



## PAPER – 2: BUSINESS LAWS

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### QUESTIONS

#### Indian Regulatory Framework

1. Explain the hierarchical structure of the Indian Judicial System. Describe the powers and functions of the Supreme Court, High Courts, District Courts and Metropolitan Courts.

#### The Indian Contract Act, 1872

2. Albert obtained two loans of ₹ 3,00,000 and ₹ 4,00,000 respectively from a reputed Bank. Out of these, loan of ₹ 3,00,000 was guaranteed by Robert. Albert sent ₹ 2,00,000 to bank but did not intimate as to how it is to be appropriated towards the loans. The Bank appropriated the whole of ₹ 2,00,000 to the loan of ₹ 4,00,000 (the loan not guaranteed). Robert objected on the decision of the Bank. He argued with bank that repayment amount should be first adjusted to the guaranteed loan. State with reasons, whether the Bank was correct in its decision under the Indian Contract Act, 1872?
3. CA. Sarthak Jain had decided to get interior work for his new office. For this purpose, he entered into a contract with M/s Sherry Fine Interiors. It was agreed that M/s Sherry Fine Interiors will complete the interior work upto 31.01.2025. On 31.01.2025, CA. Sarthak Jain observed that only 20% to 30% work is completed. He decided to cancel the contract with M/s Sherry Fine Interiors. M/s Sherry Fine Interiors filed the suit against CA. Sarthak Jain for recovery of the cost which he incurred on the interior work. CA. Sarthak Jain argued that M/s Sherry Fine Interiors did not complete the work within the time as per contract and further the work done till 31.01.2025 by M/s Sherry Fine Interiors was of no use to

him as he has to appoint new interior designer. Explain, whether CA. Sarthak Jain is liable to pay the cost of work done by M/s Sherry Fine Interiors under the provisions of the Indian Contract Act, 1872?

4. Rohan of 17 years has purchased a mobile of ₹ 25,000 for his online classes from Mobile Sales Centre on credit. On due date, he did not make the payment of mobile. Mobile Sales Centre sued Rohan and his parents for the price of mobile. Rohan has ₹ 15,000 as his cash balance but his father has enough money to pay the price of mobile. Examine the given situation and answer who will be liable to pay the price of mobile as per the provisions of the Indian Contract Act, 1872?
5. Akhil ordered 100 Kgs of wheat to M/s Sahil Kirana Store, and it promised to supply the wheat by the evening. In the evening, the hawker of M/s Sahil Kirana Store comes with 100 Kgs of wheat but mistakenly he delivered it at the house of neighbor of Akhil. Referring to the provisions of the Indian Contract Act, 1872, advice who will be liable to pay the price of wheat?
6. Rahul hired a car for 15 days from M/s Kushwah Travels. After five days, M/s Kushwah Travels demanded back his car from Rahul. He was also agreed to compensate for any loss suffered by Rahul due to such premature return of goods. But Rahul refused to return the car before the period of bailment i.e. 15 days. M/s Kushwah Travels sued Rahul for recovery of car. Referring to the provisions of the Indian Contract Act, 1872, whether M/s Kushwah Travels can recover the car from the Rahul before the time fixed for bailment?
7. Ajay appoints Vijay to sell his electronic goods lying in his godown. He also agrees to give 10% commission on the sale price to Vijay. Afterwards, Ajay revokes Vijay's authority by sending the letter to Vijay. The letter was sent on 3rd March which was received by Vijay on 7th March. On 5th March, Vijay sold the goods worth ₹1,20,000. He claimed for commission from Ajay, but Ajay refused as he already revoked the agency before sale of goods. Referring the provisions of the Indian Contract Act, 1872, whether Ajay was liable to pay commission to Vijay?
8. Explain the concept of Quantum Meruit with reference to the Indian Contract Act, 1872. Under what circumstances can a party claim compensation under this doctrine?

9. Define co-sureties. State the rights available to surety against the co-sureties relating to contribution under the Indian Contract Act, 1872.

**The Sale of Goods Act, 1930**

10. Mr. G sold some goods to Mr. H for a certain price by issue of an invoice, but payment in respect of the same was not received on that day. The goods were packed and lying in the godown of Mr. G. The goods were inspected by H's agent and were found to be in order. Later on, the dues of the goods were settled in cash. Just after receiving cash, Mr. G asked Mr. H that goods should be taken away from his godown to enable him to store other goods purchased by him. After one day, since Mr. H did not take delivery of the goods, Mr. G kept the goods out of the godown in an open space. Due to rain, some goods were damaged.

Referring to the provisions of the Sale of Goods Act, 1930, analyse the above situation and decide who will be held responsible for the above damage. Will your answer be different if the dues were not settled in cash and are still pending?

11. Mrs. Seema went to the local rice and wheat wholesale shop and asked for 100 kgs of Basmati rice. The Shopkeeper quoted the price of the same as ₹ 125 per kg to which she agreed. Mrs. Seema insisted that she would like to see the sample of what would be provided to her by the shopkeeper before she agreed upon such a purchase.

The shopkeeper showed her a bowl of rice as a sample. The sample exactly corresponded to the entire lot.

The buyer examined the sample casually without noticing the fact that even though the sample was that of Basmati Rice, it contained a mix of long and short grains.

