

## Indian Contract Act, 1872 Assignment

Q. No.		Marks
1	State the exceptions to the rule "An agreement without consideration is void." (ICAI-SM, Jan. 2021, May 2018, RTP Nov. 2019)	7
Ans.	<p>As per the provision of the Indian Contract Act, 1872, the agreement without consideration is not valid. But, in certain conditions, an agreement without consideration is valid and enforceable:</p> <ol style="list-style-type: none"> <li>1) <b>Natural love and affection:</b> There is no consideration required if the agreement is made by <u>natural love and affection</u>. The contracts, in this case, shall be valid if: <ol style="list-style-type: none"> <li>i) There is an agreement in <u>writing</u>.</li> <li>ii) It is <u>registered</u>.</li> <li>iii) It is made on account of <u>natural love and affection</u>.</li> <li>iv) It is made between parties standing in <u>near relation</u> to each other.</li> </ol> </li> <li>2) <b>Compensation for past voluntary services:</b> When the promisor promises to pay for an act done by a promisee in the <u>past</u> for the promisor, the act so performed by a promisee for the promisor shall become a consideration for the amount to promised.</li> <li>3) <b>Promise to pay the time-barred debt:</b> As per the Limitations Act, 1963, if a debt is not claimed within three years, it cannot be recovered after that. But, a promise to pay the <u>time-barred debt</u> is enforceable. The promise should be in writing and signed by the person making it or by his authorized agent. The promise maybe for the whole or any part of the debt.</li> <li>4) <b>Agency:</b> No consideration is necessary to create an <u>agency</u>. An agent can be appointed without consideration, and the acts are done by him shall be valid.</li> <li>5) <b>Completed gift:</b> Gift made does not require any consideration. It is immaterial whether or not the party stands in the <u>near relationship</u>.</li> <li>6) <b>Bailment of Goods:</b> <u>Bailment</u> of goods created required no consideration.</li> <li>7) <b>Charity:</b> If a <u>promisee undertakes the liability on the promise of a person</u> to contribute to charity, there shall be a valid contract.</li> </ol>	7
2	"To form a valid contract, consideration must be adequate". Comment. (ICAI-SM, RTP May 2021, RTP Nov. 2020)	2
Ans.	<ul style="list-style-type: none"> <li>✓ It is necessary to have consideration, but it is <u>not necessary</u> that consideration should be adequate.</li> <li>✓ If a party gets what he has contracted for and it is of <u>some value</u>, the court will <u>not enquire</u> whether it is equivalent to the promise.</li> <li>✓ The parties to the contract <u>cannot avoid the contract on the ground of inadequacy of consideration</u>.</li> <li>✓ It should be noted that where consideration is inadequate on the ground of free consent of parties to contract, then only the contract will be void; otherwise, it will be valid.</li> </ul>	2
3	"Mere silence is not fraud", but there are some circumstances where the "silence is a fraud". Explain the circumstances as per the provisions of the Indian Contract Act, 1872. (ICAI-SM, May 2019, May 2018)	7
Ans.	<p>As per the provision of the Indian Contract Act, 1872, fraud means and includes any of the following acts committed by a party to the contract:</p> <ol style="list-style-type: none"> <li>i) The suggestion to a fact which is <u>not true</u> by one who does not <u>believe it to be true</u>.</li> </ol>	7

	<p>ii) The <u>active concealment</u> of the fact by one having knowledge or belief of the fact.</p> <p>iii) A promise made <u>without any intention</u> of performing it.</p> <p>iv) Any other act fitted to <u>deceive</u>.</p> <p>v) Any such act as to law specifically declared to be <u>fraudulent</u>.</p> <p>“<u>Mere silence is not fraud</u>”, but there are some circumstances where the “silence is a fraud”:</p> <p>1) <b>Duty to speak, and the person remains silent:</b></p> <ul style="list-style-type: none"> <li>✓ The duty to speak arises when one party <u>completely depends</u> upon another party.</li> <li>✓ The duty to speak arises when one contracting party <u>possesses trust and confidence</u> in another party.</li> </ul> <p>2) <b>Where silence is equal to speech:</b> For example, the seller sells the article. The buyer asks if you do not deny, I shall presume the article is good. The seller remains silent. Here, silence is equal to speech which indicates that the article is good. If the article turns out to be defective, then this amounts to fraud.</p>	
4	<p>Mr Shyam owned a motor car. He approached Mr Vikas and offered to sell his motor car for ₹3 00,000. Mr Shyam told Mr Vikas that the motor car is running at the rate of 30 KMs per litre of petrol. Both the fuel meter and the speed meter of the car were working perfectly.</p> <p>Mr Vikas agreed with the proposal of Mr Shyam and took delivery of the car by paying ₹300,000 to Mr Shyam. After ten days, Mr Vikas came back with the car and stated that the claim made by Mr Shyam regarding fuel efficiency was not correct and, therefore, there was a case of misrepresentation. Referring to the provisions of the Indian Contract Act, 1872, decide and write whether Mr Vikas can rescind the contract in the above ground. <b>(RTP Nov. 2020, RTP May 2021, ICAI-SM)</b></p>	4
<b>Ans.</b>	<p>As per the provision of the Indian Contract Act, 1872, when consent to an <u>agreement is caused by coercion, fraud or misrepresentation, the agreement is a contract voidable</u> at the option of the party whose consent was so caused.</p> <p>A party to the contract, whose consent was caused by fraud or misrepresentation, may, if he thinks fit, insist that the contract shall be performed and that he shall be put in the position he would have been if the <u>representation made had been true</u>.</p> <p><b>Facts of the case:</b></p> <p>Mr Shyam owned a motor car. He approached Mr Vikas and offered to sell his motor car for ₹3,00,000. Mr Shyam told Mr Vikas that the motor car is running at the rate of 30 KMs per litre of petrol. Both the fuel meter and the speed meter of the car were working perfectly.</p> <p>Mr Vikas agreed with the proposal of Mr Shyam and took delivery of the car by paying ₹3,00,000 to Mr Shyam. After ten days, Mr Vikas came back with the car and stated that the claim made by Mr Shyam regarding fuel efficiency was not correct and, therefore, there was a case of misrepresentation.</p> <p><b>Conclusion:</b></p> <p>In the given case, both the fuel meter and the speed meter of the car were working properly. Mr. Vikas had the means of discovering the truth with ordinary diligence. Therefore, the contract is not voidable. Hence, Mr Vikas cannot rescind the contract on the above ground.</p>	4
5	<p>Explain the term ‘Quasi Contracts’ and state their characteristics. <b>(RTP Nov 2020, RTP Nov. 2019, ICAI-SM)</b></p>	4

<b>Ans.</b>	<p>Quasi Contracts are based on the <u>principle of equity, justice and good conscience</u>. Quasi contract intends to <u>prevent unjust enrichment, i.e., enrichment (benefit) of one person at the cost of another</u>.</p> <p>Generally, promisors undertake the duty to perform the contract, or the promisor performs the contract when it is a desire by the promisee. However, in the case of Quasi contracts, <u>obligations to perform the contract is performed by the law upon a person for the benefit of another</u>, and even in the absence of a contract, such cases know as Quasi-contract.</p> <p>The salient feature of the Quasi contract:</p> <ol style="list-style-type: none"> <li>i) It does not arise from any agreement of the party concerned, but it is imposed by the law.</li> <li>ii) Duty and not promise is the basis of such contract.</li> <li>iii) The right available are not against the whole world but against a particular person or persons only.</li> <li>iv) Such a right is always a right to money and generally, though not always liquidated sum of money.</li> </ol>	<b>4</b>
<b>6</b>	<p>Define the term "Acceptance". Discuss the legal provisions relating to communication of acceptance.</p> <p style="text-align: right;"><b>(RTP Nov. 2020, Jan 2021)</b></p>	<b>4</b>
<b>Ans.</b>	<p>As per the provision of the Indian Contract Act, 1872, the person to whom the offer is made signifies his assent thereto; the proposal is said to be accepted. A proposal, when accepted, becomes a promise.</p> <p>Communication of Acceptance is <u>completed</u> on two different dates on one date as against the offeror and on another date as against the acceptor.</p> <p><b>Types of communication of Acceptance: -</b></p> <ol style="list-style-type: none"> <li>1) <b>As against offeror:</b> When it is <u>put into the course of transmission</u> so that it is out of control of acceptor. For instance, Mr A offers to Mr B on 20<sup>th</sup> June. Mr B received it on 22<sup>nd</sup> June and read on 25<sup>th</sup> June, accept the letter draft on 27<sup>th</sup> June and posted it on 28<sup>th</sup> June. Hence, communication of acceptance is completed against the offeror, put into the transmission or when the letter posted on 28<sup>th</sup> June so that it is out of control of the acceptor.</li> <li>2) <b>As against Acceptor:</b> When it is <u>received by the person to whom it is made</u> or when the letter of acceptance is received by the offeror. For instance, Mr A offers to Mr B on 20<sup>th</sup> June. Mr B received it on 22<sup>nd</sup> June and read on 25<sup>th</sup> June, accept the letter draft on 27<sup>th</sup> June and posted it on 28<sup>th</sup> June. Mr A received the letter on 30<sup>th</sup> June. Hence, communication of acceptance is completed against the acceptor on 30<sup>th</sup> June. So, when the letter is received by the person to whom it is made.</li> </ol>	<b>4</b>
<b>7</b>	<p>Mr Ramesh sold 15 acres of his agricultural land to Mr Amit on 10<sup>th</sup> October 2019 for ₹40 Lacs. The property papers mentioned a condition, amongst other details, that whosoever purchases the land is free to use 13 acres as per his choice, but the remaining 2 acres has to be allowed to be used by Mr Rahul, son of the seller, for carrying out farming or other activities of his choice. On 1<sup>st</sup> November 2019, Mr Ramesh died, leaving behind his son and wife. On 4<sup>th</sup> November 2019, the purchaser started construction of an auditorium on the whole 15 acres of land and denied any land to the son.</p>	<b>4</b>

	<p>Now Mr Rahul wants to file a case against the purchaser and get a suitable redressed. Discuss the above in the light of provisions of the Indian Contract Act, 1872 and decide upon Mr Rahul's plan of action?</p> <p style="text-align: right;"><b>(ICAI-SM, May 2019)</b></p>	
<b>Ans.</b>	<p>The problem asked in the question is related to the provision, 'The <u>consideration may move from promisee or any other person</u>' and '<u>Condition/Covenant running with the land</u> - Exception to the Doctrine of Privity of Contract'.</p> <p>As per the provisions of the Indian Contract Act, 1872, the consideration may proceed from the promisee or any other person who is not a party to the contract [<b>This provision is based on a famous case of Chinnaya vs. Ramayya</b>].</p> <p>Also, as per the exception to the Doctrine of Privity of Contract, if a person purchases a land with a notice that the owner of the land is bound by certain duties/conditions/covenants affecting the land, then such a person shall be bound by such conditions/covenants even though he is not a party to the original agreement containing those conditions or covenants.</p> <p><b>Facts of the case:</b></p> <p>Mr Ramesh sold 15 acres of his agricultural land to Mr Amit on 10<sup>th</sup> October 2019 for ₹40 Lacs. The property papers mentioned a condition, amongst other details, that whosoever purchases the land is free to use 13 acres as per his choice, but the remaining 2 acre has to be allowed to be used by Mr Rahul, son of the seller for carrying out farming or other activities of his choice. On 1<sup>st</sup> November 2019, Mr Ramesh died, leaving behind his son and wife. On 4<sup>th</sup> November 2019, purchaser started construction of an auditorium on the whole 15 acres of land and denied any land to the son. Now Mr Rahul wants to file a case against the purchaser</p> <p><b>Conclusion:</b></p> <p>Here, Mr Rahul's plan of action is valid as Mr Rahul is receiving <u>benefit from the contract</u>. Mr Amit has to give 2 acres of land to Mr Rahul as per the conditions of the contract.</p> <p style="text-align: center;">Grooming Education Academy</p>	<b>4</b>
<b>8</b>	<p>In light of provision of the Indian Contract Act, 1872, answer the following:</p> <ol style="list-style-type: none"> <li>1) Mr S and Mr R made a contract wherein Mr S agrees to deliver a paper cup manufacture machine to Mr R and to receive payment on delivery. On the delivery date, Mr R didn't pay the agreed price. Decide whether Mr S is bound to fulfil his promise at the time of delivery?</li> <li>2) Mr Y was given a loan to Mr G of ₹30,00,000. Mr G defaulted the loan on the due date, and debt became time-barred. After the time-barred debt, Mr G agreed to settle the full amount to Mr Y. Whether acceptance of the time-barred debt Contract is enforceable in law?</li> <li>3) A &amp; B entered into a contract to supply unique items, alternate of which is not available in the market. A refused to supply the agreed unique item to B. what direction could be given by the Court for breach of such contract?</li> </ol> <p style="text-align: right;"><b>(Nov. 2020, RTP May 2021)</b></p>	<b>3</b>
<b>Ans.</b>	<ol style="list-style-type: none"> <li>1) As per the provision of the Indian Contract Act, 1872, when a contract consists of reciprocal promises to be simultaneously performed, no promisor needs to perform his promise unless the promisee is ready and willing to perform his reciprocal promise. If one of the <u>promises is not performed, the other too need not be performed</u>.</li> </ol> <p>Mr S is not bound to deliver goods to Mr R since payment was not made by him at the time of delivery of goods.</p>	<b>1</b>

