chance.

31. In case of _____ goods, property passes to the buyer, only when the goods are ascertained.

- (a) Future (b) Specific
- (c) Contingent (d) Unascertained.

32. The process of identifying the goods and setting apart as per the intended quality or description is called —

- (a) Identification (b) Procurement
- (c) Ascertainment (d) Allocation.

33. In a sale of specific or ascertained goods the property there in is transferred to the buyer —

- (a) Upon delivery of goods
- (b) Upon payment of price
- (c) At such time as the parties intend it to be transferred.
- (d) At such time as decided by the court.

34. For passing of property in respect of specific or ascertained goods, the interaction of the parties can be ascertained from —

- (a) Terms of the contract
- (b) Conduct of the parties
- (c) Circumstances of the case
- (d) All of the above.

35. For passing of property in goods, the goods should be in a —

- (a) Deliverable state
- (b) Non-deliverable state
- (c) Consumable state
- (d) Ready state

36. Where the goods are to be delivered in future and the seller becomes insolvent before any appropriation is made, the property in goods passes to the buyer and the buyer acquires interest in the goods.

- (a) True (b) Partly true
- (c) False (d) None of the above.

37. Delivery of goods to the carrier for the purpose of transmission to the buyer automatically means that the property in goods vest in the buyer,

- (a) True (b) Partly True
- (c) False (d) None of the above.

38. In cases of goods sent on approval basis, the goods are at the _____, if they perish in an inevitable accident. . .

- (a) Buyer's Risk
- (b) Seller's Risk
- (c) Combined Risk of Buyer and Seller
- (d) Carrier's Risk.

39. Risk prime facie passes with —

- (a) Property or ownership
- (b) Completed agreement r,
- (c) Verification and delivery
- (d) Payment of price.

40. The Latin Maxim "Nemo Dat Quod non Habet" means —

- (a) No man can pass a better title than he has
- (b) Let the Buyer beware
- (c) No consideration - No contract
- (d) Ignorance of law is no excuse.

41. A finder of goods has the power to sell the goods to give good title to the buyer, if the owner of goods cannot be found with —

- (a) Ordinary diligence (b) Reasonable diligence
(c) Due diligence (d) Lack of diligence.

42. In case of a company under liquidation, and sale is made by the Receiver or Liquidator of the company —

- (a) Company retains title in goods
(b) Buyer gets a good title to goods
(c) Receiver/ Liquidator gets a goods title to goods
(d) There is no sale at all.

43. When the seller causes a change in the possession of goods without any change in their actual and visible custody, it is a case of —

- (a) Actual Delivery
(b) Constructive Delivery
(c) Symbolical Delivery
(d) Forward Delivery.

44. Where the seller is bound to send the goods to the buyer as per the agreement, and there is no specific time limit goods shall be delivered within —

- (a) A suitable time (b) A minimum time
(c) Adequate time (d) A reasonable time.

45. In case of excess delivery, i.e. more than the contracted quantity, the Buyer can—

- (a) Reject in full
(b) Accept the contract quantity and reject the excess
(c) Accept the whole
(d) Either (a) or (b) or (c)

46. Where the seller fails to give notice to the buyer u/s 39(3), the risk during sea-transit lies with the —

- (a) Buyer (b) Seller
(c) Carries (d) Insurer

47. Unless otherwise agreed, where goods are delivered to buyer and he refuses to accept them (having the right to do so), the buyer is not bound to return them to the seller.

- (a) True (b) Partly True
- (c) False (d) None of the above.

48. Even if a substantial portion of the price is paid and only a small balance is pending, the seller is still regarded as an unpaid seller.

- (a) True (b) Partly True
- (c) False (d) None of the above.

49. The right of lien is available to the unpaid seller only when —

- (a) he is not in possession of the goods
- (b) he is in possession of the goods
- (c) he has delivered the goods to the carrier/transport
- (d) he has delivered the goods to the buyer,,

50. Once possession is lost, right of lien of the unpaid seller is also lost. This statement is —

- (a) True (b) Partly True
- (c) False (d) None of the above.

51. Right of stoppage in transit can be exercised by the unpaid seller, where the buyer —

- (a) Is solvent (b) Becomes insolvent
- (c) Either (a) or (b) (d) Neither (a) nor (b)

52. Goods - in - transit can be stopped for —

- (a) Price
- (b) Any other expenses, e.g. Godown charges, Interest, etc.
- (c) Both (a) and (b)
- (d) Either (a) or (b).

