

INTRODUCTION

FACULTY NAME :-

JITENDRA KUMAR SINGH

PROGRAMME:-

BCOM 2 Year / BBA 3 Sem

SUBJECT

**BUSINESS LAW / BUSINESS
REGULATORY FRAMEWORK**

PART – A

INDIAN CONTRACT ACT, 1872

1. NATURE OF CONTRACT
2. OFFER AND ACCEPTANCE
3. CONSIDERATION
4. CAPACITY OF THE PARTIES
5. FREE CONSENT
6. LAWFUL CONSIDERATION AND OBJECT
7. VOID AGREEMENTS
8. PERFORMANCE OF CONTRACT
9. BREACH OF CONTRACT
10. CONTINGENT CONTRACT & QUASI CONTRACT

PART – B

THE SALE OF GOODS ACT, 1930

FORMATION OF CONTRACT OF SALE

1. CONDITIONS AND WARRANTIES
2. TRANSFER OF OWNERSHIP AND DELIVERY OF GOODS
3. UNPAID SELLER

PART – C

PARTNERSHIP ACT, 1932

1. GENERAL NATURE OF PARTNERSHIP
2. RELATIONS OF PARTNERS
3. REGISTRATION AND DISSOLUTION OF FIRM

THE INDIAN CONTRACT ACT, 1872

CHAPTER-1 NATURE OF CONTRACT

CONTENTS: -

1. DEFINITIONS

2. ESSENTIAL ELEMENTS OF A VALID CONTRACT

3. TYPES OF CONTRACTS

1. DEFINITIONS	
A. CONTRACT Sec.2(h)	An agreement enforceable by law.
B. AGREEMENT Sec.2(e)	Every promise and every set of promises forming consideration for each other.
C. ENFORCEABILITY BY LAW	An agreement which creates legal obligation on the part of parties.
D. PROMISE Sec.2(b)	A proposal when accepted becomes a promise.
E. CONSIDERATION	Price paid by the one party for the promise of the other. Technical word meaning 'QUID PRO QUO' i.e. something in return

2. ESSENTIAL ELEMENTS OF A VALID CONTRACT

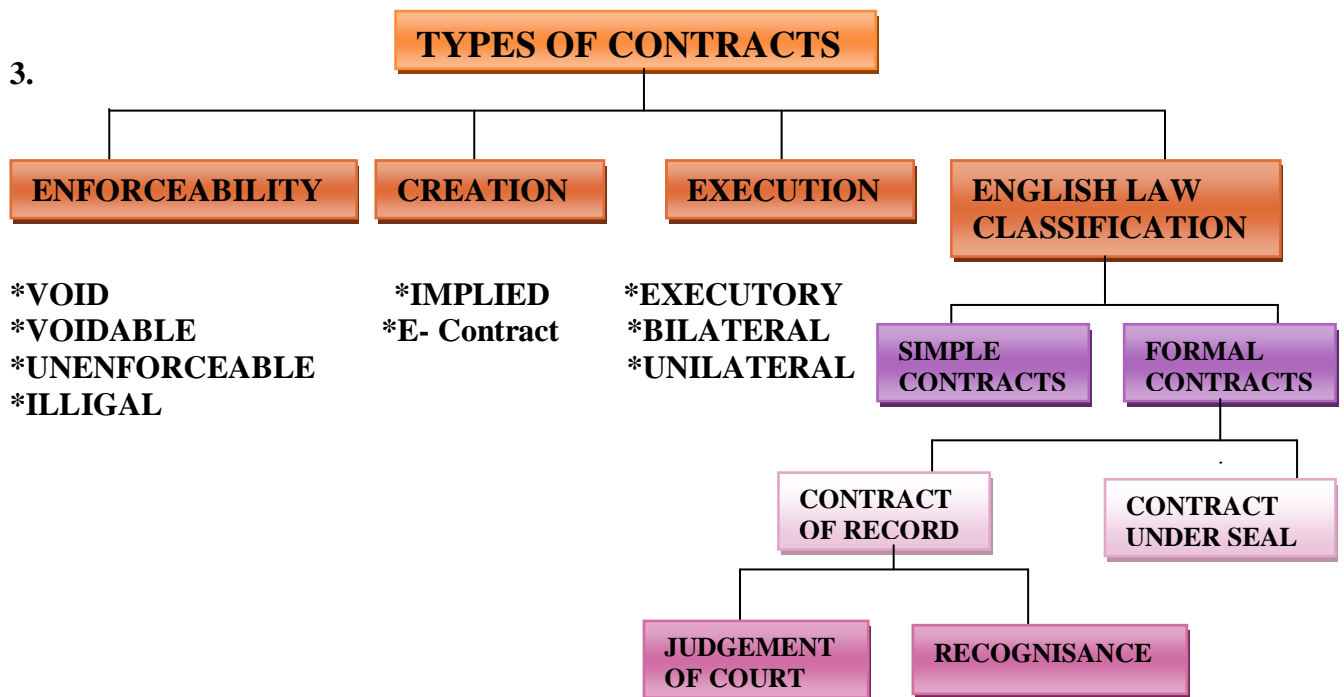
SECTION 10

- All **Agreements** are contracts
- if they are made by the **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.**

ESSENTIAL ELEMENTS OF A VALID CONTRACT	
1. AGREEMENT	In order to constitute a valid contract, there must be an agreement between the parties. To form an agreement, there should be proper offer by one and its proper acceptance by the other.
2. FREE CONSENT	Consent means agreed upon same thing in the same sense i.e. there should be consensus-ad-idem . A consent is said to be free when it is not caused by coercion, undue influence, fraud, misrepresentation or mistake. Example: - 'A' threatened to shoot 'B' if he (B) does not sell his house to him Rs. 20000 and 'B' agreed to it. Here the agreement is entered into under coercion and hence voidable at the option of 'B'.
3. COMPETENCY OF THE PARTIES	Parties must have the capacity to enter into a contract otherwise the contract is not valid.
Who is competent to contract	Who is incompetent to contract
<ul style="list-style-type: none">• Major• Person of Sound mind• Person not disqualified by law from contracting	<ul style="list-style-type: none">• Minor• Person of Unsound Mind• Person disqualified by law from contracting

4. LAWFUL CONSIDERATION	<p>Consideration must not be unlawful, immoral or opposed to the public policy.</p> <p>Examples:</p> <p>Unlawful: -A agrees to sell narcotics to B for a sum of Rs. 100000. This agreement is not valid because the consideration is unlawful.</p> <p>Immoral: - An agreement for letting a house to a prostitute for carrying on her vocation there.</p> <p>Opposed to the public policy: - Trading with enemy, Agreement in restraint of marriage, trade, legal proceedings etc.</p>
LAWFUL OBJECT	<p>Object means the purpose or design. The object of the agreement must be lawful.</p> <p>Example:- ‘A’ and ‘B’ make an agreement for smuggling out some goods from India to another country. This agreement cannot be enforced in the court because the object is unlawful.</p>
NOT EXPRESSLY DECLARED VOID	<p>An agreement should not be one which is expressly declared void by the law.</p> <p>Example:- Agreement in restraint of trade, marriage or legal proceedings are expressly declared void by the law and hence not enforceable.</p>
INTENTION TO CREATE LEGAL RELATIONSHIP	<p>Parties must have an intention of creating the legal relationship. An agreement of a purely domestic or social nature is not a contract.</p> <p>Example 1:- ‘A’ invites his friend ‘B’ to his birthday party. ‘B’ accepts the offer. But he fails to turn up for the party. This agreement creates social and personal relationship between ‘A’ and ‘B’. It cannot be enforced in the court. Thus A has no legal remedy against B.</p> <p>Example 2:- ‘A’ borrows sum of Rs. 500 from his friend ‘B’ for three months. ‘B’ gets legal right to sue upon ‘A’ if he fails to return money. It is because this agreement creates legal relationship, which can be enforced in the court.</p>
BALFOUR Vs. BALFOUR (1919)	
<p>In this case a husband just makes a promise to pay his wife monthly allowance of £30 for her maintenance. Later on they separated and husband failed to pay stipulated amount to his wife. She filed suit for that allowance. But it was held by the court that such arrangements are not contracts or do not result in a contract because parties did not intend to create legal relationship and finally the suit was dismissed.</p>	
CERTAINTY OF MEANING	<p>Agreement made by the parties must be certain or capable of being made certain.</p> <p>Example: ‘A’ is a dealer of kerosene oil and coconut oil. ‘B’ makes an agreement with him for buying 10 lts of oil. Meaning of this agreement is uncertain and therefore it cannot be enforced.</p>
POSSIBILITY OF PERFORMANCE	<p>An agreement to do an act impossible in itself is void.</p> <p>Example: - An agreement to discover treasure by magic is void.</p>
LEGAL FORMALITIES	<p>Such as in writing, registration etc must be completed otherwise the contract is not enforceable at law.</p>

3.



A. ON THE BASIS OF ENFORCEABILITY

1. VALID CONTRACT	A contract which contains all the essential elements.
2. VOID CONTRACT [SEC. 2(j)]	A contract which ceases to be enforceable by law becomes void when it ceases to be enforceable.
3. VOID AGREEMENT [SEC. 2(g)]	An agreement which is not enforceable by law is said to be void. It is an agreement which cannot be enforced from the date when they were made. It is void ab initio .
4. VOIDABLE CONTRACT [SEC. 2(i)]	An agreement, which is enforceable by law at the option of one more of the parties, but not at the option of the other (s) is a voidable contract. For example: - Mr. A, at knife - point, asks B to sell his scooter for Rs. 50. Mr. B gives consent. The agreement is voidable at the option of B, whose consent is not free.
5. UNENFORCEABLE CONTRACT	An unenforceable contract is one which is good in substance but cannot be enforced by law due to some technical defects, such as under stamping, absence of writing, barred by limitation.
6. ILLEGAL CONTRACT	A contract which is forbidden by law. For example: - Agreement to commit crime.

B. CLASSIFICATION ON THE BASIS OF CREATION

1. EXPRESS CONTRACT	A contract which is created either by word spoken or written. For example: - If 'A' of Agra offers to sell his car for Rs. 150000 to 'B' of Delhi by a letter and 'B' accepts the offer by writing a letter. Thus the contract between 'A' and 'B' is said to be an express contract.
2. IMPLIED CONTRACT	The contract which is created otherwise than by words spoken or written. i.e. these contracts are:-
A. Tacit Contract	A contract which is inferred from the conduct of the parties is said to be tacit contract. For example: - (i) When we enter into a bus without asking any

	question from bus conductor, we enter into implied contract. (ii) Obtaining cash form ATM
B. Quasi Contracts	<p>These are the contracts, which are created neither by word spoken, nor written, nor by the conducts of the parties, but these are created by the law.</p> <p>For example: - If 'A' leaves his goods at 'B's' shop by mistake, then it is 'B's' duty to return the goods or to compensate the price.</p> <p>In fact, these contracts depends upon the principle that nobody will be allowed to become rich at the expense of the others. This principle is known as <i>doctrine of unjust enrichment</i>.</p>
3. E-CONTRACT	An e-contract is one, which is entered into between two parties via internet.

C. CLASSIFICATION ON THE BASIS OF BASIS OF EXECUTION

1. Executed Contract	<p>An executed contract is a contract in which both the parties have performed their obligation. This is a contract which has been completed.</p> <p>For example:- If 'A' agrees to sell his car to 'B' for Rs. 100000. The contract is said to be executed if 'A' delivers car to 'B' and B pays the price to 'A'.</p>
2. Executory Contract	An Executory contract is the contract which is to be performed in future.
3. Unilateral Contract	Where obligation is pending on the part of one of the parties.
4. Bilateral Contract	A Bilateral Contract is a contract in which obligation is pending on the part of both of the parties.

D. ENGLISH LAW CLASSIFICATION

1. Simple Contracts	A simple contract is the contract that is not formal. These can be made orally or in writing and must be supported by consideration.
2. Formal Contracts	A formal contract is one which is entered into the prescribed form. These contracts may be sub-divided as follows:
a. Contract of Record	<p>(i) Judgment of Court:- It is an obligation imposed by the court upon one or more persons in favour of the other/s.</p> <p>(ii) Recognizance:-It is a written acknowledgement of a debt due to state. It is met in connection with criminal proceedings.</p>
b. Contract under Seal	It is a contract which derives its binding force from its form alone. It is also known as deed or specialty contract.

DM QUESTION BANK

CHAPTER – 1

1. The law of contract in India is contained in:

- | | |
|-------------------------------|-------------------------------|
| (a) Indian Contract Act, 1862 | (c) Indian Contract Act, 1872 |
| (b) Indian Contract Act, 1962 | (d) Indian Contract Act, 1762 |

2. An agreement enforceable by law is:

- | | |
|--------------|--------------------|
| (a) Promise | (c) obligation |
| (b) Contract | (d) lawful promise |

3. A void agreement is one which is:

- | | |
|---|--|
| (a) valid but not enforceable | (a) enforceable at the option of one party |
| (b) enforceable at the option of both the parties | (b) not enforceable in a court of law. |

4. An agreement which is enforceable by law at the option of one or more of the parties thereon but not at the option of the other or others is a:

- | | |
|--------------------|-----------------------|
| (a) valid contract | (c) voidable contract |
| (b) void contract | (d) illegal contract. |

5. In case of illegal agreements, the collateral agreements are:

- | | |
|-----------|--------------------|
| (a) valid | (c) voidable |
| (b) void | (d) none of these. |

6. Which of the following statements is true

- | | |
|---|--------------------------|
| (a) an agreement enforceable by law is a contract | (c) both (a) and (b) |
| (b) an agreement is an accepted proposal | (d) Neither (a) nor (b). |

7. A voidable contract:

- | | |
|--|---|
| (a) can be enforced at the option of aggrieved party | (c) cannot be enforced in a court of law. |
| (b) can be enforced at the option of both the parties. | |

8. A agrees to sell his car to B at a price, which B may be able to pay. This agreement is:

- | | |
|-----------|-----------------|
| (a) void | (c) voidable |
| (b) valid | (d) contingent. |

9. An agreement to do an illegal act, e.g., to share the earnings of a smuggling business, is;

- | | |
|-----------|-----------------|
| (a) valid | (c) voidable |
| (b) void | (d) contingent. |

10. Where an agreement consists of two parts one legal and other illegal, and the legal part is separable from the illegal one, such legal part is:

- | | |
|-----------|--------------|
| (a) void | (c) voidable |
| (b) valid | (d) illegal. |

11. Agreement – the meaning of which is uncertain is:

- | | |
|-----------|--------------|
| (a) valid | (c) voidable |
| (b) void | (d) illegal. |

12. Mr. 'X' invited all his close friends for a dinner. He arranged a very lavish dinner in a star

hotel. On the appointed day, most of his friends could not turn up to the dinner. He was terribly disappointed. In the above situation which of the following remedies is / are available to Mr. 'X' for the loss caused to him?

- (a) Mr. 'X' can file a suit against his friends for not attending to the dinner
(b) Mr. 'X' cannot have any remedy
(c) Mr. 'X' can recover the expenses incurred for the arrangements from his friends
(d) Mr. 'X' can file a suit for the special damages.

13. Every contract is an agreement but every agreement is not a contract. This statement is :

- (a) wrong
(b) correct
(c) correct subject to certain exceptions
(d) partially correct.

14. Agreement is defined in Section ____ of the Indian Contract Act, 1872.

- (a) 2(c)
(b) 2(e)
(c) 2(g)
(d) 2(i).

15. As per Section 2(e) of the Indian Contract Act, 1872, "Every promise and every set of promises forming the consideration for each other is a / an:

- (a) Contract
(b) Agreement
(c) offer
(d) acceptance.

16. A contract is:

- (a) an agreement enforceable by third parties
(b) an agreement by competent people
(c) an agreement enforceable by law
(d) not an agreement at all.

17. Contract is defined in Section _____ of the Indian Contract Act, 1872.

- (a) 2(e)
(b) 2(f)
(c) 2(h)
(d) 2(i).

18. A contract is said to be executed when it has been performed by:

- (a) one of the parties
(b) both the parties
(c) either (a) or (b)
(d) neither (a) nor (b).

19. An agreement not enforceable by law is said to be void under Section ____ of the Indian Contract Act, 1872.

- (a) 2(a)
(b) 2(b)
(c) 2(f)
(d) 2(g).

20. Contract, which ceases to be enforceable by law, becomes a / an:

- (a) enforceable contract
(b) void agreement
(c) void contract
(d) voidable contract

21. A invites B for dinners. B accepts the invitation. In this case, there is an agreement but no contract, since:

- (a) there is no consideration
(b) there is no intention to create legal relationship
(c) there is no written document
(d) there is no formal acceptance of the offer.

22. A invites B for diner in a restaurant and B accepts the invitation. On the appointed date, A is present there but B does not turn up. In this case:

- (a) A has no remedy against B
(b) A can sue B for not honoring his word
(c) A has to invite B again, to perform the promise.

23. One of the clauses in an agreement states: "This agreement shall not be legally

enforceable, but binding in honour only". In such case, the agreement is:

- (a) Invalid (c) illegal.
(b) Valid

24. In commercial and business agreements, the intention of the parties to create legal relationship is:

- (a) presumed to exist (c) not relevant at all.
(b) to be specifically expressed in writing

25. According to Section 2(i), an agreement which is enforceable by law at the option of one or more of the parties thereto, but not at the option of one other or others, is a / an:

- (a) void agreement (c) unlawful contract
(b) voidable contract (d) void contract.

26. Voidable contract is:

- (a) invalid (c) which is unlawful.
(b) valid as long as it is not avoided by the party entitled to do so

27. A and B contract to marry each other. Before the time fixed for the marriage, A goes mad. The contract becomes:

- (a) void (c) valid
(b) illegal (d) voidable.

28. _____ has all the essential elements of a contract and can be enforced by law.

- (a) valid contract (c) voidable contract
(b) void contract (d) unenforceable contract.

29. A contracts with B, a local goonda, to beat his business competitor. This is a / an:

- (a) valid contract (c) voidable contract
(b) illegal contract (d) unenforceable contract.

30. _____ is made by words either spoken or written.

- (a) express contract (c) tacit contract
(b) implied contract (d) unlawful contract.

31. Where a contract has to be inferred from the conduct of parties, it is called:

- (a) express contract (c) tacit contract
(b) implied contract (d) unlawful contract.

32. _____ is a contract which is partially performed or wholly unperformed.

- (a) executed contract (c) void contract
(b) executory contract (d) illegal contract.

33. _____ is contract in which only one party has to perform his promise or obligation.

- (a) void contract (c) unilateral contract
(b) illegal contract (d) bilateral contract.

34. A books a ticket with Jet Airlines for travel from Mumbai to Delhi on 15th September, 2006, date of travel being 10th October, 2006, This is a / an:

- (a) void contract (c) unilateral contract
(b) illegal contract (d) bilateral contract.