	<p>2) As per the provision of the Indian Contract Act, 1872, where there is an agreement, <u>made in writing and signed by the debtor or by his agent</u>, to pay wholly or in part a time-barred debt, the <u>agreement is valid and binding even though there is no consideration</u>.</p> <p>The loan given by Mr Y to Mr G has become time-barred after that, Mr G agreed to make payment of a total amount to Mr Y. Therefore, the contract is enforceable by the law.</p> <p>3) Where there is a breach of contract for the supply of a unique item, mere monetary damages may <u>not be an adequate remedy for the other party</u>. In such a case, the Court may give the order for <u>specific performance and direct the party in breach to carry out his promise</u> according to the terms of the contract. In this case, the Court may direct A to supply the item to B because the refusal to supply the agreed unique item cannot be compensated through money.</p>	1  1						
9	<p>Mr S, aged 58 years, was employed in a Govt. department. He was going to retire after two years. Mr D made a proposal to Mr S to apply for voluntary retirement from his post so that Mr D can be appointed in his place. Mr D offered a sum of ₹10 lakhs as consideration to Mr S to induce him to retire.</p> <p>Mr S refused at first instance, but when he evaluated the amount offered as consideration as just double of his cumulative remuneration to be received during the tenure of two years of employment, he agreed to receive the consideration and accepted the above agreement to receive money to retire from his office.</p> <p>Whether the above agreement is valid? Explain with reference to the provision of the Indian Contract Act, 1872. <b>(Jan. 2021, RTP May 2021)</b></p>	3						
Ans.	<p>As per the provisions of the Indian Contract Act, 1872, an agreement to pay money to a public servant in order to induce him to retire from his office so that another person may secure the appointment is opposed to the public policy and hence, shall be void.</p> <p><b>Facts of the case:</b></p> <p>Mr S, aged 58 years, was employed in a Govt. department. He was going to retire after two years. Mr D made a proposal to Mr S to apply for voluntary retirement from his post so that Mr D can be appointed in his place. Mr D offered a sum of ₹10 Lakhs as consideration to Mr S in order to induce him to retire.</p> <p>Mr S refused at the first instance but when he evaluated the amount offered as consideration is just double of his cumulative remuneration to be received during the tenure of two years of employment. He agreed to receive the consideration and accepted the above agreement to receive to retire from his office.</p> <p><b>Conclusion:</b></p> <p>In the present case, the agreement between Mr S and Mr D is void as Mr D is inducing Mr S to retire from his post in order get the post for himself.</p>	3						
10	<p>Distinguish between wagering agreement and contract of insurance.</p> <p><b>(Nov. 2020, May 2018) [Any two points]</b></p>	2						
Ans.	<table border="1"> <thead> <tr> <th>Basis</th> <th>Wagering Agreement</th> <th>Contracts of Insurance</th> </tr> </thead> <tbody> <tr> <td>Meaning</td> <td>It promises <u>to pay money or money's worth</u> on the <u>happening or non-happening</u> of an <u>uncertain event</u>.</td> <td>It is a contract to <u>indemnify the loss</u>.</td> </tr> </tbody> </table>	Basis	Wagering Agreement	Contracts of Insurance	Meaning	It promises <u>to pay money or money's worth</u> on the <u>happening or non-happening</u> of an <u>uncertain event</u> .	It is a contract to <u>indemnify the loss</u> .	2 [Any two points]
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	Consideration	There is <u>no consideration</u> between the two parties. There is just <u>gambling</u> for money.	The crux of an insurance contract is a <u>mutual consideration</u> ( <u>premium and compensation amount</u> ).	
	Insurable Interest	There is <u>no property</u> in case of a wagering agreement. There is betting on other's life and properties.	The insured party has an <u>insurable interest</u> in the life or property sought to be <u>insured</u> .	
	Contract of Indemnity	The loser has to pay the <u>fixed amount</u> on the happening or non-happening of an <u>uncertain event</u> .	Except for life insurance, the contract of insurance <u>indemnifies the insured person against loss</u> .	
	Enforceability	It is <u>void and unenforceable agreement</u> .	It is <u>valid and enforceable</u> .	
	Premium	<u>No such logical calculations</u> are required in the case of a wagering agreement.	<u>Calculation of premium</u> is based on a scientific and actuarial calculation of risks.	
	Public Welfare	They have been regarded as <u>against the public welfare</u> .	They are <u>beneficial to society</u> .	
<b>11</b>	X, a minor, was studying in M. Com in a college. On 1 <sup>st</sup> July 2019, he looks a loan of ₹1,00,000 from B for payment of his college fees and purchase books and agreed to repay by 31 <sup>st</sup> December 2019. X possesses assets worth ₹9 lakhs. On the due date, X fails to pay back the loan to B. B now wants to recover the loan from X out of his assets. Referring to the provisions of the Indian Contract Act, 1872, decide whether B would succeed. <b>(RTP May 2020, ICAI-SM, Dec 2021)</b>			<b>3</b>
<b>Ans.</b>	As per the provision of the Indian Contract Act, 1872, <u>a claim for necessities supplied to a minor is enforceable by law</u> , only against the minor's estate if he possesses. But a minor is not liable for any price that he may promise and never for more than the value of the necessities. There is no personal liability of the minor, but only his property is liable. <b>Facts of the case:</b> X, a minor, was studying in M. Com in a college. On 1 <sup>st</sup> July 2019, he looks a loan of ₹1 Lakh from B for payment of his college fees and purchase books and agreed to repay by 31 <sup>st</sup> December 2019. X possesses assets worth ₹9 Lakhs. On the due date, X fails to pay back the loan to B. <b>Conclusion:</b> Yes, B can proceed against the assets of X. Since the loan given to X is for the necessities suited to the conditions in the life of the minor, his assets can be sued to reimburse B.			<b>3</b>
<b>12</b>	What is a contingent contract? Discuss the essentials of the contingent contract with examples. <b>(Nov. 2018, July 2021)</b>			<b>7</b>
<b>Ans.</b>	As per the provision of the Indian Contract Act, 1872, a contract <u>to do or not to do something</u> , if some event, <u>collateral to such contract</u> , does or does not happen. <b>Example:</b> A contract to pay B ₹1,00,000 if B's house is destroyed by fire. This is a contingent contract.			<b>7</b>

	<p>Essentials of a contingent contract:</p> <ol style="list-style-type: none"> <li>1) The performance of a contingent contract would depend upon the <u>happening or non-happening</u> of some event or condition. The condition may be precedent or subsequent. Example: 'A' promises to pay ₹50,000 to 'B' if it rains on the first of the next month.</li> <li>2) The contingency contemplated by the contract must be collateral to the contract. It means that the contract has already arisen, but its performance cannot be demanded unless the collateral events happen or do not happen. Example: A agreed to construct a swimming pool for B for ₹200,000. And B agreed to make the payment only on the completion of the swimming pool. It is not a contingent contract as the event is directly connected with the contract and not collateral.</li> <li>3) The contingent event should not be a <u>mere 'will' of the promisor</u>. The event should be contingent in addition to being the will of the promisor. Example: If A promises to pay B ₹1,00,000 if A left Delhi for Mumbai on a particular day, it is a contingent contract because going to Mumbai is an event no doubt within A's will, but is not merely his will.</li> <li>4) The event must be <u>uncertain</u>. Where the event is certain or bound to happen, the contract due to be performed is a non-contingent contract. Example: 'A' agreed to sell his agricultural 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.</li> </ol>	
13	Discuss the cases deemed as quasi-contracts. <span style="float: right;">(RTP Nov. 2019)</span>	5
Ans.	<p>Cases deemed as quasi-contracts:</p> <ol style="list-style-type: none"> <li>1) <b>Claim for necessities supplied to persons incapable of contracting:</b> If a <u>person incapable of entering into a contract, or anyone whom he is legally bound to support, is supplied by another person with necessities suited to his condition in life. The person who has supplied such necessities is entitled to be reimbursed from the property of such incapable person.</u></li> <li>2) <b>Payment by an interested person:</b> A person <u>interested in the payment of money</u> which another is bound by law to pay, and who therefore pays it, is entitled to be <u>reimbursed by the other</u>.</li> <li>3) <b>The obligation of a person enjoying benefits of the non-gratuitous act:</b> When a person lawfully does something or delivers something to another person, not with a gratuitous behaviour, and such <u>other person enjoys benefits</u> out of that act, then such other person is bound to pay compensation in respect of the thing so done or delivered to him.</li> <li>4) <b>Responsibility of finder of goods:</b> A person who <u>finds goods belonging to another</u> and takes them into his custody is subject to the same responsibility as if he was a <u>bailee</u>. Thus, a finder of lost goods has: - <ul style="list-style-type: none"> <li>➤ to take <u>proper care of the property</u> as a <u>man of ordinary prudence</u> would take,</li> <li>➤ no right to <u>appropriate the goods</u>, and</li> <li>➤ to <u>restore the goods</u> if the owner is found.</li> </ul> </li> <li>5) <b>Money paid by mistake or under coercion:</b> A person to whom money has been paid or anything delivered by mistake or under coercion must repay or return it.</li> </ol>	5

14	<p>Explain the type of contracts in the following agreements under the Indian Contract Act, 1872:</p> <ol style="list-style-type: none"> <li>1) A coolie in uniform picks up the luggage of A to be carried out of the railway station without being asked by A, and A allows him to do so.</li> <li>2) The obligation of the finder of lost goods to return them to the true owner</li> <li>3) A contract with B (owner of the factory) for the supply of 10 tons of sugar, but before the supply is affected, the fire caught in the factory and everything was destroyed.</li> </ol> <p style="text-align: right;"><b>(May 2020, ICAI-SM)</b></p>	6
Ans.	<ol style="list-style-type: none"> <li>1) It is an <u>implied contract</u>, and A must <u>pay for the services</u> of the coolie.  <b>Implied contract:</b> A contract that comes into existence by either the implication of law or implication of action. According to the Indian Contract Act, 1872, when proposal and acceptance are made otherwise, then in word. The promise is said to be implied.</li> <li>2) The obligation of the <u>finder of lost goods</u> to <u>return</u> them to the <u>true owner</u> cannot be said to arise out of a contract even in its remotest sense, as there is neither offer and acceptance nor consent. These are said to be quasi-contracts.  <b>Quasi-contract:</b> it is created by law under certain circumstances. Example: obligation of the founder of goods to return to the true owner.</li> <li>3) An above contract is a void contract as the <u>subject matter of the contract is destroyed</u>.  <b>Void contract:</b> An agreement that ceases to be enforceable by law becomes void when it ceases to be enforceable. In simple words, a contract cannot be enforceable by a court of law.</li> </ol>	2  2  2
15	<p>Sohan induced Suraj to buy his motorcycle, saying that it was in very good condition. After taking the motorcycle, Suraj complained that there were many defects in the motorcycle. Sohan proposed to get it repaired and promised to pay 40% cost of repairs. After a few days, the motorcycle did not work at all. Now Suraj wants to rescind the contract. Decide giving reasons whether Suraj can rescind the contract?</p> <p style="text-align: right;"><b>(RTP May 2020, ICAI-SM)</b></p>	4
Ans.	<p>As per the provision of the Indian Contract Act, 1872, when a person suggests something which is not true, but he believes it to be true, it shall be regarded as misrepresentation. Misrepresentation made is innocent. However, the person misled can avoid the contract.</p> <p>In case of misrepresentation, the aggrieved party can avoid or rescind the contract. But, the aggrieved party loses the right to rescind the contract if such party, after becoming aware of the misrepresentation, takes a benefit under the contract or expressly or impliedly accepts the contract after he comes to know that the contract is voidable and he can avoid the contract.</p> <p><b>Facts of the case:</b>  Sohan induced Suraj to buy his motorcycle, saying that it was in very good condition. After taking the motorcycle, Suraj complained that there were many defects in the motorcycle. Sohan proposed to get it repaired and promised to pay 40% cost of repairs. After a few days, the motorcycle did not work at all. Now Suraj wants to rescind the contract.</p> <p><b>Conclusion:</b>  Accordingly, in the given case, Suraj could not rescind the contract as his acceptance of the offer of Sohan to bear 40% of the cost of repairs impliedly amount to the final acceptance of the sale.</p>	4

