

CHAPTER 1: INDIAN CONTRACT ACT, 1872

Unit 1: NATURE OF CONTRACT

Extends to Whole of India Effect: 1 Sep 1872

* Contract [Sec 2(h)]

1. An Agreement
 2. Enforceable by law
- } CONTRACT

* Agreement [Sec 2(e)]

Every promise & Every set of Promises } forming consideration for each other

* Promise [Sec 2(b)]

When person to whom proposal made signifies his assent

Proposal → Accepted → Promise

* Enforceability by law

Must be a legal obligation or intention to create legal relationship

Agreement = Offer / Proposal + Acceptance

Contract = Accepted Proposal / Agreement + Enforceability by Law

Eg: A sells car to B for Rs. 1 Lac. This is a valid contract.

Eg: Father promises son to pay ₹ 500, does not pay later.

This is a Social Agreement / Domestic Agreement.

as there's no intention to create legal relationship

* D/b Agreement & Contract

Basis	Agreement	Contract
Meaning	Offer + Acceptance	Agreement + legal enforceability
Scope	Wider term, includes legal & social agreement.	Narrow sense, includes only legal agreements.
Legal obligation	May not create legal relation.	Always creates legal relationship.
Nature	All agreement are not contracts.	All contracts are agreements.

* Essentials of valid contract (Given in Section 10)

Conditions not in Sec 10 but important

1. Two parties.

Case law: State of Gujarat vs. Ramanlal S. & Co.

Dissolution of partnership, assets divided into partners.

This is NOT Sale. Partners → Joint owners.

Thus no sales tax can be levied.

2. Parties must intend to create legal relation.

Case law: *Balfour vs. Balfour*.

Husband promises to pay wife every month a sum, but fails to do so. Wife sued him. Held, this was a Social Agreement as parties did not intend to create legal relationship.

3. Other formalities to be complied with in certain cases.

- Contract of Insurance
 - Immoveable Property Contracts
- } Must be in writing, registered & Stamped.

4. Certainty of meaning: Certain, not vague or indefinite.

5. Possibility of performance agreement

Eg: Discover treasure by magic, making dead person alive are impossible agreements.

Section 10 Conditions.

1. Agreement OR Offer & Acceptance.

2. Free consent. (Consensus ad idem)

Consent → same thing in same sense.

Free consent : → when consent **NOT** caused by
Coercion, Undue Influence, Fraud, Misrepresentation, Mistake

Voidable

↓
Void

3. Capacity of Parties : Section 11 : → Competent to contract

Major

Sound mind

not otherwise
disqualified by law

X Lunatic, Idiot,
drunken person

Alien Enemy,
Convicts
Foreign sovereigns
Insolvents

4. Consideration : quid pro quo → 'Something in return' Can be cash / kind

5. Lawful consideration & object

Consideration is unlawful if:

- it's prohibited by law
- it would defeat provisions of law if fraudulent
- involves injury to person OR property of another
- court regards it as immoral OR opposed to public policy

6. Not expressly declared to be void or illegal

Illegal or void

↓

↓

Threat to
commit murder,
making defamatory statements

Restraint of trade, marriage, legal proceedings
etc.

* Types of Contract (on basis of validity or enforceability)

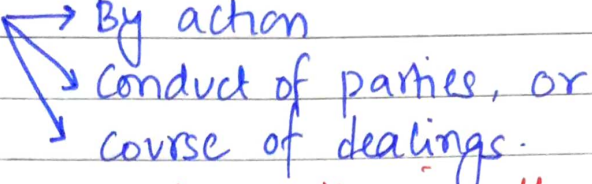
1. Valid Contract : Contains all essentials of valid contract.
2. Void Contract: [Sec 2(j)] A contract which ceases to be enforceable by law becomes void when it ceases to be enforceable.
first valid then becomes void due to subsequent /
Supervening Impossibility
3. Voidable Contract: Enforceable by law at option of aggrieved party but not at option of other.
4. Illegal Agreement/contract: Contract which law forbids.
All Illegal agreements are void but all void agreements are not necessarily illegal.
5. Unenforceable Contract :
Contract is good in substance , BUT contains some technical defect i.e. absence in writing, barred by limitation etc. , parties cannot sue upon.

* D/b	Void Agreement	Illegal Agreement
1. Scope	Not necessarily illegal.	Always void
2. Nature.	Not forbidden under law	Forbidden under law.
3. Punishment	Parties not punished	Parties liable to punishment
4. Collateral Agreement	Contracts collateral to void may be valid.	Agreements collateral to illegal, always void.

* D/b	Void Contract	Voidable Contract
Meaning	Contract ceases to be enforceable by law becomes void when it ceases to be enforceable.	Agreement enforceable by law at option of one or more parties but not at option of others
Enforceability	Void contract cannot be enforced at all.	Enforceable only at option of aggrieved party
Cause	Contract becomes void due to change in law OR change in circumstances beyond contemplation of parties (Subsequent illegality, or supervening impossibility)	Contract is voidable if consent of parties not free
Performance of Contract	Cannot be performed	If aggrieved party doesn't avoid contract in reasonable time, contract valid.
Rights	No legal remedy to parties	If not rescinded by aggrieved party, valid contract

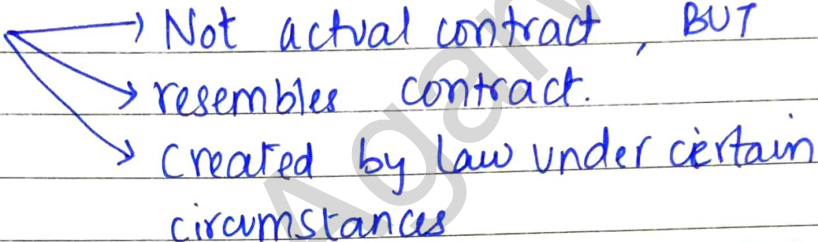
* Types of contracts (on basis of formation of contract)

1. Express Contracts: Terms expressed by words or writing.

2. Implied Contracts: 

Proposal / Acceptance made $\rightarrow$ otherwise than words.

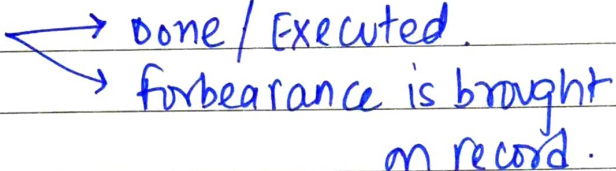
Tacit contracts: Contracts inferred through conduct of parties
Eg: ATM, Auction sale $\rightarrow$ fall of hammer

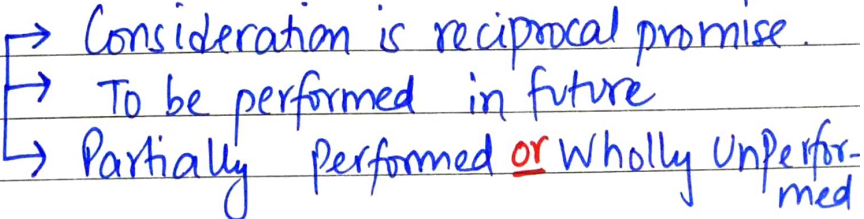
3. Quasi Contracts: 

Eg: Obligation of finder of lost goods. to return to true owner

4. E-Contracts: Entered using Electronic means $\rightarrow$ E-mail etc.

* Types of Contracts (On basis of performance of contract)

1. Executed Contract: Act 

2. Executory Contract: 

Unilateral Contract
one party performed,
other's outstanding.

Bilateral Contract
Promise is outstanding
on part of both parties

* Offer [Sec 2(a)]

- When one person signifies to another
- his willingness
- to do, or
- to abstain from doing anything
- with view
- to obtain assent of other party
- to such act or abstinence.
- he is said to make proposal.

* Essential of Proposal / offer

1. Offeror - Offeree
Promisor - Promisee
Proposer - Acceptor
2. for valid offer, party making it must express willingness to do or not to do something
3. Willingness must be ^{with} view to obtain assent of other.
4. Offer can be positive & negative.

* Types of Offer

1. General offer $\begin{cases} \rightarrow \text{offer made to public at large} \\ \rightarrow \text{Anyone can accept} \end{cases}$

Case Law: **Carlill vs. Carbolic Smoke ball Co.**

Anyone performing conditions of offer can be considered to have accepted offer.

2. Special / Specific offer : Offer made to Specific person
 It can be accepted by only specified person to whom made offer

3. Cross offer:

- 2 Parties exchange identical offers in ignorance of each others offer. → Cross offer.
- No binding contract.

4. Counter offer

Offeree offers to qualified acceptance of offer, i.e makes modifications or variations in terms of original offer. → counter offer / conditional Acceptance
 ↓
 Rejection of original offer.

5. Standing / Continuing / open offer:

- Offers allowed to remain open for acceptance over period of time. → Standing / continuing / open.
 Eg! Tenders invited for supply of goods.

* Essentials of valid offer.

1. Must be capable of creating legal relations.
2. It must be certain, definite, not vague
3. Must be communicated to offeree

Case law: Lalman Shukla vs. Gauri Dutt

An acceptance of offer, in ignorance of offer is not acceptance

4. Must be made with view to obtain assent of other party
5. May be conditional
6. offer should not contain a term the non-compliance of which would amount to acceptance.
7. Offer → Specific or General
8. Offer → Express or Implied.
9. offer different from
 - Mere Statement of intention
 - Invitation to offer.
 - Mere communication of infoⁿ.
 - An answer to question [Harey Vs. Facie]
 - Prospectus & Advertisement

10. Statement of price is not offer

Eg: Advertising auction sales, quotation of prices sent in reply to query

* D/b	Offer	Invitation to offer
Meaning	Offer is willingness by offeror to be bound by it. if other party accepts	Party without expressing willingness proposes certain terms on which he is willing to negotiate he does not makes offer, but invites other person to make offer.
Intention of parties	offeror has intention to be bound by it if accepted	Person has intention of negotiating on terms
Sequence	An offer cannot precede invitation to offer.	Invitation to offer is always precedent to offer.

Eg: 1. Invitation by co. to subscribe shares
2. Display of goods for sale in shop window

* Acceptance [Sec 2(b)]

When person to whom proposal made signifies his assent
 Proposal → Accepted → Promise.

Relationship b/w offer & Acceptance (Sir William Anson)
 Acceptance is to offer what a lighted match is to a train of gun powder.

Offer in itself cannot create legal relationship.
 But becomes a contract as soon as it's accepted.
 Means offer can be withdrawn just before it's accepted but after acceptance, it's too late to revoke it, & both parties bound by promises.

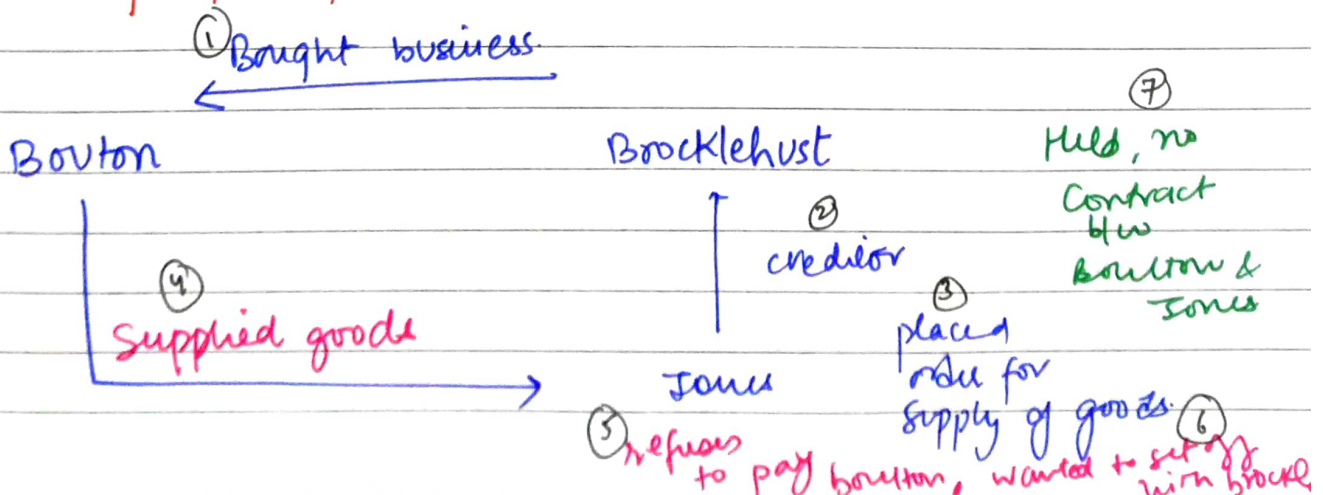
* Legal Rules Regarding a Valid Acceptance

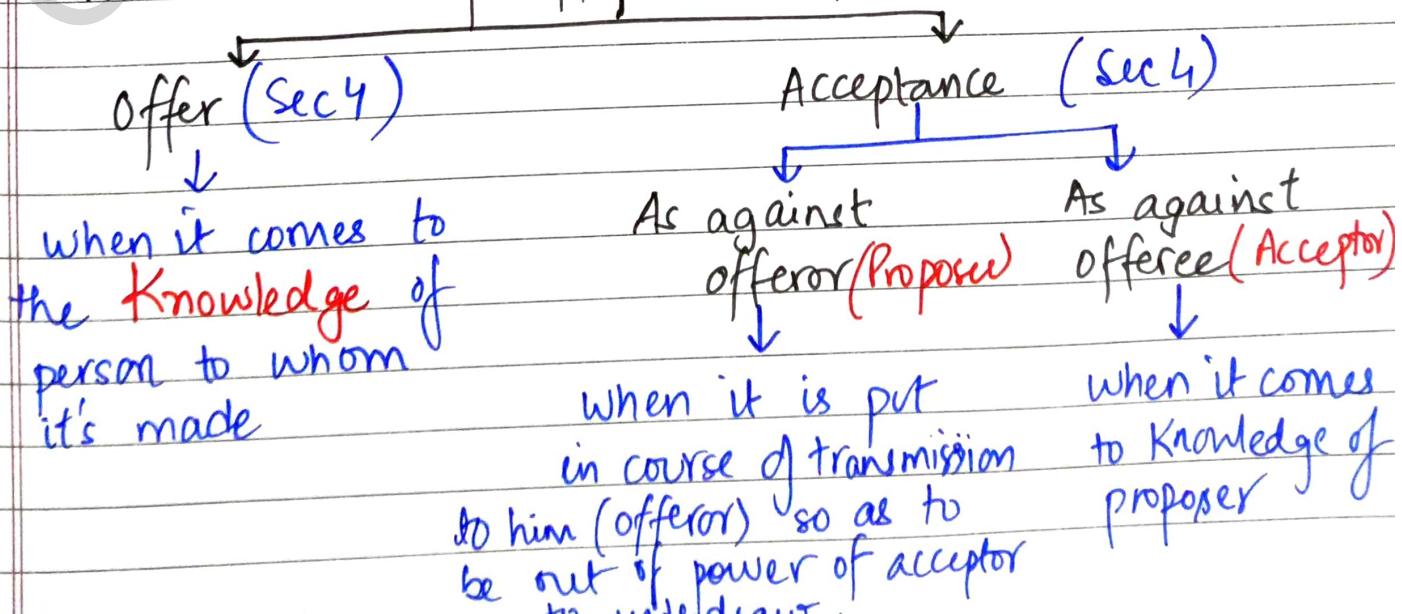
1. Acceptance can be given only by person to whom offer made:

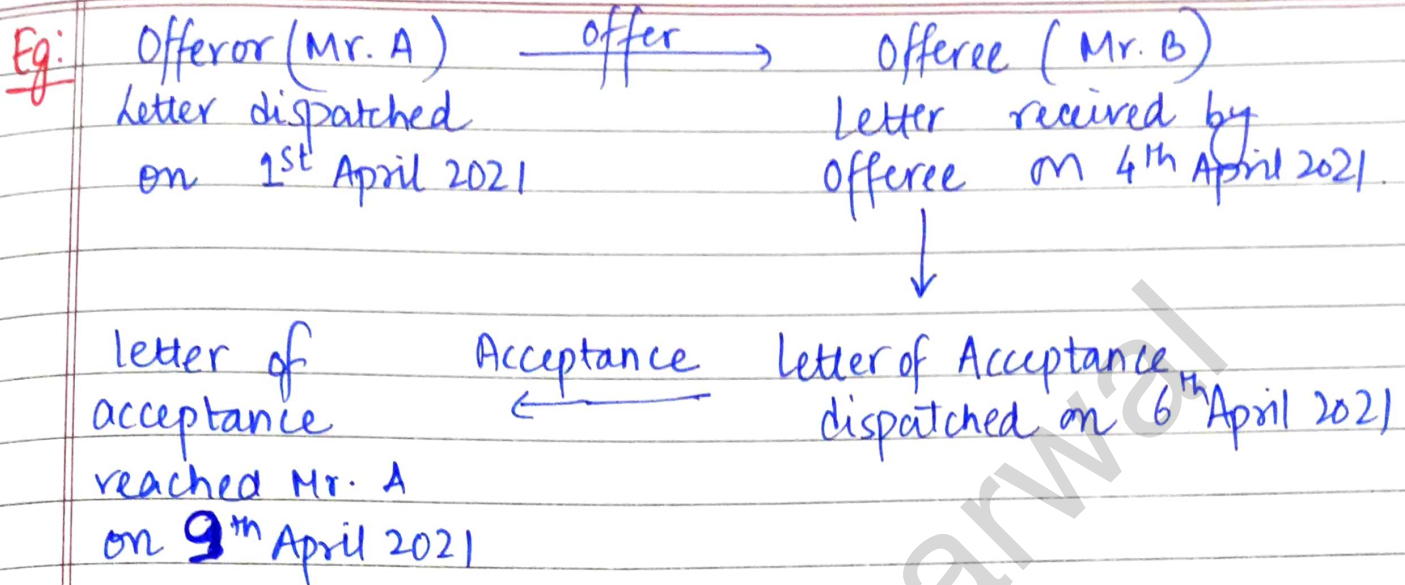
Specific offer → Accepted only by person to whom made.

