

# CHAPTER 1 - THE INDIAN CONTRACT ACT, 1872

## UNIT 1: NATURE OF CONTRACTS

This is one of the oldest in the Indian law regime, passed by the legislature of pre-independence India and received its assent on 25th April, 1872. But this Act was introduced on 1<sup>st</sup> September, 1872.

It is applicable to whole of India except Jammu and Kashmir.

- **DEFINITION OF CONTRACT :**

The term 'contract' is defined in Section 2 (h) of Indian Contract Act, as under :

“An agreement enforceable by law is a contract”.

Contract = An agreement + Enforceability.

- **DEFINITION OF AGREEMENT :**

The term 'agreement' is defined in Section 2 (e) of the Indian Contract Act, as under: “Every promise and every set of promises forming the consideration for each other, is an agreement.”

Agreement = Offer + Acceptance.

All Contracts are agreements but all agreements are not contracts.

- **DEFINITION OF PROPOSAL/OFFER :**



**DEFINITION:**

The term proposal/offer has been defined in Section 2 (a) as under:

“When one person signifies to another his willingness to do or to abstain (not to do) from doing anything, with a view to obtaining the assent of that another to such act or abstinence, he is said to make a proposal.”

**CHARACTERISTICS:**

**(1) Offer must be capable of creating legal relationship :**

*Case law:* In *Balfour v. Balfour*, a husband promised to pay maintenance allowance every month to his wife. When he failed to perform this promise, she brought an action to enforce it. As it is an agreement of domestic nature, it was held that it does not contemplate to create any legal obligation.

**(2) The terms of the offer must be definite and certain :**

The terms of the offer must be definite, unambiguous and certain and not vague.

**(3) Offer must be different from invitation to offer.**

An offer should be distinguished from an invitation to offer. An offer is definite and capable of converting an intention into a contract. Whereas an invitation to an offer is only a circulation of an offer, it is an attempt to induce offers and precedes a definite offer.

**Difference between offer & Invitation to offer**

<b>Offer</b>	<b>Invitation to Offer</b>
(i) Person expresses his willingness to be bound by the terms of the offer if other party accepts.	(i) Person is inviting other people to make an offer
(ii) Offers leads to acceptance Example – application form filled up by students for taking admission in college	(ii) Invitation to offers lays to offer Example – Issue of prospectus by college

- (4) **Offer should be communicated.**  
Unless an offer is properly communicated, there can be no acceptance of it.  
As per *Lalman Shukla vs Gauri Dutt*, Gauri announced a reward for anyone who found his nephew. Lalman found the nephew in ignorance of reward. Held that, he is not entitled to reward as a person cannot accept an offer so long as he is unaware of its existence.
- (5) **Offer can be express or implied.**  
An offer which is expressed by words, written or spoken, is called an express offer. The offer which is expressed by conduct, is called an implied offer.
- (6) **Offer can be conditional.**  
Such conditional offer should be accepted along with the condition.
- (7) **Offer should not contain a term non-compliance of which would directly lead to acceptance.**

**TYPES OF OFFER:**

- (1) **General offer:** It is an **offer made to public in general**. Anybody knowing about the offer can accept such offer. No written acceptance is compulsory. Any person coming forward, acting accordingly can accept the offer.  
*Case Law:* In *Carlill v/s Carbolic & Smoke Balls Co.*, a sole proprietary concern manufacturing a medicine which was a carbolic ball whose smoke could cure influenza issued an advertisement for sale of this medicine. The advertisement also included a reward of £100 to any person who contracted influenza, after using the medicine. Mrs.Carlill bought these smoke balls and used them as directed but contracted influenza. It was held that Mrs.Carlill was entitled to a reward of £100 as she had fulfilled the condition for acceptance as the advertisement did not require any communication of compliance of the condition, it was not necessary to communicate the same.
- (2) **Specific/Special offer:** When offer is **made to a definite person/ definite group of persons**, it is known as special specific offer. Such offers can be accepted by that specified person only.
- (3) **Cross offer:** When two parties **exchange identical offer** in ignorance at the time of each other's offer. The offers are called cross offers. There is no binding contract in such case as one's offer cannot be constituted as acceptance by other.
- (4) **Counter offer:** When the offeree, offers to qualified acceptance to the offer, subject to modification and variation in terms of original offer he is said to have made a counter offer. A counter offer does not amount to acceptance of original offer.
- (5) **Standing, open or Continuing offer:** An offer is allowed to remain open for acceptance over a period of time is known as a standing, open or continuing offer.

**LAPSE OF OFFER:**

An offer should be accepted before it lapses (i.e. comes to an end). An offer may come to an end in any of the following ways stated in Section 6 of the Indian Contract Act:

1. **By communication of notice of revocation:**  
An offer may come to an end by communication of notice of revocation by the offerer. An offerer can revoke his offer at any time before he becomes bound by it.
2. **By lapse of time:**  
Where time is fixed for the acceptance of the offer, and it is not accepted within the fixed time, the offer comes to an end automatically on the expiry of fixed time. Where no time for acceptance is prescribed, the offer has to be accepted within reasonable time. The term 'reasonable time' will depend upon the facts and circumstances of each case.
3. **By failure to accept condition in conditional offer:**  
Where, the offer requires that some condition must be fulfilled before the acceptance of the offer, the offer lapses, if it is accepted without fulfilling the condition.
4. **By the death or insanity of the offeror/offeree:**  
Where, the offeror dies or becomes insane, the offer comes to an end if the fact of his death or insanity comes to the knowledge of the acceptor before he makes his acceptance. But if the offer is accepted in ignorance of the fact of death or insanity of the offeror, the acceptance is valid. This will result in a valid contract, and legal representatives, of the deceased offeror shall be bound by the contract. On the death of offeree before acceptance, the offer also comes to an end by operation of law.
5. **By counter-offer by the offeree:**  
Where, a counter-offer is made by the offeree, then the original offer automatically comes to an end, as the counter-offer amounts to rejection of the original offer.
6. **By rejection of offer by the offeree:**  
Where, the offeree rejects the offer, the offer comes to an end. Once the offeree rejects the offer, he cannot revive the offer by subsequently attempting to accept it. The rejection of offer may be express or implied.

• **DEFINITION OF ACCEPTANCE :**

**ACCEPTANCE**



**DEFINITION**

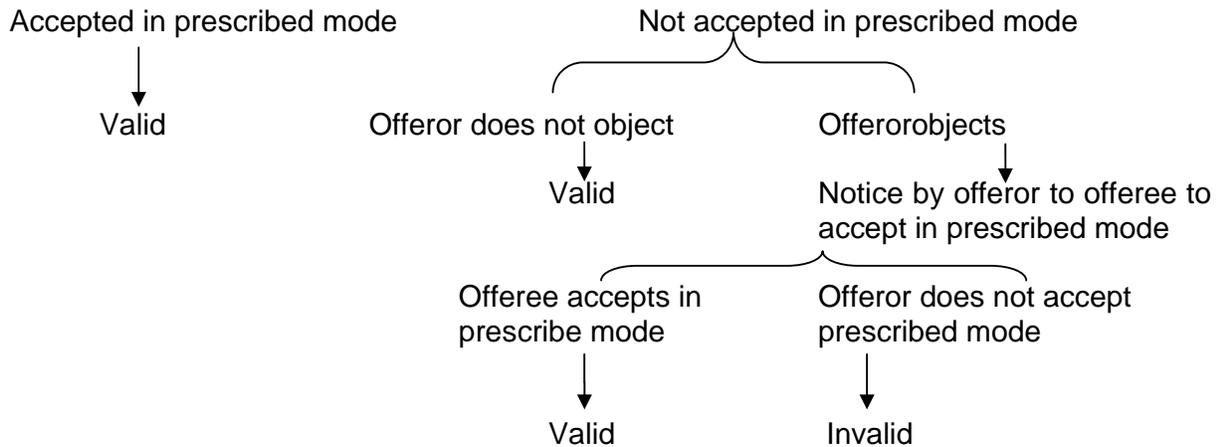
**CHARACTERISTICS**

DEFINITION: The term acceptance has been defined in Section 2(b) as under:  
“When the person to whom the proposal is made signifies his assent thereto, the proposal is said to be accepted. A proposal when accepted becomes a promise”.

**CHARACTERISTICS OF ACCEPTANCE:**

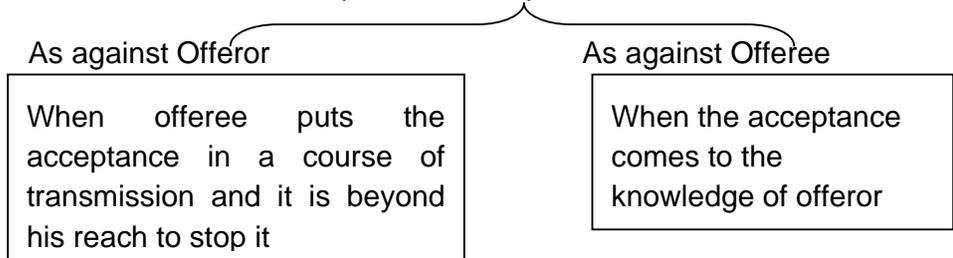
1. **The acceptance must be communicated:**  
The acceptance is, completed only when it has been communicated to the offerer. Until the acceptance is communicated, it does not create any legal relations.
2. **The acceptance must be communicated by a person who has the authority to accept.**
3. **The acceptance must be absolute and unqualified:**  
As a conditional acceptance is counter offer.

4. **Acceptance must be within a specific/reasonable time :**  
The acceptance must be made while the offer is still in force, i.e. before the offer lapses. If any time-limit is prescribed in the offer, it should be accepted within the prescribed time-limit. However, if not time is prescribed, it must be accepted within "a reasonable time".
5. **Acceptance can be express or implied.**
6. Acceptance should be via prescribed mode of communication.



**COMMUNICATION OF OFFER AND ACCEPTANCE AND REVOCATION OF OFFER AND ACCEPTANCE :**

1. Communication of offer is complete when it comes to the knowledge of offeree.
2. Communication of acceptance is complete



3. Revocation of offer is valid before offeree puts the acceptance in course of transmission and it is out of his reach to stop it.
4. Revocation of acceptance is valid before acceptance comes to the knowledge of offeror.

**Example:**

A offered, by a letter, to sell his car to B for Rs. 4,00,000. The letter was posted on 1<sup>st</sup> Jan which reached B on 4<sup>th</sup> Jan. B accepted the offer and posted his letter of acceptance on 6<sup>th</sup> Jan. Here, A became bound by the offer on 6<sup>th</sup> Jan. In this case, the offer could be revoked by A at any time before 6<sup>th</sup> Jan.

B accepted the offer and posted his letter of acceptance on 6<sup>th</sup> Jan which reached A on 9<sup>th</sup> Jan. Here, B becomes, bound by his acceptance on 9<sup>th</sup> Jan. In this case, the acceptance could be revoked at any time before 9<sup>th</sup> Jan.

**• TYPES OF CONTRACTS**

1. **Valid contract:** A valid contract is an agreement enforceable by law [Sec. 2(h)]. A valid contract is that contract which fulfills all the essential elements
2. **Void Contract:** It is a contract without any legal effect and cannot be enforced in a Court of Law. Section 2(i) defines a void contract as "*a contract which ceases to be enforceable by law becomes void when it ceases to be enforceable*".  
**Void Agreement:** Agreement which is not enforceable by law from the beginning
3. **Voidable Contract:** As per Section 2(i), "an agreement which is enforceable by law at the option of one or more the parties but not at the option of the other or others is a voidable contract" .  
Example: A contract brought about as a result of Coercion, Undue influence, Fraud or misrepresentation would be voidable at the option of the person whose consent was caused by any one of these factors.
4. **Illegal Agreement:** It is a contract which the law forbids to be made. The court will not only enforce such a contract but also connected contracts. All illegal agreements are void but all void agreements or contracts are not necessarily illegal.
5. **Unenforceable contract:** Where a contract is good in substance but because of some technical defect i.e., absence in writing, barred by, imitation etc., one or both the parties cannot sue upon it, it is described as an unenforceable contract..
6. **Express contract:** A contract which is made by words either spoken or written is said to be an express contract..
7. **Implied contract:** By implied contract means implied by law (i.e.,) the law implies a contract though parties never intended.  
Example: A delivers by mistake goods at B's warehouse instead of at C's place. Here there is an obligation on the part of B to return the goods to A, though they never intended to enter into a contract.
8. **Tacit contract:** A contract is said to be tacit when it has to be inferred from the conduct of the parties.  
Example: Obtaining cash through automatic teller machine, sale by fall of hammer at an auction sale.
9. **Executed contract:** If the consideration for the promise in a contract (i.e., any act or forbearance) is given or executed, such type of contract is called contract with executed consideration.
10. **Executory contract:** It is so called because the reciprocal promises or obligation which serves as consideration is to be performed in future.
11. **Unilateral contract:** A unilateral contract is a one - sided contract in which only one party has to perform his promise.
12. **Bilateral contract:** Where the obligation or promise in a contract is outstanding on the part of both the parties, it is known as bilateral contract.

- **TYPES OF CONTRACTS AS PER ENGLISH LAW**

The English Law classifies the contract into:

- (i) Formal contracts, and
- (ii) Simple contracts.
- (i) **Formal Contracts** include (a) Contract of record and (b) Contract under Seal.
  - (a) **Contract of Record:** A contract of record is either a judgment of a court. A judgment is an obligation imposed by a Court upon one or more persons in favour of another or others. As a matter of fact it is not a contract in the real sense, since it is not based upon any agreement between the two parties. Contracts of record derive their binding force from the authority of the Court.
  - (b) **Contract under Seal:** A contract under seal is one which derives its binding force from its form alone. It is in writing and is signed, sealed and delivered by the parties.
- (ii) **Simple Contracts:** All other contracts.

- **ESSENTIAL ELEMENTS OF A VALID CONTRACT**

In order to become a valid contract, an agreement must have the following essential elements :

1. **There must be an offer and its acceptance:** In an agreement there must be an offer by one party and its acceptance by the other. The offer when accepted becomes agreement.
2. **There must be mutual consent of the parties:** The parties to an agreement must have the mutual consent i.e., they must agree upon the same thing and in the same sense. This means that there must be consensus ad idem (i.e., meeting of minds).
3. **There must be legal obligation:** An agreement must create legal obligations i.e., an obligation enforceable by law. If the parties do not intend to create legal obligation, there is no contract between them. An obligation which gives rise to a moral or social obligation only is not a contract e.g., an invitation to a friend for dinner creates a mere social obligation.
4. **There must be free consent of the parties:** If the consent of the parties is not free, then no valid contract comes into existence. The consent is not free when it is obtained by coercion, undue influence, fraud, misrepresentation of facts and mutual mistake of fact.
5. **The parties must be competent to contract:** It means that the parties must be capable of entering into a contract. The minors, or persons of unsound mind are not competent to contract. If the parties are not competent to contract, then no valid contract comes into existence.

6. **The agreement must be supported by lawful consideration:** The lawful consideration is that which is neither fraudulent, forbidden by law, immoral nor opposed to public policy etc. If the consideration is not lawful, then no valid contract comes into existence.
7. **The object of the agreement must be lawful:** A lawful object is that which is neither fraudulent, forbidden by law, immoral, nor opposed to public policy etc.
8. **The agreement must not be declared to be void:** If certain agreement is expressly declared to be void by the law of the country, then such agreement if entered into, shall not be enforceable by Courts of Law.
9. **The agreement must be certain:** The meaning of the agreement must be certain. In other words, an agreement whose meaning is not certain, is not valid.
10. **The performance must not be impossible:** The performance of an agreement must be possible. An agreement to do an impossible act is not valid.

**UNIT 2: CONSIDERATION**

- **INTRODUCTION:**  
The term 'consideration' may be defined as the price of the promise. This term is used in the sense of quid pro quo (i.e., something in return). It means that when a party to an agreement promises to do something, he must get something in return. This 'something' which a party gets in return is the consideration.
  
- **DEFINITION:**  
The term 'consideration' is defined in section 2 (d) of the Indian Contract Act, as under:  
"When at the desire of the promisor, the promisee or any other person did or abstained from doing, or does or abstains from doing, or promises to do or abstain from doing something, such act or abstinence is called a consideration for the promise".
  
- **CHARACTERISTICS OF CONSIDERATION:**
  1. **The consideration must move (i.e., must be done or promised to be done) at the desire of the promisor :**  
An act or abstinence, which forms consideration for the promise, must be done or promised to be done according to the desire of the promisor
  
  2. **It may move from the promisee or any other person :**  
Consideration may move from promisee or if the promisor has no objection from any other person.  
*Case law:* In *Chinnayya v/s Ramayya, A*, a daughter in consideration of some property received from her father, entered into an agreement with C, her uncle to pay him annuity. Later on, she refused to pay on the ground that her uncle, a promisee, has not given consideration. It was held, that consideration had moved from her father and as such she was liable to pay.
  
  3. **Consideration can be past, present or future:**  
It can be executed or executory. But in England, past consideration is no consideration.
  
  4. **Consideration need not be adequate:**  
Consideration whether in the sense of benefit or in the sense of detriment, need not be adequate to the promise. Law requires the presence of consideration, but does not inquire about the adequacy.
  
  5. **It must be real and not illusory :**  
The consideration to be valid must. be 'real' and 'valuable' and must not be 'imaginary'.
  
  6. **It must not be illegal, immoral, or opposed to public policy :**  
The consideration given for an agreement must be a lawful one. Where the consideration to a contract is illegal, immoral or against public policy, the courts do not allow an action on such contract.