35. A particular type of contract is required by law to be in writing and registered. It does not comply with necessary formalities as to writing, registration and attestation. Such a

contract is:

- | | | | |
|-----|-------------------|-----|-------------------------|
| (a) | voidable contract | (c) | valid contract |
| (b) | illegal contract | (d) | unenforceable contract. |

36. All illegal agreements are void; but all void agreement are not illegal:

- | | | | |
|-----|------|-----|--------|
| (a) | true | (b) | false. |
|-----|------|-----|--------|

37. The term “Promise” has been defined in Section _____ of the Indian Contract Act:

- | | | | |
|-----|------|-----|-------|
| (a) | 2(a) | (c) | 2(c) |
| (b) | 2(b) | (d) | 2(d). |

38. A proposal when accepted becomes a / an:

- | | | | |
|-----|-----------|-----|---------|
| (a) | Contract | (c) | promise |
| (b) | Agreement | (d) | Offer. |

CHAPTER-2 OFFER & ACCEPTANCE

CONTENTS :-

1. PROPOSAL / OFFER. RULES AS TO OFFER
2. TYPES OF OFFER
3. LAPSE OF AN OFFER
4. ACCEPTANCE. RULES AS TO ACCEPTANCE
5. AN ACCEPTANCE IS TO OFFER WHAT A LIGHTED MATCH IS TO A TRAIN OF GUNPOWDER
6. COMMUNICATION OF OFFER & ACCEPTANCE
7. REVOCATION OF OFFER AND ACCEPTANCE

1.) PROPOSAL [Sec 2(a):-

- + When one person signifies to another
- + his willingness
- + to do or to abstain from doing anything
- + with a view to obtaining the assent of that
- + either to such act or abstinence,
- + he is said to make a proposal.

Example :- A tells B , “I want to marry”. This does not amount to offer but it is a mere expression of willingness.

Example:- A said to B, “I want to marry, Will you marry me.” This would amounts to offer because in this case, the intention of A is to obtaining the consent of B.

Example:- D said to E, “I want to sell my bike to you.” This is an offer “to do something”.

Example:- X said to Y, “I will not file a suit against you in the court of law, if you repay the overdue amount of Rs.100000.This is an offer for “not to do something”.

- **Offeror:** - Person who makes the offer.
- **Offeree:** - Person to whom offer is made.

LEGAL RULES REGARDING OFFER

1. Offer must be capable of creating the legal relation	A social invitation, even if it is accepted, does not create legal relations because it is not so intended. (Balfour Vs. Balfour)
2. Offer must be certain, definite and not vague	The terms of the offer must be certain or capable of being made certain.
Example 1	‘A’ has two Maruti cars, one is red and other blue. He offers to sell his car to ‘B’. In this case, Which car he is offering to sell is not clear. Therefore the offer is not valid one.
Example 2	‘A’, a dealer of coconut oil, offers to sell 10 lts of oil to ‘B’ for a certain price. This offer is valid one because it is capable of being made certain.
Example 3	‘A’ offered to take a house on lease provided the house should be put into thorough repairs and should be sufficiently decorated. This offer is too vague and hence not valid.
3. Offer may be express or implied	a. Express Offer An offer which is made by words spoken or written. Example: - ‘X’ says to ‘Y’, “ Will you purchase my

white horse for Rs. 20000.

Example: - 'X' writes to 'Y' a letter, "I want to sell my car for Rs. 40000 to you."

b. Implied Offer An offer which is made otherwise than by words spoken or written.

Example:- A transport company runs buses on a particular route. This is an implied offer from the transport company to carry passengers on the route who are prepared to pay the specified fare. The acceptance of the offer is complete as soon as the passengers board the bus. A passenger who enters the bus also impliedly promises to pay the prescribed fare.

4. Offer must be distinguished from an invitation to offer An offer should be distinguished from an invitation to offer. An offer is definite and capable of converting an intention into a contract. Whereas an invitation to an offer is only a circulation of an offer, it is an attempt to induce offers and precedes a definite offer.

Examples of Invitation to Offer

1. Window display of goods by a shopkeeper.
2. Quotations, Catalogue, Price list.
3. Advertisement in a newspaper for sale of an article.

Example:- Goods are sold in a shop under 'self service' system. Customer select the goods in the shop and take them to the cashier for payment of price. Cashier refuses to accept the payment. Held that customer cannot bound the shopkeeper for delivery of goods.

(Pharmaceutical Society of Great Britain v. Boots Cash Chemists Ltd.)

5. Offer may be specific or general Specific Offer An offer made to a definite person is called Specific offer. A specific offer can be accepted only by the person to whom it is made.

General Offer An offer which is made to the public at large. Anyone having knowledge of the offer can accept this offer by complying with the terms of the offer.

Example:- A company advertised in several newspapers that a reward of € 100 would be given to any person who contracted influenza after using the smoke balls of the company according to its printed directions. Carlill used the smoke balls according to the directions of the company but contracted influenza. Held that she could recover the amount as by using the smoke balls she had accepted the offer. (**Carlill V. Carbolic Smoke Ball Co.1893**)

6. Offer must be communicated to the person to whom it is made An offer, to be complete, must be communicated to the person to whom it is made. Unless an offer is communicated to the offeree by the offeror or by his duly authorized agent, there can be no acceptance of it. An acceptance of an offer, in ignorance of the offer, is no acceptance and does not confer any right on the acceptor.

Example:- S offered a reward to anyone who returned his lost dog. F bought the dog to S without having heard of the offer. Held, F was not entitled to the reward (**Fitch v. Snedaker**).

Example:- S sent his servant L to trace his missing nephew. He then announced that anybody who traced his nephew would be entitled to a

	<p>certain reward. L traced the boy in ignorance of this announcement. Subsequently when he came to know of the reward, he claimed it. Held, he was not entitled to the reward (Lalman Shukla v. Gauri Dutt)</p>
7. Offer must be made with a view to obtaining consent of the offeree	<p>A mere declaration of intention does not amount to offer.</p> <p>Example:- An auctioneer advertised in a newspaper that a sale of office furniture would be held. A broker came from a distant place to attend that auction, but all the furniture was withdrawn. The broker thereupon sued the auctioneer for his loss of time and expenses. Held, a declaration of intention to do a thing did not create a binding contract with those who acted upon it, so that the broker could not recover (Harris v. Nickerson).</p>
8. An offer may be conditional	<p>While making an offer the offeror may impose conditions for the acceptance of the offer. A conditional offer is a valid offer.</p>
9. An offer should not contain a term the non compliance of which amounts to acceptance	<p>Offeror cannot impose any such condition the non-fulfillment of which would lead to acceptance of that offer.</p> <p>Example:- A offers to sell out his bike to B stating that if B does not reply with in a week, he will assume that he has accepted the offer. This is not a valid offer, because failure on the part of B to reply would result in an acceptance.</p>
10. Communication of Special terms	<p>Example:- P deposited his bags in the cloakroom at the railway station. On the face of receipt, the words “See back” were printed. One of the conditions printed on the back was “ the liability of the railway company shall be limited to € 10 for any package”.</p> <p>P’s bag was lost. He claimed the actual value of bag amounting to € 24. Held that P cannot recover the amount more than € 10 since the railway company had taken all the reasonable steps to ensure that conditions printed on back printed were brought to the knowledge of P. (Parker v. S.E. Rail Co.)</p>

2. TYPES OF OFFER

A. General offer	<p>An offer made to the public at large. Anyone can accept this offer by doing the desired act .</p>
B. Specific offer	<p>An offer made to a definite person or a group of persons. Such offer can be accepted only by the specified person to whom it is made.</p>
C. Cross offers	<p>When two parties exchange identical offers in ignorance at the time of each other’s offer, the offers are called cross offers. Two cross offers cannot become a binding contract in the absence of acceptance.</p> <p>Example:- A makes an offer for selling out his bike to B for Rs 20000. B, in ignorance of this offer makes a similar offer for buying A’s bike for Rs.20000. These two offers are called cross offers and none of these would constitute an acceptance.</p>
D. Counter offer	<p>A qualified acceptance to the offer subject to modifications and variations in the terms of original offer. Counter offer amounts to rejection of the original offer.</p> <p>Example:- A offers B, “ Will you purchase my car for Rs 100000. B replies, “I will purchase but I can pay only Rs 75000 for your car.” This acceptance given by B is a counter offer.</p>
E. Standing, open or continuing offer	<p>An offer is allowed to remain open for acceptance over a period of time.</p> <p>Example:- Tender for supply of goods.</p>

3.) LAPSE (Revocation) OF AN OFFER

- ✚ On expiry of stipulated or reasonable time.
- ✚ By not accepting in mode prescribed.
- ✚ By rejection by the offeree.
- ✚ By death or insanity of the offerer or offeree before acceptance.
- ✚ By revocation by the offeror at any time before acceptance.
- ✚ Revocation of standing offer at any time by giving notice to the offeree.
- ✚ Revocation by non fulfillment of condition precedent to acceptance.
- ✚ By subsequent illegality or destruction of subject matter.

4.) ACCEPTANCE:- Sec.2(b)

- When the person to whom proposal is made
- signifies his assent thereto,
- the proposal is said to be accepted.
- A proposal when accepted becomes a promise.

LEGAL RULES AS TO VALID ACCEPTANCE	
Acceptance must be absolute and unqualified	Offeree should be assented to all terms & conditions of the offer. A qualified acceptance amounts to counter offer.
Acceptance must be communicated	Mere mental acceptance is not acceptance. Acceptance cannot be made in ignorance of the offer. Mere silence is not acceptance.
Acceptance to Whom	Acceptance must be communicated to the offeror i.e. the person who made the offer.
Mode of Acceptance	Acceptance must be in the mode prescribed in the proposal. If no mode prescribed in the proposal, the acceptance must be according to some usual and reasonable mode.
Time for Acceptance	Acceptance must be given within specified time limits given in the offer. In case no time is specified in the offer, offer must be accepted within reasonable time and before the offer lapses.
Example:- A person applied for shares in a company in June. He cannot be bound by the allotment made late in November since delay of 6 months in acceptance of application for shares was unreasonable. (Ramsgate Victoria Hotels v. Montefiore)	
Acceptance by conduct	By performance of an act intended by the proposer.
Who can accept	
Specific offer	A Specific offer can be accepted only by the person to whom it is made.
General offer	A general offer can be accepted by anyone having knowledge of the offer by complying with the terms of the offer.

5.) AN ACCEPTANCE TO OFFER IS WHAT A LIGHTED MATCH TO A TRAIN OF GUNPOWDER

According to **Sir William Anson**, “An acceptance to offer is what a lighted match to a train of gunpowder”.

- ✚ Offer is compared to a train of gunpowder.
- ✚ Acceptance is compared to a lighted match.

When a lighted match is applied to a train of gunpowder, an explosion takes place. In the same way, an acceptance is given to the offer, it would result into a contract and offer cannot be revoked thereafter.

A train may be removed before match is applied to gun powder. In the same way, an offer may be revoked before it is accepted by offeree.

6. COMMUNICATION OF OFFER & ACCEPTANCE (Section 4)

(A) Communication of Offer	The communication of offer is complete when it comes to the knowledge of the person to whom it is made.
(B) Communication of Acceptance	The communication of acceptance is complete-
(a) As against the Proposer	When it is put into the course of transmission to him so as to be out of power of the acceptor to withdraw the same .
(b) As against the Acceptor	When it comes to the knowledge of the proposer.

7. REVOCATION OF OFFER & ACCEPTANCE (Section 4)

The communication of revocation is complete-	
(a) As against the person who makes it	When it is put into the course of transmission to the person to whom it is made so as to be out of power of the person who makes it.
(b) As against the person to whom it is made	When it comes to his knowledge.

TIME FOR REVOCATION (Section 5)

Revocation of Offer	An offer can be revoked at any time before the communication of acceptance is complete as against the proposer.
Revocation of Acceptance	An acceptance can be revoked at any time before the communication of acceptance is complete as against the offeree.

DM QUESTION BANK
CHAPTER - 2

1. A proposal may consist of promise for:

- (a) doing an act (c) either (a) or (b).
(b) abstaining from doing an act

2. An offer or its acceptance or both may be made:

- (a) by words (c) either by words or by conduct.
(b) by conduct

3. Offer made through conduct of parties or inferred from circumstances of the case is called:

- (a) implied offer (c) general offer
(b) express offer (d) specific offer

4. A bid at an auction sale is:

- (a) an implied offer to buy (c) an expression of an intention to buy.
(b) an express offer to buy

5. An offer which is allowed to remain an offer for acceptance over a period of time is known as a / an:

- (a) standing offer (c) express offer
(b) specific offer (d) implied offer

6. _____ can be accepted only by the person / group to whom the offer is made:

- (a) standing offer (c) specific offer.
(b) general offer

7. An offer made to the public at large is called as:

- (a) standing offer (c) general offer
(b) specific offer (d) implied offer.

8. For a valid general offer, it is necessary for the offeree to be known to the offeror at the time of making the offer.

- (a) True (b) false.

9. Communication of a proposal is complete when:

- (a) it comes to the knowledge of the person to whom it is made (c) either (a) or (b)
(b) the letter containing the proposal reaches the offeree (d) the letter containing the proposal is posted.

10. Terms of an offer must be:

- (a) Definite (c) either (a) or (b)
(b) capable of being made definite (d) ambiguous.

11. A offers to take a house on lease for a period of 3 years @ Rs. 1 lakh p.m. if the house was “put through adequate repairs and rooms were handsomely decorated”. Offer is not valid because:

- (a) there is no legal obligation (c) the offer is conditional.
(b) the term of offer is too vague

12. Offer should not contain a term, the non-compliance of which would amount to acceptance.

- (a) True (b) false.

13. Which of the following is not necessary for a valid offer?

- (a) intention to create legal obligation (c) certainty of terms
(b) unconditional terms (d) communication to the person to whom it is made.

14. Which of the following is an offer?

- (a) quotation of terms by trader (c) advertisement for sale or auction of goods
(b) quotation of the lowest price in answer to an inquiry (d) bid in auction sale.

15. Issue of Prospectus by a company is an example of:

- (a) Proposal (c) invitation to offer
(b) intention to invite offer (d) none of the above.

16. Application filed in by person seeking purchase of shares in a company is an example of:

- (a) invitation to offer (c) either (a) or (b)
(b) offer (d) acceptance.

17. In a self-service departmental store, goods and articles are displayed along with their price tags. Such display constitutes a / an:

- (a) invitation to offer (c) acceptance
(b) offer (d) none of the above.

18. In a self-service departmental store, customer's pick-up article and take then to the cashier's desk to pay. The customer's action is a /an:

- (a) invitation to offer (c) either (a) or (b)
(b) offer (d) acceptance.

19. In a self-service departmental store, a valid contract is concluded when:

- (a) customer enter the departmental store (c) customers take the articles to the cashier's desk
(b) customer pick up the articles (d) cashier accepts the payment from the customers

20. Which of the following is an invitation to offer?

- (a) a tender to supply goods at a certain time (c) bids in an auction sale
(b) a request for a loan (d) a catalogue of goods for sale.

21. An advertisement inviting tender is:

- (a) an invitation for negotiations (c) an invitation to offer
(b) a proposal (d) a promise.

22. A tenderer can withdraw his tender before its final acceptance by a work or supply order.

- (a) True (b) false.

23. If there is a clause in the tender notice restricting the right to withdraw, the tenderer cannot withdraw the tender at all.

- (a) True (b) false.

24. A tender will be irrevocable where:

- (a) tenderer has, for some consideration, promised not to withdraw
(b) there is a statutory prohibition against withdrawal
- (a) either (a) or (b)
(b) neither (a) nor (b).

25. There is a counter-offer when:

- (a) the offeree gives conditional acceptance or introduced a fresh term in acceptance
(b) the offeror makes a fresh offer
- (c) the offeree makes some query
(d) the offeree makes an identical offer.

26. When the offers made by two persons to each other containing similar terms cross each other, they are known as:

- (a) cross offer
(b) implied offer
- (c) direct offer
(d) counter offer.

27. In case of a counter offer or cross offer, one person's offer can be taken as an offer and the other's persons offer can be taken as its acceptance.

- (a) true
(b) false

28. In case of a cross offer, the original offer comes to an end.

- (a) true
(b) false.

29. An offer lapses / comes to an end when the offeree:

- (a) fails to fulfil a condition precedent to acceptance
(b) does not accept the condition
- (c) either (a) or (b)
(d) neither (a) nor (b).

30. A proposal is revoked by death of insanity of the proposer, if the fact of his death or insanity comes to the knowledge of the acceptor:

- (a) Before acceptance
(b) after acceptance
- (c) during acceptance
(d) any of the above.

31. Revocation of offer by letter or telegram is said to be complete as against the proposer:

- (a) when it is read by the offeree
(b) when it reaches the offeree
- (c) when it is dispatched
(d) both (b) and (c).

32. Revocation of offer by letter of telegram is said to be complete as against the offeree:

- (a) when it is read by the offeree
(b) when it reaches the offeree
- (c) when it is dispatched
(d) both (b) and (c).

33. Special terms in an offer are said to be communicated and thus binding

- (a) when the offeree has actually read them
(b) where the attention of the offeree has been drawn to such terms and conditions.
- (c) Either (a) or (b)
(d) Neither (a) nor (b).

34. On the back of the drycleaner's receipt the liability of the drycleaner in the event of loss, theft or damage is limited to 10 times the dry-cleaning charges. A customer has not cared to see the backside of the receipt. On the front of the receipt words "please see back" are written. In the even of loss, customer can claim:

- (a) actual loss
(b) amount not exceeding 10 times the dry-cleaning
- (c) actual loss plus compensation for inconvenience
(d) Special damages.

35. Under Section 2(b) of the Indian Contract Act, if the person to whom the proposal is made signifies his assent, the proposal is said to have been:

- (a) accepted
(b) provisionally agreed
- (c) tentatively accepted.
(d) either (a) or (b)

36. Acceptance may be:

- (a) expressed
(b) implied
- (c) neither (a) nor (b)
(d) either (a) or (b)

37. When the acceptance is made otherwise than in words (oral or written), the acceptance is said to be:

- (a) expressed
(b) implied
- (c) neither (a) nor (b)
(d) either (a) or (b)

38. A specific offer can be accepted by:

- (a) any person
(b) only the person to whom it is made
- (c) any friend or relative of offeree.
(d) either (a) or (b)

39. A general offer can be accepted by:

- (a) any person who complies with the conditions of the offer
(b) any person who reads the advertisement.
- (c) Either (a) or (b).
(d) none of the above.

40. In cases of general offer, for a valid contract, the acceptor:

- (a) must have the knowledge of the offer before acceptance by performance
(b) need not have the knowledge of the offer.
- (c) May acquire the knowledge of the offer after the performance of the condition amounting to acceptance.
(d) none of the above.

