

**2000 - May [4] (i) What are implied contracts? State the various implied contracts.** (10 marks)

**Answer:**

Under certain circumstances, a person may receive a benefit to which the law regards another person as better entitled, or for which the law considers he should pay to the other person, even though there is no contract between the parties. Such relationships are termed as "Quasi-Contracts" or Implied Contracts. A quasi contract rests on the ground of equity that a person shall not be allowed to enrich himself unjustly at the expense of another.

**Sections 68 to 72 of the Indian Contract Act, 1872** have prescribed the following relationships creating quasi-contractual relationship:

- 1. Supply of necessaries:** Under Section 68, if a person, incapable of entering into a contract, or anyone whom he is legally bound to support, is supplied by another person with necessaries suited to his conditions in life, the person who has furnished such supplies is entitled to be reimbursed from the property of such incapable person.
- 2. Payment by an interested person:** It has been laid down in Section 69 of the Indian Contract Act that a person who is interested in the payment of money which another is bound by law to pay, and who therefore pays it, is entitled to be reimbursed by the other.
- 3. Obligation to pay for non-gratuitous Act:** Section 70 of the Indian Contract Act states that 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 make compensation in respect of or to restore, the things so done or delivered.
- 4. Responsibility of finder of goods:** Under Section 71 of the Act, a person who finds goods belonging to another, and takes them into his custody, is subject to the same responsibility as a bailee.
- 5. Case where money is paid by mistake or under coercion:** Finally, Section 72 of the Indian Contract Act provides that a person to whom money has been paid, or anything delivered, by mistake or under coercion, must repay or return it. Thus, quasi-contractual right is always

a right to money and generally, though not always to a liquidated sum of money. It does not arise from any agreement between the parties concerned, but is imposed by the law. It is a right which is not available against whole world but against a particular person or persons only. There is no contract between the parties in cases of quasi contracts, yet they are put in the same position as if there were a contract between them.

**2000 - Nov [3] (a) State the rules relating to acceptance of a Contract.** (10 marks)

**Answer:**

**Rules Relating to Acceptance of a Contract:** The Indian Contract Act, 1872 specifies the following rules relating to the acceptance of a contract. It means that a valid contract can be made only by adhering to the following rules relating to the acceptance of an offer. These are:

- 1. Acceptance must be absolute and unqualified:** Acceptance shall be valid only when it is absolute and unqualified and is expressed in some usual and reasonable manner, unless the proposal prescribes the manner in which it is to be accepted.
- 2. Acceptance must be communicated to the offeror:** Acceptance must be brought to the knowledge of the offeror. Unless the offeror knows about the acceptance, he can not be bound by the acceptance given by the offeree. Mere silence is no acceptance.
- 3. Acceptance must be in the mode prescribed:** Where the mode of acceptance has been prescribed in the proposal, it must be accepted in the manner prescribed, otherwise it shall not bind the offeror. However, the offeror may later on waive this condition and bound himself from the acceptance not given in the prescribed mode.
- 4. Time:** Acceptance must be given within the prescribed time and where no time is prescribed, within the time which is reasonable and does not allow the offer to lapse.
- 5. Acceptance may be expressed i.e. words of mouth or in writing, or even implied i.e. by conduct of the party concerned.**



6. **Acceptance must be made by the person to whom the offer is made:** Acceptance given by some other person or even on behalf of the person to whom the offer is made, is not valid acceptance.
7. It cannot precede an offer. If it does, it is not a valid acceptance and does not result in a contract.
8. It must show an intention on the part of the acceptor to fulfil the terms of offer.
9. It must be given before the offer lapses or before the offer is withdrawn.

