

Consideration

Enforcing any legal contract requires it to have an element of consideration included in it. In simple words, it is nothing but a price that the promisee agrees to pay to the promisor. Now, this price can be paid as a benefit to the promisor and/or a loss or detriment to the promisee. In this [article](#), we will look at this dual [aspect](#) of consideration in detail.

Basic Understanding of Consideration

According to Section 2(d) of the Indian [Contract](#) Act, 1872, consideration is defined as follows:

“When at the desire of the promisor, the promisee or any other person has done or abstained from doing, or does or abstains from doing, or promises to do or abstain from doing something, such act or abstinence is called a consideration for the promisee.”

This is a complex [sentence](#). Let's break it down for further understanding and rewrite it as follows:

At the desire of the promisor if the promisee either

- Does something (in the past, present or future) OR
- Abstains from doing something (in the past, present or future)

Then, this act of doing or abstinence is called Consideration. Now, it has two aspects, either doing some act or abstaining from doing something. Let's look at some examples:

Example 1 – Doing something

Peter and John enter into a contract where Peter promises to deliver 15 curtains to John in one month's time. Also, John promises to pay Peter an amount of Rs 3,000 on delivery. In this contract, John's promise to pay Rs 3,000, on delivery, is the consideration for Peter's promise. Also, Peter's promise of delivering 15 curtains is the consideration of John's promise to pay.

Example 2 – Not doing something

Peter has taken a loan from his friend John. However, he has not repaid the loan yet. John promises not to file a suit against Peter if he promises to repay the loan within a week. In this case, abstinence on the part of John is due to the consideration of Peter's promise of repayment of the [loan](#).

Rules Regarding Consideration

According to Section 2(d) of the Indian Contract Act, 1872, the follows features are essential for a valid consideration:

(i) Consideration must move at the desire of the promisor

Consideration can be offered by the promisee or a third-party only at the request or desire of the promisor. If an action is initiated at the desire of the third-party, it is not a consideration.

Peter is going back home from [work](#). On his way, he sees that his neighbor John's house is on fire. He immediately arranges for a [water](#) hose and manages to douse the fire. Peter cannot claim any reward for his effort because it was a voluntary act and was not done at the desire of John (promisor).

(ii) Consideration may move from the promisee to any other person

If you look at the definition of consideration according to section 2 (d) of the Indian Contract Act, 1872, it explicitly states the phrase 'promisee or any other person...' This essentially means that in India, consideration may move from the promisee to any other person. However, it is important to note that there can be a stranger to consideration but not a stranger to the contract.

Peter gifted his son, Oliver an apartment in the city with a condition that he pays a fixed amount of money to his uncle, John, every year. On the same day, Oliver executed a deed to pay a fixed amount of [money](#) to John every year. However, Oliver failed to pay and John filed a suit for recovery. Oliver pleaded that he was not liable since no consideration had moved from John. However, the court held the words 'promisee or any other person...' and allowed John to maintain his suit for recovery.

(iii) It can be in the past, present or future

a. Past

Since consideration is the price of a promise, it is normally given to induce the promise. However, it can be given before the promise is made by the promisor. This is past consideration. It is important to note that past consideration is not considered for a new promise since it is not given in lieu of the promise. According to Indian [law](#), 'past consideration' is 'good consideration' if it was given at the desire of the promisor.

Peter employs John to work on his field during the months of agricultural harvesting. He promises to pay John an amount of Rs 5,000 for his services when he sows the new crop in the fields. The services of John in the past constitute a valid consideration.

a.1. Past Voluntary services

At times, a person might render voluntary services without any request or promise from another. If the person receiving the services makes a subsequent promise to pay for the services, then such a promise is enforceable in India under Section 25(2) of the Indian Contract Act, 1872 which states:

'An agreement made without consideration is void, unless it's a promise to compensate, wholly or in part, a person who has already voluntarily done something for the promisor, or something which the promisor was legally compellable to do; or unless.'

Peter finds John's wallet on the road. He returns it to him and John promises to pay Peter Rs 500 for his services. This is a valid contract.

b. Present

If the promise and consideration take place simultaneously then it is present or executed consideration. An example is Peter goes to a shop, buys a bag of chips and pays for the same on-spot.

c. Future

When the consideration for a promise moves after the contract is formed, it is a future or executor. It is also valid if it depends on the condition.

Peter promises to create architectural plans for John's new house. John promises to pay Peter an amount of Rs 50,000 provided the plans are approved by his wife.

(iv) It must have value in the eyes of the law

While the law allows the parties to decide an 'adequate' consideration for them, it must be real and have value in the eyes of law. While the Court will not consider inadequacy, it will look at it to determine if the consent was given by the party with free-will or not.

Peter's wife agrees to withdraw the suit she has filed against him in return for his promise to pay her a monthly maintenance amount. This is a good consideration and holds value in the eyes of law.

(v) It should be over and above the Promisors' existing obligations

If the promisor is already obligated either by his promise or law to perform or abstain from a certain act, then it is not a good consideration for a promise.

Peter receives a summons from the Court to appear before it as a witness for John. John promises to pay him Rs 10,000 to appear in the Court. This contract is not valid because Peter is obligated by law to appear in the Court on receiving a summons.

(vi) It cannot be Unlawful

A consideration that is against the law or public policies is not valid.

Peter offers Rs 10,000 to John to beat up his business rival. John beats him up but Peter refuses to pay him. John cannot file a suit for recovery since the consideration is against the law.