

UNIT - 2CONSIDERATION

Section 2(d): Consideration is defined as when at Desire of promisor, promisee or any other person has done or abstrain from doing or does or abstrains from doing something, Such an act or abstinence or promise is called consideration.

Legal Rules Regarding Consideration.

1. Consideration must move at desire of promisor:
  - It can be offered by promisee or any other person.
  - Act done on desire of 3<sup>rd</sup> party is not consideration.

Case Law: Durga Prasad vs Baldeo.

2. Consideration may move from promisee or any other person:
  - In India consideration may provided from the promisee or any other person who is not a party to a contract.

→ It should be done at desire of promisor.

- There can't be stranger to contract but not stranger to consideration.

Case Law: Chinnaya vs Ramayya.

3. Executed & Executory consideration? (2007 item) =

- A consideration which consists of performance of an act is said to be executed.
- If when it consists of promise it is said to be executory.
- Promise by one party may be consideration for an act by some other party.

4. Cnsdn may be past, present or future. (2012)

- The words has done or abstain from doing refers to past consideration.
- Past Cnsdn must move at previous request.
- Cnsdn may also be for present or future activity.

5. Cnsdn need not be Adequate? (2012)

1. It need not be of any particular value
2. But it must be something which law attaches some value.
3. It may be noted that contract may not be void merely because, cnsdn is inadequate
4. But if it is shockingly less & other party alleges that consent was not freely given, then such can be taken as evidence in support of allegation.

6. Performances of what one is legally Bound to Perform:

- It is not a valid cnsdn for a contract where a person promises to do more than he is legally bound to do is not opposite to public policy.

↳ public

Lawyer 10,102 if win 25K Exon.

7. Consideration must be Real & not illusory:  
 → It must be something which law attaches some value.  
 → If it is physically or legally impossible, it is not valid consideration.

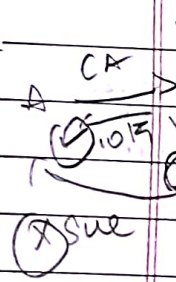
8. Consideration must not be unlawful immoral or oppose to public policy.

Suit by a third party to a contract.

• consideration may proceed from third party to a contract but only a person who is party to a contract can sue on it.

Stranger to contract is valid & it is diff from stranger to contract.

Stranger to contract cannot sue & it is known as "Doctrine of privity of contract".



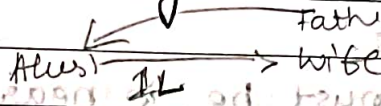
Following are certain exceptions:

1. In case of trust: benefit  
 An beneficiary can enforce his right under trust though, he is not party to a contract b/w Settler & trustee.

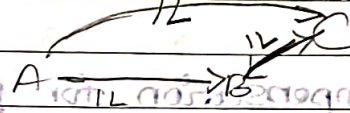
2. In case of family settlement:  
 If terms of settlement are produced in writing members of family who originally has not been parties to settlement may enforce. agrmt.

Stranger → consideration (✓)  
Contract (x)

3. In case of certain marriage contract & arrangement:-  
provision may be made for benefit of person,  
he may file a suit though not merely party to  
contract.



4. → assignment of a contract:-  
When benefit under a contract has been assigned,  
Assignee can enforce contract but it should not  
involve personal skill.



5. Acknowledgment or Estoppel: when promisor by  
his conduct acknowledges himself as an agent of  
third party, it would result in binding obligation  
towards 3rd party. Ex: - M. vs Sir - Mr. Mam - I. vs Sir - Brdy  
Gift - Necklace.

6. covenant running with the land:-  
The person who purchases land with notice is bound  
by certain duties affecting land, the covenant affecting  
land may be enforced by successor of the Seller.  
Ex: - Madhu - Manvi - to meet each other.



7. Contracts entered through an agent: Principles can enforce  
the contract entered by his agent where agent has  
acted within scope of his authority & name  
of principal.

Validity of an Agmt without Cnsdtn.

\* Since Cnsdtn is essential element of a contract,  
if no cnsdtn then no contract comes into existence.

\* Rule is No Cnsdtn No Contract.

Following r Exceptions to Rule:

1. Natural love & Affection:

Following condition need to be fulfilled:

1. It must be made out of natural love & affection b/w parties.

2. Parties must be in near relation to each other

3. It must be in writing

A. It must be Registered under law.

Ex: - Husband - wife; - S L Z Necklace

2. Compensation for past voluntary Services:

A promise to compensate only in wholly or in part, other person who has already performed for promisor is enforceable if following conditions are fulfilled:

1. Services - should be rendered voluntarily.

2. It must be for promisor.

3. Promisor must be in existence at the time when services were rendered.

A. Promisor must have intention to compensate promisee.

3. Promise to pay time based debt:

Where promise is made in writing signed by the person making it or by authorised agent - is valid. It is made to pay a debt based by

Ex: - 3 yrs - limitation is valid without considen.

4. Agency: No consdrn is required to create contract of Agency.

### 5. Completed Gift:

In case of completed gift, no consideration is required provided gift is actually made.

Ex: - IGI - Prachi → iPhone gift for marriage.

6. Bailment: It is a contract where goods are delivered to other person for some specific purpose.

→ Once purpose is over, one has to return.

Ex: - Bike for B.com Exam.

→ In case of voluntary bailment no consideration is required.

7. Charity: If promisee undertakes the liability of contributing sum to charity, then such contract is valid.

Ex: - Shalini → charity trust → 1st score: 390 marks.