The cook on opening the bags complained that the dish, if prepared with the rice would not taste the same as the quality of rice was not as per requirement of the dish.

Now Mrs. Seema wants to file a suit of fraud against the seller alleging him of selling a mix of good and cheap quality rice. Will she be successful?

What would be your answer in case Mrs. Seema specified her exact requirement as to length of rice?

12. (i) Raghav arranges an auction to sale an antic wall clock. Deepa, being one of the bidders, gives the highest bid. For announcing the completion of sale, the auctioneer falls the hammer on table but suddenly hammer brakes and damages the clock. Deepa wants to avoid the contract. Can she do so under the provisions of the Sale of Goods Act, 1930?
- (ii) X contracted to sell his car to Y. They did not discuss the price of the car at all. X later refused to sell his car to Y on the ground that the agreement was void being uncertain about price. Can Y demand the car under the Sale of Goods Act, 1930?
13. (i) State the various essential elements involved in the sale of unascertained goods and their appropriation as per the Sale of Goods Act, 1930.
- (ii) What are the consequences of the destruction of specified goods, before making of contract and after the agreement to sell under the Sale of Goods Act, 1930.
14. What is the concept of "Reservation of Right of Disposal" under Section 25 of the Sale of Goods Act, 1930? Under what circumstances is the seller deemed to have reserved the right of disposal of goods?

#### **The Indian Partnership Act, 1932**

15. A and B are partners in M/s Aee Bee & Company. Firm is doing business of trading of plastic bottles. A is authorised to sell the stock of plastic bottles. It was decided between them that A should sell the plastic bottles at the minimum price which they have decided and if A sell at a price less than minimum price, he should first take the permission of B. Due to sudden change in government policy, the price of plastic bottles was continuously declining. To save the loss of firm, A sold the stock at lower price. Meanwhile, A tried to contact B but couldn't do so as B was on foreign trip. Afterwards when B came, he filed the suit to recover the difference of sale price and minimum price to the firm. Whether B can do so under the provisions of the Indian Partnership Act, 1932?

16. Can a partner be expelled? If so, how? Which factors should be kept in mind prior to expelling a partner from the firm by the other partners according to the provision of the Indian Partnership Act, 1932?
17. (i) Mr. Ram and Mr. Raheem are working as teachers in Ishwarchand Vidhyasagar Higher Secondary School and also are very good friends. They jointly purchased a flat which was given on rent to Mr. John. It was decided between landlords and tenant that the rent would be ₹ 10,000 per month inclusive of electricity bill. It means electricity bill will be paid by landlords. The landlords, by mistake, did not pay the electricity bill for the month of March 2025. Due to this, the electricity department cut the connection. Mr. John has to pay the electricity bill of ₹ 2800 and ₹ 200 as a penalty to resume the electricity connection. Mr. John claimed ₹ 3000 from Mr. Ram but Mr. Ram replied that he is liable only for ₹ 1500.
- Mr. John said that Mr. Ram and Mr. Raheem are partners therefore he can claim the full amount from any of the partners. Comment in the light of the relevant legal provision of the Indian Partnership Act, 1932, the legal position and the correctness of the liability of Mr. Ram to pay whole amount of ₹ 3000 to Mr. John?
- (ii) Explain in detail the circumstances which lead to liability of firm for misapplication by partners as per provisions of the Indian Partnership Act, 1932.
18. (i) P, Q and R formed a partnership agreement to operate motor buses along specific routes for a duration of 12 years. After operating the business for four years, it was observed that the business incurred losses each year. Despite this, P is determined to continue the business for the remaining Period. Examine with reference to the Indian Partnership Act, 1932, can P insist to continue the business? If so, what options are available to Q and R who are not wanting to continue operating the business?
- (ii) A and B operate a textile merchant business in partnership. Mr. A finances the business and is a sleeping partner. In the regular course of business, B acquires certain fabric goods belonging to C. However, B is aware that these goods are stolen property. Despite

this knowledge, B proceeds to purchase and sell some of these stolen goods. Moreover, B records proceeds from these sales in the firm's books. Later A comes to know of the fact of B's conduct on the transaction with C. So he decided to avoid his liability towards C, on the grounds of misconduct by B. In the light of the provisions of the Indian Partnership Act, 1932 discuss the liability of A and B towards C. Comment upon the decision of A in the said transaction.

### **The Limited Liability Partnership Act, 2008**

19. Explain the legal provisions regarding the eligibility of persons to become partners in a Limited Liability Partnership (LLP) under the LLP Act, 2008. What are the consequences if LLP carries on business with less than the minimum number of partners as prescribed?

### **The Companies Act, 2013**

20. Tycoon Private Limited is the holding company of Glassware Private Limited. As per the last profit and loss account for the year ending 31<sup>st</sup> March, 2025 of Glassware Private Limited, its turnover was ₹ 1.80 crore and paid up share capital was ₹ 80 lakh. The Board of Directors wants to avail the status of a small company. The Company Secretary of the company advised the directors that Glassware Private Limited cannot be categorized as a small company. In the light of the above facts and in accordance with the provisions of the Companies Act, 2013, you are required to examine whether the contention of Company Secretary is correct, explaining the relevant provisions of the Act.
21. In the Flower Fans Private Limited, there are only 5 members. All of them went on a pleasure trip in a boat into an open sea. The boat overturn and all of them were drowned. Explain with reference to the provisions of the Companies Act, 2013:
  - (A) Is Flower Fans Private Limited no longer in existence?
  - (B) Further is it correct to say that a company being an artificial person cannot own property and cannot sue or be sued?