2002 - May [5] (a) **When does an offer come to an end?** (5 marks)

**Answer:**

An offer may come to an end by revocation or lapse or rejection. According to Section 6 and 7 of the Indian Contract Act, 1872, an offer comes to an end in the following cases:

1. If the offerer revokes his offer before it has been accepted by the offeree, the offer comes to an end.
  2. The offer comes to an end of it is not accepted within the time fixed in the offer, or within a reasonable time as the case may be. What is a reasonable time is a question of fact.
  3. If there is a condition mentioned in the proposal, before the fulfillment of which the acceptor can not accept the proposal, the offer will automatically be revoked of the acceptor fails to fulfill that condition precedent.
  4. If the fact of the death or insanity of the proposer comes to the knowledge of the acceptor before acceptance, the offer of proposal is revoked. (Section 6)
- Sometimes, the mode of acceptance is specifically prescribed in the offer. In such a case, if the proposal is not accepted in the prescribed form or method, it stands revoked. [Section 7(2)]
- An offer comes to an end as soon as it is rejected by the offeree.
- An offer lapses if it becomes illegal before it is accepted.

- Nov [2] Comment on the following:

All contracts are agreements, but all agreements are not contracts. (5 marks)

**Answer:**

**"All contracts are agreements, but all agreements are not contracts".**  
 An agreement comes into existence when one party makes a proposal or offer to the other party and that other party gives his acceptance to it. A contract is an agreement enforceable by law. It means that to become a contract an agreement must give rise to a legal obligation i.e. duty enforceable by law. If an agreement is incapable of creating a duty enforceable by law, it is not a contract. There can be agreements which are not enforceable by law, such as social, moral or religious agreements. The agreement is a wider term than the contract. All agreements need not necessarily become but all contracts shall always be agreements.

**All agreements are not contracts:** When there is an agreement between the parties and they do not intend to create a legal relationship, it is not a contract. For example, A invites B to see a football match and B agrees. But A could not manage to get the tickets for the match, now B cannot enforce this promise against A i.e. no compensation can be claimed because this was a social agreement where there was no intention to create a legal relationship.

**All contracts are agreements:** For a contract there must be two things (a) an agreement and (b) enforceability by law. Thus existence of an agreement is a pre-requisite for existence of a contract. Therefore, it is true to say that all contracts are agreements.

Thus, we can say that there can be an agreement without it becoming a contract, but we can't have a contract without an agreement.

2018 - Nov [6] (a) Explain the modes of revocation of an offer as per the Indian Contract Act, 1872. (5 marks)

**Answer:**

The modes of revocation of an offer as per the Indian Contract Act, 1872 are:

- (i) By notice of revocation
- (ii) **By lapse of time :**

The time for acceptance can lapse if the acceptance is not given within the specified time and where no time is specified, then within a reasonable time. This is for the reason that proposer should not be made to wait indefinitely.



- (iii) By non-fulfilment of condition precedent where the acceptor fails to fulfill a condition precedent to acceptance the proposal gets revoked. This principle is laid down in Section 6 of the Act. The offer or for instance may impose certain conditions such as executing a certain document or depositing certain amount as earnest money.
- (iv) By death or insanity
- (v) By counter offer
- (vi) By the non-acceptance of the offer according to the prescribed or usual mode
- (vii) By subsequent illegality.

**2021 - Jan [2]** (a) Define the term acceptance under the Indian Contract Act, 1872. Explain the legal rules regarding a valid acceptance. (7 marks)

**Answer:**

**Definition of Acceptance:**

In terms of Section 2(b) of the Indian Contract Act, "the term acceptance" is defined as follows:

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

**Analysis of the above definition**

1. When the person to whom proposal is made - **for example** if A offers to sell his car to B for ₹ 2,00,000. Here, proposal is made to B.
2. The person to whom proposal is made i.e. B in the above **example** and if B signifies his consent on that proposal, then we can say that B has signified his consent on the proposal made by A.
3. When B has signified his consent on that proposal, we can say that the proposal has been accepted.
4. Accepted proposal becomes promise.