41. Communication of acceptance is complete as against the proposer :

- (a) only when it comes to the knowledge of the proposer
(b) only when the acceptance is communicated to the proposer
- (c) only when it is put in the course of transmission to him so as to be out of power of the acceptor
(d) none of the above.

42. Communication of acceptance is complete as against the acceptor, only:

- (a) when it is put in the course of transmission
(b) when the acceptance is communicated to the proposer
- (c) when it has reached the proposer
(d) all of the above.

43. Where a letter of acceptance sent by post is lost in transit there is :

- (a) no contract as the acceptance has not come to the knowledge of the offeror
(b) is no contract as the acceptance has not been communicated to the offeror
- (c) a contract as the letter of acceptance duly addressed is put in the course of transmission
(d) all of the above.

44. An acceptance can be revoked at any time before such acceptance:

- (a) comes to the knowledge of the proposer
(b) after it comes to the knowledge of the proposer
- (c) either (a) or (b)
(d) none of the above.

45. Who said, “Acceptance is to a proposal what a lighted match-sick is to a train of gun-powder?”

(a) Sir William Anson

(c) Saymond

(b) Mulla

(d) Ricky Ponting.

46. Where contracts are entered through telex, fax or e-mail, it is the duty of the acceptor to ensure that his telex, fax or e-mail message is duly received by the offeror.

- (a) True (b) false.

47. An agreement to agree in future is:

- (a) Valid (c) illegal
(b) voidable (d) invalid.

48. Which of the following is false? An offer to be valid must:

- (a) intend to create legal relations (c) contain a term the non-compliance of which would amount to acceptance
(b) have certain and unambiguous terms (d) be communicated to the person to whom it is made.

49. Which of the following is false? An acceptance:

- (a) must be communicated (c) must be accepted by a person having authority to accept
(b) must be absolute and unconditional (d) may be presumed from silence of offeree.

50. An offer may lapse by:

- (a) Revocation (c) rejection of offer by offeree
(b) counter offer (d) all of these.

51. On the acceptance of an offer by a offeree,

- (a) only the acceptor becomes bound by accepting the offer (c) both the acceptor and offeree become bound by the contract
(b) only the offeror becomes bound (d) none of these.

52. A, by a letter dated 25th September 2006, offers to sell his house to B for Rs. 10 lakhs. The letter reaches B on 27th September, 2006, who posts his acceptance on 28th September, 20 which reaches A on 30th September, 2006. Here, the communication of offer is complete on:

- (a) 25th September, 2006 (c) 28th September, 2006
(b) 27th September, 2006 (d) 30th September, 2006.

53. In the above question, the communication of acceptance is complete as against A on 28th September, 2006, and against B on, 2006, and against B on, 2006, and against B on:

- (a) 25th September, 2006 (c) 28th September, 2006
(b) 27th September, 2006 (d) 30th September, 2006.

54. When offer is made to a definite person, it is known as:

- (a) general offer (c) counter offer
(b) cross offer (d) specific offer.

55. Standing offer means

- (a) offer allowed to remain open for acceptance over a period of time (c) when the offeree offers qualified acceptance of the offer
(b) offer made to the public in general (d) offer made to a definite person.

56. When the offeree offers qualified acceptance of the offer subject to modifications and variations he is said to have made a:

- | | |
|--|---------------------|
| (a) standing, open or continuing offer | (c) cross offer |
| (b) counter offer | (d) specific offer. |

57. Which of the following is / are the essential element(s) of a valid offer?

1. Offeror must have an intention to be bound by his offer.
2. Offer must be made to a specific person / party and not to public at large.
3. Must be definite.
4. Offer can be vague.

- | | |
|-----------|------------|
| (a) 1 & 3 | (c) 3 & 4 |
| (b) 2 & 3 | (d) 1 & 4. |

58. Which of the following offers do not constitute a valid offer?

1. An auctioneer displays a TV set before a gathering in an auction sale.
2. Ram who is in possession of three cars purchased in different years says, 'I will sell you a car'.
3. A says to B, "will you purchase my motor cycle for Rs. 20,000?"
4. Ram communicates to Shyam that he will sell his car for Rs. 1,50,000.

- | | |
|-----------|------------|
| (a) 1 & 2 | (c) 3 & 4 |
| (b) 2 & 3 | (d) 1 & 4. |

59. An auctioneer in Delhi advertised in a newspaper that a sale of office furniture would be held on September 23, 2006. 'X' came from Mumbai to attend the auction, but all the furniture was withdrawn. 'X' sued the auctioneer for loss of his time and expenses. Which of the following statement(s) is correct?

- | | |
|--|--|
| (a) 'X' can get damages from the auctioneer for loss of his time and expenses | (c) an invitation to make offer is a valid offer |
| (b) 'X' will not get damages from the auctioneer for loss of his time and expenses | (d) a declaration of intention by a person will give right of action to another. |

60. The term "Proposal" used in the Indian Contract Act is synonymous with the term:

- | | |
|--------------|--------------------|
| (a) Contract | (c) agreement |
| (b) offer | (d) none of these. |

61. The term "Proposal" has been defined in Section ____ of the Indian Contract Act:

- | | |
|----------|-----------|
| (a) 2(a) | (c) 2(c) |
| (b) 2(b) | (d) 2(d). |

62. When a person signifies to another his willingness to do or to abstain from doing anything, with a view to obtaining the assent of that other to such act or abstinence, he is said to:

- | | |
|---------------------------|-----------------------------|
| (a) enter into a contract | (c) create legal obligation |
| (b) make a proposal | (d) accept an offer |

CHAPTER-3 CONSIDERATION

CONTENTS:-

1. CONSIDERATION
2. LEGAL REQUIREMENTS REGARDING CONSIDERATION
3. A THIRD PARTY TO A CONTRACT CANNOT SUE. EXCEPTIONS.
4. AN AGREEMENT WITHOUT CONSIDERATION IS VOID. EXCEPTIONS.

1.) **CONSIDERATION:** - “QUID PRO QUO” – i.e. something in return. Consideration is the price agreed to be paid by the promisee for the obligation of the promisor.

- ✚ When, at the desire of the promisor,
- ✚ the promisee or any other person
- ✚ has done or abstained from doing or
- ✚ does or abstains from doing or
- ✚ promise to do or to abstain from doing
- ✚ something,
- ✚ such act or abstinence or promise is called consideration for the promise. [Section 2(d)]

2. LEGAL REQUIREMENTS REGARDING CONSIDERATION

<p>A. Consideration must move at the desire of the promisor</p>	<p>Consideration must move at the desire or request of the promisor. Any act done at the desire of a third party is not consideration.</p> <p>Example:- D constructed a market at the desire of the collector of the district. B, a shopkeeper of the market promised to pay commission to D on the sales effected by him. Later on B denies to pay the promised amount. D filed a suit in the court for the recovery of the amount.</p> <p>The court held that D cannot recover the amount from B because D has constructed the market at the desire of the collector , not at the desire of the promisor i.e. B. (Durga Prasad V. Baldeo)</p>				
<p>B. Consideration may move from the promisee or any other person</p>	<p>Consideration may move from the promisee or any other person who is not a party to the contract. Thus, there can be a stranger to a consideration.</p> <p>Example:- A, by a deed of gift transferred certain property to her daughter with the direction that daughter should pay an annuity to her sister .</p> <p>The daughter executed a writing in favour of her sister agreeing to pay the annuity.</p> <p>Later on, she refused to pay the amount to her sister taking a plea that no consideration is given to her in return from her sister.</p> <p>The court held that consideration need not necessarily move from the promisee. Hence, she is bound to pay the promised amount to her sister.</p> <p>(Chinnayya V. Rammayya)</p>				
<p>C. Executed and Executory consideration</p>	<p>If consideration under the contract has been given, it is said to be executed. If consideration under the contract is to be moved in future, it is called executory consideration.</p>				
<p>D. Consideration may be past, present or future</p>	<table style="width: 100%; border: none;"> <tr> <td style="width: 30%; padding: 5px;">Past consideration</td> <td style="padding: 5px;">The words “has done or abstained from doing” indicates past consideration. Past consideration is no consideration in England.</td> </tr> <tr> <td style="padding: 5px;">Present consideration</td> <td style="padding: 5px;">The words “does or abstains from doing” indicates present consideration. Consideration which moves simultaneously with the promise.</td> </tr> </table>	Past consideration	The words “ has done or abstained from doing ” indicates past consideration. Past consideration is no consideration in England.	Present consideration	The words “ does or abstains from doing ” indicates present consideration. Consideration which moves simultaneously with the promise.
Past consideration	The words “ has done or abstained from doing ” indicates past consideration. Past consideration is no consideration in England.				
Present consideration	The words “ does or abstains from doing ” indicates present consideration. Consideration which moves simultaneously with the promise.				

	Example:- Cash Sales.
Future consideration	The words “ promise to do or to abstain from doing ” indicates future consideration. Consideration which is to be performed in future. Example:- A get booked an air ticket from Delhi to Mumbai. The flight is to be take off on the next day. In this case the consideration from A is a Past consideration and consideration is pending on the part of Airlines which is to be performed in future.
E. Consideration should be real, not illusory	If consideration is an illusory one, then it is not valid.
F. Consideration need not be adequate	Though consideration is an essence of contract, adequacy of consideration is not regarded as an essence of contract. Courts do not regard the adequacy of consideration, it is at the part of promisor to consider that whether he is receiving adequate consideration or not.
G. The performance of an act what one is legally bound to perform is not consideration for the contract	
	Example:- Promise to pay money to a witness.
H. Consideration must not be unlawful, immoral or opposed to the public policy	

2.) A THIRD PARTY OR A STRANGER TO A CONTRACT CANNOT SUE

A stranger to a contract means a person who is not a party to the contract. There is a privity of contract between the parties. Therefore only a party to the contract can enforce its rights under the contract.

EXCEPTIONS:-

i. Trust	In case of trust, a beneficiary can sue upon the contract. Example:- H sued her father in law K to recover Rs 15000 being the arrears of allowance payable to her by K. K under an agreement made between K and H’s father, in consideration of H’s marriage to K’s son D. Held that she can recover the amount because she is a beneficiary under the contract. (Khwaja Muhammad V. Hussaini Begum)
ii. Family Settlement	In case of family settlement, if the terms of settlement are reduced into writing, members who were not originally party to the contract can also sue upon it.
iii. Marriage Contracts	A female member can enforce a provision for marriage expenses made on partition of HUF between male members.
iv. Acknowledgement of Liability	Where a person admits his liability, thereafter, if he refused, he will be estopped from denying his liability. Example:- Where A receives money from B for paying it to C and A admits C the receipt of that amount. Later on if he refuses, he will be stopped from denying his liability to pay the amount.
v. Assignment	In case of assignment of a contract, Where the benefit under the contract has been assigned, the assignee (the person to whom benefits of contract are assigned) can enforce upon the contract.
vi. Covenant running with land	The person who purchases land with notice that the owner of land is bound by certain duties affecting land, the covenant affecting the land may be enforced against the successor of the seller.

3. NO CONSIDERATION, NO CONTRACT

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

EXCEPTIONS

(i) Agreement on account of Natural love and Affection



Example:- A husband by a registered document after referring to quarrels and disagreements between himself and his wife, promised to pay his wife a sum of money for her maintenance and separate residence, it was held that the promise was unenforceable. (**Rajlukhy Devi V. Bhootnath**)

(ii) Compensation for past voluntary services {Section 25 (2)}

- + Services rendered voluntarily.
- + Services rendered for the promisor.
- + Promisor must be in existence at the time of rendering services.
- + Promisor must have intended to compensate the promisee.

Example:- X finds Y's purse and gives it to him. Y promises to give X Rs 1000. This is a valid contract.

(iii) Promise to pay time barred debt {Section 25 (3)}

A promise to pay, wholly or in part a debt which is barred by law of limitation can be enforced if it is :-

- + In writing and
- + Signed by the person making it or his authorized agent.

(iv) Agency

- + According to **Section 185** of the Indian Contract Act, no consideration is necessary to create an agency.

(v) Completed Gifts

- + Gifts do not require any consideration. (**Explanation 1 to Section 25**)

(vi) Charity

- + A promise to contribute to charity, though gratuitous, would be enforceable, if on the faith of the promised subscription, the promisee takes definite steps in furtherance of the object and undertakes a liability, to the extent of liability incurred, not exceeding the promised amount of subscription. (**Kedarnath V. Gorie Mohammad**)

(i) Bailment

- + Consideration is not necessary to effect bailment. (**Section 148**)

DM QUESTION BANK
CHAPTER -3

1. Which of the following statements is true?

- | | |
|--|---|
| (a) consideration must result in a benefit to both parties | (c) consideration must be adequate |
| (b) past consideration is no consideration in India | (d) Consideration must be something, which a promissory is not already bound to do. |

2. Which of the following statements is false? Consideration:

- | | |
|---|----------------------------|
| (a) must move at the desire of the promisor | (c) may be illusory |
| (b) may move from any person | (d) must be of some value. |

3. Which of the following statements is false?

- | | |
|---|--|
| (a) generally a stranger to a contract cannot sue | (c) completed gifts need no consideration |
| (b) a verbal promise to pay a time barred debt is valid | (d) no consideration is necessary to create an agency. |

4. Consideration must move at the desire of

- | | |
|--------------|----------------------|
| (a) promisor | (c) any other person |
| (b) promisee | (d) any of these. |

5. Which of the following statements is true?

- | | |
|--|---|
| (a) there can be a stranger to a contract | (c) there can be a stranger to a contract |
| (b) there can be a stranger to a consideration | (d) none of the above |

6. Consideration may be:

- | | |
|-------------|-----------------------|
| (a) past | (c) future |
| (b) present | (d) all of the above. |

7. Consideration in simple terms means:

- | | |
|--------------------------|------------------------|
| (a) something in return | (c) nothing in return |
| (b) everything in return | (d) none of the above. |

8. Which of the following is not an exception to the rule – no consideration, no contract?

- | | |
|---|------------------------|
| (a) compensation for involuntary services | (c) contract of Agency |
| (b) love and affection | (d) gift. |

9. As a general rule, an agreement made without consideration is:

- | | |
|-----------|---------------|
| (a) void | (c) voidable |
| (b) valid | (d) unlawful. |

10. An agreement made with free consent to which the consideration is lawful but inadequate, is:

- | | |
|-----------|---------------|
| (a) Void | (c) voidable |
| (b) Valid | (d) unlawful. |

11. What is legal terminology for the doing or not doing of something which the promisor desires to be done or not done?

- | | |
|-------------|-------------------|
| (a) desires | (c) consideration |
| (b) wishes | (d) promise. |

12. _____ consideration is no consideration in England.

- (a) Past (c) future
(b) Present (d) past and present.

13. There can be a stranger to a _____.

- (a) Contract (c) agreement
(b) Consideration (d) promise.

14. Which of the following is / are false?

1. Consideration must be real 2. Consideration can be inadequate 3. A promise to do something which one is already bound to do by law, will be treated as good
4. consideration Consideration must be adequate.

- (a) 1 & 2 (c) 3 & 4
(b) 2 & 3 (d) 1 & 4.

15. At the time of marriage between A and b, A's father promised to B's parents that he will pay five thousand rupees per month to B after her marriage with his son. On his failure to pay the amount, B wants to sue A's father for the amount promised by him at the time of her marriage with A. Which of the following statement(s) is correct?

- (a) B cannot sue A's father as the contract is void for lack of consideration (c) B can sue A's father for breach of contract.
(b) B cannot sue A's father under the doctrine of privity of contracts (d) B cannot sue A's father as the contracts made at the time of marriage are not enforceable by law.

16. Consideration is defined under Section _____ of the Indian Contract Act

- (a) 2(a) (c) 2(c)
(b) 2(b) (d) 2(d).

17. Consideration may be supplied by:

- (a) the promisee (b) the promisee or any other person.

18. M, by a gift deed transferred certain property to her daughter 'R', with a direction that 'R' should pay an annuity to M's brother, 'C' as had been done by M. On the same day, 'R' executed a deed in writing in favour of 'C', agreeing to pay annuity. Afterwards 'R' declined to fulfil her promise saying that no consideration had moved from her uncle 'C'. Which of the following statements is correct?

- (a) 'R' is not bound to pay annuity (c) 'R' is bound to pay annuity.
(b) there is no valid consideration in this contract

19. Consideration in a contract may be:

- (a) Past (c) future
(b) Present (d) any of the above.

20. An agreement made without consideration is:

- (a) valid (c) voidable
(b) illegal (d) void.

21. An agreement made without consideration is void, as per

- (a) Section 23 (c) Section 25
(b) Section 24 (d) Section 26.

22. A person verbally promised the secretary of the mosque committee to subscribe Rs. 500 for rebuilding of a mosque. Later, he declined to pay the said amount. The agreement is void due to:

- (a) lack of consideration (c) lack of object.
(b) lack of consensus ad idem

23. Agreement without consideration is valid, when made:

- (a) out of love and affection due to near relationship (c) to compensate a person who has already done something voluntarily
(b) in writing to pay a time barred debt (d) all of the above.

24. A Hindu husband by a registered document, after referring to quarrels and disagreements between himself and his wife, promised to pay his wife a sum of Rs. 2,00,000 on their next marriage anniversary. The above contract is:

- (a) void (c) valid
(b) illegal (d) voidable.

25. "No consideration, No Contract, does not apply to completed gifts, i.e., gifts given and accepted.

- (a) True (b) false.

26. Consideration is not necessary to effect a valid Gratuitous Bailment of goods

- (a) True (b) false.

27. No consideration is required to create a contract of agency

- (a) true (b) false.

28. Inadequacy of consideration does not make the contract:

- (a) void (c) neither void nor voidable.
(b) voidable

29. Inadequacy of consideration may be taken into account by the Court to determine whether the consent of promisor was freely given

- (a) True (b) false.

30. Consideration and objects are unlawful when it is:

- (a) fraudulent (c) is immoral and against the public
(b) forbidden by law or defeat any provision of any law (d) all of the above.

31. A person who is not a party to a contract (i.e., a stranger to the contract):

- (a) can sue (c) can sue as an agent of the party
(b) cannot sue (d) both (b) or (c).

32. In which of the following situations, a stranger to contract can file a valid suit:

- (a) beneficiary of a trust (c) acknowledgement of liability, or by
(b) under family settlement in written form past performance thereof
(d) all of the above.

33. Provision of marriage expenses of female members of Joint Hindu Family, entitles the female member to sue for such expenses on a partition between male members:

- (a) true (b) false.

CHAPTER-4 CAPACITY TO CONTRACT

CONTENTS:-

1. WHO IS COMPETENT TO CONTRACT
2. POSITION OF MINOR'S AGREEMENT

1. WHO IS COMPETENT TO MAKE A CONTRACT

SECTION 11: – Every person is competent to contract who is of **age of majority** according to the law to which he is subject, who is of **sound mind** and is **not disqualified from contracting by any law** to which he is subject.

