

Course objective:-

- 1) To understand the definition of business law
- 2) To study the scope and boundaries of business law

### Syllabus

#### Business law

##### Unit - I - Indian Contract Act 1872

Fundamental essentials of a valid contract - classification of contracts - offer - acceptance - consideration - capacity - free consent - legality of object - contingent contracts

##### Unit - II - Performance of contract

Discharge of contract → breach of contract - remedies - quasi contracts

##### Unit - III - Special contracts

Indemnity - guarantee

## Unit - IV - Bailment

Pledge - contract of agency

## Unit - V - Sale of goods Act

Differences between sale and agreement  
to sell — sale and hire purchase agreement  
— classification of goods — documents of  
title to goods — rights and duties of buyers  
and sellers — right of unpaid seller.

### Course outcome -

- 1) Students would learn the basic of law governing commercial contracts, different types of agreements, rules regarding the contracts of indemnity and guarantee.
- 2) Students would learn various provisions related to the Negotiable Instrument Act, 1881 with Amendment Act, 2015.

## Unit - I

### Indian Contract Act 1872

#### 1.1 Introduction:

The Indian Contract Act came into force on 1st September, 1872. This Act extends to the whole of India except the State of Jammu and Kashmir.

#### 1.2 Meaning of Law

Law means a 'set of rules'; it may be defined as the rules of conduct recognised and enforced by the State to control and regulate the conduct of people, to protect their property and contractual rights with a view to securing justice, peaceful living and social security.

#### 1.3 Branches of law

- a) International law
- b) Constitutional law
- c) Criminal law
- d) Civil law

"Law is the body of principles recognised and applied by the State in the administration of justice" — Salmond

## 1.4 Contracts:

The word contract is derived from the Latin word "Contractual" which means "drawn together". It is a legally binding agreement.

## 1.5 Differences between an agreement and a contract

### Agreement

### Contract

- |  |  |
|--|--|
| 1) Offer and its acceptance constitute an agreement                | Agreement and its enforceability constitute a contract     |
| 2) An agreement may/may not create a legal obligation              | A contract creates a legal obligations                     |
| 3) Every agreement need not necessarily be a contract              | All contracts are necessarily agreements                   |
| 4) Agreement is not concluded or a binding                         | Contract is concluded and binding on the concerned parties |
| 5) The scope of an agreements is more comprehensive than contracts | The scope is limited                                       |

## 1.6 Essentials of a Valid Contract

### a) Minimum two parties

There must be two parties to make a valid contract. One party making the offer and is called an offeror, the other party accepting the offer and is called an offeree or acceptor. The parties to the contract must understand the subject matter in the same sense and at the same time.

### b) Legal relationship:

When two parties enter into an agreement their intention must be to create legal relationship between them.

#### Case Law: Balfour Vs Balfour

An husband promised to pay his wife a household allowance of 30 dollars every month. Later the parties separated and the husband failed to pay the amount. The wife sued for the allowance. It was held that such contracts were outside the realm of contract altogether because the intention of the parties was not to create legal obligations.

### c) Lawful consideration

Every agreement must be supported by lawful consideration. It means "something in return"

Example: A offers to construct a building to B for Rs 5,00,000 and B accepts the offer. Here an agreement comes into existence between A and B. In this agreement A's consideration is Rs 5,00,000 and B's consideration is his house.

### d) Competence of parties or Capacity to contract

According to section 10 of the Act, an agreement becomes a contract if it is entered between parties who are competent to contract.

According to section 11 of the Contract Act, every person is competent to contract who is

- \* a major
- \* of sound mind
- \* not disqualified by law to enter into a contract

### e) Free consent

It means consent given by the free exercise of one's will after studying the terms and conditions of the agreement. A consent is said to be free when it is not caused by any one or more of the following:

- i) Coercion
- ii) Fraud
- iii) Misrepresentation
- iv) Undue influence
- v) Mistake

### f) Lawful object

The object of the agreement must be lawful.