**Legal Rules regarding a valid acceptance**

- (1) **Acceptance can be given only by the person to whom offer is made:** In case of a specific offer, it can be accepted only by the person to whom it is made. [Boulton vs. Jones (1857)] *Case Law: Boulton vs. Jones (1857)*

**Facts:** Boulton bought a business from Brocklehurst. Jones, who was Brocklehurst's creditor, placed an order with Brocklehurst for the supply of certain goods. Boulton supplied the goods even though the order was not in his name. Jones refused to pay Boulton for the goods because he intended to set off his debt against Brocklehurst, he intended to set off his debt against Brocklehurst. Held, as the offer was not made to Boulton, entering into the contract with Brocklehurst and Jones. therefore, there was no contract between Boulton and Jones. In case of a general offer, it can be accepted by any person who has knowledge of the offer. [Carlill vs. Carbolic Smoke Ball Co. (1893)]

(2) **Acceptance must be absolute and unqualified:** As per section 7 of the Act, acceptance is valid only when it is absolute and unqualified and is also expressed in some usual and reasonable manner unless the proposal prescribes the manner in which it must be accepted. If the offer is also expressed in some usual and reasonable manner unless the proposal prescribes the manner in which it must be accepted, then it must be accepted accordingly.

M offered to sell his land to N for ₹ 280. N replied purporting to accept the offer but enclosed a cheque for ₹ 80 only. He promised to pay the balance of ₹ 200 by monthly instalments of ₹ 50 each. It was held that N could not enforce his acceptance because it was not an unqualified one. [Neale vs. Merret [1930] W. N. 189].

A offers to sell his house to B for ₹ 1,00,000/-. B replied that, "I can pay ₹ 80,000 for it. The offer of "A" is rejected by "B" as the acceptance is not unqualified. B however changes his mind and is prepared to pay ₹ 1,00,000/-. This is also treated as counter offer and it is upto A whether to accept it or not. [Union of India v. Bahulal AIR 1968 Bombay 294].

**Example:** "A" enquires from "B", "Will you purchase my car for ₹ 2 lakhs?" If "B" replies "I" shall purchase your car for ₹ 2 lakhs, if you buy my motorcycle for ₹ 50,000/-, here "B" cannot be considered to have accepted the proposal. If on the other hand "B" agrees to purchase the car from "A" as per his proposal subject to availability of valid Registration Certificate / book for the car, then the acceptance is in place though the offer contained no mention of R.C. book. This is because expecting a valid title for the car is not a condition. Therefore, the acceptance in this case is unconditional.

- (3) **The acceptance must be communicated:** To come between the parties, the acceptance must be communicated in some perceptible form. Any conditional acceptance or acceptance on too deviant conditions is no acceptance. Such condition is a counter proposal and has to be accepted by the offeror. The original proposal has to materialize into a contract only if the counter proposal is accepted, the offeree must have the knowledge of the counter proposal. If he does not have the knowledge of the counter proposal, the acceptance must relate specifically to the original proposal. Then only it can materialize into a contract. The acceptance must be clear from the following examples: Brogden vs. Great Northern Railway Co. (1877)

**Facts:** B a supplier, sent a draft agreement relating to the Manager of Railway Co. viz, Metropolitan Railway Co. acceptance. The manager wrote the word "Approved" on the draft agreement and put the draft agreement in the drawer of the table. The company's solicitors for a formal contract to sign the draft agreement remained in drawer. The contract as the manager had not communicated to the supplier, B.

Where an offer made by the intended offeree is not accepted, an offer has been made to him cannot be considered as acceptance thereto. (Bhagwandas v. Girdharilal)

A mere variation in the language not in the substance would not make the acceptance invalid. [Knight [1864] 144 ER 120].

**Example:** A proposed B to marry him. B is ready to marry him. But his sister didn't accept the proposal.

There is no contract as acceptance was not communicated. (4) **Acceptance must be in the prescribed manner:** acceptance is prescribed in the proposal. But if the proposer does not







**Example:** "A" subscribed for the weekly magazine for one year. Even after expiry of his subscription, the magazine company continued to send him magazine for five years. And also "A" continued to use the magazine but denied to pay the bills sent to him. "A" would be liable to pay as his continued use of the magazine was his acceptance of the offer.

