

# BLOCKBUSTER MARATHON

*Business Laws*

## SUPER 100

# QUESTIONS

CA FOUNDATION JAN '26



as. NAL NOTA NUDO A

Business Laws



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### Question: 1

Rohit, a government employee, promised his elderly parents that he would send them **₹15,000 every month** for their household expenses while he was posted in another city. For the first few months, Rohit sent the money regularly, but later he stopped sending it due to financial difficulties.

Aggrieved by this, Rohit's parents filed a suit against him for recovery of the promised amount, claiming that Rohit had breached his promise.

With reference to the **Indian Contract Act, 1872** and the principle laid down in **Balfour v. Balfour**, decide whether Rohit's parents can succeed in their claim.

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### Answer

Rohit's parents **cannot recover** the promised amount.

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### Explanation

Under the **Indian Contract Act, 1872**, for an agreement to be a **valid contract**, it must be made with the intention to create legal relations.

Agreements of a **domestic, social or family nature** are generally presumed **not to create legal relations**, unless there is clear evidence to the contrary.

In this case:

- The promise was made between **family members**
- It was a **domestic arrangement**
- There was **no intention to create a legal obligation**
- The promise was based on **mutual trust and affection**

This principle is supported by the landmark case **Balfour v. Balfour**, where it was held that agreements between husband and wife for maintenance, made in the course of normal domestic life, are **not legally enforceable**.

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### Conclusion

Since the agreement between Rohit and his parents was a **social/domestic agreement** without the intention to create legal relations, it does **not constitute a contract**. Therefore, **Rohit's parents cannot recover the amount through a court of law**.

### Question: 2

Rahul entered into the following agreements:

- (i) Rahul agreed to pay **₹1,00,000** to Aman if Aman **illegally hacks** into a competitor's computer system and steals confidential data.
- (ii) Rahul borrowed **₹50,000** from Suresh to **bribe a public official** for obtaining a government licence. Suresh was fully aware of the purpose of the loan.
- (iii) Rahul agreed to sell his house to Mohit. Mohit promised to pay an extra **₹5,00,000** in cash (unaccounted money) in addition to the recorded sale price to **evade stamp duty**.

In all the above cases, Rahul later refused to perform his part of the agreement, and



the other parties filed suits to enforce the agreements.

With reference to **Section 23 of the Indian Contract Act, 1872**, decide the validity of each agreement.

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### Answer

#### Relevant Legal Provision – Section 23

The **consideration or object of an agreement is unlawful** if it:

- is **prohibited by law**, or
- would **defeat the provisions of law**, or
- is **fraudulent**, or
- involves **injury to person or property**, or
- is regarded by the court as **immoral or opposed to public policy**.

An agreement with unlawful consideration or object is **void**.

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#### (i) Agreement to Hack and Steal Data

##### ✖ Void Agreement

###### Reason:

Hacking and stealing data is a **criminal offence and prohibited by law**.

Hence, the **object of the agreement is unlawful**.

👉 Aman **cannot enforce** the agreement.

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#### (ii) Loan for Bribing a Public Official

##### ✖ Void Agreement

###### Reason:

Bribery is:

- **Prohibited by law**, and
- **Opposed to public policy**

Since Suresh knew the illegal purpose, the agreement is **void under Section 23**.

👉 Suresh **cannot recover** the loan amount.

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#### (iii) Agreement to Evade Stamp Duty

##### ✖ Void Agreement

###### Reason:

Paying unaccounted money to avoid stamp duty:

- **Defeats the provisions of law**, and
- Is **fraudulent**

Thus, the consideration and object are **unlawful**.

👉 Mohit **cannot enforce** the agreement.

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### Conclusion

Case	Nature of Agreement	Validity
(i) Illegal hacking	Prohibited by law	Void
(ii) Loan for bribery	Opposed to public policy	Void
(iii) Cash to evade stamp duty	Defeats law / fraudulent	Void

### Question: 3

Mr. R, a well-known classical singer, entered into a contract with Harmony Events Ltd. to perform at a series of live concerts scheduled after three months. The contract specifically mentioned that the performances were to be given personally by Mr. R, considering his unique skill and reputation. Before the scheduled dates of the concerts, Mr. R suddenly met with a fatal accident and passed away. Due to this, the concerts could not be performed. Harmony Events Ltd. filed a suit against the legal representatives of Mr. R for breach of contract and claimed damages.

With reference to the Indian Contract Act, 1872, decide whether Harmony Events Ltd. can succeed in its claim.

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### Answer

Harmony Events Ltd. cannot succeed in its claim.

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### Explanation

According to Section 56 of the Indian Contract Act, 1872:

- A contract to do an act which becomes impossible after the contract is made, due to an event beyond the control of the parties, becomes void.
- This principle is known as supervening impossibility or frustration of contract.

In this case:

- The contract was valid at the time of formation.
- Performance depended on the personal skill and existence of Mr. R.
- The death of Mr. R made performance physically and legally impossible.
- The event was unforeseen and unavoidable.

Since performance became impossible due to the death of Mr. R, the contract is discharged by impossibility.

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### Conclusion

The contract became void due to supervening impossibility under Section 56. Therefore, Harmony Events Ltd. cannot claim damages from Mr. R's legal representatives.



## Question: 4

### Case I – Finder of Lost Goods

Rohit was travelling by train and found a **wallet containing ₹12,000 and an identity card** lying on the seat. Instead of trying to locate the owner, Rohit kept the wallet and used the money for his personal expenses. Later, the true owner traced Rohit with the help of the identity card details and demanded the return of the wallet and money.

Rohit argued that since there was **no contract** between him and the owner, he is **not legally bound** to return the money.

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### Case II – Money Paid Under Mistake

By mistake, **₹25,000** was credited twice to Neha's bank account by her employer as salary for the same month. Neha realised the mistake but refused to return the excess amount, claiming that she never promised to repay it.

The employer filed a suit to recover the excess payment.

With reference to the **Indian Contract Act, 1872**, decide the liability in both cases.

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## Answer

### Case I – Finder of Lost Goods

Rohit is **legally bound to return the wallet and money** to the true owner.

#### Explanation:

Under **Section 168 of the Indian Contract Act, 1872**, a **finder of goods** has the same responsibility as a **bailee**.

- He must take reasonable care of the goods.
- He cannot appropriate the goods for his own use.
- He must return them to the true owner when found.

Even though there is **no contract**, the law imposes an obligation to prevent unjust enrichment.

This obligation arises under a **quasi-contract**.

👉 Rohit's argument is **not valid**.

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### Case II – Money Paid Under Mistake

Neha is **legally bound to repay the excess ₹25,000**.

#### Explanation:

Under **Section 72 of the Indian Contract Act, 1872**:

A person to whom money has been paid by mistake must repay it.

- There was **no offer, acceptance or agreement**
- Still, the law imposes a duty to **repay money received by mistake**
- Retaining such money amounts to **unjust enrichment**

This obligation arises from a **quasi-contract**.



## Conclusion

Situation	Nature of Obligation	Liability
<b>Finder of lost goods</b>	Quasi-contract (Sec. 168)	Must return goods
<b>Money paid under mistake</b>	Quasi-contract (Sec. 72)	Must repay money

### Question: 5

Mr. R offered to sell his car to Mr. S for **₹6,00,000**. Mr. S replied that he was willing to buy the car for **₹5,00,000**. Mr. R did not respond to this reply. After two days, Mr. S sent another message stating that he now agrees to buy the car for **₹6,00,000** as originally quoted by Mr. R. However, Mr. R refused to sell the car to Mr. S, stating that he had already sold it to someone else. Mr. S filed a suit against Mr. R claiming that a valid contract had been formed when he finally agreed to buy the car for ₹6,00,000. With reference to the **Indian Contract Act, 1872**, decide whether Mr. S can succeed in his claim.

### Answer

Mr. S **cannot succeed** in his claim.

### Explanation

Under the **Indian Contract Act, 1872**:

- When an offeree accepts an offer with **modification or variation**, it amounts to a **counter offer**.
- A **counter offer** results in the **rejection and termination of the original offer**.
- Once the original offer is rejected, it **cannot be revived** unless the offeror makes a **fresh offer**.

In this case:

- Mr. R made an offer to sell the car for **₹6,00,000**.
- Mr. S replied with a price of **₹5,00,000**, which is a **counter offer**.
- This counter offer **terminated Mr. R's original offer**.
- When Mr. S later agreed to buy at **₹6,00,000**, it amounted to a **new offer** from Mr. S.
- Mr. R was free to **accept or reject** this new offer.

Therefore, **no valid contract was formed**, and Mr. R is not bound to sell the car to Mr. S.

## Conclusion

Since the original offer was terminated by a counter offer, Mr. R is legally entitled to refuse the sale. Hence, **Mr. S has no legal remedy**.



### Question: 6

Ramesh lost his pet dog and announced a **reward of ₹10,000** for anyone who finds and returns the dog. He printed posters and displayed them in several public places.

Before seeing any of the posters or knowing about the reward, Suresh found the dog on the street and returned it to Ramesh out of goodwill. Later, Suresh came to know about the reward announcement and demanded **₹10,000** from Ramesh.

Ramesh refused to pay the reward, arguing that Suresh had returned the dog **without knowing about the offer**.

With reference to the **Indian Contract Act, 1872**, decide whether Suresh is entitled to the reward.

### Answer

Suresh is **not entitled** to the reward.

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### Explanation

Under the **Indian Contract Act, 1872**, for a valid acceptance:

- The **offer must be communicated** to the offeree.
- The acceptance must be made **with knowledge of the offer**.
- Acceptance made **in ignorance of the offer** is not valid acceptance.

In this case:

- Suresh found and returned the dog **without knowledge** of the reward offer.
- Therefore, there was **no acceptance of the offer**.
- Since the offer was **not communicated** to Suresh at the time of his act, no contract was formed.

This principle is supported by the case **Lalman Shukla v. Gauri Dutt**, where it was held that performance of an act without knowledge of the offer does not amount to acceptance.

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### Conclusion

Since Suresh acted **without knowledge of the offer**, there was no acceptance and no contract. Hence, **Ramesh is not legally bound** to pay the reward.

### Question: 7

Mr. P offered to sell his house to Mr. Q for **₹40 lakhs**. In response, Mr. Q gave the following replies in two different situations:

#### Situation I

Mr. Q replied:

“I will buy your house for ₹40 lakhs **if you agree to repair the entire building at your own cost before sale.**”

#### Situation II

Mr. Q replied:

“I agree to buy your house for ₹40 lakhs, **subject to you having a clear and**



**marketable title to the property.”**

Mr. P later refused to sell the house in both situations. Mr. Q filed a suit claiming that a valid contract had been formed.

With reference to the **Indian Contract Act, 1872**, decide whether a **valid acceptance** exists in each situation.

### **Answer**

#### **Situation I – No Valid Acceptance**

In this case, **no valid acceptance** has taken place.

##### **Reason:**

Acceptance must be **absolute and unqualified**.

Here, Mr. Q added a **new condition** (repairing the entire building), which was **not part of the original offer**.

This amounts to a **conditional acceptance**, which is treated as a **counter-offer**.

A counter-offer results in the **rejection of the original offer**.

👉 Therefore, **no contract is formed**, and Mr. P is not bound to sell the house.

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#### **Situation II – Valid Acceptance**

In this case, a **valid acceptance exists**.

##### **Reason:**

Mr. Q agreed to purchase the house **on the same terms** as offered by Mr. P.

The condition regarding **clear and marketable title** is an **implied legal requirement** in the sale of immovable property and does **not alter the terms of the offer**.

Such a condition is **not treated as a new condition**, but as a **reasonable expectation**.

👉 Hence, the acceptance is **absolute and unconditional**.

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### **Conclusion**

<b>Situation</b>	<b>Nature of Reply</b>	<b>Contract Formed?</b>
<b>Situation I</b>	Conditional acceptance (counter-offer)	✗ No
<b>Situation II</b>	Qualified but unconditional acceptance	✓ Yes

### **Question: 8**

Mr. R took an annual subscription of an online legal journal for **one year**. After the expiry of the subscription period, the publisher **continued to provide access** to the journal for the next **three years**. Mr. R continued to **regularly access and download articles** from the journal during this period.

The publisher later sent bills for the extended period. Mr. R refused to pay, claiming that he had **not expressly renewed** the subscription and had **not given any written consent**.

With reference to the **Indian Contract Act, 1872**, decide whether Mr. R is liable to pay for the continued service.



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### Answer

Yes, Mr. R is liable to pay for the continued use of the service.

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### Explanation

Under the **Indian Contract Act, 1872**, acceptance of an offer can be:

- **Express**, or
- **Implied by conduct** (Section 8)

When:

- One party offers services, and
- The other party **knowingly accepts and uses** those services,

Acceptance is **implied by conduct**, even if there is **no express agreement**.

In this case:

- The publisher continued to provide the service (offer)
- Mr. R knowingly used the journal for **three years**
- His conduct clearly indicated **assent to the offer**

By continuing to enjoy the benefits, Mr. R accepted the offer impliedly and is therefore bound to pay.

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### Conclusion

Mr. R's continued use of the journal amounts to **acceptance by conduct**. Hence, a valid contract came into existence, and **he is legally bound to pay the charges**.

### Question: 9

Rohit visits an electronics showroom to buy a **refrigerator**. A refrigerator is displayed with a **price tag of ₹28,000 (Festival Offer)**. Rohit selects the refrigerator and approaches the billing counter to make the payment.

At the counter, the salesman informs Rohit that the **festival offer ended the previous day**, and the actual price is **₹32,000**. Rohit insists that since the refrigerator was displayed with the discounted price, the showroom is legally bound to sell it to him at **₹28,000**.

With reference to the **Indian Contract Act, 1872**, state whether Rohit can legally compel the showroom to sell the refrigerator at the discounted price. Give reasons.

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### Answer

Rohit **cannot legally compel** the showroom to sell the refrigerator at the discounted price.

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### Explanation

Under the **Indian Contract Act, 1872**:

- Display of goods with price tags in a shop is only an **invitation to offer**, not a legal offer.
- The **customer makes the offer** when he approaches the billing counter to purchase the goods.



- The seller is free to **accept or reject** the offer made by the customer.

In this case:

- The discounted price displayed was only an **invitation to offer**.
- Rohit made an offer to buy the refrigerator at ₹28,000.
- The showroom **did not accept** the offer and instead communicated the revised price.
- Since there was **no acceptance**, no contract was formed.

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### Conclusion

As there was **no valid contract**, Rohit cannot enforce the showroom to sell the refrigerator at the discounted price of ₹28,000. The showroom is legally entitled to refuse.