- i) Illegal
- ii) Immoral
- iii) Fraudulent
- iv) Opposed to public policy

Care law: Nandal vs Thomas

In this case, A was licensed under an Excise Act, which prevents the creation of partnership to own a liquor shop.

But A took B into partnership. It was held that the agreement was void.

### g) Certainty and Possibility of performance

Section 29 specifies that the agreements, in which the meaning is not certain or is not capable of being made certain, are void. The agreement must be capable of being performed.

### h) Agreement not declared void

Certain agreements have been declared to be void by the law of the country as these agreements are considered not to be in the interest of the public.

### i) Certainty:

The terms of the agreement must be certain. If they are not certain, there is really no agreement in law.

Case law: Scammon vs Quiston

### j) Legal formalities

Some agreements must fulfill some other legal formalities in addition to the essential characteristics of a contract. The legal formalities may differ from contract to contract.

### k) Terms of agreement must be clear

The terms of agreement must be clear by themselves or must be capable of being made clear.

## 1.7 Classification of Contracts:

I- On the basis of modes of creation or formation

### a) Express contract

A contract is said to be express when it is entered into between two parties by words written or spoken. A promise is said to be an express promise, when the offer or acceptance of any promise is made in words.

Example: A writes to B, "I am prepared to sell my car for Rs 2,00,000". B accepts A's offer by a letter. This contract will be called express contract.

### b) Implied Contract:

Implied contracts are not made in words. Where the proposal or acceptance of any promise is made otherwise than in words, the promise is said to be implied (sec. 9)

Example: A gets into a public bus. This is an implied contract that he will pay the prescribed fees for the journey.

### c) Quasi Contracts

They are not contracts at all as there is no intention of the parties to enter into a contract. They are created by law.

Example: A, a trader leaves good at B's house by mistake. B treats the goods as his own. B is bound to pay A for the goods.

### d) E commerce Contract

E commerce contract is one which is entered into between two parties via internet. E-commerce contract parties via internet. E-commerce contract expands the area of operation.

### e) Tacit Contract

Tacit contract is a contract which is inferred from the conduct of the parties.

Example: X enters a bus and obtains a ticket for travel. The offer and acceptance are inferred from the conduct of X and the conductor of the bus.

## II - On the basis of Validity

### a) Valid contracts

A contract is based on agreement. An agreement, which is enforceable by law is said to be a valid contract. An agreement

which satisfies all the essential elements of a contract and which is enforceable through court is called valid contracts.

#### b) Void contracts

An agreement which is not enforceable by law is a void contract. It has no legal effect. As per sec 2 (j) a contract which ceases to be enforceable by law becomes void when it ceases to be enforceable.

#### c) Voidable contract:

As per sec 2(i) of the Indian Contract Act, 1872 an agreement which is enforceable by law at the option of one or more of the parties there to , but not at the option of the other there is a voidable contract

#### d) Illegal contracts

Contracts which are opposed to statutory laws or public morals are called illegal contracts.

#### e) Unenforceable contract

Unenforceable contracts are those contracts which cannot be enforced in a

court of law on account of some technical defects

### III- On the basis of Execution or Performance

#### a) Executed contract

Executed means that which is done. It is a contract in which both the parties have performed their respective obligations in full.

#### b) Executory Contract

Executory means that which remains to be carried into effect. Where one or both the parties of the contract have still to perform certain things in future or something remains to be done under the terms of the contract.

#### c) Unilateral Contract

A contract is said to be unilateral when one of the parties has performed his promise either at the time of or before the contract comes into existence. It is also known as one sided contract. Only the obligation of the other party remains to be executed.

#### d) Bilateral Contract

In a bilateral contract, obligations of both the parties remain to be executed.

at the time of formation of the contract.  
They are also known as executory contract.

## 1.8 Offer and Acceptance

An offer is the starting point in making of an agreement. An offer is a proposal by one person to enter into a contract with another. An offer is a proposal made by one party to another to enter into a legally binding agreement with him.

An offer is also called proposal. The person making the offer is known as the proposor or offeror or promisor. The person to whom the offer is made is called offeree or promisee. When the offeree accepts the proposal, he is called as an acceptor.