22. An employee, Mr. Karan, signed a contract with his employer company, ABC Limited, that he will not solicit the customers after leaving the employment from the company.

But after Mr. Karan left ABC Limited, he started up his own company, PQR Limited and started soliciting the customers of ABC Limited for his own business purposes.

ABC Limited filed a case against Mr. Karan for breach of employment contract and for soliciting their customers for own business. Mr. Karan contended that there is a corporate veil between him and his company and he should not be personally held liable for this.

In this context, the ABC Limited seeks your advice as to the meaning of corporate veil and when the veil can be lifted to make the owners liable for the acts done by a company.

23. Pacific Motors Limited is a Government Company. Rama Auto Private Limited is a private company having share capital of ten crores in the form of ten lakh shares of ₹ 100 each. Pacific Motors Limited is holding five lakh five thousand shares in Rama Auto Private Limited. Rama Auto Private Limited claimed the status of Government Company. Advise as legal advisor, whether Rama Auto Private Limited is a Government Company under the provisions of the Companies Act, 2013?

### **The Negotiable Instruments Act, 1881**

24. Referring to the provisions of the Negotiable Instruments Act, 1881, answer the following in the given scenario:
- (i) Aman drew the bill of exchange (the bill) on Baban, who accepted it, payable to Magan or order. Magan indorsed the bill to Gagan. Gagan indorsed the bill to Akash to be delivered to him on the next day. However, on the death of Gagan on the same day, his only son Ankit delivered the bill to Akash on the next day as intended by his deceased father. On presenting the bill on the due date, Baban refused to pay. Explaining the importance of delivery in negotiation, decide, whether Akash can enforce the payment of the bill against Baban or the previous parties.

- (ii) Reliable Limited, an Indian company, is a global leader in Petrochemical products. For payment of the sale price of machinery imported from Alex Manufacturing Limited, a USA based company (the exporter), the Indian company drew a bill of exchange on Manish, a resident of Mumbai (India) who accepted the bill at Mumbai payable to the exporter in Los Angeles, USA. Decide, whether the bill of exchange is an inland instrument or a foreign instrument. Assume that the bill of exchange was signed by the authorised person for the drawer company.
25. A promissory note, payable at a certain period after sight, must be presented to the maker thereof for payment. Under which scenarios presentment for payment is not necessary and the instrument is dishonoured at the due date for presentment according to the provisions of the Negotiable Instruments Act, 1881?



## SUGGESTED ANSWERS/HINTS

### 1. Hierarchical Structure of the Indian Judicial System

The hierarchical structure of the Indian Judicial System comprised of the Courts for dispute redressal between citizens or between citizens and the Government. Supreme Court is at the top, followed by the High Courts and District Courts. Decisions of the Supreme Court is the final word on the matter and therefore are binding on all High Courts under Article 141 of the Indian Constitution. Whereas decisions of a High Court are binding in the respective state but are only persuasive in other states.

**Following are the Powers & the Functions of various courts under the Indian Judicial System.**

#### (i) Supreme Court

The Supreme Court is the apex body of the judiciary, established on 26<sup>th</sup> January, 1950. The Chief Justice of India is the highest authority appointed under Article 126 of the Constitution of India.



The principal bench of the Supreme Court consists of seven members including the Chief Justice of India. Presently, the number has increased to 34 including the Chief Justice of India due to the rise in the number of cases and workload. An individual can seek relief in the Supreme Court by filing a writ petition under Article 32 of the Constitution of India.

**(ii) High Court**

It is the highest court of appeal in each state and union territory. Article 214 of the Constitution of India states that there must be a High Court in each state. The High Court has appellate, original jurisdiction, and Supervisory jurisdiction. However, Article 227 of the Constitution of India limits a High Court's supervisory power. An individual can seek remedies against violation of fundamental rights in High Court by filing a writ under Article 226 of the Constitution of India.

**(iii) District Court**

Below the High Courts are the District Courts. The Courts of District Judge deal with Civil law matters i.e. contractual disputes and claims for damages etc., The Courts of Sessions deals with Criminal matters.

On the basis of a pecuniary jurisdiction, a civil judge can try suits valuing not more than Rupees two crore. On the basis of territorial Jurisdiction i.e. courts have power to control the areas covered by them. Cases are decided based on the local limits within which the parties reside or the property under dispute is situated.

**(iv) Metropolitan courts**

Metropolitan courts are established in metropolitan cities in consultation with the High Court where the population is ten lakh or more. Chief Metropolitan Magistrate has powers as Chief Judicial Magistrate and Metropolitan Magistrate has powers as the Court of a Magistrate of the first class.

2. Section 60 of the Indian Contract Act, 1872 provides, where the debtor does not intimate and there are no circumstances indicating to which debt the payment is to be applied, the creditor may apply it at his discretion to any lawful debt actually due and payable to him from the debtor. However, it cannot be applied to a disputed debt.

