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Q1) "All contracts are agreements but all agreements are not contracts" Comment.

Ans) All contracts are agreements. According to section 2(h) of the Indian Contract Act, "Contract is an agreement enforceable by law".

On the basis of this definition it is clear that an agreement is essential for a contract. Therefore, every contract is based on agreement.

Thus, agreement is the base of the contract but all agreements can't be contracts. Only such agreements can form contract which are enforceable by law.

As to section 10 of the Indian Contract Act, "All agreements are contracts if they are made by the free consent of parties, competent to contract, for a lawful consideration and with a lawful object, and are not hereby expressly declared to be void." Thus, following things are essential to establish a contract as valid:

1. parties to an agreement must be competent to contract.
2. there must be free consent of the parties.
3. There must be lawful consideration and object.
4. An agreement should not be expressly declared as void under any law enforced in the country.
5. It must be written and registered if required. On the basis of above discussion, it can be concluded that all agreements can't be contracts. An agreement which doesn't fulfil the requirement as mentioned above, can't be contracts, such

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Q2) What are essential of a valid contract? Explain in brief.
Ans- On the basis of above section it can be concluded that following are the essentials of a valid contract.

(i) Agreement - offer and acceptance [section 2 (c)] -
To constitute a contract, there must be an agreement. An agreement involves two parties, one making the offer & the other accepting it. Offer must be definite, offer should be accepted unconditionally. The acceptance should also be in the manner prescribed. An agreement includes two elements: (i) offer, & (ii) acceptance.
The person who making the offer & the offer as known as the offeror, the person whom the offer is made is known as the offeree. There must be two parties to an agreement. They must be consensus - ad - item i.e. thinking of the same thing in the same sense.

(ii) Intention to create legal relationship: An agreement should be entered into with an intention to create legal relationship. Social & religious agreements will not create a legal relationship & will not become a contract.
For example, A invites his friend B to dinner, B doesn't reach. A cannot sue B. Similarly, if A doesn't provide

dinner. B can't go to a court of law to recover his damages. Thus, an agreement of a purely social or domestic nature is not a contract.
In commercial agreements intention to create legal relationship is always presumed.

(iii)
(iv)
(v)

(iii) Competence of parties to do a contract [Section 11 & 12]: The parties to a contract should be competent to enter into a contract. A/c to Sec. 11 every person is competent to contract if he is - (i) a major, (ii) of a sound mind, (iii) not disqualified by law to enter into contract. The person entering into a contract should be capable to understand a contract. Therefore, minors, persons of unsound mind like idiots, etc. are not allowed to enter into contracts.

(iv) Free Consent of parties [Section 13 to 22]: Consent means that two persons have agreed upon the same thing in the same sense. For a valid agreement, parties must give their consent freely.
A/c to Sec 13, "Two or more persons are said to consent when they agree upon the same thing in the same sense."

A/c to Section 14, Consent is said to be free when it is not caused by

Coercion,



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- (iii) fraud
- (iv) misrepresentation
- (v) mistake

If consent is obtained by any fraud then the contract is not valid. Therefore, an agreement should be made by the free consent of the parties.

- (5) ~~Lawful~~ Lawful consideration object :- The agreement must be supported by consideration on both sides. Consideration means something in return. Both the parties must get something in return for the promise. Consideration is the price for the promise. A promise without consideration is not enforceable. Consideration may be in cash or kind. Even the loss, responsibility or determined detriment suffered by one party, or profits, interest or benefit accruing to the other party are good examples of consideration. Consideration may be past, present or future. The following are the main things of consideration -

- (i) Consideration must be real
- (ii) It should have ~~must~~ some value in the eye of law.
- (iii) It must be lawful
- (iv) It should not be fraudulent, unlawful, immoral, or opposed to public policy.

Q1) "Contract is an agreement enforceable by law".
Discuss.

The Indian Contract act has adopted the definition given by Sir Jacobin Pollock. Section 2(h) defines "an agreement enforceable at law" as "an agreement includes an agreement".

i) A contract includes an agreement. Agreement is the first requirement of a contract.

ii) Every agreement can't become contract. Agreement enforceable at law is contract.

iii) Two or more parties are essential for a contract. Two or more parties are essential for a contract. Contract may be in respect of doing or abstaining from doing definite acts.

Contract creates legal obligations between the parties.

Thus on the basis of above definition of contract under section 2(h) of Indian Contract Act, it is concluded that

It can be concluded that following are the essential elements of a contract.

An agreement? &
Its enforceability at law.

Section 2(e), "Every agreement of

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Discuss.

~~Ans:-~~ The Indian Contract act has adopted the definition given by Sir Jacobic Pollock. Section 2(h) defines an agreement as "an agreement enforceable at law".

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iv) Contract may be in respect of doing or abstaining from doing definite acts. Contract creates legal obligations between

Thus on the basis of above definition under Section 2(h) of Indian Contract Act

It can be concluded that ~~contract~~ ^{contract} is a contract, two essential elements of a contract.

An agreement, & enforceability at law. Its enforceability at law.

Section 2(e), "Every

Q. What is an agreement? Explain the main characteristics of an agreement.

Ans. An agreement gives birth to a contract. An agreement gives birth to a contract. of contracting minds. When two contracting parties become agreed as regard the subject matter in the same sense and at the same time, it becomes an agreement. An agreement comes into existence when one party makes a proposal and the other party gives his consent. ~~therefore~~ etc. accepts.

According to Section 2 (e) of Indian Contract Act 1872, "Every promise and every set of promises forming the consideration for each other is an agreement." In the view of this definition promise and set of promises forming consideration is known as an agreement.

Characteristics of an Agreement: An agreement is the sum total of offer and acceptance. Thus, an agreement = offer plus acceptance.

The following are the characteristics of an agreement.

- (i) There must be plurality of persons. It is not possible to make an agreement. Two or more persons i.e. parties are essential to make an agreement because one person can't enter into an agreement with himself.

(2) Mutual Consent :- It is essential that the subject matter of the contract must be the same in the same sense, otherwise there shall be no contract. There must be contracting minds or consensus ad idem.

(3) Legal Relationship :- The object of parties must give rise to a legal relationship an agreement to become a contract must give rise to a legal obligation.

(4) Mutual Communication :- Parties must intend to each other.

Q1) Explain the terms "Offer" & acceptance?
Ans) Offer :- An offer is also called a proposal. It is defined as: "When one person signifies to another his willingness to do or to abstain from doing anything, with a view to obtaining the assent of that other person to such act or ~~business~~ abstinence, he is said to make a proposal".
e.g. to sell, "The expression of person's willingness to become according to his expressed views, a party to an agreement is called an offer or proposal".

