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Chapter 2.1
Nature of Contracts

Section A: Study Material Questions

Multiple Choice Questions

1. **An agreement enforceable by law is a**
   - (a) Promise
   - (b) Contract
   - (c) Obligation
   - (d) Lawful promise

Answer:(b)

2. **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.

Answer:(d)

3. **An agreement which is enforceable by law at the option of one or more of the parties thereon but not at the option of the other or others is a**
   - (a) Valid Contract
   - (b) Void contract
   - (c) Voidable contract
   - (d) Illegal contract

Answer:(c)

4. **When the consent of a party is not free, the contract is**
   - (a) Void
   - (b) Voidable
   - (c) Valid
   - (d) Illegal

Answer:(b)

5. **In case of illegal agreements, the collateral agreements are:**
   - (a) Valid
   - (b) Void
   - (c) Voidable
   - (d) None of these

Answer:(b)

6. **An offer may lapse by:**
   - (a) Revocation
   - (b) Counter Offer
   - (c) Rejection of offer by offeree
   - (d) All of these

Answer:(d)

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7. A proposal when accepted becomes a

(a) Promise
(b) Contract
(c) Offer
(d) Acceptance

Answer:(a)

8. If A says to B "I offer to sell my house to you for ₹ 40,00,000" and B accepts the offer by saying clearly "I accept your offer", it is a/an

(a) Implied offer
(b) Express offer
(c) General offer
(d) None of the above

Answer:(b)

9. 'A' offered a reward of ₹ 1,00,000 for recovery of some valuable missing articles. 'B' who did not know of this offer, found the missing articles. Which one of the following is the correct solution to this problem?

(a) Giving delivery of articles to 'A' amounts to an acceptance and hence 'B' is entitled to get the reward of ₹ 1,00,000
(b) Giving delivery of articles to 'A' amounts to performance of a condition precedent to an offer and hence there is valid acceptance. So 'B' must get the reward of ₹ 1,00,000
(c) As there is no acceptance of an offer due to want of Knowledge, 'B', is not entitledto get the reward of ₹ 1,00,000
(d) In the absence of any legal obligation on 'A', no claim for reward of ₹ 1,00,000 is maintainable by 'B'.

Answer:(c)

10. Arun has two cars- one of white colour and another of red colour. He offers to sell one of the cars to Basu thinking that he is selling the car which has white colour. Basu agrees to buy the car thinking that Arun is selling the car which has red colour. Will this agreement become a valid contract?

(a) Yes
(b) No
(c) Insufficient information
(d) None of the above.

Answer:(b)

11. A dress is displayed in the showroom with a price tag attached to the dress. A buyer interested in the dress and ready to pay the price mentioned in the tag approached the shopkeeper for purchasing the dress.

(a) The shopkeeper can refuse to sell the dress as display of dress is just an invitation to offer.
(b) The shopkeeper cannot refuse to sell the dress as the buyer has accepted the *offer*
(c) In case of refusal, the shopkeeper will be liable for breach of contract
(d) The shopkeeper cannot refuse to sell the dress but may charge higher price

Answer:(a)

12. A agrees to pay ₹ 1,000 to B if a certain ship returns within a year. However, the ship sinks within the year. In this case, the contract becomes

(a) Valid
(b) Void
(c) Voidable
(d) Illegal

Answer:(b)

13. A notice in the newspaper inviting tenders is

(a) a proposal
(b) An invitation to proposal
(c) A promise
(d) An invitation for negotiation

Answer:(b)

14. A telephonic acceptance is complete when the offer is

(a) spoken into the telephone
(b) heard but not understood by the offeror
(c) heard and understood by the offeror
(d) is received, heard and understood by some person in the offeror's house.

Answer:(c)

15. A and B agree to deal in smuggled goods and share the profits. A refuses to give B's share of profit. In this case:

(a) B can enforce the agreement in the court
(b) B can only claim damages
(c) B has no remedy as the contract is illegal
(d) B can enforce the contract and claim damages

Answer:(c)

16. Which one of the following statements is correct?

(a) Void agreements are always illegal
(b) Illegal agreements are voidable
(c) Illegal agreement can be ratified by the parties
(d) Illegal agreements are always void

Answer:(d)

17. A voidable contract is one which

(a) Can be enforced at the option of aggrieved party
(b) Can be enforced at the option of both the parties
(c) Cannot be enforced in a court of law
(d) Courts prohibit

Answer: (a)

18. When offer is made to a definite person, it is known as

(a) General Offer
(b) Cross Offer
(c) Counter offer
(d) Special offer

Answer: (d)

19. On the face of a ticket, it is mentioned that to look for the terms and conditions look behind. Mr. A bought the ticket but didn't read the terms and conditions. He:

(a) is not bound by the terms and condition
(b) may decide to bound by certain terms and ignore others
(c) is bound by all the terms and conditions whether he read it or not
(d) none of the above

Answer: (c)

20. It does not effect the free consent of the parties,

(a) Fraud
(b) Coercion
(c) Incompetency of parties
(d) Undue Influence

Answer: (c)

21._____ contract is made without intention of parties.