53. If no notice is given to the original buyer of the intention 'to re-sell, the unpaid seller—

- (a) Cannot claim any damages
- (b) Has to pay to the original buyer, the profits, if any, on re-sale
- (c) Either (a) or (b)
- (d) Both (a) and (b)

54. Generally, where the buyer has paid the price and seller refuses to deliver the goods, buyer can sue the seller for —

- (a) Specific performance of the contract
- (b) Delayed delivery of goods
- (c) Refund of price already paid
- (d) Non - acceptance of goods.

55. In the case of _____, the sale may be notified to be subject to a reserve or upset price.

- (a) Sale by description (b) Sale by auction
- (c) Sale by sample (d) Sale by estoppel

56. The main object of a contract of sale is —

- (a) Transfer of possession at goods
- (b) Transfer of property in goods from seller to buyer
- (c) Delivery of goods
- (d) Payment of price

57. Following is not the right of an unpaid seller against the goods:

- (a) Lien (b) Right of resale
- (c) Right of stoppage (d) Claim damages

58. Sales of Goods Act is a _____ to contract act.

- (a) Competent (b) Substitute
- (c) Complimentary (d) All of these

59. Which of the following is/are an essential elements of a valid contract that must be present in a Contract of Sale.

- (a) Bilateral Contract (b) Transfer of Property
- (c) Money Consideration (d) All of the above

60. An agreement to sale is a/an _____ contract while a sale is a/an _____ contract

- (a) Valid; legal (b) Executory; valid
- (c) Executory; executed (d) None of the above

61. Delivery is the _____ transfer of possession from one person to another

- (a) Property (b) Voluntary
- (c) Goods (d) Involuntary

62. If the Goods are to be delivered at a place other than where they are, the risk of deterioration in transit will unless otherwise agreed be borne by the _____.

- (a) Buyer (b) Seller
- (c) Transporter (d) (a) & (b) both

63. In the right of lien, the possession is retained by _____.

- (a) Paid seller (b) Unpaid buyer
- (c) Unpaid seller (d) None of the above

64. Unenforceable agreements and illegal agreements means one and the same thing.

- (a) True (b) False
- (c) Partly True (d) None of the above

65. The relation between a doctor and a patient is fiduciary in nature.

- (a) True (b) False
- (c) Partly True (d) Partly False

66. In sale by auction, goods are offered to be taken by —

- (a) Buyer (b) Bidders
- (c) Public (d) Sellers

67. Acceptance of the goods by the buyer takes place when the buyer —

- (a) Intimates to the seller that he has accepted the goods.
- (b) Retains the goods
- (c) Does any act on the goods which is inconsistent
- (d) All of the above

68. A document signed by a carrier and issued to consignor that provides evidence for the receipt of goods for shipment to a specified designation and purpose is known as —

- (a) Transporter's receipt (b) Bill of loading
- (c) Carrier document (d) None of the above

69. _____ takes place when the person takes possession of the goods on behalf of and at the disposal of the buyer.

- (a) Physical delivery (b) Simple delivery
- (c) Encumbrance delivery (d) Constructive delivery

70. _____ precludes a person from ascertaining something contrary to what is implied by his or her previous actions or statement or by a previous judicial determination concerning that person.

- (a) Voluntary (b) Estoppel
- (c) Both (a) & (b) (d) None of the above

71. If the stipulation forms the very basis of the contract or is essential to the main purpose of contract, it is —

- (a) Guarantee (b) Warrantee
- (c) Encumbrance (d) Condition

72. Goods which are either owned or possessed by the seller at the time of contract—

- (a) Specific Goods (b) Contingent Goods

(c) Generic Goods (d) Existing Goods

73. Goods to be manufactured or acquired by the seller after making the contract of sale

—

(a) Contingent Goods (b) Future Goods

(c) Existing Goods (d) None of the above

74. Which of the following is not an implied condition in a contract of sale —

(a) Condition as to title

(b) Condition as to description

(c) Condition as to freedom from encumbrance

(d) Condition as to sample

75. The condition and warranties may be in the form of —

(a) Express (b) Implied

(c) Either (a) or (b) (d) None of the above

76. An unpaid seller is having rights against

(a) Goods only (b) The buyer only

(c) Both Goods & buyer (d) None of the above

77. The doctrine of Caveat Emptor does not apply when —

(a) The goods are bought by sample

(b) The goods are bought by sample as well as description

(c) The goods are purchased under its brand name

(d) All of the above

78. The essence of a right of lien is to —

(a) Deliver the goods (b) Retain the goods

(c) Regain the possession (d) None of the above

79. Seller has right of resale where —

- (a) Goods are perishable
- (b) Seller has reserved such right
- (c) Seller gives notice
- (d) All of these