The person who makes the proposal is called the "offeror", or promisor and the person to whom the offer is made is called the "offeree" or promisee. The offer is expressed by the offeror to do or 'not do' something with a view to obtain acceptance of the offer by the other party. Thus it is clear that there may be 'positive' or "negative" act. While acceptance $\Rightarrow$ a contract is created on the acceptance of a proposal. Acceptance indicated the willingness of the party to whom the offer has been made to agree to the term of offer. A/c to section 2(b) of the Indian Contract Act, 1872, "upon the person to whom the proposal is made ~~accepts~~ signifies his assent thereto, the proposal is said to be accepted". On the basis of above definition it can be concluded that acceptance is the act of providing consent to the offer. An offer creates an accepted becomes a promise and creates an agreement. A/c to section (2c), "The person making the proposal is called the promisor and the person accepting the proposal is called the promisee". In acceptance must be communicated to the offeror in order to complete the acceptance. The acceptor should express some thing to signify his intention to accept. In the hammer in the case of auction fall of the hammer is considered as acceptance.

to contract. A contract with a minor is absolutely void.

(2) A minor can be promisee or beneficiary? There is no provision in the Contract Act which prevents a minor from making the other party to the contract to be bound, thus, a minor is incapable of making a promissory note, but he is not incapable of becoming a party or endorser. He can derive benefit under the contract. The contract does not permit a minor to be a beneficiary. He can be a promisee.

(3) NO Ratification :- Ratification means subsequently authorising an act. A minor is incompetent to ratify a contract.

(4) A minor can't be asked to refund the benefit he is derived out of contract :- If a minor who received any benefit under a void contract entered into, he can't be asked to refund the same.

(5) No Estoppel against a minor :- There can be no estoppel against the minor. Even where a minor has misrepresents his age, he will not be liable.

6. Facilities for necessities for existence - A minor
the ^{estate} ^{measures} ^{is} ^{liable} ^{like} ^{the} ^{minor} ^{is} ^{legally}
bound to support.

or to one sufficient.

2. A miner can't become partner? A miner can't become partner in a partnership. A ship firm but may have partnership firm if other partners agree.

3. The guardian

8. A legal contract is possible by the guardian on behalf of minor if -
a minor may enter into an agreement entered into by agreement, an agreement entered into by a guardian on and binding.

9. No liability of Guardian for the acts of minor's parents / guardians
can't be liable for a minor's written for the breach of ~~contact~~ contact by him whether the contract is for necessities or not.

20. A minor can be an agent as a minor can become an agent as a contact is established between third party and agent, the agent drops out and the principal and third parties are liable.

- 12) A minor can't be declared insolvent? A minor can't be declared insolvent as he is incapable of contracting debts and does dues.
- 13) Specific performance will not be granted against a minor? A contract with a minor being void, specific performance will not be ordered against him.
- 14) A minor can't become a member of a company. A minor can't be a shareholder or member of a company.
- 15) Surety for a minor? A surety for a minor is not valid. A surety for a minor is not valid in breach of contract. A surety for a minor is not valid in breach of contract.
- 16) Joint contract by minor and adult? A joint contract by a minor and an adult is not valid. A joint contract by a minor and an adult is not valid.



of estate etc.

Q1) What is coercion? What are the consequences of the validity of the contract upon

Ans) Coercion means force or threat used by one party against another for compelling him to enter into a contract. It simply means forcing a person to enter into a contract.

Section 15 of the Indian Contract Act defines coercion as follows:

"Coercion is (a) the doing anything or threatening to commit any act forbidden by the Indian Penal Code, 1860, or (b) the unlawful detaining, or threatening to detain, any person to the prejudice of any person or with the intention of causing any person to enter into an agreement."

In relation to coercion it is immaterial whether the Indian Penal Code (I.P.C.) 1860 is or is not in force in the place where the coercion is applied.

Example:- (i) X at Delhi - points asks Y to be his a plot of land worth Rs. 20,000/- for Rs. 20,000/- only. Here X has obtained consent of Y by coercion.

2.

2.

- 2.

2.

2. unlawful obtaining or threatening to obtain of any property amounts to coercion. ²
eg: A transporter refused to deliver the goods unless changes were paid. X paid the changes to obtain the goods. X then recovered the unlawful changes paid by him as his consent was obtained by coercion.

3. Coercion may proceed from any body and not necessarily at the other party to the agreement. ³
→ Coercion may be not directed against anybody and may be not necessarily against the other party.
It is not necessary that coercion must have been exercised against the person only, it may be directed at any person.
Ex: X threatens to kill Y (Z's son). If Z does not let out his sister to X. The agreement is caused by coercion.

4. Coercion must be done with the object of inducing or compelling any person to enter into an agreement.

5. Threat to commit suicide

6) Object of Coercion.



Q1) What do you understand by free consent?

When a consent not free? Discuss its importance in contracts. Should have parties to a contract the consent of the parties must be real and free. Free consent is the essential of a contract. Free consent is the consent which has been obtained by the free will of the parties.

Section 14 lays down that consent is not free if it is caused by coercion, undue influence, fraud, misrepresentation and mistake. If the consent is not free the contract is voidable at the option of the party whose consent was not free. The contract is voidable at the option of the party whose consent was not free.

Section 14 defines free consent as under the action of the party whose consent was not free. Section 14 defines free consent as under.

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

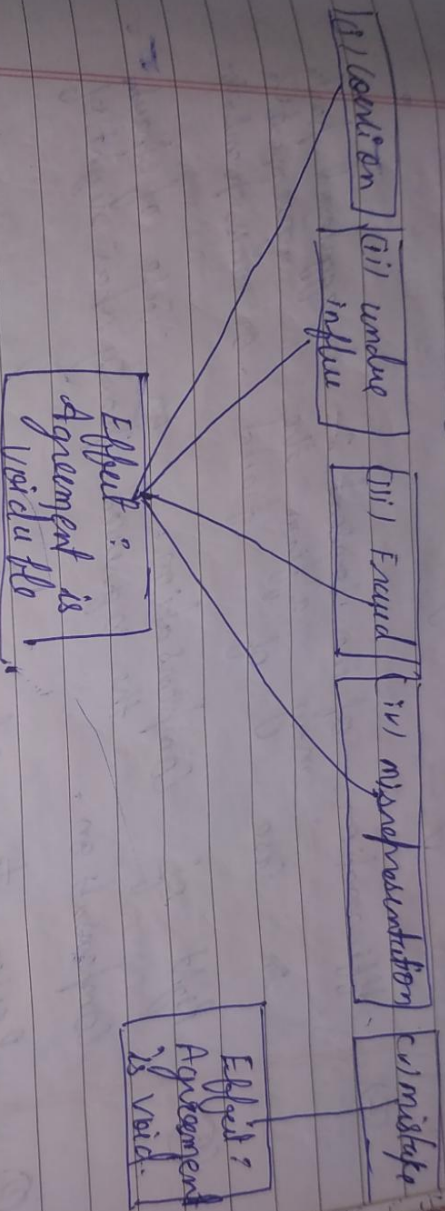
i) Coercion as defined in section 15, or.
ii) Undue influence as defined in section 16, or.

iii) Fraud as defined in section 17, or.
iv) Misrepresentation as defined in section 18, or.

v) Mistake Subject to the provisions of

Section 20, 21 and 22
Consent is said to be so caused when it
would have not been given but for the
existence of such coercion, undue influence,
fraud, misrepresentation or mistake.