16	<p>What will be right with the promisor in the following cases? Explain with reasons:</p> <p>a) Mr X promised to bring back Mr Y to life again.</p> <p>b) A agreed to sell 50kgs of apple to B. the loaded truck left for delivery on 15<sup>th</sup> March but due to riots in between reached B on 19<sup>th</sup> March.</p> <p>c) An artist promised to paint on the fixed date for a fixed amount of remuneration but met with an accident and lost both hands.</p> <p>d) Abhishek entered into a contract of import of toys from China. But due to disturbance in the relation of both the countries, the imports from China were banned.</p> <p style="text-align: right;"><b>(RTP May 2021, ICAI-SM, Dec 2021)</b></p>	4
Ans.	<p>As per the provision of the Indian Contract Act, 1872, A contingent contract to do or not to do anything of an impossible event happens is void.</p> <p>a) The contract is void because of its initial <u>impossibility of performance</u>.</p> <p>b) As per the provision of the Indian Contract Act, 1872, When the subject matter of a contract subsequent to its formation is destroyed but without any fault of the parties to the contract, the contract is discharged. The contract is void. Time is the essence of this contract. By the time apples reached B, they were already rotten. The contract is discharged due to the <u>destruction of the subject matter of the contract</u>.</p> <p>c) As per the provision of the Indian Contract Act, 1872, A contract after the contract is made impossible or becomes unlawful the contract becomes void when the act becomes impossible or unlawful. Such contract is of personal nature and hence cannot be performed due to the occurrence of an event resulting in the <u>impossibility of performance of a contract</u>.</p> <p>d) As per the provision of the Indian Contract Act, 1872, Any agreement with an alien enemy at times of war without the license obtain from Central Government is void. Such contract is discharged <u>without performance</u> because of the subsequent <u>illegality nature of the contract</u>.</p>	4
17	<p>“Liquidated damage is a genuine pre-estimate of compensation of damages for certain anticipated breach of the contract whereas Penalty, on the other hand, is an extravagant amount stipulated and is unconscionable and has no comparison to the loss suffered by the parties”. Explain.</p> <p style="text-align: right;"><b>(RTP May 2021, ICAI-SM)</b></p>	3
Ans.	<p><b>Liquidated Damages:</b> If the sum fixed in the contract represents a genuine pre-estimate loss by the parties, which would be caused by a future breach of the contract, it is liquidated damages. It is an assessment of the amount which, in the opinion of the parties, will compensate for the breach. Such a clause is effective, and the amount is recoverable.</p> <p><b>Penalty:</b> Where the sum fixed in the contract is unreasonable and is used to force the other party to perform the contract, it is a penalty. Such a clause is disregarded, and the injured party cannot recover more than the actual loss.</p> <p><b>Liquidated Damages &amp; Penalty as per Indian Law:</b></p> <ul style="list-style-type: none"> <li>✓ Indian law makes no distinction between ‘penalty and ‘liquidated damages.’ The Courts in India award only reasonable compensation not exceeding the sum so mentioned in the contract.</li> <li>✓ As per the provision of the Indian Contract Act, 1872, if the parties have fixed what the damages will be, the courts will never allow more. But, the court may allow less.</li> </ul>	3

	✓ A decree is to be passed only for reasonable compensation not exceeding the sum fixed by the parties. Thus, a person complaining of breach of contract to get reasonable compensation and does not entitle to realise anything by way of penalty.	
18	X entered into a contract with Y to supply him 1,000 water bottles @₹ 5.00 per water bottle, to be delivered at a specified time. Thereafter, X contracts with Z for the purchase of 1,000 water bottles @ ₹ 4.50 per water bottle, and at the same time told Z that he did so for the purpose of performing his contract entered into with Y. Z failed to perform his contract in due course and the market price of each water bottle on that day was ₹5.25 per water bottle. Consequently, X could not procure any water bottle, and Y rescinded the contract. Calculate the amount of damages which X could claim from Z. What would be your answer if Z had not informed about Y's contract? Explain with reference to the provisions of the Indian Contract Act, 1872. <b>(RTP Nov. 2020, ICAI-SM, May 2022 RTP, May 2018)</b>	5
Ans.	As per the provision of the Indian Contract Act, 1872, an actual breach of contract is a case of refusal to perform on the scheduled date. The party who is injured by the breach of a contract may bring an action for damages. When one party to the contract refuses to perform, the other party can take the damages: <ul style="list-style-type: none"> <li>• Which <u>naturally arose in the usual course of things</u> from such breach (ordinary damages), or</li> <li>• Which the <u>parties knew when they made the contract</u> to be likely to result from the breach of it (special damages).</li> </ul> <p><b>Facts of the case:</b> X entered into a contract with Y to supply him 1,000 water bottles @₹5 per water bottle, to be delivered at a specified time. Thereafter, X contracts with Z for the purchase of 1,000 water bottles @ ₹4.50 per water bottle, and at the same time told Z that he did so for the purpose of performing his contract entered into with Y. Z failed to perform his contract in due course and the market price of each water bottle on that day was ₹5.25 per water bottle. Consequently, X could not procure any water bottle, and Y rescinded the contract.</p> <p><b>Conclusion:</b> In the present case, X had intimated to Z that he was purchasing water bottles from him for the purpose of performing his contract with Y. Z has the <u>knowledge of the special circumstances</u>. Therefore, X is <u>entitled to claim from Z ₹500</u>, i.e., the difference between the procuring price of water bottles and the contracted selling price to Y (1000 water bottles × ₹0.50). If X <u>had not informed Z of Y's contract</u>, then the amount of damages would have been the difference between the contract price and the <u>market price on the day of default</u>. In other words, the <u>amount of damages would be ₹750</u> (1000 water bottles × ₹0.75)</p>	5
19	X, Y and Z jointly borrowed ₹ 50,000 from A. the whole amount was repaid to A by Y. decide in the light of the Indian Contract Act, 1872 whether: <ol style="list-style-type: none"> <li>Y can recover the contribution from X and Z,</li> <li>Legal representatives of X are liable in case of death of X,</li> <li>Y can recover the contribution from the assets in case of Z become insolvent.</li> </ol> <p><b>(RTP Nov. 2019, ICAI-SM, Dec 2021, July 2021)</b></p>	3
Ans.	As per the provision of the Indian Contract Act, 1872, when two or more persons make a joint promise, the promisee may, in the absence of an express agreement to the contrary, <u>compel any one or more of such joint promisors</u> to perform the whole of the promise.	3

	<p>Each of the two or more joint promisors may compel every other joint promisor to <u>contribute equally</u> with himself to the performance of the promise unless a contrary intention appears from the contract.</p> <p>If anyone of two or more joint promisors makes default in such contribution, the remaining joint promisors must bear the loss arising from such default in <u>equal shares</u>.</p> <p><b>Facts of the case:</b> X, Y and Z jointly borrowed ₹ 50,000 from A. The whole amount was repaid to A by Y.</p> <p><b>Conclusion:</b></p> <p>i) Y can recover the contribution from X and Z because X, Y and Z are joint promisors.</p> <p>ii) The legal representative of X is liable to pay the contribution to Y. However, a legal representative is liable only to the extent of the property of the deceased received by him.</p> <p>iii) Y also can recover the contribution from Z's assets.</p>	
<b>20</b>	<p>A student was induced by his teacher to sell his brand new car to the latter at less than the purchase price to secure more marks in the examination. Accordingly, the car was sold. However, the father of the student persuaded him to sue his teacher. State whether the student can sue the teacher?</p> <p style="text-align: center;"><b>(RTP Nov. 2019, ICAI-SM, May 2022 RTP, Nov 2022 RTP)</b></p>	<b>4</b>
<b>Ans.</b>	<p>As per the provision of the Indian Contract Act, 1872, A contract is said to be induced by undue influence where the relations subsisting between the parties are such that one of the parties is in a position to dominate the will of the other, and he uses that position to obtain an unfair advantage over the other.</p> <p>A person is deemed to be in a position to dominate the will of another.</p> <p>(a) Where he holds to be <u>apparent authority over the other</u>; or</p> <p>(b) Where he stands in a <u>fiduciary relationship</u> to the other; or</p> <p>(c) Where he makes a contract with a person whose <u>mental capacity is temporarily or permanently affected because of age, illness or mental or bodily distress</u>.</p> <p><b>Fact of the case:</b> A student was induced by his teacher to sell his brand new car to the latter at less than the purchase price to secure more marks in the examination. Accordingly, the car was sold. However, the father of the student persuaded him to sue his teacher.</p> <p><b>Conclusion:</b> Yes, A can sue his teacher on the <u>ground of undue influence</u>. A contract brought as a result of <u>coercion, undue influence, fraud or misrepresentation would be voidable at the option of the person whose consent was caused</u>.</p>	<b>4</b>
<b>21</b>	<p>Mr Rich aspired to get a self-portrait made by an artist. He went to the workshop of Mr C, an artist and asked whether he could sketch the former's portrait on oil painting canvass. Mr C agreed to the offer and asked for ₹50,000 as a full advance payment for the above creative work. Mr C clarified that the painting shall be completed in 10 sittings and shall take three months.</p> <p>On reaching the workshop for the 6<sup>th</sup> sitting, Mr Rich was informed that Mr C became paralyzed and would not be able to paint for the near future. Mr C had a son Mr K who was still pursuing his studies and had not taken up his father's profession yet.</p> <p>Discuss in light of the Indian Contract Act, 1872:</p> <p>i) Can Mr Rich ask Mr K to complete the artistic work in lieu of his father?</p>	<b>6</b>

	ii) Could Mr Rich ask Mr K for a refund of money paid in advance to his father? <b>(May 2019, ICAI-SM)</b>	
<b>Ans.</b>	<p>As per the provision of the Indian Contract Act, 1872, if it was the intention of the parties that the promise should be <u>performed by the promisor himself</u>, the promise must be performed by the promisor. In the case of contracts that involve the <u>exercise of personal skill or diligence of promisor</u>, it shall be performed by the promisor himself.</p> <p><u>Representatives of the promisor may also perform the contract</u> in case of death of the promisor subject to the condition the contract doesn't require the personal skills of the promisor himself. If the contract requires the personal skills of the promisor, then the contract will become void on the death of the promisor.</p> <p><b><u>Fact of the case:</u></b></p> <p>Mr Rich aspired to get a self-portrait made by an artist. He went to the workshop of Mr C, an artist and asked whether he could sketch the former's portrait on oil painting canvass. Mr C agreed to the offer and asked for ₹50,000 as a full advance payment for the above creative work. Mr C clarified that the painting shall be completed in 10 sittings and shall take three months. On reaching the workshop for the 6<sup>th</sup> sitting, Mr Rich was informed that Mr C became paralyzed and would not be able to paint for the near future. Mr C had a son Mr K who was still pursuing his studies and had not taken up his father's profession yet.</p> <p><b><u>Conclusion:</u></b></p> <p>i) In the instant case, since painting involves the use of personal skill and on becoming Mr C paralyzed, Mr Rich cannot ask Mr K to complete the artistic work in lieu of his father, Mr C.</p> <p>ii) When an agreement is <u>discovered to be void</u> or when a <u>contract becomes void</u>, any person who has received any advantage under such agreement or contract is <u>bound to restore it or to make compensation for it</u> to the person from whom he received it. Hence, in this case, the agreement between Mr Rich and Mr C has become void because of the paralysis of Mr C. So Mr Rich can ask Mr K for a refund of money paid in advance to his father, Mr C.</p>	<b>6</b>
<b>22</b>	Mr Ramesh promised to pay ₹20,000 to his wife, Mrs Komal so that she can spend the sum on her 30 <sup>th</sup> birthday. Mrs Komal insisted on 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 Komal wants to file a suit against Mr Ramesh and recover the promised amount. Referring to the applicable provisions of the Indian Contract Act, 1872, advise whether Mrs Komal will succeed? <b>(Nov. 2018, Nov 2021 RTP)</b>	<b>3</b>
<b>Ans.</b>	<p>As per the provision of the Indian Contract Act, 1872, A contract has no consideration, yet the contract is valid because it is affected by natural love and affection. In this case, the contracts shall be valid if the following conditions are complied with:</p> <ul style="list-style-type: none"> <li>• There is an agreement in writing.</li> <li>• It is registered.</li> <li>• It is made on account of natural love and affection.</li> <li>• It is made between parties standing in near relation to each other.</li> </ul> <p><b><u>Fact of the case:</u></b></p> <p>Mr Ramesh promised to pay ₹20,000 to his wife, Mrs Komal, so that she can spend the sum on her 30<sup>th</sup> birthday. Mrs Komal insisted on her husband to make a written agreement if he really loved her. Mr Ramesh made a written agreement, and the</p>	<b>3</b>