7. **Consideration can be executed or executory.**
8. **It can be negative or positive.**
9. **Consideration for an act which a person a legally bound to perform is not a valid consideration.**  
Example: A promised to pay Rs. 5000 to B (a Police Officer) for investigating a crime, which B was already bound to investigate by law. Here A's promise to pay the amount is without valid consideration as B is already under a legal obligation to investigate the crime.

- **DOCTRINE OF PRIVACY OF CONTRACTS**

Since a contract is a private relationship between parties who make it, the rights and obligations under such a contract are strictly confined to them. This is known as the doctrine of "privity of contract". It is a general rule of law that a person who is not a party to the contract cannot sue.

The rule is "**Stranger to contract cannot sue. But a stranger to a consideration can sue**".

Exception to Rule" A stranger to a contract cannot sue":

Under the Indian Law, the following are the exceptions to the rule that a stranger to a contract cannot sue.

- (1) **Beneficiaries in the case of trust:**

An agreement to create a trust can be enforced by the beneficiary, though he was not a party to the contract between the settlor and the trustees.

**Example:**

- (2) **Written family settlements:**

In the case of family settlement, if the terms of settlement are reduced in writing, members of the family who were not a party to the settlement can also enforce their claim.

**Example:**

- (3) **Partition of Hindu Undivided Family:**

In the case of certain marriage contracts a female member can enforce a provision for marriage expense based on a petition made by the Hindu undivided family.

**Example:**

**(4) Assignment of contract:**

Where there is an assignment of a contract, the assignee can enforce the contract for various benefits that would accrue to him on account of the assignment.

**Example:**

**(5) Acknowledgement of Debts:**

In case of part performance of a contractual obligations or where there is acknowledgment of liability on account of estoppel, a third party can sue for benefits. Where for example 'A' gives ` 25000/- to 'B' to be given to 'C' and 'B' informs 'C' that B is holding it on behalf of C, but subsequently refuses to pay 'C' then 'C' can sue and enforce his claim.

**(6) Covenants with land:**

Where a piece of land which is sold to buyer with certain covenants relating to land and the buyer is kept on notice of the covenants with certain duties, there the successors to the seller can enforce these covenants.

**Example:**

**(7) Contracts made by the agent:**

The principal can enforce the contracts entered by his agent where the agent has acted within the scope of his authority and in the name of the principal.

**Example:**

- **NO CONSIDERATION, NO CONTRACT**

Every agreement must be supported by a consideration and agreement without consideration is void.

To this general rule there are certain exceptions which are mentioned in Section 25 of the Indian Contract Act.

- (1) Out of Natural Love and Affection :**  
Where an agreement is expressed in writing and registered under law for the time being in force for the registration of documents and is made on account of natural love and affection between the parties standing in a near relation to each other is enforceable even if there is no consideration. Nearness of relationship, however, does not necessarily imply love and affection.
- (2) Compensation paid for past voluntary services:**  
A promise to compensate wholly or in part for past voluntary services rendered by someone to promisor does not require consideration for being enforced. However the past services must have been rendered voluntarily to the promisor. Further the promisor must have been in existence at that time and he must have intended to compensate.
- (3) Promise to pay debts barred by limitation:**  
Where there is a promise in writing to pay a debt, which was barred by limitation, is valid without consideration.
- (4) Creation of Agency:**  
No consideration is necessary to create an agency
- (5) In case of completed gifts, no consideration is necessary.**
- (6) Bailment:**  
Bailment is a contract where goods are delivered for a particular purpose and once the purpose is served, goods are to be returned back. There are 2 parties; bailor and bailee.  
Bailment can be gratuitous. i.e. without consideration.
- (7) Charity**

## UNIT 3: OTHER ESSENTIAL ELEMENTS OF A VALID CONTRACT

### • CAPACITY OF PARTIES

The 'capacity to contract' means the competence (i.e., capability) of the parties to enter into a valid contract.

The term 'capacity to contract' is defined in Section 11 of the Indian Contract Act, as under :

"Every person is competent to contract who is of the age of the majority according to the law to which he is subject, and who is of sound mind, and is not disqualified from contracting by any law to which he is subject."

An agreement will be valid and enforceable only if the parties to it are **legally competent** to enter into contract.

Following persons are not competent to contract:

#### 1. Minors :

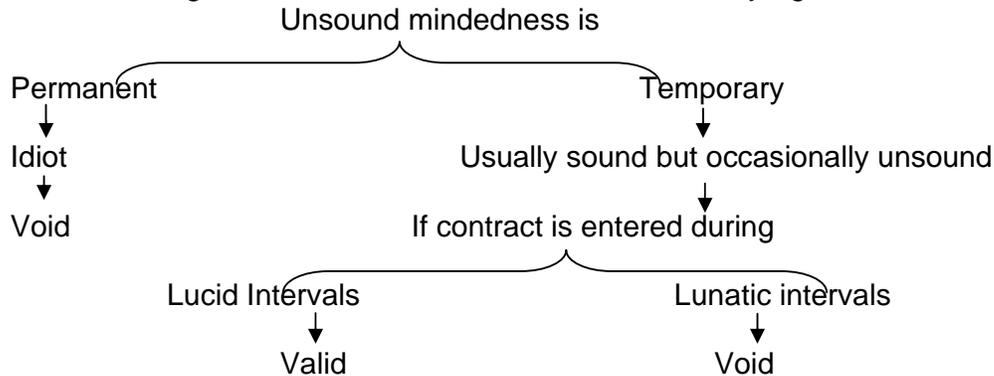
- A minor is a person who is below the age of eighteen years.
- An agreement with a minor is void ab initio i.e., absolutely void, and cannot be enforced in a court of law.
- *Case law:* In *Mohiri Bibee vs. Dharmodos Ghose*, a minor, mortgaged his house in favour of a money-lender, to secure a loan of Rs. 20,000. A part of this amount (Rs. 10,500) was actually advanced to minor by money lender. Subsequently, minor sued for the cancellation of the mortgage on the plea that he was minor when he executed the mortgage. In this case, the mortgage was held void, and was thus cancelled. Further moneylender's request for the repayment of the amount advanced to minor as part consideration for the mortgage was also not accepted. Privy Council held that as the minor's contract was absolutely void, therefore, there was no question of refunding money in these circumstances.
- The minor's contracts do not impose any liability on his parents or guardians.
- Though an agreement with minor is void, valid contract can be entered into with the guardian on behalf of the minor. The guardian must be competent to make the contract and the contract should be for the benefit of the minor. But not all contracts by guardian are valid.
- A parent/guardian cannot bind a minor in a contract to purchase immovable properties
- A minor can be a beneficiary.  
A minor cannot become partner in a partnership firm. However, he may with the consent of all the partners, be admitted to the benefits of partnership.
- Minor can always plead minority:  
Any money advanced to a minor cannot be recovered as he can plead minority and that the contract is void. Even if there had been false representation at the time of borrowing that he was a major, the amount lent to him cannot be recovered.
- Ratification of agreement not permitted:  
A minor on his attaining majority cannot validate any agreement which was entered into when he was minor, as the agreement was void. Similarly a minor cannot sign fresh promissory notes on his attaining majority in lieu of promissory notes executed for a loan

transaction when he was minor, or a fresh agreement without consideration.

- Minor' property liable for necessaries :  
Sometimes, a person supplies necessaries to a minor. In such cases, the supplier of necessaries can claim reimbursement from the property of minor, but not personally from the minor.
- The minor as an agent :  
A minor can be appointed as an agent. But he will not be liable for his acts as an agent

**2. Person of unsound mind :**

As per Section 12, a person is of unsound mind if he is not capable of understanding the terms of contract and form a rational judgement as to its effect.



**3. Persons disqualified by law**

The following persons, who are disqualified by the law to which they are subject are not competent to enter into a contract.

- 1. Alien enemies:**  
An 'alien' is a person who is a foreigner to the land. He may be either an 'alien friend' or an 'alien enemy.' If the country of the alien is at peace with the country of his stay, he is an alien friend. And if a war is declared between the two countries, he is termed as an alian enemy.
- 2. Insolvents:**  
When a person is declared as an insolvent, his property shall vest with the Receiver or 'Official Assignee'. However, this disqualification of an insolvent is removed 'when the court passes an order of discharge.
- 3. Convicts:**  
A convict cannot enter into a contract while he is undergoing imprisonment. But when he is pardoned or the sentence expires, he becomes capable of entering into a contract. Thus, the incapacity is only during the period of sentence.
- 4. Corporation and a company:**  
The contractual capacity of the corporation is expressly defined by the Special Act under which it is created. Whereas, the contractual capacity of a company, registered under the Companies Act 2013, is regulated by the terms of its 'Memorandum of Association' and the provisions of the Companies Act.

**5. Foreign sovereigns, diplomatic staff, and accredited representatives of foreign states:**

Such persons can enter into valid contracts and can enforce them in Indian courts. However, a suit cannot be filed against them, in the Indian courts, without the prior sanction of the central government.

• **FREE CONSENT**

The term 'consent' is defined in Section 13 of the Indian Contract Act, as under "Two or more persons are said to consent when they agree upon the same thing in the same sense. " It is also known as consensus ad idem (i.e., meetings of the minds). For the creation of contract, there must be consensus ad idem.

The term 'free consent' may be defined as the consent which is obtained by the free will of the parties, and neither party was forced or induced to give his consent. It is defined in Section 14 of the Indian Contract Act, as under :

Consent is said to be free when it is not caused by :

1. Coercion, as defined in Section 15, or
2. Undue influence, as defined in Section 16, or
3. Fraud, as defined in Section 17, or
4. Misrepresentation, as defined in Section 18, or
5. Mistake, subject to the provisions of Sections 20, 21 and 22.

• **COERCION**

- "Coercion is committing or threatening to commit, any act forbidden by the Indian Penal Code or unlawfully detaining or threatening to detain any property, to the prejudice of any person whatever with the intention of causing any person to enter into an agreements. (Section 15)
  - It is not necessary that coercion must proceed from the party to the contract since relationship is not required. It may proceed from a third party who is not a party to the contract.
  - It is immaterial whether Indian Penal Code is or is not in force in the place where coercion is employed.
  - Physical force is involved.
  - Suicide also amounts to coercion.
- When consent to an agreement is caused by coercion, the agreement is a contract voidable at the option of the party whose consent was caused. In other words, either aggrieved party can rescind the contract or affirm the contract.
- Example:

• **UNDUE INFLUENCE**

- A contract is said to be induced by "undue influence" where the relations subsisting between the parties are such that one of the parties is in a position to dominate the will of the other and uses that position to obtain an unfair advantage of the other.

- A person is deemed to be in a position to dominate the will of the other, when he holds authority, real or apparent over the other, or when he stands in a fiduciary relation to other.

Following types of relations are judicially held to be of trust and confidence:’

- (a) Lawyer and client.
- (b) Doctor and patient.
- (c) Spiritual adviser and devotee.
- (d) Parents and child, etc
  - Mental force is involved
  - Can be exercised between same parties only as relationship is required.
  - The effect of undue influence is that it makes the contract voidable at the option of the party whose consent is obtained by undue influence, i.e., such party can put an end to the contract if he so chooses

**DIFFERENCE BETWEEN COERCION AND UNDUE INFLUENCE:**

<b>Coercion</b>	<b>Undue Influence</b>
1. The consent is given under the threat of an offence forbidden by Indian Penal Code or detaining or threatening to detain property unlawfully.	1. The consent is given by a person who is so situated in relation to another that the other position to dominate his will.
2. It is not necessary that some sort of relationship must exist between parties.	2. In case of undue influence, there is bound to be some sort of relationship.
3. Coercion need not proceed from parties to the contract.	3. Undue influence is always exercised between parties to the agreement.
4. Coercion is mainly of physical nature.	4. Undue influence is of moral/mental nature.

● **FRAUD**

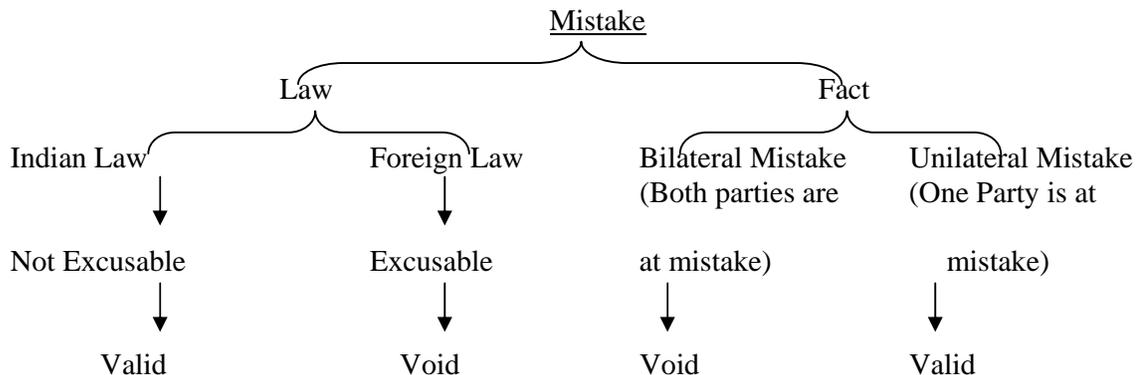
- The term ‘fraud’ may be defined as an intentional, deliberate or willful misstatement of facts, which are material for the formation of a contract.
- Fraud means and includes any of the following acts committed by a party to a contract with intent to deceive another party thereto or to induce him to enter into the contract :
  1. The active concealment of a fact by one having knowledge or belief of the fact;
  2. A promise made without any intention of performing it;
  3. Any other act fitted to deceive;
  4. Any such act or omission as the law specially declares to be fraudulent.
  5. Person making the statement does not believe it as true
- **Example:** A, intending to cheat B, falsely represented that five tonnes of ice was manufactured daily in his factory. And thereby, induced B to buy the factor. In fact, the production was 3.5 tonnes per day. The contract is voidable at the option of B, as his consent is obtained by fraud.
- Mere silence does not amount to fraud. But when silence is equivalent to speech or when there is a duty to speak and the person does not speak, it amounts to fraud.

- The effect of fraud is that it makes the contract voidable at the option of the party whose consent was obtained by fraud i.e., such party may put an end to the contract if he so chooses. **Aggrieved party can claim damages.**

• **MISREPRESENTATION**

- The term ‘misrepresentation’ may be defined as an innocent misstatement of facts which are material for the contract. In other words, misrepresentation is a false representation which is made innocently (i.e., without any intention to deceive the other party),
- A ‘representation: means a statement of facts made by one party to the other with a view to induce the other party to enter into the contract.
- There is no intention to cheat, hence it is not forbidden by Indian Penal Code
- Person making the statement does believes it as true
- The effect of misrepresentation is that it makes the contract voidable at the option of the party whose consent was obtained by misrepresentation i.e., such party may put an end to the contract if he so chooses. **Aggrieved p[arty cannot claim damages** (Section 19)
- **Example:** A, by misrepresentation, lead B erroneously to believe that five hundred T.V. sets were manufactured per month in his factory. Upon this representation, B bought the factory. The actual production was found to be only four hundred sets per month. Here, B’s consent is caused by misrepresentation, and thus, the contract is voidable at his option

• **MISTAKE**



(a) **Mistake of Law:** A mistake of law does not render a contract void as one can’t take excuse of ignorance of the law of his own country. Since the mistake of Indian law cannot be given as an excuse, the contract must be performed after rectifying the mistake, hence the contract is valid. A mistake of foreign law is excusable and is treated like a mistake of fact. Contract may be avoided on such mistake.

(b) **Mistake of Fact:** Where the contracting parties misunderstood each other and are at cross purposes, there is a bilateral or mutual mistake. Where both the parties to an agreement are under a mistake as to a matter of fact essential to the agreement, the agreement is void. For example, A offers to sell his Ambassador Car to B, who believes that A has only Fiat Car agrees to buy the car. Here the two parties are thinking about different subject matter so that there is no real consent and the agreement is void.

Where only one of the party to a contract is under a mistake,i.e. unilateral mistake, the contract will not become void. A mistake on

the part of one party only not caused or actively assisted by the act of the other party, cannot invalidate an agreement.

- **UNLAWFUL OBJECT AND UNLAWFUL CONSIDERATION**

1. Agreement forbidden by law: Acts forbidden by law means acts that are punishable under any Statute or Rules or Regulations made under any Statute.
  2. Agreement defeating the provisions of law or defeating any rule for the time being in force.
  3. Where object or consideration is unlawful because it involves or causing injury to a person or loss of property.
  4. Where consideration is immoral.
  5. Where consideration is opposed to public policy.
  6. An agreement which is against the general public, is said to be an agreement opposed to public policy.
- a) Trading with an enemy :**  
Trading with an enemy is regarded as opposed to public policy. Thus, an agreement made with an alien enemy is unlawful on the ground of public policy, and is void.
- b) Trafficking in public offices :**  
The agreements which affect the normal working of government offices are void as they are opposed to public policy e.g., appointment decisions in consideration of money are void. Similarly, the agreement for the procurement of a public recognition such as Param Veer Chakra or any other title, for monetary or other consideration, is void.
- c) Interference with course of law and justice:**  
Any agreement with the object of inducing a judicial officer or administrative officer of the state to act corruptly or not impartially is void.
- d) Stifling prosecution:**  
Any agreement to stifle or prevent illegally any prosecution is void as it would amount to perversion or abuse of justice.
- e) Maintenance and Champerty:**  
Maintenance is promotion of litigation in which the litigant has no interest. Champerty is bargain whereby one party agrees to assist the other in recovering property with a view to sharing the profit of litigation.
- f) Marriage brokerage contracts :**  
An agreement to procure the marriage of a person in consideration of a sum of money is called a 'marriage brokerage contract'. Such agreements being opposed to public policy are void.
- g) Interest against obligation:**  
The following is example of agreement that are void as they tend to create an interest against obligation. The object of such agreements is opposed to public policy. A, who is the manager of a firm, agrees to pass a contract to X if X pay to A 20000 privately; the agreement is void.
- h) Agreement for the creation of monopolies:**  
Agreements having for their object the establishment of monopolies are opposed to public policy and therefore void.