### Question: 10

Mr. A, a qualified architect, helped his friend Mr. B by **designing a layout plan** for his new showroom **free of cost**, using his professional skills and experience. The plan helped Mr. B get municipal approval and start his business successfully. After the showroom became operational, Mr. B **voluntarily promised** to pay ₹25,000 to Mr. A as a token of appreciation for his help. Later, Mr. B refused to pay the amount, arguing that there was **no contract** between them as the service was rendered **without any prior promise**.

With reference to the **Indian Contract Act, 1872**, decide whether Mr. A can recover ₹25,000 from Mr. B. Give reasons.

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### Answer

Yes, **Mr. A can recover ₹25,000** from Mr. B.

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### Explanation

Under **Section 2(d) of the Indian Contract Act, 1872**, consideration may be:

- **Past**
- Present, or
- Future

When an act has been done **voluntarily at the desire of the promisor**, and the promisor later promises to compensate for it, such consideration is called **past consideration** and is **valid in India**.

In this case:

- Mr. A rendered professional services to Mr. B
- The services were **useful and beneficial**
- Mr. B **later promised** to compensate Mr. A
- The promise was made **after the services were rendered**

Thus, the promise is supported by **past consideration**, which is valid under Indian law.

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## Conclusion

The promise made by Mr. B to pay ₹25,000 to Mr. A is **legally enforceable**, as it is supported by **past consideration**. Hence, **Mr. A can successfully recover the amount**.

## Question: 11

Mr. R, a well-known businessman, promised the **President of a local school management committee** to donate **₹2,50,000** for the construction of new classrooms. Relying on this assurance, the committee immediately entered into a contract with a builder and incurred an expenditure of **₹1,80,000**.

Later, Mr. R refused to donate the promised amount, contending that his promise was **gratuitous** and **not supported by consideration**, and therefore not legally enforceable.

With reference to the **Indian Contract Act, 1872**, decide whether the school management committee can recover the amount from Mr. R. Give reasons.

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## Answer

Yes, the **school management committee can recover the amount** from Mr. R.

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## Explanation

Normally, an agreement without consideration is **void** under the Indian Contract Act, 1872.

However, in the case of **charitable subscriptions**, an exception has been recognised by courts.

Where:

- A person makes a promise to donate for a **charitable purpose**, and
- The promisee **acts upon the faith of the promise** and incurs liability or expenditure,

the promise becomes **legally enforceable**, even though there is no consideration in the strict sense.

This principle is based on:

- **Reliance and detriment suffered by the promisee**
- **Doctrine of promissory estoppel**
- **Leading case: Kedarnath v. Gorie Mohamed (1886)**

In this case:

- Mr. R promised to donate ₹2,50,000
- The committee relied on the promise
- The committee incurred expenses of ₹1,80,000
- Refusal by Mr. R would cause unjust loss to the committee

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## Conclusion

Although the promise was made **without consideration**, it is **enforceable** because the committee incurred expenses relying on it. Therefore, the committee can



recover at least ₹1,80,000 from Mr. R.

### Question: 12

Rahul, a **17-year-old minor** belonging to a wealthy family, was studying in a residential school. His guardian failed to pay the **school fees and hostel charges** for six months. To ensure continuity of Rahul's education, the school authorities allowed Rahul to continue his studies and provided boarding and lodging facilities. Later, the guardian refused to pay the outstanding amount, arguing that Rahul being a **minor**, is **not personally liable** for any contract.

In another transaction, Rahul purchased a **high-end gaming laptop worth ₹1,50,000** from a electronics store on credit. At that time, Rahul already owned a fully functional laptop suitable for his studies.

With reference to **Section 68 of the Indian Contract Act, 1872**, answer the following:

1. Can the school recover the outstanding fees? If yes, from whom?
2. Can the electronics store recover the price of the gaming laptop?

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### Answer

#### 1. Recovery of School Fees and Hostel Charges

Yes, the **school can recover the outstanding amount**, but **only from Rahul's property**, not personally from him.

#### Reason:

Under **Section 68**, a person who supplies **necessaries** to a minor is entitled to be reimbursed from the **property of the minor**.

- Education and boarding are **necessaries**
- They are essential for the minor's **support and development**
- They match Rahul's **standard of living**

Hence, the school can claim reimbursement from **Rahul's estate**.

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#### 2. Recovery of Price of Gaming Laptop

No, the electronics store **cannot recover the price**.

#### Reason:

- A gaming laptop is a **luxury item**, not a necessary
- Rahul already had a suitable laptop
- Necessaries exclude **extravagant or non-essential items**

Thus, Section 68 does **not apply**, and the seller has **no right of recovery**, even from the minor's property.

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### Conclusion

Transaction	Nature	Recovery Allowed
<b>School fees &amp; hostel</b>	Necessaries	Yes, from minor's property
<b>Gaming laptop</b>	Luxury	No recovery



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### Question: 13

Mr. Rohan, a businessman, approached **ABC Bank** for a loan of **₹20 lakh** during a period of severe liquidity crunch in the financial market. Due to the prevailing market conditions, the bank agreed to sanction the loan **only at an interest rate of 18% per annum**, which was higher than the normal rate.

Rohan, after considering the terms, **voluntarily accepted** the loan and executed the loan agreement. Later, after receiving the loan, Rohan filed a suit claiming that the contract was **voidable** as it was induced by **undue influence**, since the bank charged an excessively high rate of interest taking advantage of his financial distress.

With reference to the **Indian Contract Act, 1872**, decide whether Rohan can succeed in his claim.

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### Answer

Rohan **cannot succeed** in his claim.

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### Explanation

Under **Section 16 of the Indian Contract Act, 1872**, undue influence arises when:

- One party is in a position to **dominate the will** of the other, and
- Uses that position to obtain an **unfair advantage**.

However, a transaction **in the ordinary course of business**, even if made on **harsh terms**, does **not amount to undue influence**.

In this case:

- The bank was acting in its **ordinary business of lending**
- The high rate of interest was due to **stringency in the money market**
- Rohan **voluntarily accepted** the terms
- There was **no fiduciary or dominating relationship**

Mere financial pressure or market conditions do **not constitute undue influence**.

This principle is supported by judicial decisions where courts have held that **commercial bargains**, even if tough, are not undue influence.

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### Conclusion

The loan agreement is **valid and enforceable**, and it was **not induced by undue influence**. Hence, Rohan is bound by the terms of the contract.

### Question: 14

Anil was running a well-established **bakery business in Mumbai**. He sold his bakery business along with its **goodwill worth ₹2,00,000** to Suresh for a total consideration of **₹8,00,000**.

After the sale, Anil entered into an agreement with Suresh stating that **Anil shall not start or engage in any bakery business anywhere in India for a period of 15 years**.

Six months later, Anil started a **bakery business in Pune**, claiming that the



agreement restraining him from carrying on business was **void under law**.

With reference to the **Indian Contract Act, 1872**, answer the following:

1. Whether the agreement restraining Anil from carrying on business is valid.
2. What rights are available to Suresh against Anil?

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### Answer

#### 1. Validity of the Agreement

As per **Section 27 of the Indian Contract Act, 1872**, an agreement in restraint of trade is **void**.

However, there is an **exception**:

When a person sells the **goodwill of a business**, he may agree with the buyer to **refrain from carrying on a similar business, within reasonable limits** as to **time and place**.

In this case:

- Sale included **goodwill ✓**
- Restriction is for **15 years ✗**
- Restriction applies to **entire India ✗**

The restriction is **excessive and unreasonable** in terms of **time and geographical area**.

Therefore, the agreement is **partly void** to the extent it imposes **unreasonable restraint**.

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#### 2. Rights Available to Suresh

Suresh can:

- **Enforce the agreement only to a reasonable extent**, i.e.,
  - Restriction limited to **Mumbai (or nearby area)**, and
  - For a **reasonable period**.

Since Anil opened a bakery in **Pune**, which is a different city, Suresh **cannot restrain Anil** if the court finds the geographical restriction unreasonable.

However, if Anil had started a bakery in **Mumbai**, Suresh could:

- Seek an **injunction** restraining Anil, and
- Claim **damages** for breach of agreement.

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### Conclusion

- Agreement restraining trade after sale of goodwill is **valid only if reasonable**.
- Excessive restraint as to **time and area** is **void**.
- Suresh can enforce the restriction **only within reasonable limits**.



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### Question: 15

Ramesh went to a large electronics showroom to purchase a **smartphone with 5G connectivity**. He asked the salesperson where the 5G phones were displayed. The salesperson pointed to a particular shelf and informed him that **both 5G and non-5G models were kept there**.

Ramesh, without asking further questions, selected a phone from that shelf. The salesperson noticed that the phone picked by Ramesh was a **4G model**, but he did not say anything. Ramesh paid the price and left the store.

After reaching home, Ramesh discovered that the phone was **not 5G-enabled**. He filed a suit against the showroom alleging **fraud**, claiming that the salesperson deliberately remained silent.

With reference to the **Indian Contract Act, 1872**, decide whether Ramesh can succeed in his claim for fraud. Give reasons.

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### Answer

Ramesh **cannot succeed** in his claim for fraud against the showroom.

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### Explanation

Under **Section 17 of the Indian Contract Act, 1872**, fraud includes acts such as:

- False suggestion of fact,
- Active concealment of truth,
- Promise made without intention to perform, etc.

However, **mere silence does not amount to fraud**, unless:

- There is a **duty to speak**, or
- Silence is **equivalent to speech**, or
- There exists a **fiduciary relationship** between the parties.

In this case:

- The salesperson clearly informed Ramesh that **both types of phones were kept together**
- Ramesh made the **selection himself**
- There was **no false representation**
- The salesperson's silence does **not amount to active concealment**
- There was **no duty to correct** Ramesh's assumption

This is a case of **mistake by the buyer**, not fraud by the seller.

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### Conclusion

Since there was **no misrepresentation or active concealment** by the showroom, and mere silence does not constitute fraud, **Ramesh is not entitled to file a suit for fraud** under the Indian Contract Act, 1872.



### Question: 16

Rohit entered into a contract with Mohan, a carpenter, to **make a customised wooden study table**. As per the agreement, Rohit was to **supply all the necessary raw materials**, including wood and fittings, while Mohan was to complete the work on a specified date.

On the appointed day, Mohan reached Rohit's house on time and was ready to start the work. However, Rohit failed to arrange the required materials. As a result, the work could not be started and Mohan returned without completing the job.

Later, Rohit demanded that Mohan complete the work on another date without offering any compensation for the loss suffered by Mohan. Mohan refused and claimed compensation for the loss of time and wages.

With reference to the **Indian Contract Act, 1872**, decide the rights and liabilities of the parties.

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### Answer

Mohan is **not bound to perform the contract**, and Rohit is **liable to compensate Mohan** for the loss suffered.

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### Explanation

According to **Section 53 of the Indian Contract Act, 1872**:

- When a contract contains **reciprocal promises**, and
- One party **prevents the other from performing** his promise,

The contract becomes **voidable at the option of the party so prevented**, and

The party preventing performance must **compensate** the other for any loss caused.

In this case:

- Rohit was required to supply materials ✓
- Mohan was ready and willing to perform ✓
- Rohit failed to perform his part ✓
- Rohit's failure **prevented Mohan from performing**

Therefore:

- Mohan may **treat the contract as void**, and
- Mohan is entitled to **compensation** for loss of time and wages.

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### Conclusion

Since Rohit prevented the performance of the contract, he **cannot demand performance** from Mohan and must **pay compensation** for the loss suffered by Mohan.

### Question: 17

Mr. Ramesh owed the following amounts to Mr. Suresh as on **30th June 2023**:

1. ₹8,500, due in **March 2019**
2. ₹6,200, due in **July 2021**
3. ₹10,300, due in **January 2022**

On **1st July 2023**, Mr. Ramesh made the following payments to Mr. Suresh



without giving any intimation as to how the payments were to be appropriated:

- One cheque of ₹10,300
- One cheque of ₹9,000

Advise how the payments should be appropriated under the **Indian Contract Act, 1872**.

### Answer

#### Relevant Legal Provision

Under the **Indian Contract Act, 1872**:

- **Section 59:** If the debtor specifies the debt to which payment is to be applied, the creditor must apply accordingly.
- **Section 60:** If the debtor does not specify, the creditor may apply the payment at his discretion to any lawful debt, even if time-barred.
- **Section 61:** If neither party makes appropriation, the payment shall be applied in order of time (earliest debt first).

In this case:

- Mr. Ramesh **did not specify** the appropriation.
- Assume Mr. Suresh also did not intimate any appropriation.

Hence, **Section 61 applies**.

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#### Appropriation of Payments (Order of Time)

##### Total amount paid:

₹10,300 + ₹9,000 = ₹19,300

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##### Step 1: Oldest Debt (March 2019 – ₹8,500)

- First payment applied = ₹8,500
- Balance payment = ₹19,300 – ₹8,500 = ₹10,800

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##### Step 2: Next Oldest Debt (July 2021 – ₹6,200)

- Amount applied = ₹6,200
- Balance payment = ₹10,800 – ₹6,200 = ₹4,600

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##### Step 3: Latest Debt (January 2022 – ₹10,300)

- Amount applied = ₹4,600
- **Balance still due = ₹5,700**

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### Conclusion

Debt	Amount	Appropriated	Balance
March 2019	₹8,500	₹8,500	Nil
July 2021	₹6,200	₹6,200	Nil
January 2022	₹10,300	₹4,600	₹5,700

### Question: 18

Explain what is meant by 'Supervening Impossibility' as per the Indian Contract



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Act, 1872 with the help of an example. What is the effect of such impossibility?

### Answer

According to Section 56 of the Indian Contract Act, 1872, the impossibility of performance may be of the two types, namely (a) initial impossibility, and (b) subsequent impossibility.

Subsequent impossibility is also known as Supervening impossibility i.e. becomes impossible after entering into contract. When performance of promise become impossible or illegal by occurrence of an unexpected event or a change of circumstances beyond the contemplation of parties, the contract becomes void e.g. change in law etc. In other words, sometimes, the performance of a contract is quite possible when it is made. But subsequently, some event happens which renders the performance impossible or unlawful. Such impossibility is called the subsequent or supervening. It is also called the post-contractual impossibility.

Example: 'A' and 'B' contracted to marry each other. Before the time fixed for the marriage, 'A' became mad. In this case, the contract becomes void due to subsequent impossibility, and thus discharged.

Effect of impossibility: The effect of such impossibility is that it makes the contract void, and the parties are discharged from further performance of the contract.

### Question: 19

Amit, Bharat and Chitra jointly borrowed **₹9,00,000** from Neha for business purposes. Later, **Chitra became insolvent**, and her private assets were sufficient to pay **only 1/3rd of her share of liability**.

Neha demanded the entire amount from **Amit**, and Amit was compelled to pay the full **₹9,00,000** to Neha.