(a) Express
(b) Implied
(c) Quasi
(d) Executory

Answer: (c)

22. A offers B to supply Books at Rs. 500 each. B accepts the same with condition of 30% discount. It is _____

(a) Counter Offer
(b) Cross Offer
(c) Specific Offer
(d) General Offer

Answer:(a)

Question Answers

Question 1

A sends an offer to B to sell his second-car for ₹ 1,40,000 with a condition that if B does not reply within a week, he (A) shall treat the offer as accepted. Is A correct in his proposition?

Answer 1

Acceptance to an offer cannot be implied merely from the silence of the offeree, evenif it is expressly stated in the offer itself. Unless the offeree has by his previous conduct indicated that his silence amount to acceptance, it cannot be taken as valid acceptance. So, in the given problem, if B remains silent, it does not amount to acceptance.

The acceptance must be made within the time limit prescribed by the offer. The acceptance of an offer after the time prescribed by the offeror has elapsed will not avail to turn the offer into a contract.

Question 2

State whether there is any contract in following cases:

(a) A engages B to do certain work and remuneration to be paid as fixed by C.
(b) A and B promise to pay for the studies of their maid's son
(c) A takes a seat in public bus.
(d) A, a chartered accountant promises to help his friend to file his return.

Answer 2

(a) It is a valid express contract
(b) It is not a contract as it is a social agreement
(c) It is an implied contract. A is bound to pay for the bus fare.
(d) It is a social agreement without any intention to create a legal relationship.

Question 3

Miss Shakuntala puts an application to be a teacher in the school. She was appointed by the trust of the school. Her friend who works in the same school informs her about her appointment informally. But later due to some internal reasons her appointment was cancelled. Can Miss Shakuntala claim for damages?

Answer 3

No, Miss Shakuntala cannot claim damages. As per Section 4, communication of acceptance is complete as against proposer when it is put in the course of transmission to him.

In the present case, school authorities have not put any offer letter in transmission. Her information from a third person will not form part of contract.

Section B: RTP, MTP & PYP Questions

Question 1

State which of the following agreements are valid contract under the Indian Contract Act, 1872?

(a) A, who owns two cars is selling red car to B. B thinks he is purchasing the black car.

(b) A threatened to shoot B if he (B) does not lend him ₹ 2,00,000 and B agreed to it.

(c) A agrees to sell his house to B against 100 kgs of cocaine (drugs).

(d) A ask B if he wants to buy his bike for ₹ 50,000. B agrees to buy bike.

(e) Mr. X agrees to write a book with a publisher. But after few days, X dies in an accident.

(RTP May'23)

Answer 1

(a) A, who owns two cars is selling red car to B. B thinks he is purchasing the black car. There is no consensus ad idem and hence not a valid contract.

(b) A threatened to shoot B if he (B) does not lend him ₹2,00,000 and B agreed to it. Here the agreement is entered into under coercion and hence not a valid contract.

(c) A agrees to sell his house to B against 100 kgs of cocaine (drugs). Such agreement is illegal as the consideration is unlawful.

(d) A ask B if he wants to buy his bike for ₹ 50,000. B agrees to buy bike. It is agreement which is enforceable by law. Hence, it is a valid contract.

(e) Mr. X agrees to write a book with a publisher. But after few days, X dies in an accident. Here the contract becomes void due to the impossibility of performance of the contract.

Question 2

Mr. Parth applied for a job as principal of a school. The school management decided to appoint him. One member of the school management committee privately informed Mr. Parth that he was appointed but official communication was not given by the school. Later, the management of the school decided to appoint someone else as a principal. Mr. Parth filed a suit against the school for cancellation of his appointment and claimed damages for loss of salary. State with reasons, will Mr. Parth be successful in suit filed against school under the Indian Contract Act, 1872? (RTP Jun'24, Nov'21)

Answer 2

As per the rules of acceptance, the acceptance should be communicated to offer or by offeree himself or by his authorized agent. Communication of acceptance by third person cannot be concluded as valid acceptance.

In the instant case, Mr. Parth applied for a job as principal of a schooland one member of the school management committee privatelyinformed Mr. Parth that he was appointed. Later, the management of the school appointed someone else as a principal.

On the basis of the above provisions and facts, communication of appointment of Mr. Parth should be made by the school management committee or by any authorised agent. Communication by third person cannot be termed as communication of acceptance. Therefore, no valid contract was formed between Mr. Parth and the school and Mr. Parth cannot file a suit against the school for cancellation of his appointment.

Question 3

Mr. Joy owns two flats in a building. He wanted to sell flat no.101 to Mr. Roy. Mr. Joy offered to sell his flat no. 101 to Mr. Roy, but Mr. Roy thought that Mr. Joy wanted to sell flat no. 102 and said yes for the agreement. Considering the provisions of Indian Contract Act, 1872, discuss the validity of such a contract. (MTP 4 Marks Jun'22)

Answer 3

Section 10 of Indian Contract Act, 1872 laid done the essential elements of a valid contract. One of the essential elements of valid contract is free consent. Consent is an express willingness or giving voluntary permission or agreeing to something. Section 13 further clarify" two or more persons are said to consent when they agree upon the same thing in the same sense".