**• AGREEMENTS EXPRESSLY DECLARED AS VOID****1. Agreement in restraint of marriage (Section 26):**

Every agreement in restraint of marriage of any person other than a minor, is void. So if a person, being a major, agrees for good consideration not to marry, the promise is not binding.

Exceptions: (1) Minors

(2) Restraint for particular reasonable period is valid.

**2. Agreement in restraint of trade (Section 27):**

Any agreement through which a person is restrained from exercising a lawful profession, trade or business of any kind is to that extent void. The object of this law is to protect trade. The restraint, even if it is partial, will make the agreement void.

However there are certain exceptions:

(i) Where a person sells his business along with the goodwill to another person, agrees not to carry on same line of business in certain reasonable local limits, such an agreement is valid.

(ii) An agreement through which an outgoing partner will not carry on the business of the firm for a reasonable time will be valid, though it is in restraint of trade.

(iii) An agreement of service through which an employee commits not to compete with his employer is not in restraint of trade. Example: 'B' is a Doctor and he employs 'A' a junior Doctor as his assistant. 'A' agrees not to practice as Doctor during the period of his employment with 'B' as a Doctor independently. Such an agreement will be valid.

(iv) Trade Combinations are valid as long as they are not creating monopoly are valid: An agreement between manufacturer and a wholesale merchant that the entire production during a period will be sold by the manufacturer to the wholesale merchant is not in restraint of trade. An agreement among sellers not to sell a particular product below a particular price is not an agreement in restraint of trade.

**3. Agreement in restraint of legal proceedings (Section 28):**

An agreement in restraint of legal proceedings resulting in restriction of one's right to enforce legal rights is void. Similarly any agreement which abridges the usual period for commencing the legal proceedings is also void.

However there are certain exceptions:

(i) A contract by which the parties agree that any dispute between them in respect of any subject shall be referred to **arbitration** and that only the amount awarded in such arbitration shall be recoverable is a valid contract.

(ii) Contracts specifying the courts.

**4. Agreement the meaning of which is uncertain (Section 29):**

Where the meaning of the terms of an agreement is uncertain or if it is not capable of being understood with certainty, then the agreement is void.

Example: A agreed to sell his radio to B for Rs. 500 or Rs. 800. The agreement is void as there is no certainty about the price. It is not clear whether the price is Rs. 500 or Rs. 800.

#### **5. Wagering Agreements (Section 30):**

- The term 'wagering agreement' or 'wager' may be defined as an agreement in which one person agrees to pay certain amount of money (i.e., stake money) to the other person on the happening or non-happening of a specified uncertain event. The wagering agreements are void.
- But collateral to wagering are valid.
- Illegal agreements are void and collateral to illegal are also void.

#### **Example :**

A and B enter into an agreement that if it rains on Monday, A will pay Rs. 100 to B. And if it does not rain on Monday, B will pay Rs. 100 to A. This is a wagering agreement.

- The Act provides that an agreement to buy lottery tickets is one by way of wager and is void. However any subscription or contribution or agreement towards such subscription or contribution towards any plate or prize or sum of money, of the value of ₹500 or more to be awarded to a winner of a horse race is not unlawful.
- A promissory note given out of a wagering contract is not enforceable by way of a suit.
- Speculative transactions are valid as it involves skill.

**UNIT 4: PERFORMANCE OF CONTRACT****• INTRODUCTION**

After the formation of a valid contract, the next step is the fulfillment of the object that the parties had agreed to do. For the fulfillment of the object, the parties become liable to perform their respective obligations. When the parties perform their respective obligations, the object is fulfilled and the liability of the parties comes to an end. After the performance, the contract is said to be discharged. Thus, 'performance' is one of the various modes of discharge of the contract.

**• CONTRACT WILL BE PERFORMED BY:**

1. **Promisor himself:** If there is something in the contract to show that it was the intention of the parties that the promise should be performed by the promisor himself, such promise must be performed by the promisor (Section 40). This means contracts which involve the exercise of personal skill or diligence, or which are founded on personal confidence between the parties must be performed by the promisor himself
2. **Agent:** Where personal consideration is not the foundation of a contract, the promisor or his representative may employ a competent person to perform it.(Section 40)
3. **Representatives:** A contract which involves the use of personal skill or is founded on personal consideration comes to an end on the death of the promisor. As regards any other contract the legal representatives of the deceased promisor are bound to perform it unless a contrary intention appears from the contract (Section 37). But their liability under a contract is limited to the value of the property they inherit from the deceased.
4. **Third persons:** When a promisee accepts performance of the promise from a third person, he cannot afterwards enforce it against the promisor. That is performance by a stranger, accepted by the promisee, produces the result of discharging the promisor, although the latter has neither authorised nor ratified the act of the third party. (Section 41)

**• DISTINCTION BETWEEN SUCCESSION AND ASSIGNMENT**

**Succession:** When the benefits of a contract are succeeded by a process of law, both the burden and the benefit would sometimes devolve on the legal heir. For example 'B' is the son of 'A'. Upon A's death 'B' will inherit all the assets and liabilities of 'A' [These assets and liabilities are also referred to as debts and estates] Thus 'B' will be liable to all the debts of 'A', but if the liabilities inherited are more than the value of the estate [assets] inherited it will be possible to pay only to the extent of assets inherited.

**Assignment:** Assignment is voluntary transfer of right. Unlike succession, the assignor can assign only the assets to the assignee and not the liabilities.

- **REQUISITES OF A VALID TENDER:**  
A tender to be valid must fulfill the following conditions:
  - (1) **It must be unconditional:**  
The tender must be in accordance with the terms of the contract
  - (2) **Tender must be at a proper time and place:**  
What is proper place and time normally can be gathered from the intention of the parties, the circumstances of the case as well as prevailing custom in the trade.
  - (3) **Tender must be within reasonable time.**
  - (4) **Tender must give reasonable opportunity for inspection :**  
If the offer is an offer to deliver anything to the promisee, the promisee must have a reasonable opportunity of seeing that the thing offered is the thing which the promisor is bound by his promise to deliver.
  
- **EFFECT OF REFUSAL OF A PARTY TO PERFORM:**  
When a party to a contract has refused to perform or disabled himself from performing his promise in its entirety, the following two rights accrue to the aggrieved party namely:
  - (i) To terminate the contract; OR
  - (ii) Continue the contract.The aggrieved party can also claim damages.

**Example :**

A, a singer, enters into a contract with B, the manager of a theatre, to sing at his theatre two nights in every week during the next two months, and B agrees to pay her Rs. 100 for each night's performance. On the sixth night, A wilfully absents herself from the theatre. B is at liberty to put an end to the contract.

- **LIABILITY OF JOINT PROMISORS**  
Where two or more persons enter into a joint agreement with one or more person, the promise is known as a joint promise.  
Example:  
A, B, and C jointly borrowed a sum of Rs. 15,000 from X, and jointly promised to repay the amount. It is a joint promise.

**1. The joint promisors or their representatives must jointly perform the promise :**

The joint promisors must jointly fulfill the promise during their joint life time. And if anyone of them dies, his legal representatives must jointly with the surviving promisors fulfill the promise. On the death of all the promisors, the representatives of all of them must jointly fulfill the promise

**2. The promisee may compel anyone of the joint promisors to perform the promise:**

Example:

A, B and C jointly promised to pay Rs. 30,000 to D. In this case D may compel either A, or B or C to pay him the entire sum of Rs. 30,000.

3. **Rights and liabilities of the joint promisors among themselves:**
  - (a) **Joint promisors are liable to contribute equally :**  
If a joint promisor has been compelled to perform the whole of the promise, he may require the other joint promisors to make an equal contribution towards the performance of the promise [Section 43].
  - (b) **Joint promisors liable to share losses equally:**  
If any one of the joint promisors does not make any contribution, the remaining joint promisors should bear the loss in equal shares [Section 43].
4. **The promisee may release one of the joint promisors:**  
Where a promisee releases one of the joint promisors, the release of one promisor does not discharge the other joint promisor or promisors. Thus, the remaining joint promisors continue to be liable to pay the amount.

- **RIGHTS OF JOINT PROMISEES**

1. There may be joint promisees also i.e., one person may make a promise to more than one persons jointly.
2. The joint promisees have the joint right to ask for the performance of the promise.
3. Where one person has made a joint promise to, more than one person, then all the promisees must jointly claim performance so long as all are alive.
4. If anyone of them dies, his legal representatives must jointly with the surviving promisees claims the performance. On the death of all the joint promisees, the legal representatives of all of them must jointly claim the performance.

**Example:**

A and B jointly lent Rs. 10,000 to C. And C promised A and B jointly to repay them that amount on a specified day. Here, A and B must jointly claim the performance. If A dies before performance, the right to claim performance rests with A's representative jointly with B. And if both A and B die, the rights to claim performance rests with the representatives of both of them.

- **TIME AND PLACE FOR PERFORMANCE:**

The rules regarding the time and place for performance are contained in Sections 46 to 50 of the Indian Contract Act, which may be discussed as under:

1. Where the **day for performance is not specified** in the contract, and the promisor himself has to perform the promise without being asked (i.e., without any demand) by the promisee the promise must be performed **within a reasonable time** [Section 46].
2. Where the **time for performance is not specified** in the contract, and the promisor himself has to perform the promise without being asked (i.e., without any demand) by the promisee, promise may be performed at any time **during the usual hours of business** on the specified day. But the promise should be performed at the place where it was required to be performed [Section 47].
3. Where the day for the performance is specified in the contract and the promisor has to perform it only on being asked (i.e., on demand) by the promisee, then the promisee must first apply to the promisor (i.e., make a demand on the promisor) for the performance of the promise **Promisee's duty to specify day, time, place for performance** [Section 48].

4. Where the **place for performance is not specified in the contract**, and the promisor himself has to perform the promise without being asked by the promisee, then **the promisor, must first apply to the promisee** to appoint a reasonable place for the performance of the promise. And thereafter, he should perform the promise at the place appointed by the promisee [Section 49].
5. Where the manner and time for performance is prescribed by the promisee himself, the promise should be performed in the manner and at the time prescribed by the promisee [Section 50].

- **PERFORMANCE OF RECIPROCAL PROMISES**

- **Definition of a Reciprocal Promise**  
The term 'reciprocal promise' is defined in Section 2(f) of the Indian Contract Act, as under :  
"Promises which form the consideration or part of consideration for each other are called reciprocal promises."  
Thus, when a contract consists of exchange of promises, the promises are called reciprocal promises.

- **Example :**

A and B promised to marry each other. These are reciprocal promises. In this case, A's promise is the consideration for B's promise. And B's promise is the consideration for A's promise.

- **Kinds of Reciprocal Promises and their Performance**  
Following are the rules relating to the performance of different kinds of reciprocal promises:

1. **Mutual and concurrent:**

These are the **promises which are to be performed simultaneously** i.e., at the same time. In such promises, the promisor is not bound to perform his promise, unless the promisee is ready and willing to perform his own promise [Section 51].

2. **Conditional and dependent:**

These are **the promises where the performance of the promise by one party depends on the prior performance of the promise by the other party**. In such promises if the party who is bound to perform his promise first, fails to perform it, then he cannot claim performance from the other party. Moreover, the defaulting party becomes liable to pay the compensation to the other party for the loss suffered by the other on account of the non-performing of the contract [Section 54].

3. **Mutual and independent:**

These are **the promises where each party must perform his promise independently** without waiting for the other party to perform his promise, or without waiting whether or not the other party is willing to perform his promise. In such promises, if either party fails to perform his promise, the other party may proceed against him for the damages. Though a party can recover damages from the defaulting party, but he cannot excuse himself from the performance by reason of the non-performance by the defaulting party.

- **Effects of Preventing the Performance of Reciprocal Promises**

Where one party to a reciprocal promise prevents the other party from performing his promise, the contract becomes voidable at the option of the party who is so prevented. And the party so prevented may also recover

compensation from the other party for any loss suffered due to non-performance of the contract [Section 53]. Thus, a party so prevented may put an end to the contract, and can also recover compensation from the party who so prevents.

➤ **Legal and Illegal Reciprocal Promises**

Following are the rules regarding enforcement of legal and illegal reciprocal promises:

Promises to do legal things and other illegal things :

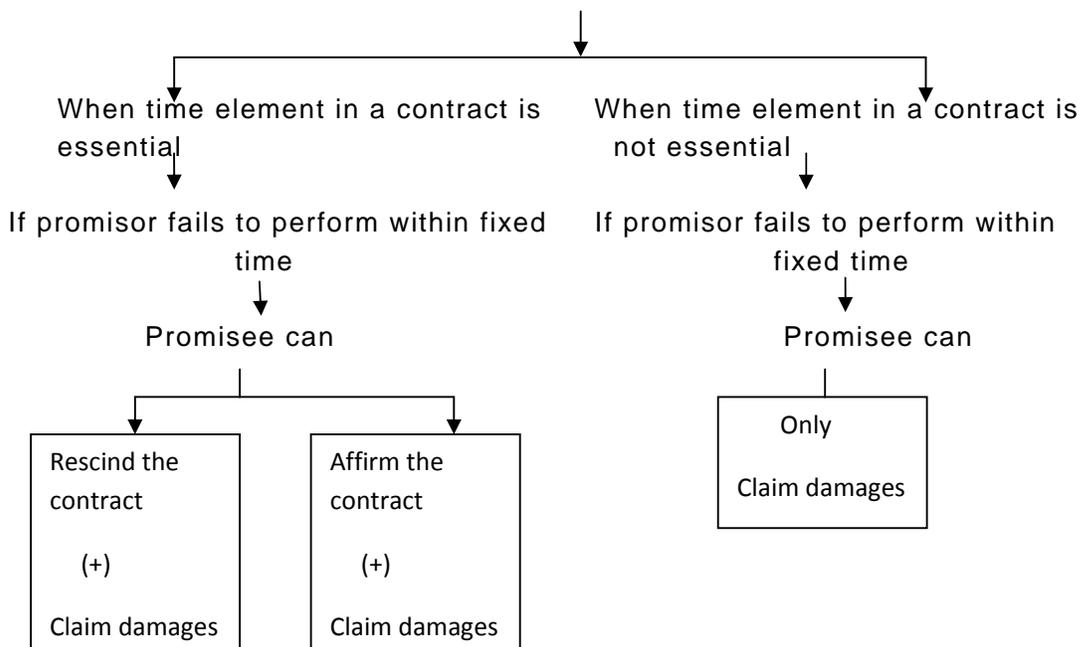
Sometimes, the persons enter into reciprocal promise, firstly to do certain things which are legal, and secondly to do certain other things which are illegal. In such cases, the first set of promises is a valid contract and can be enforced in a Court of Law. But the second set is a void agreement and thus, cannot be enforced in a Court of Law [Section 57 & 58].

Example :

A and B agreed that A shall sell his house for Rs. 40 lakhs. And that if B used it as gambling house, the price shall be Rs. 60 lakhs. In this case, the first set of reciprocal promises, namely to sell the house and to pay Rs. 40 lakh for it, is a valid contract and can be enforced. But the second set, namely, to sell the house and to pay Rs. 60 lakhs for it if the house is used as a gambling house, is a void agreement and cannot be enforced. In the second set of promises, the object is unlawful.

**But if the things are inseparable then the entire agreement is void.**

• **EFFECTS OF FAILURE TO PERFORM AT A TIME FIXED IN A CONTRACT IN WHICH TIME IS ESSENTIAL**



- **IMPOSSIBILITY OF PERFORMANCE**

(1) **Impossibility existing at the time of contract:** Even at the time of entering into the agreement, it may be impossible to perform certain contracts at the beginning or inception itself. The impossibility of performance may be known or may not be known to the parties

- (i) If the impossibility is known to the parties : A agreed with B to discover a treasure by magic. And B agreed to pay Rs. 500 to A for this act. This agreement is void
- (ii) If unknown to the parties: Even where both the promisor and the promisee are ignorant of the impossibility the contract is void.
- (iii) If known only to the promisor: Where the promisor alone knows it is impossible to perform or even if he does not know but he should have known about the impossibility with reasonable diligence, the promisee is entitled to claim compensation for the loss suffered because of failure of the promisor to perform.

(2) **Supervening impossibility:** When performance of a promise becomes impossible on account of subsequent developments of events or change in circumstances, which are beyond the contemplation of parties, the contract becomes void. The idea of “supervening impossibility” is referred to as ‘doctrine of frustration’ in English law.. Supervening impossibility can arise due to a variety of circumstances as stated below.

- (i) Accidental destruction of the subject matter of the contract :
- (ii) Non-existence or non-occurrence of a particular state of things:
- (iii) Incapacity to perform a contract of personal services: In case of contract of personal service, disability or incapacity to perform, caused by an Act of God e.g. illness, constitutes lawful excuse for non-performance of the contract. For example: A, a circus motor cyclist, contracted with B, the owner of a circus, to perform particular action on his motor cycle. -Before the performance, A died. In this case, the contract is discharged.
- (iv) Change in law: Performance of a contract may also become impossible due to change in law subsequently. The law passed subsequently may prohibit the act which may form part as basis of contract. Here the parties are discharged from their obligations. For example ‘A’ and ‘B’ may agree to start a business for sale of lottery and contribute capital for the business. If the business of sale of lottery ticket is banned by a subsequent law, parties need not keep up their legal obligations.
- (v) Outbreak of war: Outbreak of war will affect the enforceability of contracts in prohibiting or restraining transaction with alien enemy.