With reference to the provisions of the **Indian Contract Act, 1872**, answer the following:

1. How much can Amit recover from Bharat?
2. How much can Amit recover from Chitra?

---

### Answer

#### Step 1: Determine Individual Share

Total debt = **₹9,00,000**

Number of joint promisors = 3

👉 Each partner's share =  $₹9,00,000 \div 3 = ₹3,00,000$

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#### Step 2: Liability of Chitra (Insolvent Partner)

Chitra's private assets can pay **1/3rd of her share**:

- 1/3 of ₹3,00,000 = **₹1,00,000**

So, Amit can recover **₹1,00,000** from Chitra.

Unpaid portion of Chitra's share =  $₹3,00,000 - ₹1,00,000 = ₹2,00,000$

This unpaid amount must be **shared equally by the solvent partners** (Amit and



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Bharat).

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### Step 3: Contribution Between Amit and Bharat

Unpaid amount to be shared = ₹2,00,000

Number of solvent partners = 2

👉 Additional burden on each = ₹2,00,000 ÷ 2 = ₹1,00,000

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### Step 4: Total Recovery by Amit

- From Bharat:
  - Bharat's own share = ₹3,00,000
  - Plus share of Chitra's unpaid liability = ₹1,00,000
  - Total recoverable from Bharat = ₹4,00,000**
- From Chitra:
  - ₹1,00,000** (limited to her private assets)

---

### Conclusion

- Amit, having paid the entire debt, can recover:
  - ₹4,00,000 from Bharat**, and
  - ₹1,00,000 from Chitra**

Amit ultimately bears **₹4,00,000**, which represents his own share plus part of the insolvent partner's default.

### Question: 20

Rohit owns a printing press in **Jaipur**. He received an urgent order from a client to supply **customised wedding invitation cards** for a wedding scheduled on a specific date in **Udaipur**. Rohit handed over the printed cards to a courier company for delivery, paying normal delivery charges.

Rohit expected to earn **substantial profit** from this order due to its urgency and exclusivity. However, **he did not inform the courier company** that the cards were required for a wedding on a particular date.

Due to negligence of the courier company, the consignment reached Udaipur **after the wedding had already taken place**. Rohit suffered loss of expected profits and filed a suit against the courier company claiming compensation for loss of profits. With reference to the **Indian Contract Act, 1872**, decide whether Rohit can recover the loss of profits from the courier company. Give reasons.

---

### Answer

Rohit **cannot recover the loss of expected profits** from the courier company.

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### Explanation

According to **Section 73 of the Indian Contract Act, 1872**:

- Compensation is payable for losses which **naturally arise in the usual course of things** from the breach of contract, or
- Losses which were **in the contemplation of both parties** at the time of



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entering into the contract.

However:

- **Special or extraordinary losses** (such as exceptional profits) are **recoverable only if the special circumstances were communicated** to the other party at the time of contract.

In this case:

- The courier company was **not informed** about the wedding date or the urgency.
- Loss of exceptional profit was a **special damage**, not a natural consequence of delay.
- The courier company could not have reasonably contemplated such loss.

This principle is based on the landmark case **Hadley v. Baxendale**.

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### Conclusion

Since Rohit did not communicate the special circumstances leading to exceptional profit, the courier company is **not liable** to compensate for loss of profits. Rohit may recover only **ordinary damages**, if any, but **not special damages**.

### Question: 21

Riya is a professional **theatre artist**. She entered into an agreement with **City Cultural Association** to perform **40 stage shows** over a period of **10 months**, at the rate of **₹15,000 per performance**, with shows scheduled every Saturday. After completing **5 performances**, Riya **failed to appear for two consecutive weekends** without giving any prior intimation, citing personal reasons later. The association suffered loss of ticket revenue due to cancellation of shows.

Answer the following with reference to the **Indian Contract Act, 1872**:

1. Does City Cultural Association have the right to **terminate the contract**?
2. If the association, after Riya's absence, **allowed her to continue performances**, can it later terminate the contract on the same ground?
3. Can City Cultural Association claim **damages** for the loss suffered in any of the above cases?

---

### Answer

#### 1. Right to Terminate the Contract

Yes, City Cultural Association has the right to terminate the contract.

#### Reason:

Under **Section 39 of the Indian Contract Act, 1872**, when a party to a contract:

- Refuses to perform, or
- Disables itself from performing its promise in entirety,

the promisee may **put an end to the contract**, unless he signifies by words or conduct his intention to continue it.

Riya's **unauthorised absence** amounts to a **breach of contract**, giving the association the right to rescind.



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## 2. Right to Rescind After Allowing Continuance

No, the association **cannot later terminate the contract on the same ground.**

### Reason:

If the promisee, after a breach, **elects to continue the contract**, he is deemed to have **waived his right to rescind**.

Once City Cultural Association allowed Riya to continue performances after knowing about her absence, it **lost the right to rescind the contract later** on that ground.

## 3. Right to Claim Damages

Yes, **City Cultural Association can claim damages.**

### Reason:

As per **Section 75 of the Indian Contract Act, 1872**, a party rightfully rescinding a contract is entitled to **compensation for any damage sustained** due to non-fulfilment of the contract.

- If the contract is terminated → damages are claimable
- Even if the contract is continued → damages for earlier breach can still be claimed

Hence, damages can be claimed **in both cases**, subject to proof of loss.

## Conclusion

Issue	Legal Position
<b>Right to terminate</b>	Yes, due to breach
<b>Right after waiver</b>	No, once waived
<b>Claim for damages</b>	Yes, in both cases

## Question: 22

“When a party to a contract has refused to perform, or disabled himself from performing his promise in its entirety, the promisee may put an end to the contract”. Explain.

### Answer

Effect of a Refusal of Party to Perform Promise

According to Section 39, when a party to a contract has refused to perform, or disabled himself from performing his promise in its entirety, the promisee may put an end to the contract, unless he has signified, by words or conduct, his acquiescence in its continuance.

From language of Section 39 it is clear that in the case under consideration, the following two rights accrue to the aggrieved party, namely, (a) to terminate the contract; (b) to indicate by words or by conduct that he is interested in its continuance.

In case the promisee decides to continue the contract, he would not be entitled to put



an end to the contract on this ground subsequently. In either case, the promisee would be able to claim damages that he suffers as a result on the breach.

### Question: 23

Anuj found a **mobile phone** lying unattended in a public library. He made reasonable efforts to locate the owner by enquiring with the librarian and checking nearby reading areas, but the true owner could not be traced. Anuj then **handed over the phone to the librarian** with instructions to keep it safely until the owner was found.

After ten days, Anuj returned to the library to enquire about the phone. The librarian **refused to return the phone** to Anuj, stating that Anuj was **not the owner** of the phone.

With reference to the **Indian Contract Act, 1872**, decide whether Anuj can legally recover the phone from the librarian. Give reasons.

---

### Answer

Yes, Anuj can legally recover the phone from the librarian.

---

### Explanation

Under the **Indian Contract Act, 1872**:

- Section 168 provides that a **finder of goods has the rights and responsibilities of a bailee**.
- A finder is entitled to:
  - Take reasonable care of the goods, and
  - Recover the goods from **any person who wrongfully deprives him of possession**.
- When Anuj handed over the phone to the librarian **for safe custody**, the librarian became a **bailee** and Anuj remained the **bailor** (as finder).

Importantly:

- Even though Anuj is **not the true owner**, he has a **special property (possessory right)** in the goods.
- The bailee (librarian) **cannot deny the bailor's rights** and refuse to return the goods to him.
- The bailee must return the goods to the bailor **unless and until the true owner claims them**.

---

### Conclusion

Since Anuj, as a **finder of goods**, has the rights of a bailee, and the librarian wrongfully refused to return the phone, **Anuj can recover the phone from the librarian** under the Indian Contract Act, 1872.

### Question: 24

Explain the term 'Quasi Contracts' and state their characteristics.



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### Answer

**Quasi Contracts:** Under certain special circumstances, obligations resembling those created by a contract are imposed by law although the parties have never entered into a contract. Such obligations imposed by law are referred to as 'Quasi-contracts'. Such a contract resembles a contract so far as result or effect is concerned but it has little or no affinity with a contract in respect of mode of creation. These contracts are based on the doctrine that a person shall not be allowed to enrich himself unjustly at the expense of another. The salient features of a quasi-contract are:

1. It does not arise from any agreement of the parties concerned but is imposed by law.
2. Duty and not promise is the basis of such contract.
3. The right under it is always a right to money and generally though not always to a liquidated sum of money.
4. Such a right is available against specific person(s) and not against the whole world.
5. A suit for its breach may be filed in the same way as in case of a complete contract.

### Question: 25

Ramesh entered into a written agreement with Suresh stating that **Ramesh would indemnify Suresh against all losses** arising out of any legal action that **Mahesh** might take against Suresh in respect of a loan of **₹20,000** advanced by Mahesh to Suresh.

Later, Mahesh filed a suit against Suresh for recovery of the loan amount. Suresh failed to pay the amount, and Mahesh obtained a decree against him.

Mahesh then proceeded to recover the amount from **Ramesh**, claiming that Ramesh had agreed to indemnify Suresh.

With reference to the **Indian Contract Act, 1872**, decide whether Mahesh can recover the amount from Ramesh. Give reasons.

---

### Answer

Yes, Mahesh can recover the amount from Ramesh.

---

### Explanation

Under **Section 124 of the Indian Contract Act, 1872**, a **contract of indemnity** is a contract by which one party promises to save the other from loss caused to him by:

- the conduct of the promisor himself, or
- the conduct of any other person.

In this case:

- Ramesh (indemnifier) promised to indemnify Suresh (indemnified)
- The loss arose due to **legal proceedings initiated by Mahesh**, a third party
- Suresh failed to pay the amount and suffered loss
- The indemnity covered consequences of such proceedings



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Once the liability of the indemnified party becomes **absolute**, the indemnifier becomes liable to pay.

Hence, Mahesh, as the creditor, is entitled to recover the amount from **Ramesh**, who had undertaken to indemnify Suresh.

### Conclusion

Since there exists a valid **contract of indemnity**, and the loss occurred due to legal proceedings by a third party, **Ramesh is liable to indemnify Suresh**, and **Mahesh can recover the amount from Ramesh** as provided under **Section 124** of the Indian Contract Act, 1872.

### Question: 26

Sarthak is employed as a cashier on a monthly salary of \$ 50,000 by ABC bank for a period of three years. Mohit gave surety for Sarthak's good conduct. After nine months, the financial position of the bank deteriorates. Then Sarthak agrees to accept a lower salary of \$ 40,000 per month from the Bank. Two months later, it was found that Sarthak had misappropriated cash from the time of his appointment.

What is the liability of Mohit taking into account the provisions of the Indian Contract Act, 1872?

### Answer

According to section 133 of the Indian Contract Act, 1872, where there is any variance in the terms of contract between the principal debtor and creditor without surety's consent, it would discharge the surety in respect of all transactions taking place subsequent to such variance.

In the instant case, the creditor has made a variance (i.e. change in terms) without the consent of surety. Thus, surety is discharged as to the transactions subsequent to the change.

Hence, Mohit is liable as surety for the loss suffered by the bank due to misappropriation of cash by Sarthak during the first nine months but not for misappropriations committed after the reduction in salary.

### Question: 27

Ricky is the owner of electronics shop. Prisha reached the shop to purchase an air conditioner whose compressor should be of copper. As Prisha wanted to purchase the air conditioner on credit, Ricky demand a guarantor for such transaction. Mr. Shiv (a friend of Prisha) came forward and gave the guarantee for payment of air conditioner. Ricky sold the air conditioner of a particular brand, misrepresenting that it is made of copper while it is made of aluminium. Neither Prisha nor Mr. Shiv had the knowledge of fact that it is made of aluminium. On being aware of the facts, Prisha denied for payment of price. Ricky filed the suit against Mr. Shiv. Explain with reference to the Indian Contract Act 1872, whether Mr. Shiv is liable to pay the price of air conditioner?



### Answer

As per the provisions of section 142 of the Indian Contract Act 1872, where the guarantee has been obtained by means of misrepresentation made by the creditor concerning a material part of the transaction, the surety will be discharged. Further according to provisions of section 134, the surety is discharged by any contract between the creditor and the principal debtor, by which the principal debtor is released, or by any act or omission of the creditor, the legal consequence of which is the discharge of the principal debtor.

In the given question, Prisha wanted to purchase air conditioner whose compressor should be of copper, on credit from Ricky. Mr. Shiv has given the guarantee for payment of price. Ricky sold the air conditioner of a particular brand on misrepresenting that it is made of copper while it is made of aluminium of which both Prisha & Mr. Shiv were unaware. After being aware of the facts, Prisha denied for payment of price. Ricky filed the suit against Mr. Shiv for payment of price.

On the basis of above provisions and facts of the case, as guarantee was obtained by Ricky by misrepresentation of the facts, Mr. Shiv will not be liable. He will be discharged from liability.

### Question: 28

Explain the following as per the provisions of the Indian Contract Act, 1872

1. Specific Guarantee
2. General Guarantee.

### Answer

**Specific Guarantee:** A guarantee which extends to a single debt/specific transaction is called a specific guarantee. The surety's liability comes to an end when the guaranteed debt is duly discharged or the promise is duly performed.

**Continuing Guarantee:** A guarantee which extends to a series of transaction is called a continuing guarantee. A surety's liability continues until the revocation of the guarantee.

The essence of continuing guarantee is that it applies not to a specific number of transactions but to any number of transactions and makes the surety liable for the unpaid balance at the end of the guarantee.

### Question: 29

Amit gave a **continuing guarantee** to Rahul for all credit sales to be made by Rahul to **Nitin** during the month of **June 2022**.

The following transactions took place:

- On **02.06.2022**, Rahul supplied goods worth **₹25,000** to Nitin.
- On **06.06.2022**, Rahul supplied goods worth **₹35,000** to Nitin.
- On **08.06.2022**, Amit **died suddenly** in an accident.
- On **15.06.2022**, Rahul, **without knowledge of Amit's death**, supplied further goods worth **₹40,000** to Nitin.

Nitin failed to make payment for all the supplies. Rahul filed a suit against the legal



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representatives of Amit to recover ₹1,00,000.

Discuss, with reference to the **Indian Contract Act, 1872**:

1. Whether the legal representatives of Amit are liable to pay the entire amount of ₹1,00,000.
2. What will be the position if Amit's estate is worth only ₹50,000?

### Answer

#### Relevant Legal Provisions

- **Section 129:** A continuing guarantee extends to a series of transactions.
- **Section 131:** Death of the surety, in the absence of a contract to the contrary, revokes a continuing guarantee as to future transactions.