A. AGE OF MAJORITY

According to **Section 3 of Indian Majority Act, 1875** A minor is a person who has not completed **18 years** of age. Every person domiciled in India attains majority on the completion of 18 years of age.

Exceptions : - In the following cases, a person attains majority on completion of 21 years of age:-

1. Where the guardian of a minor is being appointed under Guardians and Wards Act, 1890.
2. Where the superintendence of minor's property is assumed by Court of Wards.

B. SOUND MIND PERSON (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 so 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.

UN SOUND MIND PERSONS

Durnkard

- A contract by drunken person is altogether void.
- Partial or ordinary drunkenness is not sufficient to avoid the contract.

Idiot

- An idiot is a person who is permanently of unsound mind.
- Such a person has no lucid intervals.

Lunatic

- A lunatic is a person who is mentally deranged due to some mental strain or other personal experience. However, he has some intervals of sound mind.
- A patient in lunatic asylum, who is at intervals of sound mind, may contract during those intervals.

C. PERSONS DISQUALIFIED BY LAW

Alien enemy	An Alien enemy is a person who is a citizen of a foreign country which is at war with India.
Contracts during the war	An alien enemy cannot enter into contract during the period of war except a license from the central government.
Contracts entered before war	Contracts entered before war are either dissolved or merely suspended for the period of war and revived after the war is over.
Statutory Corporation	A statutory corporation cannot enter into contracts which are ultra virus its memorandum.
Municipal Bodies	Municipal bodies cannot enter into acts which are beyond their statutory powers.
Sovereign States, Ambassadors & Diplomatic Couriers	These persons enjoy certain special privileges. They cannot be sued in the Indian courts. However, they can enter into contracts and enforce those contracts in Indian Courts.
Convict	A convict cannot enter into contract during the period of imprisonment.
Insolvent	When the person is adjudged insolvent, his property stands vested in the official receiver or official assignee appointed by the court. He cannot enter into contracts in relation to property which is vested to the official assignee or receiver.
A contract with a party incompetent to contract is void ab initio.	

2. POSITION OF MINOR'S AGREEMENT

i. An agreement entered into by or with a minor is void ab initio	A minor is not competent to contract. A minor's contract being void, any money advanced to a minor cannot be recovered. { Mohiri Bibi V. Dharmodas Ghose (1903) }
ii. Minor can be beneficiary	Even if a minor is incapable of contracting, still no law prevents him from taking the benefit under a contract. A promissory note executed in favour of a minor is valid and can be enforced by the minor. A minor can be payee of a cheque or other negotiable instrument.
Minor as a partner	A Minor cannot become a partner in a firm but he can be admitted to the benefits of the partnership with the consent of all partners.(Section 30 of Indian Partnership Act, 1932)
Minor can always plead minority	If a minor by fraudulently representing his age enters into contract, still minor can take the shelter of minority. Example:- A, a minor by fraudulently representing himself to be a major, induce B to lend him Rs.2000. He refused to repay it and B sued him for the money. Held that the contract was void and A was not liable to repay the amount due.

KHAN GUL V. LAKHA SINGH

Lahore High Court held that where the contract is set aside the *status quo ante* should be restored and the court may direct the minor, on equitable grounds, to restore the money or property to the other party. Thus, in such cases, if money could be traced, the court would, on equitable grounds,

ask the minor for restitution.

Sections 30 and 33 of the Specific Relief Act, 1963 provide that in case of a fraudulent misrepresentation of his age by the minor, inducing the other party to enter into a contract, the Court may award compensation to the other party.

Ratification an A minor cannot ratify the agreement on attaining the age of majority as
attaining majority is the original agreement is void-ab-initio and therefore, validity cannot
not allowed is given to it later on.

Example: 'A', a minor makes a promissory note in favour of 'B'. On attaining majority, he makes out a fresh promissory note in lieu of old one. Neither the original, nor the fresh promissory note is valid.

Contract by minor's A contract may be entered into on behalf of a minor by his guardian or
guardian manager of his estate. In such a case the contract can be enforced by or
against the minor provided that the contract

(a) is within the scope of the authority of the guardian or manager, and
(b) is for the benefit of the minor.

Liability for No personal liability of minor but minor's property is liable.
necessaries In order to entitled a supplier to be reimbursed from the minor's estate,
following conditions must be satisfied:-

- A. Goods must be necessaries for that particular minor having regard to his condition in life.
- B. The minor must be in need of those goods both at the time of sale and delivery. { **Nash v. Inman(1908)** }
- C. The minor's estate is not liable only for necessary goods but also for necessary services rendered to him.

Minor as an Agent Minor can be an agent but cannot be held personally liable for
negligence or breach of duty.

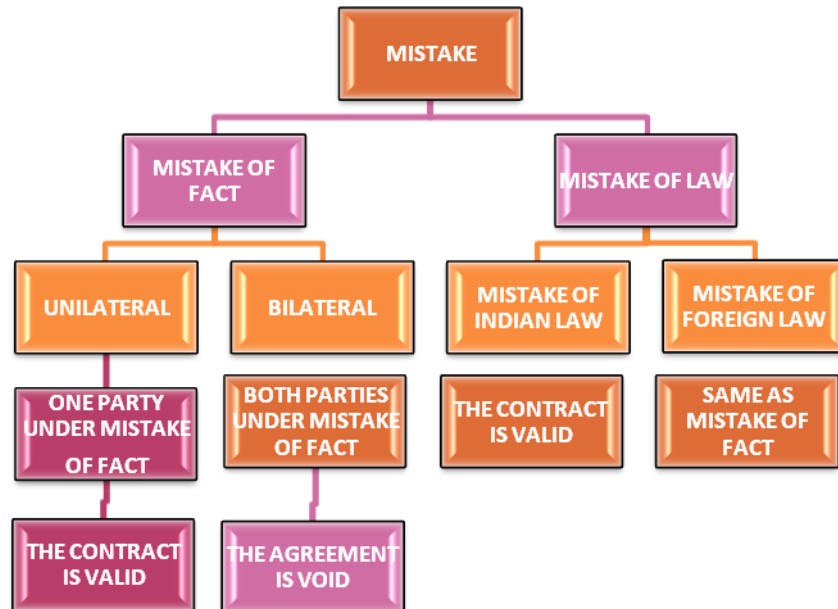
Minor as an Insolvent A minor cannot be adjudicated as insolvent because he is incapable of
contracting.

Exceptions:-1.) Where it is duty of the person to speak.

2.) Where silence itself equivalent to speech.

(d) Misrepresentation | where a person asserts something which is not true though he believes it to be true, his assertion amounts to misrepresentation.

(e)



DM QUESTION BANK
CHAPTER – 5

1. When the consent of a party is not free, the contract is:

- | | |
|--------------|-------------|
| (a) void | (c) valid |
| (b) voidable | (d) illegal |

2. Consent is not said to be free when it is caused by:

- | | |
|---------------------|-------------------|
| (a) coercion | (c) fraud |
| (b) undue influence | (d) all of these. |

3. When the consent of a party is obtained by fraud, the contract is:

- | | |
|--------------|--------------|
| (a) void | (c) valid |
| (b) voidable | (d) illegal. |

4. The threat to commit suicide amounts to:

- | | |
|---------------------|-----------------------|
| (a) coercion | (c) misrepresentation |
| (b) undue influence | (d) fraud. |

5. Moral pressure is involved in the case of:

- | | |
|---------------------|-----------------------|
| (a) coercion | (c) misrepresentation |
| (b) undue influence | (d) fraud. |

6. A wrong representation when made without any intention to deceive the other party amounts to:

- | | |
|---------------------|-----------------------|
| (a) coercion | (c) misrepresentation |
| (b) undue influence | (d) fraud. |

7. Which of the following statements is true?

- | | |
|--|--------------------------------------|
| (a) a threat to commit suicide does not amount to coercion | (c) ignorance of law is no excuse |
| (b) undue influence involves use of physical pressure | (d) silence always amounts to fraud. |

8. A agrees to sell his car worth Rs. 1,00,000 to B for Rs. 20,000 only, and A's consent was obtained by coercion. Here, the agreement is:

- | | |
|-----------|---------------|
| (a) void | (c) voidable |
| (b) valid | (d) unlawful. |

9. Which of the following elements does not affect the free consent of the parties?

- | | |
|--------------|----------------------|
| (a) coercion | (c) in-competency |
| (b) fraud | (d) undue influence. |

10. When the consent of a party is obtained by, coercion, undue influence, fraud or misrepresentation, the contract is:

- | | |
|--------------|--------------|
| (a) void | (c) valid |
| (b) voidable | (d) illegal. |

11. A threatens to kill B if he does not agree to sell his scooter to him for Rs. 1000 only. Here B's consent is obtained by:

- | | |
|---------------------|--------------------|
| (a) undue influence | (c) coercion |
| (b) fraud | (d) none of these. |

12. When the consent to an agreement is obtained by coercion, the agreement is voidable at the option of:

- | | |
|---|--|
| (a) either party to the agreement | (c) the party who obtained the consent |
| (b) the party whose consent was so obtained | (d) none of these. |

13. Where one party is in a position to dominate the will of another and uses his position to obtain the consent of the other party, the consent is said to be obtained by:

- | | |
|---------------------|------------------------|
| (a) coercion | (c) fraud |
| (b) undue influence | (d) misrepresentation. |

14. Which of the following acts does not fall under the categories of fraud?

- | | |
|--|--|
| (a) intentional false statement of facts | (c) innocent false statement |
| (b) active concealment of facts | (d) promise made without intention to perform. |

15. Where the consent of a party is obtained by misrepresentation, the contract is:

- | | |
|-----------|--------------|
| (a) valid | (c) voidable |
| (b) void | (d) illegal. |

16. Which of the following statements is false?

- | | |
|---|--|
| (a) a contract is not voidable if fraud of misrepresentation does not induce the other party to enter into a contract | (c) in case of fraud or misrepresentation, aggrieved party can either rescind or affirm the contract |
| (b) a party cannot complain of fraudulent silence or misrepresentation if he had the means of discovering the truth with ordinary means | (d) a party who affirms the contract, can also change his option afterwards if he so decides. |

17. Where the consent of both the parties is given by mistake, the contract is:

- | | |
|-----------|--------------|
| (a) void | (c) voidable |
| (b) valid | (d) illegal. |

18. As per Section 20, the contract is void on account of bilateral mistake of fact, But as per Section 22, if there is mistake of only one party, then the contract is:

- | | |
|-----------|--------------|
| (a) void | (c) voidable |
| (b) valid | (d) illegal. |

19. A contract made by mistake about the Indian Law, is:

- | | |
|-----------|--------------|
| (a) void | (c) voidable |
| (b) valid | (d) illegal. |

20. A contract made by mistake about some foreign law, is:

- | | |
|-----------|--------------|
| (a) void | (c) voidable |
| (b) valid | (d) illegal. |

21. A mistake as to a law not in force in India has the same affect as:

- | | |
|---------------------------|------------------------|
| (a) mistake of fact | (c) fraud |
| (b) mistake of Indian law | (d) Misrepresentation. |

22. A believes that a particular kind of rice is being sold in the market at Rs. 3,000 /- per quintal and, therefore, sells rice of that kind to B at Rs. 3,000 per quintal. But, in fact, the market price was Rs. 4,000. The contract is:

- (a) valid (c) voidable
(b) void (d) illegal.

23. Threat to commit suicide amounts to:

1. Coercion 2. offence under the Indian Penal Code 3. undue influence
2. Fraud

- (a) 1 & 2 (c) 3 & 4
(b) 2 & 3 (d) 1 & 4.

25. Contract caused by which of the following is voidable:

1. Fraud 2. Misrepresentation 3. Coercion 4. Bilateral Mistake

- (a) 1, 2, 3 (c) 1, 2, 4
(b) 2, 3, 4 (d) 1, 2, 3, 4.

26. Which of the following is a requirement for misrepresentation to exist?

1. Misrepresentation should relate to a material fact.
2. The person making a misrepresentation should believe it to be true
3. It must be made with an intention to deceive the other party
4. The person making a misrepresentation should not believe it to be true

- (a) 1 & 2 (c) 3 & 4
(b) 2 & 3 (d) 1 & 4.

27. A contracts with B to buy a necklace, believing it is made of pearls whereas in fact it is made of imitation pearls. B knows that A is mistaken and takes no steps to correct the error. Now A wants to cancel the contract on the basis of fraud. Which of the following statements is correct?

- (a) A can cancel the contract alleging fraud (c) A can cancel the contract alleging
(b) A cannot cancel the contract undue influence
(d) A can claim damages.

28. A purchased a used computer from B thinking it as a computer imported from USA, B failed to disclose the fact to A. On knowing the fact A wants to repudiate the contract. Which of the following statement(s) is correct?

- (a) A can repudiate the contract on the ground of fraud (c) A cannot repudiate the contract
(b) A can repudiate the contract on the ground of misrepresentation (d) A can repudiate the contract on the ground of mistake.

29. Under Section 13 of the Indian Contract Act "Consent" means agreeing:

- (a) on the same thing (c) at the same time
(b) in the same sense (d) all of the above.

30. "*Consensus-ad-idem*" means:

- (a) general consensus (b) meeting of minds upon the same thing
in the same sense.

32. Consent is not free if affected by:

- (a) Mistake (c) both (a) and (b)
(b) misrepresentation

33. A threatens to shoot B, if B does not agree to sell his property to A at a very low price. B's consent in this case has been obtained by:

- (a) undue influence (c) fraud.
(b) coercion

34. A kidnaps B's son in order to make B enter into an agreement, the agreement is affected by:

- (a) undue influence (c) coercion
(b) fraud.

35. A chartered accountant holds back the books of accounts and other papers of his client and refuses to deliver them until and unless fees. The chartered accountant has applied:

- (a) undue influence (c) coercion
(b) fraud (d) misrepresentation.

36. A contract caused by coercion is:

- (a) valid (c) voidable
(b) void (d) illegal.

37. To make a contract voidable coercion must have been exercised against:

- (a) only the promisor (c) either (a) or (b).
(b) any other person

38. To avoid a contract under "Coercion", the Indian Penal Code should be in force where the coercion is employed.

- (a) true (b) false.

39. A contract is said to be induced by undue influence where the relations subsisting between the parties are such that:

- (a) one of the parties is in an position to dominate the will of the other. (c) either (a) or (b)
(b) the dominant party uses that position to obtain an unfair advantage over the other. (d) both (a) and (b).

40. A person is deemed to be in a position to dominate the will of another if:

- (a) he holds a real or apparent authority over the other (c) he makes a contract with a person whose mental capacity is temporarily or permanently affected by reason of age, illness or mental or bodily distress
(b) he stands in a fiduciary relation to the other (d) all of the above.

41. When the consent is caused by undue influence, the contract is:

- (a) valid (c) voidable
(b) void (d) illegal.

42. If a disciple agrees to gift to his Spiritual Guru, his entire property in return for attainment of salvation, the agreement can be set aside on grounds of:

- (a) coercion (c) fraud
(b) undue influence (d) misrepresentation.

43. Which of the following relationships raise presumption of undue influence?

- (a) parent and child (c) religious / Spiritual Guru and Disciple
(b) guardian and ward (d) all of the above.

44. Which of the following relations raise presumption of undue influence?

- (a) landlord and tenant (c) doctor and patient
(b) husband and wife (d) creditor and debtor.

45. Which of these does not constitute fraud?

- (a) suggestion as a fact, of something which is not true, by a person who does not believe it to be true (c) innocent misstatement, honestly believing the same to be true
(d) promise made without any intention of

(b) active concealment of a fact by one performing it.
having knowledge of belief of the fact

46. An attempt to deceive:

- (a) is not fraud unless the other party is actually deceived (c) amounts to misrepresentation
(b) is fraud whether the other party has been deceived or not (d) amounts to coercion.

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

- (a) true (b) false.

48. Where A says to B, "If you do not deny it, I shall assume that the horse is sound". If the horse is unsound and A says nothing, there is:

- (a) misrepresentation (c) fraud
(b) no fraud (d) undue influence.

49. A sells by auction to B his car which A knows to be having serious defects. B is A's daughter and has just come of age. A is guilty of:

- (a) fraud (c) misrepresentation
(b) undue influence (d) mistake.

50. A contract affected by fraud is:

- (a) void (c) valid
(b) voidable (d) illegal.

51. When the person making a false statement believes the statement to be true and does not intend to mislead the other party to the contract it is known as:

- (a) coercion (c) fraud
(b) misrepresentation (d) mistake.

52. Where consent is caused by misrepresentation, the contract is:

- (a) voidable (c) illegal
(b) void (d) not affected in any manner.

53. Where consent is obtained by misrepresentation, the aggrieved party has the following remedies:

- (a) he can rescind the contract within a reasonable time (c) both (a) and (b)
(b) he can insist on the performance of the contract upon a condition that he shall be put in the position in which he would have been if the representations made had been true (d) neither (a) nor (b).

54. Where consent of the party was caused by misrepresentation but the party had the means to discover the truth with ordinary diligence, the contract is:

- (a) *void-ab-initio* (c) voidable
(b) valid (d) unenforceable.

55. One Blenkarn, knowing that Blenkiron & Co. Were reputed customers of Lindsay & Co. Placed an order with Lindsay & Co. By introducing himself as Blenkiron, the proprietor of Blenkiron & Co. Goods were then sold to Cundy, an innocent buyer. Lindsay & Co. sued Cundy for recovery of goods. In this case:

- (a) Cundy has good title to goods and can (c) Both (a) and (b)

retain them
(b) Sale made by Blenkarn to Cundy is valid
(d) Lindsay never intended to contract with Blenkarn, these was no contract. So, Cundy's title is defective.

56. Unilateral mistake as to a matter of fact renders a contract:

(a) void
(b) voidable at the option of party under mistake
(c) does not affect validity of the contract.

57. If there is an unilateral mistake as regards identity, caused by fraud of the other party, the contract is:

(a) void
(b) voidable
(c) valid
(d) illegal.

58. An old illiterate man with a feeble eye-sight was made to sign a bill of exchange, by means of a false representation that it was a guarantee bond. The bill of exchange constitutes a / an:

(a) valid contract
(b) void-ab-initio agreement
(c) contract voidable at the option of the old man
(d) illegal agreement.

59. 'A' held an auction for the sale of some lots of tow. 'B' thinking that hemp was being sold, bid for a lot of tow for an amount which was out of proportion to it but was a fair price for hemp. The contract is:

(a) void
(b) valid
(c) voidable
(d) illegal.

60. An agreement is void when there is:

(a) mistake of fact by one party
(b) mistake of fact by both the parties
(c) mistake of foreign law
(d) all the above.