General Offer → Accepted by any person who has Knowledge of Offer. Case Law: Carlill v. Carbolic Smoke ball Co.

Specific offer: Case Law: Boulton vs. Jones







Communication of offer completes on 4th April 2021
 Communication of acceptance complete

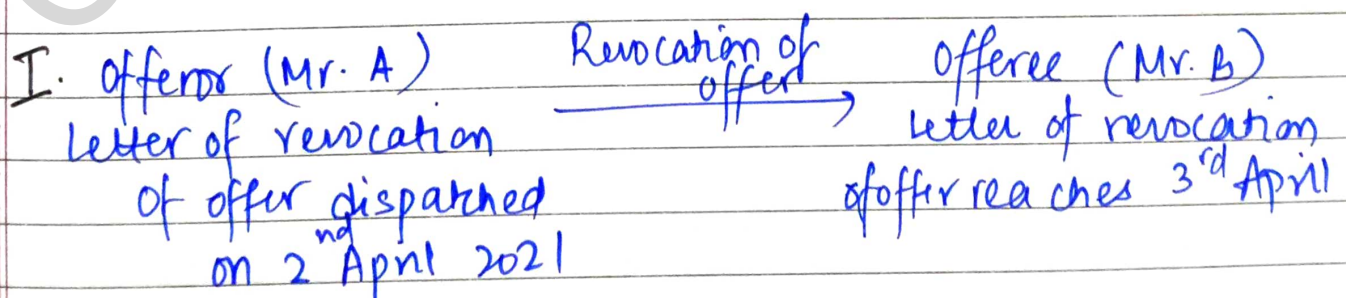
As against A (Proposer)
 ↓
 on 6th April 2021

As against B (Acceptor)
 ↓
 on 9th April 2021

(A can't withdraw offer after posting of letter i.e. after 6th April 2021)

(B can't withdraw acceptance after 9th April 2021)

Communication of Revocation of offer.



offer revoked on 3 April 2021 - B's acceptance not valid.
 B can't accept offer.

II. Offeror (Mr. A) Revocation of offer Offeree (Mr. B)
 letter of revocation → letter of revocation of
 of offer dispatched offer reaches 5 April 2021
 on 2 April 2021

Offer revoked on 5 April 2021. B's acceptance
 invalid / B can't accept
 offer.

III. Offeror (Mr. A) Revocation of offer Offeree (Mr. B)
 letter of revocation → letter of revocation
 of offer dispatched of offer reaches 7th April
 on 2 April 2021

Revocation is invalid. Both parties bound by contract

Communication of Revocation of Acceptance

I. Offeror (Mr. A) Revocation of acceptance Offeree (Mr. B)
 Receives ← Dispatches letter of
 Revocation of revocation of acceptance
 acceptance on on 7 April 2021
 8th April 2021.

Acceptance revoked.

II. Offeror (Mr. A) Revocation of acceptance Offeree (Mr. B)
 Receives revocation ← Dispatches letter of
 of acceptance revocation of acceptance
 on 10th April 2021 on 7 April 2021

Acceptance can't be revoked. Contract valid.

* When Revocation of offer & Acceptance can be done? (Sec 5)

Offer



Anytime before acceptance is complete as against proposer
(6th April 2021)

Acceptance



Anytime before communication of acceptance complete as against acceptor
(9th April 2021)

* Modes of Revocation of Offer

1. By Notice of Revocation
2. By Lapse of time
Case Law: Ramsgate Victoria Hotel Co. vs. Montefiore
3. By Non-fulfilment of condition precedent
4. By death or insanity
5. By counter offer
6. By Non acceptance of offer according to prescribed or usual mode
7. By Subsequent Illegality

Unit 2: CONSIDERATION

→ quid pro quo
'something in return'

* What is Consideration [Sec 2(d)]

- When AT THE DESIRE OF PROMISOR,
- THE PROMISEE [OR] ANY OTHER PERSON
- has done [or] abstained from doing, or (Past)
- does [or] abstains from doing, or; (Present)
- promises to do [or] abstain from doing something (future)
- Such an act [or] abstinence [or] promise.
- IS CALLED CONSIDERATION FOR THE PROMISE

Analysis of
Definition of
Consideration

- Consideration is an act - doing something
- Consideration is abstinence
- Consideration must be at desire of promisor
- May move from promisee / any other person
- May be past, present or future

Form of Consideration :

Some benefit

Right, or

Profit, interest

Some detriment

loss, or

forbearance or
responsibility

to one party

to another

* Legal Rules Regarding Consideration:

- 1- Consideration must move at desire of promisor
Case law: Durga Prasad V. Baldeo.

2. Consideration may move from promisee or any other person

Case law: Chinnaya vs. Ramayya

Old lady $\leftrightarrow$ Daughter

(Promisor - Promisee)

Daughter $\leftrightarrow$ Maternal Uncle

(Promisor - Promisee)

There can be stranger to consideration but not stranger to contract. Sufficient consideration for uncle by old lady.

3. Executed & Executory Consideration



Consist in
performance of an
act. (Executed)



consists in Promise.
(Executory)

4. Consideration may be past, present or future
Past consideration must move by previous request.

5. Consideration need not be adequate

Explanation 2 to Sec 25 -

- An agreement in which consent is free
- is not void
- just because consideration is inadequate.

But if its shockingly less, & other party alleges that consent was not free, then this inadequate consideration can be EVIDENCE in support of this allegation

6. Performance of what one is legally bound to perform
7. Consideration must be real, & not illusory.
8. Consideration must not be unlawful, immoral or opposed to public policy

* Suit by Third Party to Contract

Consideration may come from third party, But the stranger to contract cannot sue on it, only a party to contract can sue on it.

Stranger to contract cannot sue is known as 'doctrine of privity of contract'.

Exceptions of this doctrine is below (Cases where, even a stranger to contract can sue)

1. In case of Trust → Beneficiary can enforce his right
2. In case of family settlement → Terms in writing, family members
3. In case of marriage contracts / arrangements
4. In case of assignment of contract → Benefit assigned
5. Acknowledgement of estoppel → Person represent himself as agent of third party, binding obligation towards third party.
6. In case of covenant running from land
 - Person purchases land with notice that owner is bound by
 - Covenant affecting land may be enforced by successor of seller. certain duties
7. Contracts entered into through agent.

Principal can enforce contract entered by agent if agent has acted within scope of his authority & in name of principal.

* Validity of an Agreement without Consideration

Sec 25 - Agreement without consideration is void.

Exceptions to 'No Consideration, No Contract' or 'Agreement without consideration is valid in following cases':

1. Natural love & affection

- (i) Must be made by natural love & affection
- (ii) Parties must stand in near relationship
- (iii) Must be in writing
- (iv) Must be registered under law

All
Conditions
to be fulfilled
Sec 25(1)

2. Compensation for past voluntary services

- (i) Services - voluntary
- (ii) Services rendered for promisor
- (iii) Promisor must be in existence when services rendered
- (iv) Promisor must intend to compensate promisee

All
Conditions
Sec 25(2)

3. Promise to pay time barred debt

- Promise in writing
- Signed by person making it or his authorised agent
- to pay time barred debt (Limitation Act)

4. Agency — Sec 185 of Indian Contract Act 1872
5. Completed Gift — Rule → No Consideration, No Contract does not apply.

Sec 25(1) Explanation → Nothing in this section affect validity as b/w donor & donee of any gift.

6. Bailment — Sec 148 of Indian Contract Act 1872

7. Charity

- If promisee undertakes liability
- on promise of person
- to contribute to charity
- Contract shall be valid

Case law: Kadarnath V. Gorie Mohammad.

Unit 3 - OTHER ESSENTIALS ELEMENTS OF CONTRACT

* Capacity to Contract / Who is Competent to contract [Sec 11]

Every person who is

- of age of majority (18 or above)
- sound mind
- not disqualified from contracting by any law

A. Age of Majority

Law Relating to Minor's agreement / Position of minor

1. A contract made with or by minor is VOID-AB-INITIO

Case Law: Mohiri Bibi vs. Dharm Das Ghose → Minor

Mortgage by minor was void & Mohori Bibi not entitled to repayment of money

2. No ratification after attaining majority
Cannot ratify after majority as original is void-ab-initio

3. Minor can be a beneficiary → can take benefit out of contract
A promissory note duly executed in favour of minor is not void. → he can accept a benefit.

Minor cannot be partner in partnership firm but he can be a beneficiary.

4. Minor can always plead minority
 - Rule of estoppel cannot be applied against a minor.
 - He is allowed to plead minority in his defence
5. Liability for necessities [Sec 30]
 - Claim for necessities supplied to minor is enforceable by law
 - Minor not personally liable, only his property is liable
- i) Contract must be for goods → necessary for support
 - ii) Minor must not have sufficient supply of these necessities
6. Contract by Guardian - How far enforceable
Guardian of minor can enter into contract on minor's behalf & for benefit of minor.
7. No Specific Performance
8. No insolvency
9. Partnership
10. Minor can be an agent - but not liable to his principal for his act
11. Minor cannot bind parent or guardian
12. Joint contract by minor & adult
- Case law: *Sain Das vs. Ram Chand*
13. Surety for minor
14. Minor as shareholder
15. Liability for torts → Minor liable for torts

B. Person of sound mind [Sec 12]

A person is of sound mind if at time of making contract, he is
 → capable of understanding it &
 → forming a rational judgement as to its effect upon his interests

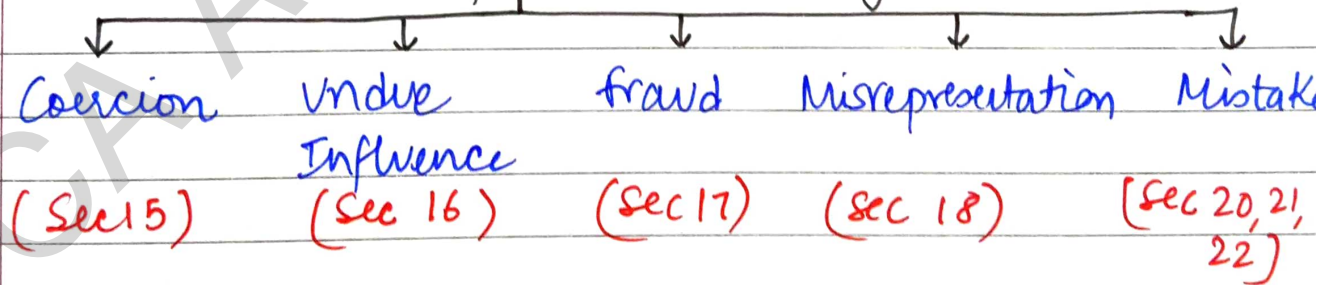
C. Contract by disqualified persons

- Foreign Sovereigns & Ambassadors
- Alien Enemy
- Convicts
- Insolvent

* Free Consent (Sec 14)

Consent [Sec 13] → Agree upon same thing in same sense
 (Consensus ad idem)

Consent is free if not caused by: (Sec 14)



* Coercion (Sec 15)

Committing
or

threatening to commit

OR

Unlawful detaining
or threatening to detain

} any act
forbidden by
Indian Penal
Code

} any property
to prejudice of
any person

With intention
of causing
any person
to enter
into agree-
ment

Effects of Coercion [Sec 19]

- Voidable contract at option of aggrieved party
- Party rescinding a void contract should restore benefit to other party if has received any
- Money paid / anything delivered must repay / return it.

* Undue Influence (Sec 16)

Contract is said to be induced by undue influence where relation subsisting between parties are such that

- i) one party is in position to dominate will of other.
- &
- ii) Uses that position to obtain unfair advantage.

Essential Ingredients

1. Relation b/w Parties → near relation exists
2. Position to dominate will of another
 - a) holds Real or Apparent Authority
 - b) Stands in fiduciary relation
 - c) Mental Distress (mental / body stress / illness / old age)
 - d) Unconscionable bargains

Case Law: Kirpa Ram vs. Sami-Ud-din Ad-Khan

3. Object must be to take undue advantage
4. Burden of Proof → lies on party who is in dominant position (who dominates other's will)

Effects of Undue Influence [Sec 19 A]

- Voidable contract
- Court may set aside contract

* Fraud (See 17)

Fraud means & includes

Commission of following acts

- 1) Suggestion of a fact of that which is not true, by person who does not believe it to be true
- 2) **Active concealment** of fact, having knowledge or belief
- 3) **Promise** made without intention of performing it
- 4) Any other act fitted to deceive
- 5) Any such act or omission as law specially declares to be fraudulent.

Committed by

→ party to contract,

or

→ his connivance

or

→ by his agent

with intent to

→ deceive another party

or

→ his agent

or

→ to induce him to enter into contract

Explanation to sec 17

Mere silence as to facts likely to affect willingness of a person to enter into contract → **NOT FRAUD**
UNLESS circumstances of case such that → it's duty of person keeping silence to speak or unless his silence is in itself equivalent to speech.

Mere silence is not fraud

Case law: Wood vs. Hobbs.

Exceptions to Mere silence is not fraud (Silence is fraud in following cases)

1. Duty of person to speak

- Contracts of *Uberrimae fidei* (contracts of utmost good faith)
- Fiduciary Relationship (Regier vs. Campbell Stuart)
 - Contracts of Insurance
 - Contracts of Marriage (Hazi Ahmed vs. Abdul Gassil)
 - Contracts of Family settlement
 - Share Allotment contracts

2. Where silence itself is equivalent to speech

A → B

Eg: If you don't deny it, I shall assume horse to be sound. A says nothing. His silence is speech.

Exception to sec 19 → In case of fraudulent silence, Contracts are not voidable if party whose consent was so obtained had means of discovering truth with ordinary diligence.

When consent is caused by fraud, contract is voidable at aggrieved party's option & has following remedies



- He can rescind contract within reasonable time
- He can sue for damages
- He can insist on performance of contract on condition that he shall be put in position he would have been, if representation had been true.

* Misrepresentation (Sec 18)

Means & includes

1. Positive Assertion

- of fact which is false, though he believes it to be true.
- made in manner not warranted by infoⁿ of person making it.

2. Any breach of duty

- without an intention to deceive.
- gains an advantage

3. Causing other person to make mistake

- as to substance of subject of agreement.

Effects: Injured

party entitled to

- repudiate the contract
- sue for restitution
- cannot claim damages (because there is no intention to deceive)

Explanation to sec 19 → Contract Not Voidable

1. When consent caused by

→ Silence amounting to fraud

or

→ misrepresentation

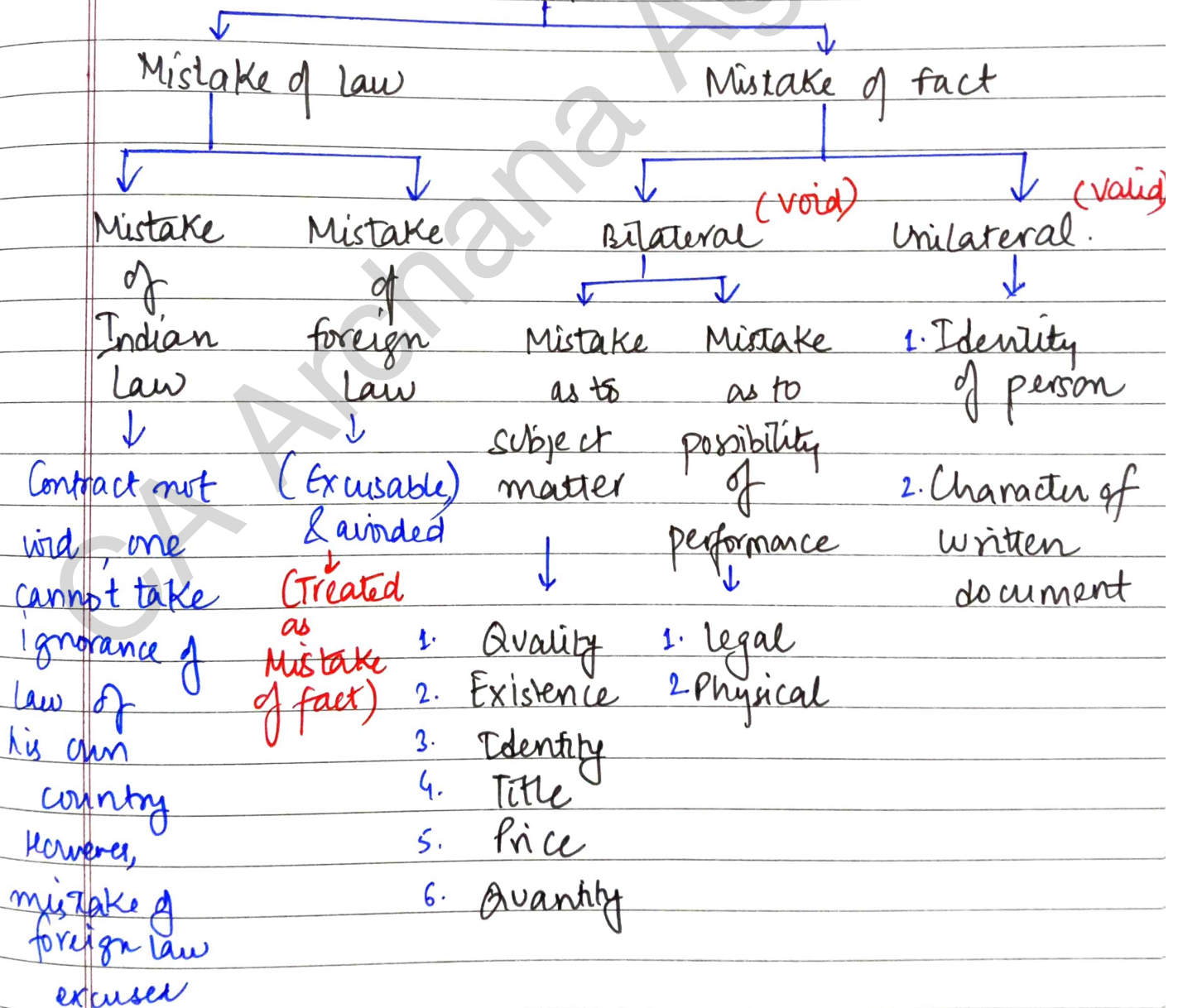
If party whose consent was so caused had means to discover truth with ordinary diligence.