80. The Goods are at risk of a party who has the —

- (a) Ownership of goods (b) Possession of goods
- (c) Custody of goods (d) Both (b) and (c)

81. The position of the hirer is that of a —

- (a) Bailor (b) Bailee
- (c) Seller (d) Buyer

82. Under this contract, it is the seller's duty to put the goods on board at his own expenses —

- (a) Free on board
- (b) Sales of Goods Act, 1930
- (c) Contract Act, 1872
- (d) Free on ship

83. A finder of goods has the power to sell the goods to give good title to the buyer, if the owner of the goods cannot be found with—

- (a) Ordinary diligence (b) Reasonable diligence
- (c) Due diligence (d) Lack of diligence

84. The main object of contract of sale is—

- (a) Payment of price
- (b) Delivery of goods
- (c) Transfer of possession of goods
- (d) Transfer of property

85. A breach of warranty can be treated as a breach of condition.

(a) True (b) False

(c) Partly True (d) Either True or False

86. Goods perishing after agreement to sell —

(a) Agreement becomes avoidable

(b) Agreement becomes void

(c) Agreement becomes contract

(d) None of the above

87. In sale, consideration is the price in terms of-

(a) Money (b) Non-gratuitous

(c) Gratuitous (d) None of the above

88. When goods are exchanged for goods, it is a —

(a) Sale (b) Agreement to sale

(c) Barter (d) Bailment

89. An agreement to sell is —

(a) Executory contract (b) Executed contract

(c) Both (a) and (b) (d) None of the above

90. When the contract of sale is executed, the loss of goods destroyed by fire is to be borne by —

(a) The buyer only when he has the goods in his custody

(b) Seller

(c) Both by the buyer and the seller

(d) The buyer even if he does not have the custody of the goods

91. Which one of the following statement is not true in context to a hire purchase agreement?

(a) The hirer is merely a bailee until the final payment

(b) There is an agreement to buy the goods at the end of the period

- (c) The owner can take back the goods if the buyer becomes insolvent
- (d) The ownership remains vested with the bailer

92. Where a contract states that the price is to be fixed by a third party and such party fails to do so, then —

- (a) The contract becomes void
- (b) The price is determined by both the parties
- (c) The contract is voidable at the option of the parties
- (d) None of the above

93. Mr. A purchased a certain pigs from Mr. B without any warranty. After sometime the pigs died due to fever, then —

- (a) Mr. A can claim back his money from Mr. B
- (b) Mr. A can ask Mr. B to supply new pigs
- (c) Mr. A can sue Mr. B on account of fraud
- (d) Mr. B is not liable to Mr. A as per the principle of Caveat Emptor

94. Mr. A finds a ring which belongs to Mr. C and sells it to Mr. B. Later on Mr. C demands the ring from B, then —

- (a) B is not liable to return the ring
- (b) C can only sue Mr. A for damages and cannot demand the ring from Mr. B
- (c) Mr. B shall return the ring to Mr. C even though he is a bona-fide purchaser
- (d) None of the above

95. Where the seller after selling the goods holds the goods as a bailee, then it is called as —

- (a) Symbolic delivery (b) Bailed delivery
- (c) Nominal delivery (c) Constructive delivery

96. Where the seller gives the buyer the bills of lading then, it is called as—

- (a) Symbolic delivery (b) Constructive delivery
- (c) Actual delivery (d) None of the above