	<p>agreement was registered under the law. Mr Ramesh failed to pay the specified amount to his wife. Mrs Komal wants to file a suit against Mr Ramesh and recover the promised amount.</p> <p><b>Conclusion:</b> Here, Mrs Komal shall be entitled to the amount of ₹20,000 promised to her by her husband, Mr Ramesh. The agreement between them was written and registered and was made on account of natural love and affection. Mr Ramesh has to give the promised amount to Mrs Komal.</p>	
<b>23</b>	<p>A shopkeeper displayed a pair of dresses in the showroom, and a price tag of ₹5,000 was attached to the dress. Ms Priya looked at the tag and rushed to the cash counter. Then she asked the shopkeeper to receive the payment and pack up the dress. The shopkeeper refused to hand over the dress to Ms Priya in consideration of the price stated in the price tag attached to the dress. Ms Priya seeks your advice on whether she can sue the shopkeeper for the above cause under the Indian Contract Act, 1872.</p> <p style="text-align: right;"><b>(Nov. 2018)</b></p>	<b>3</b>
<b>Ans.</b>	<p>As per the provision of the Indian Contract Act, 1872, "<u>an invitation to offer</u>" means the person is <u>inviting the other person to make an offer</u>. The offeror's objective is to send out an invitation that he is willing to deal with any person who is ready to enter into a contract with him.</p> <p><b>Fact of the case:</b> A shopkeeper displayed a pair of dresses in the showroom, and a price tag of ₹5,000 was attached to the dress. Ms Priya looked at the tag and rushed to the cash counter. Then she asked the shopkeeper to receive the payment and pack up the dress. The shopkeeper refused to hand over the dress to Ms Priya in consideration of the price stated in the price tag attached to the dress.</p> <p><b>Conclusion:</b> Here, Ms Priya cannot sue the shopkeeper as the mere display of price tag to the dress in the showroom is <u>an invitation to offer</u>. This implies that it is up to the shopkeeper that he wants to sell that dress or not and to whom he wants to sell it. The shopkeeper has every right to make the decision to whom he will sell the dress.</p>	<b>3</b>
<b>24</b>	<p>Examine with the reason that the given statement is correct or incorrect "Minor is liable to pay for the necessaries supplied to him."</p> <p style="text-align: right;"><b>(May 2018)</b></p>	<b>2</b>
<b>Ans.</b>	<p>"Minor is liable to pay for the necessaries supplied to him". This statement is incorrect. As per the <b>provisions</b> of the Indian Contract Act, 1872, a claim for <u>necessaries supplied to a minor is enforceable by law</u>, only against the minor's estate if he possesses.</p> <p>But a minor is <u>not liable for any price</u> that he may promise <u>and never for more than the value of the necessaries</u>. There is <u>no personal liability of the minor</u>, but only his <u>property is liable</u>.</p>	<b>2</b>
<b>25</b>	<p>State the legal rules regarding consideration.</p> <p style="text-align: right;"><b>(Nov. 2019) [Any 7 points]</b></p>	<b>7</b>
<b>Ans.</b>	<p>As per the provision of the Indian Contract Act, 1872, the legal rules regarding consideration are: <b>(Any 7 points)</b></p> <p>1) <b>Consideration must move at the desire of the promisor:</b> An act done at the <u>desire of a third party</u> is not a consideration. In the decided case law of <u>Durga Prasad V. Baldev</u>, a collector of the town ordered Baldev to build certain shops in the market at his own expense. In consideration of Baldev having spent money in construction, Durga Prasad promises to pay Baldev some money after occupying a shop in the market. Later on, Durga Prasad refuses to pay Baldev</p>	<b>7</b>

and Baldev sue Durga Prasad. The Court held that the shops were built at the desire of the collector, not the promisor (Durga Prasad).

- 2) **Consideration may move from the promisee or any other person:** Consideration may proceed from the promisee or any other person who is not a party to the contract. When at the desire of the promisor, the promisee or any other person does something such as an act is a consideration. For example, the famous case law related to this is Chinnaya V. Ramayya. In this case, an old lady made a gift of her property to her daughter with a direction to pay a certain sum of money to her maternal aunty by way of an annuity. On the same day, the daughter executed an agreement in favour of her maternal aunty, agreeing to pay annuity. Later on, the daughter did not pay the annuity, and the aunty sued to recover it. The Court held that there was sufficient consideration from the old lady for the aunty to recover the money from the daughter.
- 3) **Consideration may be executed and executory:** When the consideration for the contract has been already provided, it is known as executed consideration, and where consideration is promised to be provided in future, then it is known as executory consideration. For example, A pays ₹5,000 to B and B promises to deliver a certain quantity of raw materials to A within a month. Here, the consideration paid by A is executed, and the consideration promised by B is executory.
- 4) **Consideration may be past consideration:** The act was done at the desire of the promisor, but before any promise is made, it is called past consideration. For example, X committed a murder and request Y to take his case and to do his best to obtain a pardon for him. Y did his best and obtained a pardon for him at his own expense. Afterwards, X promised Y to pay him a certain amount for his actions. But, later on, X refused to pay. Y sued X. The Court held that a past act done at the request of the promisor (X) should be a consideration for the subsequent promise. **Grooming Education Academy**
- 5) **Adequacy of consideration is not necessary:** It is necessary to have consideration, but it is not necessary that the consideration should be adequate. If a party gets what he has contracted for and it is of some value, the Court will not enquire whether it is equivalent to the promise or not. The parties to the contract cannot avoid the contract on the ground of inadequacy of consideration with regard to that the consent given by the promisor should be free.
- 6) **Performance of what one is legally bound to perform is no consideration:** The performance of an act by a person who is legally bound to perform cannot be a consideration for a contract. For example, an agreement made by a client to pay an additional sum other than the fees to his lawyer if the suit was successful. It was held that the agreement was void for lack of consideration as the lawyer was already under a pre-existing contract of providing his best services under the original contract.
- 7) **Consideration must not be illusory and must be of some value:** The consideration must be competent. It must be something to which the law attaches some values. It should not be physically impossible. It must not be uncertain. For example, a man promises to discover treasure by magic. This contract is void as the consideration is illusory.

	8) <b>Consideration must not be unlawful, immoral, or opposed to public policy:</b> Consideration <u>must be lawful</u> . Anything which is <u>immoral or opposed to public policy</u> also cannot be a valid consideration.	
26	Amit found a wallet in a restaurant. He enquired of all the customers present there, but the true owner could not be found. He handed over the same to the manager of the restaurant to keep till the true owner is found. After a week, he went back to the restaurant to enquire about the wallet. The manager refused to return it back to Amit, saying that it did not belong to him. Can Amit recover it from the manager? <b>(Nov. 2019)</b>	4
Ans.	As per the provision of the Indian Contract Act, 1872, a finder of lost goods has: 1) To take <u>proper care of the property</u> as a <u>man of ordinary prudence</u> would take. 2) No right to <u>appropriate the goods</u> . 3) To restore the goods <u>if the owner is found</u> . <b>Fact of the case:</b> Amit found a wallet in a restaurant. He enquired of all the customers present there, but the true owner could not be found. Amit handed over the wallet to the manager of the restaurant to keep till the true owner is found. After a week, he went back to the restaurant to enquire about the wallet. The manager refused to return it back to Amit, saying that it did not belong to Amit. <b>Conclusion:</b> In the present case, Amit can recover the wallet from the Manager because Amit was the finder of the wallet, and as a finder, he has to take care of the wallet, as a man of ordinary prudence would do, till its true owner is found. The manager must return the wallet to Amit as he was entitled to retain the wallet found against everybody except the true owner.	4
27	Sonu, a wealthy individual, provided a loan of ₹80,000 to Disha on 26 <sup>th</sup> February 2019. Disha asked for a further loan of ₹1,50,000. Sonu agreed but provided the loan in parts at different dates. He provided ₹1,00,000 on 28 <sup>th</sup> February 2019 and ₹50,000 on 3 <sup>rd</sup> March 2019. On 10 <sup>th</sup> March 2019, while paying off part ₹75,000, Disha insisted that the lender should adjust ₹50,000 towards the loan taken on 3 <sup>rd</sup> March 2019 and balance as against the loan on 26 <sup>th</sup> February 2019. Sonu objected to this arrangement and asked the borrower to adjust in the order of borrow of funds. Now decide: i) Whether the contention of Disha is correct? ii) What would be the answer if the borrower does not insist on such an order of adjustment of payment? iii) What would be the mode of adjustment of such part payment in case neither Disha nor Sonu insists on any order of adjustment on their part? <b>(Nov. 2019)</b>	6
Ans.	As per the provision of the Indian Contract Act, 1872, where a debtor, owing to <u>several distinct debts</u> to one person, makes a payment to him either with <u>express intimation</u> or under the circumstances implying that the payment is to be applied to the <u>discharge of some particular debt</u> , the payment, if accepted, must be applied accordingly. <b>Fact of the case:</b> Sonu, a wealthy individual, provided a loan of ₹80,000 to Disha on 26 <sup>th</sup> February 2019. Disha asked for a further loan of ₹1,50,000. Sonu agreed but provided the loan in parts at different dates. He provided ₹1,00,000 on 28 <sup>th</sup> February 2019 and ₹50,000 on 3 <sup>rd</sup> March 2019. On 10 <sup>th</sup> March 2019, while paying off part ₹75,000,	6