In the instant case, Albert obtained two loans of ₹ 3,00,000 and ₹ 4,00,000 respectively from a reputed Bank of which loan of ₹ 3,00,000 was guaranteed by Robert. Albert sent ₹ 2,00,000 to bank without intimating as to how it is to be appropriated towards the loans. The Bank appropriated the whole of ₹ 2,00,000 to the loan of ₹ 4,00,000 (the loan not guaranteed).

On the basis of the provisions and facts of the case, it can be said that in the absence of clear intimation about the appropriation of payment, it is the sole discretion of the Bank to which loan it can appropriate the amount. Hence, the Bank was correct in its decision under the Indian Contract Act, 1872.

3. Section 2(i) of the Indian Contract Act, 1872 provides that an agreement which is enforceable by law at the option of one or more the parties but not at the option of the other or others is a voidable contract. Further, when a party to a contract promise to perform a work within a specified time, could not perform within that time, the contract is voidable at the option of the promisee. If promisee has received any benefit, he must return to promisor.

In the instant case, CA Sarthak Jain contracted with M/s Sherry Fine Interiors for doing interior work in his new office and 31.01.2025 was deadline. M/s Sherry Fine Interiors could complete only 20% to 30% work upto 31.01.2025. CA Sarthak Jain cancelled the contract, but M/s Sherry Fine Interiors filed the suit against CA Sarthak Jain for recovery of the cost which he incurred on the interior work.

In the given problem, the contract is voidable at the option of CA Sarthak Jain as work is not completed within the time agreed in the contract. Further, CA Sarthak Jain is not liable to pay the cost incurred by M/s Sherry Fine Interiors as that cost did not provide any benefit to him and he has to appoint a new interior designer.

4. Section 11 of the Indian Contract Act, 1872 provides that a minor is not capable to enter into a contract. A contract with minor is void-ab-initio. A minor cannot be enforced to pay off his liabilities. Parents or guardians of minor are also not liable for any contract entered by minor. However, a minor is liable for supplies of necessities out of his assets. Minor is not personally liable even for necessities.

In the instant case, Rohan, a minor, purchased a mobile worth ₹ 25,000 for his studies on credit from Mobile Sales Centre. Mobile Sales Centre sued Rohan and his parents for recovery of the price. Rohan has total ₹ 15,000 as his cash balance as his assets.

On the basis of the facts of the problem, parents of Rohan are not liable for the price of mobile. Rohan's assets are liable to make the payment of price. Hence, the Mobile Sales Centre can recover only ₹15,000 from Rohan i.e. equal to his assets.

5. By virtue of provisions of Section 72 of the Indian Contract Act, 1872, a person to whom money has been paid or anything delivered by mistake or under coercion, must repay or return it. Further, as per decision taken in case of *Shivprasad Vs Sirish Chandra*, every kind of payment of money or delivery of goods for every type of 'mistake' is recoverable.

In the instant case, Akhil contracted M/s Sahil Kirana Store for supply of 100 Kgs of wheat which to be delivered by the evening. In the evening, the hawker of M/s Sahil Kirana Store mistakenly delivered 100 Kgs wheat at the house of neighbor of Akhil.

As the hawker of M/s Sahil Kirana Store mistakenly delivered 100 Kgs wheat at the house of neighbor of Akhil and neighbor accepted the wheat, there is a quasi-contract between M/s Sahil Kirana Store and neighbor. Hence, neighbor will be liable to pay the price of wheat.

6. According to the Section 159 of the Indian Contract Act, 1872, when the goods are lent gratuitously, the bailor can demand back the goods at any time even before the expiry of the time fixed or the achievement of the object. However, due to the premature return of the goods, if the bailee suffers any loss, which is more than the benefit actually obtained by him from the use of the goods bailed, the bailor has to compensate the bailee.

In the given problem, Rahul hired a car for 15 days from M/s Kushwah Travels but just after five days, M/s Kushwah Travels demanded back his car from Rahul. Rahul refused to return the car before the period of bailment, i.e. 15 days. M/s Kushwah Travels filed suit against Rahul for recovery of car.

Premature recovery of goods bailed available only in case of gratuitous bailment. If bailment is for hire, this right is not available to bailor even he is ready to compensate for such premature return. Hence, M/s Kushwah Travels cannot recover back the goods before 15 days.

7. According to section 208 of the Indian Contract Act, 1872, the termination of the authority of an agent does not, so far as regards the agent, take effect before it becomes known to him, or so far as regards third persons, before it becomes known to them.

In the instant case, Vijay was appointed by Ajay to sell his electronic goods and for which Vijay will be given 10% commission on the sale price. Subsequently, Ajay revokes Vijay's authority by sending the letter to Vijay on 3<sup>rd</sup> March which was received by Vijay on 7<sup>th</sup> March. But on 5<sup>th</sup> March, Vijay already sold the goods worth ₹ 1,20,000. He claimed for commission from Ajay, but Ajay refused.

Since, Vijay came to know about revocation of agency after selling the goods, and so therefore, he has right to claim the commission from Ajay.

8. **Quantum Meruit:** Where one person has rendered service to another in circumstances which indicate an understanding between them that it is to be paid for although no particular remuneration has been fixed, the law will infer a promise to pay. *Quantum Meruit* i.e. as much as the party doing the service has deserved. It covers a case where the party injured by the breach had at the time of the breach done part but not all of the work which he is bound to do under the contract and seeks to be compensated for the value of the work done. For the application of this doctrine, two conditions must be fulfilled:

- (1) It is only available if the original contract has been discharged.
- (2) The claim must be brought by a party not in default.