2. A fraud or misrepresentation which did not cause consent of party to agreement.
3. where the party enters into contract in ignorance of fraud.

* Mistake

Innocent or erroneous belief that leads party to misunderstand others

Mistake



* Legality of Object & consideration (Sec 23)

Consideration or Object of an agreement is lawful, unless

1. It's forbidden by law
Punishable under any statute
or
Prohibited by Regulations or orders made by legislature
2. When it defeats provision of law
3. When it's fraudulent
4. When Consideration defeats any rule for time being in force in India
5. Involves injury to person or property of another
6. Court regards it as immoral
7. Opposed to Public Policy

Agreements opposed to Public policy

1. Trading with enemy at times of war → void
2. Stifling Prosecution
3. Maintenance & Champerty

↓
Person promises
to maintain suit
in which he has
no interest

↓
Person agrees to assist
another in litigation
in exchange of promise
to hand over portion of proceeds of
action

4. Trafficking related to Public offices & titles
5. Agreements tending to create monopolies
6. Marriage brokerage agreements
7. Interference with course of justice
8. Interest against obligation
9. Consideration Unlawful in Part

* Void Agreements

1. Made by incompetent parties (Sec 11)
2. Agreements made under Bilateral mistake of fact (Sec 20)
3. Agreements - Consideration or object → Unlawful (Sec 23)
4. Agreement - Consideration or object → Unlawful in parts (Sec 24)
5. Agreement made without consideration (Sec 25)
6. Agreement in Restraint of marriage (Sec 26)
7. In Restraint of Trade (Sec 27)

Exceptions to
Agreement in
Restraint of Trade
is void

Statutory
Provisions

Sale of Goodwill
Indian Partnership Act, 1932
LLP Act, 2008

Judicial
Interpretations

Trade combinations
Service Agreement
Sole or Exclusive
Dealing Agreements
& Franchise

8. Agreement in restraint of legal proceeding (Sec 28)

Exceptions:

- i) Dispute referred to arbitration
- ii) Parties agree to refer to arbitration → Writing

9. Agreement meaning of which is uncertain (Sec 2g)
 10. Wagering Agreement (Sec 30)

Essentials of wager

- i) Promise to pay money or money's worth
- ii) Promise must be conditional on event happening or not happening
- iii) Must be uncertainty of event
- iv) Must be 2 parties. Each stands to win or lose
- v) Common intention to bet at time of making agreement
- vi) Parties should have no interest in event except for stake.

11. Agreements to do impossible acts (Sec 56)

* Transactions similar to wager (Gambling)

1. Lottery Transactions
2. Crossword Puzzles & Competitions.

Case law: State of Bombay vs. RMD Chamarbaugwala

But if on basis of skill & intelligence → valid.

Prize competition not wagers if prize ₹1000 or less.

3. Speculative Transactions prize
4. Horse Race Transactions → if less than ₹500

* Transactions resembling wagering Transactions but NOT void

1. Chit fund
2. Commercial Transactions or share market transactions
3. Games of skill & Athletic Competition
4. A contract of insurance

* D/b Contract of Insurance & Wagering Agreement

Meaning	Contract to indemnify loss	Promise to pay money <u>or</u> money's worth on happening <u>or</u> non happening of uncertain event.
Consideration	Mutual consideration	No consideration (Just gambling)
Insurable Interest	Insured Party has insurable interest in life <u>or</u> property sought to be insured.	No property. Betting on other's life <u>&</u> properties
Contract of Indemnity	Except life insurance, contracts indemnifies insured person against loss.	Lossy → to pay fixed amount on happening of uncertain event
Enforceability	Valid & <u>enforceable</u>	Void & Unenforceable agreement
Premium	Calculation based on scientific & actuarial calculation of risks.	No such logical calculations required
Public Welfare	Beneficial to society	Regarded as against public welfare

* D/b Coercion & Undue Influence

Nature	Physical force <u>or</u> threat.	Moral <u>or</u> mental pressure
Involve- ment of criminal action	Committing <u>or</u> threatening to commit an act forbidden by law (IPC) <u>or</u> detaining <u>or</u> threatening to detain property unlawfully.	No such illegal act committed <u>or</u> threatened
Relation- ship b/w parties	Not necessary that to have a relationship.	Some sort of relationship is necessary.
Exercised by whom	Used even by stranger to contract	always exercised b/w parties to contract
Enforcea- bility	Voidable at option of aggrieved party	Either voidable <u>or</u> court may set aside <u>or</u> enforce it
Position of benefits recd	If benefit recd, must restore to other party	Court to direct aggrieved party to return benefit.

* D/b fraud

Misrepresentation

Intention To deceive other party by hiding truth. (Intentional)

No such intention to deceive (Unintentional)

Knowledge of Truth

Person knows statement - False. Person believes statement - True

Rescission of contract & claim for damages

Injured party can repudiate contract & claim damages.

Injured party entitled to repudiate contract or sue for restitution but cannot claim damages

Means to discover truth

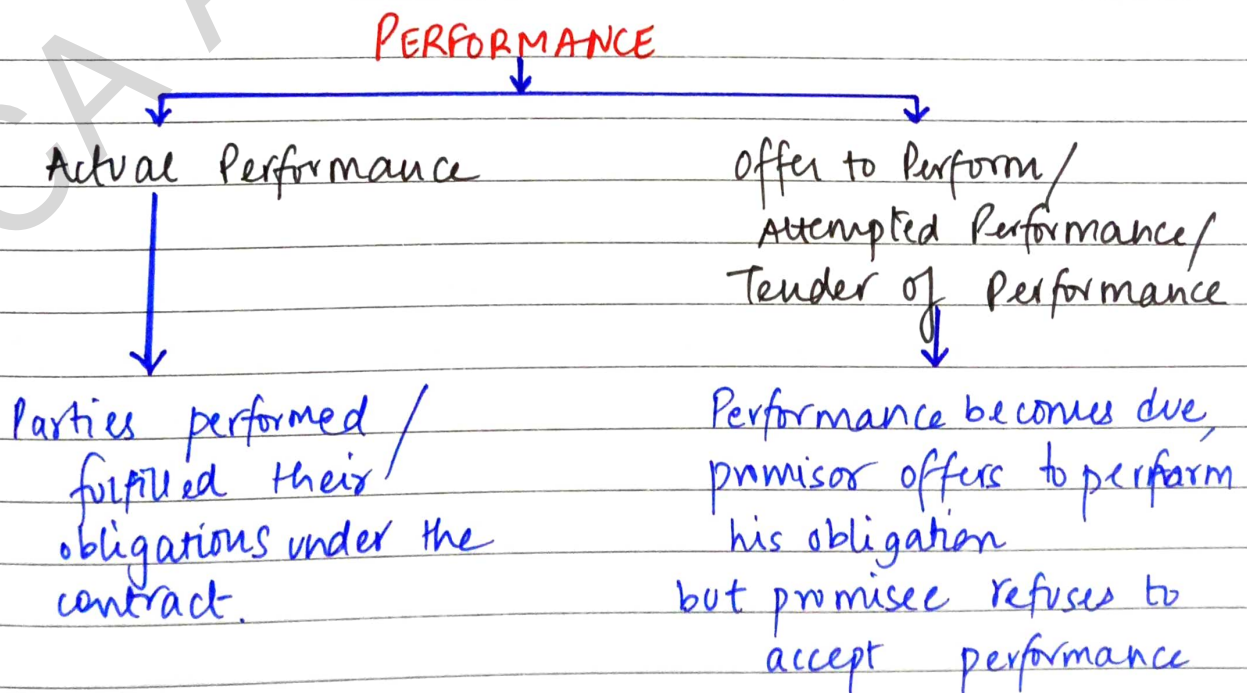
fraudulent party cannot secure or protect himself by saying injured party had means to discover truth.

Party can always plead injured party had means to discover truth.

Unit 4- Performance of Contract

* Obligations of Parties to Contracts (Sec 37)

1. Parties to contract must either
 - perform, or
 - offer to perform
 } their respective promise
 Unless such performance is
 - dispensed with, or
 - excused
 } under provisions of Contract Act / Any other law.
2. Promises bind representatives of promisor even after death of promisor unless contrary intention appears from contract
3. Legal representatives not liable if
 - a) Involves personal skill of promisor
 - b) Terms of contract are such.



* Effect of Refusal to Accept offer of Performance (sec 38)

- Promisor made offer of performance to promisee,
- Promisee refuses to accept,
- promisor not liable for non performance
- nor does promisor loses any rights under contract.

Conditions to satisfy for offer of performance

1. It must be unconditional.
2. It must be made at proper time & place
3. Promisee have reasonable opportunity to see thing offered is thing promisor

* Effect of Refusal of Party to Perform Wholly (sec 39)

- Party to contract refused to perform, or
- disabled himself from performing promise in entirety
- promisee may put an end to contract,
- unless he signified by words or conduct his acquiescence in continuance.

Rights to aggrieved party:

1. To terminate contract,
2. To indicate by words or by conduct that he's interested in its continuance

In both cases, promisee able to claim damages that he suffers as a result of breach.

Default by Promisee Section 38

Default by Promisor Section 39

Case. default situation	Refusal to accept performance Promisee Promisor offered to perform to promisee or one of joint promisee, promisee refused to accept performance	Part performance Promisor Promisee ready to accept performance by promisor. However, Promisor refused to perform whole (Part Promise)
Effect	i) Promisor not responsible for non performance ii) Promisor does not lose rights under contract	i) Promisee may put end to Contract (Terminate) ii) Promisee expressly or impliedly consents for continuance (iii) Promisee ^{can} claim damages in either case

* By whom a contract may be performed?
(Sec 40, 41, 42)

1. Promisor himself

a) In contract its mentioned - it was intention of parties that promise to be performed by promisor himself.

b) Personal skill contracts / Due Diligence or skill

c) Personal confidence b/w parties - that promisor has to perform.

2. Agent :

Promisor / legal representative may employ an agent.

3. Legal Representative.

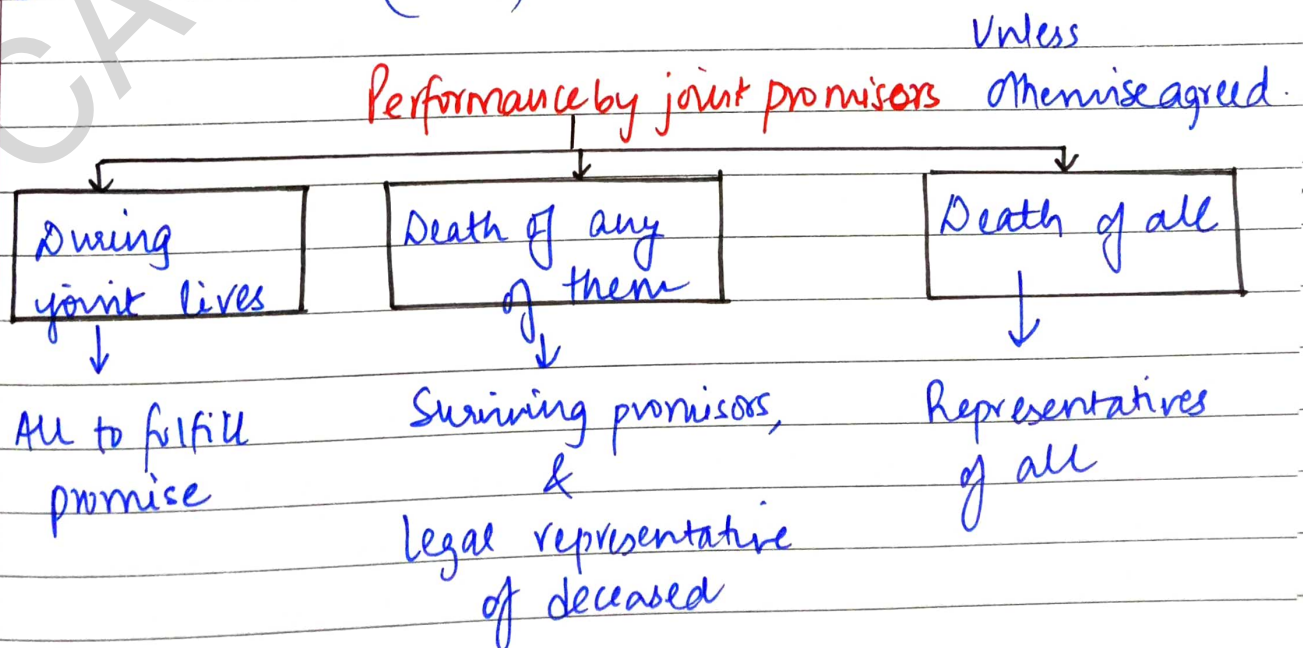
Bound to perform it unless a contrary intention appears from contract.

4. Third persons : Effect of accepting performance from third person - (see 41)

- Promisee accepts performance of promise from third party.
- In this case, he cannot afterwards enforce it against promisor.

Thus, performance by stranger if accepted by promisee, results in discharging promisor even though promisor neither authorised nor ratified the act of third party.

5. Joint Promisors (Sec 42)



* D/b Succession & Assignment

Succession

Liabilities of successor would be limited to extend of property inherited by successor

Assignment

Benefit can be assigned, not the liabilities.

If benefit is coupled with liability then benefit cannot be assigned

* Liability of Joint Promisor & Promisee

1. Devolution of Joint liabilities [Sec 42] Refer last page

2. Any one of Joint Performers/Promisors may be compelled to perform [Sec 43]

Unless otherwise agreed, promisee may compel any one or more of joint promisors to perform whole promise

If such a case happens, then unless otherwise agreed, each of those joint promisors may compel other one to contribute equally with himself to perform.

If any of them defaults, remaining must bear loss equally

3. Effect of release of one joint promisor [Sec 44]

Where two or more made joint promise, release of one or more joint promisors by promisee does not discharge other joint promisor, neither does it free joint promisors so released from responsibility to other joint promisor.

* Time & Place for Performance of Promise

1. Time for performance of promise, where no appⁿ to be made & no time specified [sec 46] → Reasonable time.
2. Time & place for performance of promise, where time specified & no appⁿ made ^(sec 47) → any time during usual hours of business
3. Appⁿ for performance on certain day to be at proper time & place ^[Sec 48]
Duty of promisee to apply for performance at proper place & within usual hours of business
4. Place for performance of promise, where no appⁿ made & no place fixed for performance [sec 49]
Duty of promisor to apply to promisee to appoint reasonable place for performance of promise. & perform at such place
5. Performance in manner or at time prescribed / sanctioned by promisee [sec 50]

* Performance of Reciprocal Promise [sec 51 to 58.]

1. Promisor not bound to perform, unless reciprocal promise ready & willing to perform. [Sec 51]
2. Order of performance of reciprocal promises [sec 52]
 - fixed by contract → Performed in that order.
 - not fixed by contract → Performed in order nature requires
3. Liability of party preventing event on which contract is to take effect [Sec 53]
One party prevents another from performing his promise
Contract is voidable at option of party so prevented, & he is entitled to compensation for loss suffered
4. Effect of default as to promise which is to be performed first, in contract of reciprocal promise [sec 54]
Promisor who has to perform first fails,
cannot claim performance of another, also compensate other.

