IMPORTANT CASE LAW

CARLILL Vs. CARNOLIC SMOKE BALL CO.

Fact of the case:

In this famous case, Carbolic smoke Ball Co. advertised in several newspapers that a reward of £100 would be given to any person who contracted influenza after using the smoke balls produced by the Carbolic Smoke Ball Company according to printed directions. One lady, Mrs. Carlill, used the smoke balls as per the directions of company and even then suffered from influenza.

Decision:

Held, she could recover the amount as by using the smoke calls she had accepted the offer. In terms of Sec. 8 of the Indian Contract Act, anyone performing the conditions of the offer can be considered to have accepted the offer. Until the general offer is retracted or withdrawn, it can be accepted by anyone at any time as it is a continuing offer.

LALMAN SHUKLA Vs. GAURI DUTT

Fact of the case:

Gauri Dutt sent his servant Lalman to trace his missing nephew. He then announced that anybody who traced his nephew would be entitled to a certain reward. Lalman traced the boy in ignorance of this announcement. Subsequently when he came to know of the reward, he claimed it.

Decision:

Held, he has not entitled to the reward, as he did not know the offer. Section 4 of the Indian Contract Act states that the communication of a proposal is complete when it comes to the knowledge of the person to whom it is made.

In Lalman case, the defendant's nephew absconded from home. The plaintiff who was defendant's servant was sent to search for the missing boy.

After the plaintiff had left in search of the boy, the defendant announced a reward of ₹ 501 to anyone who might find out the boy. The plaintiff who was unaware of this reward, was successful in searching the boy. When he came to know of the reward, which had been announced in his absence, he brought an action against

the defendant to claim this reward. It was held that since the plaintiff was ignorant of the offer of reward, his act of bringing the lost boy did not amount to the acceptance of the offer and therefore he was not entitled to claim the reward.

BOULTON Vs. JONES

Fact of the case:

Boulton had taken over the business of one Brocklehurst, with whom Jones had previous dealings. Jones snet an order for goods to Brocklehurst, which Boulton supplied without informing Jones that the business had changed hands. When Jones found out that the goods had not come from Brocklehurst, he refused to pay for them and was sued by Boulton for the price.

Decision:

Jones is not liable to pay for the goods. It is a rule of law that offer made to a specific / ascertained person can be accepted only by that specified person.

HARVEY Vs. FACIE

Fact of the case:

In this case, Privy Council briefly explained the distinction between an offer and an invitation to offer. In the given case, the plaintiffs through a telegram asked the defendants two questions namely,

(i) Will you sell us Bumper Hall Pen? And

(ii) Telegraph lowest cash price.

The defendants replied through telegram that the "lowest price for Bumper Hall Pen is £900". The plaintiffs sent another telegram stating "we agree to buy Bumper Hall Pen at £900". However, the defendants contending that they had made an offer to sell the property at £900 and therefore they are bound by the offer.

Decision:

Held that the mere statement of the lowest price at which the vendor would sell contained no implied contract to sell to the person who had enquired about the price.

MAC PHERSON Vs. APPANNA

Fact of the case:

The owner of the property had said that he would not accept less than ₹ 6000/- for it.

Decision:

It was held that this statement did not indicate any offer but indicated only an invitation to offer.

HARRIS Vs. NICKERSON

Fact of the case:

An auctioneer advertised in a newspaper that a sale of office furniture will be held on a particular day. Plaintiff (Harris) with the intention to buy furniture came from a distant place for auction but the action was cancelled.

Decision:

It was held that plaintiff cannot file a suit against the auctioneer for his loss of time and expenses because the advertisement was merely a declaration of intention to hold auction and not an offer to sell. The auctioneer (Nickerson) does not contract with any one who attends the sale. The auction is only an advertisement to sell but the items are not put for sale though persons who have come to the auction may have the intention to purchase.

PHARMA-CEUTICAL SOCIETY OF GREAT BRITAIN Vs. BOOTS CASH CHEMISTS LTD.

Fact of the case:

The goods were displayed in the shop for sale with price tags attached on each article and self service system was there. One customer selected the goods but the owner refused to sell.

Decision:

In this case, it was held that display of goods alongwith price tags merely amounts to invitation to treat and therefore if an intending buyer is willing to purchase the goods at a price mentioned on the tag, he makes an offer to buy the goods. Thus, the shopkeeper has the right to accept or reject the same. They contract would

arise only when the offer is accepted. Hence there was no contract and customer had no rights to sue the owner.

FELTHOUSE Vs. BINDLEY

Fact of the case:

F offered by letter to buy a nephews horse, saying; "if I hear no more about it, I shall consider the horse mine." The nephew did not reply but he told an auctioneer not to sell that particular horse as he had sold it to his uncle. By mistake, the auctioneer sold the horse. F sued for conversion against his nephew.

Decision:

Held, F could not succeed as his nephew had not communicated acceptance and there was no contract.

NEALE Vs. MERRET

Fact of the case:

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 installments of £50 each.

Decision:

It was held that N could not enforce his acceptance because it was not an unqualified one.