## 1.9. Kinds of Offers:

### a) Express offer:

When the terms of an offer are expressed either orally or in writing the offer is called express offer.

Example: i) A writes to B offering to sell his car for Rs 1,00,000 — written offer

ii) A orally informs B expressing his

willingness to sell his car for Rs 1,00,000

b) Implied offer:

When the offer is derived from the conduct of the parties and there is no usage of words, it is called as implied offer.

Example: Getting into a bus is an implied offer to pay the travelling expenses. When a transport company owns a bus on a particular route, there is an implied offer by the transport company to carry passengers for a certain route.

c) Specific offer

An offer is specific if it is made to some specific individual. ~~or indt~~ It is also known as particular offer.

Ex:- A offers to buy a building from B for Rs. 10 lakhs. This offer is a specific offer which has been made to a definite person B. In this B alone can accept the offer.

d) General offer

If an offer is made to no one in particular, but to the world at large

it is called general offer.

Ex:- An offer of a reward announced through an advertisement in a paper

e) Counter offer

They making a fresh offer instead of accepting the original offer.

The counter offer is a new offer, which is made with a view to reject the original offer.

f) Cross Offer.

When two parties make identical offers to each other, in ignorance each other's offer, the offers are cross offers.

Case Law: Tinn V Hoffmann

In this case A wrote to B to sell certain quantity of iron at a specified price. On the same day, a letter from B crossed in the post containing similar terms. It was held that cross offer does not constitute an offer. Hence there was no contract.

### g) Standing Offer

An offer of a continuous nature is known as standing offer. It is in the nature of a tender.

1.9 An offer comes to an end in the following circumstances

a) By lapse of time (Section 62):

If a specific time is prescribed in an offer for its acceptance, the offer comes to an end automatically on the expiry of that specific limit.

Example:- On 5.6.2011, A offered his land for sale to B for Rs 1,00000. In the offer A has mentioned that if B is interested it should be accepted within 10 days. The offer lapses on 16.06.2011. If there is no acceptance on or before 16.06.2011.

b) Communication of notice of revocation

The offer may be revoked by the offeror at any time before it is accepted by the offeree.

c) By death or Insanity of the Offeror (Section 66)

If the fact of his death or insanity comes to the knowledge of acceptor before acceptance. If the offeree accepts the

Offer in ignorance of the death or insanity of the offeror, the acceptance is valid.

- d) By rejection of the offer by the offeree.

Offeror has every right to reject the offer. If he rejects the offer, the offer comes to an end.

- e) By not accepting the offer according to the prescribed mode

If the offeror has prescribed the mode of acceptance, it should be done as per the mode. If the acceptance is not given according to the mode prescribed, the acceptance will not be valid.

#### 1.10. Legal rules as to valid offer

- a) Intention to create legal relationship

The intention of person making an offer must be to create relationship. If the offer is not intended to give rise to legal obligation, it is not an offer in the eyes of law.

Example: Invitation to a dinner is not a valid offer as the person making it has no intention to create legal relationship.

b) The terms of the offer must be definite and certain

The offeror is free to put any condition in his offer but they should be certain and legal.

Case law: 'Montreal Gas Co. v Vassey'

In this case an offer contained among other things, a promise to favourably consider the renewal of the contract. It was held that the terms were not definite.

c) Offer may be specific or General

If an offer is made to no one in particular but to the world at large, it is called general offer.

An offer is specific if it is made to some specific, individual or individuals. It is known as particular offer

d) Offer may be express or implied

When the terms of an offer are expressed either orally or in writing

the offer is called express offer.

When the offer is derived from the conduct of the parties and there is no usage of words, it is called as implied offer.

e) Offer must be communicated

An offer is valid if it is communicated to the offeree. An offer must be communicated to the offeree. As per Sec 4 communication of an offer is complete only when it reaches the offeree.

f) Offer may be positive or negative

An offer may be positive, if it is for doing something. An offer may be negative if it is for abstaining from doing something.

g) An invitation is not an offer

The invitation to make an offer is not an offer. It is an open invitation to a particular person or to the general public to send their offer.