Circumstances with effect when
Consent is not free



While effect on contracts when consent is
not free. Consent is not free, the following
are the effects under section 19, 19A
and 20.

Contract is voidable :- When consent is
to agreement is caused by
Coercion, fraud or misrepresentation, the
agreement is a contract and is
voidable at the option of the
party whose consent was so caused.

Define consideration & explain its characteristics.
→ Consideration means something in return paid by promisee for the obligation of promisee. This will may be an act or a promise or an abstinence, as the will for his promise. Consideration is an essential element to form a contract. No consideration no contract, is the general rule. A contract without consideration is void. However, there are certain exceptions. When a person makes a promise he must get something in return this something is consideration.

Examples :-
X agrees to sell his TV for Rs 10,000 to Y. Both X & Y are getting consideration. X will get Rs. 10,000 and Y will get TV. A promise without consideration is not binding. X promises to make a gift to Y. Y cannot compel X to make the gift as X is not obtaining anything.

Definitions :-

c) Given by various scholars and judges :- 1830 Ex. 162

1) Justice Bush defines consideration as 'valuable consideration in the sense of the law may consist either in some right, interest, profit or benefit accruing to one party, less on some antecedent, detriment, or undertaken by the other', supposed 'or undertaken by the other'.

(ii) Sir Frederick Pollock defines consideration as 'an act or forbearance of one party or the promisee himself is the motive for which the promise of the other is bought and the promise thus given for value is enforceable'.

II Definition according to the Indian Contract Act.

19 to Section 2(d) of the Indian Contract Act 1872, 'when at the desire of the promisee, the promisee or any other person has done or abstained from doing, or does or abstains from doing, or promises to do or to abstain from doing something, such act or abstinence or promise is called a consideration for the promise'.

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or abstains from doing, or promises to do or to abstain from doing something, such act or abstinence or promise is called a consideration for the promise.

As to section 2(d) Consideration may be of the following types:-

- Past
- Present or executed
- Future or executory.

Characteristics of a valid consideration
Essentials of or legal rules or legal rules as to consideration.

Following are the rules as to consideration:

① Consideration must move at the desire of the promisee or rule as to valid consideration. It is the first signification that it must be offered by the promisee or the request or desire of the promisee. It is a general thing that unless a promisee requests how can he be made liable. Something has repaired B's motorcycle without Ex → any request from B. A is not liable as the repairing of B's motorcycle was done without his request.

Consideration may move from the promisee or any other person. Any other may be supplied either the promisee or any other person. This rule in known as constructive consideration. Consideration may arise in several ways.

promise is not or any other person. A person who is not a party to the contract, may also offer consideration. It implies that there can be a stranger to the consideration.

Example :- X pays £ 500 to Y. and in consideration of that payment Y promises to give a ring to Z, the promise of Y to Z is not enforceable.

③ A stranger to a contract can't sue :- A stranger, from a stranger to a contract. In India, stranger to a contract. A stranger to a contract can't sue in India as well as in England.

Example :- X who is indebted to Y sells his house to Z and Z promises to pay off the debt to Y. In case Z fails to pay, Y has no right to sue Z being stranger to the agreement.

④ Consideration may be past, present or future :- definitions of considerations "has done" or "promises to do" indicate that the consideration may be past, present or future.

(i) Past consideration :- If the promisee has received something in consideration before the date of the promise, it is past consideration.

For example :- X found Y's purse. After a
fifteen days X promised to pay
Rs 500 to Y as reward for the service
rendered. Y is paying Rs. 100 for past
consideration.

(ii) Present Consideration: If the act is done in
the present, on the promise, promisee,
the consideration along with his promise,
it shall be present consideration. It is also
known as executed consideration.
For ex -> X purchases goods by paying Rs 500.
This consideration is present consideration.

(iii) Future Consideration: It is also known as
executory consideration. In this
the act is to be done in future on the
promisee will receive consideration. In this
case the act is to be done in future.
on the promisee will receive consideration.
after the lapse of promise.
For ex -> X to sell his ring for Rs 1500
to Y the next month, Yt is a case of
future consideration.

5) Consideration must be real and competent.
Consideration must be real and
not illusory if has some value. It must
be something to which law attaches
some value. If consideration is illusory
the transaction shall be invalid.
For ex -> if a man promises to give

treasure by music, it is invalid.

b) Consideration need not be Adequate. Adequacy of consideration is not essential. It is not necessary that there must be full return for the promise, there must be something.

Example :- X agrees to sell his T.V with Rs 10,000 only for Rs 500.

The agreement is enforceable. The quantum of consideration shall be decided by the respective parties. The law will not object to the inadequacy of consideration.

(3) Consideration must be legal not unlawful. Consideration must not be illegal. Illegal consideration means an agreement void. If consideration is illegal, impossible, immoral or opposed to public policy, contract can't be enforced.

(i) Illegal consideration :- Doing an act which is prohibited by law is illegal consideration. For ex - X promises to pay Y Rs 10,000 if he beats Z. It is illegal.

(ii) Impossible Consideration :- In the impossible or legal impossibility, the consideration would not be good.

What do you understand by a contingent contract? Explain the rule regarding contingent contracts.

Contract 9. Explain the enforcement of contingent contracts. Contract 2. Conditional Contract. Contingent Contract implies in contract and the condition A contracts, B to is uncertain nature. 11. Review of the year 2008.

is uncertain nature. On the expiry of the year 2008, pay Rs 5,000 on the death of C. It is not a Contingent Contract because these events are of a Certain nature. But a Contract to pay Rs 5,000 on the expiry of the year 2008, is an uncertain nature.

Contingency contract. But a contract to pay Rs 5000 on the destruction of a car is an accident is a contingent contract. Because that contingency may or may not happen. All contract of insurance is not contingent contract. Insurance is contingent contract and indemnity are contingent contracts.

Contracts: 3.1 of the Indian Contract Act to section 3.11 of the Indian Contract Act.

As to section 33 of the Indian Contract Act, "an contingent contract" is a contract to do or not to do something, if some event, collateral to such contract does or does not happen". A contract to for examples :- if a contract to buy Rs 5000 if

per examples. pay B Rs 50,000 if
B's shop is burnt. This is a Contingent
Contract.

(2) A agrees to purchase an old car
Contract.

Subject to the approval of his mechanics
it is a contingent contract.

If land is to be sold by x to y , at a price to be fixed by z , it is a Contingent.

While the rules regarding the enforceability of contingent contracts are:

Enforceability of contracts contingent on an event happening: — Section 32 of Indian

Contract Act says that contingent contracts to do or not do anything if an uncertain future event happens, it can't be enforced by law unless and until that event has happened.

Therefore, contingent contracts depend on the happening of a certain event can be enforced only on the happening of such event they can be never a complete contract. Until the uncertain future event happens and ~~until~~ can't be enforced until the event has happened.