	<p>Disha insisted that the lender should adjust ₹50,000 towards the loan taken on 3<sup>rd</sup> March 2019 and balance as against the loan on 26<sup>th</sup> February 2019. Sonu objected to this arrangement and asked the borrower to adjust in the order of borrow of funds.</p> <p><b>Conclusion:</b></p> <p>i) Here, the contention of Disha is <u>correct</u> for indicating to Sonu for appropriating the amount of ₹75,000 to the debt of ₹50,000 and ₹80,000, irrespective of the order of the debt. Sonu <u>may or may not accept the indication</u> by Disha for appropriating the payment to a specific debt. If Sonu accepted the indication of Disha, then Sonu has to <u>appropriate</u> the payment to the debts <u>specified</u> by Disha.</p> <p>ii) As per the provision of the Indian Contract Act, 1872, where the debtor has <u>omitted to intimate</u>, or the creditor has <u>refused the indication</u> of the debtor on such order of adjustment of repayment, the creditor may apply it at his <u>discretion</u> to any <u>lawful debt</u> actually due and payable to him from the debtor, where its recovery is or is <u>not barred by the law</u> in force for the time being as to the <u>limitation of suits</u>.</p> <p>Here, if Disha <u>does not insist</u> on such an order of adjustment of repayment, then Sonu can appropriate the payment of ₹75,000 in any <u>lawful manner</u> he chose at his <u>discretion</u>.</p> <p>iii) As per the provision of the Indian Contract Act, 1872, where <u>neither party makes any appropriation</u>, the payment shall be applied in <u>discharge of the debts in order of time</u>, whether they <u>are or are not barred by the law</u> in force for the time being as to the limitation of suits. If the <u>debts are of equal standing</u>, the payment shall be applied in <u>discharge of each proportionately</u>.</p> <p>Here, neither Sonu nor Disha insists on any order of adjustment on their part, then the appropriation of payment would be made in the <u>order of time of debts</u>. The first debt of <u>₹80,000</u> will be set off because it is the <u>first debt</u> in the order of the time. Since the amounts borrowed by Disha are <u>not equal</u>, the payment <u>cannot be set off proportionately</u>.</p>	
<b>28</b>	Explain the term 'Coercion' along with the effects of coercion. <b>(Nov. 2019)</b>	<b>5</b>
<b>Ans.</b>	<p>As per the provision of the Indian Contract Act, 1872, coercion is:</p> <ul style="list-style-type: none"> <li>• Coercion is the <u>committing</u> or</li> <li>• <u>threatening to commit</u> any act forbidden by the Indian Penal Code</li> <li>• or the <u>unlawful detaining</u> or</li> <li>• <u>threatening to detain</u> any property to the prejudice of any person</li> <li>• with the intention of causing the other person to enter into an agreement.</li> </ul> <p>Effects of coercion:</p> <ol style="list-style-type: none"> <li>1) A contract induced by coercion is <u>voidable at the option of the party whose consent was so obtained</u>.</li> <li>2) If the <u>party rescinds a voidable contract</u> and has <u>received any benefit</u>, thereunder from the other party to the contract, <u>restore such benefit</u> to the person from whom it was received.</li> <li>3) A person to whom <u>money has been paid or anything delivered under coercion</u> must repay or return it.</li> </ol>	<b>5</b>
<b>29</b>	P left his carriage on D's premises. The landlord of D seized the carriage against the rent due from D. P paid the rent got his carriage released. Can P recover the amount from D? <b>(ICAI-SM)</b>	<b>2</b>

<b>Ans.</b>	As per the provision of the Indian Contract Act, 1872, a person who <u>is interested in the payment of money which another person is bound by law to pay</u> , and therefore pays it, is entitled to get it reimbursed by the other. <b>Fact of the case:</b> P left his carriage on D's premises. The landlord of D seized the carriage against the rent due from D. paid the rent got his carriage released. <b>Conclusion:</b> Yes, P can recover the amount from D. In the present case, D was lawfully bound to pay rent. P was interested in making the payment to D's landlord as his carriage was seized by him. Hence an interest party P made the payment and can recover the same from D.	<b>2</b>
<b>30</b>	Mr X, a business, has been fighting long-drawn litigation with Mr Y, an industrialist. To support his legal campaign, he enlists the services of Mr C, a Judicial officer, stating that the amount of ₹10 lakhs would be paid to him if he does not take up the brief of Mr Y. Mr C agrees but, at the end of the litigation Mr X refuse to pay to Mr C. Decide whether Mr C can recover the amount promised by Mr X under the provision of Indian Contract Act, 1872? <b>(Nov. 2020)</b>	<b>3</b>
<b>Ans</b>	As per the provision of the Indian Contract Act, 1872, all agreements are contracts if they are made by the free consent of the parties competent to contract, for a lawful consideration and with a lawful object and are not expressly declared to be void. Another provision of this act says that <u>every agreement of which the object is unlawful is void</u> . Also, any agreement which <u>creates interference in the ordinary process of justice</u> is void. This can also be called an agreement in <u>restraint of legal proceedings</u> . This agreement restricts one's right to <u>enforce his legal right</u> . Such an agreement has been <u>expressly declared to be void</u> . <b>Fact of the case:</b> Mr X, a business, has been fighting long-drawn litigation with Mr Y, an industrialist. To support his legal campaign, he enlists the services of Mr C, a Judicial officer stating that the amount of Rs. 10 lakhs would be paid to him if he does not take up the brief of Mr Y. Mr C agrees but, at the end of the litigation Mr X refuse to pay to Mr C. <b>Conclusion:</b> In the present case, Mr C, in the given case, cannot recover the amount of ₹10 Lakhs promised by Mr X because it is <u>a void agreement and cannot be enforced by law</u> .	<b>3</b>
<b>31</b>	Define fraud and misrepresentation. What is the difference between fraud and misrepresentation as per the Indian Contract Act, 1872? <b>(Nov. 2020)</b>	<b>6</b>
<b>Ans.</b>	<b>Fraud:</b> As per the provision of the Indian Contract Act, 1872, "Fraud" means and includes any of the following acts committed by a party to a contract: ✓ The suggestion as to a fact which is not true by one who does not believe it to be true. ✓ The active concealment (hiding) of a fact by one having knowledge or belief of the fact. ✓ A promise made without any intention of performing it. ✓ Any other act fitted to deceive. ✓ Any such act or omission as to law specifically declared to be fraudulent.	<b>6</b>

	<p><b>Misrepresentation:</b> As per the provision of the Indian Contract Act, 1872, when a person suggests something which is not true, but he believes it to be true, it shall be regarded as misrepresentation. Misrepresentation made is innocent. However, the person misled can avoid the contract.</p> <p><b>Distinction Between Fraud and Misrepresentation:</b></p> <table border="1" data-bbox="320 432 1315 1189"> <thead> <tr> <th data-bbox="320 432 651 472">Basis of difference</th> <th data-bbox="651 432 981 472">Fraud</th> <th data-bbox="981 432 1315 472">Misrepresentation</th> </tr> </thead> <tbody> <tr> <td data-bbox="320 472 651 584"><b>Intention</b></td> <td data-bbox="651 472 981 584">To deceive the other party by <u>hiding the truth</u>.</td> <td data-bbox="981 472 1315 584">There is <u>no such intention to deceive</u> the other party.</td> </tr> <tr> <td data-bbox="320 584 651 734"><b>Knowledge of truth</b></td> <td data-bbox="651 584 981 734">The person making the suggestion <u>believes that the statement is untrue</u>.</td> <td data-bbox="981 584 1315 734">The person making the <u>statement believes it to be true, although it is not true</u>.</td> </tr> <tr> <td data-bbox="320 734 651 925"><b>Rescission of the contract and claim for damages</b></td> <td data-bbox="651 734 981 925">The injured party can <u>repudiate the contract and claim damages</u></td> <td data-bbox="981 734 1315 925">The injured party is entitled to repudiate the contract or sue for restitution but <u>cannot claim the damages</u>.</td> </tr> <tr> <td data-bbox="320 925 651 1189"><b>Means of discovering the truth</b></td> <td data-bbox="651 925 981 1189">The party using the fraudulent activities <u>cannot secure or protect himself by saying that the injured party had the means to discover the truth</u>.</td> <td data-bbox="981 925 1315 1189">Party can <u>always plead</u> that the injured party had the <u>means to discover the truth</u>.</td> </tr> </tbody> </table>	Basis of difference	Fraud	Misrepresentation	<b>Intention</b>	To deceive the other party by <u>hiding the truth</u> .	There is <u>no such intention to deceive</u> the other party.	<b>Knowledge of truth</b>	The person making the suggestion <u>believes that the statement is untrue</u> .	The person making the <u>statement believes it to be true, although it is not true</u> .	<b>Rescission of the contract and claim for damages</b>	The injured party can <u>repudiate the contract and claim damages</u>	The injured party is entitled to repudiate the contract or sue for restitution but <u>cannot claim the damages</u> .	<b>Means of discovering the truth</b>	The party using the fraudulent activities <u>cannot secure or protect himself by saying that the injured party had the means to discover the truth</u> .	Party can <u>always plead</u> that the injured party had the <u>means to discover the truth</u> .	
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Ans.	<p>As per the provision of the Indian Contract Act, 1872, when the performance of promise becomes <u>impossible or illegal by the happening of an event or change of circumstances</u>, the contract becomes void.</p> <p>Also, when an agreement is <u>discovered to be void</u> or when a <u>contract becomes void</u>, any person who has received any advantage under such agreement or contract is <u>bound to restore it or to make compensation for it</u> to the person from whom he received it.</p> <p><b>Fact of the case:</b> Mr X and Mr Y entered into a contract on 1<sup>st</sup> August 2018, by which Mr X had to supply 50 tons of sugar to Mr Y at a certain price strictly within a period of 10 days</p>	4															

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<b>33</b>	<p>X, Y and Z are partners in a firm. They jointly promised to pay ₹3,00,000 to D. Y to become insolvent, and his private assets are sufficient to pay 1/5 of his share of debts. X is compelled to pay the whole amount to D. Examining the provisions of the Indian Contract Act, 1872, decide the extent to which X can recover the amount from Z.</p> <p style="text-align: right;"><b>(May 2018)</b></p>	<b>2</b>
<b>Ans.</b>	<p>As per the provision of the Indian Contract Act, 1872, requires that when two or more persons have made a joint promise, then, unless a contrary intention appears from the contract, all such person jointly must fulfil the promise. In the event of the death of any of them, <u>his representative jointly</u> with the survivors and in the case of the death of all promisors, the <u>representatives of all jointly must fulfil the promise</u>.</p> <p><b>Fact of the case:</b> X, Y and Z are partners in a firm. They jointly promised to pay ₹3,00,000 to D. Y to become insolvent, and his private assets are sufficient to pay 1/5 of his share of debts. X is compelled to pay the whole amount to D.</p> <p><b>Conclusion:</b> X can recover the contribution from Y and Z because X, Y and Z are joint promisors. X can recover the amount of ₹20,000 from the Z's assets and ₹1,40,000 from Y.</p>	<b>2</b>
<b>34</b>	<p>Explain the type of contracts in the following agreements under the Indian Contract Act, 1872</p> <ol style="list-style-type: none"> <li>X promise to sell his scooter to Y for ₹1 Lakh. However, the consent of X has been procured by Y at gunpoint.</li> <li>A bought goods from B in 2015. But no payment was made till 2019.</li> <li>G agrees to give tuitions to H, a pre-engineering student, from the next month and H, in consideration, promises to pay G ₹5,000 per month. <b>(RTP May 2021)</b></li> </ol>	<b>3</b>
<b>Ans.</b>	<ol style="list-style-type: none"> <li>X is an aggrieved party, and the contract is voidable at his option but not at the option of Y. It means if X accepts the contract, the contract becomes a valid contract, then Y has <u>no option of rescinding the contract</u>.</li> <li>B cannot sue A for the payment in 2019 as it has crossed three years and barred by Limitation Act. A good debt becomes <u>unenforceable after the period of three years</u> as barred by the Limitation Act.</li> <li>G agrees to give tuitions to H, a pre-engineering student, from the next month and H, in consideration, promises to pay G ₹5,000 per month; the contract is <u>executory because it is yet to be carried out</u>.</li> </ol>	<b>3</b>