- **APPROPRIATION OF PAYMENTS**

Sometimes, a debtor owes several debts to the same creditor and makes payment which is not sufficient to discharge all the debts. In such cases, the payment is

appropriated (i.e., adjusted against the debts) as per Sections 59 to 61 of the Indian Contract Act. These sections contain the rules as to against which debt the payment is to be appropriated, and' may be discussed as under :

1. Where the debtor has stated that the payment made by him should be adjusted against a particular debt, the creditor must do so if he accepts the payment [Section 59]. And if there is no express, intimation by the debtor, the law will gather his intention from the circumstances regarding the payment, e.g., if the amount paid by the debtor is the exact amount of one of the debts, it must be used to discharge that particular debt.
2. Where the debtor makes payment without any indication about the appropriation of the payment, the creditor may adjust the payment according to his discretion. The creditor would like to adjust the payment against a debt which is not likely to be recovered. But he can adjust the payment only against the legal debts and not against the illegal or disputed debts. However, the creditor may also adjust the payment against the debts which are time barred [Section 60].
3. Where the debtor does not expressly intimate anything about the appropriation of the payment and the creditor also fails to make any appropriation, the law prefers to wipe out the earlier debt in order of time irrespective of the fact that some of them are time barred [Section 61]., And if there are several debts of the same date, the payment shall be adjusted against each debt proportionately.

- **CONTRACTS WHICH NEED NOT BE PERFORMED**

1. **Novation :**

The term 'novation' means the substitution of existing contract for a new contract. In other words, when the parties to a contract agree to substitute the existing contract by a new contract, it is known as novation. The novation must be with the mutual consent of all the parties.

For example, A owes money to B under a contract. It is agreed between A, B and C that B shall thenceforth accept C as his debtor, instead of A. The old debt of A to B is at an end, and a new debt from C to B has been contracted.

2. **Rescission :**

The term 'rescission' means the cancellation of the contract. A contract may be rescinded by mutual agreement between the parties at any time before it is discharged by performance or in some other way.

3. **Alteration :**

The term 'alteration' means change in one or more terms of the contract. The alteration is valid when it is made with the consent of all the parties. And the valid alteration discharges the original contract, and the parties become bound by the new contract (i.e., contract with altered terms).It is important to note here that in case of a written contract, the material alteration by one party without the consent of the other, also discharges the contract.

**4. Remission :**

The term 'remission' means the acceptance of lesser fulfillment of the terms of the promise, e.g., acceptance of a less sum of money where more is due. In other words, the remission is the lesser fulfillment of the promise made. The remission is the valid discharge of the whole of the liability under the contract.

For example, A owed Rs. 5,000 to B. A paid Rs. 2,000 to B, and B accepted it in full satisfaction. In this case, A is discharged from his liability of Rs. 5,000.

**• RESTORATION OF BENEFIT UNDER A VOID CONTRACT**

**Quantum Meruit (as much as is earned):** If any work is done, get paid for it and if any benefit is received then pay for it.

1. Any benefit received under voidable contract which is subsequently avoided is to be returned back (Section 64)
2. Any benefit received under void contract is to be returned back (Section 65)

**• COMMUNICATION OF REMISSION**

Remission must be communicated to the other party in the same manner as a proposal is communicated. Similarly, a remission may be revoked in the same manner as a proposal is revoked.

**• EFFECTS OF NEGLECT OF PROMISEE**

If any promisee neglects or refuses to afford the promisor facilities for the performance of a promise, the promisor is excused from the performance of his promise.

## UNIT 5: BREACH OF CONTRACT

- **INTRODUCTION**

In case of a valid contract, the parties are bound to perform their respective obligations. If any party fails to perform his obligations, there occurs a breach of the contract. The 'breach of contract' means the failure of a party to perform his obligations.

The party who fails to perform his obligations, is said to have committed a breach of contract. And a breach of a contract discharges the aggrieved party from performing his obligations. The breach of contract is of the following two types:

1. Anticipatory Breach
2. Actual Breach

1. **Anticipatory Breach of Contract**

It occurs when, prior to the due date of performance, the promisor absolutely refuses or disables himself from the performance of his obligations. In other words, it is a declaration by one party of his intention not to perform his obligations under the contract. Thus, the anticipatory breach is 'the premature destruction of the contract, i.e., the repudiation of the contract before due date of performance. "

**Example :**

A contracted to supply to B 100 pieces of denims on 15th December 2006. But before the due date of performance (i.e., 15th December, 2006), A informed B that he is not going to supply the denims at all. On A's refusal to supply the goods, the anticipatory breach of the contract occurs. And B may put an end to the contract.

The anticipatory breach may take place either by express refusal to perform the contract, or by some act of the promisor which makes the performance impossible.

**Example :**

A agreed to marry B. But before the agreed date of marriage, A married C. This is anticipatory breach of contract by A's conduct which has made the performance impossible.

In case of an anticipatory breach of the contract, the aggrieved party may exercise either of the following two options :

- (i) He may treat the contract as discharged and bring an immediate action for damages.
- (ii) He may treat the contract as operative and wait till the time of performance arrives.

2. **Actual Breach of Contract**

It occurs when, on the due date of performance or during the performance, a party fails to perform his obligations. Thus, the actual breach of contract may be discussed under the following two heads.

- i. **Actual breach of contract on the due date of performance :**

Sometimes, on the due date of performance, one party fails to perform his obligations. In such cases, the other party is discharged from the performance of his obligations, and can hold the guilty party liable for the breach of contract.

**Example :**

A agreed to sell his car to B on 1st June. But on 1st June, A refused to sell the car to B. On A's refusal to sell the car, there occurred a breach of the contract. And B can hold A liable for the breach of contract.

- ii. **Actual breach of contract during its performance :**  
Sometimes, one party performs his obligations under the contract but the other party fails or refuses to perform his obligations. It is an actual breach of contract during its performance. And sometimes, one party, no doubt, performs his obligations but not strictly according to the contract. It is also an actual breach of contract. This type of breach of contract occurs when the party, performing the contract, commits a breach of the essential conditions to contract.

**Example :**

A contracted to sell certain goods to B of particular description to be delivered on 15th March. On the due date of delivery, A delivered the goods to B. But the goods did not conform to the description. In this case, the breach of contract is committed during the performance of the contract as A has not performed the contract according to its terms. And thus, B is not bound to take delivery of the goods and pay for them.

**DAMAGES FOR BREACH OF CONTRACT**

The term 'damages' may be defined as the monetary compensation payable by the defaulting party to the aggrieved party for the loss suffered by him. On the breach of the contract, the aggrieved party may file a suit for damages against the party who is guilty of the breach of the contract. And the guilty party is liable to pay damages to the aggrieved party.

**Kinds of Damages**

Following are the different kinds of damages :

1. **Actual/Ordinary/ Usual damages :**  
These are the damages which are payable for the loss arising naturally and directly, in the usual course, from the breach of contract. In other words, the ordinary damages are due to natural and probable consequence of the breach of the contract  
**Example :**  
A contracted to give his ship to B on hire for one year, from 1st of January, for Rs. 50,000. Subsequently, A broke his promise. And on 1st of January, B hired another similar ship for one year for Rs. 60,000, as no other ship was available for Rs. 50,000. In this case, A liable to pay B, by way of compensation, Rs. 10,000 (i.e., the difference between the contract price and the price for which B could hire another similar ship for one year from 1st of January).
2. **Liquidated damages :**  
Sometimes, the amount of compensation fixed for the breach of the contract is fair and genuine pre-estimate of the probable damages. Such an amount is known as liquidated damages.
3. **Special damages :**  
These are the damages which are payable for the loss arising due to some special or unusual circumstances. In other words, the special damages are not due to the natural and probable consequences of the breach of the contract.  
The special damages are recoverable only if the parties knew about them and agree at the time of contract.

**Example :**

A delivered a machine to B a common carrier, to be conveyed to A's mill without delay. A also informed B that his mill was stopped for want of the machine. B unreasonably delayed the delivery of the machine, and in consequence A lost a profitable contract with the government. In this case, is entitled to receive from B, by way of compensation, the average amount of profit which would have been made by running the mill during the period of delay. But he cannot recover the loss sustained due to the loss of the government contract, as A's contract with the government was not brought to the notice of B.

**4. Exemplary/ vindictive/ punitive damages:**

The exemplary damages are claim with the intention of punishing the party in default. As a general rule, the exemplary damages are not awarded for the breach of contract as they are punitive in nature. However, in following two cases, the court may award exemplary damages:

- (i) Where there is a breach of a promise to marry: In such cases, the damages will include compensation for loss to the feelings and reputation of the aggrieved party.
- (ii) Where a banker wrongfully dishonors customer's cheque, e.g., dishonor of customer's cheque when the banker has sufficient funds to the credit of the customer. In such cases, the damages are awarded taking into consideration the loss to the prestige and goodwill of the customer. The general rule, in this connection is, the smaller the amount of cheque the greater is the insult, and thus greater the amount of damages.

**5. Nominal damages:**

These are the damages which are very small in amount. Such damages are awarded simply to establish the right of the party to claim damages for the breach of contract even though the party has suffered no loss. Such damages are for nominal amounts like ten rupees or even ten paise.

**6. Damages for deterioration caused by delay:**

Compensation can be recovered even without notice for damages or 'deterioration' caused to goods on account of delay by carriers amounting to breach of contract. Here the word "deterioration" means not only physical damages but also loss of opportunity.

*Case Law:* In *Wilson vs. Lancashire and Yorkshire Railway Company*, the plaintiff bought velvet with a view to making it into caps for sale during spring. But due to delay in transit, he was unable to use the velvet for making caps for sale during season.

**7. Remote or indirect damages :**

These are the damages which are payable for the loss arising due to some remote or indirect causes. Generally, the remote damages are not recoverable.

**• LIQUIDATED DAMAGES AND PENALTY**

Sometimes, at the time of the formation of the contract, the parties fix the amount of compensation that will be payable in case of breach of the contract. The amount so specified may be (a) liquidated damages, or (b) penalty.

1. **Liquidated damages :**  
Sometimes, the amount of compensation fixed for the breach of the contract is fair and genuine pre-estimate of the probable damages. Such an amount is known as liquidated damages.
2. **Penalty :**  
Sometimes, the amount of compensation fixed for the breach of the contract is not fair and genuine pre-estimate of the probable damages, but is disproportionate to the damages which may result in case of the breach of the contract. Such an amount is known as penalty.

<b>Liquidated damages</b>	<b>Penalty</b>
1. Imposed by way of compensation	1. Imposed by way of punishment
2. It is an assessed amount of loss based on actual.	2. It is not based on actual. It is imposed to prevent parties from committing the breach.
3. English Law recognizes the difference between the two (liquidated damages & penalty)	3. Section 74 of the act does not recognize any difference between the two.

- The sum so named determines only the maximum liability. And the courts cannot allow damages beyond that limit, i.e., the courts cannot increase the amount of damages beyond the amount specified in the contract itself.
- In terms of Section 74, courts are empowered to reduce the sum payable on breach whether it is 'penalty' or "liquidated damages" provided the sum appears to be unreasonably high.
- **ADDITIONAL REMEDIES AVAILABLE IN CASE OF BREACH OF CONTRACT:**

Apart from claiming damages, following remedies are available in case of breach of contract:-

- (1) **Suit for Quantum Meruit:** Where the aggrieved party in the contract has given any advance and if subsequently if there is breach, then the advance can be claimed back under the principle of Quantum Meruit.
- (2) **Rescission of contract :** When a contract is broken by one party, the other party may treat the contract as rescinded. In such a case the other party is discharged from performing his part of promise and is entitled to claim compensation for any loss that he might have suffered.
- (3) **Suit for Specific Performance :**  
The term 'specific performance' may be defined as the actual carrying out the respective obligation by both the parties. Sometimes,
  - (i) the damages are not an adequate remedy for breach of the contract or
  - (ii) the damages cannot be estimated or
  - (iii) the subject matter of contract is unique in nature.

In such cases, the party aggrieved by the breach may bring an action for specific performance of the contract. And the court may direct the defaulting party to carry out his obligations according to the terms of the contract.

It may be noted that the specific performance of the contract cannot be claimed as a matter of right. The **courts are always at discretion to grant the relief by specific performance.** The courts may, at their discretion, order specific performance of contracts.

However, in following cases the specific performance cannot be ordered by court:

- (i) If the performance involves personal skills
- (ii) If the performance is continuous in nature

**(4) Suit for Injunction :**

The term 'injunction' may be defined as an order of the courts restraining a person from doing something which he promised not to do. In this case also, the courts are at discretion to issue an injunction order. It is, usually, issued in cases where the compensation in terms of money is not an adequate relief.

Sometimes, a party to a contract does something which he had promised not to do. In such cases, the aggrieved party may file a suit for injunction. And the courts may at their discretion, issue an order restraining such person from doing what he promised not to do.

*Case Law:* In *Lumely v. Wagner*, A, a singer, agreed to sing at B's theatre for certain period. She further agreed that during the prescribed period she will not sing at any other theatre. Afterwards, A made a contract with C to sing at his theatre, and refused to sing at B's theatre. B filed a suit restraining A from singing at C's theatre. It was held that although A could not be compelled to sing at B's theatre, but she could be restrained by injunction from singing at C's theatre.

- **DISCHARGE OF CONTRACT**

A contract may be discharged either by an Act of the parties or by an operation of law in the different base set out below :

- (1) **Discharge by performance:** It takes place when the parties to the contract fulfill their obligations arising under the contract within the time and in the manner prescribed. Discharge by performance may be 1) actual performance or 2) attempted performance. Actual performance is said to have taken place, when each of the parties has done what he had agreed to do under the agreement. When the promisor offers to perform his obligation, but the promisee refuses to accept the performance, it amounts to attempted performance or tender.
- (2) **Discharge by mutual agreement:** Section 62 of the Indian Contract Act provides if the parties to a contract agree to substitute a new contract for it, or to refund or remit or alter it, the original contract need not be performed.
- (3) **By impossibility of performance:** The impossibility may exist from the very start. In that case, it would be impossibility ab initio.

Alternatively, it may supervene. Supervening impossibility may take place owing to: a) an unforeseen change in law, b) the destruction of the subject-matter essential to that performance c) the non-existence or non-occurrence of particular state of things, which was naturally contemplated for performing the contract, as a result of some personal incapacity like dangerous malady, or declaration of a war (Section 56).

- (4) **Discharge by lapse of time:** A contract should be performed within a specific period as prescribed by the Limitation Act, 1963. If it is not performed and if no action is taken by the promisee within the specified period of limitation, he is deprived of remedy at law. For example, if a creditor does not file a suit against the buyer for recovery of the price within three years the debt becomes time; barred and hence irrecoverable.
- (5) **Discharge by operation of law:** A contract may be discharged by operation of law which includes by death of the promisor, by insolvency etc.
- (6) **Discharge by breach of contract:** Breach of contract may be actual breach of contract or anticipatory breach of contract. If one party defaults in performing his part of the contract on the due date, he is said to have committed a breach thereof. When, on the other hand, a person repudiates a contract before the stipulated time for its performance has arrived, he is deemed to have committed anticipatory breach. If one of the parties to a contract breaks the promise the party injured thereby has not only a right of action for damages but he is also discharged from performing his part of the contract (Section 64).
- (7) A promisee may dispense with or remit the performance of the promise made to him or may accept any satisfaction he thinks fit. In the first case the contract will be discharged by remission and in the second by accord and satisfaction (Section 63)
- (8) When a promisee neglects or refuses to afford the promisor reasonable facilities for the performance of the promise, the promisor is excused by such neglect or refusal (Section 67).

## UNIT 6: CONTINGENT AND QUASI CONTRACTS

### CONTINGENT CONTRACTS

- **DEFINITION**

- **Definition of a Contingent Contract**

- The term 'contingent contract', in simple words, may be defined as a conditional contract. This term, in legal words, is defined in Section 31 of the Indian Contract Act, as under: contract, does or does not happen."

- **Example:** A contracts to pay Rs.10,000 to B if his (B's) house is burnt. This is a contingent contract as its performance is dependent upon an uncertain event (i.e., burning of B's house).

- **ESSENTIALS OF A CONTINGENT CONTRACT**

- Following are the essential elements of a valid contingent contract :

- 1. **There must be a valid contract :**

- A contract to do or not to do something must be legally valid, i.e., it must fulfil the basic requirements of a valid contract.

- 2. **The performance of the contract must be conditional:**

- The performance of a contingent contract must depend upon the happening or non-happening of some future event.

- 3. **The event must be uncertain:**

- The future event, upon which the performance of a contract depends, must be an uncertain event. If the event is certain, i.e., the event is bound to happen, then the contract is not a contingent contract.

- 4. **The uncertain event must be collateral to the contract:**

- The uncertain event, upon which the performance of the contract is dependent, must not form a part of the consideration of the contract. In other words, the event must be independent or ancillary to the contract.

- **RULES REGARDING ENFORCEMENT OF CONTINGENT CONTRACTS**

- The rules regarding the enforcement of contingent contracts are contained in Sections 32 to 36 of the Indian Contract Act, which may be discussed under the following heads:

- 1. **Contingent Contracts Dependent on the 'Happening' of Future Uncertain Event**

- A contingent contract dependent on the 'happening' of a future uncertain event can be enforced only when that uncertain event has happened [Section 32].

- **Example:**

- A offered to sell his horse to B for Rs. 4,000. Subsequently, A entered into a contract with C to sell the same horse to him for Rs. 3,500 if B refused to buy it. The contract between A and C is contingent and can be enforced by law only when B refuses to buy the horse from A.

- However, if the event becomes impossible then such contract becomes void, and thus cannot be enforced by law.