→ A makes a contract with B to buy B's Shop till L's services. This contract can't be enforced by law unless and until L dies in A's life time.

Section 32 also was that if the contingent event became impossible of performance, contract became void. Contracts to pay

Example: — A contracts to pay

₹ 1,000 when B marries C. If C dies without being married to the contract becomes void.

Define the performance rules relating of a contract
Discuss the rules relating to performance of a contract.
A legal contract creates obligation between the parties. Separated from the obligation can't be these obligation are carried out, the contract will be performed. Thus, performance of a contract means the carrying out of the obligations. A contract is entered into with the object that it will be performed by the parties. By performance is meant that the parties have done whatever they ~~had~~ had agreed to do or have fulfilled these obligations. As per Section 37, "The parties to a contract must either perform, or offer perform their respective promises unless such performance is dispensed with or excluded." An obligation continues till the contract has been discharged by actual performance. performance consists in doing or of causing to be done what the promisee has promised. According to Section 37, the parties must either (a) perform their respective promises or (b) offer to perform the same, unless (a) such performance is dispensed with or (a) excluded under any statute. means to do what should be done. performance of a contract means fulfillment of legal obligations.

obligations by all the parties of a contract. Thus, performance means that the parties to a contract have carried out their respective obligations when a contract is duly performed, it comes to a happy end and nothing more remains of terminating a contract.

While the rules relating to performances of contract is →

(3)

1) It is must to be unconditional :- a conditional offer of performance or tender is not valid the promisor shall adequately satisfy the terms of the tender is not in accordance with the terms of the contract, it shall be conditional. For example :- A offer to B the principal amount of the loan this is not a valid tender since the whole principal amount and interest is not offered.

2) It must be made at the fixed time and place where a particular time and place have been agreed the tender must be made at that time and place. If no such time and place has been agreed by the

parties then it should be made during business hours and at the place of business. Example :- X owes Y Rs. 10,000 payable on 1st May with interest. April the 1st offers to pay on 1st interest upto 1st April. It is not a valid tender because it is not made at the mentioned time.

3. Proper opportunity of inspection :- Section 38(2) provides that a reasonable opportunity should be given to other party to ascertain that the offer is being made in accordance with the terms of Contract. ex for example -> deliver to B at A Contracts the 1st March 2008, 100 his warehouse on the 1st March 2008, 100 bales of cotton of a particular quality in order to make a valid offer of performance, a must bring the Cotton to B's warehouse in circumstances that appointed day under such circumstances the B may have a reasonable opportunity to examine the thing offered. Can't stop the running of interest on the entire amount.

114) What do you mean by discharge of a contract? Describe the methods of discharge of contract.

Ans. Termination of contract means, the rights and obligations arising out of contract.

Discharge of a contract means termination of a contract i.e., contract comes to an end. A contract

some rights and duties of the parties. When these rights and duties come to

An end, the contract is said to be discharged by the parties entering into contract. The parties are free from the task of performing their respective obligations.

Modes or methods of discharging contract.

A contract may be discharged in many ways. The following are the modes in which a contract may be discharged.

(i) Discharge by performance of contract — is one of the most usual ways of discharging a contract. It lies in doing what the promisor has promised to do. On the performance of the obligation promised by the parties, the contract is discharged. If the promisor has done what he undertook to do, there is nothing left for him to perform. Should be done means to do what contract perform their respective obligation undertaken. The contract is said to be performed. It puts a contract to a happy end.

Due to it, it is by far the most usual method of discharge of a contract. In fact, it is the real intention of the parties. When a contract is performed, the rights and obligations are extinguished.

Performance is of two types :-

Actual performance :- when the parties have done what they are required by the contract to do, is known as actual performance.



II Discharge by agreement :- Since a contract is created by an agreement, it can be discharged by also an agreement or consent. When the parties to a contract agree to discharge it is known as discharge by agreement. for ex → 'x' agrees to stitch a coat for y. x y asks x not to stitch the coat. x does n't object to it. and return his wolen cloth. the old contract is discharged by new agreement. This new agreement may be between old parties or among old and new parties.

i) Discharge by novation :- A novation of contract takes place if parties agree to substitute a new contract where parties agree to substitute a new contract in place of old one, it is a novation of contract.

(ii) Discharge by Revision. The word 'revision' means to amend or alter. Where the parties mutually agree to amend or alter the existing contract, it is called revision of contract.

(iii) Discharge by Alteration. Alteration means a change in one or more of the terms of a contract. If all the parties agree to change or alter one of the terms of a contract, it is called alteration.

(a) Bilateral. If alteration takes place when both the parties to the contract agree to alter the terms.

(b) Unilateral. When one party to a contract makes an alteration without the consent of the other party. It is unilateral alteration. It is an unauthorised alteration.

Discharge by Remission. The term 'remission' means to remit or to give up. If any party accepts a lesser performance from due, it is remission. It may be full or partial. No consideration is necessary for remission.

abandonment Waiver means the person is entitled to a party giving what his rights under the contract may waive or acquire. either an agreement or consideration is required.

A waiver means an intention of promisee to perform his obligation. He gives up his claim.

Discharge by accord and satisfaction :- Under English law for a valid promise of remission, it must be supported by fresh considerations.

Discharge by merger :- If some inferior contract merges with a person under a superior contract, the inferior contract is discharged.

Discharge by impossibility -> Any law cannot compel anybody to perform things when performance is impossible. It comes impossible due to the parties are discharged from the obligation. Impossibility of the contract results in the discharge of contract. Impossibility of performance may be unknown at the time of making the contract.

may arise subsequently. void impossible because law can't compel the impossible.

(a) impossibility existing at the time of formation of contract or initial impossibility

- (1) impossibility known to the parties
- (2) impossibility unknown to the parties.

(b) impossibility arising subsequent to the formation of contract or subsequent impossibility or doctrine of impossibility.

(c) Discharge of performance of Death -> a contract comes to an end by the death of the promisor.

Discharge of performance by personal disability or incapacity

Discharge by destruction of subject matter.

Discharge by object becoming illegal or unlawful

Discharge by out break of war

Discharge by non-existence of fundamental state of things the contract exists

of which formed the basis of contract.

Discharge by lapse of time. — A

within a fixed or if no time is fixed within a reasonable time. If a contract is not performed within such time.

the agreed upon party can take legal action for within a period of 3 years from the date of action belongs due.

It is known as the period of limitation as per the Limitation Act, 1963. If no action is taken within 3 yrs. the contract is discharged and he is deprived of his remedy at law.

(iv) Discharge by operation of law. — The term's law means that under certain circumstances the law regards a contract as discharged.

(i) Discharge by merger. —

(ii) Discharge by death of promisee.

(iii) Discharge by lapse of time.

(iv) Discharge by insolvency.

(v) Discharge by breach of contract. — If a party is expected of himself to a contract that they will perform their obligations. If any party does not perform his obligations. If any party does not perform his obligations.

