

CAPACITY OF PARTIES

Certain Class of individuals are legally incapable of contracting, discuss the statement in detail.

1. **Section 11.** of the Contract Act provides that Every person is competent to contract who is of the age of majority, and who is of sound mind, and is not disqualified from contracting by any law to which he is subject.
2. All parties to contract must be competent to contract.

Every person is competent if is:

a) Of age of majority

- i. Majority Ac 1875, A minor is a person who has not attained the age of 18. An agreement with the minor is void (not valid or legally binding).

Example

A minor hires a car and enters into an agreement to be liable for any damages caused to the car. In case of any damage to the car the agreement is not enforceable by the other party.

- ii. Rectification (ability to confirm the agreement after reaching the age of majority) is not possible by the minor upon reaching the age of majority.
- iii. Reimbursements: where a minor enters into a contract by committing fraud with regards to his/her age. E.g., by fraudulently showing that he has attained the age of 18. In such a case the court may direct the minor to reimburse the consideration amount to the other party.

Leslie Ltd. v. Sheill (1914) 3 K.B.607

FACTS:

Defendant obtained loans from plaintiff by fraudulently misrepresenting that he was of full age at the time of contract. Defendant sued him to recover the money.

ISSUE:

- 1) Whether defendants are entitled to equitable restitution against loan given to minor?

HELD:

- 1) *If an infant obtains property or goods by misrepresenting his age, he can be compelled to restore it so long as the same is **traceable in his possession**.*

iv. Section 68 of the Contract Act

If a person, incapable of entering into a contract, or any one whom he is legally bound to support, is supplied by another person with necessaries suited to his condition in life, the person who has furnished such supplies is entitled to be reimbursed from the property of such incapable person

Example

(a) A supplies B, a lunatic, with necessaries suitable to his condition in life. A is entitled to be reimbursed from B's property.

- Other Points

- When an adult stands as a surety in the contract of guarantee for a minor. The adult is responsible to the third party whom the guarantee is given.
- Section 68 of the Contract Act: A minor cannot be declared as insolvent as he does not possess the capacity to enter into a contract. However if he is provided with necessities. The amount for such necessities can be recovered from his property only.

Example. A provides food for a year to the minor B and then claim the money for the food. The B has no property thus he cannot recover the money from the minor B.

- **If a minor and adult enters into an agreement with another person. The adult is bound by the terms however the minor is not bound by the terms of the contract.**

A) Of sound mind

Section 12. 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 capable of understanding it and of forming a rational judgment as to its effect upon his interests. A person who is usually of unsound mind, but occasionally of sound mind, may make a contract when he is of sound mind.

A person who is usually of sound mind, but occasionally of unsound mind, may not make a contract when he is of unsound mind.

Illustrations

a) A patient in a lunatic asylum, who is at intervals of sound mind, may contract during those intervals.

(b) A sane man, who is delirious from disease or who is so involuntary intoxicated that he cannot understand the terms of a contract or form a rational judgment as to its effect on his interests, cannot contract whilst such delirium or intoxication lasts. However self-intoxication is no excuse.

- An agreement by a person of unsound mind is void.
- Necessaries supplies can be recovered from the property
- The burden to prove that the person was of unsound mind is on the person who claims that at the time of the contract he was of unsound mind.

c) *He is not disqualified by law to enter into a contract*

Diplomatic Agent: CANNOT BE SUED WHEN ACTING ON BEHALF THE SOVERIGN

Company: cant enter into agreement outside the powers given in the provision of the memorandum of association.

Alien Enemy and Friend : Contract not valid with the alien enemy.

Convict in prison cant enter into an agreement.

Void	Voidable Contracts
<ul style="list-style-type: none">• Is entirely invalid• Is not legally enforceable.	<ul style="list-style-type: none">• A voidable contract binds one party.• The other party (the one not at fault) has the option to change their mind. This means they can cancel the contract if they want.