## 1.11 Acceptance:-

Section 2(b) of the Indian Contract Act defines an acceptance as "When the person to whom the proposal is made signifies his assent there to, the proposal is said to be accepted. A proposal when accepted become a promise.

## 1.12 Essentials of Valid acceptance

- ★ Acceptance must be absolute and unconditional!

This is one of the first and important essential of a valid acceptance. The offeree cannot divide the offer into parts and accept a part which is favourable to him and reject the rest.

- ★ Acceptance must be express or implied.

Acceptance given by words, written or spoken or by doing some required act is an express acceptance.

An offer is implied when it is gathered from the surrounding circumstances or the conduct of the parties.

143. \* Acceptance must be communicated  
According to section 4, "The communication of a proposal is complete when it comes to the knowledge of the person to whom it is made".

\* Willingness of the acceptor

The willingness of the acceptor must be to fulfill the promise. If the intention of the person is not to fulfill this promise, it is not a valid acceptance.

\* It must be given within a reasonable time:

When the time limit has been mentioned in the offer for its acceptance then it should be accepted before the expiry of the said time limit.

\* Acceptance can not be presumed from silence

The acceptance can not be presumed from silence. Sometimes the acceptor does not convey his decision to the offer and keeps silent. In such a case his silence does not amount to acceptance.

### 1.13. Consideration

Consideration is one of the essential elements of a valid contract. It is what a promisor demand as the price for his promise. It is the price paid by the promisee for the obligation of the promisor.

In the words of Pollock, "Consideration is the price for which the promise of the other is bought and the promise thus given for value is enforceable."

### 1.14 Need for consideration or Importance of consideration

- \* Consideration is one of the most essential elements of a valid contract
- \* It is the life blood for every contract
- \* As per Sec 25, of the Act, an agreement without consideration is void
- \* The rule of law is no consideration no contract
- \* An agreement without consideration cannot be enforceable by law.
- \* The consideration need not be adequate
- \* The consideration may be past, present or future
- \* The consideration need not necessarily be in cash or in kind.

1.15 Essential on legal rules of a valid consideration.

- \* Consideration must move at the desire of the promisor.

Case law: Durga prasad vs Baldev

In this case D constructed a market at the request of the collector of the district. B promised to pay D, commission on articles sold in the market. But B did not fulfill his promise. It was held that the agreement was void being without consideration. As D constructed the market at the request of third party (collector) and not at the request of the promisor (B)

- \* Consideration may move from the promisee or any other person

According to Indian Contract Act, consideration may proceed or move from the promisee or any other person. That is consideration may move from the stranger to a contract.

\* Consideration may be past, present or future:

According to Indian Law, consideration may be past, present or future. But as per the English law, past consideration is no consideration.

### Types of Consideration:

#### \* Past consideration

When an act had been done by a person in the past at the desire or request of the promisor, for which the subsequent promise is made, such an act is treated as past consideration for the present promise.

#### \* Present consideration:

Consideration which moves simultaneously with the promise is known as present consideration.

#### \* Future consideration:

If the consideration will move at some future date, it is known as future consideration. Both parties in a contract are to perform at a future date.

\* Consideration need not be adequate but it must have some value

Consideration means "Something for something". Hence it is not necessary that "something in return" should be equal in value with something given. Therefore it is not necessary that consideration must be adequate.

\* Consideration must be real and not be illusory.

X promises to convert copper into gold in consideration of Y paying him a certain sum of money. It is impossible to convert copper into gold. The contract is void.

\* Consideration must be lawful

It must be legal. A promises B to pay Rs 50000 to murder C. In this agreement the consideration is unlawful. So the agreement is void.

## 1.16 Exceptions

The general rule is that an agreement without consideration is void.

Section 25 the Indian Contract Act deals with certain exceptional situations where in a contract without consideration is valid.