What is a Quasi Contract? Describe the Quasi Contract act. as given in the Indian Contract Act.

→ A Quasi - Contract is a such type of contract by which one party is bound to pay money in consideration of some service done. Although no contractual relation exists between the parties but law makes out a contract for them. This kind of contract is known as Quasi Contract. This contract prevents unjust enrichment or unjust benefit.

A/q to Dr. Jeyaraj, "Quasi - Contract" is a situation in which law imposes an obligation on one person, on ground of natural justice, an obligation similar to that arises from a true contract, although the contract, express or implied, has not been entered into by them.

Examples :- (i) X pays Rs. 5,000 to Y, believing him to be a contractor, although Y is not a contractor. (ii) A person who has been injured by another person, who is not a doctor, is entitled to recover the cost of the treatment from the person who has injured him.

Section 68 to 72 of the Indian Contract Act describe the cases of types of contracts above can be

1. Quasi-contract - described as under:
claim for necessities supplied to person incapable of contracting or on his account (Section 68) → If a person, he is bound to enter into a contract, or anyone whom he is legally bound to support, is supplied by another person with necessities suited to his condition in life, the person who has furnished supplies is entitled to be reimbursed from the property of incapable person.

eg → A supplies the wife and children of B, a lunatic person with necessities suitable to their conditions in life. A is entitled to be reimbursed from B's property.

2. Payment by an interested person or reimbursement of person paying money due by another, in payment of which he is interested (Section 69):
A person who is interested in the payment of money which another is bound by law to pay, and who, therefore, pays it, is entitled to be reimbursed by the other.

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(iii) Obligation of non-gratuitous act enjoying benefit by whom where a person lawfully does anything for another person or delivers anything to him, not intending to do so gratuitously, and such other person enjoys the benefit thereof the latter is bound to make compensation to the former in respect of, or to restore the thing so done or delivered.

(iv) Responsibility of finder of goods (Section 71): This section says, "A person who finds goods belonging to another and takes them into his custody, is subject to the same responsibility as a bailee".

(v) Liability of person to whom money is paid, or thing delivered by mistake or undue influence (Section 72): A person to whom money has been paid, or anything delivered by mistake or under coercion, must repay or return it.

Ques 161 What is a contract of guarantee? ~~into~~ under what circumstances a surety is discharged from his liability?
 Ans - A "contract of guarantee" is a contract to perform the promise, or discharge the liability of a third person in case of his default. Thus, under a contract of guarantee, one person under-takes to perform the promise on to discharge a liability for and on behalf of a third party, if he fails to do so. The person whose default the guarantee is given is called the surety, the person to whom the guarantee is given is called the "creditor". A guarantee may be either oral or written,
 A ~~contract~~

Discharge of surety from his liability on termination of a contract by guarantee are -

1. A surety is said to be discharged when his liability comes to an end. The liability of a surety comes to an end under the following circumstances:-

Discharge of surety by revocation by notice (Section 130) :-
1. Continuing a guarantee :-

due notice to the creditor regarding any future transaction. He would not be responsible for future transaction which he made by the principal. Debtor may be surety has revoked the contract of guarantee.

1) By death of surety (Section 131) :- lays down that the death of the surety operates, as a revocation of a continuing guarantee, so far as regards future transactions.

13) Revocation by contract :- Section 127 :- A contract of guarantee is discharged by novation i.e. by substitution of a new contract in place of the old one.

II By change of surety by contract :- Section 133 :- Credit is made without the consent of the surety. It is made in the terms of the contract between the principal and debtor.

Q no 16) What is a contract of guarantee?
Under what circumstances a surety is discharged from his liability?

Ans → A "contract of guarantee" is a contract to perform the promise, or discharge the liability, of a third person, in case of his default. Thus, under a contract of guarantee, one person undertakes to perform the promise or to discharge a liability for and on behalf of a third party, if he fails to do so. The person who gives the guarantee is called the "surety", the person in respect of whose default the guarantee is given is called the "principal debtor", & the person to whom the guarantee is given is called the "creditor". A guarantee may be either oral or written.

A contract of guarantee may be either oral or in writing. In English law it must be in writing. In English law, a guarantee is defined as "a promise made by one person to another to be collectively answerable for the debt, default or mis carriage of a third person and must be evidenced in writing". On the basis of above discussion, it is clear that in a contract of guarantee there must be two contracts, i.e., a principal contract between the principal debtor and the creditor, and a secondary contract between the surety and the creditor.

Discharge of surety from his liability
Termination of a contract by guarantee.

A surety is said to be discharged when his liability comes to an end. The liability of a surety comes to an end under the following circumstances.

(i) Discharge of surety by revocation

(a) Revocation by surety or revocation by notice:—

In continuing guarantee, a surety is discharged when he gives due notice to the creditor regarding any future transaction. He would not be responsible for future transaction which may be made by the principal debtor after the surety has revoked the contract of guarantee.

(b) Revocation by death:— Section (131) lays down that the death of the surety of a continuing guarantee, as a revocation of a continuing guarantee, far as regards future transaction.

(c) Revocation by novation:— A contract by guarantee is discharged by novation i.e., by substituting a new person in place of old one.

II Discharge of surety by conduct of the creditor. Section 133.

→ variation or variance in the terms of the contract, surety's consent, principal debtor and the creditor, between the discharge the surety as to it will not affect the variance. transactions. subsequent to the variance.

(a) Variation in terms of contract Section 133(1)

The variation must be such as materially affects the position of the surety, in the case of where a surety is responsible for the performance of several and distinct contracts, a change in one of those contracts in duties will not affect the surety's liability.

(b) Release or discharge of the principal debtor -)

→ to Section 134 the surety is discharged by a contract between the creditor and the principal debtor, by which the principal debtor is released, in any act or omission of the creditor, the legal consequences of which is the discharge of the principal debtor.

Compounding with the principal debtor.

Section 135 of the act provides three modes of discharge from liability composition with principal debtor.

promise to give time;

Act or omission impairing surety's eventual
remedy $\rightarrow$ If inconsistent to do any act with the right
which the surety or omits to do
his duty to the surety requires him to do, and
the eventual remedy of surety himself against
the principal debtor is thereby impaired,
the surety is discharged.

(5) Loss of security $\rightarrow$ If to this section if the
security provided to him by the principal was
debtor at the time the contract of guarantee was
made? the surety is discharged to the
extent of the value of the security unless the
surety consents to the release of such security

By invalidation of the contract :-

- i) Guarantee obtained by fraud or misrepresentation
- ii) Guarantee obtained by concealment
- iii) Failure of co-surety to join
- iv) Failure of consideration.

Q no 17) Define bailment and Bailee. Describe the duties of a bailor.

The term "bailment" is derived from a French word "bailor" which means to deliver. It denotes a contract resulting from handing over. It involves any kind of change of possession and not transfer of ownership of goods when one person transfers the possession of goods to another for a particular period and a particular purpose on the conditions that, when the purpose is satisfied, these goods will be returned or disposed off, its bailment.