- 2. **Contingent Contracts Dependent on the 'Non-Happening' of Future Uncertain Event**

- A contingent contract dependent on the 'non-happening' of future uncertain event can be enforced only when the happening of that event becomes impossible as then that event cannot happen [Section 33].

**Example:**

A agreed to pay B Rs. 500 if a certain ship did not return. The ship was sunk. It is a contingent contract and can be enforced by law when the ship sinks. Because when the ship sinks, the event becomes impossible as the ship can never return.

However, if the event happens or does not become impossible, then such contracts become void and cannot be enforced by law e.g., suppose in the above example, the ship returns, then the contract becomes void.

**3. Contingent Contracts Dependent on future conduct of a living person.**

A contingent contract dependent on the future conduct of living person is valid if person acts accordingly otherwise it becomes void.

**4. Contingent Contracts Dependent on the Happening or Non-Happening of Specified Uncertain Event Within Fixed Time**

A contingent contract dependent on the 'happening' of a specified uncertain event within fixed time, can be enforced if that event happens within the fixed time.

**Example :**

A agreed to pay Rs. 1,000 to B if a certain ship returned within a year. It is a contingent contract and can be enforced by law if the ship returns within a year.

In this case also, if the event does not happen within the fixed time or if it becomes impossible before the expiry of the fixed time, then such contracts become void and cannot be enforced by law [Section 35]

**5. Contingent Contracts Dependent on Impossible Events**

A contingent contract dependent on the happening of impossible event is void and cannot be enforced by law [Section 36].

**Example:** A agreed to pay Rs. 500 to B if he proved that two straight lines can intersect. This is a void agreement as two straight lines can never 'enclose a space'

• **DISTINCTION BETWEEN WAGERING AGREEMENT AND CONTINGENT CONTRACT**

<b>Wagering Agreement</b>	<b>Contingent Contract</b>
<b>1. Meaning:</b> A wagering agreement is a promise to give money or money's worth upon the determination or ascertainment of an uncertain event.	<b>1. Meaning:</b> A contingent contract is a contract to do or not to do something if some event, collateral to such contract does or does not happen.
<b>2. Reciprocal promises:</b> A wagering agreement consists of reciprocal promises	<b>2. Reciprocal promises:</b> A contingent contract may not contain reciprocal promises.
<b>3. Uncertain event:</b> The uncertain event is the main event.	<b>3. Uncertain event:</b> The uncertain event is the collateral event.
<b>4.</b> All wagering agreements are contingent.	<b>4.</b> All contingent contracts are not wagering.
<b>5.</b> A wagering agreement is void	<b>5.</b> A contingent contract is valid.
<b>6.</b> A wagering agreement is a game of chance.	<b>6.</b> A contingent contract is not a game.

## **QUASI CONTRACTS**

- **DEFINITION**

The term 'quasi contract' may be defined as 'a relation which resembles that created by a contract.

There is no real contract. The parties under such relations are put in the same position as if there was a contract between them.

It is based on the principle of "Prevention of unjust enrichment at the expense of other".

- **CIRCUMSTANCES (OR CASES) OF QUASI CONTRACTS**

Following are the circumstances in which the quasi contractual obligations arise.

These are contained in Sections 68 to 72 of the Indian Contract Act :

1. Supply of necessaries to persons who are incompetent to contract (Section 68)
2. Payment by an interested person (Section 69)
3. Non-gratuitous acts (Section 70)
4. Finder of goods (Section 71)
5. Payment of money or deliver of goods by mistake or under coercion (Section 72)

1. **Supply of Necessaries to Persons Incompetent to Contract:**

Sometimes, a person supplies the necessaries to a person who is not competent to contract (i.e., minor, persons of unsound mind such as lunatics, etc.), or to another person to whom the incompetent person is bound to support. In such cases, the person supplying the necessaries is entitled to recover the cost of necessaries from the property of such incompetent person even if there is no valid contract between them.

**Example:**

A supplied necessaries of life to B, a minor, in this case, A is entitled to claim back from B's property.

2. **Payment by a Person Having Some Interest in Payment:**

Sometimes, a person makes the payment which is the legal duty of another person. In such cases, the person who has made the payment can recover such money from the person who is legally bound to pay.

Following conditions must be satisfied for the recovery of payment by an interested person:

- (a) The person making the payment must have some interest in paying the amount.
- (b) The person making the payment must not be bound by law to pay the amount.
- (c) The other person from whom the money is to be recovered must be legally bound to pay the money.

**Example:**

A held land in Bengal on a lease granted by B, a Zamindar. The revenue payable by B fell in arrears. As such, his land was advertised for sale by the government. Under the Revenue Law, the consequences of such sale was the cancellation of A's lease. In order to prevent the consequent annulment of his lease, A paid to the government the amount due from B. In this case, A is entitled to recover the amount from B. And B is bound to pay the same to A.

**3. Non-Gratuitous Acts:**

The 'non-gratuitous- acts' means the acts which are not done free. A person who does some non-gratuitous acts for another, is entitled to recover compensation for such acts if the other person enjoys the benefits of such acts.

**Example:**

A, a tradesman, gave certain goods to B to store at B's warehouse by paying rent. B sold A's goods to C for ₹ 100,000 without A's permission. A can claim ₹ 100,000 from B.

Following conditions must be satisfied for recovery of compensation for non-gratuitous act :

- (a) The person must lawfully do something for another person or deliver something to him.
- (b) The person doing some act or delivering something must not intend to act gratuitously.
- (c) The other person must voluntarily accept the acts or goods and he must have enjoyed their benefits.

**4. Finder of Goods:**

Sometimes, a person finds certain goods, belonging to some other person. In such cases, the goods do not become the property of the finder.

The law imposes certain obligations on the finder of goods. Under the law, the responsibility of finder of goods is the same as that of a bailee.

A 'bailee' is a person to whom the goods have been delivered for some specific purpose upon a condition that on the fulfillment of the purpose, the goods shall be returned to the actual owner.

Thus, it becomes the duty of the finder to keep the goods with care and take some steps to trace the true owner and return the goods to him. He is bound to take as much care of the goods as a man of ordinary prudence would take for his own goods under the similar circumstances.

He also gets some rights in respect of the goods in certain circumstances, when the true owner cannot be found, he can sell the goods which are of perishing nature.

**5. Payment of Money or Delivery of Goods by Mistake or Under Coercion**

Sometimes, a certain amount of money is paid or something is delivered to a person by mistake or under coercion. In such cases, the person receiving the money or goods must repay or return the same to the person who has paid or delivered by a mistake or under coercion.

**Example:**

A and B jointly owed Rs. 1000 to C. A alone paid the amount to C. And B not knowing this fact, also paid Rs.1000 to C. In this case, C is bound to repay the amount to B who has paid it by mistake.

**SUMMARY**

**UNIT 1: NATURE OF CONTRACTS**

- **INTRODUCTION**

- ✓ It received its assent on 25<sup>th</sup> April, 1872 and was introduced on 1<sup>st</sup> September, 1872.
- ✓ It is applicable to whole of India except Jammu and Kashmir.
- ✓ Contract = Agreement + Enforceable by law
- ✓ Agreement = Offer + Acceptance
- ✓ Therefore, all contracts are agreements BUT all agreements are NOT contracts

- **OFFER**

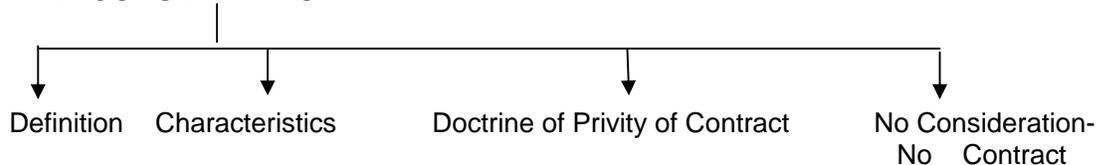


- **ACCEPTANCE**



- COMMUNICATION OF OFFER & ACCEPTANCE AND REVOCATION OF OFFER & ACCEPTANCE
- TYPES OF CONTRACTS
- TYPES OF CONTRACTS AS PER ENGLISH LAW
- ESSENTIAL ELEMENTS OF A VALID CONTRACT

**UNIT 2: CONSIDERATION**



**UNIT 3: OTHER ESSENTIAL ELEMENTS OF A VALID CONTRACT**

- **CAPACITY OF PARTIES**

1. Minor
2. Person of unsound mind
3. Persons disqualified by law

- **CONSENSUS-AD- IDEM**

- **FREE CONSENT**

Consent is said to be free if it is not induced by:

1. Coercion,
2. Undue influence,
3. Fraud,

4. Misrepresentation,
5. Mistake

- **UNLAWFUL OBJECT & UNLAWFUL CONSIDERATION**

- **AGREEMENTS EXPRESSLY DECLARED AS VOID**

- ✓ Agreement in restraint of marriage is void
- ✓ Agreement in restraint of trade is void
- ✓ Agreement in restraint of legal proceedings
- ✓ Agreement the meaning of which is uncertain is void
- ✓ wagering agreements

**UNIT 4: PERFORMANCE OF CONTRACT**

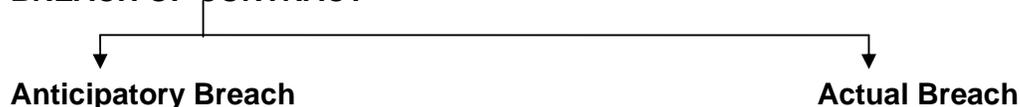
- **CONTRACT WILL BE PERFORMED BY:**

1. Promisor himself
2. Legal Representative  
However, if the contract involves personal skills and if the promisor dies, the contract becomes void.
3. Agent
4. Third persons, if promise permits

- REQUISITES OF A VALID PERFORMANCE
- EFFECT OF REFUSAL OF A PARTY TO PERFORM
- DISTINCTION BETWEEN SUCCESSION AND ASSIGNMENT
- LIABILITY OF JOINT PROMISORS
- RIGHTS OF JOINT PROMISEES
- TIME AND PLACE FOR PERFORMANCE
- RECIPROCAL PROMISES
- EFFECTS OF FAILURE TO PERFORM AT A TIME FIXED IN A CONTRACT IN WHICH TIME IS ESSENTIAL
- IMPOSSIBILITY OF PERFORMANCE
- APPROPRIATION OF PAYMENTS
- CONTRACTS WHICH NEED NOT BE PERFORMED-Novation, Alteration, Rescission, Remission
- QUANTUM MERUIT
- EFFECTS OF NEGLIGENCE OF PROMISEE

**UNIT 5: BREACH OF CONTRACT**

- **BREACH OF CONTRACT**



- **DAMAGES FOR BREACH OF CONTRACT**

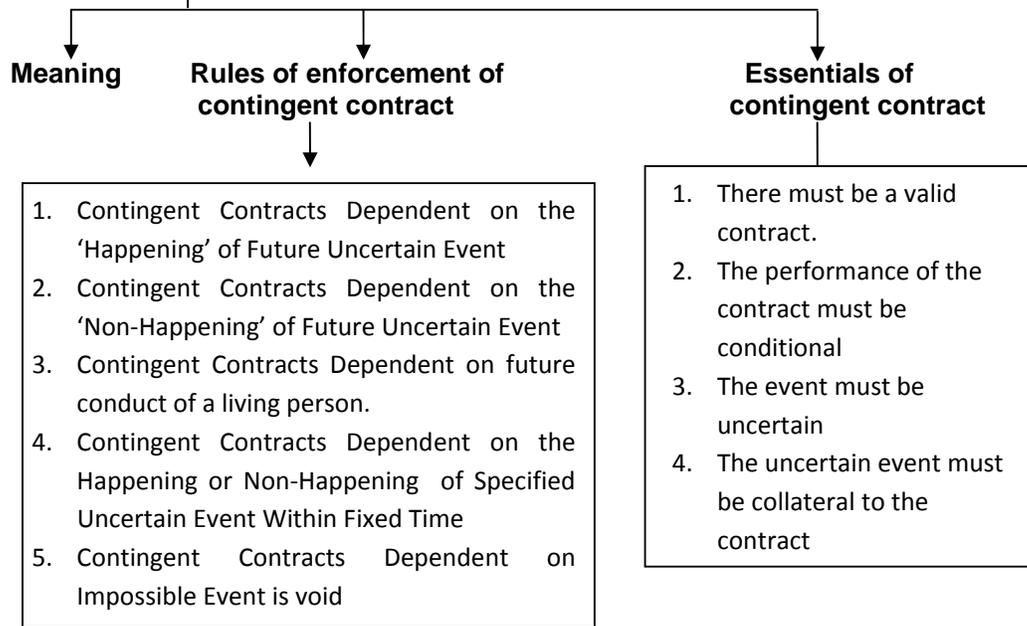
- 1) Ordinary/ Usual damages
- 2) Liquidated damages
- 3) Special damages
- 4) Exemplary/ Vindictive/ Punitive damages
- 5) Nominal damages

- 6) Damages for deterioration caused by delay
- 7) Remote or indirect damages.

- LIQUIDATED DAMAGES AND PENALTY
- DISCHARGE OF CONTRACT
- ADDITIONAL REMEDIES AVAILABLE IN CASE OF BREACH OF CONTRACT
- 

**UNIT 6: CONTINGENT AND QUASI CONTRACTS**

• **CONTINGENT CONTRACTS**



• **QUASI CONTRACTS**

- 1. Supply of necessaries to persons who are incompetent to contract
- 2. Payment by a Person Having Some Interest in Payment Conditions:
- 3. Claim for any benefit received under a non-gratuitous act
- 4. Finder of goods
- 5. Payment of Money or Delivery of Goods by Mistake or Under Coercion

**PART A : CLASSWORK****CATEGORY A : MULTIPLE CHOICE QUESTIONS**

- Q. 1.** A advertises in paper that any person who found his lost dog can get a reward of ₹ 5000. Any person who finds the dog can claim the reward. This is a case of :
- (a) General Offer      (b) Specific Offer  
(c) Implied Offer      (d) Invalid Offer
- Q. 2.** To make a valid General Offer, it is necessary for the offer to be known to the Offeree at the time of making the offer.
- (a) True      (b) Partly True      (c) False      (d) None of the above
- Q. 3.** An offer was sent by post. The Acceptor wrote 'Accepted' on the letter, put it in his drawer and forgot about it. The transaction is
- (a) a valid contract  
(b) not an agreement as the acceptance was never communicated to the Proposer  
(c) a voidable contract  
(d) a void contract
- Q. 4.** Capacity to contract means
- (a) The parties are financially sound to make contracts  
(b) The parties are physically able to enter into contracts  
(c) The parties are legally competent to enter into contracts  
(d) All of the above
- Q. 5.** Person who is not an Indian citizen is known as
- (a) Alien enemy      (b) Alien friend  
(c) Either (a) or (b)      (d) Both (a) and (b)
- Q. 6.** A agrees to pay B ₹ 50 if two parallel straight lines intersect each other. The agreement is
- (a) Void      (b) Voidable      (c) Valid      (d) Illegal
- Q. 7.** "A" promises to act in a movie for "B". In this case
- (a) Legal representative of A can perform the promise  
(b) A's agent can perform the promise  
(c) A's employer can perform the promise  
(d) A must perform this promise personally

- Q. 8.** When two or more persons have made a joint promise, then, unless a contrary intention appears from the contract, the promise shall be performed, during their joint lives
- (a) By any one of them                      (b) By a majority of the Joint Promisors  
(c) By all of the Joint Promisors        (d) All of the above
- Q. 9.** When three persons have made a joint promise, then, unless a contrary intention appears from the contract, the promise shall be performed, after the death of the last survivor
- (a) By the Representatives of all the Promisors jointly  
(b) By the Representative of a majority of the Promisors  
(c) By the Representatives of any one of the Promisors  
(d) Any one of the above
- Q. 10.** A promises to deliver goods at B's godown. A deliver the goods during business hour to B's house.
- (a) A has not performed his promise        (b) A has performed his promise  
(c) B has not performed his promise        (d) Both (b) and (c)
- Q. 11.** For discharge of a contract by novation, consent of ..... is required.
- (a) promise only                                (b) all the parties  
(c) atleast two of the parties                (d) promisor only
- Q. 12.** A owes B ₹ 50,000. Due date for payment is 25th March. A pays to B ₹ 30,000 on 25th March, who accepts it in full satisfaction of the debts. The debt is discharged on account of
- (a) remission                                    (b) not extension time of performance  
(c) novation                                      (d) All of the above
- Q. 13.** Quantum Meruit means
- (a) a non-gratuitous promise                (b) as gratuitous promise  
(c) as much as is earned                      (d) as much as is paid
- Q. 14.** A, a businessman leaves his goods at B's place by mistake. B treats the same as his own and uses it. B is bound to compensate A for it, under the principles of
- (a) Specific Performance                      (b) Remission  
(c) Special damages                            (d) Quasi contract
- Q. 15.** A contracts to deliver 1,000 bags of rice at ₹ 100 per bag on a future date. On the due date he refuses to deliver. Market Price on that day is ₹ 120 per bag. Which Damages can be granted by court?
- (a) Ordinary damage                            (b) Special damage  
(c) Remote damage                              (d) Vindicative damage