The object of allowing a claim on quantum meruit is to recompensate the party or person for value of work which he has done. Damages are compensatory in nature while quantum meruit is restitutory. It is but reasonable compensation awarded on implication of a contract to remunerate.

**The claim for quantum meruit arises in the following cases:**

- (a) When an agreement is discovered to be void or when a contract becomes void.
- (b) When something is done without any intention to do so gratuitously.
- (c) Where there is an express or implied contract to render services but there is no agreement as to remuneration.
- (d) When one party abandons or refuses to perform the contract.
- (e) Where a contract is divisible and the party not in default has enjoyed the benefit of part performance.
- (f) When an indivisible contract for a lump sum is completely performed but badly the person who has performed the contract can claim the lump sum, but the other party can make a deduction for bad work.

**9. Rights of Surety against co-sureties**

**“Co-sureties-** When the same debt or duty is guaranteed by two or more persons, such persons are called co-sureties”.

- (a) **Co-sureties liable to contribute equally (Section 146):** Unless otherwise agreed, each surety is liable to contribute equally for discharge of whole debt or part of the debt remains unpaid by debtor.
- (b) **Liability of co-sureties bound in different sums (Section 147):** The principal of equal contribution is, however, subject to the maximum limit fixed by a surety to his liability. Co-sureties who are bound in different sums are liable to pay equally as far as the limits of their respective obligations permit.

10. (i) According to section 44 of the Sale of Goods Act, 1930, when the seller is ready and willing to deliver the goods and requests the buyer to take delivery, and the buyer does not within a reasonable time after such request take delivery of the goods, he is liable to the seller for any loss occasioned by his neglect or refusal to take delivery and also for a reasonable charge for the care and custody of the goods.

Risk of loss of goods *prima facie* follows the passing of property in goods. Goods remain at the seller's risk unless the property therein is transferred to the buyer, but after transfer of property therein to the buyer, the goods are at the buyer's risk whether delivery has been made or not.

In the given case, since Mr. G has already intimated Mr. H, that he wanted to store some other goods and thus Mr. H should take the delivery of goods kept in the godown of Mr. G, the loss of goods damaged should be borne by Mr. H.

- (ii) If the price of the goods were not settled in cash and some amount would have been pending then Mr. G would be treated as an unpaid seller and he can enforce the following rights against the goods as well as against the buyer personally:
- (a) Where under a contract of sale, the property in the goods has passed to the buyer and the buyer wrongfully neglects or refuses to pay for the goods according to the terms of the contract, the seller may sue him for the price of the goods. [Section 55(1) of the Sales of Goods Act, 1930]
  - (b) Where under a contract of sale the price is payable on a day certain irrespective of delivery and the buyer wrongfully neglects or refuses to pay such price, the seller may sue him for the price although the property in the goods has not passed and the goods have not been appropriated to the contract. [Section 55(2) of the Sales of Goods Act, 1930].

11. (i) As per the provisions of Sub-Section (2) of Section 17 of the Sale of Goods Act, 1930, in a contract of sale by sample, there is an implied condition that:

- (a) the bulk shall correspond with the sample in quality;
- (b) the buyer shall have a reasonable opportunity of comparing the bulk with the sample.
- (c) the goods shall be free from an defect, rendering them unmerchantable, which would not be apparent in reasonable examination of the sample.

In the instant case, in the light of the stated above provision, Mrs. Seema will not be successful as she casually examined the sample of rice (which exactly corresponded to the entire lot) without noticing the fact that even though the sample was that of Basmati Rice but it contained a mix of long and short grains.

- (ii) In case Mrs. Seema specified her exact requirement as to length of rice, then there is an implied condition that the goods shall correspond with the description. If it is not so, the seller will be held liable.

- 12. (a)** (i) By virtue of provisions of Section 64 of the Sale of Goods Act, 1930, in case of auction sale, the sale is complete when the auctioneer announces its completion by the fall of the hammer or in some other customary manner.

In the instant case, Deepa gives the highest bid in the auction for the sale of an antic wall clock arranged by Raghav. While announcing the completion of sale by fall of hammer on the table, hammer brakes and damages the clock.

On the basis of the above provisions, it can be concluded that the sale by auction cannot be completed until the hammer comes in its normal position after falling onto the table. Hence, in the given problem, sale is not completed. Deepa will not be liable for loss and can avoid the contract.

- (ii) Payment of the price by the buyer is an important ingredient of a contract of sale. If the parties totally ignore the question of price while making the contract, it will not become an uncertain and invalid agreement. It will rather be a valid

contract and the buyer shall pay a reasonable price. (Section 9 and section 10 of the Sale of Goods Act, 1930)

In the given case, X and Y have entered into a contract for the sale of a car but they did not fix the price of the car. X refused to sell the car to Y on this ground. Y can legally demand the car from X and X can recover a reasonable price of the car from Y.

13. (i) **Sale of unascertained goods and Appropriation (Section 23 of the Sale of Goods Act, 1930):** Appropriation of goods involves selection of goods with the intention of using them in performance of the contract and with the mutual consent of the seller and the buyer.