① The term Bailment is defined as "the delivery of goods by one to another person for some purpose, upon a contract that they shall, when the purpose is accomplished be returned or otherwise disposed of according to the directions of the person delivering them."

The duties of a bailor and bailee are:-

Bailor :- (Section 148) :- "The person delivering the goods is called the bailor".

Bailee, (Section 148) :- "The person to whom goods are delivered is called the bailee".

Following are the duties of a bailor :-

1) Duty to disclose faults in the goods (Section 150) :-
The bailor is bound to disclose to the bailee faults in the goods bailed, of which the bailor is aware and which materially interfere with the use of them, or expose the bailee to extraordinary risks. Where he doesn't make such disclosure, he is responsible for damage arising to the bailee directly from such faults.

2) Duty to Repay necessary expenses (Section 158) :-
In case of gratuitous bailment the bailor shall pay the bailee all the necessary expenses incurred for the purpose of bailment.

Duty to indemnify loss of Bailee (Section 159) :-
If there is a gratuitous bailment for a certain period, bailor may require the return of goods even before the expiry of such period.

Duty to indemnify Bailee for loss due to defective title (Section 154) :- This section provides that a bailor is responsible to the bailee for any loss due to his defective title in the goods bailed.

(5) Duty to bear normal loss :- Bailor is liable to bear the risk of normal loss deterioration and destruction of bailed goods if the bailor has taken due care. (14)

(6) Duty to receive goods :- It is the duty of bailor to receive the goods. Otherwise he shall be liable to pay compensation for delay.

Duties of Bailor are following :-

Duty to Reasonable case of goods (Section 151)
152) :- The bailor is bound to take as much care of the goods bailed to him as a man of ordinary prudence would under similar circumstances take of his own goods. If the same bulk, quality and value as the goods bailed.

Duty not to make unauthorised use of goods bailed (Section 153 & 154) :- The bailor should use goods only to the conditions of contract of bailor's contract.

Duty not to mix, Bailor's goods and own goods :- The bailor should not mix the goods bailed

with his own goods, without the consent of the bailor.

(14) Duty to return any accession to the good goods :- Section 160 says that it is the duty of the bailor to return, or deliver up to the bailor's directions.

(15) Duty to return any accession to the goods bailed liable :- Section 163 :- If there is no contract to the contrary, the bailor is liable to deliver to the bailor, or after his instructions any increase or profit which have accrued from the goods bailed.

1 Duty not to setup and adverse title against the bailor :- Bailor should not set up a title over goods bailed in favour of any person as against bailor, he should return the goods to bailor.

Q. What do you mean by the term wedge?
A. Explain the rights of power.

any → It is a special kind of bailment. It is a bailment or transfer of goods as a security for the payment of a debt. A contract by which the security is of goods is transferred as 'pawnee' is synonymous with the word 'pledge'. The 'pledge' or 'pawning' or in this case of a called the 'pledge' and the bailee is called the 'pledger' or thus it raises money from a lender on the security of this amount, the transaction is a pledge. The pledge is bound to return the amount on the repayment of debt. Section 172 says: The bailment of goods as security for payment of a debt, performance of a promise, is called a pledge. The bailor in this case is called the 'pawnee' or the bailee is called the 'pledger'. Example: → A lends Rs 500 to B with a security of goods. B is a pledger or pawnee and the lender is the pawnee.

Rights of pledgee or pawnor
177 If a time is stipulated for the payment of the debt or performance of the promise, for which the pledge is made, and the debt at the stipulated time, he may redeem the goods pledged at any subsequent time before the actual sale but he must, in that case, pay in addition, any expenses which have arisen from his default.

Rights of pawnor are as under:-

(1) The pledgee is entitled to claim back the security goods on repayment of the debt with interest and other charges.

(2) The pledgee may receive a notice in case the pledgee intends to sell the goods.

If he doesn't receive the reasonable notice, he shall have a right to claim any loss that may result on such sale.

(3) The pledgee can claim for any amounts to the goods pledged.

(4) If any damage is caused to the goods due to mismanagement or negligence towards the pledgee, the pledgee has a right to claim.

3mo 19) Define agency. How it is created & how it is terminated.
Ans -> According to section 182 "The person employed to do any act for another or to represent another in dealings with third persons is an agent". Thus, an agent is a person who acts in place of another.
Although every person who acts for another can't be an agent, nobody can become an agent on behalf of another merely because he gives him advice. A person can be an agent only when he is authorised to do the principal's business.
The days down that to be an agent, person employed must be authorised to do any act for another or to represent another in dealings with third persons.

An agency may be created in the following ways :-

Agency by express agreement (Section 187) :-
Ag to Section 186, an agent may be express or implied.

Section 187, an authority is said to be
expressed when it is given by words, spoken
or written. No particular form is required for
appointing an agent. An express agreement for
appointing an agent is created generally on a blank
paper.

(c) Agency by implied authority or by implication:-
(Section 186 and 187). "The authority of an
agent may be express or implied." It is said to be
express when it is given by words spoken
or written. An authority is said to be
implied when it is to be inferred from the
circumstances of the case and things spoken
or written, or the ordinary course of case. Thus,
be attended the circumstances of the conduct, it is
implied agency arises from the conduct, it is
relationship of parties. Implied agency, therefore,
includes agency by estoppel, agency by hold
out and agency of necessity.
Example:-
Somewhere, living himself in Kolkata
visiting the shop occasionally. The shop
managed by Y, and he is in the habit of
ordering goods from Z in the name of X.
The purchases of the shop, and of X's friends
them out, X's friends with X's knowledge
Y has an implied authority from X to
goods from Z in the name of X.
The purchases of the shop.

while Termination of agency means termination or cancellation of agency. thus, termination of agency is the state in which the relationship between principal and agent comes to an end.

Section 201 indicates the circumstances under which an agency thus, termination of agency is the state in which the relationship between principal and agent comes to an end.

Section 201 indicates the circumstances under which an agency or comes to an end or terminates. It reads as "an agency is terminated by the principal revoking his authority; or by the agent renouncing the business of the agency; or by the principal or agent dying or becoming of unsound mind, or by the principal being adjudicated an insolvent under the provisions of any act for the time being in force for the relief of insolvent debtors".

agency may be terminated in the following two ways

- By the acts of parties,
- By operation of law.



1) By the act of parties

2) mutual agreement of parties :- An agency may be terminated by mutual agreement between principal and his agent. transactions that have taken place prior to termination shall continue to bind the principal. agency can be terminated as to future transactions only.

Revocation of authority by principal:

By Renunciation by the agent.

Termination of agency by operation of law.

By the completion of the business of agency.

Death or insanity of principal or agent.

By the expiry of time.

By the destruction of the subject matter.

Dissolution of incorporated company or firm.

Principal or agent becoming Alien enemy.

Subsequent event rendering the agent unlawful.

1. By the insolvency of the principal

Q.120) Distinguish between a "Sub-agent & a Substituted agent. point out their relations with the "principal" and the turned party.