In the present case, both the parties have given a free consent but they are not consenting for the same thing in the same sense. Mr. Joy wants to sell flat no. 101 and Mr. Roy has agreed the contract thinking that it's flat no. 102.

Hence, the agreement would be invalidated at the inception (beginning) stage itself because both the parties did not agree about a thing (sale of flat) in the same sense. Hence, both the parties did not have mutual consent for the contract; therefore it is not a valid contract.

Question 4

"All contracts are agreements, but all agreements are not contracts". Comment. (MTP 4 Marks Jun'22) (SM) (MTP 4 Marks, Nov'21)

Answer 4

An agreement comes into existence when one party makes a proposal or offer to the other party and that other party gives his acceptance to it. A contract is an agreement enforceable by law. It means that to become a contract, an agreement must give rise to a legal obligation i.e. duly enforceable by law. If an agreement is incapable of creating a duly enforceable by law, it is not a contract. There can be agreements which are not enforceable by law, such as social, moral or religious agreements. The agreement is a wider term than the contract. All agreements need not necessarily become contracts but all contracts shall always be agreements.

All agreements are not contracts: When there is an agreement between the parties and they do not intend to create a legal relationship, it is not a contract.

All contracts are agreements: For a contract there must be two things (a) an agreement and (b) enforceability by law.

Thus, existence of an agreement is a pre-requisite existence of a contract. Therefore, it is true to say that all contracts are agreements. Thus, we can say that there can be an agreement without it becoming a contract, but we can't have a contract without an agreement.

Question 5

Explain the type of contracts in the following agreements under the Indian Contract Act, 1872:

(a) A coolie in uniform picks up the luggage of A to be carried out of the railway station without being asked by A and A allows him to do so.

(b) Obligation of finder of lost goods to return them to the true owner.

(c) A contract with B (owner of the factory) for the supply of 10 tons of sugar, but before the supply is affected, the fire caught in the factory, and everything was destroyed. (MTP 4 Marks Nov'22) (SM)

Answer 5

(a) It is an implied contract and A must pay for the services of the coolie detailed by him.

Implied Contracts: Implied contracts come into existence by implication. Most often the implication is by law and or by action. Section 9 of the Act contemplates such implied contracts when it lays down that in so far as such proposal or acceptance is made otherwise than in words, the promise is said to be implied.

(b) Obligation of finder of lost goods to return them to the true owner cannot be said to arise out of a contract even in its remotest sense, as there is neither offer and acceptance nor consent. These are said to be quasi-contracts.

Quasi-Contract: A quasi-contract is not an actual contract but it resembles a contract. It is created by law under certain circumstances. The law creates and enforces legal rights and obligations when no real contract exists. Such obligations are known as quasi-contracts. In other words, it is a contract in which there is no intention on part of either party to make a contract, but law imposes a contract upon the parties.

(c) The above contract is a void contract.

Void Contract: Section 2 (j) states as follows: "A contract which ceases to be enforceable by law becomes void when it ceases to be enforceable". Thus, a void contract is one which cannot be enforced by a court of law.

Question 6

Ashwin goes to super market to buy a Air Conditioner. He selects a branded Air Conditioner having a price tag of ₹ 40,000 after a discount of ₹ 3000. Ashwin reaches at cash counter for making the payment, but cashier says, "Sorry sir, the discount was up-to yesterday. There is no discount from today. Hence you have to pay ₹ 43,000." Ashwin got angry and insists for ₹ 40,000. State with reasons whether under Indian Contract Act, 1872, Ashwin can enforce the cashier to sell at discounted price i.e. ₹ 40,000. (MTP 4 Marks Apr'23) (RTP May'22) (PYP 3 Marks Dec'23) (MTP 4 Marks, Oct'21) (MTP 4 Marks Aug'24)

Answer 6

An invitation to offer is different from offer. Quotations, menu cards, price tags, advertisements in newspaper for sale are not offer. These are merely invitations to public to make an offer. An invitation to offer is an act precedent to making an offer. Acceptance of an invitation to an offer does not result in the contract and only an offer emerges in the process of negotiation.

In the instant case, Ashwin reaches to super market and selects a Air Conditioner with a discounted price tag of ₹ 40,000 but cashier denied to sell at discounted price by saying that discount is closed from today and request to make full payment. But Ashwin insists to purchase at discounted price.

On the basis of above provisions and facts, the price tag with Air Conditioner was not offer. It is merely an invitation to offer. Hence, it is the Ashwin who is making the offer not the super market. Cashier has right to reject the Ashwin's offer. Therefore, Ashwin cannot enforce cashier to sell at discounted price.