- Q. 16.** When there are certain extraordinary circumstances present and it is communicated to the Promisor, non-performance of promise entitles the Promisee to claim
- (a) Ordinary Damages                      (b) Special Damages  
(c) Either (a) or (b)                      (d) Both (a) and (b)
- Q. 17.** Pre estimated amount of compensation payable in case of breach of contract is called
- (a) Penalty                                      (b) Liquidated Damages  
(c) Either (a) or (b)                      (d) Neither (a) nor (b)
- Q. 18.** A *jus in personam* means a right against
- (a) a specific person                      (b) the public at large  
(c) a specific thing                      (d) none of these
- Q. 19.** Standing Offer means
- (a) Offer allowed to remain open for acceptance over a period of time  
(b) Offer made to a definite person  
(c) Offer made to the public in general  
(d) When the offeree offers to qualified acceptance of the offer
- Q. 20.** Match List - I with List - II and select the correct answer using the codes given below the Lists :
- | <b>List - I</b>        | <b>List - II</b>                                     |
|------------------------|--|
| A. Acceptance          | 1. Promise or set of promises                        |
| B. Agreement           | 2. Signifying willingness to do or obtain from doing |
| C. Proposal            | 3. Signifying assent to the proposal                 |
| D. Reciprocal promises | 4. Promises forming consideration to each other      |
- Code :**
- | <b>A</b> | <b>B</b> | <b>C</b> | <b>D</b> |   |
|----------|----------|----------|----------|---|
| (a)      | 3        | 1        | 2        | 4 |
| (b)      | 2        | 4        | 3        | 1 |
| (c)      | 3        | 4        | 2        | 1 |
| (d)      | 2        | 1        | 3        | 4 |
- Q. 21.** Inadequacy of consideration does not make a contract
- (a) Void                      (b) Voidable                      (c) Unforceable                      (d) None of the above
- Q. 22.** X engages Y as his employee and promises to pay Y a "reasonable" salary for services rendered. Here, the consideration is :
- (a) Valid                      (b) Unlawful                      (c) Uncertain                      (d) Illusory

**Q. 23.** A minor's liability for 'necessaries' supplied to him.

- (a) Arises after he attains majority age      (b) Arises if minor gives a promise for it  
(c) Is against only minor's property      (d) Does not arise at all

**Q. 24.** Which of the following persons are not competent to contract?

- (a) Minors      (b) Persons of unsound mind  
(c) Persons disqualified by law      (d) All of the above

**Q. 25.** As a general rule minor's agreements are :

- (a) Void ab initio      (b) Voidable      (c) Valid      (d) Unlawful

**Q. 26.** Moral pressure is involved in the case of

- (a) Fraud      (b) Undue Influence      (c) Misrepresentation      (d) Coercion

**Q. 27.** A contract with the minor, which is beneficial for him is

- (a) void ab initio      (b) voidable      (c) valid      (d) illegal

**Q. 28.** "Consensus - ad - item" means

- (a) general consensus      (b) reaching of contract  
(c) reaching an agreement      (d) meeting of minds upon the same thing in the same sense

**Q. 29.** Person making a false statement believes the statement to be true and does not intend to mislead the other party to the contract it is known as :

- (a) Free Consent      (b) Fraud      (c) Mistake      (d) Misrepresentation

**Q. 30.** X a seller of imitation jewellery, sells his business to Y and promises, not to carry on business in imitation jewellery and real jewellery. The agreement is :

- (a) fully valid  
(b) wholly void  
(c) valid with regard to imitation jewellery and void as regard Real Jewellery  
(d) void with regard to imitation Jewellery ; and valid as regards Real Jewellery

**Q. 31.** In case of joint promises, the performance must be generally by :

- (a) One not authorised to perform      (b) Any one of them individually  
(c) All the promisors jointly      (d) None of the above

- Q. 32.** X promises to deliver goods to Y on a certain day on payment of ₹10,000. X dies before that day
- (a) The contract is illegal
  - (b) The contract becomes possible due to the death of X
  - (c) The contract can be enforced against X's representatives and Y is bound to pay ₹ 10,000 to X's representatives
  - (d) The contract becomes void and cannot be enforced against legal representatives of X
- Q. 33.** If Promisee terminates the Contract due to non - performance or part - performance by the Promisor, the Promisee has to return the benefits, if any, he has received from part performance of the promise
- (a) True
  - (b) Partly True
  - (c) False
  - (d) Partly False
- Q. 34.** A Promisee can accept the performance from \_\_\_\_\_.
- (a) Promisor himself
  - (b) Representative of the Promisor competent to perform
  - (c) A third person
  - (d) Any of the above
- Q. 35.** Under a contract where time is not specified for performance, the Promisor can perform the contract.
- (a) At any time he wishes
  - (b) Within a reasonable time
  - (c) Within the shortest time
  - (d) At any time he wishes
- Q. 36.** X promises to deliver goods at Y's Shop on the 1st April. On that day, X brings the goods to Y's Shop but after the usual hour for closing it and they are not received. Which one of the following is correct?
- (a) X has not kept his promise
  - (b) X kept his promise as time was not specified
  - (c) X performs his duty as time is not the essence of the contract
  - (d) All of the above
- Q. 37.** A party who rightfully rescinds the contract is also entitled to receive compensation from the defaulting party.
- (a) True
  - (b) False
  - (c) Sometime True
  - (d) Sometime False
- Q. 38.** Compensation / Damages shall not be given for any remote and indirect loss or damage sustained by reason of breach it is \_\_\_\_\_.
- (a) True
  - (b) Partly True
  - (c) False
  - (d) Partly False
- Q. 39.** Sometimes, a person finds certain goods belonging to some other persons. In such a case, the finder :
- (a) becomes the owner of the goods and can use them
  - (b) is under a duty to trace the true owner and return the goods
  - (c) can sell the perishable goods if true owner cannot be found
  - (d) both (b) and (c)

**CATEGORY B : MULTIPLE CHOICE QUESTIONS**

- Q. 40.** An offer and its acceptance is the basic requirement of an agreement and as per this requirement, an offer by one party
- (a) Should be made to the other who is related to him
  - (b) May also be made to himself
  - (c) Should be made to another who may or may not be related to him
  - (d) Should be made to another before the Register
- Q. 41.** An offer made to group of persons is known as
- (a) Standing offer
  - (b) Specific Offer
  - (c) Special Offer
  - (d) Separate Offer
- Q. 42.** A offered to take a house on lease for a period of 3 years if the house was handsomely decorated. Here,
- (a) there is no legal obligation
  - (b) there is no communication of offer
  - (c) the terms of offer are too vague
  - (d) the offer is conditional
- Q. 43.** A, a Minor, entered into a contract for borrowing a sum of ₹ 40,000 out of which lender paid him a sum of ₹ 18,000 A executed mortgage of property in favour of the lender. The mortgage is
- (a) valid for any amount
  - (b) valid to the extent of ₹ 40,000
  - (c) invalid
  - (d) validated on attaining majority
- Q. 44.** A minor's guardian is not liable to creditor for breach of contract by the minor, if the contract is for .....
- (a) supply of necessities
  - (b) supply of non-necessaries
  - (c) supply of services
  - (d) All of the above
- Q. 45.** A, a minor borrowed ₹ 30,000 from B as an education loan to complete his education. B can .....
- (a) Recover amount from A
  - (b) Recover amount from A's guardian
  - (c) Recover amount from A's property
  - (d) Not recover at all
- Q. 46.** An essential feature of consideration is that
- (a) It must be cash
  - (b) It must be given by the Promisee alone
  - (c) It must be at the request of the Promisor
  - (d) It must be in kind
- Q. 47.** Where a witness who has received summons to appear at a trial, a promise to pay him anything beyond his expense is
- (a) void
  - (b) valid
  - (c) unlawful
  - (d) illegal

- Q. 48.** Mere nearness of relation does not necessarily imply natural love and affection for making contracts without consideration is valid.
- (a) True                      (b) Partly True                      (c) False                      (d) None of the above
- Q. 49.** A bought shares in a Company on the faith of a prospectus that contained an untrue statement as to the Directorship of B. A had never heard of B and hence such statement was immaterial from his view point. A claimed damages for fraud. His claim will be dismissed on the ground that
- (a) there was no fraud  
(b) It is a subject matter covered under Companies Act  
(c) the untrue statement had not induced him to buy the shares  
(d) All of the above
- Q. 50.** A, fraudulently, sold his car to B. Afterwards, B came to know about the fraud, but instead of complaining, he further sold the car to C. In this case, B's right to rescind the contract is
- (a) lost                      (b) not lost                      (c) strengthened                      (d) None of the above
- Q. 51.** An old illiterate man was made to sign a bill of exchange, by means of a false representation that it was a guarantee. The contract is
- (a) illegal                      (b) Valid                      (c) Void                      (d) Voidable
- Q. 52.** Which of the following statement are correct?
- (i) An agreement with voters to procure their votes for notes is void.  
(ii) An agreement with a person for procuring a seat in a college for monetary consideration is void  
(iii) Wagering agreement is voidable  
(iv) An agreement restricting personal freedom is void.
- (a) (i), (ii), (iii)                      (b) (ii), (iii), (iv)                      (c) (i), (ii), (iv)                      (d) (i), (iii), (iv)
- Q. 53.** A agrees to pay ₹ 50,000 to B if she brings a Dianosaur from forest.
- (a) This is void agreement                      (b) This is a quasi contract  
(c) This is an implied contract                      (d) This is a wagering contract
- Q. 54.** Where time of performance is specified in the contract and the Promisee has accepted performance at any time other than the agreed time, the Promisee
- (a) cannot claim compensation  
(b) can claim compensation for loss  
(c) cannot claim performance of the promise  
(d) is entitled to rescind the contract

- Q. 55.** A owes B ₹ 10,000. A enters into a contract with B and gives his estate to B as mortgage for ₹ 5,000 in place of the earlier debt of ₹ 10,000.
- (a) This is a new contract and extinguishes the old one
  - (b) This is a new contract but does not extinguish the old one
  - (c) Both are independent contracts
  - (d) None of the above
- Q. 56.** A agreed to supply certain goods to B. As a result of an increase in raw material costs, it is no longer profitable for A to supply them at the agreed rate. In this case
- (a) Contract becomes void
  - (b) Contract is discharged
  - (c) A cannot be excused for non-performance
  - (d) A can be excused for non-performance
- Q. 57.** Which of the following is incorrect ?
- (a) Contracts are discharged by lapse of time
  - (b) Discharge of a party and discharge of contract are same and one thing
  - (c) Cancellation of contract discharges the contract
  - (d) All of the above
- Q. 58.** A took a house on rent from B. During tenancy, A purchases that house. The earlier contract of tenancy is
- (a) Void
  - (b) Discharged
  - (c) Rescinded
  - (d) Voidable
- Q. 59.** A contracts with B to deliver goods to B on 1st July. A does not deliver goods on 1st July. B may rescind the contract. The contract is rescinded due to
- (a) Mutual decision
  - (b) A's failure to perform
  - (c) Impossibility of Performance
  - (d) Revocation of proposal
- Q. 60.** A, Hindu, who was already married, contracts to marry B, a Hindu girl. The contract is void on the ground of
- (a) Initial impossibility
  - (b) Supervening impossibility
  - (c) Social impossibility
  - (d) No consideration
- Q. 61.** Where the Court orders the defaulting party to carry out the promise according to the terms of the contract, it is called
- (a) Quantum Meruit
  - (b) Rescission
  - (c) Injunction
  - (d) Specific Performance

**Q. 62.** Specific Performance may be ordered by the Court when

- (a) the contract is voidable (b) damages are an adequate remedy  
(c) damages are not an adequate remedy (d) Quantum meruit is not possible

**Q. 63.** A, a singer, agreed with B to perform at his theatre for two months, on a condition that during that period, he would not perform anywhere else. When A performs somewhere else, B could move to the Court for

- (a) grant of injunction restraining A from performing in other places  
(b) Specific performance  
(c) allowing B to perform in other places  
(d) All of the above

**Q. 64.** A and B jointly owe ₹10 lakhs to C. A pays the amount to C and B, not knowing this fact, pays ₹ 10 lakhs over again to C.

- (a) C is bound to repay the amount to B  
(b) C is bound to repay the amount to B and A jointly  
(c) C is bound to repay the amount to A and B equally  
(d) C is not bound to repay the amount to B

**Q. 65.** Every contract is an agreement but every agreement is not a contract. This statement is :

- (a) Correct (b) Correct subject to certain exceptions  
(c) Partially correct (d) Wrong

**Q. 66.** Implied contract, even if not in writing or express words, is perfectly valid if other conditions are satisfied.

- (a) True, as an implied contract has the same effect as an express contract  
(b) False, as the Contract Act recognises only express contracts  
(c) False, as the implied contract recognises only express contract  
(d) False, as the contract has not the same effect as an express contract

**Q. 67.** Under which of these circumstances an agreement becomes void and illegal

- (a) When it is forbidden by law  
(b) When it is voidable at the option of the other party  
(c) When it is not in writing  
(d) It is an unilateral contract

**Q. 68.** Which of the following statements are correct?

1. Right of one party is the obligation of another party
2. Every contract is an agreement, but every agreement is not contract
3. "Quantum meruit" means void from the beginning
4. Social agreements are legally enforceable

**Codes :**

- (a) 1 & 2 (b) 1 & 3 (c) 1 & 4 (d) 2 & 3

- Q. 69.** X invites for his son's wedding. Y accepts the invitation. In this case, there is a / an  
(a) Offer (b) Acceptance (c) Agreement (d) Contract
- Q. 70.** Under what circumstance 'an offer' will not lapse  
(a) By Notice (b) By Acceptance  
(c) By Counter Offer (d) By Lapse of Time
- Q. 71.** Sita Travels operates buses from Jaipur to Agra. The bus standing at its Bay in the Bus Terminus is with a view to taking the passengers. There is \_\_\_\_\_ to take passengers.  
(a) Internal Offer (b) External Offer  
(c) Implied Offer (d) Express Offer
- Q. 72.** Which one of the following promises is enforceable?  
(a) X promises to pay ₹ 5,000/- to Y who saved him from drowning  
(b) X promises to pay ₹ 5,000/- to his son  
(c) X promise to donate ₹ 5,000/- to an Officer's Club  
(d) X promises to ₹ 5,000/- as additional fee to his advocate for winning a suit.
- Q. 73.** 'X' offers to sell his car to 'Y' for ₹ 50,000 'Y' agrees to buy the car offering ₹ 45,000, the reply of Y amounts to  
(a) Offer (b) Counter Offer  
(c) Invitation to an offer (d) Standing Offer
- Q. 74.** A unilateral contract in which only one party is bound is also known as a  
(a) executed contract (b) executory contract  
(c) tacit contract (d) Implied contract
- Q. 75.** Which one of the following falls into the category of offer?  
(a) Newspaper advertisement regarding sale  
(b) Display of goods by a shopkeeper in his window with prices marked on them  
(c) An advertisement for a contract  
(d) Announcement of reward to the public
- Q. 76.** The communication of acceptance through telephone is regarded as complete when  
(a) acceptance is spoken on phone  
(b) acceptance comes to the knowledge of party proposing  
(c) acceptance is put in course of transmission  
(d) acceptor has done whatever is required to be done by him

**Q. 77.** All agreements made without consideration are void

- (a) True, as there is no exception to this rule.
- (b) False, as there are certain exceptions also.
- (c) True, as there are certain conditional exception, also.
- (d) None of the above.

**Q. 78.** The mother owes ₹10,000 to her daughter. But this debt has become barred by the Limitation Act. The mother signs a written promise to pay ₹ 3,000 on account of the debt. In this case which one of the following is correct?

- (a) There is no contract as the debt is already barred by limitation and so it cannot be revived by a subsequent promise
- (b) There is no contract because the mother has promised to give only a part of time been debt
- (c) This is enforceable against the mother because such a promise is valid and binding under the Indian Contract Act.
- (d) None of the above

**Q. 79.** Which one of the following agreements is void for unlawful consideration

- (a) An agreement by which a government servant has acquired properties in the name of another
- (b) An Agreement to drop a compoundable criminal proceeding on receipt of compensation
- (c) Parties agreed not to bid against each other at an auction sale
- (d) Fees of an advocate are settled in the agreement on the basis of percentage of recoveries of compensation.

**Q. 80.** Which of the following is not an exception to the rule -No consideration, No contract

- (a) Compensation for involuntary services
- (b) Gift hampers
- (c) Contract of Agency
- (d) Love & Affection.

**Q. 81.** An agreement without consideration is void except in case of compensation for

- (a) voluntary services rendered at the request of the other party to the agreement
- (b) voluntary services rendered at the request of another
- (c) voluntary services rendered
- (d) reimbursement of expenses incurred.

**Q. 82.** Which of the following is / are false?

- (1) Consideration must be real
- (2) A promise to do something which one is already bound to do by law, will be treated as good consideration.
- (3) Consideration must be adequate.
- (4) Consideration can be in adequate.

**Codes :**

- (a) 1 & 2
- (b) 2 & 3
- (c) 3 & 4
- (d) 1 & 4

- Q. 83.** The aggrieved party can rescind the contract on account of fraud. Can he also claim damages from the other party?  
(a) Yes (b) No (c) Sometime yes (d) Sometime no
- Q. 84.** Which of the following statements is false?  
(a) A contract is not voidable if fraud or misrepresentation does not induce the other party to enter into a contract.  
(b) A party cannot complain of fraudulent silence or misrepresentation if he had the means of discovering the truth with ordinary means.  
(c) In case of fraud or misrepresentation, aggrieved party can either rescind or affirm the contract.  
(d) A party who affirms the contract, can also change his option afterwards if he so decides.
- Q. 85.** \_\_\_\_\_ refers to consent of both parties on their own account without use or influence of any external factors.  
(a) Free Consent (b) Uninhibited Consent  
(c) Unequivocal Consent (d) Non-Consent
- Q. 86.** A agrees to pay ₹ 5000 to B if a certain Truck returns within a year. However the truck damaged within the year. In this case, the contract becomes  
(a) valid (b) void (c) voidable (d) illegal
- Q. 87.** Which of the Contracts with a minor may be done  
(a) To make him beneficiary, (b) To take compensation,  
(c) To make him an agent, (d) To supply him Taxi on credit,
- Q. 88.** Which of the following will be valid contracts with a minor  
(a) To supply necessaries, (b) Loan for such necessaries,  
(c) To make him beneficiary, (d) All the three.
- Q. 89.** Who among the following is not a person of unsound mind  
(a) An Idiot, (b) A Gambler, (c) A Lunatic, (d) A Drunkard,
- Q. 90.** Among the following who is competent to do a Contract  
(a) Aliens, (b) Convicts till the period of conviction,  
(c) Convicts, if pardoned, (d) Foreign Sovereigns.
- Q. 91.** Where the pre-assumption of 'Undue Influence' does not exist  
(a) Husband and Wife, (b) Father and Son.  
(c) Teacher and Student, (d) Doctor and Patient,

**Q. 92.** X agrees to pay ₹ 10,000 Y if India wins the match and Y promises to pay a like amount to X if does not win the match, this agreement is called.