The essentials are:

- (a) There is a contract for the sale of unascertained or future goods.
- (b) The goods should conform to the description and quality stated in the contract.
- (c) The goods must be in a deliverable state.
- (d) The goods must be unconditionally appropriated to the contract either by delivery to the buyer or his agent or the carrier.
- (e) The appropriation must be made by:
  - (i) the seller with the assent of the buyer; or
  - (ii) the buyer with the assent of the seller.
- (f) The assent may be express or implied.
- (g) The assent may be given either before or after appropriation.

- (ii) (A) **Goods perishing before making of Contract (Section 7 of the Sale of Goods Act, 1930):** In accordance with the provisions of the Sale of Goods Act, 1930 as contained in Section 7, a contract for the sale of specific goods is void, if at the time when the contract was made; the goods without



the knowledge of the seller, perished or become so damaged as no longer to answer to their description in the contract, then the contract is void ab initio.

- (B) Goods perishing before sale but after agreement to sell (Section 8 of the Sale of Goods Act, 1930):** Where there is an agreement to sell specific goods, and subsequently the goods without any fault on the part of the seller or buyer perish or become so damaged as no longer to answer to their description in the agreement before the risk passes to the buyer, the agreement is thereby avoided or becomes void.

**14. Reservation of right of disposal (Section 25 of the Sale of Goods Act, 1930)**

This section preserves the right of disposal of goods to secure that the price is paid before the property in goods passes to the buyer.

Where there is contract of sale of specific goods or where the goods have been subsequently appropriated to the contract, the seller may, by the terms of the contract or appropriation, as the case may be, reserve the right to dispose of the goods, until certain conditions have been fulfilled. In such a case, in spite of the fact that the goods have already been delivered to the buyer or to a carrier or other bailee for the purpose of transmitting the same to the buyer, the property therein will not pass to the buyer till the condition imposed, if any, by the seller has been fulfilled. (sub-section 1)

**Circumstances under which the right of disposal may be reserved:** In the following circumstances, seller is presumed to have reserved the right of disposal:

- (1) If the goods are shipped or delivered to a railway administration for carriage and by the bill of lading or railway receipt, as the case may be, the goods are deliverable to the order of the seller or his agent, then the seller will be prima facie deemed to have reserved the right of disposal. (sub section 2)
- (2) Where the seller draws a bill on the buyer for the price and sends to him the bill of exchange together with the bill of lading or (as

the case may be) the railway receipt to secure acceptance or payment thereof, the buyer must return the bill of lading, if he does not accept or pay the bill.

And if he wrongfully retains the bill of lading or the railway receipt, the property in the goods does not pass to him. (sub section 3)

- 15.** According to Section 13(e) of the Indian Partnership Act, 1932, every partner has the right to be indemnified by the firm in respect of payments made and liabilities incurred by him in the ordinary and proper conduct of the business of the firm as well as in the performance of an act in an emergency for protecting the firm from any loss, if the payments, liability and act are such as a prudent man would make, incur or perform in his own case, under similar circumstances.

M/s Aee Bee & Company is doing business of trading of plastic bottles. A and B, partners of the firm, authorised A to sell the stock of plastic bottles on the condition to sale at the minimum price. In case A has to sell at a price less than the minimum price, he should first take the permission of B. Due to some emergency, A sold the stock at lower price to save the firm from loss. A couldn't contact B as he was on foreign trip. B filed the suit to recover the difference of sale price and minimum price to the firm.

On the basis of the above provisions and facts of the problem given, selling by A at a lower price was to save the firm from loss. As the act of A was in favour of firm, he was not liable to bear the loss.

**16. Expulsion of partner and factors to be kept in mind:**

As per Section 33 of the Indian Partnership Act, 1932, a partner may not be expelled from a firm except

- (i) the power of expulsion must have existed in a contract between the partners;
- (ii) the power has been exercised by a majority of the partners; and
- (iii) it has been exercised in good faith.

If all these conditions are not present, the expulsion is not deemed to be in bonafide interest of the business of the firm and shall be null and void.

The test of good faith as required under Section 33(1) includes three things:

- (i) The expulsion must be in the interest of the partnership
- (ii) The partner to be expelled is served with a notice
- (iii) He is given an opportunity of being heard.

Yes, a partner may be expelled by other partners strictly in compliance with the provisions of section 33.

- 17. (i)** According to Section 4 of the Indian Partnership Act, 1932, "Partnership" is the relation between persons who have agreed to share the profits of a business carried on by all or any of them acting for all. Therefore, for determining the existence of partnership, it must be proved that:

1. There must be an agreement between all the persons concerned;
2. The agreement must be to carry on some business;
3. The agreement must be to share the profits of a business and
4. The business was carried on by all or any of them acting for all.

On the basis of the above provisions and facts provided in the question, Mr. Ram and Mr. Raheem cannot be said under partnership as they are teachers in a school and just purchased a flat jointly.

By merely giving the flat on rent, they are not doing business. They are just earning the income from the property under their co-ownership. Hence, there is no partnership between them. Therefore, Mr. Ram is liable to pay his share only i.e. ₹ 1500. Mr. John has to claim the rest of ₹ 1500 from Mr. Raheem.