Question 7

Mr. Ayush is the principal in Modern Public School. For this purpose, he contracted with Yograj Biscuit Company. Mr. Ayush visited the workshop of Yograj Biscuit Company and was very much satisfied with the quality of biscuits. He also found that a large number of varieties of biscuits are manufactured in the workshop. He ordered 2000 packs of biscuits and gave the token money but did not specify the category of biscuits, he needed. Yograj Biscuit Company did not supply the biscuits on the due date. Mr. Ayush filed the suit against Yograj Biscuit Company for compensation. State with reasons, whether Yograj Biscuit Company is liable under Indian Contract Act, 1872? (MTP 4 Marks Nov'23)

Answer 7

According to the Indian Contract Act 1872, the meaning of agreement must be certain and not vague or indefinite. If the meaning of agreement is not certain, the agreement is not enforceable by law.

In the instant case, Mr. Ayush is being principal in Modern Public School ordered 2000 packs of biscuits to Yograj Biscuit Company for the purpose of distribution on Republic Day among students. He also gave the token money but did not specify the category of biscuits. Yograj Biscuit Company did not supply the biscuits on the due date and Mr. Ayush filed the suit for compensation.

On the basis of above provisions and facts, it can be said that the agreement was not enforceable for want of certainty of meaning as Mr. Ayush did not specify the category of biscuits. Hence, Yograj Biscuit Company is not liable to pay any compensation to Mr. Ayush.

Question 8

Mr. Nikhil has decided to get interior work for his new office. For this purpose, he entered into a contract with M/s Sherry Fine Interiors. It was agreed that M/s Sherry Fine Interiors will complete the interior work latest by 31st January, 2023. On 31st January, 2023, Mr. Nikhil observed that only 20% to 30% work has been completed. He decided to cancel the contract with M/s Sherry Fine Interiors. On cancellation of the contract, M/s Sherry Fine Interiors filed a suit against Mr. Nikhil for recovery of the cost which it has incurred on the interior work. Mr. Nikhil argued that M/s Sherry Fine Interiors did not complete the work within the time as per contract and further the work done till 31st January, 2023 by M/s Sherry Fine Interiors was of no use for him as he has to appoint a new interior designer. Explain, whether Mr. Nikhil is liable to pay the cost of work done by M/s Sherry Fine Interiors under the provisions of Indian Contract Act, 1872? (MTP 4 Marks Dec'23)

Answer 8

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

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

Question 9 (Includes concepts of 2.3- Other essential elements of a contract)

X agrees to pay Y ₹ 1,00,000/-, if Y kills Z. To pay Y, X borrows ₹ 1,00,000/- from W, who is also aware of the purpose of the loan. Y kills Z but X refuses to pay. X also to repay the loan to W. Explain the validity of the contract.

(i) Between X and Y.

(ii) Between X and W (PYP 4 Marks Nov'22)

Answer 9

Illegal Agreement: It is an agreement which the law forbids to be made. As an essential condition, the lawful consideration and object is must to make the agreement valid. (Section 10). As per Section 23 of the Indian Contract Act, 1872, an agreement is illegal and void, if the consideration and object is unlawful / contrary to law i.e. if forbidden by law. Such an agreement is void and is not enforceable by law. Even the connected agreements or collateral transactions to illegal agreements are also void.

In the present case,

(i) X agrees to give ₹ 1,00,000 to Y if Y kills Z. Thus, the agreement between X and Y is void agreement being illegal in nature.

(ii) X borrows ₹ 1,00,000 from W and W is also aware of the purpose of the loan. Thus, the agreement between X and W is void as the connected agreements of an illegal agreements are also void.

Question 10

Radha invited her ten close friends to celebrate her 25th birthday party on 1st January, 2023 at 7.30 P.M. at a well-known "Hi-Fi Restaurant" at Tonk Road, Jaipur. All invited friends accepted the invitation and promised to attend the said party. On request of the hotel manager, Radha deposited ₹ 5,000/- as non-refundable security for the said party. On the scheduled date and time, three among ten invited friends did not turn up for the birthday party and did not convey any prior communication to her. Radha, enraged with the behaviour of the three friends, wanted to sue them for loss incurred in the said party. Advise as per the provisions of the Indian Contract Act, 1872.

Would your answer differ if the said party had been a "Contributory 2023 New Year celebration Party" organized by Radha? (PYP 4 Marks Jun'23)

Answer 10

As per one of the requirements of Section 10 of the Indian Contract Act, 1872, there must be an intention on the part of the parties to create legal relationship between them. Social or domestic agreements are not enforceable in court of law and hence they do not result into contracts.

In the instant case, Radha cannot sue her three friends for the loss incurred in the said party as the agreement between her and her ten friends was a social agreement, and the parties did not intend to create any legal relationship.

If the said party organised by Radha had been a "Contributory 2023 New year celebration party", then Radha could have sued her three friends for the loss incurred in the said party as the agreement between her and her friends would have legal backing; on the basis of which Radha deposited the advance amount and the parties here intended to create legal relationship.