- (a) Quasi Contract                      (b) Contingent Contract  
(c) Wagering Agreement              (d) Voidable Contract.

**Q. 93.** Which of the following agreements is / are / void?

1. Agreement by an outgoing partner with his partners not to carry on any business within a specified period or within specified local limits.
2. Contingent Contracts
3. Agreement in restraint of legal proceedings.
4. Agreement to stifle prosecution.

**Codes:**

- (a) 1 & 2                      (b) 2 & 3                      (c) 3 & 4                      (d) 1 & 4.

**Q. 94.** Which one of the following conditions must be satisfied for making claim, under "Necessaries supplied to a person incapable of contracting?"

- (a) The articles supplied should be necessaries at the time of sale and delivery  
(b) The articles supplied should be necessaries  
(c) Necessaries should be supplied only to person in competent to contract  
(d) Necessaries must have been supplied gratuitously out of mere kindness

**Q. 95.** A property worth ₹ 25,000/- was agreed to be sold by 'X' for ₹ 8,000/- However X's mother moves for setting aside the agreement on the proof that 'X' is a congenital 'idiot'. In the context which one of the following is correct?

- (a) The mother will not succeed  
(b) The mother will succeed  
(c) The mother is bound to execute the agreement  
(d) The 'idiot' can avoid the agreement

**Q. 96.** Illegality renders a contract.

- (a) Illegal                      (b) Punishable                      (c) Void                      (d) Voidable

**Q. 97.** Match List I and List II and select the correct answer from the codes given below the list

**List I**

- (A) Invitation to an offer  
(B) Contract  
(C) Bilateral Mistakes  
(D) Revocation

**List II**

- (1) Both the parties of a contract make mistake  
(2) Withdrawal of contract  
(3) An ad for season end sale is  
(4) Compensation for voluntary services

**Codes:**

- (a) A(1), B(2), C(3), D(4)                      (b) A(3), B(2), C(1), D(4)  
(c) A(2), B(3), C(4), D(1)                      (d) A(3), B(4), C(1), D(2).

**Q. 98.** Match List I and List II and select the correct answer from the codes given below the list.

**List I**

- (A) Capacity
- (B) Void - ab - initio contract
- (C) Acceptance
- (D) Consideration

**List II**

- (1) Benefit to the promisor
- (2) Competence of a party to enter the contract
- (3) An agreement with a minor
- (4) Act of assenting to an offer

**Codes:**

- (a) A(2), B(4), C(1), D (3)
- (b) A(1), B(4), C(2), D(3)
- (c) A,(2), B(3), C(4), D(1)
- (d) A (3), B(2),C(1), D(4).

**Q. 99.** Which of the following is true with respect to minor entering a contract?

1. The contracts involving a minor as a beneficiary may be enforced at the option of the third party.
2. A minor can be a beneficiary of a contract
3. An agreement with or by a minor is void ab initio.
4. A minor can ratify a contract on attaining majority.

**Codes :**

- (a) 1 & 2
- (b) 2 & 3
- (c) 3 & 4
- (d) 1 & 4

**Q.100.** To be a valid tender of performance, it must be

- (a) For the whole of the quantity
- (b) Unconditional
- (c) At a proper place and time
- (d) All of the above.

**Q.101.** Generally, the joint promisors can

- (a) Not compel each other to contribute at all
- (b) Not compel each other to contribute equally
- (c) Compel each other to contribute equally
- (d) None of the above

**Q.102.** If the promisor offers to perform to the Promisee, the Promisee is bound to

- (a) Sue the Promisor
- (b) Avoid the contract
- (c) Afford reasonable facilities for the performance
- (d) Dispense with the terms of the agreement

**Q.103.** In which of the following situation, the Promisor is at fault?

- (a) Promisor has disabled himself from performing his promise in entirety
- (b) Promisee does not give reasonable facilities for performance
- (c) Promisor has refused to perform his promise in entirety
- (d) (a) and (c).

- Q.104.** Under a contract consists of reciprocal promises and such reciprocal promises are to be simultaneously performed
- (a) Promisor has to compel Promisee to perform his promise first
  - (b) There is no valid contract at all
  - (c) Promisor need not perform his part of promise unless Promisee is ready and willing to perform his reciprocal promise
  - (d) Promisor need not perform his part of promise at all.
- Q.105.** When the Debtor does not expressly intimate or where the circumstances attending on a payment do not indicate any intention, the Creditor must apply
- (a) It to a time barred debt
  - (b) It to the first debt
  - (c) It at his discretion to any lawful debt due
  - (d) It to the last debt.
- Q.106.** General maxim of law is that when money is paid, it is to be applied according to the expressed will of
- (a) The Payer
  - (b) The Receiver
  - (c) (a) or (b)
  - (d) (a) and (b).
- Q.107.** When moneys are received by Creditor without any definite appropriation, it must be applied -
- (a) Pro-rata between Interest and Principal
  - (b) First towards Principal and then towards Interest
  - (c) First towards Interest and then towards Principal
  - (d) Any of the above.
- Q.108.** When any party makes any material alteration to the terms of contract, without the consent of the other party, the contract is
- (a) Valid
  - (b) Void
  - (c) Voidable
  - (d) Discharged.
- Q.109.** An obligation under a contract stands discharged by
- (a) Impossibility of performance
  - (b) Death of the contracting party, if the contract is personal in nature
  - (c) Dispensing with the performance
  - (d) All of the above.
- Q.110.** X contract to sell his T.V. to Y for ₹ 5,000 and Y agrees to pay on delivery. Once the T.V. is delivered to Y and Y pays ₹ 5,000, contract comes to an end. This is known as
- (a) Rescission of a Contract
  - (b) Waiver of a Contract
  - (c) Discharged of a Contract
  - (d) B reach of a Contract.

**Q.111.** 'X' owes 'Y' ₹ 3,000, 'X' pay to 'Y' ₹ 2000 and 'B' accepts it in satisfaction of his claim against 'X'. This payment

- (a) Is not a discharge of the whole claim
- (b) Is a discharge of the entire claim
- (c) Can be discharge only when the balance is paid
- (d) Will be a discharge only if the amount is paid by 'A'.

**Q.112.** Match List I with List II and select the correct answer from the codes gives below the list :

<b>List I</b>	<b>List II</b>
A. Partly Executed Contract	(1) Only one party due to performs
B. Executory Contract	(2) Only one party has performed
C. Unilateral Contract	(3) Both the parties have performed
D. Executed Contract	(4) Both party has not performed

**Codes :**

- (a) A(1) B(2) C(3) D(4)      (b) A(2) B(3) C(4) D(1)
- (c) A(2) B(4) C(1) D(3)      (d) A(3) B(4) C(2) D(1).

**Q.113.** Match List I with List II and select the correct answer from the codes given below the list :

<b>List I</b>	<b>List II</b>
A. When all or some of the terms of the contract are cancelled.	1. Novation
B. When all or some of the terms of the contract are modified by mutual consent of parties	2. Rescission
C. Acceptance of a lesser fulfillment of the promise made	3. Alteration
D. New contract substituted for an existing one between same parties	4. Remission

**Codes :**

- (a) A(1) B(2) C(3) D(4)      (b) A(2) B(3) C(4) D(1)
- (c) A(2) B(2) C(3) D(4)      (d) A(4) B(4) C(1) D(2).

**Q.114.** Offering the relief by way of specific performance of contract is

- (a) at the discretion of the court      (b) right of a person and court must give it
- (c) provided in the Contract Act      (d) both (b) and (c).

**Q.115.**When a contract is divisible, and one party has enjoyed the benefit of part performance, then, the other party may sue on quantum meruit, it is

- (a) True                      (b) Partly True                      (c) False                      (d) Partly False.

**Q.116.**Quantum Meruit is not applicable i.e. there is no right to sue when

- (a) Work is performed gratuitously, i.e. there is no evidence of promise to pay for work done.  
(b) Contract is indivisible into parts and a lump-sum is to be paid on completion of total work  
(c) Person claiming compensation is himself guilty of breach.  
(d) All of the above

**Q.117.**If the promisee accepts the anticipatory breach committed by the promisor, then

- (a) The promisee need not perform his part of the contract, but he cannot claim damages from the promisor  
(b) The promisee must perform his part of the contract before claiming damages from the promisor  
(c) The promisee need not perform his part of the contract, but he can claim damages from the promisor only after the date of performance  
(d) The promisee need not perform his part of the contract, and he can also claim damages without waiting till the date of performance.

**Q.118.**Which of the following is not a quasi-contract

- (a) Claim for supply of necessaries to persons incompetent to contract,  
(b) Claim for not supplying goods in time as per order,  
(c) Responsibilities of a finder of goods  
(d) Obligation to pay for non-gratuitous Acts

**Q.119.**A contingent contract is based on an event The event is

- (a) within the control of promisor                      (b) certain to happen  
(c) collateral to the contract                      (d) impossible to happen

**Q.120.**A contingent contract is

- (a) void from beginning
- (b) void if based on happening of an impossible event
- (c) enforceable if the contingent event is under the control of the promisor
- (d) wagering agreement.

**Q.121.**Which one of the following is a contingent contract?

- (a) 'A' insures his factory against damage or destruction by fire
- (b) 'A' sells his property subject to the condition that the property will be reconveyed to him on repayment of price with interest
- (c) A guard is appointed at a swimming pool for the sole purpose of rescuing drowning persons
- (d) A borrower solemnly promises to pay to off the lender when the borrower will be in funds

**Q.122.**A "quasi-contract is not a \_\_\_\_\_ contract.

- (a) real
- (b) valid
- (c) real and valid
- (d) voidable.

**Q.123.**'X' who makes payment of money on behalf of another is entitled to the reimbursed

- (a) when X making the payment has interest in making the payment
- (b) when X on whose behalf he pays the money is bound by law to pay
- (c) when X receiving the payment is legally entitled
- (d) when all the above conditions are satisfied.

**Q.124.**Match List-I with List-II and select the correct answer from the codes given below the list:

**List I**

- A. Voidable Contract
- B. Express Contract
- C. Quasi Contract
- D. Bilateral Contract

**List II**

- 1. Obligation created by law
- 2. Both parties due to perform their obligation
- 3. Terms, are stated in writing
- 4. Enforceable by law at the will of one party.

**Codes:**

- (a) A(1) B(3) C(2) D(4)
- (b) A(2) B(1) C(3) D(4)
- (c) A(2) B(3) C(4) D(1)
- (d) A(4) B(3) C(1) D(2)

**CATEGORY C : MULTIPLE CHOICE QUESTIONS**

**Q.125.**A applied for 1000 shares in a Company on 1st May. The Company allotted shares on 1st November of that year. A refused the shares. Is A's action valid?

- (a) Yes, Shares cannot be allotted on the faith of letter written by A
- (b) Yes, Shares cannot be allotted in the second half of a calendar year
- (c) Yes, Offer lapsed as it was not accepted within a reasonable time
- (d) No, A has to accept and pay for the shares of revocation of offer is invalid

**Q.126.**If an acceptance on phone is drowned by noise and is not heard by the Proposer

- (a) A valid contract is concluded
- (b) There is a voidable contract
- (c) The contract is void
- (d) No contract is concluded

**Q.127.**Which of the following statement is incorrect?

- (a) Death of the proposer automatically revokes the proposal
- (b) Cross offers constitute valid agreement
- (c) The acceptor cannot revoke his acceptance even if the letter of acceptance sent by him to the offeror is lost in the transit
- (d) All of the above

**Q.128.**A is a minor, B approaches A for a loan on the basis of a mortgage of the house owned by B. Hence, A advances the money and B executed a mortgage in favour of A, a minor. IN these circumstances

- (a) The mortgage is not enforceable by A, because he is a minor
- (b) The mortgage is enforceable but only when A attains majority
- (c) The mortgage is enforceable by A even though he is a Minor
- (d) There is no mortgage at all

**Q.129.**A, a Minor draws cheque in favour of B. On attaining majority, A makes out a fresh cheque in lieu of the old one. In this case

- (a) The original cheque is invalid but the fresh cheque is valid
- (b) The original cheque is valid but the fresh cheque is invalid
- (c) Both the original and fresh cheque are valid
- (d) Both the original and fresh cheque are invalid

**Q.130.**The act amount to coercion is

- (a) threat to sue
- (b) threat to strike
- (c) threat to suicide
- (d) threat to detain property under mortgage

**Q.131.**A, Hindu widow, was forced to adopt B under threat that her husband's dead-body would not be allowed for funeral, unless she adopts B. The adoption is voidable since the consent is caused by

- (a) Undue influence    (b) Coercion    (c) Fraud    (d) Mistake

**Q.132.**A person is deemed to be in a position to dominate the will of another if

- (a) He holds a real or apparent authority over the other  
(b) He stands in a fiduciary relation to the other  
(c) All of the above  
(d) None of the above

**Q.133.**A applies to a Banker for a loan when the money market is very stringent. Banker says that loan could be provided only at 30 per cent rate of interest. A accepts to such high interest. A's consent is

- (a) not obtained by undue influence    (b) obtained by undue influence  
(c) not obtained by coercion    (d) obtained by fraud

**Q.134.**Sohan induced Suraj to buy his motorcycle saying that it was in a very good condition. After taking the motorcycle, Suraj complained that there were many defects in the motorcycle. Sohan proposed to get it repaired and promised to pay 40% cost of repairs after a few days, the motorcycle did not work at all. In this case, Suraj

- (a) can rescind the contract  
(b) has affirmed to the contract and cannot rescind the contract  
(c) can return the motorcycle  
(d) All of the above

**Q.135.**A wrote to B inquiring price of rifles suggesting that he might buy as many as 50. On receipt of information, he telegraphed, "Send three rifles". Due to telegraphic mistake, message was transmitted as "Send the rifles." B dispatched 50 rifles. In this case

- (a) There is no contract    (b) There is a valid contract  
(c) A has to accept the loss on 50 rifles    (d) A has to accept the loss on 3 rifles

**Q.136.**A contracted to take on rent, a property for viewing the coronation procession of the King. Unknown to the parties, the procession had already been cancelled. The contract is void due to

- (a) Mistake as to Physical Impossibility  
(b) Mistake as to Legal Impossibility  
(c) Object being opposed to public policy  
(d) All of the above

- Q.137.**When two companies enter into a joint venture agreement, the agreement is
- (a) opposed to public policy                      (b) void  
(c) either (a) or (b)                                (d) neither (a) nor (b)
- Q.138.**An agreement among the members of a co-operative society to deliver all crops grown by them to the Society. The society sells it and divides the profit amongst its members is
- (a) Void                      (b) Unenforceable                      (c) Valid                      (d) Voidable
- Q.139.**Which of the following is an essential requirement of a valid contingent contract?
- (a) The performance must be conditional  
(b) The event must be uncertain  
(c) The event must form a part of the contract  
(d) The event must be independent
- Q.140.**For a valid novation, new contract must be made
- (a) before making of the original contract  
(b) during the continuance of the original contract  
(c) after the conclusion of the original contract  
(d) all of the above
- Q.141.**A contracts to marry B. Before the agreed date of marriage, A marries C. Here, B is entitled to sue A for
- (a) Actual Breach in an express manner  
(b) Anticipatory Breach in an express manner  
(c) Actual Breach in an implied manner  
(d) Anticipatory Breach in an implied manner
- Q.142.**Where in an anticipatory breach, the Promisee opts to put an end to the contract and treat the anticipatory breach as actual breach of contract, the Promisor
- (a) is excused from performance of his promise  
(b) has to perform his part of the promise  
(c) has to perform his part of the promise to the extent of benefits received by him  
(d) has to consider the contract as illegal
- Q.143.**A contracts to repair B's house and receives payment in advance. A repairs the house, but not according to contract.
- (a) B is entitled to recover from A the additional cost of making the repairs as per the contract  
(b) B is not entitled to recover any cost from A  
(c) B is entitled to recover penalty from A for non performance of the contract  
(d) None of the above

**Q.144.**The Sources of Indian Commercial Law include

- (a) English Common Law,
- (b) Mercantile Usages,
- (c) Principles of Equity & Justice,
- (d) All of the above.

**Q.145.**A void agreement is one which is

- (a) Valid but not enforceable.
- (b) Enforceable at the option of both the parties.
- (c) Enforceable at the option of one party.
- (d) Not enforceable in a court of law.

**Q.146.**Which of these statements is false

- (a) Collateral transactions to an illegal agreement are not void
- (b) Law of contract is not the whole law of agreement
- (c) Law of contract is not the whole law of obligations
- (d) There is an implied presumption in business agreement that parties intends to create legal obligations.

