

## The Indian Contract Act, 1872

### Unit-6 :- Contingent & quasi contracts

#### \* Contingent Contract :-

##### Concept :-

- ⇒ A contract may be absolute or a contingent.
- ⇒ An absolute contract is one where the promisor undertakes to perform the contract in any event without any condition.

##### Definition (Sec 31) :-

- ⇒ "A contract to do or not to do some-thing, if some event collateral to such contract, does or does not happen".

NOTE:- Contracts of insurance are of this class.

Example 1:- A contract to pay B Rs. 1,00,000 if B's house is destroyed by fire. This is a contingent contract.

Collateral Event :- "an event which is neither a performance directly promised as a part of the contract, nor the whole of the consideration for a promise".

Example 2 :- A contracts to pay B Rs. 1,00,000 if B's house is burnt. This is an contingent contract. Here the burning of the B's house is neither a performance promised as part of the the contract nor it is the consideration obtained from B. The liability of A arises only on the happening of the collateral event.

### \* Essentials of a Contingent Contract :-

- (1) The performance of a contingent contract would depend upon the happening or non-happening of some event or condition.
- (2) The event on which the performance is made to depend, is an event collateral to the contract.

Example 3:- Where A agrees to deliver 100 bags of wheat and B agrees to pay the price only afterwards, the contract is conditional contract and not contingent; because the event on which B's obligation is made to depend is part of the promise itself and not a collateral event.

Example 4:- Similarly, A where A promises to pay B Rs. 1,00,000 if he marries C, it is not a contingent contract.

③. The contingent event should not be the mere will of the promisor.

Example 5:- A promises to pay B Rs. 10,000 if A left Delhi for Bombay on a particular day, it is a contingent contract, because going to Bombay is an event no doubt within A's will, but is not merely his will.

④. The event must be uncertain:- where the event is certain or bound to happen, the contract is due to be performed, then it is not contingent contract.

Example 6:- 'A' agreed to sell his agriculture land to 'B' after obtaining the necessary permission from the collector. As a matter of course, the permission was generally granted on the fulfilment of certain formalities. It was held that the contract was not a contingent contract as the grant of permission by the collector was almost a certainty.

\* Rules Relating to Enforcement:-

1. Based on happening of an event (Sec. 32) :-

=> Contingent contracts depends on the happening of an uncertain future event cannot be enforced until until the event has happened. If the event becomes ~~voidable~~ impossible, such contracts become void.

Example 7:- X entered into a contract with Y to purchase X's buffalo, if X survived Z. In view of the ~~said~~ said principal of law, the contract, in the instant case, could not be informed by law unless

and until Z dies during the life-time of X.

Example 8:- A contract to pay B a sum of money when B marries C. C dies without being married to B. The contract becomes void.

② Based on non-happening of an event (Sec. 33):-

⇒ Where a contingent contract is to be performed based on the non-happening of an event, its performance can be enforced when the happening of event becomes impossible.

Example 9:- P agrees to pay a sum of money, if a certain ship does not return. The ship was sunk. The contract could be enforced as the ship would never return in the circumstances.

③ Based on the behavior of a person within the specified time (Sec. 34):-

⇒ If a contract is based upon how a person will act within a specified time, the event shall be

Considered to become impossible when such person does anything which renders it impossible that he should so act within any definite time, or otherwise then under further contingencies.

Example 10:- A agrees to pay B a sum of money if A marries C, C marries D. The marriage of A to C is now to be considered impossible, although it is possible that D may die and that C may afterwards marry A.

④ Based on the happening of an event within the specified time (Sec. 35):-

⇒ Contingent contracts to do or not to do anything on the happening of a specified uncertain event within a fixed time become void if:-

⇒ At, the expiration of the time fixed, such event has not happened; or

⇒ If, before the time fixed, such event becomes impossible.

Example 11:- A promises to pay B a sum of money if certain ship returns within a year. The contract may be enforced if the ship returns within the year, and becomes void if the ship is burnt within the year.

⑤ Based on the non-happening of an event within the specified time (Sec. 35):-

⇒ Contingent contracts to do or not to do anything if a specified uncertain event does not happen within a fixed time, may be enforced by law:-

→ When the time fixed has expired and such event has not happened; or

→ Before the time fixed has expired if it becomes certain that such event will not happen.

Example 12:- A promises to pay B a sum of money if a certain ship does not return within a year. The contract may be enforced if the ship does not return within the year, or is burnt within the year.