**(ii) Liability of Firm for Misapplication by Partners (Section 27 of the Indian Partnership Act, 1932):**

The two clauses of Section 27 bring out an important point of distinction between the two categories of cases of misapplication of money by partners.

Clause (a) covers the case where a partner acts within his authority and due to his authority as a partner, he receives money or property belonging to a third party and misapplies that money or property. For this provision to be attracted, it is not necessary that the money should have actually come into the custody of the firm.

On the other hand, the provision of clause (b) would be attracted when such money or property has come into the custody of the firm, and it is misapplied by any of the partners.

The firm would be liable in both cases.

- 18. (i)** Section 40 of the Indian Partnership Act, 1932, gives right to the partners to dissolve the partnership by agreement with the consent of all the partners or in accordance with a contract between the partners. 'Contract between the partners' means a contract already made.

Also, according to section 44, the Court may, at the suit of a partner, may dissolve a firm on various grounds including where the business of the firm cannot be carried on except at a loss (in future also).

In the instant case, P wants to continue the partnership business despite the losses incurred over the past four years and Q and R are not wanting to continue operating of the business due to continuous losses.

Here, P can insist on continuing the business if the partnership agreement does not specifically provide such a right to one or more partner / partners since section 40 specifies that with the consent of all the partners or in accordance with a contract between the partners, the firm can be dissolved.

**Options available to Q and R**

**Mutual Agreement to Dissolve the Partnership:** Q and R can propose to P that the partnership be dissolved by mutual agreement. If P agrees, the partnership can be dissolved amicably.

**Dissolution by the Court:** If P does not agree to dissolve the partnership mutually, Q and R can approach the court for an order under Section 44.

- (ii) According to Section 25 of the Indian Partnership Act, 1932, every partner is jointly and severally liable for all acts of the firm done while he is a partner.

As per section 26, the firm is liable to the same extent as the partner for any wrongful act or omission of a partner while acting:

- (a) in the ordinary course of the business of the firm, or
- (b) with the authority of the partners.

Section 27 provides that the firm is liable if a partner, acting within the scope of his apparent authority, receives money or property from a third party and misapplies it, or if the firm in the course of its business receives money or property and the same is misapplied while it is in the custody of the firm.

In the instant case, both A and B are liable to C for the wrongful acts committed by B. A cannot avoid liability merely on the grounds of being a sleeping partner. Therefore, the decision of A to avoid the liability to C, is not feasible.

- 19. Partners (Section 5 of the LLP Act, 2008):** Any individual or body corporate may be a partner in a LLP. However, an individual shall not be capable of becoming a partner of a LLP, if—
- (a) he has been found to be of unsound mind by a Court of competent jurisdiction and the finding is in force;
  - (b) he is an undischarged insolvent; or
  - (c) he has applied to be adjudicated as an insolvent and his application is pending.

**Minimum number of partners (Section 6):**

- (i) Every LLP shall have at least two partners.
- (ii) If at any time the number of partners of a LLP is reduced below two and the LLP carries on business for more than six months while the number is so reduced, the person, who is the only partner of the LLP during the time that it so carries on business after those six months and has the knowledge of the fact that it is carrying on business with him alone, shall be liable personally for the obligations of the LLP incurred during that period.

**20.** As per section 2(85) of the Companies Act, 2013, Small Company means a company, other than a public company:

- (i) paid-up share capital of which does not exceed four crore rupees, and
- (ii) turnover of which as per profit and loss account for the immediately preceding financial year does not exceed forty crore rupees:

Provided that nothing in this clause shall apply to—

- (A) a holding company or a subsidiary company;
- (B) a company registered under section 8; or
- (C) a company or body corporate governed by any special Act.

In the instant case, as per the last profit and loss account for the year ending 31<sup>st</sup> March, 2025 of Glassware Private Limited, its turnover was to the extent of ₹ 1.80 crore, and paid-up share capital was ₹ 80 lakh. Though Glassware Private Limited, as per the turnover and paid-up share capital norms, qualifies for the status of a 'small company' but it cannot be categorized as a 'small company' because it is the subsidiary of another company (Tycoon Private Limited).

Hence, the contention of the Company Secretary is correct.

- 21. (A) Perpetual Succession** - A company on incorporation becomes a separate legal entity. It is an artificial legal person and have perpetual succession which means even if all the members of a company die, the company still continues to exist. It has permanent existence.

The existence of a company is independent of the lives of its members. It has a perpetual succession. In this problem, the company will continue as a legal entity. The company's existence is in no way affected by the death of all its members.

- (B) **The statement given is incorrect** - A company is an artificial person as it is created by a process other than natural birth. It is legal or judicial as it is created by law. It is a person since it is clothed with all the rights of an individual. Further, the company being a separate legal entity can own property, have banking account, raise loans, incur liabilities and enter into contracts. Even members can contract with company, acquire right against it or incur liability to it. It can sue and be sued in its own name. It can do everything which any natural person can do except be sent to jail, take an oath, marry or practice a learned profession. Hence, it is a legal person in its own sense.

- 22. Corporate Veil:** Corporate Veil refers to a legal concept whereby the company is identified separately from the members of the company.

The term Corporate Veil refers to the concept that members of a company are shielded from liability connected to the company's actions. If the company incurs any debts or contravenes any laws, the corporate veil concept implies that members should not be liable for those errors. In other words, they enjoy corporate insulation.

