

**Legal aspects of an insurance contract**

We will now look at some features involved in an insurance contract and then consider legal principles that govern insurance contracts in general.

We have already seen that one of the elements of insurance is that it involves a contract between insurer and insured.

A contract is an agreement between parties, enforceable at law. The **provisions** of the Indian Contract Act, 1872 govern all contracts in India, including insurance contracts.

**2. Elements of a valid contract**

The elements of a valid contract are:

**a) Offer and acceptance:**

Usually, the offer is made by the proposer, and acceptance is made by the insurer.

**b) Consideration**

This means that the contract must involve some mutual benefit to the parties. The premium is the consideration from the insured, and the promise to indemnify, is the consideration from the insurers.

**c) Agreement between the parties**

Both the parties should agree to the same thing in the same sense.

**d) Capacity of the parties**

Both the parties to the contract must be legally competent to enter into the contract. For example, minors cannot enter into insurance contracts.

**e) Legality**

The object of the contract must be legal, for example, no insurance can be had for smuggled goods.

**The following cannot be an element of Insurance contract**

**i. Coercion**

Involves pressure applied through criminal means.

**ii. Undue influence**

When a person, who is able to dominate another, uses her position, influence or power to obtain undue advantage.