Question 11

Distinguish between Void Contract and Voidable Contract according to the Indian Contract Act, 1872. (PYP 5 Marks Jun'23)

Answer 11

The differences between void contract and voidable contract are as follows:

Sr. No.	Basis	Void Contract	Voidable Contract
1	**Meaning**	A Contract which ceases to be enforceable by law becomes void when it ceases to be enforceable.	An agreement which is enforceable by law at the option of one or more of the parties thereto, but not at the option of the other or others, is a voidable contract.
2	**Enforceability**	A void contract cannot be enforced at all.	It is enforceable only at the option of aggrieved party and not at the option of the other party.
3	**Cause**	A contract becomes void due to change in law or change in circumstances beyond the contemplation of parties.	A contract becomes a voidable contract if the consent of a party was not free.
4	**Performance of contract**	A void contract cannot be performed.	If the aggrieved party does not, within reasonable time, exercise his right to avoid the contract, any party can sue the other for claiming the performance of the contract.
5	**Rights**	A void contract does not grant any legal remedy to any party.	The party whose consent was not free has the right to rescind the contract within a reasonable time. If so rescinded it becomes a void contract. If it is not rescinded it becomes a valid contract.

Question 12

State with reason(s) whether the following agreements are valid or void:

(i) A clause in a contract provided that no action should be brought upon in case of breach.

(ii) Where two courts have jurisdiction to try a suit, an agreement between the parties that the suit should be filed in one of those courts alone and not in the other.

(iii) X offers to sell his Maruti car to Y. Y believes that X has only Wagon R Car but agrees to buy it.

(iv) X, a physician and surgeon, employs Y as an assistant on a salary of ₹ 75,000 per month for a term of two years and Y agrees not to practice as a surgeon and physician during these two years.

(PYP 4 Marks, Jul'21) (RTP Jan'25)

Answer 12

(i) The given agreement is void.

Reason: As per Section 28 of the Indian Contract Act, 1872, this clause is in restraint of legal proceedings because it restricts both the parties from enforcing their legal rights.

Note: Alternatively, as per Section 23 of the Indian Contract Act, 1872, this clause in the agreement defeats the provision of law and therefore, being unlawful, is treated as void.

(ii) The given agreement is valid.

Reason: An agreement in restraint of legal proceeding is the one by which any party thereto is restricted absolutely from enforcing his rights under a contract through a Court. A contract of this nature is void. However, in the given statement, no absolute restriction is marked on parties on filing of suit. As per the agreement suit may be filed in one of the courts having jurisdiction.

(iii) The said agreement is void.

Reason: This agreement is void as the two parties are thinking about different subject matters so that there is no real consent and the agreement may be treated as void because of mistake of fact as well as absence of consensus.

(iv) The said agreement is valid.

Reason: An agreement by which any person is restrained from exercising a lawful profession, trade or business of any kind, is to that extent void. But, as an exception, agreement of service by which an employee binds himself, during the term of his agreement, not to compete with his employer is not in restraint of trade.

Question 13

Shambhu Dayal started "self service" system in his shop. Smt. Prakash entered the shop, took a basket and after taking articles of her choice into the basket reached the cashier for payments. The cashier refuses to accept the price. Can Shambhu Dayal be compelled to sell the said articles to Smt. Prakash? Decide as per the provisions of the Indian Contract Act, 1872. (MTP 4 Marks, Apr'21) (SM) (MTP 3 Marks, Nov'21)

Answer 13

Invitation to offer: The offer should be distinguished from an invitation to offer. An offer is the final expression of willingness by the offeror to be bound by his offer should the party chooses to accept it. Where a party, without expressing his final willingness, proposes certain terms on which he is willing to negotiate, he does not make an offer, but invites only the other party to make an offer on those terms. This is the basic distinction between offer and invitation to offer.

The display of articles with a price in it in a self-service shop is merely an invitation to offer. It is in no sense an offer for sale, the acceptance of which constitutes a contract. In this case, Smt. Prakash by selecting some articles and approaching the cashier for payment simply made an offer to buy the articles selected by her. If the cashier does not accept the price, the interested buyer cannot compel him to sell.

Question 14

Mr. Shekhar wants to sell his car. For this purpose, he appoints Mr. Nadan, a minor as his agent. Mr. Shekhar instructs Mr. Nadan that car should not be sold at price less than Rs. 1,00,000. Mr. Nadan ignores the instruction of Mr. Shekhar and sells the car to Mr. Masoom for Rs. 80,000. Explain the legal position of contract under the Indian Contract Act, 1872 whether:

(i) Mr. Shekhar can recover the loss of Rs. 20,000 from Mr. Nadan?

(ii) Mr. Shekhar can recover his car from Mr. Masoom? (MTP 4 Marks, Nov'21)

Answer 14

According to the provisions of Section 11 of the Indian Contract Act, 1872, a minor is disqualified from contracting. A contract with minor is void-ab-initio but minor can act as an agent. But he will not be liable to his principal for his acts.

In the instant case, Mr. Shekhar appoints Mr. Nadan, a minor as his agent to sale his car. Mr. Shekhar clearly instructed to Mr. Nadan that the minimum sale price of the car should be Rs. 1,00,000 yet Mr. Nadan sold the car to Mr. Masoom for Rs. 80,000.

(i) Considering the facts, although the contract between Mr. Shekhar and Mr. Nadan is valid, Mr. Nadan will not be liable to his principal for his acts. Hence, Mr. Shekhar cannot recover the loss of Rs. 20,000.

(ii) Further, Mr. Masoom purchased the car from agent of Mr. Shekhar, he got good title. Hence, Mr. Shekhar cannot recover his car from Mr. Masoom.