61. P wrote to H inquiring price of rifles suggesting that he might buy as many as 50. On receipt of information, he telegraphed, "Send three rifles". Due to telegraphic mistake, message was transmitted as "End the rifles". H dispatched 50 rifles. The agreement is void on account of:

(a) unilateral mistake as to quantity
(b) bilateral mistake as to quantity of the subject matter
(c) bilateral mistake as to quality of the subject matter
(d) (b) and (c).

62. The validity of contract is not affected by:

(a) bilateral mistake of fact
(b) mistake of Indian law
(c) misrepresentation
(d) fraud.

63. Mistake as to Foreign Law is treated in the same manner as:

(a) Mistake of Indian law
(b) Mistake of fact
(c) Misrepresentation
(d) fraud.

CHAPTER-6 LAWFUL CONSIDERATION & OBJECT

CONTENTS:-

1. LAWFUL CONSIDERATION & OBJECT

1. LAWFUL CONSIDERATION OR OBJECT [Section 23]

Consideration or object is **unlawful** if it is: -

- | | |
|--|---|
| A. Forbidden by law | Acts forbidden by law are those which are punishable under any statute as well as those prohibited by regulation or orders made in exercise of the authority conferred by the legislature.
Example:- A promises to drop prosecution which he has instituted against B for robbery and B promises to restore the value of the things taken. The agreement is void, as its object is unlawful.
Example:- A loan granted to the guardian of a minor to enable him to celebrate the minor's marriage in contravention of the Child Marriage Restraint Act is illegal and cannot be recovered back.
Example:- A license to cut the grass is given to X by forest department under Forest Act. The license provides for imposition of penalty in the event of X choosing to assign his right. However if X assigns his right, the agreement would still be valid since there is no prohibition for such assignment as the consideration stipulating penalty is only to regulate the matter of administrative measure. |
| B. Defeat the provisions of any law | The term ' Law ' includes any legislative enactment or rule of the Hindu and Muslim Laws or any other rule for the time being in force in India.
Example:- Agreement in restraint of parental rights is in violation of Hindu Law. |
| C. Fraudulent | Where object or consideration is unlawful on ground of fraud.
Example:- A, B and C enter into agreement for the division among them of gains acquired or to be acquired, by them for fraud. The agreement is void as its object is unlawful. |
| D. Injury to the person or property of another | The general term " injury " means criminal or wrongful harm. Where the object of an agreement is to cause injury to the person or property of another.
Example:- An agreement to print a book in violation of another's copyright is void.
Example:- A borrowed Rs. 1000 from B. A executed a bond promising to work for B without pay for 2 years and in case of default agreed to pay interest at a very exorbitant rate and the principal amount at once. Held, the contract was void (Ram Swaroop v. Bansi) |
| E. Immoral or opposed to the public policy | Example: - Letting house to a prostitute knowingly. |

Partial Illegality :- (Section 24) If any part of a single consideration for one or more objects, or any one or any part of any one of several considerations for a single object, is unlawful, the agreement is void.

Example:-A promises to survive the business on behalf of B, a licensed manufacturer of some permissible chemicals and some contraband items. B promises to pay A a salary of Rs. 100000

per month. The agreement is void, the object of A's promise and the consideration for B's promise being in part unlawful.

DM QUESTION BANK
CHAPTER - 6

1. An agreement the object or consideration of which is unlawful, is:

- | | |
|-----------|-----------------|
| (a) Void | (c) voidable |
| (b) Valid | (d) contingent. |

2. The consideration or object of an agreement is considered unlawful, if it is:

- | | |
|----------------------|-------------------|
| (a) forbidden by law | (c) immoral |
| (b) fraudulent | (d) all of these. |

3. A agrees to pay Rs. 5 lakhs to B, if he (b) procures an employment for A in Income Tax Department. This agreement is:

- | | |
|-----------|-----------------|
| (a) Void | (c) voidable |
| (b) Valid | (d) contingent. |

4. A agrees to pay Rs. 50,000 to B if he kills C. The agreement is:

- | | |
|-----------|--------------|
| (a) void | (c) voidable |
| (b) valid | (d) illegal. |

5. An agreement the object or consideration of which is unlawful, is;

- | | |
|-----------|-----------------|
| (a) valid | (c) voidable |
| (b) void | (d) contingent. |

5. The consideration of an agreement is considered unlawful, if it is:

1. forbidden by law 2. Fraudulent 3. Immoral 4. very expensive

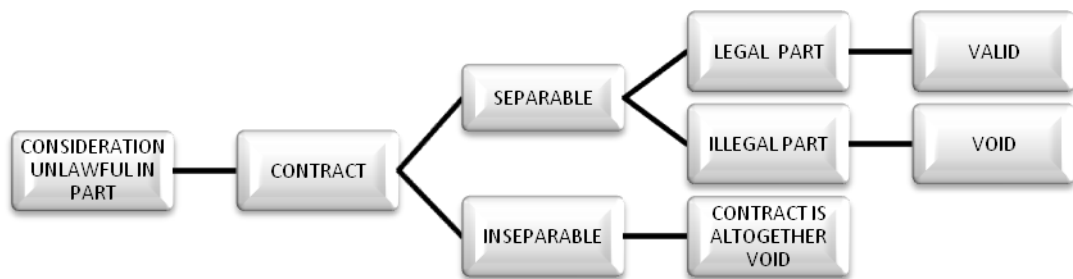
- | | |
|-------------|-----------------|
| (a) 1, 2, 3 | (c) 1, 2, 4 |
| (b) 2, 3, 4 | (d) 1, 2, 3, 4. |

CHAPTER-7 VOID AGREEMENTS

CONTENTS :-

1. AGREEMENTS EXPRESSLY DECLARED VOID

1. AGREEMENTS EXPRESSLY DECLARED VOID
Agreements by incompetent parties (Sec. 11)
Agreements with unlawful object or consideration (Sec. 23)
Agreement made under mutual mistake of fact (Sec. 20)
Agreements without consideration (Sec. 25)
Agreements in restraint of marriage, trade or legal proceedings etc.
Agreements to do impossible Acts (Sec. 56)
Example:- An agreement to discover treasure by magic is void.



- ❖ **Uncertain meaning** – An agreement the meaning of which is not certain is void but where the meaning thereof is capable of being made certain, the agreement is valid. **(Sec. 29)**

Example:- A agrees to sell 100 tons of oil @ Rs. 2000 per ton to B. The agreement is void on ground of uncertainty because in which type of oil they are dealing is not clear.

- ❖ **Wagering agreement** – It is an agreement involving payment of a sum of money upon the determination of an uncertain event. An agreement by way of wager is void.



No party have control over the event.

Collateral transactions are valid.

➔ **Speculative transactions are generally valid**

Elements:-

- Mutual intention of contracting parties to acquire or deliver the commodities.
- The undertaking or risk arising from movement in prices.

AGREEMENTS OPPOSED TO THE PUBLIC POLICY

These are the agreements which are against the moral laws of the society and contravenes any established interest of society. Following agreements are opposed to the public policy:-

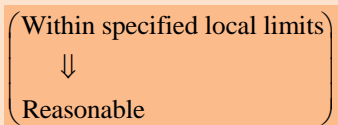
- | | |
|------------------------|---|
| (a) Trading with enemy | Any trade with person owing allegiance to a Government at war with India without the license of the Government of India is void, as the object is opposed to public policy. |
|------------------------|---|

(b) Stifling prosecution	<p>An agreement to stifle prosecution tends to be a preservation or an abuse of justice; therefore, such an agreement is void. The principle is that one should not make a trade of felony (crime). One should not convert a crime into a source of profit.</p> <ul style="list-style-type: none"> ✚ Compromise of public offence is illegal. ✚ To drop uncompoundable offence without permission of court. <p>Example:- A knew that B has committed a crime. He obtains a promise from B to pay him Rs. 20000 in consideration of not exposing B. This is a case of stifling prosecution & therefore illegal & void.</p>	
(c) Champerty & maintenance	Maintenance	<p>It is the promotion of litigation in which one had no interest.</p> <p>Example:- A promises to pay B a sum of Rs. 10000 if B filed a suit against C in the court. This agreement is in the nature of maintenance and hence void.</p>
	Champerty	<p>It is bargain whereby one party agrees to assist the other in recovering property, with a view to sharing the profits of litigation.</p> <p>Example:- An agreement to give assistance (monetary or otherwise) to another person to recover the property by legal action and to share the proceeds of litigation is a champertous agreement.</p>
(d) Interference with the course of justice	<p>An agreement whose object is to induce any judicial officer of the state to act partially or corruptly is void.</p>	
(e) Marriage brokerage contracts	<p>An agreement to negotiate marriage for reward, which is known as a marriage brokerage contract, is void, as it is opposed to public policy.</p> <p>For Example:- An agreement to pay money to a person hired to procure a wife is opposed to public policy and therefore void.</p>	
(f) Interest (benefit) against obligation	<p>Taking a benefit against the obligation.</p> <p>Example:- A, who is the manager of a firm, agrees to pass a contract to X if X pays to A Rs. 20000 privately; the agreement is void.</p>	
(g) Sale of public office	<ul style="list-style-type: none"> ✚ Bribe for appointment in a public office as it interferes with the appointment of a person best qualified for the service of public. ✚ An agreement to pay money to a public servant in order to induce him to retire from his office so that another person may secure the appointment is void. ✚ An agreement to procure a public recognition like Padma Vibhushan for reward is void. 	
(h) Agreements for creation of monopolies void	<p>Agreements having their object the establishment of monopolies are opposed to the public policy and hence void. It is also hit by MRTP Act.</p> <p>Example:- A local body granted a monopoly to A to sell vegetables in a particular locality. Held that the agreement was void.</p>	
(i) Agreement in restraint of marriage	<p>Every agreement in restraint of marriage of any person, other than a minor, is void (Sec. 26).</p> <p>Example:- A promised to marry no one else except Miss B and in default pay her a sum of Rs. 100000. A married some one else and B sued A for recovery of the sum. Held, the contract was in restraint of marriage, and as such void.</p>	

(j) Agreement in restraint of trade An agreement by which any person is restraint from exercising a lawful profession, trade or business of any kind, is to that extent void.

Exceptions

(i) Sale of goodwill



(ii) An agreement among the sellers of a particular commodity not to sell the commodity for less than a fixed price is not an agreement in restraint of trade.

(iii) An agreement between partners not to carry on competing business during the continuance of partnership is valid. (**Section 11 of Indian Partnership Act, 1932**)

(iv) Agreement with outgoing partner not to carry on competing business for a reasonable time will be valid.(**Section 36 of Indian Partnership Act, 1932**)

(v) An agreement of service by which an employee binds himself, during the term of his agreement, not to complete with his employer is not in restraint of trade.

Example:- B, a physician and surgeon, employs A as an assistant for a term of three years and A agrees not to practice as a surgeon and physician during these three years. The agreement is valid and A can be restrained by an injunction if he starts independent practice during this period.

(vi) An agreement by a manufacturer to sell during a certain period his entire production to a wholesale merchant is not in restraint of trade.

(k) Agreement in restraint of legal proceedings It is one by which any party thereto is restricted absolutely from enforcing his rights under a contract through a court or which abridges the usual period for starting legal proceedings. It is void.

➤ **Exceptions –**

- ◆ Settlement of dispute through arbitration.
- ◆ Question already arisen or which may arise in future refer to arbitration
→such a contract must be in writing.

DM QUESTION BANK
CHAPTER – 7

1. An agreement is void if it is opposed to public policy. Which of the following is not covered by heads of public policy?

- | | |
|-----------------------------------|--------------------------------------|
| (a) trading with an enemy | (c) marriage brokerage contracts |
| (b) trafficking in public offices | (d) contracts to do impossible acts. |

2. An agreement in restraint of marriage, i.e., which prevents a person from marrying, is:

- | | |
|--------------|-----------------|
| (a) valid | (c) void |
| (b) voidable | (d) contingent. |

3. An agreement in restraint of marriage is valid in case of following persons:

- | | |
|--------------|--------------------|
| (a) minors. | (c) Handicapped |
| (b) Educated | (d) none of these. |

4. An agreement, which prevents a person from carrying a lawful business, is:

- | | |
|-----------|-----------------|
| (a) Valid | (c) Voidable |
| (b) Void | (d) contingent. |

5. An agreement in restraint of legal proceeding is void. It does not cover an agreement which:

- | | |
|--|--|
| (a) restricts absolutely the parties from enforcing their legal rights | (c) discharges a party from liability or extinguishes the right of a party |
| (b) cuts short the period of limitation | (d) provides for a reference to arbitration instead of court of law. |

6. An agreement to pay money or money's worth on the happening or non-happening of a specified uncertain event, is a:

- | | |
|--------------------------|--------------------------|
| (a) wagering agreement | (c) quasi contract |
| (b) contingent agreement | (d) uncertain agreement. |

7. A sells the goodwill of his business to B and agrees with him to refrain from carrying on a similar business within specified local limits. This contract is:

- | | |
|-----------|--------------|
| (a) Valid | (c) voidable |
| (b) void | (d) illegal. |

8. R, an optical surgeon, employs S as the assistant for a term of three years and S agrees not to practice as a surgeon during this period. This contract is:

- | | |
|-----------|--------------|
| (a) Valid | (c) voidable |
| (b) void | (d) illegal. |

9. A agrees to pay Rs. 500 to B if it rains, and B promises to pay a like amount to A if it does not rain, this agreement is called:

- | | |
|-------------------------|------------------------|
| (a) quasi contract | (c) wagering agreement |
| (b) contingent contract | (d) voidable contract. |

10. Which of the following are covered under the heads Agreements Opposed to Public Policy?

1. Trading with enemy 2. Trafficking in Public Offices 3. Marriage Brokerage Contracts
2. Contracts to do impossible acts

- | | |
|-------------|-----------------|
| (a) 1, 2, 3 | (c) 1, 2, 4 |
| (b) 2, 3, 4 | (d) 1, 2, 3, 4. |

11. G paid Rs. 1,00,000 to H to influence the head of the Government Organization in order to provide him some employment. On his failure to provide the job, G sued H for recovery of the amount. Which of the following is correct?

- | | |
|---|---|
| (a) the contract is valid and G can recover the amount from H | (c) G can recover the amount with interest |
| (b) the contract is void as it is opposed to public policy and G cannot recover | (d) G can recover the amount of Rs. 1,00,000 and damages. |

12. 'A' promises to drop prosecution which he has instituted against 'B' for robbery. 'B' promises to restore value of things taken. The agreement is:

- | | |
|----------------|--------------|
| (a) contingent | (c) voidable |
| (b) valid | (d) void. |

13. 'A' estate is sold for arrears of revenue. As per the Income Tax, the defaulter is prohibited from purchasing it. 'B' agrees with 'A' to purchase the estate and convey it back to 'A' for the price which 'B' may pay. The agreement is:

- | | |
|-----------|--------------|
| (a) legal | (c) voidable |
| (b) valid | (d) void. |

14. A, B and C enter into an agreement for sharing the gains acquired by fraud. This agreement is

- | | |
|----------------|---------------|
| (a) Contingent | (c) void |
| (b) valid | (d) voidable. |

15. 'A' gave a loan to the guardian of a minor to enable him to celebrate the minor's marriage in contravention of Child Marriage Restraint Act. The agreement between 'A' and 'Guardian of Minor' is:

- | | |
|-----------|---------------|
| (a) Valid | (c) voidable. |
| (b) Void | |

16. If illegal part of a contract can be severed from legal part, the contract is:

- | | |
|--|-----------------|
| (a) void in respect of illegal part only | (c) fully void. |
| (b) altogether void | |

17. Agreement, part of the consideration or object of which is unlawful and the unlawful objects cannot be separated from the lawful objects, is:

- | | |
|-----------|--------------|
| (a) Legal | (c) voidable |
| (b) Void | (d) valid. |

18. An agreement in restraint of trade is:

- | | |
|-----------|---------------|
| (a) Void | (c) illegal |
| (b) Valid | (d) voidable. |

19. Section ____ of the Indian Contract Act deals with "Agreements in restraint of trade":

- | | |
|--------|---------|
| (a) 26 | (c) 28 |
| (b) 27 | (d) 29. |

20. In Patna, 29 out of 30 manufacturers of combs agreed with R to supply combs only to him and not to any one else. Under the agreement R was free to reject the goods if he found no market for them. The agreement is:

- | | |
|-----------|---------------|
| (a) Valid | (c) illegal |
| (b) Void | (d) voidable. |

21. K, an employee of a Chennai based company, agreed not to employ himself in a similar business within a distance of 800 miles from Chennai after leaving the company's service. The agreement is void on ground of being:

- | | |
|--|--|
| (a) an agreement without consideration | (c) an agreement in restraint of trade |
| (b) an uncertain agreement | (d) all of the above. |

22. In which of the following agreements, Restraint of Trade is valid?

- | | |
|---|--|
| (a) agreement with Buyer of Goodwill | (c) Agreements under the Partnership Act, 1932 |
| (b) trade combinations, to the extent they do not create monopoly of opposed to public policy | (d) All of the above. |

23. S, a seller of imitation jewellery, sells his business to B and promises, not to carry on business in imitation jewellery and real jewellery. The agreement is:

- | | |
|--|------------------|
| (a) valid with regard to imitation jewellery; and void as regards real jewellery | (c) wholly void |
| (b) void with regard to imitation jewellery; and valid as regards real jewellery | (d) fully valid. |

24. Doctors may be paid non practicing allowances to avoid practicing when they are employed in a hospital. Such agreement is:

- | | |
|-----------|-------------------|
| (a) valid | (c) unenforceable |
| (b) void | (d) voidable. |

25. Where an employee enters into an agreement with his employer not to engage in similar work after the termination of his service, the agreement is:

- | | |
|-----------|-----------------|
| (a) valid | (c) enforceable |
| (b) void | (d) voidable. |

26. Which of the following agreements in restraint of trade is valid?

- | | |
|--|---|
| (a) partner not to carry on any business other than that of the firm while he is a partner | (c) not to carry on similar business within specified periods or local limits, upon or in anticipation of dissolution of firm |
| (b) outgoing Partner not to carry on any business similar to Firm's within specified periods or local limits | (d) all of the above. |

27. Section 28 of the Indian Contract Act deals with:

- | | |
|---|--|
| (a) agreement in restraint of legal proceedings | (c) agreement in restraint of marriage |
| (b) agreement in restraint of trade | (d) agreement to agree in future. |

28. Any agreement which limits the time within which any party thereto may enforce his rights by way of legal proceedings in the Ordinary Tribunals / Courts is:

- | | |
|-----------------|------------|
| (a) voidable | (c) void |
| (b) enforceable | (d) valid. |

29. Two or more parties may agree that:

- | | |
|---|--------------------------|
| (a) any dispute which may arise between them as regards any subject(s) shall be referred to arbitration | (c) both (a) and (b) |
| | (d) neither (a) nor (b). |

(b) the parties will not question the award of the arbitrator

30. An agreement to refer the dispute to the arbitrator is valid in respect of disputes:

- (a) already arisen (c) neither (a) nor (b)
(b) which may arise in future (d) both (a) and (b).

