

Unit - 3

- * Minors: ^{from very beginning}
1. An agreement is void-ab-initio agreement.
 2. Cannot be ratified on attaining majority.
 3. Cannot be asked to compensate or pay for any benefit under a void agreement.
 4. Cannot misrepresent his minority.
 5. Cannot enter into partnership.
 6. Cannot be adjusted insolvent.
 7. Parents/Guardians are not liable for the contract entered into by him.
 8. Can be an agent without incurring any personal liability.
 9. In case of joint contract by minor and adult, only adult is liable.
 10. An adult can be surety or guarantor for minor.
 11. A minor may, acting through his lawful guardian become a shareholder.
 12. Minor is liable for torts.

Note: Minor is personally liable for contracts for his benefit or supply of necessities entered by ^{or} guardian within scope of authority.

* Persons of Unsound Mind:

i) Idiomatic:

Unsound all times - cannot contract.

ii) Lunatic:

Generally unsound, sometimes sound - can contract when sound.

iii) Intoxicant:

Generally sound, sometimes unsound - cannot contract when unsound.

* Burden of Proof:

i) Lunatic:

Proving of sound mind at the time of contract lies on the person who affirms it.

ii) Intoxicant:

Proving of unsound mind at the time of contract lies on the person who affirms it. Challenges the validity of the contract.

* Disqualified by Law:

i) Alien Enemy

ii) Enemy Sovereigns (Rulers)

iii) Corporations

iv) Insolvents

v) Convicts.

* Consent :

⇒ "Two or more persons are said to consent when they agree upon the same thing in the same senses (Consensus- ad- idem)"

⇒ When there is no contract consent, there is no contract.

* Free Consent: (Sec. 14)

Consent is said to be free when it is not caused by-

- i), Coercion
- ii), Undue Influence
- iii), Fraud
- iv), Misrepresentation
- v), Mistake

* Coercion : (Sec. 15)

- i), Committing or threatening to commit any act forbidden by IPC.
- ii), Unlawful detaining or threatening to detain any property.

⇒ Consequences :

- i), Voidable at the option of party whose consent was so caused.
- ii), Person to whom money is paid or thing delivered under coercion must repay or return it.

=> Burden of proof:
Lies on the aggrieved party.

=> Note: Threat to commit suicide is Coercion.

* Undue Influence: (Sec. 16)

One party is in the position to dominate the will of other and it takes unfair advantages of relation.

=> Consequences:

i) Voidable at the option of party whose consent was so caused.

ii) Such contract may be set aside either absolutely or if the party who is entitled to avoid it has received any benefit thereunder, upon such terms and conditions as to the court may seem just and equitable.

=> Burden of proof:
Lies on the aggrieved party.

* Fraud: (Sec. 17)

i) knowingly make a false suggestion.

ii) Active concealment of a fact.

iii) Promise without any intention of performance.

iv) Any other act fitted to deceive.

v) Act or omission declared by law as fraud.

=> Essentials:

1. The representation must be false.
2. Misrepresentation must be made willfully.
3. Misrepresentation must be made with intention to deceive the other party.
4. The other party is actually deceived.
5. The other party has suffered a loss.

=> Note: Silence amounts to fraud where;

- i) There is duty to speak.
- ii) His silence is speech.

=> Consequences:

1. Party can rescind the contract.
2. Party can insist for the genuine performance of the contract.
3. Party can sue for damages.

=> Note: If party takes any benefit, contract is not voidable.

* Misrepresentation: (Sec 18)

- i) Party makes a representation.
- ii) Representation must be false.
- iii) Misrepresentation must be made innocently.
- iv) Misrepresentation was not made with intention to deceive the other party.
- v) The other party has actually acted.

=> Consequences :

1. Party can rescind the contract.
2. Party can insist for the genuine performance of the contract.

* Mistake : (Sec. 20 to Sec. 22)

=> Mistake of Law:

- i) Mistake of law of the country - Contract is not voidable.
- ii) Mistake of law of a foreign country - Contract is void.

=> Mistake of fact:

- i) Bilateral Mistake - Both parties are under mistake - Contract is void.
- ii) Unilateral Mistake - One party under mistake - Contract is neither void nor voidable.

* Unlawful Object & Consideration : (Sec. 23)

1. Agreements to do something forbidden by law.
2. Agreements which defeats the provision of any law.
3. Agreement is fraudulent.
4. Agreements involves or implies injury to the person or property of another.
5. If the Court regards agreement as immoral.
6. Where the courts regards agreement as opposed to public policy.

- * Agreement as opposed to public policy:
1. Agreements of trading with enemy.
 2. Agreement of stifling prosecution.
 3. Maintenance and champerty.
 4. Interference with the course of justice.
 5. If the Court regards a Marriage brokerage.
 6. Interest against obligation.
 7. Agreement for the sale public office.
 8. Agreements tending to create monopolies.

- * Void Agreements:
- a) By incompetent parties (Sec. 11)
 - b) Made under a mutual mistake of fact (Sec. 20)
 - c) The consideration or object of which is unlawful (Sec. 23).
 - d) The consideration or object of which is unlawful in part (Sec. 24)
 - e) Made without consideration (Sec. 25)
 - f) In restraint of marriage (Sec. 26)
 - g) In restraint of trade (Sec. 27)
 - h) In restraint of legal proceedings (Sec. 28)
 - i) The meaning of which is uncertain (Sec. 29)
 - j) By way of Wager (Sec. 30) [Wagering]
 - k) Contingent on impossible events (Sec. 36)
 - l) To do impossible act (Sec. 56)