Question 15

Explain the type of contracts in the following agreements under the Indian Contract Act, 1872:

(i) Rahul contracts with Bhanu (owner of the factory) for the supply of 10 tons of sugar, but before the supply is effected, the factorycatches fire and everything is destroyed.

(ii) A coolie in uniform picks up the luggage of Rohan to be carriedout of the railway station without being asked by Rohan and Rohan allows him to do so.

(iii) Obligation of finder of lost goods to return them to the true owner. (RTP Sep'24)

Answer 15

(i) It is a void contract.

Void Contract: Section 2 (j) of the Indian Contract Act, 1872 states as follows: "A contract which ceases to be enforceable by law becomes void when it ceases to be enforceable". Thus, a void contract is one which cannot be enforced by a court of law.

(ii) It is an implied contract and Rohan must pay for the services of the coolie.

Implied Contracts: Implied contracts come into existence by implication. Most often the implication is by law and or by action. Section 9 of the Indian Contract Act, 1872 contemplates such implied contracts when it lays down that in so far as such proposal or acceptance is made otherwise than in words, the promise is said to be implied.

(iii) Obligation of finder of lost goods to return them to the true owner cannot be said to arise out of a contract even in its remotest sense, as there is neither offer and acceptance nor consent. These are said to be quasi-contracts.

Quasi-Contract: A quasi-contract is not an actual contract, but it resembles a contract. It is created by law under certain circumstances. The law creates and enforces legal rights and obligations when no real contract exists. Such obligations are known as quasi-contracts. In other words, it is a contract in which there is no intention on the part of either party to make a contract, but law imposes a contract upon the parties.

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Chapter 2.2
Consideration
Section A: Study Material Questions

Multiple Choice Questions

1. Which of the following statement is false? Consideration:

(a) Must move at the desire of the promisor.
(b) May move from any person
(c) Must be illusory
(d) Must be of some value

Answer:(c)

2. Consideration must move at the desire of

(a) Promisor
(b) Promisee
(c) Any other person
(d) Any of these

Answer:(a)

3. Consideration may be

(a) Past
(b) Present
(c) Future
(d) All of the above

Answer:(d)

4. Consideration in simple term means:

(a) Anything in return
(b) Something in return
(c) Everything in return
(d) Nothing in return

Answer:(b)

5. Which of the following is not an exception to the rule - No consideration, No Contract

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

Answer:(a)

6. Past consideration means

(a) Consideration and promise should move together
(b) Executed consideration
(c) Consideration is provided prior to the making of the contract
(d) Invalid consideration

Answer:(c)

7. A contract without consideration under Section 25 is:

(a) void
(b) voidable
(c) valid
(d) illegal

Answer:(c)

Question Answers

Question 1

Mr. Sohanlal sold 10 acres of his agricultural land to Mr. Mohanlal on 25th September 2022 for ₹ 25 Lakhs. The Property papers mentioned a condition, amongst other details, that whosoever purchases the land is free to use 9 acres as per his choice but the remaining 1 acre has to be allowed to be used by Mr. Chotelal, son of the seller for carrying out farming or other activity of his choice. On 12th October, 2022, Mr. Sohanlal died leaving behind his son and life. On 15th October, 2022 purchaser started construction of an auditorium on the whole 10 acres of land and denied any land to the son.

Now Mr. Chotelal wants to file a case against the purchaser and get a suitable redressal. Discuss the above in light of provisions of Indian Contract Act, 1872 and decide upon Mr. Chotelal's plan of action?

Answer 1

Problem as asked in the question is based on the provisions of the Indian Contract Act, 1872 as contained in section 2(d) and on the principle 'privity of consideration'. Consideration is one of the essential elements to make a contract valid and it can flow from the promisee or any other person. In view of the clear language used in definitionof 'consideration' in Section 2(d), it is not necessary that consideration should be furnished by the promisee only. A promise is enforceable if there is some consideration for it and it is quite immaterial whether it moves from the promisee or any other person.

The leading authority in the decision of the ***Chinnaya Vs. Ramayya***, held that the consideration can legitimately move from a third party and it is an accepted principle of law in India.

In the given problem, Mr. Sohanlal has entered into a contract with Mr. Mohanlal, butMr. Chotelal has not given any consideration to Mr. Mohanlal but the considerationdid flow from Mr. Sohanlal to Mr. Mohanlal on the behalf of Mr. Chotelal and such consideration from third party is sufficient to enforce the promise of Mr. Mohanlal to allow Mr. Chotelal to use 1 acre of land. Further the deed of sale and the promisemade by Mr. Mohanlal to Mr. Chotelal to allow the use of 1 acre of land were executed simultaneously and therefore they should be regarded as one transaction and there was sufficient consideration for it.

Moreover, it is provided in the law that "in case covenant running with the land, where a person purchases land with notice that the owner of the land is bound bycertain duties affecting land, the covenant affecting the land may be enforced by the successor of the seller."

In such a case, third party to a contract can file the suit although it has not moved the consideration.