31. A promise to give money or money's worth upon the determination or ascertainment of an uncertain event is called:

- (a) wagering agreement (c) illegal agreement
(b) unlawful agreement (d) voidable agreement

32. In a wagering agreement, there is a promise to perform an act based on a / an:

- (a) certain event (c) either (a) or (b)
(b) uncertain event (d) both (a) and (b).

33. In a wagering agreement, uncertainty may be due to:

- (a) the event is yet to take place (c) either (a) or (b)
(b) the event might have already happened (d) both (a) and (b).
but the parties are not aware of its results

34. In a wagering agreement, each party should stand to win or lose.

- (a) True (b) false.

35. If either of the parties may win but cannot lose, or both may lose and cannot win, it is:

- (a) a wagering agreement (c) a voidable agreement
(b) not a wagering agreement (d) an illegal agreement.

36. To constitute wager, the promise should be to pay money or money's worth only.

- (a) True (b) false.

37. An agreement by way of wager is:

- (a) valid and enforceable by law (c) voidable
(b) void (d) immoral.

38. A 'wagering agreement' is void under Section ____ of the Indian Contract Act, 1872.

- (a) 28 (c) 30
(b) 29 (d) 31

39. Wagering agreements have been declared illegal in:

- (a) Gujarat (c) both (a) and (b)
(b) Maharashtra (d) neither (a) nor (b).

40. In India, unauthorized lottery is:

- (a) Illegal (c) both (a) and (b)
(b) Void (d) neither (a) nor (b).

41. A, in Mumbai, bets with B and loses. A applies to C for a loan in order to pay B. C gives the loan to A knowing the purpose. In this case:

- (a) C can recover the amount of loan from A (c) C can recover the amount from B
(b) C cannot recover the amount of loan from A (d) C can recover the amount from A or B

42. Prize competitions, insurance contracts, etc. are not wagering agreements.

- (a) True (b) false.

43. Transactions for sale and purchase of stocks and shares or for sale and delivery of goods with a clear intention only to settle the price difference are:

- | | | | |
|-----|-------------------------|-----|----------------------|
| (a) | wagering agreements | (c) | contingent contract |
| (b) | not wagering agreements | (d) | voidable agreements. |

44. As per the Prize Competition Act, 1955, prize competitions in games of skill are not wagers provided the prize money does not exceed.

- | | |
|-------------|-----------------|
| (a) Rs. 100 | (c) Rs. 1,000 |
| (b) Rs. 500 | (d) Rs. 10,000. |

45. An agreement to contribute a plate or prize of the value of Rs. 5,000 to be awarded to the winner of a horse race is:

- | | |
|--------------|--------------------|
| (a) voidable | (c) valid |
| (b) void | (d) unenforceable. |

46. In case of Government authorized lotteries, sale of lottery ticket confers on the purchaser thereof:

- | | |
|---|--------------------------|
| (a) a right to participate in the draw | (c) both (a) and (b) |
| (b) a right to claim a prize contingent upon his being successful in the draw | (d) neither (a) nor (b). |

47. If the consideration or object of an agreement is regarded by the Court to be immoral or opposed to public policy, the agreement is:

- | | |
|--------------|--------------|
| (a) Void | (c) valid |
| (b) voidable | (d) illegal. |

48. Which of these are opposed to public policy?

- | | |
|-----------------------------------|---|
| (a) restraint of marriage | (c) interference with course of justice |
| (b) restraint of personal liberty | (d) all of the above. |

49. A promise to indemnify a firm of printers and publishers of a paper against consequences of publishing a libel:

- | | |
|---|--|
| (a) cannot be enforced. The firm has to pay damages for libel | (c) can be set aside |
| (b) can be enforced. The firm need not pay damages for libel | (d) can be considered voidable at the option of the indemnifier. |

50. Where a person agrees to maintain a suit, in which he has no interest, the proceeding is known as:

- | | |
|-----------------|--|
| (a) champerty | (c) stifling with prosecution |
| (b) maintenance | (d) interference with course of justice. |

51. An agreement whereby one party assists another in recovering money or property and, in turn share in the proceeds of the action is called:

- | | |
|-----------------|--|
| (a) champerty | (c) stifling with prosecution |
| (b) maintenance | (d) interference with course of justice. |

52. K, father of two minor sons, agreed to transfer their guardianship in favour of Mrs. A and agreed not to revoke it. Subsequently, he filed suit for recovery of boys and a declaration that he was the rightful guardian. In this case:

- | | |
|---|--|
| (a) K has the right to revoke his authority and get back the children | (c) K's agreement is void because both his sons were minors |
| (b) K does not have the right to revoke his authority and get back the children | (d) K's agreement is valid but not enforceable since consideration is not given. |

53. Marriage brokerage contracts are:

- | | | | |
|-----|-------------|-----|-----------|
| (a) | enforceable | (c) | void |
| (b) | valid | (d) | voidable. |

54. An agreement in which a person promises, for a monetary consideration, to procure the marriage of another is:

- | | | | |
|-----|-------------|-----|-----------|
| (a) | enforceable | (c) | valid |
| (b) | void | (d) | voidable. |

55. A promises to pay B Rs. 50,000 if B procures him the title "Padma Shri". The agreement is:

- | | | | |
|-----|-------------|-----|-----------|
| (a) | enforceable | (c) | void |
| (b) | valid | (d) | voidable. |

56. A promises to pay B Rs. 10 lakhs to retire from the job in order to make room for A's appointment to the public office held by B. The agreement is;

- | | | | |
|-----|-------|-----|-------------|
| (a) | Void | (c) | enforceable |
| (b) | Valid | (d) | voidable. |

57. An agreement to remain unmarried is:

- | | | | |
|-----|-------|-----|--------------|
| (a) | Valid | (c) | voidable |
| (b) | Void | (d) | enforceable. |

58. Any restraint of marriage, whether total or partial is:

- | | | | |
|-----|--------------------------|-----|----------------------|
| (a) | Void | (c) | both (a) and (b) |
| (b) | opposed to public policy | (d) | neither (a) nor (b). |

CHAPTER-8 PERFORMANCE OF CONTRACT

CONTENTS :-

1. PERFORMANCE OF CONTRACTS
2. BY WHOM CONTRACT MAY BE PERFORMED
3. SUCCESSION & ASSIGNMENT
4. EFFECT OF REFUSAL TO ACCEPT OFFER OF PERFORMANCE
5. EFFECT OF REFUSAL OF PARTY TO PERFORM PROMISE
6. LIABILITY OF JOINT PROMISORS
7. RIGHTS OF JOINT PROMISEES
8. TIME & PLACE FOR PERFORMANCE OF THE PROMISE
9. PERFORMANCE OF RECIPROCAL PROMISE
10. EFFECT OF FAILURE TO PERFORM AT A TIME FIXED IN A CONTRACT IN WHICH TIME IS ESSENTIAL
11. IMPOSSIBILITY OF PERFORMANCE
12. APPROPRIATION OF PAYMENTS
13. CONTRACTS WHICH NEED NOT BE PERFORMED
14. RESTORATION OF BENEFIT UNDER A VOIDABLE CONTRACT
15. OBLIGATION OF PERSON WHO HAS RECEIVED ADVANTAGE UNDER VOID AGREEMENT OR ONE BECOMING VOID
16. DISCHARGE OF CONTRACT

1. PERFORMANCE OF CONTRACTS [Section 37]

The parties to a contract must either perform, or offer to perform their respective promises unless such performance is dispensed with or excused under the provisions of the contract act or any other law.

Promises bind the representatives of the promisor in case of death of such promisor before performance, unless a contrary intention appears from the contract.

2. BY WHOM CONTRACT MAY BE PERFORMED

Promisor himself	If there is something in the contract to show that it was intention of the parties that the promise should be performed by the promisor himself, such promise must be performed by the promisor. This means contracts which involves the exercise of personal skill & diligence or which are founded on personal confidence between the parties must be performed by the promisor himself.
Agent	Where personal consideration is not the foundation of the contract, the promisor or his representative may employ a competent person to perform it.
Representatives	A contract which involves the use of personal skill or is founded on personal consideration comes to an end on the death of the promisor. As regards any other contract, the legal representatives of the deceased promisor are bound to perform it unless a contrary intention appears from the contract. But their liability under a contract is limited to the value of the property they inherited from the deceased.
Third persons	Where the promisee accepts performance of the promise from a third person, he cannot afterwards enforce it against the promisor.
Joint promisors	When two or more persons have made a joint promise, then unless a contrary intention appears from the contract, all such persons must jointly fulfill the promise. If any of them dies, his legal representatives must, jointly with the

surviving promisors, fulfill the promise. If all of them dies, the legal representatives of all of them must fulfill the promise jointly (**Sec.42**).

3. SUCCESSION & ASSIGNMENT

(a) Succession

When the benefits of a contract are succeeded to by process of law, then both burden and benefits attaching to the contract, may sometimes devolve on legal heir.

(b) Assignment

Benefits of a contract can only be assigned but not the liabilities there under.

4. EFFECT OF REFUSAL TO ACCEPT OFFER OF PERFORMANCE [Section 38]

When the promisor has made an offer of performance to the promisee, and the offer has not been accepted then the promisor is not responsible for non-performance, nor does he thereby lose his rights under the contract.

Conditions: -

- ✚ It must be **unconditional**.
- ✚ It must be made at **proper time and place**.
- ✚ If the offer is to deliver **anything** to the promisee, promisee must have **reasonable opportunity to check the goods**.
- **An offer to one of the several promisees will have same legal consequences as an offer to all of them.**

5. EFFECT OF REFUSAL OF PARTY TO PERFORM PROMISE [Section 39]

When a party to a contract has **refused to perform** or has **disabled himself from performing his promise** in entirety, the promisor may put an end to the contract, unless he has signified by words or conduct, his acquiescence in its continuance.

❖ Rights to the aggrieved party

- ✚ To terminate the contract.
- ✚ To indicate, by words or by conduct, that he is interested in his continuance.
- ✚ Right to claim damages.

6. LIABILITY OF JOINT PROMISORS

- ✚ Promisee may compel any one or more of such joint promisors to perform the whole of the promise.
- ✚ If one of the joint promisors is made to perform the whole contract, he can call for a contribution from others.
- ✚ If any of the joint promisors make a default in making his contribution the remaining joint promisors must bear the loss arising from such default in equal shares.

7. RIGHTS OF JOINT PROMISEES

- ✚ All of them jointly have right to claim performance.
- ✚ If any one of joint promisees dies, Survival promisee + Representatives of deceased promisee.
- ✚ If all of them dies. Representatives of deceased promises.

8. TIME & PLACE FOR PERFORMANCE OF THE PROMISE

- ✚ No time specified for performance of promise, promise must be performed within reasonable time.

- ✚ If promise is to be performed on a specified date but hour is not mentioned, the promisor may perform it any time during the usual hours of business, on such day .
- ✚ Delivery must be made at the usual place of business.
- ✚ When no place is fixed for performance of promise, it is the duty of the promisor to ask promisee to fix a reasonable place for the performance of promise.
- ✚ When the promisor has not undertaken to perform the promise without an application by the promisee and the promise is to be performed on a certain day, it is the duty of the promisee to apply for performance at a proper place and within the usual hours of business.

9. PERFORMANCE OF RECIPROCAL PROMISES

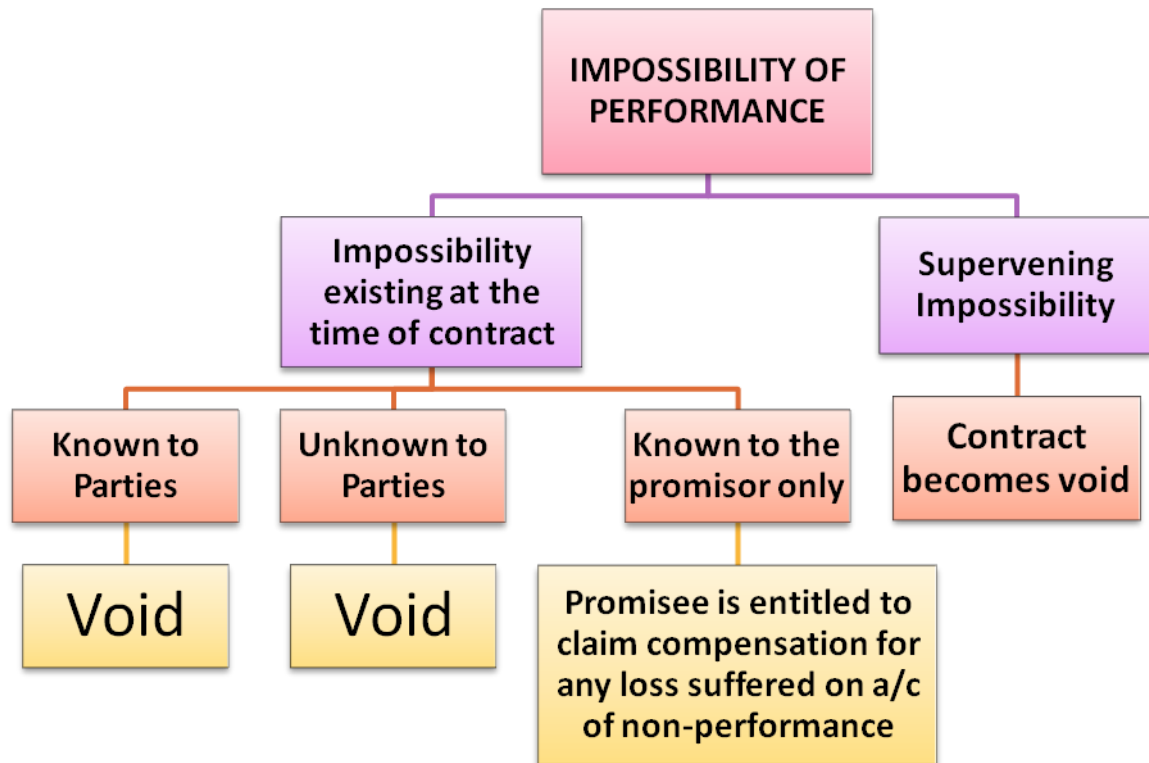
- ✚ **Reciprocal Promises** When a contract consists of two promises, one being consideration for the other, such promises are called Reciprocal promises.
Example – A promises to deliver 500 quintals of rice and B promises to pay the price on delivery, the contract would consist of reciprocal promises.
- ✚ **Simultaneous performance of Reciprocal promises** Reciprocal promises may have to be performed simultaneously or one after another.
Example – Where A promises to deliver 500 quintals of rice and B promises to pay the price on delivery, both the promises are to be performed simultaneously.
- ✚ **Performance of Reciprocal promises where order of performance is expressly fixed** When the order of performance of the reciprocal promises is expressly fixed by the contract, they must be performed in that order.
Example – A and B contract that A shall build a house for B at a fixed price. A's promise to build the house must be performed before B can be called upon to perform the promise to pay for it.
- ✚ **Performance of Reciprocal promises when the order of performance is fixed by implication** The order of performance may sometimes be indicated not expressly, but by the nature of the transaction.
Ex – A promises to make over stock for B and B promises to give security for the payment of price. A's promise to make over stock need not be performed until the security is given by B.
- Effect of one party preventing other from performing promise**
 - Contract become voidable
 - Another party is entitled to claim compensation on A/c of by suffered due to non-performance.
- ✚ **Reciprocal promise to do certain things that are legal** → contract, and also some other things that are illegal → Void Agreement

10. EFFECT OF FAILURE TO PERFORM AT A TIME FIXED IN A CONTRACT IN WHICH TIME IS ESSENTIAL

- ✚ Where time is essential and the party fails to perform promise at or before specified time, the contract becomes voidable at the option of the promisee.
- ✚ Where time is not essential, the contract cannot be avoided on the ground that time for performance has expired. The promisee is only entitled to compensation from the promisor for any loss caused by delay.
- ✚ But it must be remembered that even where the time is not essential it must be performed within a reasonable time otherwise it becomes voidable at the option of the promisee.

✚ Where time is essential, promisor fails to perform within time & promisee accept the performance, he cannot claim compensation for non-performance at time agreed unless notice of intention to claim compensation is given.

11.



12. APPROPRIATION OF PAYMENTS

Appropriation by Debtor	Appropriation of payment where debt to be discharged is indicated by debtor, payment, if accepted, must be applied accordingly. Latin maxim Quickquid soivitur, sovitur secundum modum solventis.
Appropriation by Creditor	Appropriation of payment where debt to be discharged is not indicated by debtor, creditor is entitled to appropriate it to the debt first in time.
Appropriation by Time	Where neither party appropriates ,Payment shall be applied in discharge of the debts in order of time, where they are time barred or not. If debts are equal standing, the payment shall be applied in discharge of each proportionately.

13. CONTRACTS WHICH NEED NOT BE PERFORMED

1. Novation	When parties to a contract substitute a new contract for old . On novation, old contract is discharged and consequently it need not to be performed. There may be change in parties.
2. Rescission	When parties to a contract agree to rescind it, the contract need not be performed. In this case, only old contract is cancelled no new contract is formed .
3. Alteration	Where parties to a contract agrees to alter it, the original contract is rescinded, with the remit that it need not be performed.
	<ul style="list-style-type: none"> • No change in parties to the contract. • Change in terms &

conditions of original agreement.

4. Waiver or Remit of performance by promise

Promisee can dispense with performance without consideration and without a new contract or may extend the time of performance.

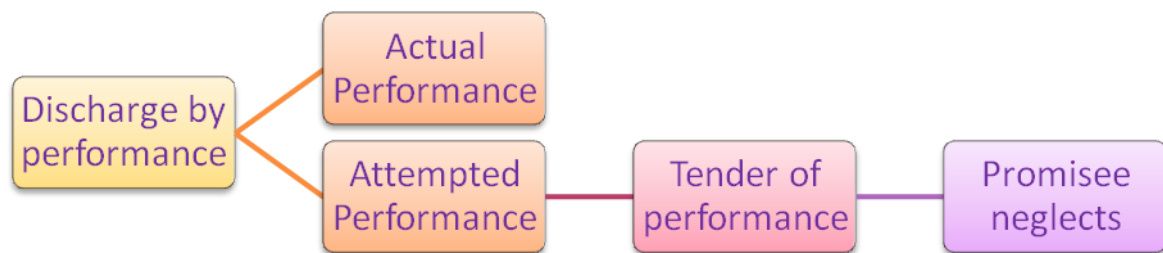
14. RESTORATION OF BENEFIT UNDER A VOIDABLE CONTRACT

If the person at whose option contract was voidable has rescind the contract, he shall **restore the benefit** (either return the goods the goods or pay for it) received there under from another party to such contract, to the person from whom it was received.