5. Effects of Failure to Perform at Time fixed in Contract in which Time Essential [Sec 55]

voidable at option of promisee, If intention of parties was that TIME IS ESSENCE OF CONTRACT.

If time not essence. → Not voidable but promisee is entitled to compensation from promisor

Effect of acceptance of performance at time other than agreed upon -
 Promisee cannot claim compensation, unless at time of acceptance → gives notice to promisor of his intention to do so.

6. Agreement to do Impossible Act [Sec 56]

↓
void.

Contract to do act afterwards becoming impossible or unlawful
 void when act becomes impossible or unlawful

Compensation for loss through non performance of act known to be impossible or unlawful -

Person knew or with reasonable diligence, might have known is impossible / unlawful → Promisor to compensate promisee for loss.

① Initial Impossibility → void ↗ at time of contract making

i) if known to parties

void (Known that it's impossible)

ii) If not known to parties

void

iii) If known to promisor only

Promisee should be compensated

- (2) Subsequent or Supervening Impossibility (after making contract performance become impossible or illegal by occurrence of unexpected event or change in circumstance beyond parties control. → void.
(Eg. change in law)

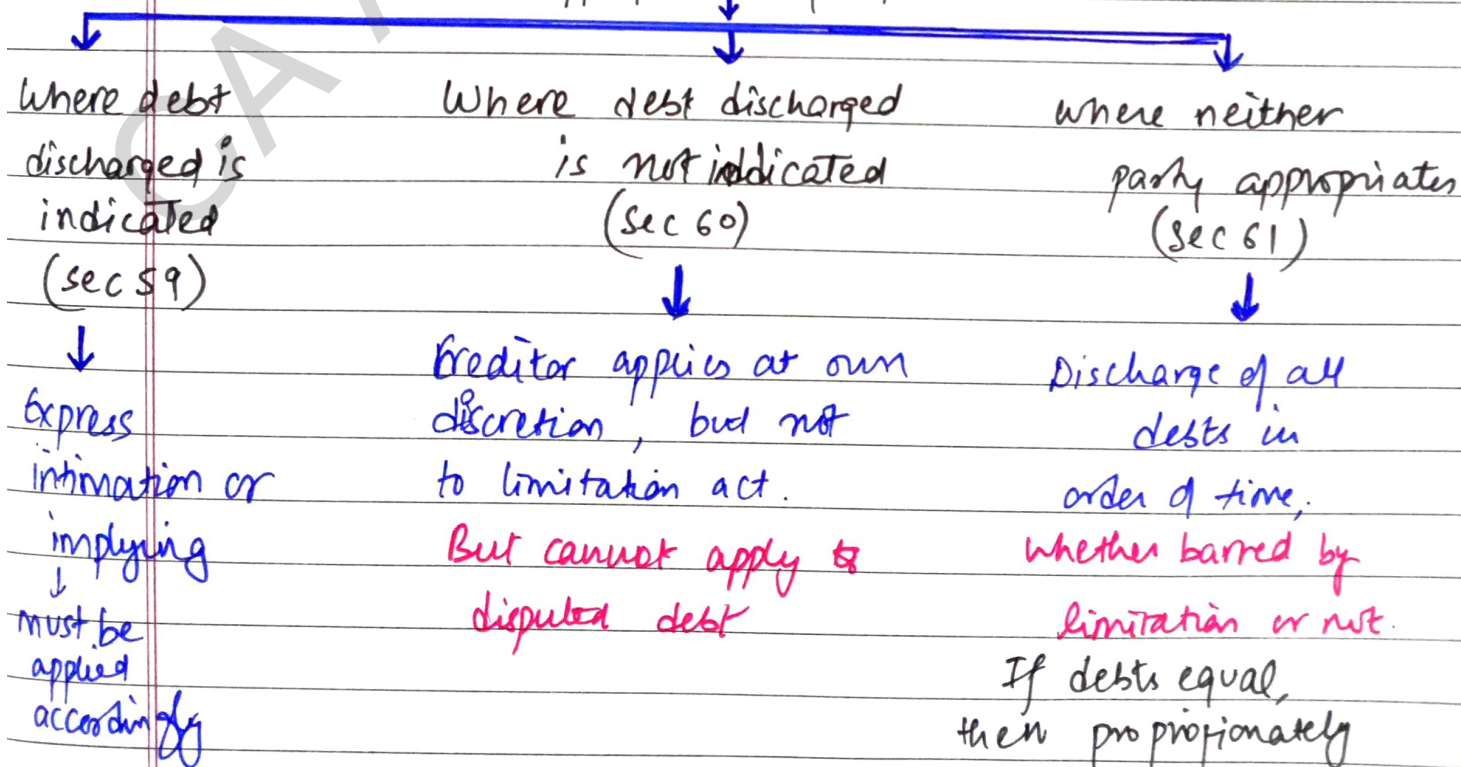
7. Reciprocal promise to do certain things that are legal, & some other that one illegal (sec 57)
↓
Valid contract
Void Agreement

8. 'Alternative Promise' one branch being illegal (sec 58)
Legal branch can only be enforced.

* Appropriation of Payments.

Debtor owes several debts to same creditor, & makes payment, not sufficient to discharge all debts.
How to appropriate? → (adjust)

Appropriation of Payments.



* Contracts which need not be performed -
with Mutual consent of Parties.

1. Effect of Novation, Rescission & alteration of contract (Sec 62)

a) Novation :- Parties substitute new contract for old.

- It can be

(a) either between same parties, or

(b) different parties

b) Rescission :- Old contract is cancelled, &
no new contract comes to exist in its place

c) Alteration :- Terms of contract altered

D/b	Novation	Alteration
1.	New contract	Terms altered
2.	Same or different parties	Same parties
3.	New contract in place of old	Not possible to form new, only terms altered.

2. Promisee may waive or remit performance of promise
(Remission) (Sec 63)

Promisee may dispense or remit
wholly or part performance of promise of performance, or
may extend time for such performance, or
may accept instead of it any satisfaction which ^{he} thinks fit.

3. Restoration of benefit under voidable contract (sec 64)

Where at option of aggrieved party, contract is voidable & he rescinds the contract, he must restore any benefit if received to whom he received benefit from.

4. Obligations of Person who has received Advantage under void Agreement or void contract (Sec 65)

Agreement discovered to be void, or
When contract becomes void,
Any person who received any benefit must restore it to other person

5. Communication of Rescission (Sec 66)

Voidable contract can be rescinded but rescission must be communicated to other party in same manner as proposal is communicated; also, in same manner, rescission can be revoked as proposal is revoked.

6. Effects of neglect of promisee to afford promisor reasonable facilities for performance (Sec 67)

If promisee neglects / refuses to afford promisor reasonable facilities for performance of promise, promisor excused.

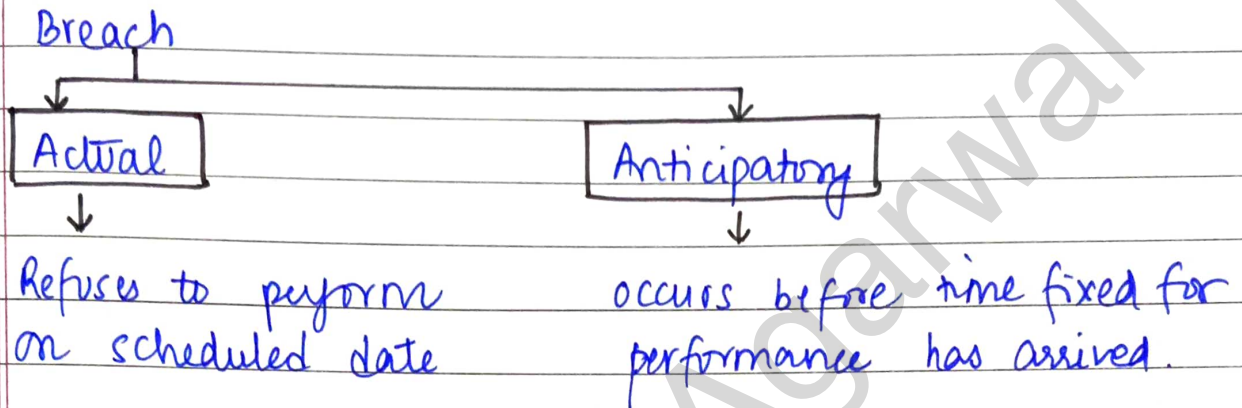
* Discharge of contract

1. Discharge by Performance
 - Actual Performance
 - Attempted Performance
2. Discharge by Mutual Agreement
 - Novation
 - Rescission
 - Alteration
 - Remission
3. Discharge by impossibility of performance
 - i) Initial impossibility → void ab initio (Void Agreement)
 - ii) Subsequent impossibility due to: (Void contract)
 - a) unforeseen change in law
 - b) destruction of subject matter essential to performance
 - c) non existence / non occurrence of particular thing
 - d) declaration of war (sec 56)
 - e) death
4. Discharge by lapse of time (Limitation Act, 1963)
5. Discharge by operation of law → death of promisor, insolvency
6. Discharge by breach of contract (sec 63)
7. Promisee may waive or remit performance of promise
8. Effect of neglect of promisee to afford promisor reasonable facilities for performance (Sec 67)
9. Merger of rights

Inferior rights merge with superior rights.
On merger inferior rights vanish and not required to be enforced.

Unit 5-Breach of Contract & its Remedies

* Breach of Contract
Failure to perform obligation



- | | |
|---|---|
| i) at time when performance of contract is due. | Promisor refuses altogether to perform & signifies unwillingness even before time to perform has arrived. |
| ii) During performance of contract | |

Either by

- Expressly by words spoken/written
- Implied by conduct of parties

Effects of Anticipatory breach

- i) Either treat contract as rescinded & sue other party for damages immediately.
- ii) May elect to treat it operative & wait for time of performance & then hold other party responsible.

Remedies for breach of contract

Suit for Damages

Rescission of contract

Suit for specific performance

Suit for injunction

Suit upon Quantum Meruit.

* Suit for Damages

1. Compensation for loss or damage caused by breach (Sec 73)

Aggrieved party entitled to receive compensation for loss / damage which

a) naturally arose in usual course of things from such breach, or (Ordinary damage)

b) the parties knew at time of contract to be likely result from breach of it (Special damage)

↳ with previous notice
↳ take reasonable steps to minimise loss

Compensation not to be given for remote / indirect loss / damage sustained by reason of breach

2. Remedy by way of Damages OR Kind of Damages.

(i) Ordinary Damages → naturally arose in usual course or parties knew at time of contract

(ii) Special Damages → Party to contract receives notice of special circumstances ^{affecting contract}, then he is liable not only for ordinary damages but also special damages

(iii) Vindictive or Exemplary Damages

- breach of promise to marry because it causes injury to his / her feelings,
- wrongful dishonour by banker of customer's cheque.

(iv) Nominal Damages - Plaintiff not suffered real damage.

- May be Rupee or even 10 paise

(v) Damages for deterioration caused by delay

Damages can be recovered from carrier even without notice.

Deterioration → Not only physical damage to goods but also mean loss of special opportunity for sale

(vi) Pre fixed Damages : → Either liquidated damages, or Penalty

* Penalty & liquidated Damages



Parties may provide for compensation payable in case of failure to perform contract. (called Penalty or liquidated)

Un. reasonable,

genuine pre estimate

Injured party cannot recover more than actual loss
Courts never allow more, may allow less.

Exception → Person gives bond to CG or SG, for performance of public duty. or act in which public interests
↳ on breach of such condition → liable to pay whole sum mentioned there

D/b Liquidated damages

Penalty

1. Reasonable.

Unreasonable, very excess.

2. -

Sum on certain date & further sum if default.

3.

Essence → Genuine pre estimate

More money.

* Besides claiming damages, following remedies also available.

1. Rescission of contract

2. Quantum Meruit: Arises in following cases:

- Agreement discovered to be void or contract becomes void
- Something done without intention to do gratuitously.
- Express or Implied contract but no agreement to remuneration
- One party abandons or refuses to perform contract
- Contract divisible & party not in default enjoys ^{part} benefit
- Indivisible contract, completely performed but badly, other party can deduct ^{for bad work}.

3. Suit for specific performance

4. Suit for injunction → Court may issue 'injunction order' to restrain him from doing what he promised not to do.

Unit 6 - Contingent & Quasi Contracts

* Contingent Contract (Sec 31)

A contract,
to do, for
not to do something
if some event,
collateral
to such contract
does or does not happen.

Eg: Contracts of Insurance, indemnity & guarantee

Collateral Event

Neither a performance
directly promised as
part of contract

Nor whole of consideration
for a promise

* Essentials of Contingent Contract

1. Performance of Contingent contract would depend upon
happening
or
non happening } of some event
or condition } → Precedent
→ Subsequent

2. Event referred to as collateral to contract
Event → Neither performance promised
Nor consideration for promise

3. Contingent event should not be a mere 'will' of promisor

Event



Contingent + Will of promisor

4. Event must be uncertain
When Event is certain or bound to happen → Not Contingent Contract.

* Rules Regarding to Enforcement of Contingent Contract
(Sec 32, 33, 34, 35, 36)

1. Enforcement of contracts contingent on an event happening (Sec 32)
2. Enforcement of contracts contingent on an event not happening (Sec 33)
3. Contract would cease to be enforceable if it is contingent upon conduct of a living person when that living person does something to make 'event' or 'conduct' as impossible of happening (Sec 34)
4. Contingent on happening of specified event within fixed time (Sec 35)
5. Contingent on specified event not happening within fixed time (Sec 35)
6. Contingent on an impossible event (Sec 36)

*	D/b Contingent Contract	Wagering Contract
Meaning	Contract to do or not to do something with collateral event happening or unhappening.	Promise to give money or money's worth with reference to uncertain event happ. or non happ.
Reciprocal promises	X	✓
Uncertain event	Collateral	Uncertain Event - core factor
Nature	Not wager.	Contingent
Interest of parties	✓	X
Doctrine of loss & gain	Not based on this	Game, losing & gaining matters.
Effect	Valid	void

* Quasi-Contracts (Certain Relations resembling those of contract)

Law implies a promise imposing obligations on one party & conferring right on another (in favor of other person).

Based on Principles of Equity, Justice & Good Conscience.

Quasi / Constructive Contract : → Maxim



'No man must grow rich out of another person's loss'

Features of Quasi Contracts

1. Such right is always to a sum of money
2. Imposed by law, **Not** arise from agreement
3. Right against a particular person (s). **not** against world.

Cases Deemed as Quasi Contracts.

1. Claim for necessities supplied to persons incapable of contract (Sec 68)

Person who furnished supplies ^{be} → entitled to be reimbursed from property of incapable person.

2. Payment by interested person (Sec 69)
which another is bound by law to pay, & who therefore pays it, is entitled to be reimbursed by other.

3. Obligation by person enjoying benefits of non-gratuitous act. (Sec 70)

Plaintiff must prove:

- i) that he had done act or had delivered thing lawfully
- ii) that he did not do so gratuitously,
- iii) that other person enjoyed the benefit.

Case law: Shyam Lal vs. State of U.P.

4. Responsibility of finder of goods (Sec 71)
Person who finds goods belonging to another & takes them into his custody is subject to same responsibility as if he were **'BAILEE'**.

Finder of lost goods has following responsibilities:

- a) to take proper care of property as man of ordinary prudence
- b) no right to appropriate (use) goods
- c) to restore goods if owner found.

Case law: *Hollins vs. Howler*

5. Money paid by mistake or under coercion (sec 72)

Person to whom money paid or anything delivered by mistake, or under coercion must repay or return it.

Chapter 2 - Sale of goods Act 1930
Unit 1 - Formation of Contract of Sale

Moveable

classmate
Date _____
Page _____

Extends to whole India
w.e.f. 1st July 1930

* Buyer Sec 2(1) is a person
who buys
or
agrees to buy } goods.

* Seller Sec 2(13) is a person
who sells
or
agrees to sell } goods

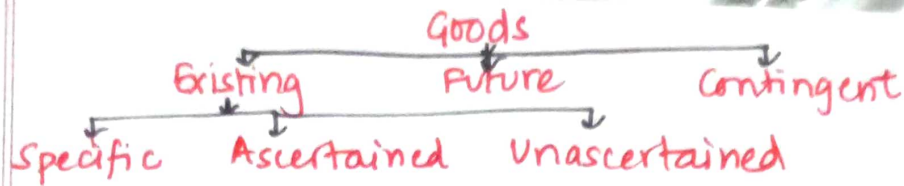
* Goods Sec 2(7)
includes / means every kind of moveable property
other than Actionable claims & Money, &
Includes stocks, shares, Growing crops, grass, & things
attached to or forming part of land which
agreed to be severed. before sale or contract of sale

Actionable claims → enforced only by an action or suit.
Eg: debt.

FDR → Goods under ICA read with Sec 2(7) of SOGA.

Goods
└─ tangible goods
└─ intangible goods → goodwill, copyrights, patents, trademarks etc.

Gas, steam, water, electricity, decree of court → Goods.



classmate

Date _____

Page _____

1. Existing Goods: Goods in existence at time of contract of sale
 a) those owned, or
 b) possessed, or
 c) acquired
 } by seller at time of contract of sale (Sec 6)

Types of Existing goods.