Hence, Mr. Chotelal is entitled to file a petition against Mr. Mohanlal for execution of contract.

Section B: RTP, MTP & PYP Questions

Theoretical Questions

Question 1

Mr. Shyam Mundra was a big businessman having one son and one married daughter. He decided to gift his house to his daughter. For this purpose, he called his lawyer at his house and made a written document for such gift. The lawyer advised him to get the transfer document properly registered. When they both were going for registration of document, they met with an accident and both died. Later, the daughter found the document and claimed the house on the basis of that document. Explain, whether she can get the house as gift under the Indian Contract Act, 1872?

(RTP May'23) (MTP 4 Marks Nov'22) (MTP 4 Marks Jul'24)

Answer 1

Section 25 of Indian Contract Act, 1872 provides that an agreement made without consideration is valid if it is expressed in writing and registered under the law for the time being in force for the registration of documents and is made on account of natural love and affection between parties standing in a near relation to each other. In other words, a written and registered agreement based on natural love and affection between the parties standing in near relation to each other is enforceable even without consideration.

In the given problem, the transfer of house made by Mr. Shyam Mundra on account of natural love and affection between the parties standing in near relation to each other is written but not registered. Hence, this transfer is not enforceable.

Question 2

Mr. Sanjay Kothari was a big businessman having two sons and one married daughter. He decided to gift his house to his daughter. For this purpose, he called his lawyer at his house and made a written documentfor such gift. The lawyer advised him to get the transfer document properly registered. When they both were going for registration of document, they met an accident, and both died. Later, the daughter found the document and claimed the house on the basis of that document. Explain, whether she can get the house as gift under the Indian Contract Act, 1872? (RTP Jun'24)

Answer 2

Section 25 of the Indian Contract Act, 1872 provides that an agreement made without consideration is valid if it is expressed in writing and registered under the law for the time being in force for the registration of documents and is made on account of natural love and affection between parties standing in a near relation to each other.

In the instant case, the transfer of house made by Mr. Sanjay Kothari on account of natural love and affection between the parties standing innear relation to each other is written but not registered. Hence, this transfer is not enforceable, and his daughter cannot get the house asgift under the Indian Contract Act, 1872.

Question 3

"To form a valid contract, consideration must be adequate". Comment. (MTP 3 Marks Nov'22) (SM) (RTP May'21)

Answer 3

The law provides that a contract should be supported by consideration. So long as consideration exists, the Courts are not concerned to its adequacy, provided it is of some value. The adequacy of the consideration is for the parties to consider at the time of making the agreement, not for the Court when it is sought to be enforced **(Bolton v. Modden)**. Consideration must, however, be something to which the law attaches value though it need not be equivalent in value to the promise made.

According to Explanation 2 to Section 25 of the Indian Contract Act, 1872, an agreement to which the consent of the promisor is freely given is not void merely because the consideration is inadequate, but the inadequacy of the consideration may be taken into account by the Court in determining the question whether the consent of the promisor was freely given.

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Question 4

Define consideration. State the characteristics of a valid consideration under the Indian Contract Act, 1872. (MTP 5 Marks Apr'23) (MTP 5 Marks, Apr'21) (MTP 6 Marks Aug'24)

Answer 4

Consideration [Section 2(d) of the Indian Contract Act, 1872]

"When at the desire of the promisor, the promise or any other person has done, or does or abstains from doing of promises to do or abstain from doing something, such an act or abstinence or promise is called consideration for the promise".

The essential characteristics of a valid consideration are as follows:

(1) Consideration must move at the desire of the promisor.
(2) It may proceed from the promisee or any other person on his behalf.
(3) It may be executed or executory. It may be past, present or future.
(4) It must be real and have some value in the eyes of law.
(5) It must not be something which the promisor is already legally bound to do.
(6) It must not be unlawful, immoral or opposed to public policy.
(7) Inadequacy of consideration does not invalidate the contract. Thus, it need not be proportionate to the value of the promise of the other.
(8) It may comprise of some benefit, profit, right or interest accruing to one or some loss, detriment, obligation or responsibility undertaken by the other.

Question 5

Explain the following statements in the light of provisions of Indian Contract Act, 1872:

(i) "Agreements made out of love and affection are valid agreements."

(ii) "Promise to pay a time barred debt cannot be enforced."

(MTP 5 Marks Nov'23) (PYP 7 Marks Nov'22)

Answer 5

(i) **Agreements made out of love and affection are valid agreements:** A written and registered agreement based on natural love and affection between the parties standing in near relation (e.g., husband and wife) to each other is enforceable even without consideration.

The various conditions to be fulfilled as per Section 25(1) of the Indian Contract Act, 1872:

(A) It must be made out of natural love and affection between the parties.

(B) Parties must stand in near relationship to each other.

(C) It must be in writing.

(D) It must also be registered under the law.

Hence, the agreements made out of love and affection, without consideration, shall be valid, if the above conditions are fulfilled.

(ii) **Promise to pay a time barred debt cannot be enforced:** According to Section 25(3) of the Indian Contract Act, 1872, where a promise in writing signed by the person making it or by his authorised agent, is made to pay a debt barred by limitation is valid without consideration.

