

# Corporate Laws

BBA(FIA)

Lecture 11

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# Breach of Contract



Breach of contract is defined as the contracting party's failure or refusal to perform its obligations under the contract to which he is a party.

The party committing the breach of contract is called the '**guilty**' party' and the other party is called '**aggrieved party**'.

In case of a breach the contract stands terminated but the aggrieved party can sue for remedy as per the provisions of the law.

# Need for Remedies



- A contract is a correlative set of rights and obligations for the parties.
- Contract would be of no value, if there were no remedies to enforce the rights arising there under and hence the need for remedies arises.
- The Latin maxim 'Ubi jus, ibi remedium' denotes **'where there is a right, there is a remedy'**.

# Remedies for Breach of Contract

## Meaning of Remedies



- Remedy means by which a right is enforced or by which the violation of a right is prevented or compensated is called a Remedy.
- For instance, for non-performance of a valid contract, the court might award damages to adequately compensate the aggrieved party. Damages awarded here are kind of remedy for the breach of contract.

# Remedies Available for Breach of Contract in India



In India whenever there is a breach of contract the aggrieved party would have **one or more but not all**, of the following remedies available against the guilty party.

1.Rescission of the Contract	}	Under Indian Contract Act 1872
2.Suit for Damages		
3.Suit upon Quantum Meruit		
4.Suit for Specific Performance of a Contract	}	Under Specific Relief Act 1963
5.Suit for an Injunction		

# 1. Rescission of Contract



- Rescission has been defined as the **‘unmaking’ of a contract between parties.**
- It is the cancellation or annulment of a transaction or contract by mutual consent or by law.
- It is mandatory to file a suit for rescission if the aggrieved party intends to sue the guilty party for damages.
- When the court grants Rescission the aggrieved party is freed from all the obligations under the contract and becomes entitled to compensation for any damage which has been sustained through the non-fulfillment of the contract (sec.75).

## 2. Suit for Damages



- **Meaning of Damages:**

Damages are monetary compensation allowed to the injured party for the loss or injury suffered as a result of the breach of the contract.

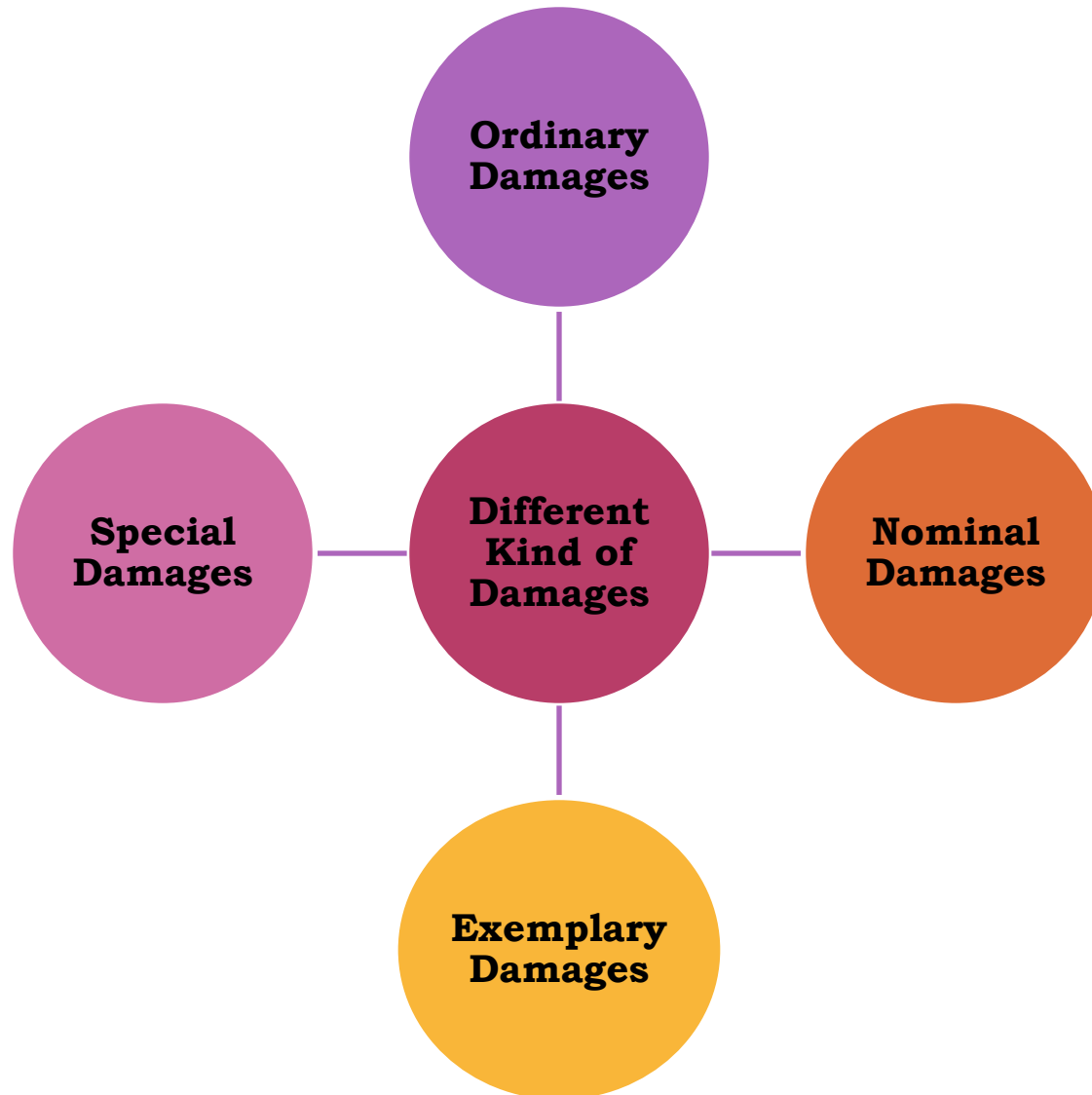
- Fundamental Principal of providing damages is **NOT punishment but Compensation.**