Ans →
S.No

Basis of Difference

Sub-agent

Substituted agent or Co-agent

1) meaning

The sub-agent is the person who is employed by original agent in the business of agency.

The substituted agent is the person who is an agent to act for the principal.

mode of appointment

The sub-agent is appointed by an original agent.

The substituted agent is named by agent on behalf of his principal.

Relationship

A sub-agent is the agent of original agent.

A substituted agent is the principal's agent.

Responsibility

He is ~~responsible~~ responsible to original agent.

A substituted agent is ~~also~~ responsible to principal.



S. No	Base of Difference.	Sub-agent	Substituted agent or co-agent
5.	Original agent's liability.	Original agent is responsible to principal for the acts or negligence of his sub-agent.	Original agent is not responsible.
6.	Privity of Contract	There is no direct contract between principal and sub-agent.	There is direct contract between principal and substituted agent.

21) Define agency and explain the rights and duties of an agent towards his principal.

→ Agency is a relation depend upon an agreement where by one person is authorised to act for another, with third party. The agreement may be express or implied. The person who is authorised to act is called an agent and who employs him is called principal.

Agency is a relation between two parties: agent and principal created by agreement express or implied. The concept of agency emphasises that one person brings two other persons into relationship. It is the power of creating relationship between the principal and agent.

and third parties. an agent is a link between the principal and third parties but he has the power to make the principal liable to the third parties.

While the rights and duties of an agent towards his principal are →

1) Duties of agent to principal :-

a) Duty to conduct or act a/c to principal's direction (Section 211) :- It is the primary duty of an agent to act within the scope of his authority and to conduct the business of his principal a/c to direction. directions.

1) Duty to act with reasonable skill and diligence :- The agent should conduct the business with the skill and diligence that is generally possessed by persons engaged in similar trade or business.

Duty to Render proper accounts :- an agent must render proper accounts to his principal on demand.

Duty to Communicate with principal :- According to Section 214, It is the duty of an agent, in case of difficulty, in all reasonable diligence, in

communicating with his principal, and in seeking to obtain his instructions.

e) duty of agent not to Deal on his own account. It is the duty of the agent that he should not deal on his own account without first obtaining the consent of his principal.

(f) Duty to pay sums received for principal: Subject to lawful deductions, the agent is bound to pay to his principal all moneys received on his account.

(g) Agent not entitled to Remuneration for Business misconducted.

(h) Duty not to use information obtained in the course of the agency against a principal.

(i) Duty not to set up adverse title: An agent should not set up adverse title against his principal.

j) Duty not to delegate: An agent is not entitled to further delegate which has been deputed to him by his principal.



k) Agent's duty ~~on~~ ^{terminated} by principal's death or insanity: —
When principal changes or becoming ~~for~~ ^{the} mind, the agent should take ~~on~~ ^{the} behalf of the late principal. ^{representatives of his}

(2) not to act in excess of authority: —
→ an agent should not exceed his authority.

Rights of an agent.

i) Agent's remuneration becomes due: —
Section 219 of the act lays down that in the absence of any special contract payment for the performance of any act is not due to the agent until the completion of such act, but an agent may detain sums received by him on account of things sold, although the whole goods consigned to him for sale may not have been sold, or although the sale may not be actually complete.



(ii) Not entitled to remuneration if an agent is guilty of misconduct: if an agent is guilty of misconduct, he can't be entitled to any remuneration in respect of that part of business which has been misconducted.

(i) Right of Retainer :- An agent may retain, out of any money received on account of the principal, all money due to himself in respect of advances made or expenses properly incurred by him in conducting such business and also such remuneration as may be payable to him for acting as agent.

(i) Right of Lien on principal's property :- In the absence of any contract to the contrary.

(i) Right to be indemnified against consequences of lawful act :- The employer is bound to indemnify an agent against losses sustained by an agent.

Right to be indemnified against consequences of acts done in good faith :- Section provides that an agent shall have to be indemnified against consequences done in good faith by him.

x) Agent's Duty ~~on~~ on termination of agency by principal's Death or insanity: → when principal changes mind, the agent should take the representatives of his late principal.

(1) not to act in excess of authority: → an agent should not exceed his authority.

Rights of an agent.

i) Agent's remuneration be Compes Due: —
Section 219 of the act lays down the payment for the performance of any act in the absence of any special contract not due to the agent until the completion of such act, but an agent may detain sums received by him on account of things sold, although the whole goods consigned to him for sale may not have been sold, or although the may n't be actually complete.



- (ii) Not entitled to Remuneration for business mis conducted : if an agent is guilty of mis conduct he can't be entitled to any remuneration in respect of that part of business which has been mis conducted.
- (f) Right of Retainer :- An agent may retain, out of any money received on account of the principal, all money due to himself in respect of advances made or expenses properly incurred by him in conducting such business and also such remuneration as may be payable to him for acting as agent.
- (c) Right of Lien on principal's property :- In the absence of any contract to the contrary.
- (d) Right to be indemnified against consequences of lawful act :- The employer is bound to indemnify an agent against losses sustained by an agent.
- e) Right to be indemnified against consequences of acts done in good faith :- Section 223 provides that an agent shall have right to be indemnified against consequences of acts done in good faith by him.

6) Non-liability of principal to do a criminal act :- where one person employs another to do a criminal act the employer is not liable to indemnify to him agent to indemnify.

(1)

7) Right of compensation :- The principal must make compensation to his agent in respect of injury caused to such agent by the principal's neglect or want of skill.

(2)

8) Right of stoppage :- in - Transit :- Right of goods is available to agent in 2 ways.

(3)

(2) Right of compensation for premature Rescission of agency :- If there is an express or implied contract that agency should be continued for a certain period and the principal revokes it before such period, the agent can claim compensation.

9) Right to appoint sub-agent or substituted agent :- when an agent has authority, he can appoint a sub-agent or substituted agent.

Rights and Duties of principal :- Duties of principal are
1) To pay the rights of agent
2) To indemnify the agent for liability

The duties of principal.

Right of principal against an agent: -

- (1) Right to get compensation if agent doesn't follow his instructions.
- (2) Right to get remuneration if agent doesn't conduct the business with reasonable skill and diligence.
- (3) Right to ask for accounts on demand.
- (4) Right to instruct agent of difficulty.
- (5) Right to repudiate contract if agent deals on his own account.

Q 22)

Explain the doctrine of caveat emptor?

Discuss

Ans →

"Caveat emptor" is a Latin expression. It means "let the buyer beware" i.e. while purchasing

goods buyer should be careful. The caveat emptor is a fundamental principle of the law of sale of goods. It means "caution buyer" i.e. let the ~~buyer~~ buyer beware. It is not part of the seller's duty to point out defect of his goods and the buyer must inspect the goods.

He should ensure that the goods, will serve his purpose properly. Seller is under no obligation to tell the defects of goods. Thus, buyer should buy goods at his own risk. If he finds later that the goods are defective or can't serve his purpose. Seller will not be liable for it.