Hence, this statement is not correct.

Note: The above statement can be correct also on the basis of the "Discharge of Contract by Lapse of time" as per Limitation Act, 1963, and accordingly it can be mentioned that contract should be performed within a specified period as prescribed by the Limitation Act, 1963 and if no action is taken by the promisee within the specified period of limitation, he is deprived of remedy at law.

Question 6

As per the general rule, "Stranger to a contract cannot file a suit in case of breach of contract". Comment and explain the exceptions to this rule as per the provisions of the Indian Contract Act, 1872. (MTP 7 Marks Dec'23) (PYP 7 Marks Jun'23)

Answer 6

Under the Indian Contract Act, 1872, the consideration for an agreement may proceed from a third party; but the third party cannot sue on contract. Only a person who is party to a contract can sue on it.

The aforesaid rule, that **stranger to a contract cannot sue is known as a "doctrine of privity of contract"**, is however, subject to certain exceptions. In other words, even a stranger to a contract may enforce a claim in the following cases:

(1) **In the case of trust,** a beneficiary can enforce his right under the trust, though he was not a party to the contract between the settler and the trustee.

(2) **In the case of a family settlement,** if the terms of the settlement are reduced into writing, the members of family who originally had not been parties to the settlement, may enforce the agreement.

(3) **In the case of certain marriage contracts/arrangements,** a provision may be made for the benefit of a person, who may file a suit though he is not a party to the agreement.

(4) **In the case of assignment of a contract,** when the benefit under a contract has been assigned, the assignee can enforce the contract but such assignment should not involve any personal skill.

(5) **Acknowledgement or estoppel** – Where the promisor by his conduct acknowledges himself as an agent of the third party, it would result into a binding obligation towards third party.

(6) **In the case of covenant running with the land,** the person who purchases land with notice that the owner of land is bound by certain duties affecting land, the covenant affecting the land may be enforced by the successor of the seller.

(7) **Contracts entered into through an 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.

Question 7

"The general rule is that an agreement made without consideration is void." State the exceptions of this general rule as per the Indian Contract Act, 1872. (PYP 7 Marks, May'22) (PYP 5 Marks, Jan'21)

Answer 7

An agreement made without consideration is void (Section 25 of the Indian Contract Act, 1872): In every valid contract, consideration is very important. A contract may only be enforceable when consideration is there. However, the Indian Contract Act contains certain exceptions to this rule. In the following cases, the agreement though made without consideration, will be valid and enforceable.

Exceptions:

1. **Natural Love and Affection:** Conditions to be fulfilled under section 25(1)
   (i) It must be made out of natural love and affection between the parties.
   (ii) Parties must stand in near relationship to each other.
   (iii) It must be in writing.
   (iv) It must also be registered under the law.
   A written and registered agreement based on natural love and affection between the parties standing in near relation (e.g., husband and wife) to each other is enforceable even without consideration.
2. **Compensation for past voluntary services:** A promise to compensate, wholly or in part, a person who has already voluntarily done something for the promisor, is enforceable under Section 25(2). In order that a promise to pay for the past voluntary services be binding, the following essential factors must exist:
   (i) The services should have been rendered voluntarily.
   (ii) The services must have been rendered for the promisor.
   (iii) The promisor must be in existence at the time when services were rendered.
   (iv) The promisor must have intended to compensate the promisee.
3. **Promise to pay time barred debt:** Where a promise in writing signed by the person making it or by his authorised agent, is made to pay a debt barred by limitation it is valid without consideration [Section 25(3)].
4. **Agency:** According to Section 185 of the Indian Contract Act, 1872, no consideration is necessary to create an agency.
5. **Completed gift:** In case of completed gifts, the rule no consideration no contract does not apply. Explanation (1) to Section 25 states "nothing in this section shall affect the validity as between the donor and donee, of any gift actually made." Thus, gifts do not require any consideration.
6. **Bailment:** No consideration is required to affect the contract of bailment. Section 148 of the Indian Contract Act, 1872, defines bailment as the delivery of goods from one person to another for some purpose. This delivery is made upon a contract that post accomplishment of the purpose, the goods will either be returned or disposed of, according to the directions of the person delivering them. No consideration is required to affect a contract of bailment.
7. **Charity:** If a promisee undertakes the liability on the promise of the person to contribute to charity, there the contract shall be valid. ***(Kadarnath v. Gorie Mohammad)***

Question 8

Mr. Shyam aged 58 years, was employed in a government department. He was going to retire after two years. Mr. Dev made a proposal to Mr. Shyam, to apply for voluntary retirement from his post so that Mr. Dev can be appointed in his place. Mr. Dev offered a sum of ₹ 10 Lakhs as consideration to Mr. Shyam to induce him to retire.

Mr. Shyam refused at first instance but when he evaluated the amount offered as consideration is just double of his cumulative remuneration to be received during the tenure of two years of employment, he agreed to receive the consideration and accepted the above agreement to receive money to retire from his office.

Whether the above agreement is valid? Explain with reference to provision of the Indian Contract Act, 1872? (RTP Sep'24)







