Thus, the shareholders are protected from the acts of the company.

However, under certain exceptional circumstances, the courts lift or pierce the corporate veil by ignoring the separate entity of the company and the promoters and other persons who have managed and controlled the affairs of the company. Thus, when the corporate veil is lifted by the courts, the promoters and persons exercising control over the affairs of the company are held personally liable for the acts and debts of the company.

The following are the cases where company law disregards the principle of corporate personality or the principle that the company is a legal entity distinct and separate from its shareholders or members:

- (i) To determine the character of the company i.e. to find out whether co-enemy or friend.
- (ii) To protect revenue/tax
- (iii) To avoid a legal obligation
- (iv) Formation of subsidiaries to act as agents
- (v) Company formed for fraud/improper conduct or to defeat law

Based on the above provisions and leading case law of *Gilford Motor Co. Vs Horne*, the company PQR Limited was created to avoid the legal obligation arising out of the contract, therefore that employee Mr. Karan and the company PQR Limited created by him should be treated as one and thus veil between the company and that person shall be lifted. Karan has formed the company only for fraud/improper conduct or to defeat the law. Hence, he shall be personally held liable for the acts of the company.

**23.** According to the provisions of Section 2(45) of the Companies Act, 2013, Government Company means any company in which not less than 51% of the paid-up share capital is held by-

- (i) the Central Government, or
- (ii) by any State Government or Governments, or
- (iii) partly by the Central Government and partly by one or more State Governments, and the section includes a company which is a subsidiary company of such a Government company.

According to Section 2(87), "subsidiary company" in relation to any other company (that is to say the holding company), means a company in which the holding company exercises or controls more than one-half of the total voting power either at its own or together with one or more of its subsidiary companies.

By virtue of provisions of Section 2(87) of the Companies Act, 2013, Rama Auto Private Limited is a subsidiary company of Pacific Motors Limited because Pacific Motors Limited holds more than one-half of the



total voting power in Rama Auto Private Limited. Further as per Section 2(45), a subsidiary company of Government Company is also termed as Government Company.

Hence, Rama Auto Private Limited, being a subsidiary of Pacific Motors Limited will also be considered as a Government Company.

**24. (i) Importance of Delivery in Negotiation [Section 46 of the Negotiable Instruments Act, 1881]**

Delivery of an instrument is essential whether the instrument is payable to bearer or order for effecting the negotiation. The delivery must be voluntary, and the object of delivery should be to pass the property in the instrument to the person to whom it is delivered. The delivery can be, actual or constructive. Actual delivery takes place when the instrument changes hand physically. Constructive delivery takes place when the instrument is delivered to the agent, clerk or servant of the indorsee on his behalf or when the indorser, after indorsement, holds the instrument as an agent of the indorsee.

Section 46 also lays down that when an instrument is conditionally or for a special purpose only, the property in it does not pass to the transferee, even though it is indorsed to him, unless the instrument is negotiated to a holder in due course.

The contract on a negotiable instrument until delivery remains incomplete and revocable. Delivery is essential not only at the time of negotiation but also at the time of making or drawing of negotiable instrument. The rights in the instrument are not transferred to the indorsee unless after the indorsement the same has been delivered. If a person makes the indorsement of instrument but before the same could be delivered to the indorsee, the indorser dies, the legal representatives of the deceased person cannot negotiate the same by mere delivery thereof. (Section 57).

In the instant case, Ankit the only son of Gagan delivered the bill to Akash on the next day as intended by his deceased father (Gagan) which is not valid.

Hence, Akash cannot enforce the payment of the bill against Baban or the previous parties.

- (ii) As per section 11 of the Negotiable Instruments Act, 1881, a promissory note, bill of exchange or cheque drawn or made in India and made payable in or drawn upon any person resident in India shall be deemed to be an inland instrument.

In the instant case, the bill of exchange was:

- Drawn in India (since it was drawn by Reliable Limited, an Indian company).
- Accepted in India (Manish, a resident of Mumbai, accepted the bill in Mumbai).
- Payable outside India, in Los Angeles, USA.

The bill of exchange in this case is an inland instrument because it was drawn in India and accepted by a person resident in India, even though it is payable outside India (Los Angeles, USA).

**25. As per Section 76 of the Negotiable Instruments Act, 1881:**

No presentment for payment is necessary, and the instrument is dishonoured at the due date for presentment, in any of the following cases:

- (a) (i) If the maker, drawee or acceptor intentionally prevents the presentment of the instrument, or
- (ii) if the instrument being payable at his place of business, he closes such place on a business day during the usual business hours, or
- (iii) if the instrument being payable at some other specified place, neither he nor any person authorised to pay it attends at such place during the usual business hours, or

- (iv) if the instrument not being payable at any specified place, he cannot after due search be found;
- (b) as against any party sought to be charged therewith, if he has engaged to pay notwithstanding non-presentment;
- (c) as against any party if, after maturity, with knowledge that the instrument has not been presented—
  - he makes a part payment on account of the amount due on the instrument,
  - or promises to pay the amount due thereon in whole or in part,
  - or otherwise waives his right to take advantage of any default in presentment for payment;
- (d) as against the drawer, if the drawer could not suffer damage from the want of such presentment.