No consideration No contract - Exceptions

Example: X promises to pay Rs 15000 to his friend Y. This promise can not be enforced by Y because Y is not giving anything to X for this promise.

The following are the exceptions to the rule "No consideration, no contract"

- a) Natural love and affection
- b) Voluntary services rendered
- c) Promise to pay a barred debt
- d) Completed Gift.
- e) Creation of agency
- f) Contract under sale

There are certain exceptions to the rule that a stranger to contract cannot sue

- a) Trusts
- b) Promise made for the benefit of third party.

- c) Marriage settlement, partition or other settlement
- d) Acknowledgement of liability by estoppel
- e) Contract by agent
- f) Assignment of contract
- g) Settlement arrived between trade union and the employer
- h) Mortgage for immovable property
- i) Statutory exceptions

#### 1.17 Capacity of parties

It means the competence of the parties to enter into a valid contract. An agreement will be valid and enforceable only if the parties to it are competent to enter into contract.

\* According to sec 11 the following three types of persons are competent to contract

- i) One who has attained the age of majority
- ii) One who is of sound mind
- iii) Person not disqualifed from contracting by any law.

\* If a party to a contract is incompetent to contract then the contract is void. Incapacity arises from

- (a) Status
- (b) Mental deficiency
- (c) Unsoundness of mind.

\* The following persons are incompetent to contract

### I. Minor

According to sec 3 of the Indian Majority Act 1875, "a minor is a person who has not completed eighteen years of age". Under English law a person under the age of 18 is considered as minor

Legal rules regarding contracts made by minors.

- a) Absolutely void
- b) No ratification on attaining majority
- c) No estoppel against minor
- d) No Restitution
- e) Liability for necessaries
- f) Contracts beneficial to minor
- g) No liability of parents for minor's acts
- h) Minor as an agent
- i) Minor and partnership

- j) Minor and Negotiable instruments
- k) Minor cannot be adjudged insolvent
- l) Minor as a member of a company

## II. Incompetency due to unsoundness of mind.

- i) A person is said to be of sound mind for the purpose of making a contract if at the time when he makes it, he is liable of understanding it and of forming a rational judgement as to its effect upon his interests
- ii) A person who is usually of unsound mind but occasionally of sound mind, may make a contract when he is of sound mind.

## III. Incompetent by law

- i) Alien enemy
- ii) Foreign sovereigns and accredited representatives ambassadors
- iii) Insolvent
- iv) Convict
- v) Married women

## 1.18 Free Consent

The consent which is obtained by the free will of the other parties and neither party was forced or induced to give his consent. It is defined in section 14 of the Indian Contract Act.

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

- a) Coercion as defined in sec 15
- b) Undue influence as defined in sec 16
- c) Fraud as defined in sec 17
- d) Misrepresentation as defined in sec 18
- e) Mistake (sec 14)

Elements which affect the consent of the parties

### \* Coercion (sec 15)

It means forcibly compelling a person to enter into contract.

In England coercion was known as durees. Coercion makes the contract voidable. A consent is said to be given under coercion if it is got by:-

- i) Committing an act forbidden by the Indian Penal code

- ii) Threatening to commit such an act
- iii) Unlawfully detaining the property of the others
- iv) Unlawfully threatening to detain the property of the other.

### Legal rules of Coercion

#### i) Effects of Coercion

- i) The contract is voidable at the option of the party so coerced
- ii) Any money paid or anything delivered by mistake or under coercion to any person must repay or return it

Examples:- A transport company refused to deliver certain goods to the consignee unless he paid some illegal charges for transporting the goods. The consignee paid the illegal charges in order to obtain the goods. He is entitled to recover the charges which were illegal

## \* Undue influence (sec 16)

It means domination of will. It is the improper use of any power possessed over the mind of the contracting party.

A contract induced by undue influence is voidable. It is an extension of the law of coercion.

Features of undue influence:-

- i) There must be a subsisting relationship between the parties.
- ii) The relationship must be such that one party is in a position to dominate the will of the other party.
- iii) The dominant party must have obtained an unfair advantages over the other.
- iv) The dominant party obtains the unfair advantages by the use of the other party.