- i) Specific goods:
 Goods: identified & agreed upon at time of contract of sale made
- ii) Ascertained Goods:
 Goods: identified in accordance with agreement
AFTER the contract of sale is made.
 from lot or large quantity of Unascertained goods,
 no. of quantity identified → Ascertained Goods.
- iii) Unascertained Goods:
 Goods: not specifically identified OR Ascertained.
 at time of making of contract.
 Indicated or defined only by description or sample

2. Future Goods: **Sec 2(6)** (Agreement to sell)
 Goods to be:
 - manufactured, or
 - produced, or
 - acquired
 } by seller after making contract of sale

3. Contingent Goods: **Sec 6(2)** (Agreement to sell)
 Acquisition of which by seller depends upon uncertain contingency (uncertain event)

* Delivery Sec 2(2)

Voluntary transfer of possession from one person to another. Delivery may be made by anything, which has the effect of putting goods in possession of buyer, or any person authorized to hold them on his behalf.

Forms of Delivery

- i) Actual delivery : Goods physically transferred to buyer or third person authorised
- ii) Constructive delivery : Effected without any change in custody or actual possession of thing

Person in possession of goods belonging to seller acknowledges to buyer that he holds them on buyer's behalf.

iii) Symbolic delivery :

Delivery of thing in token of transfer of something else i.e. handing over documents of title of goods, eg: bill of lading, railway receipt, or Key of warehouse

Where actual delivery not possible, Symbolic Delivery is done.

* Document of title to goods Sec 2(4)

includes bill of lading, dock-warrant, warehouse keeper's certificate, wharfingers certificate, railway receipt, multimodal transport of document, warrant or order for delivery of goods, or any other document

- * **Merchantile Agent [Sec 2(9)]**
Agent who has authority
 - either to sell goods, or
 - consign goods for purpose of sale, or
 - to buy goods, or
 - to raise money on security of goods**Eg: Auctioneer, broker etc.**
- * **Property [sec 2(11)]** → Ownership or General property
NOT Special property
pledge
- * **Insolvent [sec 2(8)]** A person is insolvent when he ceases to pay debts or cannot pay debts when become due.
- * **Price [Sec 2(10)]** Money consideration for sale of goods
- * **Quality of goods [sec 2(12)]** includes their state or condition
- * **Sale & Agreement to sell (sec 4)**
Sec 4(1): Contract of sale of goods → where seller transfers OR Agrees to transfer property in goods to buyer for price.
Sec 4(2): Contract of sale → may be absolute or conditional.
Sec 4(3): **Sale**: → Property transfers from seller to buy.
Agreement to sell → Transfer of property to take place at future date/time OR subject to some conditions thereon.

Sec 4(4): Agreement to sell becomes sale when

- time elapses, or
- conditions fulfilled

* Essential Elements which must exist in contract of Sale of goods

1. Atleast two parties
2. Subject matter - Goods (Moveable) ← Existing
← Future
← Contingent
3. Price in money (not kind) → Paid, or
→ Promised ⇒ Can be Partly money / Partly Kind
4. Transfer of property in goods from seller to buyer.
5. Contract of sale may be Absolute or Conditional
6. All other essential elements of valid contract.

* D/b Sale & Agreement to sell.

Sale

Agreement to sell

Transfer of property	Property in goods passes immediately.	Property passes to future date or on fulfilment of some condition
Nature of Contract	Executed contract (Consideration paid)	Executory contract (Consideration - future date)
Remedies for breach	Seller can sue for price, as property passed.	Sue for damages only & not for price.
Liability of parties	Subsequent loss or destruction of goods is liability of BUYER	OF SELLER.
Burden of Risk	Risk of loss → Buyer	of seller.

Mode of rights	Creates Jus in Rem (Rights against world)	Creates Jus in Personam (Rights against each other)
----------------	---	---

Rights of resale	Cannot resell goods	Seller may resell goods.
------------------	---------------------	--------------------------

Insolvency of seller	Official Assignee not take over the goods. but recover price from buyer.	Official assignee acquire control over goods, price not recoverable.
----------------------	---	--

Insolvency of buyer	Official Assignee → Control over goods.	Official Assignee → Not Control over goods
---------------------	---	--

X	Sale	Hire Purchase
---	------	---------------

Time of passing	Property passes immediately	Property passes to hirer upon last payment of instalment
-----------------	-----------------------------	--

Position of party	Position of buyer - owner	Position of Hirer - Bailee till last instalment paid
-------------------	---------------------------	--

Termination	Buyer cannot terminate, bound to pay price.	Hirer may terminate by returning goods
-------------	---	--

Burden of risk of insolvency	seller takes risk of loss	owner takes no risk.
------------------------------	---------------------------	----------------------

Transfer of title	Buyer passes good title to bona fide purchaser.	Hirer cannot pass title to bona fide
-------------------	---	--------------------------------------

Resale	Buyer can resell.	Hire Purchaser cannot resell unless last paid
--------	-------------------	---

*

Sale

Bailment

Transfer
of propertyProperty passes to buyer.
General property.transfers possession from
bailor to bailee. Special propertyReturn of
goodsReturn of goods not
possible.Must return to bailor
on accomplishment of purpose
for which bailment made

Consideration

Price in terms of money.

May be gratuitous or
non gratuitous.

*

Sale & contract for work & labour

↓
No goods sold,
only doing or rendering of some work of labour.
Eg. gold given to goldsmith for
repairing ornament.
or artist asked to paint picture

* Contract of sale how made? (Sec 5)

following modes:

- i) Made by offer to buy or sell goods for price & acceptance of offer
- ii) May be immediate delivery of goods,
- iii) May be immediate payment of price, may be agreed delivery at future date.
- iv) immediate delivery of goods & immediate payment of price
- v) Delivery or payment or both in instalments
- vi) Delivery or payment or both at some future date.

Contract of sale
[Sec 5(2)]

- in writing, or
- by word of mouth, or
- partly writing & partly word of mouth, or
- may be implied from conduct of parties.

* Subject matter of Contract of Sale

Existing or Future Goods [sec 6] → Already discussed.

* Goods Perishing before making of contract (sec 7)

Contract for sale of specific goods



VOID

If goods without knowledge of seller



Perished

or

damaged as
no longer to answer
their description contract

at the time when
contract was made

* Goods perishing before sale but after agreement to sell (Sec 8)

Agreement to sell of specific goods
&
Subsequently seller or buyer } Goods without any fault on part of
perish or become damaged so no longer to answer description,
before risk passes to buyer,
Agreement is avoided or becomes void

Perishing of future goods → If specific, destruction

↓
Supervening impossibility + void

* Ascertainment of Price [Sec 9 & 10]

Price means monetary consideration for sale of goods [Sec 2(1)]

Contract of sale may be: [Sec 9]

- i) fixed by contract,
- ii) agreed to be fixed in manner provided by contract, [value]
- iii) determined by course of dealings b/w parties.

Where Price not determined → Buyer to pay reasonable price.

Reasonable → Question of fact dependent on circumstances of particular case

Agreement to sell at valuation [sec 10]

1. Agreement to sell goods on terms that price to be fixed by valuer (third party)

AND

Third party
cannot
or
does not



make such
valuation



Agreement
avoided

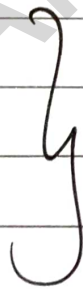
But if goods or part delivered & appropriated

↓
by buyer
↓

Buyer to pay reasonable price.

2. Third party prevented from making valuation by fault:

Seller
or
buyer



Party ~~not~~ ⁱⁿ ~~fault~~ may maintain
suit for damages against third party

Unit 2- Conditions & Warranties

* Stipulation as to time (Sec 11)

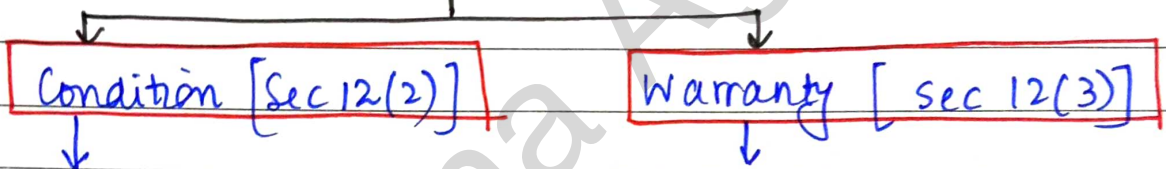
Unless it appears from contract, Time of payment of price not of essence of contract of sale

BUT delivery of goods must be made without delay.

*

Stipulation (Sec 12: → stipulation may be condition or warranty)

Section 12(1)



Stipulation essential to main purpose of contract.

Stipulation collateral to main purpose of contract

Breach of stipulation

↓ gives

Right to repudiate contract.

Breach of stipulation

↓ gives

Right to claim for damages but no right to reject goods & treat contract repudiated

[Sec 12(4)] → Whether stipulation is Condition or warranty depends upon case of contract.

D/b

Condition

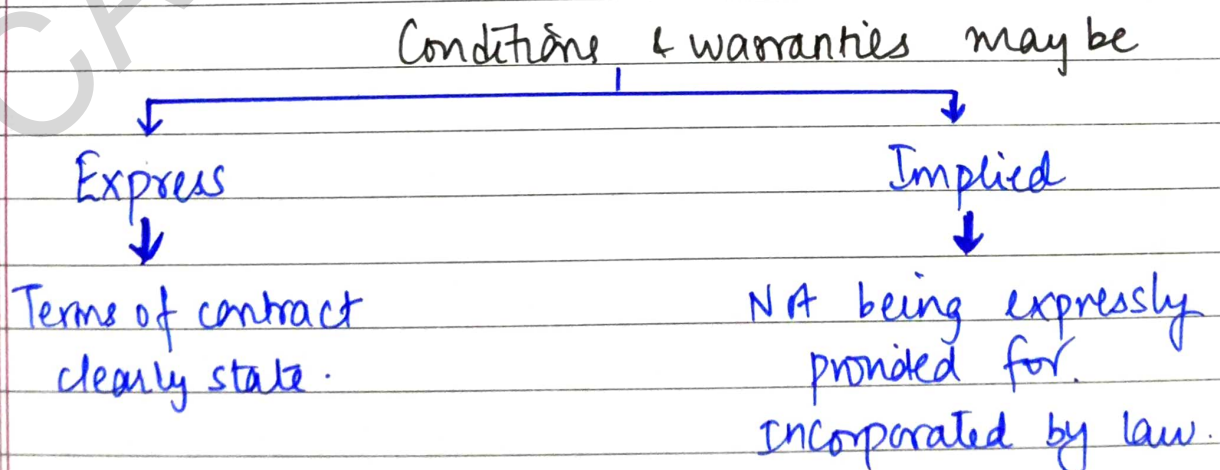
Warranty

* When Condition to be treated as warranty [sec 13]

Effect: → Buyer loses his right to rescind contract,
& can claim damages only

1. Where buyer waives condition (Voluntary waiver by buyer)
2. Buyer elects to treat breach of condition as ^{one of} warranty
Buyer not waived condition, decided to treat it as warranty
(Voluntary by buyer)
3. Contract is non severable → buyer accepted either
whole or part. (Compulsory waiver)
4. Fulfilment of condition or warranty is excused by law of reason of impossibility
or otherwise. (Compulsory waiver)

* Express & Implied Conditions & warranties (Sec 14 to 17)



An Implied Condition may be negated or
waived by express agreement

* Implied conditions

1. Condition as to title [Sec 14(a)]

Seller has 
Right to sell goods. [Sale]
will have
Right to sell goods [Agreement to sell]

If seller's title defective 
Buyer must return goods to true owner.
Buyer must recover price from seller

2. Sale by description [Sec 15]

Goods should correspond with description.

Principle → 'If you contract to sell peas, you cannot sell beans.'

^{to be}
It has determined whether buyer has undertaken to purchase goods by description

Gives buyer right to reject goods. whether buyer is able to inspect or not

'Description' not defined in Act:

- i) where class / kind of goods belong specified
- ii) goods described by certain characteristics essential to identification.

3. Sale by sample [Sec 17]

Implied condition that:

- a) bulk shall correspond with sample in quantity
- b) buyer shall have reasonable opportunity of comparing bulk with sample
- c) goods to be free from any defect



renders them un-merchantable
which could not be discovered by ordinary
examination of goods.
(Latent defect)

4. Sale by sample as well as Description [Sec 15]

Implied condition that: Bulk of goods supplied correspond
to
sample description

If goods correspond with sample but not description
or vice versa → Buyer can repudiate contract.

5. Condition as to quality or fitness [Sec 16(1)]

Implied condition if
all conditions
fulfilled

Not applied
if goods sold
under
trademark or
patent name

- ① Buyer made known to seller,
purpose for which goods required
- ② Buyer relied on skill + Judgement of
Seller
- ③ Goods must be description dealt in by
seller → whether manufacture or not

6. Condition as to Merchantability Sec 16(2)

Implied condition:
goods to be
merchantable

- ① Goods should be bought by description
- ② Seller should be dealer in goods of that description

But if buyer had examined goods then no implied condition if such defects were of such that examination would have revealed.

↓
(ordinary diligence)

7. Condition as to wholesomeness :

- Edibles & provisions
- ① Condition as to merchantability.
 - ② Goods shall be wholesome.

* Implied warranties

1. Warranty as to undisturbed Possession Sec 14(b)

Buyer :

have & enjoy quiet possession of goods

If buyer after getting possession → later disturbed in his possession,
Entitled to sue seller for breach of warranty.

2. Warranty as to non-existence of encumbrances [Sec 14(c)]

Goods free from charge or encumbrance in favor of third party not declared [or] known to buyer before [or] at time of contract entered into

3. Warranty as to quality or fitness by usage of trade [Sec 16(3)]

Let buyer beware, i.e. Seller under no duty to reveal unflattering truths to buyer about goods.
(Doctrine of Caveat Emptor)

4. Disclosure of dangerous nature of goods

Where goods are dangerous, Seller must warn buyer. If breach of warranty → Seller liable in damages

* Caveat Emptor → Let buyer beware (Sec 16)

↓
Duty of buyer to make proper selection of goods

Exceptions of Caveat Emptor:

1. Fitness as to quality or use [Sec 16(1)]

Case law: Priest vs. Last

Case law: Bombay Burma Trading Corp. vs. Aga Muhammad

2. Goods purchased under patent or brand name [Sec 16(1)]

3. Goods sold by description [Sec 15]

4. Goods of Merchantable Quality [sec 16 (2)]
5. Sale by sample (Sec 17)
6. Goods by sample as well as description [sec 15]
7. Trade usage [Sec 16(3)]
8. Seller actively conceals a defect or is guilty of fraud

Unit 3- Transfer of ownership & Delivery of goods

3 stages $\Rightarrow$ Passing of property $\rightarrow$ Delivery of goods $\rightarrow$ Passing of risk of transfer of ownership

* Essential to determine time at which ownership passes from seller to buyer.

* Importance of Time of Transfer
Risk prima facie passes with property.

If goods lost or damaged $\rightarrow$ Burden of loss borne by person who is owner at time when goods lost or damaged.

When goods damaged by act of third party $\rightarrow$ owner can take action

Suit for price by seller can be filed $\rightarrow$ only when property passed to buyer.

* Passing of Property [Sec 18-26] { Passing of ownership }

If property passed to buyer $\rightarrow$ Risk in goods is of buyer, Not seller, though it may be in seller's possession.

Rules regarding transfer of property in goods from seller to buyer depend on 2 factors:

1. Identification of goods [Sec 18] $\rightarrow$ Goods must be ^{specific/} ascertained

2. ~~Identification~~ of parties [Sec 19(1)]

Ascertain intention $\rightarrow$ to terms of contract
[Sec 19(2)] $\rightarrow$ to conduct of parties
 $\rightarrow$ to circumstances of case

* Primary Rules determining passing of property from seller to buyer:

A. Passing of ascertained / specific goods when intended to pass
(Sec 19)

1. Intention of parties [Sec 19(1)]
2. Terms of contract, conduct of parties, circumstances of case.
3. ~~But~~ Section 20 - 24 → Rules for ascertaining intention [Sec 19(2)]
[Sec 19(3)]

1. Specific goods in deliverable state [Sec 20]

- Property in goods passes to buyer when contract is made.
- Immaterial whether time of payment or time of delivery or both is postponed.

2. Specific goods to be put into deliverable state [Sec 21]

- seller bound to do something to goods for purpose of putting them into deliverable state.
- Property does not pass unless such thing done, AND buyer has notice thereof.

3. Specific goods in deliverable state when seller has to ascertain price (Sec 22)

- seller bound to weigh, measure, test or do some other act or thing with reference to goods to ascertain price.
- Property does not pass until such act / thing done AND buyer has notice thereof.

B. Goods must be ascertained [Sec 18]

Rules in respect of passing of property of unascertained goods:

1. Sale of unascertained goods by description [Sec 23(1)]

Appropriation of goods involves selection of goods with intention of using them in performance of contract, [Δ] with mutual consent of seller & buyer.