35	What is the law relating to the determination of compensation on breach of contract, contained in section 73 of the Indian Contract Act, 1872? <b>(RTP Nov. 2019, Nov 2022 RTP)</b>	6
Ans.	<p>As per the provision of the Indian Contract Act, 1872, the following kinds of damages are payable to the extent and in the circumstances and subject to the condition of estimating the loss or damage arising from a breach of contract, the means which existed of remedying the inconvenience caused by non-performance of the contract must be taken into account.</p> <ol style="list-style-type: none"> <li>1) <b>Ordinary Damages:</b> These are damages that naturally arise in the usual course of things. For instance: A promises to deliver 1,000 bags of rice at ₹100 per bag on 10<sup>th</sup> December. On the due date, he refuses to deliver. On the due date, the market price is ₹110, so the ordinary damages will be ₹10,000, i.e. 1,000 bags multiplied by ₹10, the difference between the market and the contract price. This damages the aggrieved party can claim and can as a matter of right. As a result of the breach of contract, ordinary damages arise in the ordinary course of business.</li> <li>2) <b>Liability for special damages:</b> Special damages are for those losses which arise on account of unusual circumstances. They are not recoverable unless the special circumstances were brought into the knowledge of the defendant. So, the possibility of the special loss was in the knowledge of the parties when the contract was made.</li> <li>3) <b>Liability to pay inductive or exemplary damages:</b> These damages may be awarded in two cases: <ol style="list-style-type: none"> <li>i) For breach of promise to marry; and</li> <li>ii) For wrongful dishonour of customer's cheque by a banker.</li> </ol> <p>In a breach of promise to marry, exemplary damages may be awarded to the other party taking into consideration the injury caused to his or her feeling. The amount of damages recoverable by the drawer of cheque from his banker in case of wrongful dishonour of his cheque may be quite heavy depending upon the loss of credit and reputation suffered by the customer of the banker on that account. They are awarded to punish the defendant so as to prevent the defendant from committing this again and not solely with the idea of awarding compensation to the plaintiff.</p> </li> <li>4) <b>Liability to pay nominal damages:</b> Nominal damages are awarded where the plaintiff has proved that there has been a breach of contract. But he has not, in fact, suffered any real damage. These damages are not claimed with a view to establishing the right of a person to the breach of contract. The amount may be rupee or so, a very nominal amount of damages.</li> <li>5) <b>Damages for deterioration caused by delay:</b> In case of deterioration is caused to goods by delay, damages can be recovered from the carrier. The word deterioration does not only imply physical damage to the goods, but it also means loss of profit caused as a result of loss of special opportunity for sale.</li> </ol>	6
36	"Only a person who is a party to a contract can sue on it." Explain this statement and describe its exceptions, if any. <b>(RTP May 2020)</b>	5
Ans.	As per the provision of the Indian Contract Act, 1872, the consideration for an agreement may <u>proceed from a third party</u> , but the <u>third party cannot sue</u> on the contract. Only a person who is a party to a contract can sue on it. But, in the case of the <u>assignment of a contract</u> , a provision may be made for the <u>benefit of a person</u> . He may file a suit, though he is not a party to the contract.	5

	<p>1) <b>A person in whose favour a charge or other interest in some specified property has been created</b> may before enforce it though he is not a party to the contract.</p> <p>2) <b>An agreement is made in connection with marriage, partition, or other family arrangements and provision is made for the benefit of a person.</b> He may take advantage of that agreement, although he is not a party to it. In the case of a family arrangement, if the terms of the arrangements are in writing, the members of the family who originally had not been parties to the agreement may enforce the agreement.</p> <p>3) <b>A female member can enforce a provision made for marriage or other expenses:</b> This provision was made on the partition of the Hindu undivided family.</p> <p>4) <b>In the case of estoppels (stop from denying) by acknowledgement of liability:</b> This can be illustrated with the help of an <b>example</b>. L gives to M ₹2,000 to be given to N. M informs N that he is holding the money for him. Afterwards, M refuses to pay the money. N will be entitled to recover the same from M. (Here M will be estopped, i.e. stop from denying)</p> <p>5) <b>There is a condition/covenant running with the land:</b> The person purchases a land with a notice that the owner of the land is bound by certain duties/conditions/covenants affecting land. He shall be bound by such conditions/ covenants even though he is not a party to the original agreement containing those conditions or covenants. Thus the covenant/condition affecting the land may be enforced against him though he was not the original party to the contract.</p>	
<b>37</b>	<p>Explain the circumstances in which the person is deemed to be in a position to dominate the will of the other person under the Indian Contract Act, 1872.</p> <p style="text-align: right;"><b>(RTP May 2020)</b></p>	<b>4</b>
<b>Ans.</b>	<p><b>Position to dominate the will:</b> Relation between the parties exist in such a manner that one of them is in a position to dominate the will of the other. A person is deemed to be in such a position in the following circumstances:</p> <p>a) <b>Real and apparent authority:</b> Where a person holds a real authority over the other, as in the case of master and servant, doctor and patient, etc.</p> <p>b) <b>Fiduciary relationship:</b> Where the relation of trust and confidence exists between the parties to a contract. Such type of relationship exists between father and son, solicitor and client, husband and wife, creditor and debtor, etc.</p> <p>c) <b>Mental distress:</b> An undue influence can be used against a person to get his consent on a contract where the mental capacity of the person is temporarily or permanently affected by reason of mental or bodily distress, illness or old age.</p> <p>d) <b>Unconscionable bargains:</b> Where one of the parties to a contract is in a position to dominate the will of the other and the contract is apparently unconscionable, i.e., unfair, it is presumed by law that consent must have been obtained by undue influence. Unconscionable bargains are witnessed mostly in money lending transactions and in gifts.</p>	<b>4</b>
<b>38</b>	<p>“The Basic rule is that the promisor must perform exactly what he has promised to perform”. Explain stating the obligation of parties to contracts. <b>(RTP May 2020)</b></p>	<b>4</b>
<b>Ans.</b>	<p>As per the provision of the Indian Contract Act, 1872, the parties to a contract must either perform, or offer to perform their respective promises unless such performance is disputed with or excused under the provisions of this Act or any</p>	<b>4</b>

	<p>other law.</p> <p>Promises bind the representatives of the promisor in the case of the death of the promisor before performance unless a contrary intention appears from the contract. Example: X promises to deliver goods to Y on a certain day on the payment of ₹1 Lakh. X dies before that day. X's representatives are bound to deliver the goods to Y and Y is bound to pay ₹1 Lakh to X's representatives.</p>	
<b>39</b>	<p>Define an offer. Explain the essentials of a valid offer. How is an offer different from an invitation to offer? <b>(RTP Nov. 2019)</b></p>	<b>5</b>
<b>Ans.</b>	<p>As per the provision of the Indian Contract Act, 1872, define the offer as when a person signifies to another his willingness to do or to abstain from doing anything with a view to obtain the assent of other such act or abstinence is said to make a proposal.</p> <p>The essentials of a valid offer: -</p> <ul style="list-style-type: none"> <li>✓ The offer must be capable of <u>creating legal relations</u>.</li> <li>✓ The offer must be <u>certain, definite, not vague</u>.</li> <li>✓ The offer must be <u>distinguished from an invitation to offer</u>.</li> <li>✓ The offer should not <u>contain a term the non-compliances of which will amount to acceptance</u>.</li> <li>✓ Special terms of an offer shall be <u>brought to the notice of the other party</u>.</li> <li>✓ The offer must be <u>expressed or implied</u>.</li> </ul> <p>As per the provision of the Indian Contract Act, 1872, the offer should be distinguished from an invitation to offer. An offer is the final expression of willingness by the offeror to be <u>bound by his offer</u> should the party chooses to accept it. Where a party, <u>without expressing his final willingness</u>, 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 an offer and an invitation to offer.</p>	<b>5</b>
<b>40</b>	<p>"An anticipatory breach of contract is a breach of contract occurring before the time fixed for performance has arrived." Explain the statement and also the effect of anticipatory breach on contracts. <b>(ICAI-SM, May 2022 RTP)</b></p>	<b>4</b>
<b>Ans.</b>	<p>As per the provision of the Indian Contract Act, 1872, an <u>anticipatory breach</u> of contract is a breach of contract <u>occurring before the time fixed for performance</u> has arrived. When the promisor refuses altogether to perform his promise and signifies his unwillingness before the time for performance has arrived, it is called an anticipatory breach.</p> <p>Effect of anticipatory breach: The promisee is excused from the performance or further performance. Further, he gets an option to either: -</p> <ol style="list-style-type: none"> <li>1) To either treat the contract as <u>rescinded</u> and <u>sue the other party for damages</u> from breach of the contract immediately without waiting until the due date of performance; or</li> <li>2) He may elect not to rescind but to treat the contract as a <u>still operative</u>, and wait for the time of performance and then hold the other party responsible for the consequences of non-performance.</li> </ol> <p>He also may <u>keep the contract alive</u> for the benefit of the other party as well as his own, and the guilty party, if he so decides on <u>re-consideration</u>, may still perform his part of the contract and can also <u>take advantage of any supervening impossibility</u> which may have the effect of discharging the contract.</p>	<b>4</b>
<b>41</b>	<p>What is a wagering agreement? Describe the transactions which resemble with wagering transaction but are not void. <b>(RTP May 2020)</b></p>	<b>4</b>

<b>Ans.</b>	<p>According to Sir William Anson – It is an agreement to pay money or money’s worth upon the determination of an uncertain event. For instance: There is a bet between A and B. A promises to pay B ₹1,000 if it rains. B promises an equal amount if it does not rain.</p> <p>According to the Indian Contract Act 1872, agreements by way of wager are void but there are some transactions that are similar to wagering agreements but are not void:</p> <ol style="list-style-type: none"> <li>1) <b>Chit Fund:</b> Chit fund does not come within the scope of wager. In the case of a chit fund, a certain number of persons decide to contribute a fixed sum for a specified period and at the end of a month, the amount so contributed is paid to the lucky winner of the lucky draw.</li> <li>2) <b>Commercial transactions or share market transactions:</b> In these transactions in which the delivery of goods or shares is intended to be given or taken, do not amount to wagers.</li> <li>3) <b>Games of skill and athletic competitions:</b> Crossword puzzles, picture competitions and athletic competitions where prizes are awarded on the basis of skill and intelligence are the games of skill and hence, such competitions are valid.</li> <li>4) <b>Contract of Insurance:</b> A contract of insurance is a type of contingent contract and is valid under the law and these contracts are different from wagering agreements.</li> </ol>	<b>4</b>
<b>42</b>	<p>Explain the concept of ‘Quantum Meruit’ and state the cases where the claim the quantum meruit arises? <b>(RTP May 2020)</b></p>	<b>5</b>
<b>Ans.</b>	<p>As per the provision of the Indian Contract Act, 1872, “<u>Quantum Meruit</u>” literally means “<u>as much as earned</u>” or <u>reasonable remuneration</u>. It is used where a person claims reasonable remuneration for the <u>services rendered</u> by him when there was <u>no express promise to pay the definite remuneration</u>. Thus, the law implies reasonable compensation for the services rendered by a party if there are circumstances showing that these are to be paid for.</p> <p>The claim for the quantum meruit arises in the following cases:</p> <ol style="list-style-type: none"> <li>1) When an agreement is discovered to be void or when a contract becomes void.</li> <li>2) When something is done without any intention to do so gratuitously.</li> <li>3) Where there is an express or implied contract to render services but there is no agreement as to remuneration.</li> <li>4) When one party abandons or refuses to perform the contract.</li> <li>5) Where a contract is divisible and the party not in default has enjoyed the benefits of the part performance.</li> </ol>	<b>5</b>
<b>43</b>	<p>Explain the modes of revocation of an offer as per the Indian Contract Act, 1872. <b>(Nov. 2018)</b></p>	<b>5</b>
<b>Ans.</b>	<p>As per the provision of the Indian Contract Act, 1872, modes of revocation of offer are:</p> <ol style="list-style-type: none"> <li>1) By <u>notice of revocation</u>.</li> <li>2) By <u>lapse of time</u>: The time for acceptance can <u>lapse</u> if the <u>acceptance is not given within the specified time</u> and where <u>no time is specified</u>, then <u>within a reasonable time</u>.</li> <li>3) By <u>non-fulfilment of condition precedent</u>: Where the acceptor fails to fulfil a <u>condition precedent to the acceptor</u>, the proposal gets <u>revoked</u>.</li> <li>4) By death or insanity: <u>Death or insanity</u> of the proposer would result in <u>automatic revocation of the proposal</u>, but only if the fact of death or insanity</li> </ol>	<b>5</b>