Undue influence is presumed in relationships such as:-

- i) Parents and child
- ii) Guardian and ward
- iii) Trustee and beneficiary
- iv) Doctor and patient

- v) Solicitor and client
- vi) Religious advisor and disciple.

### Case Law: Carpenter Vs Heriot

A advanced money to his son B, during B's minority. After B attained majority, A misused this parental authority and obtained a bond for a greater amount. It was held that A had used undue influence. However such relationship cannot be presumed in the following cases.

- a) Landlord and Tenant
- b) Creditor and Debtor
- c) Husband and Wife

### Effects of Undue Influence

A contract induced by undue influence is voidable at the option of the aggrieved party, whose consent is obtained by undue influence.

Where a party who is in such a person of authority enters a contract with the weak party, it is the strong party who has to prove that no undue influence was used.

## \* Fraud

The term fraud means a false representation of fact made willfully with a view to deceive the other party.

### Features:

- \* i) The fraud must have been committed by a party to the contract. The fraud must be committed by a party to a contract or by anyone his connivance or by his agent
- ii) The fraud must have been committed upon the other party or his agent
- iii) A mere attempt to deceive is not a fraud
- iv) Case law: Horsfall vs Thomas
- v) The consent of the party must have been induced by that fraud
- vi) The party alleging fraud must have suffered some loss
- vii) The acts must have been committed with an intention to deceive

### Silence amounting to fraud

According to section 17, "Mere silence as to facts likely to affect the willingness of a person to enter into a contract is not fraud."

Example:- A sells, by auction, to B a horse which A knows to be unsound. A says nothing to B about the horse's unsoundness. This is not fraud by A.

In other words, silence will amount to fraud in the following cases:-

- A) Duty to speak
- B) Silence Equivalent to speech

Consequences of fraud:-

- a) He can avoid the performance of the contract
- b) He can sue for damages
- c) He may rescind the contract. He must act within a reasonable time.

## \* Misrepresentation:-

The term misrepresentation may be defined as an innocent misstatement of facts which are material for the contract.

A false representation made by a person may be either:-

- i) Innocent or unintentional
- ii) Intentional or wilful or deliberate

Example: A tells B that his scooter goes 40 km in a litre of petrol. A believes it to be true. However, the scooter goes only 35 km in a litre. A is guilty of misrepresentation.

Case Law: Currie Vs Rennick

Essentials of Misrepresentation:

- a) There must be a false representation or ascertain
- b) The representation must relate to a fact, relevant to the contract and not of law.
- c) Such representation must have induced the other party to enter into the contract
- d) The statement should not be a mere opinion
- e) It must be untrue but the person making it honestly believes it to be true.
- f) The representation must be made by party to a contract