- Essentials:
- a) Sale of unascertained or future goods
 - b) Goods → of description & quality stated in contract
 - c) Goods → Deliverable state
 - d) Goods unconditionally appropriated either by deliver to buyer OR his agent OR carrier
 - e) Appropriation by
 - seller with assent of buyer
 - buyer with assent of seller
 - f) Assent → Expressed OR Implied
 - g) Assent → either before OR After appropriation

2. Delivery to carrier [Sec 23(2)] → Unconditional appropriation

Seller delivers goods  to buyer, or
to carrier, or
other bailee

} for purpose of transmission to buyer &

Does not reserve right of disposal, he is deemed to have unconditionally appropriated goods to contract.

C. Goods sent on approval or "on sale or return" (Sec 24)

Property passes to buyer when.

- signifies approval ☒ acceptance to seller ☒ does any act
- does not signify approval/acceptance but retains goods without notice of rejection.
 - If time fixed for return of goods → on expiry.
 - If no time fixed → on expiry of reasonable time.

- does something to goods which is equivalent to accepting goods (Pledges or sells goods)

Sale for cash only or Return

Property does not pass to buyer unless cash paid.

D. Reservation of right of disposal (Sec 25)

→ Conditional Appropriation

Reserving right of disposal of goods till price paid or certain conditions fulfilled.

Where this right can be reserved:

- If goods shipped, delivered, to railway adminⁿ for carriage & bill of lading or railway receipt, goods deliverable to order of seller/agent.
- Seller draws bill on buyer for price, send him BOE + bill of lading, buyer must return bill of lading, if doesn't pay/accept bill

* Risk Prima facie Passes with Property [Sec 26]

Exception to Risk follows ownership.

1. Goods delayed through fault of either buyer or seller, goods at risk of party in default.
2. Duties & liabilities of seller or buyer as bailee of goods for other party remains unaffected even when risk has passed generally.
3. Special agreement -

* Transfer by non owners [Sec 27-30] of title

Sale by person not owner (Sec 27)

→ Buyer acquires no better title to goods than seller.

Rule → 'Nemo dat quod non habet'

Exceptions to Non owners cannot convey better title to bona fide Purchase (Means non owners can convey better title in following cases)

1. Sale by Merchantile Agent (Sec 27)

- possession of goods or documents with consent of owner
- Sale made in ordinary course of business
- Buyer acted in good faith, & had no notice that seller had no authority to sell.

2. Sale by one of joint owners (Sec 28)

- One of joint owner has possession, had
- Property transferred to buyer in good faith & no notice that seller had no authority to sell.

3. Sale by person in possession under voidable contract (Sec 29)

Buyer acquires good title if seller had obtained goods through voidable contract (Coercion, fraud, misrepresentation, undue influence)

4. Sale by one who already sold goods but continues possession thereof [Sec 30(1)]

5. Sale by buyer obtaining possession before property in goods has vested in him [Sec 30(2)]

6. Effect of Estoppel.

7. Sale by unpaid seller [Sec 54(3)]

8. Sale by provisions of other Acts.

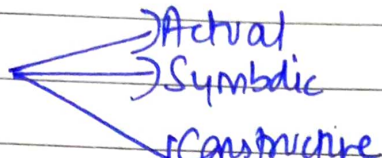
→ Sale by official Receiver or liquidator of co. will give purchaser a valid title.

→ Purchase of goods from finder of goods will get valid title [Sec 169 of ICA]

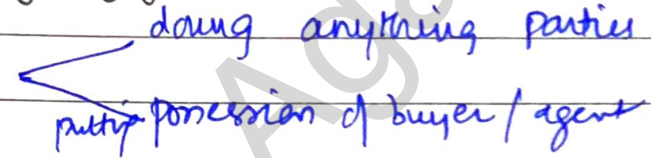
→ Sale by pawnee can convey good title to buyer [Sec 176 of ICA]

* Performance of contract of sale (Sec 31-44)

↓
Implies delivery of goods by seller & acceptance & payment by buyer.

Delivery 

Rules regarding delivery of goods

1. Delivery (Sec 33) 
2. Effect of Part Delivery (Sec 34) : same effect as delivery of whole
3. Buyer to apply for delivery. (Sec 35)
4. Place of Delivery [Sec 36(1)]
5. Time of Delivery [Sec 36(2)]
6. Goods in possession of third party (Sec 36(3))
7. Time for tender of delivery. (Sec 36(4))
8. Expenses for delivery [Sec 36(5)]
9. Delivery of wrong quantity (Sec 37)

10. Instalment deliveries (sec 38)
11. Delivery to carrier [sec 39(1)]
12. Deterioration during transit (sec 40)
13. Buyer's right to examine goods [sec 41]

14.

Rule related to Acceptance of Delivery of Goods (sec 42)

Acceptance deemed when buyer:

- intimates seller, that accepted.
- does act, inconsistent with ownership
- retains goods after lapse of reasonable time without intimating seller that he rejected them.

Buyer not bound to return rejected goods (sec 43)

VOA, if goods delivered & buyer refuses to accept, he is not bound to return them to seller, its sufficient if he intimates to sell that he refuses.

Liability of buyer for neglecting or refusing delivery of goods (Sec 44)

When seller ready & willing to deliver goods, & requests buyer to take delivery, buyer does not take within time, buyer liable for loss.

Unit 4- Unpaid Seller

* Unpaid Seller [Sec 45(1)]

Seller deemed "unpaid seller" when -

- Whole Price **NOT** paid **or** tendered
- Bills of Exchange **or** other negotiable instrument received as conditional payment, & the condition on which received → Not fulfilled by

Dishonour
otherwise

* Seller [Sec 45(2)]



here includes seller + Agent + Consignor + Agent who paid

* Rights of unpaid Seller (Sec 46)

1. Rights of unpaid seller against Goods.

(1) When property in goods passed to buyer.

a) Seller's lien (lien on goods while he is in possession)

Unpaid seller entitled to retain possession of goods until payment or tender of price in cases:

- where goods sold without any stipulation to credit,
- where goods sold on credit, but credit term expired,
- where buyer becomes insolvent.

Seller may exercise lien as agent or bailee for buyer.

Part delivery (Sec 48)



Where unpaid seller made part delivery of goods, he may exercise lien on remainder, unless such part delivery made under circumstances as to show an agreement to waive lien.

Termination of lien (Sec 49)

Unpaid seller loses lien :

- a) when delivers goods to carrier or bailee for purpose of transmission to buyer without reserving right of disposal of goods,
- b) when buyer or agent lawfully obtains possession
- c) by waiver.
- d) by estoppel → Seller makes third parties believe lien note.

Unpaid seller does not lose lien by reason that he obtained decree for price of goods.

b) Right of stoppage in transit

When buyer becomes insolvent,
Unpaid seller who parted with goods,
has right to stop them in transit, &
may retain them until paid or tendered price

Duration of transit

- Goods deemed to be in transit from time delivered to carrier or bailee for transmission to buyer, until buyer or agent, takes delivery from carrier or bailee.
- If goods rejected by buyer, & carrier or bailee continues in possession of goods, transit NOT deemed to be at end, even if seller refused to receive them back.
- Where goods delivered to chartered ship by buyer. → Question → depending on circumstances of case. Whether in possession of master as carrier or agent of buyer.
- Where part delivery made, remainder may be stopped in transit, unless such part delivery given in circumstances so as to show agreement to give up possession of whole of goods.

How stoppage in transit is effected?

- Unpaid seller may take actual possession of goods, or
- by giving notice of his claim to carrier or bailee not to deliver the goods.
- When notice of stoppage given by seller to carrier or bailee, he shall re-deliver goods to seller, & expenses of redelivery borne by seller.

When does transit come to an end?

Right of stoppage in transit is lost when transit comes to end.

- when buyer/bailee obtains delivery
- Buyer obtains delivery before arriving goods at destination
- Carrier wrongfully refuses to deliver goods to buyer.
- Where goods delivered to carrier hired by buyer.
- Where part delivery, transit ends for remaining goods which are in transmission.
- Where goods delivered to ship chartered by buyer.
- Where carrier/bailee acknowledges to buyer/agent that he holds goods as they are loaded on ship. unless seller reserved right of disposal of goods.

* D/b	Right of lien	Right of stoppage in transit
Essence	Retain possession	Regain possession.
Goods	Seller - in possession of goods	seller to have parted ^{with} carrier, buyer not acquired
Exercised	Buyer not insolvent	Buyer insolvent.
Relation	starting point of right of stoppage in transit	Begins when right of lien ends.
End.	Comes to end. as possession go out from seller.	Comes to end when goods delivered to buyer.

valuable right given to unpaid seller.

Unpaid seller can exercise right to re-sell goods under following conditions.

1. Where goods are of perishable nature
2. Where he ~~receives~~ gives notice to buyer of his intention to resell goods
3. Where unpaid seller who exercised Right of Lien or Stoppage in transit resells goods
4. Re-sale by seller where right of re-sale is expressly reserved in contract of sale
5. Where property _{in goods} has not passed to buyer.

2. Rights of unpaid seller against buyer (Rights in Personam)

↓
Known as Seller's remedies for breach of contract of sale

(1) Suit for price (Sec 55)

- Property in goods passes to buyer, buyer neglects / refuses to pay, seller may sue him for price of goods
- Price payable on certain day, irrespective of delivery, buyer neglects / refuses to pay, seller may sue him for price, even though property in goods not passed & goods not appropriated.

(2) Suit for damages for non acceptance (Sec 56)

↓
Buyer neglects / refuses to accept & pay for goods, seller may sue buyer for non acceptance.

(3) Repudiation of contract before due date (Sec 60)

Buyer repudiates contract before date of delivery, seller may treat contract as rescinded & sue damages for breach. → Known as 'Rule of Anticipatory Breach of Contract'

(4) Suit for Interest (Sec 61)

Already in agreement, when payment becomes due, seller may recover interest on price of goods.

If no agreement → seller may charge interest on price when becomes due. from day he notifies to buyer.

* Rights of Buyer Against seller.

Breach of contract
by seller where he →

- Fails to deliver goods at time or in manner prescribed.
- Repudiates contract.
- Deliver non conforming goods & buyer rejects & revokes acceptance

Rights of buyer:

1. Damages for non delivery [sec 57]

Seller neglects / refuses to deliver goods, buyer may sue seller for damages for non delivery.

2. Suit for specific performance [sec 58]

Buyer may ~~sue~~ appeal to court for specific performance.
 only in ascertained/specific

- Specific / ascertained goods
- provisions of Specific Relief Act 1963.
- damages not adequate remedy
- goods - special nature / unique

Court allows only in these conditions.

3. Suit for breach of warranty [sec 59]

On seller part → breach of warranty, or buyer elects to treat breach of condition as warranty,

Buyer cannot reject goods, but he may

- sue for damages.
- set up in diminution or extinction of price.

4. Repudiation of contract before due date (sec 60)

Either party repudiates contract before date of delivery, other may treat as subsisting & wait till delivery date OR rescind & sue for damages for breach.

5. Suit for Interest

* Auction Sale [Sec 64]



Mode of selling property by inviting bids publicly & property sold to highest bidder.

Auctioneer → agent by law of agency.

may sell his own property as principal & need not disclose fact he is selling his own.

Rules to regulate sale by auction

- Where goods sold in lots
- Completion of Contract of sale
- Right to bid may be reserved
- Where sale not notified by seller
- Reserved price
- Pretended bidding.

* Inclusion of Increased or Decreased Taxes in Contract of sale [Sec 64A]



Where Contract of sale made but before performed, tax revision takes place

Tax → Imposed, increased, decreased, remitted, parties entitled to read price accordingly.

Taxes on sale/
purchase of goods

Customs duty / excise on goods
tax on sale / purchase of goods

whole of India

Chapter 3 - The Indian Partnership Act 1932.

Unit 1 - General Nature of Partnership

* Partnership - relation b/w partners, who agreed to share profits of business carried on by all or any of them acting for all. ↓ Mutual Agency

Partners - Persons who entered into partnership with one another.

Firm Name - Name under which their business carried on.

* Elements of Partnership

1. Association of two or more persons

A firm, cannot be a partner as it's not recognized in eyes of law.
Minor cannot be a partner, but with consent of all partners, may be admitted to benefits of partnership.

Max No: → 50 partners. (in companies Act 2013)

2. Agreement → Must

Voluntary contractual nature of partnership.
Agreement must be to share profits of business

Agreement
{

 Express
 Implied

May be oral or in writing

3. Business: (i) Must exist business (trade, occupation & profession) (ii) Motive - 'Acquisition of gains' & to share profits

4. Agreement to share profits

Sharing profits essential,

No partnership where one of partners entitled to whole profits

In event of loss - unless otherwise agreed, share in Profit Sharing
same ↓ ratio

5 Business carried on by all or any of them Acting for all (Mutual Agency) Cardinal Principle

Agency → Partner/liable.
 Principle.

→ Agent not liable

Mutual Agency → Both liable for each other's Acts → Principle,
 Agent both
 liable for
 each other's Acts

Case law: KD Kamath & Co.

↓

i) Must share profits as well as losses of business,

ii) business must be carried on by all or any of them
 acting for all.

* True Test of Partnership (Sec 6)

for determining existence of partnership, must be proved.

Agreement

share profits

Mutual Agency

1. Agreement : Partnership created by Agreement & not status
2. Sharing of Profit

Not included in Partnership

- by lender of money
- servant or agent
- widow or child of deceased partner as annuity
- previous owner or part owner of business as consideration for sale of goodwill
- Joint owners
- Real Relation Must exist
- Sharing of profit → Prima facie evidence, not conclusive

3. Mutual Agency : → Act of one partner on behalf of all binds all.

Case law: Santioanjan Das Gupta vs. Dasyrath Murzammull.



No Partnership b/w parties.

- a) Parties not retained record of terms/conditions of Partnership
- b) No accounts maintained, for inspection
- c) No account opened in bank
- d) No written intimation to Deputy Director of Procurement w.r.t newly created partnership.

Read D/b Partnership vs ISC

D/b Partnership vs Club

D/b Partnership vs HUF

D/b Partnership vs Cowship

D/b Partnership & Association

* Kinds of Partnership

1. Partnership at will [Sec 7]

- i) no fixed period agreed upon duration of partnership
- ii) no provision made as to determination of partnership

Must satisfy for at will

Partnership at will → may be dissolved by any partner by giving notice in writing to all other partners.

2. Partnership for fixed period : → Created for particular period of time.

Comes to end after expiry of fixed period
If continues after expiry → treat as partnership at will.

3. Particular Partnership

Prosecution of Single Adventure
Prosecution of continuous Business

Dissolved by completion of adventure or undertaking
Liability extends to that particular adventure/undertaking.

4. General Partnership - Constituted w.r.t. business in general.

* Contents of Partnership Deed

oral writing } better if in writing

Partnership → Inalienable property → writing, stamped, registered
+ or - any provision

- | | |
|--|--|
| 1. Name of partnership firm | 6. Capital Contribution of partners |
| 2. Names of all partners | 7. PSR of partners |
| 3. Nature & place of business of firm | 8. Admission/Retirement |
| 4. Date of commencement of partnership | 9. Rates of Int. on Capital, Drawings, Loans |
| 5. Duration of partnership firm | |

10. Provisions for settlement of accounts in case of dissolution of firm
11. " " salaries, commissions, payable to partners,
12. " " expulsion of partner in case of gross breach of duty or fraud

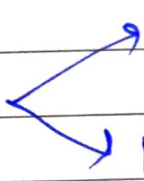
* Types of Partners

1. Actual / Active / Ostensible Partner

Person who  becomes partner by agreement.
actively participates in conduct of partnership

- Acts as agent of all.
- Must give public notice to absolve himself of liabilities after retirement

2. Sleeping / Dormant Partner

Person who  becomes partner by agreement
NOT actively participates in conduct of partnership

- liable to third parties
- Not required to give public notice of their retirement.

3. Nominal Partner

- Lends his name to firm,
- without intention of any real interest in firm
- Not Entitled to Share profits
- Does not take part in conduct of business
- Liable to third parties for acts of firm.

4. Partners in profits only

- Entitled to share profits ONLY.
- Not liable for losses
- Liable to third parties for acts of firm

5. Incoming Partners : Admitted into already existed firm. with consent of all. Not liable for acts done before his admission

6. Outgoing Partners: leaves → Retired / Outgoing partner. Liable for acts done until public notice given of his retirement.

7. Partner by holding out / (Sec 28) → Also called Partner by Estoppel

Represents himself; or knowingly permits himself to be represented.
allows others to do. (when is not),
liable for like a partner in firm.

to anyone who on faith has given credit to firm.
If partner retires, public notice not given then hold him liable.
(Partner by holding out)

8. Sub-partner

Unit 2- Relations of Partners

* Relation of Partners to one another

1. General Duties of Partners [Sec 9]

- Carry on business to greatest common advantage.
- Just & faithful to each other
- Render ^{true} accounts & full information affecting firm to any partner or his legal representative.

2. Duty to indemnify for loss caused by fraud [Sec 10]

- Indemnify firm for loss caused to it by his fraud in conduct of business of firm.

3. Determination of Rights & Duties of Partners by contract between Partners [Sec 11]

- Mutual Rights & Duties of partners - determined by contract between partners
- Contract may be implied or expressed.