15. OBLIGATION OF PERSON WHO HAS RECEIVED ADVANTAGE UNDER VOID AGREEMENT OR ONE BECOMING VOID

When an agreement is discovered to be void or when a contract becomes void, any person who received any advantage under such agreement or contract must restore it, make compensation for it to the person from whom he received it. (**Either restore back the advantage received or pay compensation for it**)

16. DISCHARGE OF CONTRACT



Discharge by mutual agreement – Novation, Alteration, Rescission, Remission

Discharge by impossibility of performance.

Discharge of lapse of time e.g. Time barred debt under Indian Limitation Act, 1963

Discharge by operation of law such as by death of promisor, by insolvency, merger, material alteration etc.

Discharge by breach of contract

Actual Breach of Contract

Anticipatory Breach of Contract

Breach of contract at time of performance

Breach of contract before time of performance

Where promisee neglects or refuses to afford the promisor reasonable facilities for performance of promise.

DM QUESTION BANK
CHAPTER - 8

1. On the valid performance of the contractual obligations by the parties, the contract:

- | | |
|-------------------------|--------------------|
| (a) is discharged | (c) becomes void |
| (b) becomes enforceable | (d) none of these. |

2. Which of the following persons can perform the contract?

- | | |
|---------------------------------------|---------------------------|
| (a) promisor alone | (c) agent of the promisor |
| (b) legal representatives of promisor | (d) all of these. |

3. A, B and C jointly promised to pay Rs. 60,000 to D. A was compelled by D to pay the entire amount of Rs. 60,000. Here:

- | | |
|--|--|
| (a) A can file a suit against D for recovery of amount exceeding his share | (c) on payment by A, the contract is discharged and B and C are also not liable to A |
| (b) A is entitled to recover Rs. 20,000 each from B and C | (d) D is not justified here, and is liable to refund the entire amount to A. |

4. In commercial transactions, time is considered to be of the essence of the contract, and if the party fails to perform the contract within specified time, the contract becomes:

- | | |
|---|--|
| (a) voidable at the option of the other party | (c) illegal for non-compliance of legal terms. |
| (b) void and cannot be enforced | |

5. Where the performance of a promise by one party depends on the prior performance of promise by the other party, such reciprocal promises fall under the category of:

- | | |
|---------------------------|----------------------------|
| (a) mutual and concurrent | (c) mutual and independent |
| (b) mutual and dependent | (d) both (a) and (b). |

6. Suppose the time fixed for performance of the contract has expired but the time is not essential. What is the remedy of the promisee in the circumstances?

- | | |
|------------------------------|--------------------------|
| (a) can rescind the contract | (c) no remedy available |
| (b) to claim compensation | (d) can't be determined. |

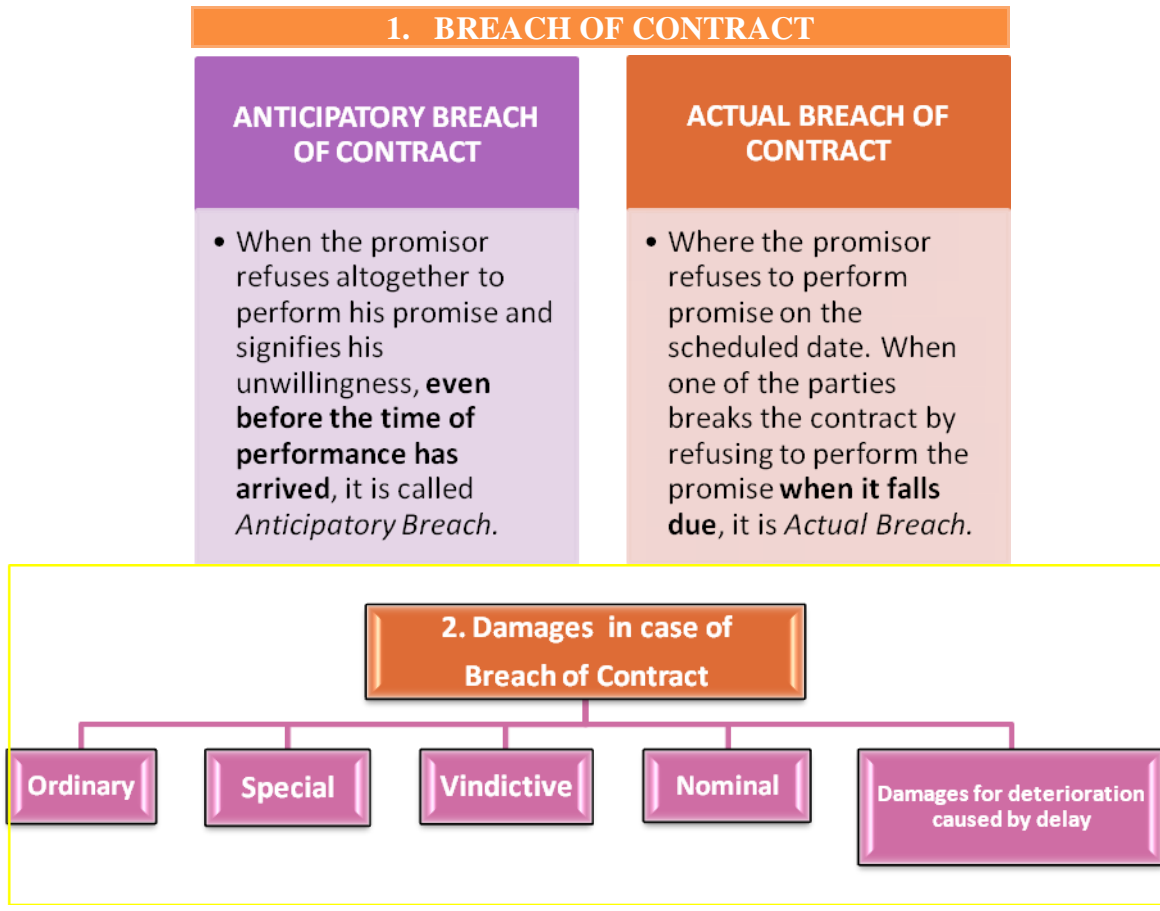
7. 'A', 'B' and 'C' jointly borrowed Rs. 2,00,000 from 'D' by executing a promissory note. 'B' and 'C' are not traceable. 'D' wants to recover the entire amount from 'A'. 'A' objected this move by saying he is liable to pay 1 / 3rd of the debt only. Which of the following statement(s) is correct?

- | | |
|---|---|
| (a) 'D' can recover the entire amount from 'A' | (c) 'D' cannot recover any amount from 'A' |
| (b) 'D' can only recover 1/3 rd of Rs. 2,00,000 from 'A' | (d) the promissory note is not executable against 'A' as 'B' and 'C' are not traceable. |

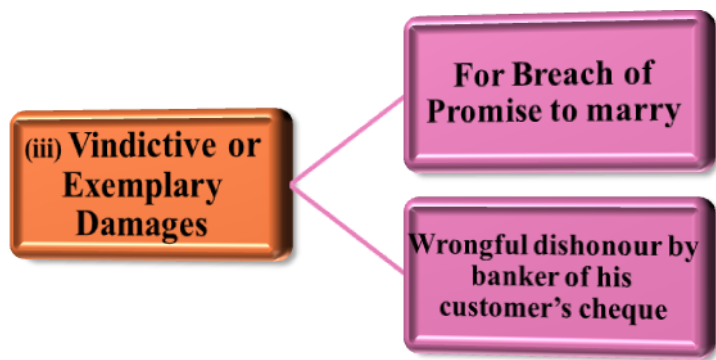
CHAPTER-9 BREACH OF CONTRACT

CONTENTS :-

1. BREACH OF CONTRACT
2. DAMAGES IN CASE OF BREACH OF CONTRACT
3. HOW TO CALCULATE THE DAMAGE
4. REMEDIES FOR BREACH OF CONTRACT



- | | |
|----------------------------|---|
| i. Normal Damages | Compensation for any loss or damage which arises naturally in the normal course of events. Ordinary damages are calculated by measuring the difference between the contract price and market price on the date of breach. |
| ii. Special Damages | Where party to a contract receives a notice of special circumstances affecting the contract, he will also liable for special damages. |



(iv) Nominal Damages These damages are awarded where the plaintiff has proved that there has been breach of contract but he has not in fact suffered any real damage.
 These damages are awarded just to establish right to decree for breach of contract.
 The amount may be a rupee or even 10 paise. Amount of damages depends upon loss of credit & reputation suffered on that A/c

(v) Damages for deterioration to goods caused by delay Damages can be recovered from the carrier even without notice. **“Deterioration”** not only implies physical damages but also loss of special opportunity for sale.

3. HOW TO CALCULATE THE DAMAGE

- Breach by buyer ✚ Damage = Contract price - Market price at the date of breach
- Breach by seller ✚ Damage = Market price at the date of Breach - Contract price

4. REMEDIES FOR BREACH OF CONTRACT

(i) Rescission of Contract ✚ Discharge from his own obligations
 ✚ Entitled to compensation for damages suffered

(ii) Suit upon Quantum Meruit → “As much as is earned” Or “According to the quantity of work done”

When the person has begun the work and before he could complete it, the other party terminates the contract or does something which make it impossible for the other party to complete the contract, he can claim for the work done under contract.

He may also recover the value of work done when further performance of contract become impossible.

Suit for Quantum Meruit arise in three cases:–

A. Work done and accepted under void contract.

B. Act done or something delivered non-gratuitously, the person who enjoys the benefit must pay for it.

C. Divisible Contract: - One part performed & refuses to perform other part. Party in default may sue other party who has enjoyed the benefit of past performance.

(iii) Suit for specific performance Where damages are not an adequate remedy in case of breach of contract, the court may in its discretion on a suit for specific performance direct party in breach, to carry out his promise according to the terms of contract.

(iv) Suit for Injunction Where a party to a contract is negativating the terms of contract, the court may - be issuing an **‘injunction order’** restrain him from doing what he promised not to do.

DM QUESTION BANK

CHAPTER – 9

1. A, B and C jointly promised to pay Rs. 60,000 /- to D. Before performance of the contract, C dies, here, the contract:

- | | |
|---|---|
| (a) becomes void on C's death | (c) should be performed by A and B |
| (b) should be performed by A and B along with C's legal representatives | (d) should be renewed between A, B and D. |

2. A contract is discharged by novation which means the

- | | |
|---|--|
| (a) cancellation of the existing contract | (c) substitution of existing contract by a new one |
| (b) change in one or more terms of the contract | (d) none of these. |

3. A agrees to pay Rs. 1 lakh to B if he brings on earth a star from sky. This is a / an:

- | | |
|-----------------------|-----------------------|
| (a) illegal agreement | (c) voidable contract |
| (b) valid contract | (d) void agreement. |

4. When after the formation of valid contract, an event happens which makes the performance of contract impossible, then the contract becomes:

- | | |
|--------------|--------------|
| (a) Void | (c) valid |
| (b) Voidable | (d) illegal. |

5. An agreement to do an act impossible in itself:

- | | |
|-----------------|--|
| (a) is void | (c) is illegal |
| (b) is voidable | (d) becomes void when impossibility is discovered. |

6. An agreement to discover treasure by magic is void on grounds of:

- | | |
|------------------------------|--------------------------------|
| (a) initial impossibility | (c) lack of consideration |
| (b) subsequent impossibility | (d) supervening impossibility. |

7. A agrees to pay B Rs. 50 lakhs, if B files on a horse to the moon. The agreement is:

- | | |
|--------------|-----------------|
| (a) Void | (c) enforceable |
| (b) Voidable | (d) illegal. |

8. When performance of a promise becomes impossible or unlawful, the contract:

- | | |
|--|---------------------------------------|
| (a) becomes void when the act becomes impossible or unlawful | (c) neither becomes void nor voidable |
| (b) is voidable when the performance becomes impossible | (d) is valid. |

9. A contract is not frustrated by commercial impossibility

- | | |
|----------|------------|
| (a) True | (b) false. |
|----------|------------|

10. Where a contract could not be performed because of the default by a third person on whose work the promisor relied, it:

- | | |
|-----------------------|-----------------------|
| (a) is not discharged | (c) becomes void |
| (b) is discharged | (d) becomes voidable. |

11. A entered into a contract with B for supply of certain things manufactured by C, C did not

manufacture those goods. In this case:

- | | |
|-------------------------|--------------------------------|
| (a) A is not discharged | (c) Contract becomes void |
| (b) A is discharged | (d) Contract becomes voidable. |

12. K contracts with M to perform regularly for a period of two months at M's theatre. K falls ill and could not perform. The contract:

- | | |
|-----------------------|--------------------------------|
| (a) is valid | (c) becomes void |
| (b) is void-ab-initio | (d) is voidable at M's option. |

13. A musical hall was agreed to be let out on certain dates, but before those dates the hall was destroyed by fire. The contract becomes void on the ground of:

- | | |
|----------------------------------|----------------------------|
| (a) impossibility of performance | (c) unlawful consideration |
| (b) illegality of object | (d) all of the above. |

14. When war is declared between two countries subsequent to making of contract, parties would be:

- | | |
|--------------------------------|---|
| (a) liable for criminal action | (c) exonerated from performance of the contract |
| (b) liable under the contract | (d) exonerated from criminal liabilities. |

15. When the contract is made for several purposes, failure of one of them:

- | | |
|--|----------------------------------|
| (a) terminates the entire contract | (c) makes the contract voidable. |
| (b) does not terminate the entire contract | |

16. A agreed to let out a boat to H to: (i) view the naval review at the king's coronation and (ii) to cruise round the fleet. Owing to the king's illness, the naval review was cancelled, but the fleet assembled and the boat could have been used to cruise round fleet. In this case:

- | | |
|--|----------------------------|
| (a) contract is discharged due to subsequent impossibility | (c) contract is illegal. |
| (b) contract is no discharged | (d) Contract becomes void. |

17. A agreed to supply certain goods to B. As a result of an increase in raw material and labour costs, it is no longer profitable for A to supply them at the agreed rate. In this case:

- | | |
|----------------------------|---|
| (a) contract becomes void | (c) A cannot be excused for non-performance |
| (b) contract is discharged | (d) A can be excused for non-performance. |

18. A contract is discharged by rescission which means the:

- | | |
|---|--|
| (a) change in one or more terms of the contract | (c) abandonment of rights by a party |
| (b) acceptance of lesser performance | (d) cancellation of the existing contract. |

19. When prior to the due date of performance, the promisor absolutely refuses to perform the contract, it is known as:

- | | |
|-----------------------------|--------------------------------------|
| (a) abandonment of contract | (c) actual breach of contract |
| (b) remission of contract | (d) anticipatory breach of contract. |

20. In case of anticipatory breach, the aggrieved party may treat the contract:

- | | |
|---|---------------------------------------|
| (a) as discharged and bring an immediate action for damages | (c) exercise option either (a) or (b) |
| (b) as operative and wait till the time for performance arrives | (d) only option (a) is available. |

21. In case of breach of contract, which of the following remedy is available to the aggrieved

party:

- | | |
|-------------------------|-----------------------------------|
| (a) suit for rescission | (c) suit for specific performance |
| (b) suit for damages | (d) all of these |

22. Sometimes, a party is entitled to claim compensation in proportion to the work done by him. It is possible by a suit for:

- | | |
|----------------|--------------------|
| (a) Damages | (c) quantum merit |
| (b) Injunction | (d) none of these. |

23. Generally, the following damages are not awarded:

- | | |
|----------------------|----------------------|
| (a) ordinary damages | (c) remote damages |
| (b) special damages | (d) nominal damages. |

24. A party entitled to rescind the contract, loses the remedy where:

- | | |
|--|--|
| (a) he has ratified the contract | (c) contract is not separable and rescission is sought of a party only |
| (b) third party has acquired right in good faith | (d) all of these. |

25. The special damages, i.e., the damages which arise due to unusual circumstances:

- | | |
|--|--|
| (a) are not recoverable altogether | (c) can be claimed as a matter of right |
| (b) are illegal being punitive in nature | (d) can be claimed only if the same were made known at the time of contract. |

26. Which of the following statements is incorrect?

- | | |
|--|--|
| (a) ordinary damages are recoverable | (c) remote or indirect damages are not recoverable |
| (b) special damage are recoverable only if the parties knew about them | (d) none of these statements is correct. |

27. M a popular singer, enters into a contract with the manager of a theatre, to sing at the theatre two evening a week for the next two months and the manager of the theatre agrees to pay him at the rate of Rs. 5,000 for each performance. From the sixth evening onwards, M absents himself from the theatre. In this context, which of the following remedies is / are available to the manager of the theatre against M?

- | | |
|--|--|
| (a) he is at liberty to put an end to the contract | (c) he is entitled to compensation for the damage sustained by him through M on his failure to sing from the sixth evening onwards |
| (b) he cannot put an end to the contract | (d) both (a) and (c). |

CHAPTER-10 CONTINGENT & QUASI CONTRACT

CONTENTS :-

- (1) CONTINGENT CONTRACT
- (2) ESSENTIAL ELEMENTS OF A CONTINGENT CONTRACT
- (3) RULES RELATING TO ENFORCEMENT
- (4) QUASICONTRACTS
- (5) SALIENT FEATURES OF A QUASI CONTRACT
- (6) TYPES OF QUASI CONTACT
- (7) DIFFERENCE BETWEEN WAGERING AGREEMENT & QUASI CONTRACT

1. CONTINGENT CONTRACT [Section 31]

Contingent contract is a contract to do or not to do something, if some event colletral to such contract, does or does not happen.

E.g. – Contract of Insurance

2. ESSENTIAL ELEMENTS OF A CONTINGENT CONTRACT

The performance of a contingent contract is made dependent upon happening or non-happening of some event.

Event on which performance is made to depend, is an event colletral to the contract *i.e.* it does not form part of reciprocal promises which constitute the contract.

The contingent event should not be the mere will of the promisor.

E.g. – A promise to pay Rs. 10,000, if he so chose, is not a contingent contract.

3. RULES RELATING TO ENFORCEMENT

Contract contingent upon happening of an event (Section 32)	Where a contingent contract is made to do or not to do anything if uncertain future event happens, it cannot be enforced by law unless and until that event has happened. If event becomes impossible such contracts become void.
---	---

Contract contingent upon non-happening of an event (Section 33)	Where a contingent contract is made to do or not to do anything if any uncertain future event does not happen it can be enforced only the happening of that event becomes impossible and not before. If such event becomes happened, such contracts become void.
---	--

Contract contingent upon future conduct of a living person (Section 34)	Event shall have considered to become impossible when such person does anything which renders it impossible that he should act within any definite time or other than under further contingencies.
---	--

Contract contingent upon specified event happening within fixed time(Section 35)	It becomes void_if at the expiry of fixed time, such event has not happened, or if before the time fixed, such event becomes impossible.
--	--

Contract contingent upon specified event not happening within fixed time(Section 35)	It may be enforced by law when the time fixed has expired and such event has not happened or before the time expired, if it becomes certain that such event will not happen.
--	--

Agreement contingent on impossible event (Section	A contingent agreement to do or not to do anything, if an impossible event happens is void The impossibility of an event may or may not
---	---

36) be known to the parties to the agreement at the time when they entered into it.