	comes to the knowledge of the acceptor. 5) By <u>counter offer</u> . 6) By the <u>non-acceptance of the offer according to the prescribed or usual mode</u> . 7) By subsequent <u>illegality</u> .	
<b>44</b>	Mr B makes a proposal to Mr S by post to sell his house for ₹10 lakhs and posted the letter on 10 <sup>th</sup> April 2020 and the letter reaches 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 reaches Mr B on 20 <sup>th</sup> April 2020. On 17 <sup>th</sup> April, Mr S changed his mind and sent a telegram withdrawing his acceptance. Telegram reaches Mr B on 19 <sup>th</sup> April 2020. a) On which date, the offer made by Mr B will complete? b) Discuss the validity of acceptance. c) What would be the validity of acceptance if the letter of revocation and letter of acceptance reached together? <b>(Jan. 2021)</b>	<b>3</b>
<b>Ans.</b>	a) As per the provision of the Indian Contract Act, 1872, the <u>communication of an offer</u> is complete when it comes to the knowledge of the person to whom it is made. If a proposal is made by post, the communication will be completed when the letter containing the proposal reaches the person to whom it is made. Further, the receiving of the letter is sufficient. Mr B makes a proposal by post to Mr S to sell his house. The letter was posted on 10 <sup>th</sup> April 2020, and the letter reaches Mr S on 12 <sup>th</sup> April 2020, but he reads the letter on 13 <sup>th</sup> April 2020. Thus, the offer made by Mr B will complete on the day when Mr S reads the letter, i.e., 13 <sup>th</sup> April 2020. b) The <u>communication of acceptance is complete on two different dates</u> on one date as against the proposer and on another date as against the acceptor. When a proposal is accepted by a letter sent by post, the communication of acceptance will be completed against the proposer when the letter of acceptance is posted and against the acceptor when the letter reaches the proposer. Mr S accepts Mr B's proposal and sent his acceptance by post on 16 <sup>th</sup> April 2020, when the letter is posted. As against the acceptor, the acceptance will be complete when the letter reaches Mr B, i.e. 20 <sup>th</sup> April 2020. a) <u>Revocation of Acceptance</u> : The acceptor can revoke his acceptance any time before the letter of acceptance reaches the offeror. If the revocation telegram arrives before or at the same time with the letter of acceptance, the revocation is absolute. The telegram for the revocation of acceptance reached Mr B on 19 <sup>th</sup> April 2020, i.e. before the letter of acceptance of the offer. Hence, the revocation is absolute. Therefore, acceptance of an offer is invalid.	<b>3</b>
<b>45</b>	Shambhu Dayal started a "self-service" system in his shop. Smt Prakash entered the shop, took a basket and after taking articles of her choice into the basket, reached the cashier for payments. The cashier refuses to accept the price. Can Shambhu Dayal be compelled to sell the said articles to Smt Parkash? Decide as per the provisions of the Indian Contract Act, 1872. <b>(ICAI-SM)</b>	<b>3</b>
<b>Ans.</b>	As per the provision of the Indian Contract Act, 1872, the offer should be distinguished from an invitation to offer. An offer is the final expression of <u>willingness by the offeror</u> to be bound by his offer should the party chooses to accept it. Where a party, <u>without expressing his final willingness</u> , proposes certain terms on which he is <u>willing to negotiate</u> , 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 an offer and an invitation to offer.	<b>3</b>

	<p><b>Fact of the case:</b> Shambhu Dayal started a “self-service” system in his shop. Smt Prakash entered the shop, took a basket and after taking articles of her choice into the basket, reached the cashier for payments. The cashier refuses to accept the price.</p> <p><b>Conclusion:</b> 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, Smt Prakash, by selecting some articles and approaching the cashier for payment, simply made an offer to buy the articles selected by her. If the cashier does not accept the prize, the interested buyer cannot compel him to sell.</p>	
46	<p>State whether there is any contract in the following cases:</p> <p>a) A engages B to do certain work and remuneration to be paid as fixed by C. b) A and B promise to pay for the studies of their maid’s son c) A takes a seat on a public bus. d) A, a chartered accountant, promises to help his friend to file his return.</p> <p style="text-align: right;"><b>(ICAI-SM)</b></p>	2
Ans.	<p>a) A engages B to do certain work and remuneration to be paid as fixed by C. Hence; It is a valid express contract. b) A and B promise to pay for the studies of their maid’s son. Hence it is not a contract as it is a social agreement. c) A takes a seat on a public bus. Hence, it is an implied contract. A is bound to pay for the bus fare. d) A, a chartered accountant, promises to help his friend to file his return. Hence, it is not a social agreement; it creates a legal relationship. Therefore, A can claim for the non-gratuitous act.</p>	2
47	<p>Miss Shakuntala puts an application to be a teacher in the school. She was appointed by the trust of the school. Her friend who works in the same school informs her about her appointment informally. But later, due to some internal reasons, her appointment was cancelled. Can Miss Shakuntala claim for damages?</p> <p style="text-align: right;"><b>(ICAI-SM, Nov 2021 RTP)</b></p>	3
Ans.	<p>As per the provision of the Indian Contract Act, 1872, communication of acceptance is complete as <u>against the offeror</u> when it is put in the course of transmission to him</p> <p><b>Fact of the case:</b> Miss Shakuntala puts an application to be a teacher in the school. She was appointed by the trust of the school. Her friend who works in the same school informs her about her appointment informally. But later, due to some internal reasons, her appointment was cancelled.</p> <p><b>Conclusion:</b> No, Miss Shakuntala <u>cannot claim damages</u>. School authorities have not put an offer letter in the transmission. Her information from a third person will not form part of the contract.</p>	3
48	<p>“Through a minor is not competent to contract, nothing on the Contract Act prevents him from making the other party bound to the minor”. Discuss.</p> <p style="text-align: right;"><b>(ICAI-SM, Nov 2022 RTP)</b></p>	2
Ans.	<p><b>Minor can be a beneficiary or can take benefit out of a contract:</b> A <u>minor is not competent</u> to contract; nothing in the Contract Act prevents him from making the other party bound to the minor. <u>A promissory note duly executed in favour of a minor is not void</u> and can be sued upon by him because he, though incompetent to contract, may yet accept a benefit.</p>	2

	A <u>minor cannot become a partner in a partnership firm</u> . However, he may, with the consent of all the partners, be <u>admitted to the benefits of the partnership</u> .	
<b>49</b>	A sends an offer to B to sell his second car for ₹1,40,000 with the condition that if B does not reply within a week, he (A) shall treat the offer as accepted. Is A correct in his proposition? <b>(ICAI-SM)</b>	<b>3</b>
<b>Ans.</b>	As per the provision of the Indian Contract Act, 1872, the offer cannot be made as to constitute the silence as the acceptance. Unless the offeree has by his previous conduct indicated that his silence amount to acceptance, it cannot be taken as a valid acceptance. <b>Fact of the case:</b> A sends an offer to B to sell his second car for ₹1,40,000 with the condition that if B does not reply within a week, he (A) shall treat the offer as accepted. <b>Conclusion:</b> B remains silent; it does <u>not amount to acceptance</u> . The acceptance must be made within the <u>time limit prescribed by the offer</u> . The acceptance of an offer after the time prescribed by the offeror has elapsed will <u>not avail to turn the offer</u> into a contract.	<b>3</b>
<b>50</b>	Mr J entered into an agreement with Mr S to purchase his (Mr S's) motor car for ₹5,00,000 within a period of three months. A security amount of ₹20,000 was also paid by Mr J to Mr S in terms of the agreement. After completion of three months of entering into the agreement, Mr S tried to contact Mr J to purchase the car in terms of the agreement. Even after the lapse of another three-month period, Mr J neither responded to Mr S nor to his phone calls. After the lapse of another six months, Mr J contact Mr S and denied purchasing the motor car. He also demanded back the security amount of ₹20,000 from Mr S. Referring to the provisions of the Indian Contract Act, 1872, state whether Mr S is required to refund the security amount to Mr J. Also, examine the validity of the claim made by Mr J; if the motor car would have destroyed by accident within the three month's agreement period. <b>(ICAI-SM)</b>	<b>3</b>
<b>Ans.</b>	As per provision of the Indian Contract Act, 1872, when an agreement is <u>discovered to be void or when a contract becomes void</u> , any person who has received any advantage under such agreement or <u>contract is bound to restore it</u> or to make compensation for it to the <u>person from whom he received it</u> . <b>Fact of the case:</b> Mr J entered into an agreement with Mr S to purchase his (Mr S's) motor car for ₹5,00,000 within a period of three months. A security amount of ₹20,000 was also paid by Mr J to Mr S in terms of the agreement. After completion of three months of entering into the agreement, Mr S tried to contact Mr J to purchase the car in terms of the agreement. Even after the lapse of another three-month period, Mr J neither responded to Mr S nor to his phone calls. After the lapse of another six months, Mr J contact Mr S and denied purchasing the motor car. He also demanded back the security amount of ₹20,000 from Mr S. <b>Conclusion:</b> The contract is not void. Mr Such is not responsible for Mr Jhuth's negligence. Therefore, Mr Such can rescind the contract and retain the security amount since the <u>security is not a benefit received</u> . It is a security that <u>the purchaser would fulfil his contract and is ancillary to the contract</u> for the sale of the Motor Car.	<b>3</b>

	In the second situation, the agreement becomes void due to the destruction of the Motor Car, which is the subject matter of the agreement here. Therefore, the security amount received by Mr Such is <u>required to be refunded back</u> to Mr Jhuth.	
<b>51</b>	“All contracts are agreement, but all agreements are not contract”. Comment. <b>(ICAI-SM)</b>	<b>3</b>
<b>Ans.</b>	An agreement comes into existence when one party makes an 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. If an agreement is incapable of creating a duty enforceable by law, it is not a contract. <b>All agreements are not contract:</b> When there is an agreement between the parties and <u>do not intend to create a legal relationship</u> , it is not a contract. <b>All contracts are agreements:</b> For a contract, there must be two things (a) <u>an agreement and (b) enforceable by law</u> . Thus, the existence of an agreement is a pre-requisite 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 <u>can't have a contract without an agreement</u> .	<b>3</b>
<b>52</b>	Explain any five circumstances under which contracts need not be performed with the consent of both parties. <b>(Dec 2021)</b>	<b>7</b>
<b>Ans.</b>	1) <b>Effect of Novation:</b> Where the parties of the contract agree to substitute the existing contract for a new contract, it is called novation. The effect of novation is that the old contract is discharged, and consequently, it need not be performed, and a new contract emerges. 2) <b>Effect of Rescission:</b> A contract is also discharged by rescission when the parties to a contract agree to rescind it; the contract need not be performed. However, in the case of rescinding, only the old contract is cancelled, and no new contract comes into existence, as happens in the case of novation. 3) <b>Effect of Alteration:</b> Alteration of contract means the parties to a contract agree to alter it. The original contract is rescinded, and it need not be performed. 4) <b>Promisee may waive performance of promise (Remission):</b> Every promise may dispense with or remit wholly, or in part, the performance of the promise made to him or may extend the time for such performance made to him or may extend the time for such performance or may accept instead of its any satisfaction which he thinks fit. 5) <b>Rescission of voidable contracts:</b> When a person at whose option a contract is voidable rescinds it, the other party is not required to perform any promise in which he is the promisor. 6) <b>Neglect of promise:</b> If any promisee neglects or refuses to provide the promisor reasonable facilities for the performance of his promise, the promisor need not to perform any such promise.	<b>7</b>
<b>53</b>	Rahul, a minor, falsely representing his age, enters into an agreement with a shopkeeper for a loan amount for purchasing a laptop. He gave his expensive watch as a security and took a loan of ₹40,000. He was very happy to get ₹40,000 and quickly went to the market and purchased a laptop worth ₹30,000. He happily spent the rest of the amount with his friends on a pleasure trip. Later on, Rahul realized that his watch was an expensive watch and he should not have given like this to the shopkeeper. So, he went back to the shopkeeper and asked for his watch back. Also, he refused to repay the loan amount. The shopkeeper disagrees to this and files a	<b>4</b>