Agreement in restraint of trade - Sec 27 of ICA, 1872
Partner not carry any business other than that of firm while he is partner

4. Conduct of Business [Sec 12]

Subject to contract b/w partners:

- a) Every partner has right to take part in conduct of business
- b) ~~Right to Bound~~ to attend diligently to his duties in conduct of business

- c) Any difference as to ordinary matters with business - decided by majority of partners,

Every partner has right to express opinion, but

no change in nature of business without consent of all partners
 other matters → decided by majority

consent of all
 change in nature
 or
 reconstruction

- d) Right to have access to & inspect copy of books of firm
- e) In event of death of partner, his heirs, legal representative or their agent → right to inspect books & copy of books.

5. Mutual Rights & Liabilities (sec 13)

Subject to contract b/w partners:

- a) Partner not entitled to remuneration for taking part in business
- b) Partners entitled to share equally profits & contribute losses equally
- c) Partner entitled to interest on capital, payable only out of profits
- d) Interest on Advance @ 6% p.a.
- e) Firm to indemnify partner ← in ordinary & proper conduct emergency act.
- f) ~~ide~~ Partner to indemnify firm for loss caused by his neglect.

* Partnership Property [Sec 14]

1. Property of firm (Sec 14)

- property, rights, interests partners brought as contribution
- property, rights, interests acquired or purchased by or for firm, or for purposes and in course of business of firm
- Goodwill of business

Property of partner - does not become property of partnership merely because used for business of partnership, BUT will become, if there is an agreement

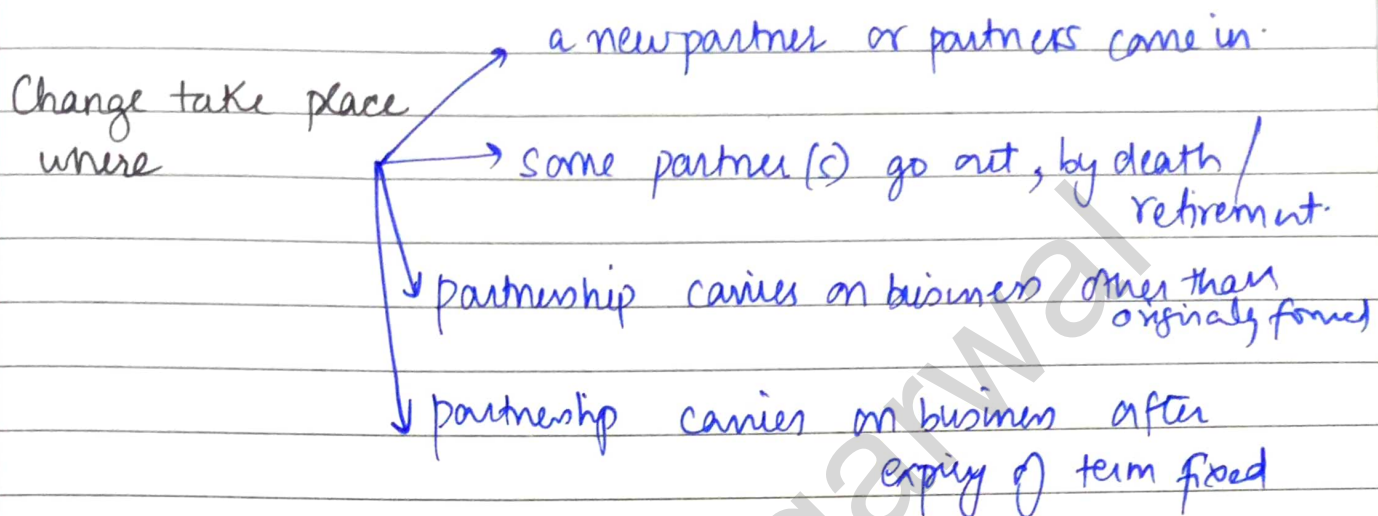
2. Application of property of firm (Sec 15)

Subject to contract b/w partners, property held & used by partners exclusively for purpose of business

* Personal Profit Earned by Partners (Sec 16)

1. If partner derives profit from using property of firm, or business, he shall pay it to firm.
2. Partner carries on competing business at same time, - pay profits to firm.

* Rights & Duties of Partners after change in firm (sec 17)



Subject to contract b/w partners.

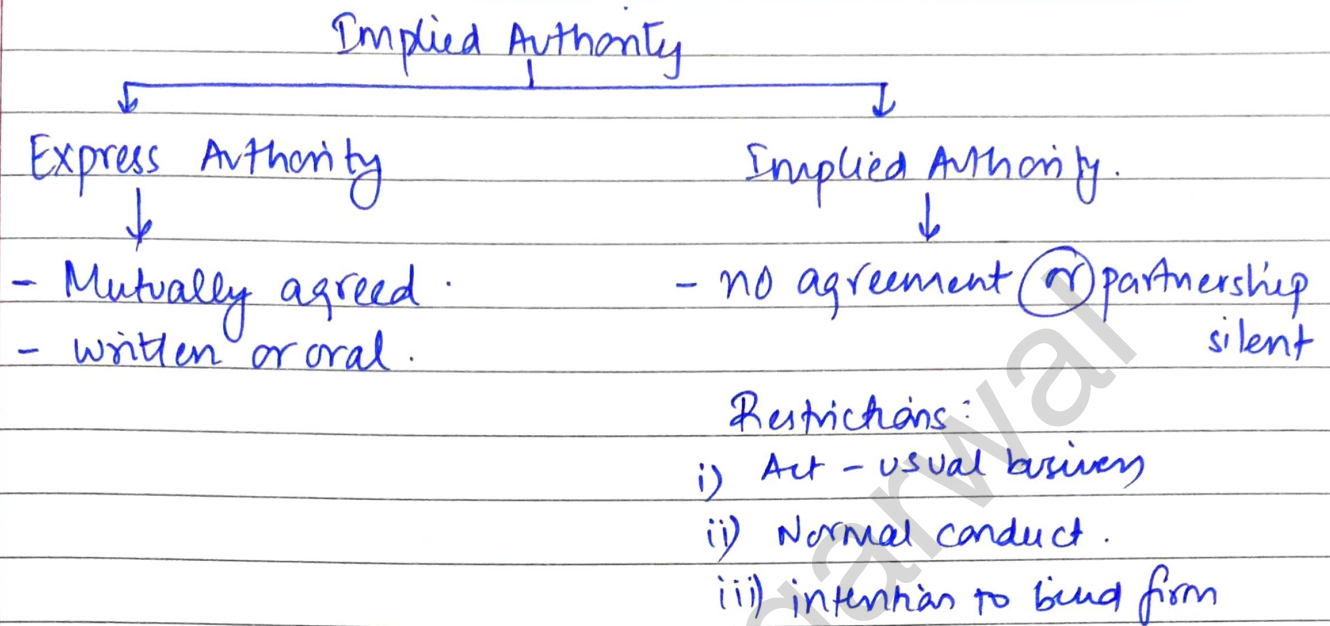
- a) after change in firm - Rights / duties remain same
- b) after expiry of term of firm - "
- c) where additional undertakings carried out

* Relation of Partners to third parties.

1. Partner to be agent of firm [sec 18]

2. Implied Authority of Partner as Agent of firm (sec 19)

- Acts outside Implied authority**
1. → Submit dispute relating to business to arbitration
 2. → open bank a/c on behalf of firm in own name
 3. → compromise / relinquish claim of firm.
 4. → withdraw suit / proceedings filed on behalf of firm.
 5. → admit liability in suit / proceedings against firm.
 6. → acquire immovable property on behalf of firm
 7. → transfer immovable property belonging to firm.
 8. → enter into partnership on behalf of firm



Conditions to bind firm - Implied Authority.

- (1) Usual business → Act done within scope of authority & related to normal business of firm
- (2) Usual way of carrying business →
Act done for normal conduct of business of firm.
usual way → depends on nature & circumstances of each particular case
- (3) Act done in name of firm or in manner intention to bind firm

3. Extension & Restriction of Partner's Implied Authority (Sec 20)

- (i) Partners by mutual agreement may

extend
or
restrict

}

implied authority of any partner.

(ii) Under following conditions, restrictions imposed on implied authority of partner shall be effective against third party:

- 3rd party knows about restriction,
- 3rd party does not know that he is dealing with partner in firm.

firm not liable,
partner liable

4. Partner's Authority in Emergency (Sec 21)

- to do all such acts
- for protecting firm from loss
- as man of ordinary prudence would.
- such act binds firm

firm is bound.
if act is outside implied authority if emergency.

* Effects of Admissions by Partner (Sec 23)

- An admission or representation made by partner.
- concerning affairs of firm is evidence against firm.
- If made in ordinary course of business

* Effect of Notice to Acting Partner (Sec 24)

Partner who habitually acts in business of firm operates as notice to firm

* Liability to third parties (Sec 25 to 27)

- Actual, not constructive
- recd by working partner
- relate to firm's bank

1. Liability of partner for acts of firm [Sec 25]

Exception: fraud.

Every partner → jointly & severally liable for all acts of firm while he is partner

2. Liability of firm for wrongful acts of partner (Sec 26)

firm liable if wrongful act / omission of partner in ordinary course of business of firm.

3. Liability of firm for misapplication by partners (Sec 27)

a) Partner acting within authority receives money / property from third party & misapplies it.

b) firm receives money / property from third party & misapplied by any partner(s)

In both above cases, firm liable.

* Rights of Transferee of Partner's Interest (Sec 29)

Share ^{can be} transferred in partnership but transferee, cannot enjoy same rights & privileges as original partner.

Rights: 1.) Not entitled

a) to interfere with conduct of business

b) to require a/c

c) to inspect books of firm.

only entitled to share profits.

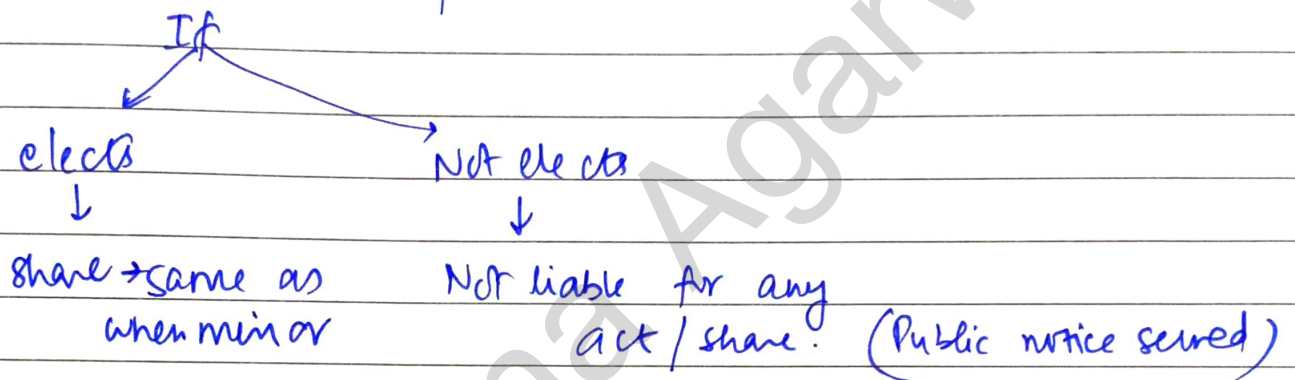
2.) On dissolution, entitled.

a) to receive assets of his share (original partner)

* Minors Admitted to Benefits of Partnership (Sec 30)

Rights:

- i) Right to share profits of firm
- ii) Access to, inspect & copy a/c's of firm (No access to confidential infoⁿ)
- iii) can sue partners for a/c's or payment of share
- iv) On attaining majority within 6 months - may elect or not to become partner.



Liabilities

- before majority
- i) only to extent of share in profits & property of firm.
 - ii) No personal liability for debts of firm
 - iii) cannot be declared insolvent, if firm declared insolvent; his share - vests in Official Receiver / Assignee.

* If he becomes partner → ^{on} willingness or failure to public notice

- for majority
- a) personally liable for all acts of firm done since he was admitted to benefits of partnership
 - b) Share in property & profits remains same as minor ^{when}

* If not elects to become partner.

- a) rights & liabilities continue as when minor. upto
- b) shall not liable for acts of firm ^{date of public notice}
- c) entitled to sue partners ^{after notice} for his share of property / profits. (give notice to registrar)

* Legal Consequences of Partner coming in & going out (Sec 31-35)

1. Introduction of Partner (Sec 31)

- No new partner unless consent of all existing partners.
- New partner not entitled to acts done before ^{his} admission

2. Retirement of Partner (Sec 32)

Retire by $\left\{ \begin{array}{l} \rightarrow \text{consent of all} \\ \rightarrow \text{accordance with express agreement by partners} \\ \rightarrow \text{partnership @ will} \rightarrow \text{giving notice to all.} \end{array} \right.$

liable if don't give ^{public} notice

3. Expulsion of Partner (Sec 33)

- Power of expulsion must exist in contract b/w partners
- power exercised by majority of partners
- exercised in good faith

good faith

$\left\{ \begin{array}{l} \rightarrow \text{expulsion in interest of partnership} \\ \rightarrow \text{Expelled partner served with notice given OOBH.} \end{array} \right.$

If expulsion void :

He continues to be partner & can { claim reinstatement, or
sue for refund for
share of capital &
profits.

Same provisions of Retired partner applies
to Expelled partner.

4. Insolvency of Partner (Sec 34)

- Partner ceased to be partner from date - order of adjudication made.
- Cannot continue as partner
- Estate of Insolvent partner - not liable for acts of firm after order of adjudication date
- Firm also not liable for act of insolvent partner - after order of adjudication date
- Ordinarily but not invariably, insolvency of partner results in dissolution of firm, BUT partners competent to agree b/w them that adjudication of partner as insolvent will not give rise to dissolution of firm

5 Liability of Estate of Deceased Partner (Sec 35)

Ordinarily: Effect of death of partner → dissolution of partnership but its subject to contract b/w partners.

Estate of deceased partner - not liable for any act of firm done after his death.

(liable only for acts done during tenure of his partnership)

Not required to give PUBLIC NOTICE

[Note: Public Notice required in Retirement or Expulsion BUT NOT IN DEATH]

* Rights of outgoing partner to carry on competing Business (Sec 36) (OP)

An OP may carry on competing business with that of firm, & may advertise such business, but subject to contract to contrary, he cannot

- use firm's name
- represent himself carrying on business of firm
- solicit custom of persons who were dealing with firm when he was partner.

Agreement in restraint of trade → May be agreement that on ceasing to be partner, will ~~not~~ carry on competing business within specified period or ~~local~~ limits

* Rights of Outgoing Partner in certain cases to share subsequent profits (Sec 37)

* Revocation of Continuing Guarantee by change in firm (Sec 38)

Change in reconstitution of firm → Revokes guarantee as to all future transactions.

Change may be due to → death/retirement/admission

Unit 3 - Registration & Dissolution of firm.

* Registration of firms

Application for registration (Sec 58)

Send post or delivering to Registrar of area in which any place of business is situated or proposed to be situated.

a statement in prescribed form + Fees. with:

→ Signed by partners. & verify.

- firm's name
- Place or principal place of business of firm
- names of other places where firm carries business.
- dates when partners joined.
- ^{full} names & addresses of partners.
- duration of firm.

Subsequent alterations in above - also registered.

Sec 59 Registration: Registrar satisfied Sec 58 complied with, he shall record entry of statement in Register called Register of firms & file statement.

Late registration on payment of penalty (Sec 59A-1)

If not sent / delivered within time specified firm may be registered on payment of ₹ 100 per year of delay or part.

* Consequences of Non-Registration (Sec 69)

Registration of firms not compulsory, nor does it impose any penalty for non registration.

Consequences / disabilities of Non-Registration:

- i) No suit in civil court by firm or other co partners against third party.
only registered firm can suit against 3rd party & partners of firm.
- ii) No relief to partners for set off of claim
If action brought against firm by third party, then neither firm, nor partner can claim set off.
- iii) Aggrieved partner cannot bring legal action against other partner or firm.
Partner of unregistered firm is precluded from bringing legal action against firm.
Such person may sue for dissolution of firm or for accounts & realization of his share in firm's property where firm dissolved.
- iv) Third party can sue firm.
In unregistered firm, action can be brought against firm by 3rd party.

Exceptions: Non-registration of firm does not, however effect following rights

1. Right of third party to sue firm or partner.
2. Right of partners to sue for dissolution of firm or for settlement of a/c of dissolved firm, or for realization of property of dissolved firm.
3. Power of Official Assignee, Receiver of court to release property of insolvent partner & to bring action.
4. Right to sue or claim set off if value of suit does not exceed ₹100 in value.
5. Right to suit & proceeding instituted by legal representatives or heirs of deceased partner of firm for accounts of firm or to realise property of firm.

* Dissolution of firm. → Dissolution of partner b/w all partners of firm

	Dissolution of firm	Dissolution of partnership
Continuation of business	discontinuation of business in partnership.	does not affect continuation of business, involves only reconstitution of firm
Winding up	winding up of firm & requires realization of assets & settlement of liabilities	only reconstitution & requires only revaluation of assets / liabilities.
Order of court	May be dissolved by order of court	is not ordered by court.
Scope	Involves dissolution of partnership	may or may not involve dissolution of firm
Final closure of books	final closure of books of firm	does not involve final closure of books of firm

* Modes of Dissolution of firm.