(7) **Acceptance by conduct/Implied Acceptance:** Section 8 of the Act lays down that "the performance of the conditions of a proposal, or the acceptance of any consideration for a reciprocal promise which may be offered with a proposal, constitutes an acceptance of the proposal. This section provides the acceptance of the proposal by conduct as against other modes of acceptance i.e. verbal or written communication. Therefore, when a person performs the act intended by the proposer as the consideration for the promise offered by him, the performance of the act constitutes acceptance.

**Example:** when a tradesman receives an order from a customer and executes the order by sending the goods, the customer's order for goods constitutes the offer, which has been accepted by the trades man subsequently by sending the goods. It is a case of acceptance by conduct.

**Example:** When a cobbler sits with a brush and polish, a person giving his shoes for polishing constitutes as acceptance by conduct.

**PRACTICAL QUESTION**

2018 - Nov [3] (b) (i) Mr. Ramesh promised to pay ₹ 50,000 to his wife Mrs. Lali so that she can spend the sum on her 30<sup>th</sup> birthday. Mrs. Lali insisted her husband to make a written agreement if he really loved her. Mr. Ramesh made a written agreement and the agreement was registered under the law. Mr. Ramesh failed to pay the specified amount to his wife Mrs. Lali. Mrs. Lali wants to file a suit against Mr. Ramesh and recover the promised amount. Referring to the applicable provisions of the Contract Act, 1872, advise whether Mrs. Lali will succeed. (3 marks)

(ii) A shop-keeper displayed a pair of dress in the show-room and a price tag of ₹ 2,000 was attached to the dress. Ms. Lovely, looked at the tag and rushed to the cash counter. Then she asked the shop-keeper to receive the payment and pack up the dress. The shop-keeper refused to hand-over the dress to Ms. Lovely in consideration of the price stated in the price tag attached to the dress. Ms. Lovely seeks your advice whether she can sue the shop-keeper for the above cause under the Indian Contract Act, 1872. (3 marks)

**Answer:**  
 (i) **Parties must intend to create legal obligations:** There must be an intention on the part of the parties to create legal relationship between them. Social or domestic type of agreements are not enforceable in court of law and hence they do not result into contracts.

In the given question, Mr. Ramesh promised to pay ₹ 50,000 to his wife so that she can spend the same on her birthday. However, subsequently, Mr. Ramesh failed to fulfill the promise, for which Mrs. Lali wants to file a suit against Mr. Ramesh. Here, in the given circumstance wife will not be able to recover the amount as it was a social agreement and the parties did not intend to create any legal relations.  
 (ii) The offer should be distinguished from an invitation to offer. An offer is definite and capable of converting an intention in to a contract. Whereas an invitation to an offer is only a circulation of an offer, it is an attempt to induce offers and precedes a definite offer. Where a party, without expressing his final willingness, proposes certain terms on which he is willing to negotiate, he does not make an offer, but invites only the other party to make an offer on those terms. This is the basic distinction between offer and invitation to offer.

The display of articles with a price in it in a self-service shop is merely an invitation to offer. It is in no sense an offer for sale, the acceptance of which constitutes a contract. In this case, Ms. Lovely by selecting the dress and approaching the shopkeeper for payment simply made an offer to buy the dress selected by her. If the shopkeeper does not accept the price, the interested buyer cannot compel him to sell.

2021 - Jan [3] (c) Mr. B makes a proposal to Mr. S by post to sell for ₹ 10 lakhs and posted the letter on 10<sup>th</sup> April 2020 and the letter reached to Mr. S on 12<sup>th</sup> April 2020. He reads the letter on 13<sup>th</sup> April 2020. Mr. S sends his letter of acceptance on 16<sup>th</sup> April 2020 and the letter reached to Mr. B on 20<sup>th</sup> April 2020. On 17<sup>th</sup> April Mr. S changed his mind and sent telegram withdrawing his acceptance. Telegram reaches to Mr. B on 18<sup>th</sup> April 2020.