⑥ Based on the happening of an impossible event (sec. 36):-

⇒ Contingent agreements to do or not to do anything, if an impossible event happens, are void, whether the impossibility of the event is known or not ~~to~~ known to the parties to the agreement at the time when it is made.

Example 13:- X agrees to pay Y Rs. 1000 if two straight lines should enclose a space. The agreement is void.

Example 14:- A agrees to pay B Rs. 1,000 if B will marry A's daughter C. C was dead at the time of agreement. The agreement is void.

\* Difference between ~~con~~ Contingent and Wagering Contract :-

Basis	Contingent Contract	Wagering Contract
Meaning	A contract to do or not to do something if some event, collateral to such contract does or does not happen.	A wagering agreement is a promise to give money or money's worth upon the determination as or ascertainment of an uncertain event.



Uncertain Event	In a contingent contract the event is only collateral.	In a wagering agreement the uncertain event is the sole determining factor.
Nature.	A contingent contract may not be of a wagering nature.	A wagering agreement is essentially of a contingent nature.
Validity	valid	Void.
Game of Chance.	Contingent contract is not a game of chance.	A wagering agreement is a game of chance.

### \* Quasi Contract :-

meaning:- Under certain special circumstances, the law creates and enforces legal rights and obligations although the parties have never entered into a contract. Such obligations imposed by law are called quasi contracts.

⇒ Quasi contracts are based on principles of equity, justice and good conscience.

⇒ A quasi or constructive contract rests upon the maxim, "No man must grow rich out of another person's loss"

Example 15:- T, a tradesman, leaves goods at C's house by mistake. C treats the goods as his own. C is bound to pay for the goods.

Example 16:- A pays some money to B by mistake. It is really due to C. B must refund the money to A.

Example 17:- A fruit parcel is delivered under a mistake to R who consumes the fruits thinking them as birthday present. R must return the parcel or pay for the fruits. Although there is no agreement between R and the true owner, yet he is bound to pay as the law regards it a Quasi Contract.

\* Types of Quasi Contract :-

(a) Claims for necessities supplied to a person incompetent to contract (Sec. 68):-

Example 18:- A supplies B, a lunatic, with necessities suitable to his condition in life. A is entitled to be reimbursed from B's property.

Following points should be noted:-

- ⇒ The goods supplied must be necessaries.
- ⇒ It is only the property (movable or immovable) of incapable person that shall be liable.

(b) Right to recover money paid for another person (Sec 69):-

- ⇒ A person who has paid a sum of money which another is obliged to pay, is entitled to be reimbursed by that other person provided the payment has been made by him to protect his own interest.

Example 19:- X holds a land in Rajasthan, on a lease granted by X, the zamindar. The land revenue due on X being in arrears to the govt., advertised by the govt. for the sale. Under the land revenue law such sale will be the annulment of X's lease. X to prevent the sale and the consequent annulment of his own lease, pays the government the same due from X. Y is bound to make good to X the amount so paid.

### (c) Obligation of person enjoying benefits of non-gratuitous act (Sec. 70):-

⇒ In term of Section 70 of the Act "where a person lawfully does anything for another person, or delivers anything to him not intending to do so gratuitously and such other person enjoys the benefit thereof, the latter is bound to pay compensation to the former in respect of, or to restore, the thing so done or delivered."

Example 20:- A, a tradesman, leaves goods at B's house by mistake. B treats the goods as his own. He is bound to pay A for them.

### (d) Responsibility of finder of goods (Sec. 71):-

⇒ 'A person who finds goods belonging to another and takes them into his custody is subject to same responsibility as if he were a bailee'.

Thus, a finder of lost goods has:-

⇒ to take proper care of the property

as man of ordinary prudence would take.

- => no right to appropriate the goods and
- => to restore the goods if the owner is found.

Example 21:- P, a customer in D's shop, puts down a bracelet brooch with her coat and forgets to pick it up. One of D's assistants found it and it was placed in a drawer over the weekend. On Monday, it was discovered as missing. D was liable to P in view of the absence of that ordinary care which in the circumstances, a prudent man would have taken.

(e) liability for money paid or thing delivered by mistake or under coercion (Sec. 72):-

- => A person to whom money has been paid, or anything delivered, by mistake or under coercion must repay or return it.

Example 22:- A and B jointly owe Rs. 100 to C, A alone pays the amount to C, and B, not knowing this fact, pays 100 rupees over again to C. C is bound to repay the amount to B