- If actual loss is not proved, no damages will be awarded.

- **Aim:**

To put the injured party into the position in which he / she would have been, had there been performance of the contract and not breach.

# Types of Damages





# **A. Ordinary/General/Compensatory Damages**



- The damages which arise naturally and directly in the usual course from the breach of contract itself are called Ordinary Damages.
- They are restricted to direct and proximate consequences of the breach of the contract and not remote or indirect losses which are not natural and probable causes of the breach of the contract.

## B Special/Remote Damages



- Special Damages are those damages which arise on account of the special or unusual circumstances affecting the plaintiff.
- They are such remote losses which are not natural or probable consequence of the breach of contract.
- Can be claimed only in some special circumstances.
- It is important that such damages must be in contemplation of the parties at the time when the contract is entered into. Subsequent knowledge of special circumstances will not create any liability for the guilty party.

# Example: Huey, Dewey, and Louie



Will you construct a building for me by the 1<sup>st</sup> of January 2024? I want to give it on rent to (L) to earn additional income. I have already entered into a contract with him.

H



I will do surely.



D

# Later on 30<sup>th</sup> December 2023



- Mr. Dewey built the house but the house was in extremely bad condition. The house collapsed before the 1<sup>st</sup> of January 2024 and Mr. Huey lost all the rent which he would have received from Mr. Louie.
- In addition Mr. Huey also became liable to make adequate compensation to Mr. Louie for the breach of the contract.
- Therefore here in this situation Mr. Dewey must pay to Mr. Huey by way of damages:
  1. Cost of Rebuilding the house: Ordinary Damages
  2. The loss of rent: Special Damages
  3. The amount of compensation made to Mr. Louie: Special Damages

# C Exemplary Damages/Vindictive Damages



- These are such damages which are awarded with a view to punishing the guilty party for the breach and not by way of compensation for the loss suffered by the aggrieved party.
- Since these damages violate the cardinal principle of The Law of Damages (i.e., the damages must be awarded to compensate the aggrieved party and not to punish the guilty party), exemplary damages are generally not awarded for the breach of contract. There are, however two exceptions to this rule:
  1. Breach of contract to marry: In this case the amount of damages depends upon the extent of injury to the guilty party's feelings.
  2. Dishonor of cheque by a banker when there was sufficient balance to the credit of the customer: In this case the rule of ascertaining the damage is "the smaller the cheque, the greater the damage". These are awarded because such dishonor of a cheque affects the credit rating and goodwill of a person.