97. Which of the following rights is not a right of an unpaid seller?
- (a) Right of retention
 - (b) Right of stoppage
 - (c) Right of resale
 - (d) Right to sell the property of the buyer
98. The term C.I.F. stands for —
- (a) Cartage Inwards and Freight
 - (b) Corporate Identity Form
 - (c) Cartage Insurance and Freight
 - (d) Cost Insurance and Freight
99. The contract in which the seller is bound to arrange the shipment of goods is called as —
- (a) Ex-ship contract
 - (b) Cum-ship contract
 - (c) Pre-shipment contract
 - (d) Post shipment contract
100. In an auction sale, if the seller makes use of pretended bidding to raise the price, then the —
- (a) Sale is voidable at the option of the seller
 - (b) Sale is void
 - (c) Sale is voidable at the option of the buyer
 - (d) The buyer is not required to pay the excess amount charged by the seller
101. Which of the following is an implied condition under a sale by description?
- (a) Goods must correspond with the description
 - (b) Goods must be of merchantable quality
 - (c) Condition as to wholesomeness
 - (d) All of the above

102. Which of the following is an implied condition under a sale by sample?

- (a) The bulk shall correspond with the sample
- (b) Implied condition of merchantability
- (c) Both (a) and (b)
- (d) Neither (a) nor (b)

Answer

103. Subject to the contract to the contrary, which of the following is NOT an implied warranty as per the Sale of Goods Act, 1930?

- (a) Warranty as to resale of the goods
- (b) Warranty implied by the custom as usage of trade
- (c) Warranty to disclose dangerous nature of goods
- (d) Warranty as to freedom from encumbrances

104. As per Sec. 45 of the Sale of Goods Act, 1930 an unpaid seller is a person, who—

- (a) Who has not been paid the whole price
- (b) A person who received a bill of exchange which was dishonoured
- (c) Both (a) and (b)
- (d) Neither (a) nor (b)

105. The right of an unpaid seller to keep the possession of the goods and refuse to deliver the goods to the buyer is called —

- (a) Right of refusal
- (b) Right to resale
- (c) Right of lien
- (d) None of the above

106. The right of lien will not be lost in which of the following cases—

- (a) By waiver of lien by the unpaid seller
- (b) When the goods are delivered to the carrier and the seller reserves the right of disposal of goods
- (c) When the buyer lawfully obtains the possession of the goods

(d) None of the above

107. In which of the following case, the transit will not come to an end?

- (a) When the buyer obtains the delivery before they arrive at the destination
- (b) Where the carrier acknowledges that he holds the goods on the behalf of buyer
- (c) When the carrier wrongfully refuses to deliver the goods
- (d) When the goods are rejected by the buyer and the carrier holds them

108. The right to stop the goods in transit can be exercised by the unpaid seller by -

- (a) Taking actual possession of the goods
- (b) Giving notice of the sellers claim to the carrier
- (c) Both (a) and (b)
- (d) Neither (a) nor (b)

109. Right to lien can be exercised by the seller —

- (a) On non-payment of the sale price
- (b) On breach of warranty
- (c) On anticipatory breach
- (d) All of the above

Answers

1	(b)	2	(b)	3	(a)	4	(c)	5	(c)	6	(b)&(d)
7	(c)	8	(a)	9	(b)	10	(b)	11	(C)	12	(c)
13	(a)	14	(c)	15	(a)	16	(a)	17	(C)	18	(d)
19	(a)	20	(a)	21	(c)	22	(a)	23	(d)	24	(a)
25	(c)	26	(b)	27	(d)	28	(d)	29	(a)	30	(a)
31	(d)	32	(c)	33	(c)	34	(d)	35	(a)	36	(c)
37	(a)	38	(b)	39	(a)	40	(a)	41	(b)	42	(b)
43	(b)	44	(d)	45	(d)	46	(b)	47	(a)	48	(a)
49	(b)	50	(a)	51	(b)	52	(a)	53	(b)	54	(c)
55	(b)	56	(b)	57	(d)	58	(c)	59	(d)	60	(c)
61	(b)	62	(a)	63	(c)	64	(b)	65	(a)	66	(b)
67	(d)	68	(b)	69	(d)	70	(b)	71	(d)	72	(d)
73	(b)	74	(c)	75	(c)	76	(c)	77	(d)	78	(b)
79	(d)	80	(a)	81	(b)	82	(a)	83	(b)	84	(c)
85	(b)	86	(b)	87	(a)	88	(c)	89	(a)	90	(d)
91	(b)	92	(a)	93	(d)	94	(c)	95	(c)	96	(a)
97	(d)	98	(d)	99	(a)	100	(c)	101	(d)	102	(c)
103	(a)	104	(c)	105	(c)	106	(b)	107	(d)	108	(c)
109	(a)										