Examine with reference to the Indian Contract Act, 1872:  
 (i) On which date, the offer made by Mr. B will complete?  
 (ii) Discuss the validity of acceptance  
 (iii) What would be validity of acceptance if letter of revocation and letter of acceptance reached together?

**Answer:**

(i) Offer made by Mr. B will be completed on 13 April 2020 as it comes to the knowledge of Mr. S)  
 (ii) Here, acceptance is not valid as he revoked his offer by sending telegram before letter of acceptance reaches Mr. B.  
 (iii) If letter of acceptance and letter of revocation reach at the same two situation may arise.  
 (i) It will be decided on the basis of the letter which reaches first. If he reads acceptance than acceptance is valid. If revocation reaches first than acceptance is revoked.  
 (ii) In absence of any such information revocation is not valid.



... of dress in the show-room and a price ...  
 ... the dress. Ms. Lovely, looked at the tag ...  
 ... Then she asked the shop-keeper to ...  
 ... up the dress. The shop-keeper refused ...  
 ... Ms. Lovely in consideration of the price ...  
 ... to the dress. Ms. Lovely seeks your ...  
 ... the shop-keeper for the above cause ...  
 ... 1872. (3 marks)

**Legal obligations:** There must be an ...  
 ... to create legal relationship between ...  
 ... agreements are not enforceable in ...  
 ... not result into contracts.

... from an invitation to offer. An offer ...  
 ... intention in to a contract ...  
 ... only a circulation of an offer, it is ...  
 ... precedes a definite offer. Where a ...  
 ... willingness, proposes certain terms ...  
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... in a self-service shop is merely ...  
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Examine with reference to the Indian Contract Act, 1872:

- (i) On which date, the offer made by Mr. B will complete?
- (ii) Discuss the validity of acceptance
- (iii) What would be validity of acceptance if letter of revocation and letter of acceptance reached together? (6 marks)

**Answer:**

- (i) Offer made by Mr. B will be completed on 13 April, 2020. (when it comes to the knowledge of Mr. S)
- (ii) Here, acceptance is not valid as he revoked his acceptance by telegram before letter of acceptance reaches Mr. B.
- (iii) If letter of acceptance and letter of revocation reaches together than two situation may arise.
  - (i) It will be decided on the basis of the letter which he reads first like if he reads acceptance than acceptance is valid and if revocation first than acceptance is revoked.
  - (ii) In absence of any such information revocation is absolute.

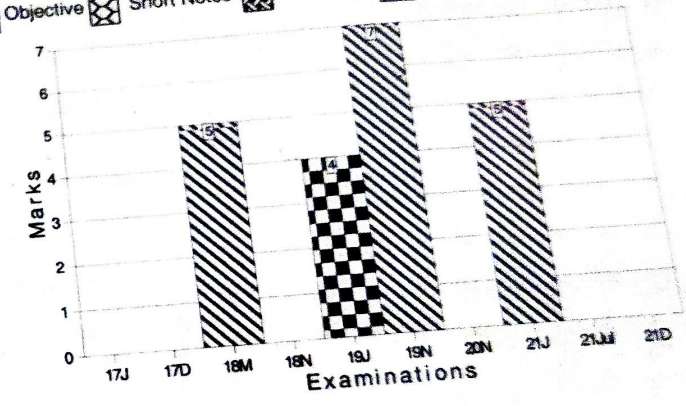
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<b>CHAPTER</b>	<b>The Indian Contract Act, 1872</b>
<b>1</b>	
<b>Consideration</b>	
<b>Unit: 2</b>	

Marks of Objective, Short Notes, Distinguish Between, Descriptive & Practical Questions

**Legend**

Objective	Short Notes	Distinguish	Descriptive	Practical
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