#### 1. Liability of Legal Representatives of Amit

- Supplies made **before Amit's death**:
  - ₹25,000 + ₹35,000 = ₹60,000
- Supplies made **after Amit's death**:
  - ₹40,000

As per **Section 131**, the death of Amit **automatically revoked the guarantee for future transactions**, even though Rahul was ignorant of the death.

Therefore:

- Legal representatives of Amit are **liable only for ₹60,000**, i.e., transactions entered into **before his death**.
- They are **not liable** for ₹40,000 supplied after Amit's death.

#### 2. When Amit's Estate Is Worth ₹50,000

Legal representatives are liable **only to the extent of the estate inherited**.

- Liability before death = ₹60,000
- Value of estate = ₹50,000

Hence:

- Rahul can recover **only ₹50,000** from Amit's estate.
- Balance amount **cannot be recovered** from the legal heirs personally.

### Conclusion

Particulars	Amount (₹)
Liability before death	60,000
Liability after death	Nil
Recoverable if estate = ₹50,000	50,000

### Question: 30

Mr. Arjun purchased electronic goods worth ₹80,000 from Mr. Dev on credit. Mr. Kunal stood as a surety and guaranteed the payment to Mr. Dev in case of default by Arjun.

On the due date, Arjun failed to make payment. Before any action was taken, Arjun's brother paid ₹30,000 to Mr. Dev towards the outstanding amount.



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Later, Mr. Kunal, being unaware of this payment, paid the full amount of ₹80,000 to Mr. Dev as a surety. After coming to know about the earlier payment of ₹30,000, Mr. Kunal demanded a refund of ₹30,000 from Mr. Dev. Mr. Dev refused, stating that only Arjun or his brother could claim the refund. With reference to the Indian Contract Act, 1872, decide whether Mr. Kunal (surety) can recover the excess amount paid from Mr. Dev.

---

### Answer

Yes, Mr. Kunal can recover ₹30,000 from Mr. Dev.

---

### Explanation

Under the Indian Contract Act, 1872:

Section 140 – Rights of Surety on Payment

When a surety pays the debt of the principal debtor, he is subrogated to all the rights of the creditor against the principal debtor.

Section 145 – Right of Indemnity

The surety is entitled to be indemnified by the principal debtor for all payments rightfully made.

In this case:

- Total debt = ₹80,000
- Amount already paid by Arjun's brother = ₹30,000
- Actual balance payable = ₹50,000
- Mr. Kunal paid ₹80,000 due to ignorance

Thus, Mr. Dev received ₹30,000 in excess, which he is not entitled to retain.

Once the surety pays the creditor, he steps into the shoes of the creditor, and any overpayment must be refunded to the surety.

The creditor cannot unjustly enrich himself by retaining excess payment.

---

### Conclusion

Mr. Kunal, having paid the debt as a surety, has the right to recover the excess ₹30,000 from Mr. Dev. Mr. Dev's contention that only Arjun can claim the refund is not valid under the Indian Contract Act, 1872.

### Question: 31

Rahul hired a **motorcycle** from Sandeep in **Jaipur**, expressly for travelling to **Ajmer** for two days. As per the agreement, the motorcycle was to be used **only for that route and purpose**. Rahul rode the motorcycle with due care but instead travelled to **Jodhpur**, which was **not agreed upon**.

While returning from Jodhpur, the motorcycle met with an accident due to a sudden skid on the road and suffered serious damage. Rahul argued that since he rode carefully and the accident was unavoidable, he should not be held liable.

With reference to **Section 153 of the Indian Contract Act, 1872**, decide:

1. Whether Sandeep can treat the contract of bailment as voidable.
2. Whether Rahul is liable to compensate Sandeep for the damage to the



motorcycle.

---

### Answer

#### 1. Whether the Bailment Is Voidable

Yes, Sandeep can treat the contract of bailment as voidable.

#### Reason:

Under **Section 153**, if the bailee:

- Makes **any use of the goods inconsistent** with the terms of bailment, the bailment becomes **voidable at the option of the bailor**, even if the goods are used with due care.

In this case, Rahul used the motorcycle for a **different route and purpose** than agreed. Hence, Sandeep has the right to avoid the bailment.

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#### 2. Liability of Rahul for Damage

Yes, **Rahul is liable to compensate Sandeep** for the damage.

#### Reason:

As per **Section 154**, when the goods are used contrary to the terms of bailment, the bailee is:

- **Responsible for any loss**, damage, or deterioration of the goods,
- **Even if such loss is accidental**.

Since the accident occurred while the motorcycle was being used in an **unauthorised manner**, Rahul must compensate Sandeep for the injury to the motorcycle.

---

### Conclusion

- Use of goods contrary to bailment terms makes the bailment **voidable**.
- Bailee is **liable for damages**, even if the loss is accidental.
- **Due care is no defence** when goods are misused.

### Question: 32

As per the Indian Contract Act, 1872, answer the following:

1. Definition of Pledge, pawnor and pawnee
2. Essential characteristics of contract of pledge

### Answer

1. “Pledge”, “pawnor” and “pawnee” defined [Section 172]: The bailment of goods as security for payment of a debt or performance of a promise is called “pledge”. The bailor is in this case called the “pawnor”.

The bailee is called the “pawnee”.

2. Since Pledge is a special kind of bailment, all the essential of bailment are also essentials of Pledge. Apart from that, the characteristics of the pledge are:

- (a) There shall be a bailment of security against payment or performance of the promise.
- (b) The subject matter of pledge is goods.



(c) Goods pledged for shall be in existence  
(d) There shall be delivery of goods from pledger to pledgee.

### Question: 33

Rohit obtained possession of a **gold necklace** from Meera by **misrepresentation**, stating that he needed it temporarily for a family function. The agreement between Rohit and Meera was **voidable under Section 19** of the Indian Contract Act, 1872. Before Meera could rescind the contract, Rohit **pledged the necklace** with **ABC Finance Ltd.** as security for a loan of **₹2,00,000**. ABC Finance Ltd. accepted the pledge **in good faith** and **without notice** of Rohit's defective title.

Later, Meera discovered the misrepresentation and rescinded the contract. She demanded the necklace from ABC Finance Ltd., claiming that Rohit had no valid title to pledge it.

With reference to the **Indian Contract Act, 1872**, decide whether ABC Finance Ltd. has acquired a valid title to the necklace.

---

### Answer

Yes, **ABC Finance Ltd.** has acquired a valid title to the necklace.

---

### Explanation

Under **Section 178A of the Indian Contract Act, 1872**:

- When a person obtains possession of goods under a **contract voidable under Sections 19 or 19A** (fraud, coercion, misrepresentation, undue influence),
- And **before the contract is rescinded**, he pledges the goods to another person,
- The **pawnee acquires a good title**, provided he:
  - Acts **in good faith**, and
  - Has **no notice of the pawnor's defect of title**.

In this case:

- Rohit obtained possession by **misrepresentation ✓**
- The contract was **voidable**, not void ✓
- Meera had **not rescinded** the contract at the time of pledge ✓
- ABC Finance Ltd. acted **in good faith** and **without notice ✓**

Therefore, the pledge is **valid**, and the pawnee's rights are protected.

---

### Conclusion

Since the pledge was made **before rescission** of the voidable contract and the pawnee acted **in good faith without notice**, **ABC Finance Ltd. acquires a good title** to the goods. Meera **cannot recover the necklace** from the pawnee.

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### Question: 34

Mr. R owns a **medical store in Pune** but resides permanently in **Chennai**. The day-to-day management of the medical store is looked after by **Mr. S**, who regularly purchases medicines from **M/s HealthCare Distributors** in the **name of Mr. R**



and makes payments out of Mr. R's bank account. Mr. R is fully aware of these transactions and has never objected to them.

One month, Mr. S ordered a fresh consignment of medicines worth **₹1,20,000** from M/s HealthCare Distributors in the name of Mr. R. Later, Mr. R refused to pay, arguing that he had **not expressly authorised** Mr. S to place that particular order. With reference to the **Indian Contract Act, 1872**, decide whether Mr. R is bound to pay M/s HealthCare Distributors. Give reasons.

---

### Answer

Yes, **Mr. R is bound to pay** M/s HealthCare Distributors.

---

### Explanation

Under the **Indian Contract Act, 1872**:

- **Section 186:** Authority of an agent may be **express or implied**.
- **Section 187:** An authority is said to be **implied** when it is inferred from:
  - The **conduct of the parties**, or
  - The **circumstances of the case**.

In this case:

- Mr. S was managing the medical store on behalf of Mr. R.
- Mr. S had been **habitually ordering goods** in Mr. R's name.
- Payments were made from Mr. R's funds.
- Mr. R had **knowledge of and acquiesced** in these acts.

This establishes an **implied authority** in Mr. S to order medicines necessary for running the shop.

Therefore, the contract entered into by Mr. S with M/s HealthCare Distributors is **binding on Mr. R**.

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### Conclusion

Since Mr. S acted within his **implied authority** as manager of the shop, Mr. R is **legally bound** by the contract and must pay **₹1,20,000** to M/s HealthCare Distributors.

### Question: 35

Arjun, a trader in **Lucknow**, sent a consignment of **fresh fruits** to **Mohan** in **Chandigarh** through **Ravi**, a transport agent. Ravi was instructed only to deliver the goods to Mohan and **had no authority to sell the goods**.

Due to an unexpected **road blockade and delay caused by floods**, Ravi was stranded for several days. The fruits started perishing and Ravi could not contact Arjun despite reasonable efforts. To prevent total loss, Ravi sold the fruits in the nearby local market at the **best possible price**.

Later, Arjun objected to the sale and refused to accept the proceeds, alleging that Ravi had **exceeded his authority**.

With reference to the **Indian Contract Act, 1872**, decide whether Ravi's act is binding on Arjun.



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## Answer

Yes, Ravi's act is binding on Arjun.

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## Explanation

An **agency of necessity** arises when:

1. There is a **real emergency** threatening the principal's property,
2. It is **impossible to obtain instructions** from the principal,
3. The agent acts **bona fide (in good faith)**, and
4. The agent's action is **reasonable and necessary** to prevent loss to the principal.

In this case:

- There was an **emergency** due to floods and delay ✓
- Fruits were **perishable goods** ✓
- Ravi made **reasonable efforts** to contact Arjun ✓
- Ravi acted **in good faith** to prevent total loss ✓

Therefore, Ravi acquired **extraordinary authority** under **agency of necessity** to sell the goods.

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## Conclusion

Since Ravi acted under an **agency of necessity** to protect the principal's interest, his act is **valid and binding** on Arjun. Arjun must accept the sale proceeds and cannot hold Ravi liable for exceeding authority.

## Question: 36

What is the meaning of 'Agency by estoppel'? What are the essential conditions for creation of an agency by estoppel? Give your answer with respect to the provisions of the Indian Contract Act, 1872.

## Answer

An agency by estoppel is based on the principle of estoppel. The principle of estoppel lays down that "when one person by declaration (representation), act or omission has intentionally caused or permitted another person to believe a thing to be true and to act upon such belief, he shall not be allowed to deny his previous statement or he shall be stopped to deny his previous statement or conduct".

The agency by Estoppel is provided under section 237 of the Indian Contract Act. Section 237 states: "When an agent has without authority done acts or incurred obligations to third persons on behalf of his principal the principal is bound by such acts or obligations if he has by his words or conduct induced such third persons to believe that such acts and obligations were within the scope of the agent's authority".

According to section 237 of the Contract Act, an agency by estoppel may be created when following essentials are fulfilled:

1. The principal must have made a representation;



2. The representation may be express or implied;
3. The representation must state that the agent has an authority to do certain act although really he has no authority;
4. The principal must have induced the third person by such representation; and
5. The third person must have believed the representation and made the contract on the belief of such representation.

### **Question: 37**

Akash is a famous manufacturer of leather goods. He appoints Prashant as his agent. Prashant is entrusted with the work of recovering money from various traders to whom Akash sells leather goods. Prashant is paid a monthly remuneration of '15,000. Prashant during a particular month recovers '40,000 from traders on account of Akash. Prashant gives back '25,000 to Akash, after deducting his salary. Examine with reference to relevant provisions of the Indian Contract Act, 1872, whether act of Prashant is valid.

### **Answer**

The given problem is based on the provision related to 'agency coupled with interest. According to Section 202 of the Indian Contract Act, 1872 an agency becomes irrevocable where the agent has himself an interest in the property which forms the subject-matter of the agency, and such an agency cannot, in the absence of an express provision in the contract, be terminated to the prejudice of such interest.

In the given instance, Akash appointed Prashant as his agent to recover money from various traders to whom Akash sold his leather goods, on a monthly remuneration of '15,000. Prashant during a month recovers '40,000 from traders on account of Akash. Prashant after deducting his salary give the rest amount to Akash. In the said case, interest was created in favour of Prashant and the said agency is not revocable, therefore, the act of Prashant is valid.

### **Question: 38**

Mr. Shiv, a cargo owner, chartered a vessel to carry a cargo of wheat from a foreign port to Tuticorin. The vessel got stranded on a reef in the sea 300 miles from the destination. The ship's managing agents signed a salvage agreement for Mr. Shiv. The goods (wheat) being perishable, the salvors stored it at their own expense. Salvors intimated the whole incident to the cargo owner. Mr. Shiv refuse to reimburse the salvor, as it is the Ship-owner, being the bailee of the cargo, who was liable to reimburse the salvor until the contract remained unterminated. Referring to the provision of The Indian Contract Act 1872, do you acknowledge or decline the act of salvor, as an agent of necessity, for Mr. Shiv. Explain?

