

Business Laws

Unit - 1

Indian Contract Act, 1872

The Indian Contract Act, 1872 came into force in India with effect from 1st September, 1872. This law relating to contracts.

Scope of the Act:

The Indian Contract Act, 1872 has been divided into two parts.

1. The general principles of the law of Contract(sec. 1 to 75)
2. Specific contracts (sec. 124 to 238)

Nature of Indian Contract Act:

The law of contract specifies certain limits within which the parties can create their own terms and conditions for the contract.

It specifies rights and duties to contract.

Definition of Contract:

Section 2(h) of Indian Contract Act, 1872 defines a contract as "an agreement which is enforceable by law is a contract."

Definition of Agreement:

Section 2(e) of Indian Contract Act, 1872 defines agreement as "every promise and every set of promises forming consideration for each Other is an agreement."

Essential elements of a valid

According to section 10 of Indian Contract Act, 1872 all the Essential elements of a valid contract must exist in an agreement to construct a valid contract.

The Essentials are as follows:

1. Legal Offer and Acceptance:

The primary essential of a valid contract is that one person shall make a lawful offer to the other and the other shall accept the offer unconditionally.

2. Legal Relationship:

Both the parties in an agreement must have a common intention to a legal relationship. Intention of the parties decide whether the agreement between the parties shall become legally enforceable or not.

3. Lawful Consideration:

Consideration means the benefit accruing to the parties in the contract. To become a valid contract there must exist consideration in the agreement. Consideration must be actual and lawful.

4. Competency of parties:

The parties who intend to enter into a contract must be competent to do so. Section 11 of Contact Act, 1872 the person willing to enter into a contract must satisfy the following conditions

1. He must be a major
2. He must be a person of sound mind
3. He must not be disqualified from contracting by any law.

5. Free consent :

The consent of the parties to the contract should always be free consent. Consent means the willingness of the person to the terms of the agreement.

6. Lawful object:

The object or purpose for which the contract is to be formed lawful in the eyes of law. All illegal agreements are void agreements.

7. Certainty of Meaning:

The terms and conditions of the contract must be clear. Where the meaning of the agreement is uncertain and is not capable of being made certain the agreement will be a void agreement.

8. Possibility of Performance:

To do an act which is impossible in itself cannot be enforced by the court of law. For making an agreement become a valid contract, the promises made by both the parties to each other must be possible to perform.

9. Not declared to be void:

The Indian Contract Act, 1872 has specifically declared some of the agreements to be void agreements under Section 23 to Section 30 of the act namely

1. Unlawful agreement
2. Agreement without consideration
3. Agreements in restraint of marriage
4. Agreements in restraint of trade
5. Agreements in restraint of legal proceedings

10. Legal formalities:

The most common formality requirements include

- i. Requirement of having an agreement in writing
- ii. Requirement of having an agreement in prescribed form
- iii. Having an agreement attested
- iv. Having an agreement registered
- v. Having paid any stamp duty

All essentials under Section 10 of Indian Contract Act, 1872 must be present in an agreement to make it a valid contract. Hence all contracts are agreements but all agreements are not contracts.

Kinds of Contracts :

Contracts can be classified on the following basis

- I. Contract on the basis of formation of contract
- II. Contracts on the basis of performance of contract
- III. Contracts on the basis of Validity

I. Contract on the basis of formation of contract:

the contracts can be sub classified into three categories on the basis of how they were formed

A. Express Contract:

an Express contract is a contract which is expressed in words, spoken or written under section 9 of Indian Contract Act. The Express contract can be subdivided as

1. Written Contract : where the parties enter into a written contract and mutually agree upon the terms and conditions of the contract such a contract is said to be Express in writing. example Memorandum of Association, Sale deed of immovable property, Negotiable Instruments etc.
2. Oral Contracts: Agreements expressed orally also will be enforceable by law. All oral contracts should have a clear and satisfactory evidence about its formation and its contents.
3. E-Commerce Contracts : where the parties to the contract express their intention to enter into a contract via Internet are called as e commerce contract.

B. Implied Contracts:

A contract which is not expressed in words but is implied from the circumstances of the case for the behaviour of the parties or from the previous dealings between the parties is known as Implied contract.

example boarding a bus, eating food in a restaurant

C. Quasi Contract: or constructive contract is a contract which is not formed by the parties to the contract but is enforced on the parties to the contract by the court of law.

II. Contracts on the basis of performance of contract :

Performance of the contract decide the completion of the contract. Basing on performance of contract , a contract can be divided into to two types

- A. Executed Contract: where both the parties performed their promise the contract is said to be completed or executed
- B. Executory Contracts: These are further subdivided into two types
 1. Unilateral Executory Contract:
one party has performed but the other party did not perform their promise.
 2. Bilateral Executory Contract:

where both the parties do not perform their part of obligation.

III. Contracts on the basis of Validity:

whether an agreement becomes enforceable by law depends entirely on its validity in the eyes of the courts can therefore be classified as below...

- A. Valid Contract :an agreement which satisfies all the Essentials of a valid contract becomes enforceable by law and does is called a valid contract.
- B. Void Agreements: which does not fulfill all the 10 Essentials of a valid contract can become a void agreement.
- C. Illegal Agreements: the purpose of an agreement which is unlawful is called an illegal agreement. Example, agreement to commit any crime, agreement to perform an immoral act etc.
- D. Void contracts: the contract becomes impossible to perform without the fault of the promisor but because of some later event that is outside the control of the promisor then such a contract becomes a void contract.
- E. Voidable contract: an agreement which is enforceable by law at the option of one or more of the parties thereto but not at the option of the other or others is a voidable contract.

F. Un- Enforceable contract: a contract which is not enforceable by law because of some technical defect existing in it. example contract formed without registration, contracts without stamp duty.

Essay Type Questions:

1. Define Contract and explain the Essentials of a Valid Contract. (Or)
Justify the statement " All Contracts are agreements but all agreements are not contracts."
2. What are the different types of contracts.

Short Answer Questions:

1. Define Contract
2. Define Agreement
3. Scope of Indian Contract Act
4. Objectives of Indian Contract Act