	<p>case against minor for recovery of the loan amount. Can the shopkeeper succeed in recovering the loan amount under the Indian Contract Act, 1872?</p> <p style="text-align: right;"><b>(Nov 2021 RTP, June 2022)</b></p>	
<b>Ans.</b>	<p>As per Section 11 of Indian Contract Act, 1872, a minor is not competent to enter into any contract. Any agreement with minor is <u>void-ab-initio</u> means void from the very beginning. When a person forms an agreement with minor, such an agreement is devoid of any legal consequences for the person because <u>minor cannot be enforced by law to perform his part of performance in an agreement.</u></p> <p>However, if minor obtains any property by fraudulently misrepresenting his age, he can be <u>ordered to restore the property or goods thus obtained.</u> Although no action can be taken against the minor, but if has any property (of other party) in his possession, court can order him to return the same.</p> <p><b><u>Facts of the case:</u></b></p> <p>Rahul, a minor, falsely representing his age, enters into an agreement with a shopkeeper for a loan amount for purchasing a laptop. He gave his expensive watch as a security and took a loan of ₹40,000. He was very happy to get ₹40,000 and quickly went to the market and purchased a laptop worth ₹30,000. He happily spent the rest of the amount with his friends on a pleasure trip. Later on, Rahul realized that his watch was an expensive watch and he should not have given like this to the shopkeeper. So, he went back to the shopkeeper and asked for his watch back. Also, he refused to repay the loan amount. The shopkeeper disagrees to this and files a case against minor for recovery of the loan amount.</p> <p><b><u>Conclusion:</u></b></p> <p>Hence, in the present case, Rahul is not liable to repay ₹40,000 that he has borrowed from the shopkeeper, but he can be ordered by the court to return the laptop (which was in his possession) to the shopkeeper.</p>	<b>4</b>
<b>54</b>	<p>Mr. X was a Disk Jockey at a five-star hotel bar. As per the contract, he is supposed to perform every weekend (i.e. twice a week). Mr. X will be paid ₹1500 per day. However, after a month, Mr. X willfully absents himself from the performance.</p> <p>i) Does the hotel have the right to end the contract?</p> <p>ii) If the hotel sends out a mail to X that they are interested to continue the contract and X accepts, can the hotel rescind the contract after a month on this ground subsequently?</p> <p>iii) In which of the cases – (termination of contract or continuance of contract) can the hotel claim damages that it has suffered as a result of this breach?</p> <p style="text-align: right;"><b>(Nov 2021 RTP, June 2022)</b></p>	<b>4</b>
<b>Ans.</b>	<p>According to the provision of the Indian Contract Act, 1872, when a party to a contract has refused to perform or disable himself from performing his promise in its entirety, the promisee may put an end to the contract or may decide to continue with the contract.</p> <p><b><u>Facts of the case:</u></b></p> <p>Mr. X was a Disk Jockey at a five-star hotel bar. As per the contract, he is supposed to perform every weekend (i.e. twice a week). Mr. X will be paid ₹1500 per day. However, after a month, Mr. X willfully absents himself from the performance.</p> <p><b><u>Conclusion:</u></b></p> <p>In the given case:</p> <p>i) Yes, the hotel has the right to end the contract with Mr. X, the DJ.</p> <p>ii) The hotel has the right to continue the contract with X. But once this right is exercised, they cannot subsequently rescind the contract on this ground</p>	<b>4</b>

	subsequently. iii) In both the cases, the hotel (promisee) is entitled to claim damages that has been suffered as a result of breach.	
<b>55</b>	“An agreement, the meaning of which is not certain, is void.” Discuss. <b>(Nov 2021 RTP)</b>	<b>2</b>
<b>Ans.</b>	As per the provisions of the Indian Contract Act, 1872, an agreement, <u>the meaning of which is not certain</u> , is <u>void</u> , but where the meaning thereof is capable of being made certain, the agreement is valid. For example, A agrees to sell B “a hundred tons of oil”. There is nothing whatever to show what kind of oil was intended. The agreement is void for uncertainty. But the agreement would be valid if A was dealer only in coconut oil because in such a case its meaning would be capable of being made certain.	<b>2</b>
<b>56</b>	A enters into a contract with B that he (A) sells his house for ₹10,00,000 to B. Further they both signed an agreement that if B uses the house for gambling purposes, then B shall pay A ₹50,000 for it. B agreed to this, however after a year of sale, B started gambling business in that house. Can A claim ₹50,000 from B? Discuss with reference to the provisions of Indian Contract Act, 1872. <b>(May 2022 RTP)</b>	<b>4</b>
<b>Ans.</b>	According to Section 24 of the Indian Contract Act, 1872, in an agreement, where <u>some part of the object is legal and the other part is illegal</u> , the question arises about the validity and enforceability of such agreements. Where the legal and illegal part can be <u>severed and divided</u> , and separated, lawful part of object is enforceable, and the unlawful part of the object is void. <b>Facts of the case:</b> In the given case, A sells the house to B, is a valid transaction as the sale of house and consideration paid for the same i.e. ₹10,00,000 is valid and enforceable. However, the agreement to pay ₹50,000 for gambling done in the house is illegal and thus void. <b>Conclusion:</b> Hence, in the instant case, sale of house agreement is valid agreement and gambling agreement is illegal and not enforceable by law.	<b>4</b>
<b>57</b>	Mr. Aseem is a learned advocate. His car was stolen from his house. He gave an advertisement in newspaper that he will give the reward of ₹10,000 who will give the information about his car. Mr. Vikram reads the advertisement and on making some efforts got the stolen car and informed Mr. Aseem. Mr. Aseem found his car but denied giving reward of ₹10,000 to Mr. Vikram with the words, “An advertisement in newspaper is just an invitation to make offer and not an offer. Hence, he is not liable to make the reward.” State with reasons whether under Indian Contract Act, 1872, Mr. Vikram can claim the reward of ₹10,000. <b>(May 2022 RTP)</b>	<b>3</b>
<b>Ans.</b>	An <u>invitation to offer is different from offer</u> . Quotations, menu cards, price tags, advertisements in newspaper for sale are not offer. These are merely invitations to public to make an offer. An invitation to offer is an act precedent to making an offer. Acceptance of an invitation to an offer does not result in the contract and only an offer emerges in the process of negotiation. But there is an exception to above provisions. When advertisement in newspaper is made for reward, it is the general offer to public. <b>Facts of the case:</b> Mr. Aseem is a learned advocate. His car was stolen from his house. He gave an advertisement in newspaper that he will give the reward of ₹10,000 who will give the information about his car. Mr. Vikram reads the advertisement and on making	<b>3</b>

	<p>some efforts got the stolen car and informed Mr. Aseem. Mr. Aseem found his car but denied giving reward of ₹10,000 to Mr. Vikram with the words, "An advertisement in newspaper is just an invitation to make offer and not an offer. Hence, he is not liable to make the reward."</p> <p><b>Conclusion:</b> On the basis of above provisions and facts, it can be said that as advertisement made by Mr. Aseem to find lost car is an offer, he is liable to pay ₹10,000 to Mr. Vikram.</p>	
<b>58</b>	<p>Mr. Singhanian entered into a contract with Mr. Sonu to sing in his hotel for six weeks on every Saturday and Sunday. Mr. Singhanian promised to pay ₹20,000 for every performance. Mr. Sonu performed for two weeks but on third week his health condition was very bad, so he did not come to sing. Mr. Singhanian terminated the contract. State in the light of provisions of the Indian Contract Act, 1872: -</p> <p>a) Can Mr. Singhanian terminate the contract with Mr. Sonu? b) What would be your answer in case Mr. Sonu turns up in fourth week and Mr. Singhanian allows him to perform without saying anything? c) What would be your answer in case Mr. Sonu sends Mr. Mika on his place in third week and Mr. Singhanian allows him to perform without saying anything?</p> <p style="text-align: right;"><b>(May 2022 RTP)</b></p>	<b>4</b>
<b>Ans.</b>	<p>According to Section 40 of the Indian Contract Act, 1872, if it was the intention of the parties that <u>the promise should be performed by the promisor himself</u>, the promise must be performed by the promisor. Section 41 provides that when a promisee accepts performance of the promise from a <u>third person</u>, he <u>cannot afterwards enforce it against the promisor</u>.</p> <p><b>Facts of the case:</b> Mr. Singhanian entered into a contract with Mr. Sonu to sing in his hotel for six weeks on every Saturday and Sunday. Mr. Singhanian promised to pay ₹20,000 for every performance. Mr. Sonu performed for two weeks but on third week his health condition was very bad, so he did not come to sing. Mr. Singhanian terminated the contract.</p> <p><b>Conclusion:</b> Therefore, in the instant case,</p> <p>a) As Mr. Sonu could not perform as per the contract, Mr. Singhanian can repudiate the contract. b) In the second situation, as Mr. Singhanian allowed Mr. Sonu to perform in the fourth week without saying anything, by conduct, Mr. Singhanian had given his assent to continue the contract. Mr. Singhanian cannot terminate the contract however he can claim damages from Mr. Sonu. c) In case Mr. Singhanian allows Mr. Mika to perform in the third week without saying anything, by conduct, Mr. Singhanian had given his assent for performance by third party. Now Mr. Singhanian cannot terminate the contract nor can claim any damages from Mr. Sonu.</p>	<b>4</b>
<b>59</b>	<p>Mr. Y is a devotee and wants to donate an elephant to the temple as a core part of ritual worship. He contacted Mr. X who wanted to sell his elephant. Mr. X contracted with Mr. Y to sell his elephant for ₹20 Lakhs. Both were unaware that the elephant was dead a day before the agreement. Referring to the provisions of the Indian Contract Act, 1872, explain whether it is a void, voidable or a valid contract.</p> <p style="text-align: right;"><b>(Nov 2022 RTP)</b></p>	<b>2</b>
<b>Ans.</b>	<p>As per the provisions of the Indian Contract Act 1872, an agreement that <u>ceases to be enforceable by law</u> becomes void when it ceases to be enforceable. In simple</p>	<b>2</b>

	<p>words, a contract cannot be enforceable by a court of law. It is <u>immaterial</u> whether the promisor or promisee knows about the fact of impossibility or not.</p> <p><b><u>Facts of the case:</u></b></p> <p>Mr. Y is a devotee and wants to donate an elephant to the temple as a core part of ritual worship. He contacted Mr. X who wanted to sell his elephant. Mr. X contracted with Mr. Y to sell his elephant for ₹20 Lakhs. Both were unaware that the elephant was dead a day before the agreement.</p> <p><b><u>Conclusion:</u></b></p> <p>In the present case, the agreement between X and Y is void because the elephant was dead before the date on which the agreement was supposed to be entered between and X and Y. It is immaterial whether X and Y knows about the death of elephant or not.</p>	
<b>60</b>	<p>Karan agreed to purchase wooden table for his study room from Mr. X. Table was in good condition and was examined by Karan before purchasing. He found no defects in it and paid ₹20,000 for that table. Later on, it was found that one leg of table is broken, and Mr. X has pasted the wood and tried to hide the defects in the table. Can Karan return the table and claim the amount back? Discuss the same with reference to Indian Contract Act, 1872.</p> <p style="text-align: right;"><b>(Nov 2022 RTP)</b></p>	<b>4</b>
<b>Ans.</b>	<p>As per the provisions of the Indian Contract Act 1872, the <u>active concealment</u> of a fact by one having knowledge or belief of the fact amounts to fraud. Also, in case a fraud is committed, the aggrieved party gets the right to rescind the contract.</p> <p><b><u>Facts of the case:</u></b></p> <p>Karan agreed to purchase wooden table for his study room from Mr. X. Table was in good condition and was examined by Karan before purchasing. He found no defects in it and paid ₹20,000 for that table. Later on, it was found that one leg of table is broken, and Mr. X has pasted the wood and tried to hide the defects in the table.</p> <p><b><u>Conclusion:</u></b></p> <p>In the present case, since Mr X had tried to actively conceal the defects in the table (which amounts to fraud), Karan has the right to rescind the contract.</p>	<b>4</b>
<b>61</b>	<p>What will be rights with the promisor in following cases? Explain with reasons:</p> <ol style="list-style-type: none"> <li>Mr. X promised to bring back Mr. Y to life again.</li> <li>A agreed to sell 50 kgs of apple to B. The loaded truck left for delivery on 15<sup>th</sup> March but due to riots in between reached B on 19<sup>th</sup> March.</li> <li>An artist promised to paint on the fixed date for a fixed amount of remuneration but met with an accident and lost his both hands.</li> <li>Abhishek entered into contract of import of toys from China. But due to disturbance in the relation of both the countries, the imports from China were banned.</li> </ol> <p style="text-align: right;"><b>(Nov 2022 RTP)</b></p>	<b>4</b>
<b>Ans.</b>	<ol style="list-style-type: none"> <li>The contract is void because of its <u>initial impossibility of performance</u>.</li> <li>Time is essence of this contract. As by the time apples reached B, they were already rotten. The contract is discharged due to <u>destruction of subject matter</u> of contract.</li> <li>Such contract is of <u>personal skill</u> and hence, cannot be performed due to occurrence of an event resulting in impossibility of performance of contract.</li> <li>Such contract is discharged without performance because of <u>subsequent illegality</u> nature of the contract.</li> </ol>	<b>4</b>