BROGDEN Vs. METROPOLITAN RAIWAY CO.

Fact of the case:

Brogden a supplier, sent a draft agreement relating to the supply of coal to the manager of railway co. viz, metropolitan railway for his acceptance. The manager wrote the word "Approved" on the same and put the draft agreement in the drawer of the table intending to send it to the company's solicitors for a formal contract to be drawn up. By an over sight the draft agreement remained in drawer.

Decision:

Held, that there was no contract as the manager had not communicated his acceptance to the supplier, Brogden.

LILLY WHITE Vs. MANNUSWAMY

Fact of the case:

Plaintiff delivered some clothes to drycleaner for which she received a laundry receipt containing a condition that in case of loss, customer would be entitled to claim 15% of the market price of value of the article, Plaintiff lost her new saree.

Decision:

Held, the terms were unreasonable and plaintiff was entitled to recover full value of the saree from the drycleaner. The receipt carries special conditions and are to be treated as having been duly communicated to the customer and therein a tacit acceptance of these conditions is implied by the customer's acceptance of the receipt.

CHINNAYYA Vs. RAMAYYA

Fact of the case:

An old lady made a gift of her property to her daughter with a direction to pay a certain sum of money to the maternal uncle by way of annuity. On the same day, the daughter executed a writing in favour of the maternal uncle and agreeing to pay him annuity. The daughter did not, however, pay the annuity and the uncle sued to recover it.

Decision:

It was held that there was sufficient consideration for the uncle to recover the money from the daughter.

DURGA PRASED Vs. BALDEO

Fact of the case:

D (defendant) promised to pay to P (plaintiff) a certain commission on articles which would be sold through their agency in a market. Market was constructed by P at the desire of the C (collector), and not at the desire of the D (promisor).

Decision:

D was not bound to pay commission as it was without consideration and hence void.

MOHORI BIBI Vs. DHARMO DAS GHOSE

Fact of the case:

A, a minor borrowed ₹ 20,000 from B and as a security for the same executed a mortgage in his favour. He became a major a few months later and filed a suit for the declaration that the mortgage executed by him during his minority was void and should be cancelled.

Decision:

It was held that a mortgage by a minor was void and B was not entitled to repayment of money.

SAIN DAS Vs. RAM CHAND

Fact of the case:

Where there was a join purchase by two purchaser, one of them was minor.

Decision:

It was held that the vendor could enforce the contract against the major purchaser and not the minor.

WORD Vs. HOBBS

Fact of the case:

H sold to W some pigs which were to his knowledge suffering from fever. The pigs were sold 'with all faults' and H did not disclose the fact of fever to W.

Decision:

Held there was no fraud

PEEK Vs GURNEY

Fact of the case:

The prospectus issued by a company did not refer to the existence of a document disclosing liabilities. The impression thereby created was that the company was a prosperous one, which actually was not the case.

Decision:

Held the suppression of truth amounted to fraud.

REGIER Vs CAMPBELL STAURT

Fact of the case:

A broker was asked to buy shares for client. He sold his own shares without disclosing this fact.

Decision:

Held that the client was entitled to avoid the contract or affirm it with a right to claim secret profit made by broker on the transaction since the relationship between the broker and the client was relationship of utmost good faith.

HADLEY Vs BAXENDALE

Fact of the case:

The crankshaft of P's flour mill had broken. He gives it to D, a common carrier who promised to deliver it to the foundry in 2 days where the new shaft was to be made. The mill stopped working, D delayed the delivery of the crankshaft so the mill idle for another 5 days. P received the repaired crankshaft 7 days later than he would have otherwise received. Consequently, P sued D for damages not only for the delay in the delivering of the broken part but also for loss of profits suffered by the mill for not having been worked.

Decision:

The court held that P was entitled only to ordinary damages and D was not liable for the loss of profits because the only information given by P to D was that the article to be carried was the broken shaft of a mill and it was not made known to them that the delay would result in loss of profits.

SHYAMLAL Vs STATE OF U.P

Fact of the case:

'S' a government servant was compulsorily retired by the government. He filed a writ petition and obtained an injunction against the order. He was reinstated and was paid salary but was given no work and in the mean time government went on appeal.

Decision:

The appeal was decided in favour of the government and 'S' was directed to return the salary paid to him during the period of reinstatement.

HOLLINS Vs HOWLER L.R. & H.L.,

Fact of the case:

H' picked up a diamond on the floor of 'F's shop and handed over the same to 'F' to keep till the owner was found. In spite of the best efforts, the true owner could not be traced. After the lapse of some weeks, 'H' tendered to 'F' the lawful expenses incurred by him and requested to return the diamond to him. 'F' refused to do so.

Decision:

Held that 'F' must return the diamond to 'H' as he was entitled to retain the goods found against everybody except the true owner.

TRIKAMDAS Vs BOMBAY MUNICIPAL CORPORATION

Fact of the case:

'T' was traveling without ticket in a tram car and on checking he was asked to pay ₹5/- as penalty to compound transaction. T filed a suit against the corporation for recovery on the ground that it was extorted from him.

Decision:

The suit was decreed in his favour.