

Corporate Laws

BBA(FIA)

Lecture 1

Dr. Nidhi Kesari

Syllabus



Unit 1

(20 Hours)

- **The Indian Contract Act 1872:** Meaning and Essentials of contract; Kinds of contract; law relating to offer and acceptance, consideration, competency to contract, free consent, void agreements, performance of contracts, discharge of contracts, breach of contracts and quasi contract; Special contracts: contract of indemnity and guarantee, bailment and pledge, and agency.

Unit 2

(16 Hours)

- **The Companies Act 2013:** Meaning and Nature of Company with Emphasis on its Advantages and Disadvantages over other forms of Business organizations, Comparison between Company and Partnership and Company and Limited Liability Partnership, Kinds of Companies – Public, Private, Holding, Subsidiary, Limited and Unlimited Companies, Share-holding and Guarantee Companies, Small company, One person company, Government company and foreign company.

Syllabus Contd.



Unit 3

(16 Hours)

- **Incorporation and Documents of Company:** Incorporation of Company, Procedure of registration, Certificate of Incorporation, Promoters and their position, Powers, Duties and Liabilities; Memorandum of Association (MOA), Articles of Association (AOA), Alteration of MOA and AOA; Prospectus and its Kinds, Directors: Duties of Directors and their Criminal and Civil liabilities.
- **Company Meetings:** Kinds of Meetings, Essential Conditions of a Valid Meeting, Procedure for Calling Company Meeting; Adjudicatory Bodies: National Company Law Tribunal; National Company Law Appellate Tribunal – Constitution, Powers, Jurisdiction, Procedure; Winding up of Companies.

Unit 4

(8 Hours)

- **Insolvency and Bankruptcy Code 2016:** Introduction of Insolvency and Bankruptcy Code 2016 (IBC), purpose behind enactment of IBC, regulatory mechanism, Insolvency Process, Adjudicating authority, Committee of creditors, Reorganization, Liquidation.

Essential Readings



- Singh Avtar, Principle of Mercantile Law, Eastern Book Company.
- Kapoor Gulshan, Business Law. New Age International Pvt. Ltd Publishers.
- Maheshwari & Maheshwari, Principle of Mercantile Law, National Publishing Trust.
- Aggarwal Rohini, Mercantile & Commercial Law, Taxmann.

Unit 1: Indian Contract Act 1872



- Meaning and Essentials of contract;
- Kinds of contract;
- Law relating to offer and acceptance,
- Consideration,
- Competency to contract,
- Free consent,
- Void agreements,
- Performance of contracts,
- Discharge of contracts,
- Breach of contracts and quasi contract;
- Special contracts: contract of indemnity and guarantee, bailment and pledge, and agency.

History of Law



- Indian Contract Act came into force on 1st Sept, 1872.
- Generally accepted principles of English contract law.
- Act recognizes freedom of contract.
- Sir William Anson “the parties to a contract, in a sense, make the law for themselves”.

Contract: Section 2(h)



- Section 2(h): “An agreement enforceable by law is contract”
- Contract implies of two constituents:
An Agreement + Enforceable by Law
- According to **Sir John Salmond**, Contract is “An agreement creating and defining obligations between the parties.”

Agreement: Section 2(e)



- Section 2(e): “Every promise and every set of promises, forming the consideration for each other is an agreement”.

For example: If we buy a book for Rs. 450 from a seller, then consideration to buyer is a book and to seller is Rs.450.

- Agreement implies of two constituents:
Promise + Consideration

Promise- Section 2(b)



Sec 2 (b) “When the person to whom the proposal is made signifies his assent thereto, the proposal is said to be accepted. A proposal, when accepted, becomes a promise”

Promise = Proposal + Acceptance

Promise = Offer + Acceptance

Summarizing the Concepts



- Contract = Agreement + Enforceability by law

- Agreement = Promise + Consideration
OR
- Agreement = Offer + Acceptance + Consideration
(Promise = Offer + Acceptance)

- Contract = Offer + Acceptance + Consideration + Enforceability by law

Parties to an Agreement / A Contract



Promisor: A person making the proposal (offer) is known as a promisor or offeror or proposer.

Promisee: A person accepting the proposal (offer) is known as a promisee or offeree or acceptor.

PROMISOR

PROMISEE



Discussion Point



“All contracts are agreements, but all agreements are not contracts”

Essential Elements of Valid Contract

Section 10



“All agreements are contract if they are made by **free consent** of the parties **competent to contract**, for a **lawful consideration** and with a **lawful object**, and are not hereby expressly **declared to be void**.”

Thus, for understanding of essentials of a valid contract we need to refer Section 2(h) and Section 10.

Essential Elements of Valid Contract Contd.



Section 2 (h): Features:

1. Offer & acceptance – An Agreement
2. Intention to create legal obligation

Test of contractual intention is objective not subjective. Not what parties had in mind but what a reasonable person would think their intention to be in the circumstances.

- Balfour vs. Mrs. Balfour [Social obligation]
- Simpkins vs. Pays
- Rose & Frank Co. vs. J R Crompton & Bros. Ltd.

Case Discussion



Case: Balfour vs. Balfour (1919)

Facts of the Case:

Mr. Balfour was serving the Government of Ceylon, went to England with his wife (Mrs. Balfour) on leave. After expiry of the leave period Mr. Balfour had to go back to Ceylon but his wife could not accompany him for medical reasons.

He promised verbally to pay an allowance of £30 a month for her maintenance until she rejoined him.

He failed to pay the promised amount.

On his failure to make the payment, his wife sued him for recovery of the promised amount.



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He failed to pay the promised amount.

On his failure to make the payment, his wife sued him for recovery of the promised amount.

Decision: Her suit was dismissed by Court of Appeals. This was a mere domestic arrangement with no intention to create legally binding relations.

Therefore, there was no contract.



Case Discussion



Case: Simpkins vs. Pays

Facts of the Case:

Three ladies, mother; daughter and paying guest, together made entries in a crossword puzzle in the name of the mother.

The expenses being met by one or the other without any rules. The entry was successful one week and the mother received winning amount.

Mother then refused to divide the prize.

Case Discussion



Case: *Simpkins vs. Pays*

Facts of the Case:

Three ladies, mother; daughter and paying guest, together made entries in a crossword puzzle in the name of the mother.

The expenses being met by one or the other without any rules. The entry was successful one week and the mother received winning amount.

Mother then refused to divide the prize.

Decision:

The court held that **she was bound to divide the winning amount**, for any reasonable **person looking at their conduct** would at once conclude that they must have intended to share the prize.

Case Discussion



Case: Rose & Frank Co. vs. J. R. Crompton & Bros. Ltd.

Facts of the Case:

Three firms entered into a written contract for the sale and purchase of tissue paper. The agreement contained a clause to the effect that “this arrangement is not entered into, nor is this memorandum written, as a formal or legal document, and shall not be subject to legal jurisdiction in the law courts”.

Since the goods were not delivered, the buyers brought an action for non-delivery.

Case Discussion



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Decision:

It was held that there was no intention **to create legal relations** on the part of the parties to the agreement and thus **there was no contract**.



THANK YOU