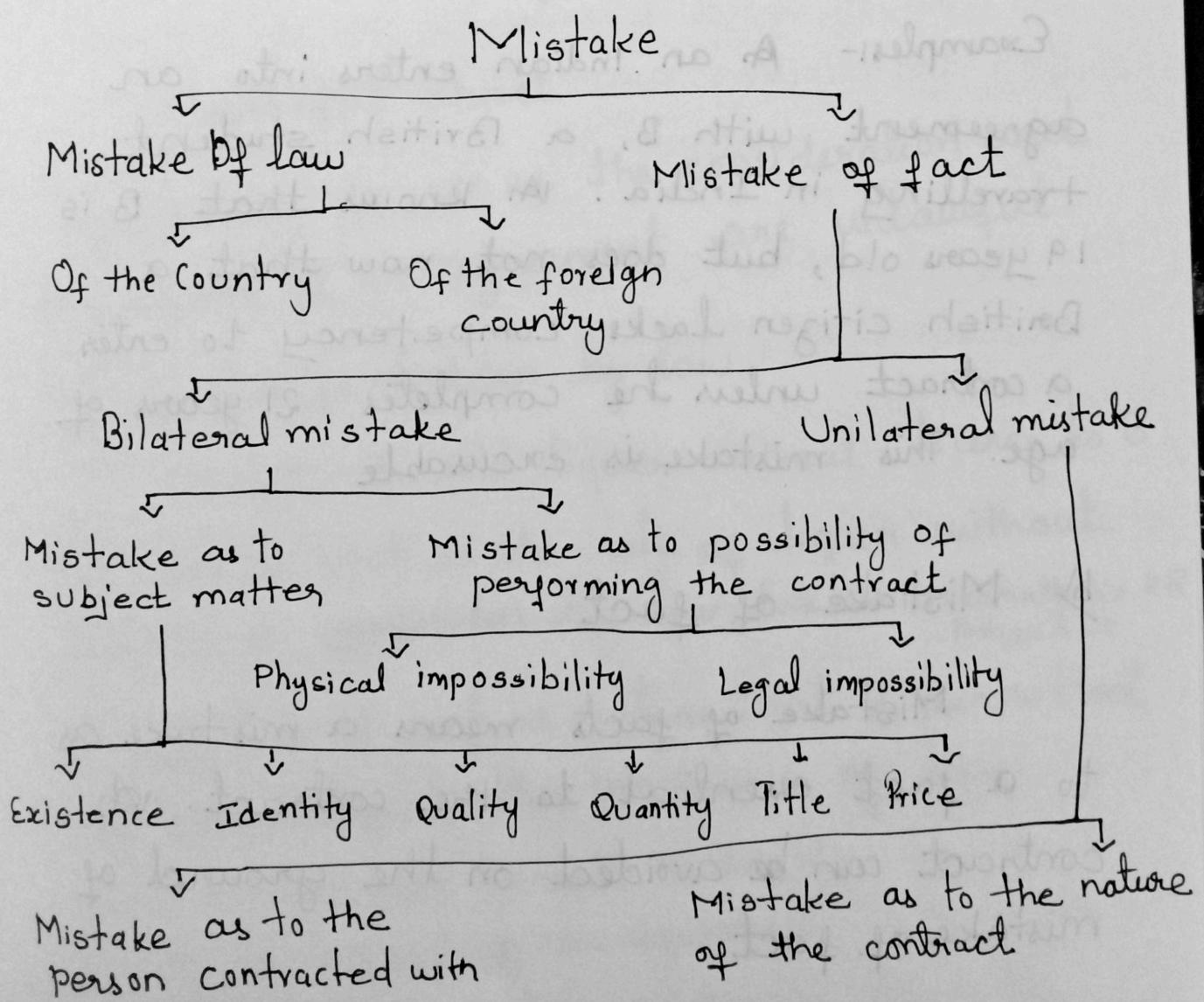
## Consequences of misrepresentation

- a) The contract is voidable
- b) Right to insist upon performance
- c) Right for damages

## ★ Mistake

It means incorrect belief about something. It is an innocent belief which leads one party to understand the other.

### Classification:-



Mistake may be of two kinds

a) Mistake of law:

It means an erroneous belief regarding the provisions of law or its applications. Ignorance of one's own law is not excusable.

If there is a mistake of law of land the contract cannot be avoided. Everyone in the country is supposed to know the law of the country of which he is a citizen.

Example:- An Indian enters into an agreement with B, a British student travelling in India. A knows that B is 19 years old, but does not now that a British citizen lacks competency to enter a contract unless he completes 21 years of age. This mistake is excusable

b) Mistake of fact

Mistake of facts means a mistake as to a fact essential to the contract. A contract can be avoided on the ground of mistake of fact.

Example: A agreed to purchase B's motor car which was lying in B's garage. Unknown to either party, the motor car and garage were completely destroyed by fire a day earlier. The agreement is void.

### 1.19. Legality of Object

An agreement is a valid contract only when it is made for a lawful object. An object of an agreement is said to be lawful if it is enforceable by law.

#### Unlawful object

According to sec 23 the consideration and the object of an agreement are unlawful

- a) If it is forbidden by law

Example: A sold liquor without licence to B.