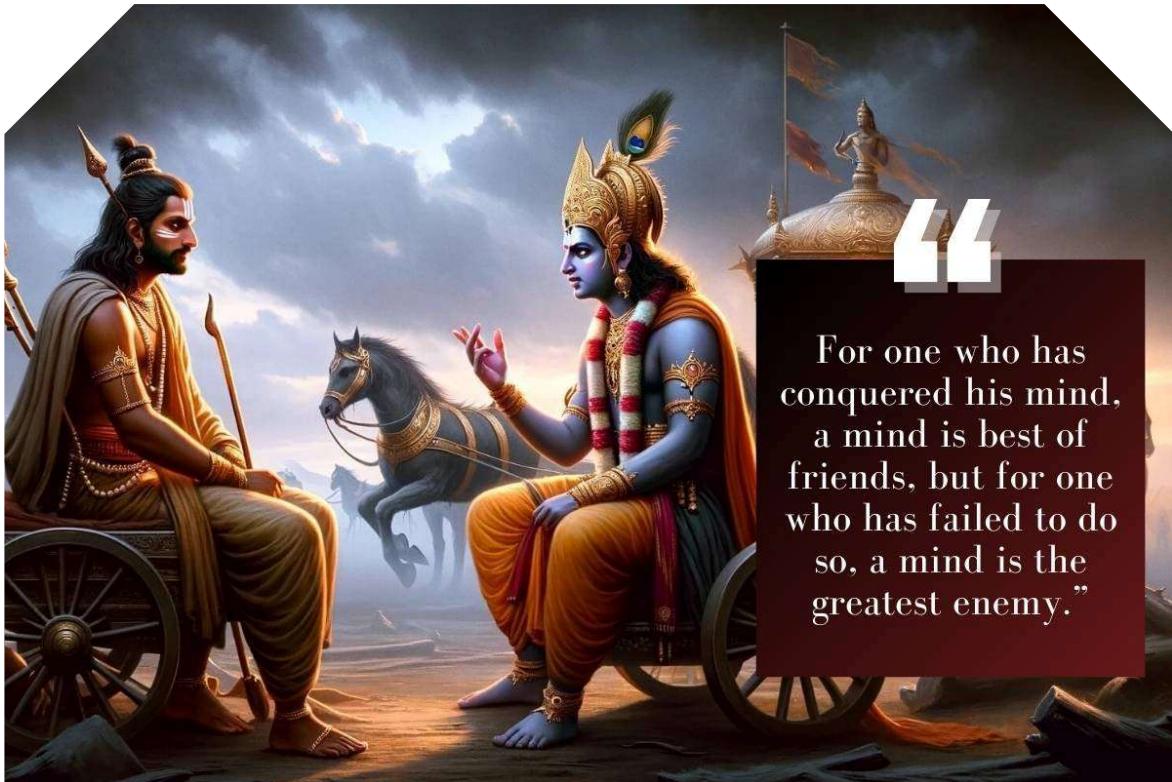
### **Answer**

Section 189 of the Indian Contract Act, 1872 defines agent's authority in an emergency. An agent has authority, in an emergency, to do all such acts for the purpose of protecting his principal from loss as would be done by a person of



ordinary prudence, in his own case, under similar circumstances.

In certain circumstances, a person who has been entrusted with another's property may have to incur expenses to protect or preserve it. This is called an agency of necessity. Hence, in the above case the Salvor had implied authority from the cargo owner to take care of the cargo. They acted as agents of necessity on behalf of the cargo owner. Cargo owner were duty-bound towards salvor. Salvor is entitled to recover the agreed sum from Mr. Shiv and not from the ship owner, as a lien on the goods.



For one who has conquered his mind, a mind is best of friends, but for one who has failed to do so, a mind is the greatest enemy.”



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Q.1	<p><b>MNO Ltd. issued a post-dated cheque of ₹10,00,000 to Mr. Rajesh as a full and final settlement for raw materials supplied. The cheque was drawn on 15.05.2023 and post-dated to 20.06.2023.</b></p> <p><b>Later, MNO Ltd. instructed its banker to stop the payment of the cheque. When Mr. Rajesh presented the cheque on 25.07.2023, the bank refused to honour it due to “stop payment” instructions, even though MNO Ltd. had sufficient balance in its account on that date.</b></p> <p><b>Mr. Rajesh filed a complaint for dishonour of cheque. With reference to the provisions of the Negotiable Instruments Act, 1881, answer:</b></p> <ol style="list-style-type: none"> <li><b>1. Who will be held liable for dishonour of cheque?</b></li> <li><b>2. Can MNO Ltd. escape liability by arguing that there was no insufficiency of funds in the account?</b></li> </ol>
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	<p><b>Ans.</b> Section 138 of the Negotiable Instruments Act, 1881, is a penal provision in the sense that once a cheque is drawn on an account maintained by the drawer with his banker for payment of any amount of money to another person out of that account for the discharge in whole or in part of any debt or liability, is returned/informed by the bank unpaid either because of insufficiency of funds to honour the cheques or the amount exceeding the arrangement made with the bank, such a person shall be deemed to have committed an offence.</p> <p>According to section 139 of the Act, when a cheque is dishonoured, it shall be presumed, unless the contrary prove, that a holder of a cheque received the cheque of the nature referred to in section 138 for the discharge, in whole or in part, of any debt or other liability.</p> <p>Section 140 states that it shall not be a defence in a prosecution for an offence under section 138 that the drawer had no reason to believe when he issued the cheque that the cheque may be dishonoured on presentation for the reasons stated in that section.</p> <p>As per the facts stated in the question, MNO Limited (drawer) after having issued the cheque to Mr. Mukesh.</p> <p>In view of the facts of the question and the provisions of law, MON Limited has committed an offence under section 138. Also, section 140 specifies absolute liability of the drawer of the cheque for commission of an offence under the section 138 of the Act. Accordingly, MNO Limited will be responsible for dishonor of cheque and payment of Rs. 10 lakh due to Mr. Mukesh.</p>
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Q.2	<p><b>Discuss with reasons, whether the following persons can be called as a 'holder' under the Negotiable Instruments Act, 1881:</b></p> <p>(a) X receives a promissory note drawn by his father by way of gift.</p> <p>(b) A received a cheque for full and final settlement of his dues from his client but, he is prohibited by a court order from receiving the amount of the cheque.</p> <p>(c) B, the agent of C, is entrusted with an instrument without endorsement by C, who is the payee</p> <p>(d) P works in a bank. He steals a blank cheque of A and forges A's signature.</p>
	<p>Ans. Person to be called as a holder: As per section 8 of the Negotiable Instruments Act, 1881 'holder' of a Negotiable Instrument means any person entitled in his own name to the possession of it and to receive or recover the amount due thereon from the parties thereto.</p> <p>On applying the above provision in the given cases:</p> <p>(a) Yes, X can be termed as a holder because he has a right to possession and to receive the amount due in his own name.</p> <p>(b) No, A is not a 'holder' because to be called as a 'holder' he must be entitled not only to the possession of the instrument but also to receive the amount mentioned therein.</p> <p>(c) No, B is not a holder. While the agent may receive payment of the amount mentioned in the cheque, yet he cannot be called the holder thereof because he has no right to sue on the instrument in his own name.</p> <p>(d) No, P is not a holder because he is in wrongful possession of the instrument.</p>
Q.3	<p>'Anjum' drew a cheque for '20,000 payable to 'Babloo' and delivered it to him. 'Babloo' endorsed the cheque in favour of 'Rehansh' but kept it in his table drawer. Subsequently, 'Babloo' died, and cheque was found by 'Rehansh' in 'Babloo's table drawer. 'Rehansh' filed the suit for the recovery of cheque. Whether 'Rehansh' can recover cheque under the provisions of the Negotiable Instrument Act 1881?</p>
	<p>Ans. According to section 48 of the Negotiable Instrument Act 1881, a promissory note, bill of exchange or cheque payable to order, is negotiable by the holder by indorsement and delivery thereof. The contract on a negotiable instrument until delivery remains incomplete and revocable. The 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</p>



	<p>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]</p> <p>In the given case, cheque was indorsed properly but not delivered to indorsee i.e. 'Rehansh', Therefore, 'Rehansh' is not eligible to claim the payment of cheque.</p>
Q.4	<p>Manoj owes money to Umesh. Therefore, he makes a promissory note for the amount in favour of Umesh, for safety of transmission he cuts the note in half and posts one half to Umesh. He then changes his mind and calls upon Umesh to return the half of the note which he had sent. Umesh requires Manoj to send the other half of the promissory note. Decide how rights of the parties are to be adjusted. Give your answer in reference to the Provisions of Negotiable Instruments Act, 1881.</p>
	<p><b>Ans.</b> The question arising in this problem is whether the making of promissory note is complete when one half of the note was delivered to Umesh. Under Section 46 of the Negotiable Instruments Act, 1881, the making of a promissory note is completed by delivery, actual or constructive. Delivery refers to the whole of the instrument and not merely a part of it. Delivery of half instrument cannot be treated as constructive delivery of the whole. So, the claim of Umesh to have the other half of the promissory note sent to him is not maintainable. Manoj is justified in demanding the return of the first half sent by him. He can change his mind and refuse to send the other half of the promissory note.</p>
Q.5	<p><b>Arjun sold 500 bags of wheat worth ₹2,00,000 to Bharat on a credit of four months. Bharat, in consideration, issued a promissory note in favour of Arjun payable after four months. On the date of maturity, the promissory note was dishonoured. Arjun filed a suit against Bharat for recovery of the principal amount, interest due, and the court fees and charges incurred for filing the suit.</b></p> <p><b>With reference to the provisions of the Negotiable Instruments Act, 1881, state what amount Arjun can recover from Bharat.</b></p>
	<p><b>Ans.</b> According to section 117 of the Negotiable Instruments Act, 1881, the compensation payable in case of dishonour of promissory note, bill of exchange or cheque, by any party liable to the holder or any endorsee, shall be determined by the following rules:</p> <p>(a) the holder is entitled to the amount due upon the instrument, together with the expenses properly incurred in presenting, noting</p>



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	<p>and protesting it;</p> <p>(b) when the person charged resides at a place different from that at which the instrument was payable, the holder is entitled to receive such sum at the current rate of exchange between the two places;</p> <p>(c) an endorser who, being liable, has paid the amount due on the same is entitled to the amount so paid with interest at 18% per annum from the date of payment until tender or realisation thereof, together with all expenses caused by the dishonour and payment;</p> <p>On the basis of the above provisions of law and facts of the case, Arjun has right to claim price of rice plus fees of advocate plus interest @18% p.a. from the date of payment until tender or realisation thereof.</p>
Q.6	<p><b>Mr. Ramesh drew a bill of exchange on Mr. Suresh for ₹1,00,000 payable 90 days after sight. The bill was presented to Mr. Suresh for acceptance after 50 days of its drawing. Mr. Suresh refused to accept the bill. Later, when the bill was presented for payment on maturity, Suresh denied his liability on the ground that the bill was not presented to him for acceptance within a reasonable time.</b></p> <p><b>With reference to the provisions of the Negotiable Instruments Act, 1881, decide whether Mr. Suresh is liable to make the payment.</b></p>
	<p><b>Answer:</b></p> <ol style="list-style-type: none"> <li><b>Relevant Provision:</b> <ul style="list-style-type: none"> <li>As per Section 61 of the Negotiable Instruments Act, 1881, a bill of exchange payable after sight must be presented to the drawee for acceptance.</li> <li>The maturity of such a bill is calculated from the date of acceptance, not from the date of drawing.</li> <li>If the bill is not presented for acceptance within a reasonable time, the drawer and endorsers may be discharged.</li> </ul> </li> <li><b>Application to the Case:</b> <ul style="list-style-type: none"> <li>The bill was drawn payable 90 days after sight.</li> <li>It was presented to Suresh for acceptance after 50 days of drawing.</li> <li>This delay in presenting the bill means the maturity date could not be properly fixed.</li> <li>Hence, the presentation was not within reasonable time.</li> </ul> </li> <li><b>Conclusion:</b></li> </ol>



	<ul style="list-style-type: none"> <li>Since the bill was not duly presented for acceptance within reasonable time, Mr. Suresh is not liable to make the payment.</li> <li>The liability of the drawee (Suresh) arises only after valid acceptance, which never happened here.</li> </ul> <p>👉 Therefore, Mr. Suresh is not bound to pay the bill.</p>												
Q.7	<p><b>Identify whether it is an Inland or Foreign Instrument.</b></p> <ol style="list-style-type: none"> <li><b>A bill is drawn in Delhi on a person residing in Mumbai, payable in Kolkata.</b></li> <li><b>A promissory note is made in Chennai, payable in London. The maker is a resident of India.</b></li> <li><b>A bill is drawn in London on a person living in Paris, payable in New York.</b></li> <li><b>A cheque is drawn in Pune on an Indian bank payable at its Delhi branch.</b></li> <li><b>A bill is drawn in India on a person residing in India, but it is payable in Singapore.</b></li> <li><b>A promissory note is drawn in India, payable in Japan, drawn upon a person residing in India.</b></li> </ol>												
Q.8	<p><b>What is the main difference between a Guarantee Company and a Company having Share Capital?</b></p> <table border="1"> <thead> <tr> <th>Basis</th> <th>Guarantee Company [Sec. 2(21)]</th> <th>Company Having Share Capital [Sec. 2(22)]</th> </tr> </thead> <tbody> <tr> <td><b>Definition</b></td><td>A company where members' liability is limited to the amount they agree to contribute in the event of winding up.</td><td>A company where members' liability is limited to the unpaid amount on their shares.</td></tr> <tr> <td><b>Initial Working Funds</b></td><td>Does not raise initial funds from members. Funds are usually raised through <b>endowments, fees, donations, or charges</b>.</td><td>Raises working funds from <b>issue of shares</b> (share capital contributed by members).</td></tr> <tr> <td><b>Liability of Members</b></td><td>Members are liable <b>only at the time of winding up</b>, subject to guarantee amount.</td><td>Members may be called upon to pay the unpaid amount on shares <b>during the company's lifetime or winding up</b>.</td></tr> </tbody> </table>	Basis	Guarantee Company [Sec. 2(21)]	Company Having Share Capital [Sec. 2(22)]	<b>Definition</b>	A company where members' liability is limited to the amount they agree to contribute in the event of winding up.	A company where members' liability is limited to the unpaid amount on their shares.	<b>Initial Working Funds</b>	Does not raise initial funds from members. Funds are usually raised through <b>endowments, fees, donations, or charges</b> .	Raises working funds from <b>issue of shares</b> (share capital contributed by members).	<b>Liability of Members</b>	Members are liable <b>only at the time of winding up</b> , subject to guarantee amount.	Members may be called upon to pay the unpaid amount on shares <b>during the company's lifetime or winding up</b> .
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Q.9	<p><b>Mr. A incorporated a One Person Company (OPC) and appointed his friend Mr. B as the nominee. After a few months, Mr. B got employment in the United States and shifted abroad. He now wishes to withdraw his consent of nomination.</b></p>												