**Q.147.**In which of these situations a contract becomes void.

- (a) Supervening impossibility of an act
- (b) Contract contingent on happening of an uncertain event
- (c) (a) and (b)
- (d) Neither (a) nor (b)

**Q.148.**Which of these is a source of Indian Contract Act.

- (a) Law framed by East India Company
- (b) American Mercantile Law
- (c) Vedas and Puranas
- (d) English Mercantile Law

**Q.149.**Which of the following are not offer, but invitation to make an offer

- (a) Railway Time Table,
- (b) Advertisement to sell at reduced prices,
- (c) Asking for Tenders,
- (d) All of the above.

**Q.150.**In commercial and business agreements, the intention of the parties to create legal relationship is

- (a) To be specifically expressed in writing
- (b) Presumed to exist
- (c) Not relevant at all
- (d) Not applicable.

**Q.151.** Silence cannot amount to offer by conduct. It is

- (a) True                      (b) Partly True                      (c) False                      (d) Partly False.

**Q.152.** A bid at an auction sale is an

- (a) Invitation to offer to buy                      (b) Imitation to come to bid  
(c) Implied Offer to buy                      (d) Express Offer to buy.

**Q.153.** Forbearance of a party from doing something, i.e. omission of an act, also constitutes a Valid Offer. It is

- (a) True                      (b) Partly True                      (c) False                      (d) Partly False.

**Q.154.** Promises which form the consideration or part thereof for each other, are known as

- (a) Reciprocal Promises                      (b) Mutual Promises  
(c) Dependent Promises                      (d) Independent Promises.

**Q.155.** What can a catalogue of books, listing price of each book and specifying the place where the listed books are available be termed as?

- (a) An offer  
(b) An obligation to sell book  
(c) An invitation to offer  
(d) A promise to make available the books at the listed place.

**Q.156.** Which one of the following constitutes an offer in a self-services store?

- (a) Display of goods at the shop window  
(b) When the customer asks for some goods  
(c) There is not offer in such cases  
(d) Picking up an article and approaching the cashier's desk for payment

**Q.157.** Consider the following statements about an offer

1. A counter-offer terminates the original offer
  2. Quotation of Price is an offer.
  3. "Acceptance to an offer is like a lighted match to a train of gun power. Of these statements
- (a) 1, 2 and 3 are correct                      (b) 2 and 3 are correct  
(c) 1 and 3 correct                      (d) 3 alone is correct

**Q.158.** X is a wholesale merchant for all types of vegetable oil. He receives a telegram from a retail trader to immediately send to him, 100 tins of oil. X knows that the retail trader sells only mustard oil. He sends, immediately, 100 tins of mustard oil and sends the bill. The retail trader insists on paying at the previous rate of oil which is ₹50 less for each tin. When X insists for the new market rate, the retailer pleads that there is no contract. In this case, the most logical decision will be that.

- (a) there is no contract because the telegram does not stipulate type of oil and the price
- (b) the contract is complete and the retailer is bound to pay the current market rate
- (c) the contract is complete and the retailer is bound to pay the price fixed for the earlier consignment
- (d) the contract is yet to be finally approved and parties have no contractual obligation.

**Q.159.** Which one of the following is the best statement about the Indian Contract Act?

- (a) It is an exhaustive code containing the entire law of contract
- (b) It is an Act to amend certain parts of the law relating to contracts
- (c) It is an Act to define certain parts of the law relating to contracts and contains only the general principles of contract
- (d) It is not an exhaustive code containing the entire law of contract being an Act to define and amend certain parts of law relating to contract.

**Q.160.** The inadequacy of consideration will be taken into account by a Court of Law

- (a) When the promisor performs his promise
- (b) When the promisor expresses his desire to get maximum return for his promise
- (c) Always at the discretion of the court
- (d) When absence of free consent is pleaded

**Q.161.** X engages Y, an artist to paint a portrait of his uncle and promises to pay Y ₹20,000 for the work. Later, X refuses to pay stating that consideration must move from his uncle. Which of the following statements is correct?

- (a) X is bound to pay Y
- (b) X is not bound to pay Y
- (c) Uncle is bound to pay Y
- (d) Y cannot claim anything from X or his uncle

**Q.162.** Which of the following statements is true.

- (1) Agreements which fall within the scope of exceptions to considerations provided in Section 25 of the Indian Contract Act are not void for being without consideration
  - (2) Voidable contracts are enforceable by law at the option of one or more of the parties thereon but not at the option of the other or others
  - (3) All the illegal agreements are void but all void agreements are not necessarily illegal
  - (4) A contract which is enforceable by law becomes void when it ceases to be enforceable.
- (a) 1 only      (b) 1 and 2      (c) 2 and 3      (d) 1, 2, 3 and 4

**Q.163.** Misrepresentation need not be made directly to the person involved. A wrong statement of facts made to a third person with an intent to communicate it to the party involved amounts to misrepresentation.

- (a) True                      (b) Partly True                      (c) False                      (d) Partly False

**Q.164.** Essential features of Misrepresentation is :

- (a) Representation should be of a material fact.  
(b) It must be made before the conclusion of the Contract.  
(c) There should not be an intention to deceive the other party.  
(d) All above

**Q.165.** To make a contract voidable, Coercion must have been exercised against.

- (a) only the Promisor                      (b) any other person  
(c) (a) or (b)                      (d) (a) and (b)

**Q.166.** \_\_\_\_\_ is a statement of fact which one party makes in the course of negotiations with a view to inducing the other party to enter into a contract.

- (a) Representation                      (b) Discussion  
(c) Assertion                      (d) Misrepresentation

**Q.167.** Which of the following agreements, Restraint of Trade is valid?

- (a) Trade Combinations, to the extent they do not create monopoly or opposed to public policy.  
(b) Agreement with Buyer of Goodwill  
(c) Agreements under the Partnership Act, 1932  
(d) All of the above

**Q.168.** Misrepresentation under Section 18 represents.

- (a) any breach of duty, which gains an advantage to the person committing it, by misleading another to his prejudice.  
(b) causing a party entering into an agreement to make a mistake as to the subject matter of contract.  
(c) a positive assertion, in a manner warranted by the information of the person making it, not true but he believes it to be true  
(d) all of the above.

**Q.169.** Trade Combination agreements like opening and closing of business ventures, licensing of traders, supervision and control of dealers, etc. are

- (a) valid even if they are in restraint of trade  
(b) void since they are in restraint of trade  
(c) voidable at the option of the aggrieved party  
(d) immoral and hence void ab initio.

**Q.170.** Which of these are not opposed to Public Policy?

- (a) Agreements to refer disputes to arbitration
- (b) Agreements in restraint of parental rights
- (c) Agreements in restraint of marriage
- (d) Champerty & Maintenance

**Q.171.** If a student agrees to gift to his educational Guru, his entire property in return for attainment of goal. The agreement can be set aside on grounds of

- (a) Undue Influence
- (b) Fraud
- (c) Mistake
- (d) Misrepresentation

**Q.172.** X offers, to sell a painting to Y which X knows is the copy of a well-known masterpiece. Y thinking that the painting is original decides to buy it at a very high price. Is this a valid contract?

- (a) Yes, Y has an erroneous belief as to the value of the painting.
- (b) Yes, price is not criteria for setting aside the contract.
- (c) No, X is guilty of fraud
- (d) No, X is guilty of misrepresentation

**Q.173.** X sold rice to Y by sample and Y thinking that they were old rice purchased them but, the rice were new. In this situation

- (a) Y is not bound by the contract
- (b) Y is bound by the contract
- (c) Y can recover damages from X.
- (d) Y can sue for replacement of new rice with old rice.

**Q.174.** X, came in person to a jeweller's shop and chose some jewels. The Jeweller was prepared to sell to him as a casual customer. X tendered payment by cheque signing in the name of Y, a person of credit X later took the jewels, which he pledged with Z.

The pledge made with Z, is

- (a) Valid
- (b) Void
- (c) Voidable
- (d) illegal

**Q.175.** The burden of proof that consent was obtained by undue influence lies on

- (a) the person who employs the undue influence.
- (b) the person who seeks to avoid the contract.
- (c) (a) or (b).
- (d) (a) and (b).

**Q.176.** To prove undue influence, the plaintiff has to prove that

- (a) The Defendant used that position to obtain an unfair advantage from the Plaintiff
- (b) The relations subsisting between the parties are such that the Defendant was in a position to dominate the will of the Plaintiff
- (c) (a) and (b)
- (d) none of the above

**Q.177.**The Principle of Estoppel cannot be applied against a Minor because

- (a) He has no sound mind
- (b) He has not attained the age of majority.
- (c) He will be induced by dishonest traders to declare in writing that he is a major at the time of entering into a contract
- (d) He has no privilege to cheat persons by making any representation.

**Q.178.**Every Contingent Contract is necessarily a Wagering Agreement.

- (a) True
- (b) Partly True
- (c) False
- (d) Partly False

**Q.179.**Which of the following statement is true?

- (a) A person who is usually of a sound mind cannot enter into contract when he is of unsound mind.
- (b) A person who is usually of an unsound mind cannot enter into contract even when he is of a sound mind
- (c) An agreement with a minor can be ratified after he attains majority.
- (d) A contract with a minor is voidable at the option of the minor.

**Q.180.**An agreement in restraint of legal proceedings is void. It does not cover an agreement which

- (a) restricts absolutely the parties from enforcing their legal rights.
- (b) cuts short the period of limitation.
- (c) discharges a party from liability or extinguishes the rights of a party.
- (d) provides for a reference to arbitration instead of court of law.

**Q.181.**An agreement which puts a partial / restraint on marriage, i.e., which prevents a person from marrying a particular person, is valid.

- (a) True, as partial restraint is recognized by law
- (b) False, as both restraints complete or partial makes the agreement void.
- (c) True, as the complete restraint is not recognized by law
- (d) None of the above

**Q.182.**There is an agreement between two co-widows that if any of them remarry, she would forfeit her right to her share in the deceased husband's property. The agreement

- (a) is void
- (b) amounts to an agreement in restraint of marriage
- (c) is valid
- (d) is opposed to public policy

**Q.183.** 'X' takes an insurance policy on his life making a false statement about his health and does not disclose the fact that he has been treated for a serious illness. In this case which one of the following statement is correct?

- (a) The contract is void
- (b) The contract is unenforceable
- (c) Contract is voidable on the ground of fraud
- (d) The contract is unlawful.

**Q.184.** A minor, pretending that he was a major, mortgages his property to B for rupees two lakhs. Afterwards A applied to the court for cancellation of the mortgage deed on the ground that due to his minority the deed was void. He wanted possession of his property without returning the consideration money to the mortgages. The mortgagee is ready to return the land on receipt of his money. In this case which one on the following statements is MOST appropriate?

- (a) The mortgage deed may be cancelled by the court and the property redelivered to the minor on payment of the consideration money to the mortgages.
- (b) As a minor's contract is void; the mortgage deed is also void.
- (c) As the minor fraudulently misrepresented to be major, he cannot take benefit of his own fraud.
- (d) As a void mortgage deed did not convey any title to the mortgages, the minor was entitled to the possession of his own land.

**Q.185.** Which of the following contracts has time as the essence of the contract?

- (a) 'X' contract with 'Y' for the sale of his property
- (b) 'X' contracts to marry 'Y' at the earliest
- (c) 'X' contracts to send money to 'Y' for Y's sustenance in English
- (d) 'X' contracts to buy Y's house for immediate occupation

**Q.186.** Which one of the following agreement is valid?

- (a) 'X' enters into an agreements with Y for sale of a diamond. Both 'X' and 'Y' erroneously hold the opinion that diamond is worth only ₹1,000/-
- (b) 'X' agrees to buy from 'Y' a certain horse which is dead at the time of bargain, though both the parties were unaware of it
- (c) 'X' being entitled to an estate for the life of 'Y' agrees to sell it to 'Z'. 'Y' was dead at the time of agreement. The parties did not know of Y's death
- (d) 'X' agrees to sell to 'Y' a specific cargo supposed to be on its way from England to Bombay but unknown to the parties, the ship carrying the cargo capsized the day before the bargain.

**Q.187.** 'X' who is a lunatic, accepts a proposal for the sale of one of his plots of land to 'Y' for ₹ 5,000/- during one of his sane intervals. Before 'Y' could take possession of the land, 'X' lapsed into insanity again. Which one of the following depicts the correct legal position?

- (a) 'Y' cannot enforce the contract
- (b) 'Y' must wait till 'X' becomes sane and then enforce the contract
- (c) The contract is valid and enforceable
- (d) 'X' has no capacity to enter into contract and hence the contract is void

**Q.188.**What is reasonable time for performance of a contract

- (a) Is a mixed question of fact and law
- (b) Is a question of fact
- (c) Is a question of law
- (d) All of the above

**Q.189.**A transfer of contractual rights and liabilities to a third party with or without the concurrence of the other party to the contract is known as assignment of a contract. Assignment by operation of law takes place by

- (a) Insolvency of a party
- (b) Death of a party
- (c) (a) or (b)
- (d) (a) and (b)

**Q.190.**X and Y contract that X shall build a house for Y at a fixed price. In this case

- (a) X must build the house before he can claim payment from Y
- (b) Y must pay the price before X builds the house.
- (c) X and Y have to perform their promises simultaneously
- (d) The contract need not be performed at all.

**Q.191.**\_\_\_\_\_ signifies that the parties are not further bound under the contract -

- (a) Discharge of a Contract
- (b) Breach of a Contract
- (c) Waiver of a Contract
- (d) Rescission of a Contract.

**Q.192.**X contracts to sell rice to Y. Due to heavy loss by a major fire which leaves nothing to sell, X applies for insolvency and is adjudged insolvent. The contract is discharged due to

- (a) Impossibility of Performance
- (b) Performance
- (c) Breach
- (d) Operation of Law i.e. Insolvency

**Q.193.**X promises to supply 50 sets of designer sarees to Y three months hence. By that time there is no demand for those sarees X & Y can rescind the contract. This is

- (a) Breach
- (b) Mutual Rescission
- (c) Impossibility of performance
- (d) Revocation of proposal

**Q.194.**Specific performance may be ordered by Court if

- (a) there is no standard for ascertaining actual damage
- (b) pecuniary compensation is not adequate relief.
- (c) the act is done, wholly or partly of a trust
- (d) a or b or c

**Q.195.**Specific performance may not be ordered by court if the

- (a) contract is not certain
- (b) contract is of personal nature;
- (c) contact involves performance of a continuous duty which court cannot supervise
- (d) a or b or c

**Q.196.**X contracts to sell and deliver 100 kgs. of suger to Y, at a certain price to be paid on delivery. X breaks his promise. Y is entitled to receive from X, by way of compensation, the sum, if any, by which the contract price falls short of the price for which X might have obtained 100 kgs of suger at the time when the suger ought to have been delivered :

- (a) correct      (b) Partly correct      (c) wrong      (d) Partly wrong

**Q.197.**When an indivisible contract for lump sum is completely performed, but badly, the person who has performed, can

- (a) perform the work again  
(b) claim the lumpsum  
(c) claim the lumpsum less deduction for bad work  
(d) not claim any amount at all

**Q.198.**X had bought cloth for making bags for pale during Hots. Due to delay in transit Y was unable to utilize it to his benefit during the tasking season. X sued to recover damages for deteriorational (fall in value of cloth arrived after tasking season). Such damages are in the nature of

- (a) Vindictive Damages      (b) Nominal Damages  
(c) General Damages      (d) Damages in transit / deterioration

**Q.199.**X agrees to deliver 10 bags of Wheat to Y at a certain price on 2nd Oct. If X has performed part of the contract, say 80 bags, and then refuses or fails to deliver the remaining goods, it amounts to

- (a) Anticipatory Breach during the course of performance  
(b) Actual Breach during the course the performance  
(c) Anticipatory Breach on the due date of performance  
(d) Actual Breach on the due date of performance

**Q.200.**Z, an owner of a news paper, engaged Y to write an article to be published by instalments in his news paper. After a few instalment were published, the news paper was abandoned. In this case.

- (a) Y does not have any remedy against X  
(b) Y can claim payment on quantum meruit for the part already published  
(c) Y has to complete the article through his own news paper  
(d) Y should not complete the article at all.

**Q.201.**When the Seller retains goods after the breach, he can recover from the Buyer any further loss if the market falls, Also he is liable to have the damages reduced if the market rises. The statement is

- (a) True      (b) Party True      (c) False      (d) Partly False

**Q.202.**X agreed to construct Y's house for a lumps sum of ₹ 400,000. X did the work but Y complained of faulty workmanship. It cost Y ₹100,000 rectify the defect. X can recover from Y.

- (a) ₹ 4,00,000 (b) ₹ 1,00,000 (c) ₹ 3,00,000 (d) ₹ 5,00,000

**Q.203.**Only such damage are recoverable for the breach of contract as

- (a) Arise naturally in the usual course of the things  
(b) Arise remotely from the breach of contract  
(c) Arise naturally as well as remotely form the breach of contract  
(d) Arise only specially from the breach of contract.

**Q.204.**X - wanted to purchase Y's old car which he wanted to dispose of and therefore sent a telegram to Y asking him the lowest price of the car which he would accept. Y telegraphed back that he would accept ₹ 55,000. On X's agreeing to buy at the price, Y refused to sell, In this case :

- (a) Y is not liable of breach of contract, as his offer to sell the car was accepted A  
(b) Y is not liable of breach of contract  
(c) Y is not guilty of breach of contract as his telegram stating the price of the car was no more than an invitation to proposal  
(d) Y is liable for damages.

**Q.205.**Which one of the following is relevant in normal circumstances in determining the amount of damages for breach of contract?

- (a) Normally expected loss  
(b) Difference between market price and contract price  
(c) Sudden closure price of production  
(d) Additional expenses for procuring the goods

**Q.206.**A contingent contract may become

- (a) void from beginning  
(b) voidable  
(c) void subsequently when event becomes impossible to happen  
(d) unlawful