1. Dissolution without Court's order.

(i) Dissolution by Agreement (Sec 40)

(ii) Compulsory dissolution (Sec 41)

- by adjudication of all partners or of all but one insolvent.
- by happening of event which makes it unlawful for business to be carried on.

(iii) Dissolution on happening of certain contingencies (Sec 42) (event)

- where firm constituted for fixed term, on expiry of that.
- where firm constituted to carry out one or more adventures / undertaking, then by completion thereof.
- by death of partner.
- by adjudication of partner as an insolvent.

(iv) Dissolution by notice of partnership at will (Sec 43)

- May be dissolved by partner giving notice in writing to all others of his intention to dissolve firm.
- If date mentioned in notice: firm dissolved as from date mentioned in notice.
If no date mentioned - as from date of communication of notice

2. Dissolution by court's order (Sec 44)

(i) Insanity / unsound mind

Court may dissolve on suit of other partners or next friend of insane partner.

Temporary sickness → No ground of dissolution of firm.

(ii) Permanent incapacity

- Partner may become permanently incapable of performing duties
- May result from physical disability / illness etc.

(iii) Misconduct

Guilty of misconduct likely to affect business of firm.
Adverse effect of misconduct on business.

(iv) Persistent breach of agreement

- Embezzlement
- Keeping erroneous a/cs
- Holding more cash than allowed
- Refusal to show a/c despite repeated request etc.

(v) Transfer of interest - to third party or allowed his share to be charged or sold by court in recovery of arrears of land revenue.

(vi) Continuous / Perpetual losses

(vii) Just & equitable grounds

- Deadlock in management
- Partners not in talking terms b/w them.
- Loss of substratum.
- Gambling by partner on stock exchange.

* Consequences of Dissolution (Sec 45-55)

1. Liability for acts of partners done after dissolution (Sec 45)

- Protects ~~to~~ third parties dealing with firm who had no notice of prior dissolution
- also protects partners of dissolved firm from 3rd party.

Exceptions
(even when notice of dissolution not given, no liability for subsequent acts)

- estate of deceased partner
- insolvent partner
- dormant partner.

2. Right of partners to have business wound up after dissolution (Sec 46)

Partners / Representative → property applied to debts / liabilities, if surplus distributed in partners / representative

3. Continuing authority of partners for purposes of winding up (Sec 47)

4. Modes of settlement of partnership A/cs (Sec 48)

- losses paid out of profits, out of capital, then partners (PSR)
- Assets applied:
 - i) in paying debts of firm to 3rd party
 - ii) " to each partner relatively what's due capital
 - iii) " " " what is due to him on a/c of capital
 - iv) residue, divided into partners.
PSR ratio

5. Payment of firm debts & separate debts (Sec 49)

Chapter 4 - Limited Liability Partnership

81 sections.

4 schedules.

Act 2008

* LLP - Meaning & Concept

Form of legal business entity with limited liability

Liability of Partners - Limited

LLP - liable for full extent of its assets

Allows partners flexibility of organising their internal structure

Alternative corporate business vehicle

Separate Legal Entity

LLP → Benefits of liability limited of company & Flexibility of partnership

} hybrid
b/w
Co. &
Partnership

* Body Corporate means Company defined in CA 2013, & includes

(i) LLP under this Act

(ii) LLP outside India & this Act

(iii) A company incorporated outside India

but does not include

(i) Corporation sole,

(ii) cooperative society

(iii) any other body corporate (not being Company in CA 2013, or LLP) which CG may by notification in official Gazette, specify

- * Business - includes every trade, profession, service occupation
- * Designated Partner - means partners designated as per sect
- * Financial Year - Period from 1st April to 31st March
- * Foreign LLP - LLP formed, incorporated or registered o/s India which establishes a place of business within India
- * LLP - partnership formed & registered under this Act
- * LLP Agreement - written agreement b/w partners of LLP.
or b/w LLP & partners
determines Rights/duties of partners, & that in relation to LLP
- * Partner - person who becomes partner in LLP with LLP agreement

Who can become partner of LLP?

Individual.

or

body corporate.

Individual cannot if

- i) unsound mind
- ii) undischarged insolvent. → insolvent BUT NOT discharged by court
- iii) applied to be adjudicated insolvent & his application pending

* Minimum No. of partners [Sec 6]

- i) At least 2 partners
- ii) If anytime no. of partners is reduced below 2 & LLP carries on business for more than 6 months, Person who is ^{only} partner of LLP → personally liable & LLP dissolved.

* Designated Partner (Sec 7)

Atleast 2 designated partners, → WHO ARE INDIVIDUALS.
Atleast one should be resident in India → 182 days.

* Characteristics of LLP.

1. Body corporate → Separate legal entity.
2. Perpetual succession
3. Separate legal Entity
4. Mutual Agency
 - i) All Partners → agents of LLP alone
 - ii) No one partner can bind other partner by his acts
5. LLP Agreement
6. Artificial legal Person
7. Common Seal.
8. Limited Liability
9. Management of Business. - Only Designated Partners responsible for legal compliances
10. Minimum & Maximum No of Partners. - Atleast 2 partners, & Atleast 2 D.P.,
No Max limit of whom at least one resident.
11. Business for Profit only. → Cannot be formed for charitable/
non-economic purpose
12. Investigation → Cg have powers
13. Compromise & Arrangement including M & A → provisions of LLP Act
14. Conversion into LLP → firm, private co. or unlisted Public Co. can be converted to LLP.
15. E-filing of documents → MCA.gov.in (using electronic, digital signature)
16. Foreign LLPs - formed, incorporated, registered of India which established place of Business in India

* Advantages of LLP Form.

1. Organised & operates on basis of agreement.
2. Provides flexibility without imposing detailed legal + procedural requirements.
3. Easy to form
4. All partners enjoy limited liability
5. Flexible capital structure
6. Easy to dissolve

* Incorporation of LLP ~~Sec.~~

Incorporation Document (Sec 11)

(1) a) two or more persons for lawful business, shall subscribe their names to incorporation document.

b) Incorporation document filed in manner. with fees prescribed with Registrar of state in which R.O of LLP is

c) statement to be filed.

- along with incorporation document, in prescribed form
- by advocate OR CS OR CA OR CWA who's engaged in formation of LLP.
- by any one subscribed his name to incorporation document
- all requirements + Rules of Act ^{to be} complied
- for incorporation & matters ^{to be} precedent incidental

(2) Incorporation document shall

- a) be in form as prescribed
- b) state name of LIP
- c) state proposed business
- d) state address of R.O.
- e) State name & address of each person who are partners of LIP on incorporation.
- f) state name & address of persons who are D.P of LIP on incorporation
- g) contain other infoⁿ as prescribed.

(3) If person makes statement above which he.

- a) Knows to be false
- b) does not believe to be true, punishable
 - with imprisonment for term extends to 2 years,
 - with fine, not less than ₹10,000 to 5 lacs.

Incorporation by registration (Sec 12)

- (1) Once, requirements of Sec 11 complied, Registrar to retain incorporation document, & within 14 days, register incorporation document & give certificate that LIP is incorporated by name ^{specified}.
- (2) Sufficient evidence that requirements of sec 11 complied
- (3) Certificate issued & signed by Registrar & authenticated by official seal.
- (4) Certificate - Conclusive evidence - LIP is incorporated.

Registered office of LLP & change therein (Sec 13)

- (1) R.O to which all communications & notices addressed & recd.
- (2) Document served on LLP/partner/ D.P. by sending it by post / registered post / other manner prescribed, at R.O / any other address.
- (3) May change place of R.O & file notice of change with R.O.
- (4) If Contravenes. - LLP & partner → fine 2000 to 25000

Effect of registration (Sec 14)

On registration, LLP by name capable of

- suing & being sued
- acquiring, owning, holding, developing, disposing property.
- common seal
- doing & suffering such acts - body corporates lawfully do & suffer

Immovable / Movable /
Tangible / Intangible

Name (Sec 15)

- (1) LLP words → ^{either} Limited Liability Partnership (LLP)

- (2) No LLP shall be registered. which C.G. opines:

- undesirable
- identical / resembles to other partnership firm / LLP / Body Corporate or Regd Trade Mark.

* Reservation of Name (Sec 16)

- (1) Person may apply to Registrar in form & manner for reserving
 - name of proposed LLP
 - name to which LLP proposes to change its name
- (2) Upon receipt of appⁿ & fees, Registrar may if satisfied with rules of CG, & Sec 15(2) comply reserve name for 3 months from date of intimation by Registrar

* Change of name of LLP (Sec 17)

- (1) Notwithstanding anything contained in Sec 15 & 16, If CG satisfied that LLP registered under name.
 - referred in Sec 15(2)
 - identical / resembles with other.CG may direct LLP to change name & comply within 3 months after direction or period CG allows
- (2) (i) If fails to comply Sec 17(1),
fine 10000 to 5 Lac.
- (ii) DP → fine → 10000 to 1 Lac.

* Steps to Incorporate LLP

Name - Reservation of Name of LLP.
Reservation - file e-form 1

Incorporate LLP - After reserving name, file e-form 2 for new LLP.
- e-form 2 → details of LLP, partners / DP details, consent to act as partners / DP

LLP Agreement - Execution of LLP Agreement mandatory (Sec 23)
- LLP Agreement filed with Registrar within 30 days of incorporation of LLP

* Partners & their Relations

Sec 22 - Eligibility to be partners. - Persons who subscribed their names to incorporation document.

* Relationship of partners (Sec 23)

(1) Unless otherwise agreed, Mutual rights & duties of partners & Rights & duties of LLP & partners → governed by LLP agreement b/w partners or b/w LLP & partners

(2) LLP agreement + changes → filed with Registrar.

(3) Agreement in writing before incorporating LLP, binding if ratified after incorporating LLP.

(4) In absence of agreement, Rights & duties - LLP Act (Schedule)

* Cessation of Partnership Interest (sec 24)

1. Person in accordance with agreement with other partner.
or
in absence of agreement → give notice of ≥ 30 days with intention to resign as partner
2. Person shall cease to be partner,
 - on death / dissolution
 - declared unsound mind by competent court
 - applied ^{to be} adjudged insolvent or declared insolvent
3. Person ceased to be partner, former partner still partner unless.
 - person ^{has} notice that ceased to be partner.
 - notice That former partner ceased to be partner. delivered to Registrar
4. obligation to LCP / other partners. which incurred while Partner
5. former partner / ~~repres~~ person entitled to ^{his} share of death / insolvency,
 - amt equal to ^{capital} contribution of former partner actually made
 - right in accumulated profits after deducting accumulated losses
6. former partner / entitled person. → not right to interfere in mgr- of LCP.
↓
death / insolvency

* Registration of changes in Partners (Sec 25)

(1) Every Partner inform LLP.

- any change his name / address.
- within period of 15 days of change.

(2) LLP shall -
where:

(i) Person becomes partner
or
ceases partner.

file notice with Registrar
within 30 days from date of
change.

(ii) change in name of partner
or
address of partner

file notice with
Registrar within 30 days

(3) Notice in Sec 25(2)

- in form + fees prescribed
- signed by DP & authenticated.
- If relates to incoming partner, statement of consent, signed & authenticated.

(4) Contravene Sec 25(2)

LLP & DP → fine ₹ 2000 to 25000

(5) Partner contravene Sec 25(1), fine → 2000 to 25000.

(6) Partner who ceases may file notice if has reasonable cause to believe LLP may not file notice with Registrar, then ROC to obtain confirmation from LLP.

If no confirmation by LLP within 15 days, Registrar shall register notice by ceased partner.

* Extent & limitation of liability of LLP & Partner

Partner as agent (sec 26) : Partner as agent of LLP,
but not of Partners

Extent of liability of LLP (sec 27) :

- (1) LLP not bound by act of partner, if
 - Partner has no authority to act
 - Person known - has no authorityor
does not know
or
believe him to be partner of LLP.
- (2) LLP liable if partner is liable to any person as result of wrongful act or omission on his part in course of business or with its authority.
- (3) obligation of LLP is solely obligation of LLP
- (4) Liabilities of LLP to be met out of property of LLP.

Extent of liability of Partner (sec 28)

- (1) Partner not personally liable for obligation of LLP
- (2) However, wrongful act, omission, then personally liable.

* Holding out (sec 29)

(1) Person:

who by words spoken/written/conduct represents himself to be partner is liable to any person.

who has faith, given credit to LLP.

BUT, if credit received by LLP, both Partner & LLP liable for credit or benefit received.

(2) After partner's death, business continued with same LLP name, or deceased partner's name, will not make legal representative or his estate liable. for act done after death.

* Unlimited liability in case of fraud (sec 30)

(1) Fraud:

- by LLP/partners.

- Intention to defraud creditors or any other person. } for fraudulent purpose.

- Liability of LLP & partners. → Unlimited.
for all debts / liabilities

BUT ^{if} only done by partner, LLP is also liable. Unless proves that without knowledge or authority of LLP.

(2) Above fraud, Person liable for imprisonment → extend 2 years.
fine → 50,000 to 5 lakh

(3) LLP / partner / DP / employee → conducted affairs fraudulently,
↓
liable to compensate to person who suffered loss/damage
LLP not liable if no knowledge.

* Whistle blowing (Sec 31)

- (1) Court / Tribunal may reduce / waive penalty against partner / employee of LLP, if satisfied that
 - he provided "useful info" during investigation
 - any info" given leads to LLP / partner, convicted
- (2) No partner / employee discharged / demoted / suspended / threatened / harassed. - merely because he provides info".

* FINANCIAL DISCLOSURES.

Maintenance of books of A/c, other records, & audit (Sec 34)

(1) Proper books of A/c

- Books as prescribed
- relating to affairs for each year
- on cash / accrual basis
- according to double entry system
- maintain same at R.O.
- for such period prescribed

(2) Statement of Account & Solvency

Every LLP shall
 within period of 6 months from end of FY.
 prepare it
 for FY
 in form + manner prescribed
 signed by DP

(3) File Statement of A/c & solvency to Registrar

(4) A/c of LLP audited as per rules

(5) Failure to comply Section

LLP → Fine not less than ₹25000 → 5 Lacs.

DP → 10000 → 1 Lac.

Annual Return (Sec 35)

1. File with Registrar within 60 days of closure of FY.
2. Failure → ₹25000 to 5 Lacs (LLP).
3. DP → 10000 to 1 Lac

* Conversion to LLP : Firm, Private Co, Unlisted Public Co.
 may convert.

Registration :

- comply with provisions
- LLP within 15 days of registration inform Registrar of ROC about conversion
- shareholders be then partners.
- property transferred to LLP.
- firm/co. dissolved & removed.

* Winding up & Dissolution (sec 63)

Either voluntary or tribunal.

Cases where wound up by Tribunal (Sec 64)

- More than 6 months, Partners reduces below 2
- LLP unable to pay debt
- acted against interests of sovereignty & integrity of India, security of state or public order
- default in Registrar, Statement of A/C & solvency or Annual Return for 5 cons. years.
- Tribunal opinion - Just & Equitable that its to be wound up

Sec 65 - CG makes rules for winding up & dissolution

* Miscellaneous.

Business transactions of partner with LLP (sec 66)

A partner may lend money to & transact other business with LLP, & have same rights / obligations w.r.t loan / transaction as person who's not partner.

Application of provisions of Co. Act (sec 67)

CG may notify that CA 2013 provisions apply to LLP.

Electronic filing of docs (sec 68)

Payment of additional fee (sec 69)

*

D/b

LLP

Partnership Firm

Act

LLP Act, 2008

IPA, 1932

Body corporate ☒ Body corporate ☒

Not Body corporate (X)

Separate
Legal Entity

☒

X

Creation

Legal process $\rightarrow$ Registration under Act

Agreement b/w partners.

Registration

Mandatory, Can sue & be sued.

Voluntary. Only registered firm
can sue.

Perpetual
Succession

Forever. ☒

X.

Name

Contain LLP as suffix

No guidelines as such.

Liability

Limited

Unlimited

Mutual
Agency

Partner can bind LLP,
but not other partners.

Partner can bind firm
as well as other partners.

D P

Atleast 2, atleast one of them
resident.

—

Common
seal

May have

—

Legal
compliance

Dr liable & repairable

All Partners.

Annual
filing of
documents

LLP required to file
— Annual statement of A/c
— Statement of solvency.
— Annual return

—

Foreign partners

Foreign nationals can become
partner

Cannot

Minor as partner

Minor — no benefit

Minor can be beneficiary

X	Qb	LLP	Limited Liability Company
Regulating Act		LLP Act 2008	CA, 2013
Members/Partners		Persons who contribute → Partners	Persons who invest in shares of co. → Members.
Internal Gov. Structure		By Contract b/w partners.	By Act. (CA, 2013)
Name.		LLP or limited liability Partnership	'Ltd' and 'Private company'
No of members/partners		Min - 2 members Max - No limit Individuals or body corporate	<u>Private</u> : Min: 2 Max: 200. <u>Public</u> : Min: 7. Max: NO such limit
Liability of Members/Partners		Limited	Limited
Min Directors/DP		Min 2 DP.	Private: 2 Public 3