	<p><b>On the basis of the provisions of the Companies Act, 2013, answer the following:</b></p> <p>(i) Is it compulsory for Mr. B to withdraw his nomination after shifting abroad?</p> <p>(ii) Can Mr. B continue as nominee in the said OPC if he comes back to India once every year but does not stay in India for more than 120 days in a financial year?</p>
Q.10	<p>PQR Private Limited was incorporated on 15th February, 2022 under the Companies Act, 2013. The company has not filed Form INC-20A (Declaration for Commencement of Business) and has also not commenced its business operations till 30th June, 2023. Subsequently, the Registrar of Companies (ROC) issued a notice to the company for non-compliance. With reference to the provisions of the Companies Act, 2013, identify under which category of company PQR Private Limited will be classified. Also, explain in detail the definition of this category of company.</p>
	<p>Ans. “Inactive company” means a company which has not been carrying on any business or operation, or has not made any significant accounting transaction during the last two financial years, or has not filed financial statements and annual returns during the last two financial years. [Explanation (i) to Section 455 of the Companies Act, 2013]</p> <p>“Significant accounting transaction” means any transaction other than:</p> <ul style="list-style-type: none"> <li>(a) payment of fees by a company to the Registrar;</li> <li>(b) payments made by it to fulfil the requirements of this Act or any other law;</li> <li>(c) allotment of shares to fulfil the requirements of this Act; and</li> <li>(d) payments for maintenance of its office and records.</li> </ul> <p>[Explanation (ii) to Section 455 of the Companies Act, 2013]</p>
Q.11	<p><b>The State Government of X, a state in the country is holding 48 lakh shares of Y Limited. The paid up capital of Y Limited is \$ 9.5 crore (95 lakh shares of \$ 10 each). Y Limited directly holds 2,50,600 shares of Z Private Limited which is having share capital of 7.5 crore in the form of 5 lakh shares of \$ 100 each. Z Private Limited claimed the status of a subsidiary company of \$ 100 each. Z Private Limited claimed the status of a subsidiary company of Y Limited as well as a Government company. Advise as a legal advisor, whether Z Private Limited is a subsidiary company of Y Limited as well as a Government company under the provisions of the Companies Act, 2013?</b></p>



	<p>Ans. According to 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:</p> <ul style="list-style-type: none"> <li>(a) the Central Government, or</li> <li>(b) by any State Government or Governments, or</li> <li>(c) 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.</li> </ul> <p>As per Section 2(87) of the Companies Act, 2013, "subsidiary company" in relation to any other company (that is to say the holding company), means a company in which the holding company</p> <ul style="list-style-type: none"> <li>(a) controls the composition of the Board of Directors;</li> <li>(b) or 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.</li> </ul> <p>In the instant case, the State Government of X, a state in the country is holding 48 Lakh shares in Y Limited which is below 51% of the paid up share capital of Y Limited i.e. 48.45 Lakh shares (51% of 95 Lakh shares). Hence Y Limited is not a Government Company.</p> <p>Further, Y Limited directly holds 2,50,600 shares in Z Private Limited, which is more than one-half of the total shares of Z Limited i.e. 2,50,000 shares (50% of 5 Lakh shares). Thus, the Company controls more than one-half of the total voting power of Z Limited. Hence Z Private Limited is a subsidiary of Y Limited.</p> <p>Therefore, we can conclude that Z Private Limited is a subsidiary of Y Limited but not a Government Company since Y Limited is not a Government Company.</p>
Q.12	<p><b>Parasnath Infra Height Limited is a public company having 215 members. Out of 215 members, 20 members were employee in the company during the period 1st June, 2021 to 30th June, 2023. They were allotted shares in Parasnath Infra Height Limited on 1st April, 2017 which are held by them till today i.e. 31st October, 2023. Now, company wants to convert itself into a private company. State with reasons, whether Parasnath Infra Height Limited is required to reduce the number of members under the provisions of Companies Act, 2013?</b></p>
	<p>Ans. According to Section 2(68) of Companies Act, 2013, "Private company" means a company having a minimum paid-up share capital as may be prescribed, and which by its articles, —</p> <ol style="list-style-type: none"> <li>1. restricts the right to transfer its shares;</li> <li>2. except in case of One Person Company, limits the number of its members to two hundred:</li> </ol>



	<p>Provided that where two or more persons hold one or more shares in a company jointly, they shall, for the purposes of this clause, be treated as a single member:</p> <p>Provided further that:</p> <p>(A) persons who are in the employment of the company; and</p> <p>(B) persons who, having been formerly in the employment of the company, were members of the company while in that employment and have continued to be members after the employment ceased, shall not be included in the number of members; and</p> <p>3. prohibits any invitation to the public to subscribe for any securities of the company;</p> <p>In the given problem, 20 members were employees of the company but they were not employee at the time of getting membership i.e. 1st April, 2017 and nor on existing date i.e. 31st October, 2023. Hence, they will be considered as members for the purpose of the limit of 200 members.</p> <p>Hence, taking into account the provisions of Section 2(68) of the Act, the company is required to reduce the number of members to 200 before converting it into a private company.</p>
Q.13	<p><b>Mr. Raj formed a company with a capital of `5,00,000. He sold his business to another company for `4,00,000. For the payment of sale, he accepted shares worth `3,00,000 (30,000 shares of `10 each).</b></p> <p><b>The balance 1,00,000 was considered as loan and Mr. Raj secured the amount by issue of debentures. His wife and three daughters took one share each. Owing to strike the company was wound up. The assets of the company were valued at `60,000. The debts due to unsecured creditors were `80,000.</b></p> <p><b>Mr. Raj retained the entire sum of `60,000 as part payment of loan. To this, the other creditors objected. Their contention was that a man could not own any money to himself, and the entire sum of `60,000 should be paid to them.</b></p> <p><b>Examine the rights of Mr. Raj and other creditors. Who will succeed?</b></p>
	<p><b>Ans. Separate Legal Entity:</b> Corporate Veil refers to a legal concept whereby the company is identified separately from the members of the company.</p> <p>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.</p>



	<p>Thus, the shareholders are protected from the acts of the company. The leading case law of Saloman Vs Saloman and Co. Limited, laid the foundation of concept of corporate veil or independent corporate personality. A company is a person distinct and separate from its members.</p> <p>Based on the above discussion and provisions, Mr. Raj was entitled to the assets of the company as he was a secured creditor of the company and the contention of the creditors that Mr. Raj and the company are one and same person is wrong.</p>
Q.14	<p><b>“The Memorandum of Association is a charter of a company”. Discuss. Also explain in brief the contents of Memorandum of Association.</b></p>
Q.15	<p><b>In the Flower Fans Private Limited, there are only 5 members. All of them go in a boat on a pleasure trip into an open sea. The boat capsizes and all of them died being drowned. Explain with reference to the provisions of Companies Act, 2013:</b></p> <p><b>(i) Is Flower Fans Private Limited no longer in existence?</b></p> <p><b>(ii) Further is it correct to say that a company being an artificial person cannot own property and cannot sue or be sued?</b></p>
	<p>Ans.</p> <p>1. 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.</p> <p>The existence of a company is independent of the lives of its members. It has a perpetual succession.</p> <p>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.</p> <p>2. 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.</p>
Q.16	<p>What do you mean by Designated Partner? Whether it is mandatory to appoint Designated partner in a LLP?</p>



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Ans. Designated Partner [Section 2(j) of the LLP Act, 2008]: “Designated partner” means any partner designated as such pursuant to section 7. According to section 7 of the LLP Act, 2008:

1. Every LLP shall have at least two designated partners who are individuals and at least one of them shall be a resident in India.
2. If in LLP, all the partners are bodies corporate or in which one or more partners are individuals and bodies corporate, at least two individuals who are partners of such LLP or nominees of such bodies corporate shall act as designated partners.
3. Resident in India: For the purposes of this section, the term “resident in India” means a person who has stayed in India for a period of not less than 182 days during the immediately preceding one year.

**Q.17 Explain the incorporation by registration of a Limited Liability Partnership and its essential elements under the LLP Act, 2008.**

Ans. Incorporation by registration (Section 12 of LLP Act, 2008):

1. When the requirements imposed by clauses (b) and (c) of sub-section (1) of section 11 have been complied with, the Registrar shall retain the incorporation document and, unless the requirement imposed by clause (a) of that sub-section has not been complied with, he shall, within a period of 14 days-
  - (a) register the incorporation document; and
  - (b) give a certificate that the LLP is incorporated by the name specified therein.
2. The Registrar may accept the statement delivered under clause (c) of sub-section (1) of section 11 as sufficient evidence that the requirement imposed by clause (a) of that sub-section has been complied with.
3. The certificate issued under clause (b) of sub-section (1) shall be signed by the Registrar and authenticated by his official seal.
4. The certificate shall be conclusive evidence that the LLP is incorporated by the name specified therein.

**Essential elements to incorporate Limited Liability Partnership (LLP)**

Under the LLP Act, 2008, the following elements are very essential to form a LLP in India:

- (a) To complete and submit incorporation document in the form prescribed with the Registrar electronically;
- (b) To have at least two partners for incorporation of LLP [Individual or body corporate];



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	<p>(c) To have registered office in India to which all communications will be made and received;</p> <p>(d) To appoint minimum two individuals as designated partners who will be responsible for number of duties including doing of all acts, matters and things as are required to be done by the LLP. At least one of them should be resident in India.</p> <p>(e) A person or nominee of body corporate intending to be appointed as designated partner of LLP should hold a Designated Partner Identification Number (DPIN) allotted by Ministry of Corporate Affairs.</p> <p>(f) To execute a partnership agreement between the partners, inter se or between the LLP and its partners. In the absence of any agreement the provisions as set out in First Schedule of LLP Act, 2008 will be applied.</p> <p>(g) LLP Name.</p>
Q.18	<p><b>Enumerate the circumstances in which Limited Liability Partnership (LLP) may be wound up by Tribunal under the LLP Act, 2008.</b></p> <p>Ans. Circumstances in which LLP may be wound up by Tribunal (Section 64 of the LLP Act, 2008):</p> <p>A LLP may be wound up by the Tribunal:</p> <p>(a) if the LLP decides that LLP be wound up by the Tribunal;</p> <p>(b) if, for a period of more than six months, the number of partners of the LLP is reduced below two;</p> <p>(c) if the LLP is unable to pay its debts;</p> <p>(d) if the LLP has acted against the interests of the sovereignty and integrity of India, the security of the State or public order; (e) if the LLP has made a default in filing with the Registrar the Statement of Account and Solvency or annual return for any five consecutive financial years; or</p> <p>(f) if the Tribunal is of the opinion that it is just and equitable that the LLP be wound up.</p>
Q.19	<b>What is Small Limited Liability Partnership as per Limited Liability Partnership (Amendment) Act, 2021?</b>
Q.20	<b>“Indian Partnership Act does not make the registration of firms compulsory nor does it impose any penalty for non-registration”. In light of the given statement, discuss the consequences of non-registration of the partnership firms In India?</b>
Q.21	<b>MN partnership firm has two different lines of manufacturing business. One line of business is the manufacturing of Ajinomoto, a popular seasoning &amp; taste enhancer for food.</b>



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	<p><b>Another line of business is the manufacture of paper plates &amp; cups. One fine day, a law is passed by the Government banning 'Ajinomoto' use in food and to stop its manufacturing making it an unlawful business because it is injurious to health. Should the firm compulsorily dissolve under the Indian Partnership Act, 1932? How will its other line of business (paper plates &amp; cups) be affected?</b></p> <p>Ans. According to Section 41 of the Indian Partnership Act, 1932, a firm is compulsorily dissolved;</p> <p>(a) by the adjudication of all the partners or of all the partners but one as insolvent, or</p> <p>(b) by the happening of any event which makes it unlawful for the business of the firm to be carried on or for the partners to carry it on in partnership.</p> <p>However, where more than one separate adventure or undertaking is carried on by the firm, the illegality of one or more shall not of itself cause the dissolution of the firm in respect of its lawful adventures and undertakings.</p> <p>Here, MN has to compulsorily dissolve due to happening of law which bans the usage of ajinomoto.</p> <p>Else the business of the firm shall be treated as unlawful.</p> <p>However, the illegality of ajinomoto business will in no way affect the legality or dissolution of the other line of business (paper plates &amp; cups). MN can continue with paper plates and cup manufacture.</p>
Q.22	<p><b>State the rules that should be observed by the partners in settling the accounts of the firm after dissolution under the Indian Partnership Act, 1932?</b></p> <p>Mode of Settlement of partnership accounts: As per Section 48 of the Indian Partnership Act, 1932, in settling the accounts of a firm after dissolution, the following rules shall, subject to agreement by the partners, be observed:</p> <ol style="list-style-type: none"> <li>1. Losses, including deficiencies of capital, shall be paid first out of profits, next out of capital, and, lastly, if necessary, by the partners individually in the proportions in which they were entitled to share profits;</li> <li>2. The assets of the firm, including any sums contributed by the partners to make up deficiencies of capital, must be applied in the following manner and order: <ol style="list-style-type: none"> <li>(a) in paying the debts of the firm to third parties;</li> <li>(b) in paying to each partner rateably what is due to him from capital;</li> </ol> </li> </ol>



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	<p>(c) in paying to each partner rateably what is due to him on account of capital; and</p> <p>(d) the residue, if any, shall be divided among the partners in the proportions in which they were entitled to share profits.</p>
	<p><b>A, B and C are partners in a firm sharing profits and losses in the ratio of 3 : 2 : 1. The firm was dissolved on 31st March, 2024, and the following information was available:</b></p> <p><b>Loss -60000</b></p> <p><b>Profit- 30000</b></p> <ul style="list-style-type: none"> <li>• <b>Assets Realised: ₹1,20,000</b></li> <li>• <b>Outside Liabilities (Creditors): ₹20,000</b></li> <li>• <b>Loan by Partner A to the firm: ₹10,000</b></li> <li>• <b>Capital Accounts:</b> <ul style="list-style-type: none"> <li>◦ A = ₹50,000</li> <li>◦ B = ₹40,000</li> <li>◦ C = ₹30,000</li> </ul> </li> </ul> <p><b>You are required to distribute the amount realised among the creditors and partners according to Section 48 of the Indian Partnership Act, 1932.</b></p>
Q.23	<p><b>A and B were partners in a firm sharing profits equally. The firm was dissolved on 1st January, 2023, but no public notice of dissolution was issued. Subsequently, A, acting in the firm's name, purchased machinery from M, who was unaware of the dissolution. Later, A became insolvent. M filed a suit against B for recovery of the amount.</b></p> <p><b>With reference to the provisions of the Indian Partnership Act, 1932, state whether B is liable to M. Give reasons.</b></p> <p><b>Answer:</b></p> <p><b>Relevant Provision:</b></p> <ul style="list-style-type: none"> <li>• Section 45 of the Indian Partnership Act, 1932 deals with the liability of partners for acts of the firm after dissolution.</li> <li>• After dissolution, the firm continues to exist for the purpose of winding up.</li> <li>• Partners are liable for acts of the firm done after dissolution if such acts are necessary for winding up or if third parties are ignorant of the dissolution.</li> </ul> <p><b>Application to the Case:</b></p> <ol style="list-style-type: none"> <li>1. The firm was dissolved on 1st January, 2023, but no public notice of dissolution was given.</li> <li>2. A purchased machinery from M in the firm's name.</li> </ol>



3. M was ignorant of the dissolution, meaning he had no knowledge that the firm had ceased to exist.

As per Section 45:

- Any person dealing with the firm in good faith before the dissolution is known to the public can hold the partners liable.
- Therefore, B is jointly liable with A to M for the amount due for machinery purchased.
- The liability arises because the third party (M) was unaware of the dissolution, and the act was done in the firm's name.