Thus, on a sale of a thing there is no implied condition that the thing would be satisfactory. It is the duty of the purchaser to satisfy himself before purchasing the article, that the article which he purchases is the one which he wants.

Exceptions to the doctrine of caveat emptor
Implied conditions and warranties → There are some conditions and warranties laid down under the act. Thus conditions and

and it can either protect the interest of purchaser against the defect of goods and problem mix chief.

① Sale by Description :- where a seller sells goods by description and purchaser has no opportunity to inspect these goods, then shall be an implied condition that these goods shall correspond with such description.

② Sale under trade name :- where a seller sells goods by description and purchaser has no opportunity to inspect these goods, then shall be an implied condition that these goods shall correspond with such description.

③ Sale under trade name :- where goods are sold under a trade name, purchaser shall be as the new rule that goods shall participate trade name standard of that

④ Custom or usage of trade :- if there is a custom or usage when seller has to sell that purchaser relies fitness rule of the law will apply and apply.

- 5) Relevance or seller's skill and judgement: If a purchaser he requires the goods and for which he trusts on the skill and judgement of seller there is an implied condition that the goods will be on the quality which is not for that purpose. Here, rule of caveat emptor will not apply.
- 6) Misrepresentation or fraud by seller: - where a seller makes misrepresentation or commits a fraud and such misrepresentation or fraud vitiates the rule of caveat emptor doesn't apply.

Q23) Distinguish between a 'condition' & a warranty.
state the various conditions. Can breach of condition be treated as a breach of warranty?

Basis of Difference	Condition	Warranty
1) Purpose	A condition is a stipulation which is essential to the main purpose of the contract of sale.	A warranty is a stipulation which is not essential to the main purpose

- 2) Remedy
- | | |
|--|--|
| A breach of condition provides a right to repudiate the contract | A breach of warranty provides a right to claim damages |
|--|--|

S.No	Basis of Difference	Condition	Warranty
3.	Treatment	A breach of condition may be treated as a breach of warranty.	A breach of warranty is treated as a breach of condition.
4.	Transfer of title	Title of goods can't be transferred unless conditions are not satisfied.	It is not true warranty.
5.	Breach of condition and breach of warranty	In some circumstances breach of condition can be treated as breach of warranty.	Breach of warranty can't be regarded as breach of condition.
6.	Effect on condition	It affects entire condition.	It affects a part consideration.

Consequences of Breach of Condition: Following are the consequences of breach of

1) ~~Agree~~ Aggrieved party may repudiate the contract and return goods.

2) Aggrieved party can recover the compensation by him.

3) Aggrieved party can claim damages for the

1) Aggrieved party may treat the breach of condition as a breach of warranty.

2) If fulfillment of a condition is excluded by law, of a no remedy would be available.

Consequences of breach of warranty: These are as under:

Aggrieved party can sue for damages only.

Aggrieved party may ~~also~~ reduce or remove the amount of price.

Aggrieved party may sue for the same. Aggrieved party may sue for the same if he has suffered further damage.

If the fulfillment of a warranty by law is remedy would be available.



Define an unpaid seller. What are the rights of an unpaid seller against the goods?

Ans: An unpaid seller is a person who has not been paid the whole of the price of the goods sold. The section 45 provides that:

"The seller of goods is deemed to be an 'unpaid seller' within the meaning of this act."

(a) If the whole of the price has not been paid or tendered.

(b) When a bill of exchange or other negotiable instrument has been received as conditional payment and the condition on which it was received has not been fulfilled by reason of the dishonour of the instrument or otherwise.

The term "seller" includes any person who is in the position of a seller, as for instance an agent of the seller to whom the bill of lading has been endorsed, or a consignee or agent who has himself paid, or is responsible for the price.

He remains an unpaid seller so long as any portion of the price of goods remains unpaid. When the whole of price paid has been tendered, and the seller can't sue or

accept such a tender, the seller can't sue or sue paid seller, in such a case he loses all his rights against the goods.

while rights of unpaid seller against the goods.

(a1)

(a) when property in the goods has passed to buyer in this case, the unpaid seller shall have the following rights:

(b)
(c)

(i) Rights of lien (section 47 to 49) :-
seller can retain the goods in his possession in the following cases:

(d)

i) where the goods have not been sold on credit.

ii) when the goods have been sold on credit but the period of credit has expired,

iii) when the buyer has become insolvent,

(2) Rights of stoppage in transit (section 50-52)

available to second night which is right of the stoppage of the goods in transit means the right to stop

further transit of the goods, to resume possession thereof and to retain the same till the price is paid.

also to section 50(g) the seller of goods, to resume possession.

stoppage in transit can be exercised by the unpaid seller under following circumstances.

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The unpaid seller must have parted with the possession of the goods and the buyer must not have received. The buyer must be insolvent. The ownership must have passed,

Right of re-sale (section 54) :-
An unpaid seller has a right of re-sale when the unpaid seller has exercised his right of lien or stoppage in transit, he can resell the goods, he has a right to resell the goods in the following cases :-
where the goods are perishable
where the nature of the goods is such that their value is likely to fall
where he gives notice to the buyer and the buyer doesn't within a reasonable time, pay or tender the price.
Unpaid seller's rights :-
where the unpaid seller exports goods he has a right of re-sale (section 54)
where the unpaid seller has made a contract of re-sale (section 55)
where the unpaid seller has made a contract of re-sale (section 56)

Q10 25)

What is contents of partnership deed ? & the main

Ans -> Such a document wherein the mutual rights and duties of partners are determined on the basis of agreement specified. Rights and duties of partners are clearly specified in the partnership deed. In case the rules of agreement of partners are not clearly specified in the deed under the provisions of applicable acts and provisions with regard to duties, mutual relations and relations with the 3rd party of partners in a firm.

Since partnership is based upon the agreement, rights, duties and responsibilities of partners are also determined on the basis of the agreement between them.

Contents of partnership agreement or deed.

Name and address of the firm:- In the partnership deed complete name and address of the firm should be given. However, there are following restrictions on this regard.

1. Name and logo of the firm should not resemble the name of the firm which is already used which indicates approval of the

Central or state govt. Such as Crown,
Imperial, State, Royal, Emperor,
Parliament etc.

2) Names and address of partners :- Partnership agreement must include the names and address of all the partners. 8)

3) Scope and nature of Business :- Partnership should clearly mention the scope of business i.e. local, national or international.

4) Duration :- Partnership deed should clearly specify whether it is for a fixed duration or span of time or for accomplishing any work or whether it is Partnership at will or ignored.

5) Contribution of capital by partners :- Partnership deed should also clearly specify how much and in what proportion capital would be invested by different partners.

Profit sharing ratio :- It is not necessary that profit should be shared in proportion to capital invested by different partners.

leading and borrowing by the partners. Partnership whether the partners can borrow money or for the needs and requirements of business.

Partners' Commission and Salaries :- Partners should also clearly specify whether any salary or commission is paid to these partners.