# D Nominal Damages



- Nominal Damages are those damages that are awarded only for the namesake.
- They are neither awarded by way of compensation to the aggrieved party nor by way of punishment to the guilty party.
- They are only awarded to establish the right to decree for breach of contract when the injured party has not actually suffered any real damage.
- They consist of a very small amount of money, say a rupee or a two.

# Cost of Suit



- The Aggrieved Party is entitled, in addition to the damages, to get the costs of getting the decree for damages from the defaulter party.
- The cost of suit for damages is in the discretion of the Court.

### 3. Suit Upon Quantum Meruit

#### What is Quantum Meruit?



- Quantum Meruit literally means “**as much as is earned**” or “**in proportion to the work done**”.
- A Right to Quantum Meruit usually arises where after part performance of the contract by one party, there is a breach of the contract or the contract is discovered to be void or becomes void.
- This remedy maybe either without claiming damages (claiming reasonable compensation only for work done) or in addition to claiming damages (claiming reasonable compensation for part performance and damages for the remaining unperformed part).





# When can A Suit for Quantum Meruit be filed?

Where work has been done in pursuance of the contract, which has been **discharged by the default of defendant.**

Where work has been done in pursuance of a contract which has **become void or discovered void for divisible contract.**

When a person **enjoys the benefit of non-gratuitous act** although there is no express agreement between parties.  
(gruh-too-i-tuhs)

Breach of contract by guilty party when the contract is Divisible and other party has enjoyed the benefit of the part which has been performed, although he had the option to decline it.

# **Work has been done in pursuance of the contract, which has been discharged by the default of defendant.**



(A) engages (B), a contractor, to build a three storied house. After a part is constructed (A) prevents (B) from working anymore. (B), the contractor, is entitled to get a reasonable compensation for work done under the doctrine of quantum meruit in addition to the damages for breach of contract.

- Contract wrongfully terminated
- Contract divisible or indivisible does not matter.

# **Work has been done in pursuance of a contract which has become void or discovered void for divisible contract**



- (A) contracts with (B) to repair his house at a piece rate. After a part of the repairs were carried out, the house is destroyed by lightning. Although the contract becomes void and stands discharged because of destruction of the house, (A) can claim payment for the work done 'quantum meruit'.
- If under the contract a lump sum is to be paid for the repair job as a whole, then (A) cannot claim for quantum meruit because no money is due till the whole job is done.

**Person enjoys the benefit of non-gratuitous act although there is no express agreement between parties**  
**(gruh-too-i-tuhs)**



- (A), a trader leaves certain goods at (B's) house by mistake. (B) treats the goods as his own. He is bound to pay (A) for them.

**Breach of contract by guilty party when the contract is Divisible and other party has enjoyed the benefit of the part which has been performed, although he had the option to decline it.**

**Case: Sumpter vs. Hedges**

**Facts of the Case:**

Sumpter had agreed to erect upon Hedges land two houses and stables for \$ 565. Sumpter did part of the work and then abandoned the contract. Hedges himself completed the buildings using some materials left on his land by Sumpter. In an action by Sumpter for the value of work done and of the materials used by Hedges.

**Decision:**

It was held that Sumpter could recover the value of the materials but he could not recover the value of the work done.

## 4. Suit For Specific Performance



- Specific performance means the actual carrying out of the contract as agreed.
- Under a suit for specific performance the court directs the defendant to actually perform the promise that has been made.
- Suit may be filed either instead of or addition to suit for damages.
- It is not granted for Contracts of every description. It is **only granted where it is just and equitable i.e., where the legal remedy is inadequate or defective.**
- It is usually granted in contracts connected with **land, buildings, rare articles and unique goods** having some special value to the party suing because of family association.

# Specific Performance is not Granted



- Where **monetary compensation is an adequate relief.**
- Example: In case of borrowing or lending of money.

- Where the **Court cannot supervise actual execution of the contract.**
- Example: In case of contracts of construction of Buildings.

- Where the **Contract is for personal services.**
- Example: Contract to marry or paint a picture.

## 5. Suit for an Injunction



- Injunction is the order of a court restraining a person from doing a particular act.
- It is the mode of securing Specific Performance for the negative term of a Contract.
- Where a party is in breach of a negative term of the contract, the court may, by issuing an injunction restrain him from doing, what he promised to do.





THANK YOU