Conclusion:

Yes, B is liable to M for the purchase made by A in the name of the firm because the dissolution was not publicly known, and M acted in good faith.

**Q.24** X, Y and Z are partners in a Partnership Firm. They were carrying their business successfully for the past several years. Due to expansion of business, they planned to hire another partner Mr A. Now the firm has 4 partners X, Y, Z and A. The business was continuing at normal pace. In one of formal business meeting, it was observed that Mr. Y misbehaved with Mrs. A (wife of Mr. A). Mr. Y was badly drunk and also spoke rudely with Mrs. A. Mrs. A felt very embarrassed and told her husband Mr. A about the entire incident. Mr. A got angry on the incident and started arguing and fighting with Mr. Y in the meeting place itself. Next day, in the office Mr. A convinced X and Z that they should expel Y from their partnership firm. Y was expelled from partnership without any notice from X, A and Z. Considering the provisions of the Indian Partnership Act, 1932, state whether they can expel a partner from the firm. What are the criteria for test of good faith in such circumstances?

**Q.25** Define Implied Authority. In the absence of any usage or custom of trade to the contrary, the implied authority of a partner does not empower him to do certain acts. State the acts which are beyond the implied authority of a partner under the provisions of the Indian Partnership Act, 1932?

**Ans.** According to Section 19 of the Indian Partnership Act, 1932, subject to the provisions of Section 22, the act of a partner which is done to carry on, in the usual way, business of the kind carried on by the firm, binds the firm.

The authority of a partner to bind the firm conferred by this section is called his "implied authority" In the absence of any



	<p>usage or custom of trade to the contrary, the implied authority of a partner does not empower him to-</p> <ul style="list-style-type: none"> <li>(a) submit a dispute relating to the business of the firm to arbitration;</li> <li>(b) open a banking account on behalf of the firm in his own name;</li> <li>(c) compromise or relinquish any claim or portion of a claim by the firm;</li> <li>(d) withdraw a suit or proceedings filed on behalf of the firm;</li> <li>(e) admit any liability in a suit or proceedings against the firm;</li> <li>(f) acquire immovable property on behalf of the firm;</li> <li>(g) transfer immovable property belonging to the firm; and</li> <li>(h) enter into partnership on behalf of the firm.</li> </ul>
Q.26	<p>M, N and P were partners in a firm. The firm ordered JR Limited to supply the furniture. P dies, and M and N continues the business in the firm's name. The firm did not give any notice about P's death to the public or the persons dealing with the firm. The furniture was delivered to the firm after P's death, fact about his death was known to them at the time of delivery. Afterwards the firm became insolvent and failed to pay the price of furniture to JR Limited.</p> <p><b>Explain with reasons:</b></p> <ul style="list-style-type: none"> <li>(i) Whether P's private estate is liable for the price of furniture purchased by the firm?</li> <li>(ii) Whether does it make any difference if JR Limited supplied the furniture to the firm believing that all the three partners are alive?</li> </ul> <p><b>Ans.</b> According to Section 35 of the Indian Partnership Act, 1932, where under a contract between the partners the firm is not dissolved by the death of a partner, the estate of a deceased partner is not liable for any act of the firm done after his death.</p> <p>Further, in order that the estate of the deceased partner may be absolved from liability for the future obligations of the firm, it is not necessary to give any notice either to the public or the persons having dealings with the firm.</p> <p>In the given question, JR Limited has supplied furniture to the partnership firm, after P's death. The firm did not give notice about P's death to public or people dealing with the firm. Afterwards, the firm became insolvent and could not pay JR Limited.</p> <p><b>In the light of the facts of the case and provisions of law:</b></p>



	<p>(i) Since the delivery of furniture was made after P's death, his estate would not be liable for the debt of the firm. A suit for goods sold and delivered would not lie against the representatives of the deceased partner. This is because there was no debt due in respect of the goods in P's lifetime.</p> <p>(ii) It will not make any difference even if JR Limited supplied furniture to the firm believing that all the three partners are alive, as it is not necessary to give any notice either to the public or the persons having dealings with the firm, so the estate of the deceased partner may be absolved from liability for the future obligations of the firm.</p>
Q.27	<p>Mr. Naresh is one of the four partners in M/s XY Enterprises. He owes a sum of Rs. 6 crore to his friend Mr. Akash which he is unable to pay on due time. So, he wants to sell his share in the firm to Mr. Akash for settling the amount.</p> <p>In the light of the provisions of the Indian Partnership Act, 1932, discuss each of the following:</p> <p>(i) Can Mr. Naresh validly transfer his interest in the firm by way of sale?</p> <p>(ii) What would be the rights of the transferee (Mr. Akash) in case Mr. Naresh wants to retire from the firm after a period of 6 months from the date of transfer?</p> <p><b>Ans. According to Section 29 of the Indian Partnership Act, 1932,</b></p> <ol style="list-style-type: none"> <li>1. A transfer by a partner of his interest in the firm, either absolute or by mortgage, or by the creation by him of a charge on such interest, does not entitle the transferee, during the continuance of the firm, to interfere in the conduct of business, or to require accounts, or to inspect the books of the firm, but entitles the transferee only to receive the share of profits of the transferring partner, and the transferee shall accept the account of profits agreed to by the partners.</li> <li>2. If the firm is dissolved or if the transferring partner ceases to be a partner, the transferee is entitled as against the remaining partners to receive the share of the assets of the firm to which the transferring partner is entitled, and, for the purpose of ascertaining that share, to an account as from the date of the dissolution.</li> </ol> <p><b>In the light of facts of the question and provision of law:</b></p> <p>(i) Yes, Mr. Naresh can validly transfer his interest in the firm by way of sale.</p>



	<p>(ii) On the retirement of the transferring partner (Mr. Naresh), the transferee (Mr. Akash) will be entitled, against the remaining partners:</p> <p>A. to receive the share of the assets of the firm to which the transferring partner was entitled, and</p> <p>B. for the purpose of ascertaining the share, he is entitled to an account as from the date of the dissolution.</p> <p>So, in this case on Mr. Naresh's retirement, Mr. Akash would be entitled to receive the value of Mr. Naresh's share to the extent of `6 crore in the firm's assets.</p>
Q.28	<p>A, B &amp; C are partners of a partnership firm carrying on the business of construction of apartments. B who himself was a wholesale dealer of iron bars was entrusted With the work of selection of iron bars after examining its quality. As a wholesaler, B is well aware of the market conditions. Current market price of iron bar for construction is INR 350 per Kilogram. B already had 1000 kg of iron bars in stock which he had purchased before price hike in the market for INR 200 per Kg. He supplied iron bars to the firm without the firm realising the purchase cost. Is B liable to pay the firm the extra money he made, or he doesn't have to inform the firm as it is his own business and he has not taken any amount more than the current prevailing market price of INR 350? Assume there is no contract between the partners regarding the above.</p> <p><b>Ans.</b> According to section 16 of the Indian Partnership Act, 1932, subject to contract between partners:</p> <p>A. if a partner derives any profit for himself from any transaction of the firm, or from the use of the property or business connection of the firm or the firm name, he shall account for that profit and pay it to the firm;</p> <p>B. if a partner carries on any business of the same nature as and competing with that of the firm, he shall account for and pay to the firm all profits made by him in that business.</p> <p>In the given scenario, B had sold iron bar to the firm at the current prevailing market rate of 350 per Kg though he had stock with him which he bought for INR 200 per Kg. Hence, he made an extra profit of INR 150 per Kg. This arises purely out of transactions with the firm. Hence, Bis accountable to the firm for the extra profit earned thereby.</p>
Q.29	<p>Ravi and Karan are partners in the firm R&amp;K Enterprises. Later, they admitted Neha as a partner, and she actively participates in the daily business operations of the firm. In the firm, it has</p>



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	<p>been the usual practice that all active partners receive a monthly remuneration of ₹25,000, though there is no express agreement in writing. After Neha's admission, Ravi and Karan continued receiving their monthly remuneration, but Neha was not given any salary.</p> <p>With reference to the provisions of the Indian Partnership Act, 1932, state whether Neha can claim remuneration from the firm.</p>
Q.30	<p>A, B and C are partners in a firm. As per terms of the partnership deed, A is entitled to 20 percent of the partnership property and profits. A retires from the firm and dies after 15 days. B and C continue business of the firm without settling accounts. Explain the rights of A's legal representatives against the firm under the Indian Partnership Act, 1932?</p> <p><b>Ans.</b> Section 37 of the Indian Partnership Act, 1932 provides that where a partner dies or otherwise ceases to be a partner and there is no final settlement of account between the legal representatives of the deceased partner or the firm with the property of the firm, then, in the absence of a contract to the contrary, the legal representatives of the deceased partner or the retired partner are entitled to claim either.</p> <ol style="list-style-type: none"> <li>1. Such shares of the profits earned after the death or retirement of the partner which is attributable to the use of his share in the property of the firm; or</li> <li>2. Interest at the rate of 6% annum on the amount of his share in the property.</li> </ol> <p>Based on the aforesaid provisions of Section 37 of the Indian Partnership Act, 1932, in the given problem, A's Legal representatives shall be entitled, at their option to:</p> <p>(a) the 20% shares of profits (as per the partnership deed); or  (b) interest at the rate of 6 per cent per annum on the amount of A's share in the property.</p>
Q.31	What do you mean by "Particular Partnership" under the Indian Partnership Act, 1932?
Q.32	"Business carried on by all or any of them acting for all". Discuss the statement under the Indian Partnership Act, 1932.
Q.33	<p>Sate giving reasons whether the following are partnerships as per the provisions under the Indian Partnership Act, 1932.</p> <ol style="list-style-type: none"> <li>1. X, Y, and Z agree to divide the profits equally, but the loss, if any, is to be borne by X alone. Is it case of partnership?</li> </ol>



	<p><b>2. X, a publisher, agrees to publish a book at his own expense written by Y and to pay Y, half of the net profit. Does this create a relationship of partnership between X and Y? Is liable to a paper dealer for paper supplied to X to print Y's book?</b></p> <p><b>3. A and B purchase a tea shop and incur additional expenses for purchasing utensils etc. each contributing half of the total expense. The shop is leased out on daily rent which is divided between both. Does this arrangement constitute a partnership between A and B?</b></p>
Q.34	<b>What do you mean by 'Partnership for a fixed period' as per the Indian Partnership Act, 1932?</b>
Q.35	<b>What are the rights of unpaid seller in context to re-sale of the goods under Sale of Goods Act, 1930?</b>

**Ans. Right of re-sale [Section 54 of the Sale of Goods Act, 1930]:**

The unpaid seller can exercise the right to re-sell the goods under the following conditions:

**1. Where the goods are of a perishable nature:** In such a case, the buyer need not be informed of the intention of resale.

**2. Where he gives notice to the buyer of his intention to re-sell the goods:** If after the receipt of such notice, the buyer fails within a reasonable time to pay or tender the price, the seller may resell the goods. It may be noted that in such cases, on the resale of the goods, the seller is also entitled to:

(a) Recover the difference between the contract price and resale price, from the original buyer, as damages.

(b) Retain the profit if the resale price is higher than the contract price. It may also be noted that the seller can recover damages and retain the profits only when the goods are resold after giving the notice of resale to the buyer. Thus, if the goods are resold by the seller without giving any notice to the buyer, the seller cannot recover the loss suffered on resale. Moreover, if there is any profit on resale, he must return it to the original buyer, i.e. he cannot keep such surplus with him [Section 54(2)].

**3. Where an unpaid seller who has exercised his right of lien or stoppage in transit resells the goods:** The subsequent buyer acquires the good title thereof as against the original buyer, despite the fact that the notice of re-sale has not been given by the seller to the original buyer.

**4. A re-sale by the seller where a right of re-sale is expressly reserved in a contract of sale:** Sometimes, it is expressly agreed between the seller and the buyer that in case the buyer makes default in payment of the price, the seller will resell the goods to some other person. In such cases, the



	<p>seller is said to have reserved his right of resale, and he may resell the goods on buyer's default.</p> <p>It may be noted that in such cases, the seller is not required to give notice of resale. He is entitled to recover damages from the original buyer even if no notice of resale is given.</p> <p><b>5. Where the property in goods has not passed to the buyer:</b> The unpaid seller has in addition to his remedies a right of withholding delivery of the goods. This right is similar to lien and is called "quasi-lien".</p>
Q.36	<p>When can an unpaid seller of goods exercise his right of lien over the goods under the Sale of Goods Act, 1930? Can he exercise his right of lien even if the property in goods has passed to the buyer?</p> <p>When such a right is terminated? Can he exercise his right even after he has obtained a decree for the price of goods from the court?</p> <p><b>Ans.</b> A lien is a right to retain possession of goods until the payment of the price. It is available to the unpaid seller of the goods who is in possession of them where:</p> <ol style="list-style-type: none"> <li>1. the goods have been sold without any stipulation as to credit;</li> <li>2. the goods have been sold on credit, but the term of credit has expired;</li> <li>3. the buyer becomes insolvent.</li> </ol> <p>The unpaid seller can exercise his right of lien even if the property in goods has passed on to the buyer. He can exercise his right even if he is in possession of the goods as agent or bailee for the buyer.</p> <p><b>Termination of lien:</b> An unpaid seller loses his right of lien thereon- When he delivers the goods to a carrier or other bailee for the purpose of transmission to the buyer without reserving the right of disposal of the goods;</p> <p>When the buyer or his agent lawfully obtains possession of the goods; Yes, he can exercise his right of lien even after he has obtained a decree for the price of goods from the court.</p>
Q.37	<p>X, a furniture dealer, delivered furniture to Y under an agreement of sale, whereby Y had to pay the price of the furniture in three instalments. As per the terms of the agreement, the furniture will become the property of Y on payment of the last instalment. Before Y had paid the last instalment, he sold the furniture to Z, who purchased it in good faith. X brought a suit against Z for the recovery of the furniture on the ground that Z had no title to it. Decide the case on the basis of the provisions as per the Sale of Goods Act, 1930.</p> <p><b>Ans.</b> As per section 30(2) of the Sale of Goods Act, 1930, where a buyer with the consent of the seller obtains possession of the goods before the</p>



property in them has passed to him, he may sell, pledge or otherwise dispose of the goods to a third person, and if such person obtains delivery of the goods in good faith and without notice of the lien or other right of the original seller in respect of the goods, he would get a good title to them. In the instant case, furniture was delivered to Y under an agreement that price was to be paid in three instalments; the furniture to become property of Y on payment of third instalment. Y sold the furniture to Z before the third instalment was paid. Here, Z acquired a good title to the furniture, since he purchased the furniture in good faith. Hence, X will not succeed in his suit for the recovery of the furniture as Z acquired a good title of the furniture.