The sale is void as the sale of liquor without licence is forbidden by law. Case Law: K M Kamath Vs K R Baliga & Co

- b) If it is of such a nature that if permitted it would defeat the provisions of law.

Case Law: Berret Vs Smith

If the object of an agreement is of such a nature that it would indirectly lead to

violation of the law, the agreement is void

- c) If it defeats the provisions of any law  
An agreement by a debtor not to raise  
the plea of limitation is void.

Case law 1) Ramamurthy Vs Gopayya

2) Napier Vs National Business Agency Ltd

- d) If it is fraudulent

An agreement in fraud of creditors  
with a view to defeating their right is void  
A, B and C enter in an agreement  
for the division among them of any gain  
or profit derived by way of fraud

- e) If it involves or implies injury to the  
person or property of another

Where the purpose of an agreement  
is to make injury to the person or property  
of another person is unlawful and void

Case law: Ramswarup Vs Banerji

- f) If the court regards it immoral

An agreement, the consideration or  
object of which is immoral, is unlawful

## 1.20 Unlawful and Illegal agreement

### a) Illegal agreements

The term illegal agreements may be defined as the agreement which is expressly forbidden by law.

Example:- A promised to give Rs 5000 to B, if he B would c's car and deliver it to A. It is an illegal agreement as the theft is forbidden by law.

### b) Immoral agreements

Agreements which are opposed to public morals are called immoral agreements

Case Law: Bairijli V Nana Nagar

In this case, A married woman was given money to enable her to obtain divorce from her husband and then to marry the lender. It was held that the agreement was immoral and the lender could not recover the money.

### c) Agreements opposed to public policy

Case law:-

Central inland water transport corporation Ltd Vs Brojo Nath

It means certain principles framed in the larger interest of the society. It is that principle of law which provides that no person can lawfully do that which has tendency to be injury to the public or public good.

#### 1.21 Void agreements:-

All agreements which possess the essential as given in Sec 10 of the Indian Contract Act are valid and enforceable by law. All agreements which do not fulfill the essentials of a valid contract are known as void agreements.

Examples:-

- i) Agreements made by incompetent persons
- ii) Agreements made under a mutual mistake of fact
- iii) Agreements, the object or consideration of which is unlawful
- iv) Agreement made without consideration
- v) Agreement in restraint of trade

- vi) Agreements in restraint of legal proceedings
- vii) Agreements the meaning of which is uncertain
- viii) Agreement by way of wager
- ix) Agreement to do impossible acts
- x) Agreement in restraint of marriage
- xi) Agreement contingent on impossible events
- xii) Agreement without consideration.

#### 1.22 Exceptions:

Restraint of trade is valid where it is reasonable and is in the interest of the parties and in the interest of the general public. There are certain exceptions provided in the Act itself where restraint of trade is void and the agreement is enforceable

Two groups

- a) Statutory exceptions
- b) Judicial exceptions

## 1.23 Contingent Contracts

A contingent contract is a contract to do or not to do something some event collateral to such contract, does or does not happen. Insurance contracts provide the best example of contingent contracts.

Example: A agrees to pay Rs 10,000 to B if his house is burnt. This is contingent contract.

### Essential Elements of Contingent Contract

- a) There must be a valid contract
- b) The performance of the contract must be conditional
- c) The event must be uncertain
- d) The event must be collateral to the contract

### Legal rules regarding Contingent Contract

- a) Contract depends upon the happening of a future event, cannot be

enforced by law unless and until that event has happened

- b) Contracts contingent upon the happening of an event within a fixed time becomes void, if the event becomes impossible before the fixed time.
- c) Contingent contracts to do or not to do anything if an impossible event happens are void, whether the impossibility is known to the parties or not.
- d) Contracts contingent upon the non-happening of an uncertain future event, can be enforced when the happening of that event becomes impossible.

Example: A, while appointing B, promises to increase his salary by Rs 1,000 if B marries C. Unknown to both A and B, C is already married to D. The promise of A is unenforceable.