**Q.38** Akansh purchased a Television set from Arvind, the owner of Gada Electronics on the condition that first three days he check its quality and if satisfied he will pay for that otherwise he will return the Television set. On the second day, the Television set was spoiled due to an earthquake. Arvind demands the price of a Television set from Akansh. Whether Akansh is liable to pay the price under the Sale of Goods Act, 1930? Who will ultimately bear the loss?

**Ans.** According to Section 24 of the Sale of Goods Act, 1930, “When the goods are delivered to the buyer on approval or on sale or return or other similar terms the property passes to the buyer:

1. when he signifies his approval or acceptance to the seller,
2. when he does any other act adopting the transaction, and
3. if he does not signify his approval or acceptance to the seller but retains goods beyond a reasonable time”

Further, as per Section 8, 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.

According to the above provisions and fact, the property is not passed to Akansh i.e. buyer as no condition of Section 24 is satisfied. Hence, risk has not passed to buyer and the agreement is thereby avoided. Akansh is not liable to pay the price. The loss finally should be borne by Seller, Mr. Arvind.

**Q.39** X agreed to purchase 300 tons of wheat from Y out of a larger stock. X sent his men with the sacks and 150 tons of wheat were put into the sacks. Then there was a sudden fire and the entire stock was gutted. Who will bear the loss and why?

**Ans.** According to Section 21 of the Sales of Goods Act, 1930, if the goods are not in a deliverable state and the contract is for the sale of specific



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	<p>goods, the property does not pass to the buyer unless:</p> <ol style="list-style-type: none"> <li>1. The seller has done his act of putting the goods in a deliverable state and</li> <li>2. The buyer has knowledge of it.</li> </ol> <p>Sometimes the seller is required to do certain acts so as to put the goods in deliverable state like packing, filling in containers etc. No property in goods passes unless such act is done and buyer knows about it.</p> <p>In the given case, X has agreed to purchase 300 tons of wheat from Y out of a larger stock. X sent his men (agent) to put the wheat in the sacks. Out of 300 tones only 150 tons were put into the sacks. There was a sudden fire and the entire stock was gutted. In this case, according to the provisions of law, for 150 tons of wheat, sale has taken place. So, buyer X will be responsible to bear the loss. The loss of rest of the wheat will be that of the seller Y.</p> <p>The wheat which was put in the sacks fulfils both the conditions that are:</p> <ol style="list-style-type: none"> <li>1. The wheat is put in a deliverable state in the sacks</li> <li>2. The buyer is presumed to have knowledge of it because the men who put the wheat in the sacks are that of the buyer.</li> </ol>
Q.40	<p>Mrs. G bought a tweed coat from P. When she used the coat, she got rashes on her skin as her skin was abnormally sensitive. But she did not make this fact known to the seller i.e. P. Mrs. G filled a case against the seller to recover damages. Can she recover damages under the Sale of Goods Act, 1930?</p> <p><b>Ans.</b> According to Section 16(1) of Sales of Goods Act, 1930, normally in a contract of sale there is no implied condition or warranty as to quality or fitness for any particular purpose of goods supplied. The general rule is that of "Caveat Emptor" that is "let the buyer beware". But where the buyer expressly or impliedly makes known to the seller the particular purpose for which the goods are required and also relies on the seller's skill and judgement and that this is the business of the seller to sell such goods in the ordinary course of his business, the buyer can make the seller responsible.</p> <p>In the given case, Mrs. G purchased the tweed coat without informing the seller i.e. P about the sensitive nature of her skin. Therefore, she cannot make the seller responsible on the ground that the tweed coat was not suitable for her skin. Mrs. G cannot treat it as a breach of implied condition as to fitness and quality and has no right to recover damages from the seller.</p>
Q.41	<p>Ram Bilas Yadav is a farmer. Anna Chips Company approached him and entered in a contract to supply 100 quintals of potatoes which to be grown in the fields belonging to Ram Bilas Yadav @ `1000/- per quintal. Anna Chips Company made the payment of price but delivery to be made after</p>



six months.

Before the time of delivery, the whole crop of potatoes was destroyed due to flood. Anna Chips Company demanded the payment of price which is already made by it. Ram Bilas Yadav denied returning the price by saying that contract of sale was already entered and hence crop belongs to Anna Chips Company. Hence loss of crop must be borne by it. Referring to the provisions of the Sale of Goods Act, 1930, whether Anna Chips Company recover amount from Ram Bilas Yadav?

**Ans.** As per Section 4(3) of the Sale of Goods Act, 1930, where under a contract of sale, the property in the goods is transferred from the seller to the buyer, the contract is called a sale, but where the transfer of the property in the goods is to take place at a future time or subject to some condition thereafter to be fulfilled, the contract is called an agreement to sell and as per Section 4(4), an agreement to sell becomes a sale when the time elapses or the conditions are fulfilled subject to which the property in the goods is to be transferred.

Further Section 2(6) defines “future goods” means goods to be manufactured or produced or acquired by the seller after making of the contract of sale.

In the instant case, on the basis of above provisions and facts, it can be said that there was an agreement to sell between Ram Bilas Yadav and Anna Chips Company because the goods under agreement was future goods. Even the payment was made by Anna Chips Company, the property in goods can be transferred only after the goods is ascertained. As the goods was not ascertained, property is not passed to buyer. Hence, Ram Bilas Yadav must return the price to Anna Chips Company.

Q.42

Mr. Arun contracted to sell his swift car to Mr. Nikhil. Both missed to discuss the price of the said swift car. Later, Mr. Arun refused to sell his swift car to Mr. Nikhil on the ground that the agreement was void, being uncertain about the price. Does Mr. Nikhil have any right against Mr. Arun under the Sale of Goods Act, 1930?

**Ans.** As per the provisions of Section 2(10) of the Sale of Goods Act, 1930, price is the consideration for sale of goods and therefore is a requirement to make a contract of sale. Section 2(10) is to be read with Section 9 of the Sale of Goods Act, 1930.

According to Section 9 of the Sale of Goods Act, 1930, the price in a contract of sale may be fixed by the contract or may be left to be fixed in a manner thereby agreed or may be determined by the course of dealing between the parties.

Even though both the parties missed discussing the price of the car while making the contract, it will be a valid contract, rather than being uncertain



	<p>and void; the buyer shall pay a reasonable price in this situation. In the given case, Mr. Arun and Mr. Nikhil have entered into a contract for the sale of a swift car, but they did not fix the price of the same. Mr. Arun refused to sell the car to Mr. Nikhil on this ground. Mr. Nikhil can legally demand the car from Mr. Arun and Mr. Arun can recover a reasonable price for the car from Mr. Nikhil.</p>
Q.43	<p><b>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.</b></p> <p><b>Ans. Goods perishing before making of Contract (Section 7 of the Sale of Goods Act, 1930):</b></p> <p>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.</p> <p><b>Goods perishing before sale but after agreement to sell (Section 8 of the Sale of Goods Act, 1930):</b></p> <p>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.</p>
Q.44	<p>Rachit arranges an auction to sale an antic wall clock. Megha, being one of the bidders, gives highest bid. For announcing the completion of sale, the auctioneer fall the hammer on table but suddenly hammer brakes and damages the watch. Megha wants to avoid the contract. Can she do so under the provisions of the Sale of Goods Act, 1930?</p> <p><b>Ans.</b> 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, Megha gives the highest bid in the auction for the sale of antic wall clock arranged by Rachit. While announcing the completion of sale by fall of hammer on the table, hammer brakes and damages the clock. On the basis of above provisions, it can be concluded that the sale by auction cannot be completed until hammer comes in its normal position after falling on table. Hence, in the given problem, sale is not completed. Megha will not be liable for loss and can avoid the contract.</p>
Q.45	<p>Can an unpaid seller who has possession of goods exercise the Right of lien? If yes, mention such circumstances. When does he lose his right of</p>



line as per the provisions of the Sale of Goods Act, 1930?

**Ans.** Seller's lien (Section 47 of the Sale of Goods Act, 1930): According to sub-section (1), the unpaid seller of goods who is in possession of them is entitled to retain possession of them until payment or tender of the price in the following cases, namely:-

- (a) where the goods have been sold without any stipulation as to credit;
- (b) where the goods have been sold on credit, but the term of credit has expired;
- (c) where the buyer becomes insolvent.

According to sub-section (2), the seller may exercise his right of lien notwithstanding that he is in possession of the goods as agent or bailee for the buyer.

As per the provisions of Section 48, where an unpaid seller has made part delivery of the goods, he may exercise his right of lien on the remainder, unless such part delivery has been made under such circumstances as to show an agreement to waive the lien.

Termination of lien (Section 49): According to sub-section (1), the unpaid seller of goods loses his lien thereon-

- (a) when he delivers the goods to a carrier or other bailee for the purpose of transmission to the buyer without reserving the right of disposal of the goods;
- (b) when the buyer or his agent lawfully obtains possession of the goods;
- (c) by waiver thereof.

The unpaid seller of goods, having a lien thereon, does not lose his lien by reason only that he has obtained a decree for the price of the goods. [Sub-section (2)]

Q.46

Against B's tender, R agrees to sell and deliver 1,000 kg tomatoes @ 7100 per kg which shall be delivered on 15th July, 2023. Due to the rise of the prices of tomatoes in the market, R delivered only 700 kg of tomatoes on 15th July, 2023 and agrees to deliver the balance quantity in the next month. B accepted 700 kg of tomatoes sent by R. Later, R failed to deliver the balance quantity and so B refused to pay the price of 700 kg of tomatoes to R as he had failed to fulfill the tender conditions stipulated in the contract of sale.

Can B refuse to pay R as per the provisions of the Sale of Goods Act, 1930?

**Ans.** According to Section 37(1) of the Sale of Goods Act, 1930, where the seller delivers to the buyer a quantity of goods less than he contracted to sell, the buyer may reject them, but if he accepts the goods so delivered, he shall pay for them at the contract rate.

In the instant case, R delivered 700 kg of tomatoes on 15th July, 2023 and agrees to deliver 300 kg in the next month. Later R failed to deliver the



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balance quantity and B (buyer) refused to pay the price of 700 kg of tomatoes.

Considering the above provisions, we can conclude that B cannot refuse to pay for 700 kg of tomatoes to R.

**Important Note:** The answer can also be given as per Section 34 of the Sale of Goods Act, 1930, which provides that a delivery of part of goods, in progress of the delivery of the whole has the same effect, for the purpose of passing the property in such goods, as a delivery of the whole.

In the instant case, R delivered 700 kg of tomatoes on 15th July, 2023 and agrees to deliver 300 kg in the next month. Later R failed to deliver the balance quantity and B (buyer) refused to pay the price of 700 kg of tomatoes.

Considering the above provisions, we can conclude that B cannot refuse to pay for 700 kg of tomatoes to R.

**Q.47** Discuss the essential elements regarding the sale of unascertained goods and its appropriation as per the Sale of Goods Act, 1930.

**Ans. Sale of unascertained goods and Appropriation [Section 23(1) of the Sale of Goods Act, 1930]**

Where there is a contract for the sale of unascertained goods by description and goods of that description are in a deliverable state are unconditionally appropriated to the contract, either by the seller with the assent of the buyer or by the buyer with the assent of the seller, the property in the goods thereupon passes to the buyer.

Whereas, 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 elements 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 (as distinguished from an intention to appropriate) appropriated to the contract either by delivery to the buyer or his agent or the carrier.
- (e) The appropriation must be made by:
  1. the seller with the assent of the buyer; or
  2. 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.

**Q.48** Mr. T was a retailer trader of fans of various kinds. Mr. M came to his shop and asked for an exhaust fan for kitchen. Mr. T showed him different brands and Mr. M approved of a particular brand and paid for it. Fan was



delivered at Mr. M's house; at the time of opening the packet he found that it was a table fan. He informed Mr. T about the delivery of the wrong fan. Mr. T refused to exchange the same, saying that the contract was complete after the delivery of the fan and payment of price.

A. Discuss whether Mr. T is right in refusing to exchange as per provisions of the Sale of Goods Act, 1930?

B. What is the remedy available to Mr. M?

**Ans.** According to Section 15 of the Sale of Goods Act, 1930, where the goods are sold by sample as well as by description, the implied condition is that the goods supplied shall correspond to both with the sample and the description. In case, the goods do not correspond with the sample or with description or vice versa or both, the buyer can repudiate the contract.

Further, as per Section 16(1) of the Sales of Goods Act, 1930, when the buyer makes known to the seller the particular purpose for which the goods are required and he relies on the judgment or skill of the seller, it is the duty of the seller to supply such goods as are reasonably fit for that purpose.

A. In the given case, Mr. M had revealed Mr. T that he wanted the exhaust fan for the kitchen. Since the table fan delivered by Mr. T was unfit for the purpose for which Mr. M wanted the fan, therefore, T cannot refuse to exchange the fan.

B. When one party does not fulfill his obligation according to the agreed terms, the other party may treat the contract as repudiated or can insist for performance as per the original contract. Accordingly, the remedy available to Mr. M is that he can either rescind the contract or claim refund of the price paid by him or he may require Mr. T to replace it with the fan he wanted.

Q.49

Mr. X, a retailer is running a shop dealing in toys for children. Once, he purchased from a wholesaler number of toy cars in a sale by sample. A boy came to the retailers shop to buy few toys. The retailer sold one of those toy cars to a boy. When the boy tried to play with it, it broke into pieces because of a manufacturing defect therein and the boy was injured. Mr. X, the retailer was held bound to pay compensation to the boy because the child got injured due to the defective toy in his shop. Due to this incident, the retailer in his turn sued the wholesaler to claim indemnity from him.

With reference to the provisions of Sale of Goods Act, 1930 discuss if the retailer can claim compensation from wholesaler?

**Ans. Condition as to merchantability (Section 16(2) of the Sale of Goods Act, 1930):**

When goods are sold by description and the seller trades in similar goods, then the goods should be merchantable i.e. the goods should be fit to use



or wholesome or fit to consume. However, the condition as to merchantability shall consider the following points:

1. Right to examine the goods by the buyer. The buyer should be given chance to examine the good.
2. The buyer should reject the goods, if there is any defect found in the good. But if the defect could not be revealed even after the reasonable examination and the buyer purchases such goods, then the seller is held liable. Such defects which cannot be revealed by examination are called latent defects. The seller is liable to pay to the buyer for such latent defects in the goods. [Section 17]

In the instant case, the retailer can claim indemnity from the wholesaler because it was found that the retailer had examined the sample before purchasing the goods and a reasonable examination on his part could not reveal this latent defect. Under these circumstances, the wholesaler was bound to indemnify the retailer for the loss suffered by the latter.



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