4. QUASI CONTRACTS

- + Quasi contracts are **based on principle of equity, justice and good conscience.**
- + In the case of Quasi contracts, the **promisor voluntarily undertakes an obligation** in favour of the promisee, or
- + **Obligation may be imposed by law** upon a person for the benefit of another even in the absence of contract.

5. SALIENT FEATURES OF QUASI CONTRACTS

- + It **does not arise from any agreement** of the parties concerned, but it is **imposed by law**, and
- + It is a right which is available **not against the entire world**, but **against a particular person/s only.**

6. TYPES OF QUASI CONTRACTS

Claim for necessaries	supplied to a person incapable of contracting, the supplier is entitled to claim their price from the property of such a person. <i>E.g.</i> – Minor, Person of unsound mind.
Right to recover money paid for another	A person who has paid a sum of money which another is obliged to pay, is entitled to be reimbursed by that other person provided that payment has been made by him to protect his own interest.
Obligation of a person enjoying the benefit of non-gratuitous act	(a) Where a person lawfully does anything for another person or delivers anything to him. (b) Not intending to do so gratuitously and (c) Such other person enjoys the benefit thereof, the latter is bound to make compensation to the former in respect of, or to restore, the things so done or delivered.
Responsibility of Finder of goods	A person who finds goods belonging to another and takes them into his custody is subject to same responsibility as a bailee . * To take proper care * Not use it for personal purposes * Restore it to true owner, if owner is traced
Liability for money paid or thing delivered by mistake or under coercion	A person to whom money has been paid or anything delivered by mistake or under coercion must repay or return it.

7. Wagering Agreement	Contingent Contract
1. It is a promise to give money or money's worth upon the determination or ascertainment of an uncertain event.	It is a contract to do or not to do something if some event collateral to such contract does or does not happen.
2. In a wagering agreement the uncertain event is the sole determining factor.	In a contingent contract, the event is only collateral.
3. It is essentially of a contingent nature.	It may not be of wagering nature.

4. Void

Valid

5. Parties have no other interested in the subject matter of the agreement except the winning or losing of the amount of wager. It is a game of chance.

It is not so in this case both parties have interested in the subject matter of the contract.

DM QUESTION BANK
CHAPTER – 10

- 1.** A contract dependent on the happening or non-happening of future uncertain event is a:
(a) uncertain contract (c) void contract
(b) contingent contract (d) voidable contract.
- 2.** A contingent contract is:
(a) void (c) valid
(b) voidable (d) illegal.
- 3.** A contingent contract dependent on the happening of future uncertain event can be enforced when that event:
(a) happens (c) does not happen
(b) becomes impossible (d) either of these.
- 4.** A contingent contract dependent on the non-happening of a future uncertain event within a fixed time becomes void when such event:
(a) happens (c) does not happen within a fixed time
(b) does not become impossible (d) both (a) and (b).
- 5.** A agrees to pay Rs. 1,000 to B if a certain ship returns within a year. However, the ship sinks within the year. In this case, the contract becomes:
(a) valid (c) voidable
(b) void (d) illegal.
- 6.** A contingent contract dependent on the non-happening of specified uncertain event within fixed time can be enforced if the event:
(a) does not happen within fixed time (c) happens within the fixed time
(b) becomes impossible before the expiry of fixed time (d) both (a) and (b).
- 7.** The basis of 'quasi contractual relations' is the:
(a) existence of a valid contract between the parties (c) provisions contained in Section 10 of the Contract Act
(b) prevention of unjust enrichment at the expense of others (d) Existence of voidable contract between the parties.
- 8.** Sometimes, a person finds certain goods belonging to some other person. In such a case, the finder:
(a) becomes the owner of the goods and can use them (c) can sell the perishable goods if true owner cannot be found
(b) is under a duty to trace the true owner and return the goods (d) both (b) and (c).
- 9.** Implied contract, even if not in writing or express words, is perfectly _____ if other conditions are satisfied.
(a) void (c) voidable
(b) valid (d) illegal.

INDIAN PARTNERSHIP ACT , 1932

CHAPTER-1 GENERAL NATURE OF PARTNERSHIP

CONTENTS :-

1. PARTNERSHIP
2. ESSENTIAL ELEMENTS OF PARTNERSHIP
3. TRUE TEST OF PARTNERSHIP
4. PARTNERSHIP Vs. JOINT STOCK COMPANY
5. PARTNERSHIP Vs. CLUB
6. PARTNERSHIP Vs. HUF
7. PARTNERSHIP Vs. COOWNERSHIP
8. TYPES OF PARTNERS
9. MINOR'S POSITION IN PARTNERSHIP

1. PARTNERSHIP [Section 4]

Partnership is the relation between **persons** who have **agreed** to **share the profits** of a **business** carried on by all or any one of them acting for all.

PARTNER, FIRM & FIRM NAME :- Persons who have entered into partnership with one another are individually called **partners** and collectively a **firm** and the name under which their business is carried on is called **firm name**.

2. ESSENTIAL ELEMENTS OF PARTNERSHIP

1. Two or more persons There should be at least two or more persons to form a partnership.



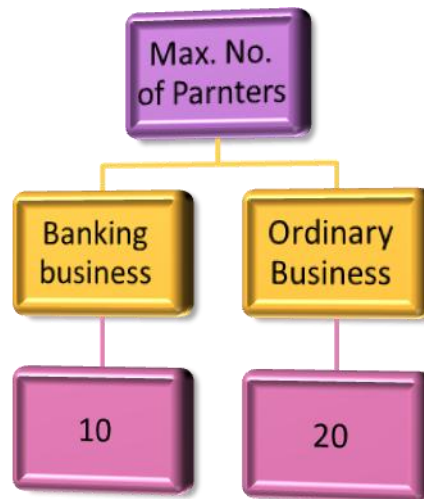
3. Business

There must be business. The term business includes every trade, occupation & profession. The business must be lawful.
e.g. When two persons owned a building & jointly share the amount of rent. There is no partnership because there is no business.

4. Sharing of profits

Unless otherwise agreed, Sharing of profits implies sharing of losses as well. However, a person may become a partner in profits only.

5. Mutual agency	Business must be carried on by all partners or any one of the partners' who is acting for all. Every partner is the principal as well as agent of each other . he can bind the other partners for all the acts done by him and is bound by the acts of other partners as well.
6. Maximum number of partners	The Partnership Act does not mention any thing about the maximum number of persons who can be partners in a partnership firm, but Section 11 of the Companies Act, 1956 lays down the maximum limit of partners.



3. TRUE TEST OF PARTNERSHIP

- ✚ **Sharing of profits is not the true test of partnership.** Sharing of profits with the following persons does not make them partner:–
- ✚ A money lender or
- ✚ A servant (manager of a firm) or agent as his remuneration or
- ✚ Widow or child of a deceased partner or
- ✚ A previous owner of part of the business as the consideration for the sale of goodwill or share thereof.

Existence of **Mutual Agency** which is **cardinal principle of partnership law**, is the **true test of partnership**.

4. PARTNERSHIP V. JOINT STOCK COMPANY

A company is an **artificial person**, which is a **separate legal entity created by law** having a **perpetual succession & a common seal**.

Partnership vs. Joint Stock Company

<i>S. No.</i>	<i>Basis</i>	<i>Partnership</i>	<i>Joint Stock Company</i>
1.	Personality	No legal personality.	A company is a separate legal entity.
2.	Agency	Every partner is an agent of other partners as well as firm.	A member is not an agent of other members or company.
3.	Distribution of profits	Compulsory according to partnership deed.	No compulsion.
4.	Extent of	Unlimited.	Company limited by shares

	liability		limited to the amount unpaid on shares held by member.
5.	Property	The property of the firm is the joint estate of all the partners.	The property of the company belongs to the company not to its members.
6.	Transfer of shares	A share in a partnership cannot be transferred without the consent of all partners.	Shares are transferable subject to provision contained in articles.
7.	Management	All partners.	Separation of management from ownership, management by Board of Directors.
8.	Maximum no. of membership	<u>Firm</u> Banking 10 Ordinary 20	<u>Company</u> Private Ltd. 50 Public Ltd. ∞
9.	Minimum no. of Membership	Firm 2	Private Co. - 2 Public Co. - 7
10.	Regulating Act	Indian Partnership Act, 1932	Companies Act, 1956
11.	Registration	Voluntarily	Compulsory
12.	Audit	No legal necessity	Legal requirement under Companies Act.

5. PARTNERSHIP Vs. CLUB

CLUB

A **club** is an association of persons formed with the object **not for earning profits** but of **promoting** some **beneficial purposes** such as improvement of health or providing recreation for the members etc.

5. Partnership vs. Club

Basis	Partnership	Club
1. Objective	To earn profits.	To promote some beneficial purpose.
2. Agency	A partner is an agent of other partners as well as firm.	A member of a club is not an agent of other members or club.
3. Property	A partner is having an interest in property of the firm.	A member of a club has no interest in property of the club.

6. PARTNERSHIP Vs. HINDU UNDIVIDED FAMILY

S. No.	Basis	Partnership	HUF
1.	Creation	By agreement	By status means by birth in the Hindu family.
2.	Death	Death of a partner ordinary leads to dissolution of partnership.	Death of a member does not affect family business.
3.	Management	Partners	Karta
4.	Liability	Unlimited	Karta → Unlimited Other family → Only to the extent of their share in family business
5.	Authority to	Every partner can by his act bind	Karta has authority to contract for

	bind the firm	the firm.	family business.
6.	Continuity	Firm is dissolved on death or insolvency of a partner.	HUF has continuity till it is divided.
7.	Governing law	Partnership Act, 1932	Hindu law
8.	Calling for A/cs	Partner can bring a suit against the firm for A/c's provided he also seals for dissolution of the firm.	On separation of HUF a member is not entitled to ask for A/c of the family business.
9.	Minor's capacity	Minor cannot become a partner though he can be admitted to the benefits of the partnership with the consent of all partners.	Minor becomes a member by incidence of birth.

7. PARTNERSHIP Vs. CO-OWNERSHIP

S.No.& Basis	Partnership	Co-ownership
1. Creation	By contract	By agreement or Operation of law
2. Sharing of profits & losses	Yes	No, not necessary
3. Agency	Partners are agents of each other	A coowner is not an agent of other coowner.
4. Transfer of shares	A partner can transfer his share only with the consent of all other partners	A co-owner may transfer his interest or rights in property without the consent of other coowners.
5. Business	There must be a business.	It may exist without any business.

8. TYPES OF PARTNERS

<p>1. Active Partner</p> <p>*Take active participation in conduct of partnership business. *Public notice of the time of retirement.</p>	<p>3. Nominal Partner</p> <p>A person who lends his name to the firm, without having any real interest.</p>	<p>5. Sub Partnership</p> <p>Partnership between partner and stranger</p>
<p>2. Sleeping Partner</p> <p>↓ (Dormant)</p> <p>* Do not take part in conduct of partnership business * No public notice at the time of retirement.</p>	<p>4. Partner by holding out or Partner by estoppel</p> <p>Anyone who by words spoken or written or by conduct represents himself or knowingly permits himself to be represented, to be a partner in a firm, is liable as a partner in that firm to anyone who has on the faith of any such representation given credit to the firm.</p>	<p>6. Partner in profits only</p> <p>A person may become a partner in profits only.</p>

9. MINOR'S POSITION IN PARTNERSHIP

A minor cannot become partner of a firm because he is incompetent to contract but he can be admitted to the benefits of firm with the consent of all partners.

- + Minor has a right to agreed share of profits.

- + He has a right to have access to, inspect & copy **accounts** of the firm.

- + Right to sue partners for accounts or for payment of his share but only when severing his connection with the firm.

- + A public notice is required to be given within 6 months of, attaining majority or having knowledge of the fact that he is a partner in a firm, whichever is later, whether he elects to become a partner or not.

- + His share is not liable after the date of public notice.

- + If he elects to become a partner then no public notice is required to be given.

- + If he elects not to become a partner then public notice is required to be given.

- + If he fails to give public notice within 6 months, he shall be deemed to be partner of the firm on expiry of 6 months.

- + If he becomes a partner then he shall be liable towards the debts of the firm retrospectively. His share in property and profits of the firm shall remain same.

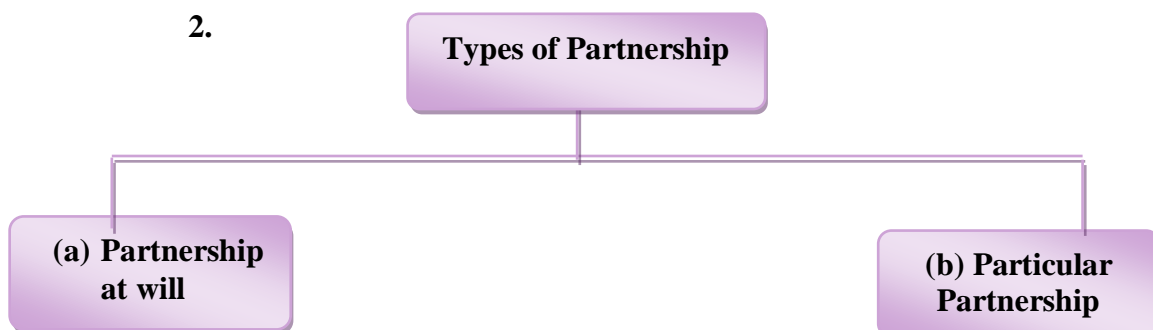
CHAPTER-2 RELATIONS OF PARTNERS

CONTENTS :-

1. RIGHTS OF PARTNERS
2. TYPES OF PARTNERSHIP
3. DUTIES OF PARTNERS
4. PARTNERSHIP PROPERTY
5. IMPLIED AUTHORITY OF A PARTNER. ACTS BEYOND IMPLIED AUTHORITY
6. LIABILITY TO THIRD PARTIES
7. EXPULSION OF A PARTNER

1. RIGHTS OF PARTNERS
+ Right to take part in conduct of the business.
+ Right to be consulted
+ Right to have access to, inspect & copy books of the firm.
+ Right to share profits equally if there is no agreement otherwise.
+ Interest on capital → Not allowed . But if otherwise partnership agreement provides for the payment of interest on capital, it shall be payable only out of profits .
+ Interest on advances given by partner to firm will be paid at the rate agreed, if there is no agreement to this effect, interest is allowed @ 6% per annum .
+ Right to be indemnified by the firm in respect of all expenses and liabilities incurred by him in the ordinary and proper conduct of business.
+ Right to Remuneration – No remuneration allowed except there is an express agreement.
+ Right to stop admission of a new partner .
+ Right to retire with the consent of all other partners. Where partnership is at will, by giving notice to that effect to all other partners.
+ Right not to be expelled from the firm by any majority of the partners.
+ Right of outgoing partner to carry on competing business .
+ Right of outgoing partner to share subsequent profits – the retiring partner or legal representatives of deceased partners has option to share of profits or to interest @ 6% p.a. on the amount of his share in property of the firm.
+ Right to dissolve the firm – With the consent of all partners. Where partnership is at will, the firm may be dissolved by any partners giving notice in writing to all other partners of his intention to dissolve the firm.
+ Right in emergency – A partner has right to bind the firm for acts done in emergency as are reasonably necessary for protecting the firm from loss. Provided he has acted in the same manner as a man of ordinary prudence would have acted in the like circumstances.

2.



(a) PARTNERSHIP AT WILL	(b) PARTICULAR PARTNERSHIP
Where no provision is made by contract between the partners for the duration of their partnership or for the determination of their partnership , <i>“Partnership is at will”</i>	A person may become a partner with another person in particular adventure or undertaking. Such partnership is called <i>“particular partnership”</i>

3. DUTIES OF PARTNERS				
✚ Duty to carry on the business of the firm to the greatest common advantage.				
✚ Duty to account for profits earned –				
	A.	From any transaction of the firm or	B.	From the use of firm’s property or
	C.	Business connection of the firm or	D.	Firm’s name.
✚ Duty not to carry on competing business to that of partnership firm.				
	A.	If carries on, must account for and pay the firm all profits made.	B.	Firm will not be liable for any loss arising under competing business.
✚ Duty to be just and faithful to each other.				
✚ Duty to render true accounts and full information of all things affecting the firm to any partner or his legal representatives.				
✚ Duty to indemnify the firm for any damage caused to it by reason of his fraud in conduct of firm’s business.				
✚ Duty to attend diligently his duties relating to conduct of firm’s business.				
✚ Duty not to claim remuneration:- Remuneration may be allowed to working partners provided there is specific agreement to that effect.				
✚ Duty to contribute equally to the loss sustained by the firm, unless otherwise agreed.				
✚ Duty to indemnify the firm for any loss caused to it by willful neglect in the conduct of business of the firm.				

4. PARTNERSHIP PROPERTY OR PARTNERSHIP ASSETS OR JOINT STOCK OR COMMON STOCK OR JOINT ESTATE		
All properties, rights and interests which partners may have brought into the common stock as their contribution to the common business.	All property, rights and interests acquired or purchased by or for the firm or for the purposes and in the course of business of the firm and	Goodwill of the business

5. IMPLIED AUTHORITY OF A PARTNER

✚ **Authority** means capacity of the partner to bind the firm, this capacity may be:

Express authority	⇒ By express agreement between the
Implied authority	⇒ Authority presumed

IMPLIED AUTHORITY

An act of a partner done in a usual way for the business of the firm binds the firm provided the act is done in the name or any manner expressing or implying an intention to bind the firm such an authority of a partner to bind the firm is called implied authority.

❑ ACTS BEYOND IMPLIED AUTHORITY (Section 19)	
(a)	Submission of dispute relating to firm's business for arbitration as it is not the ordinary business of partnership firm to enter into submission for arbitration.
(b)	Compromise or relinquish any claim or portion of a claim by the firm against an outsider.
(c)	Withdraw a suit or proceedings filed on behalf of the firm.
(d)	Admit any liability in a suit or proceeding against the firm.
(e)	Acquire immovable property on behalf of firm.
(f)	Transfer immovable property belonging to the firm.
(g)	Opening a bank account on behalf of the firm in his own name.
(h)	Enter into partnership on behalf of the firm.

6. LIABILITY TO THIRD PARTIES

✚ Contractual liability

✚ Liability for tort or wrongful act

✚ Liability for misapplication of money received by a partner from a third party

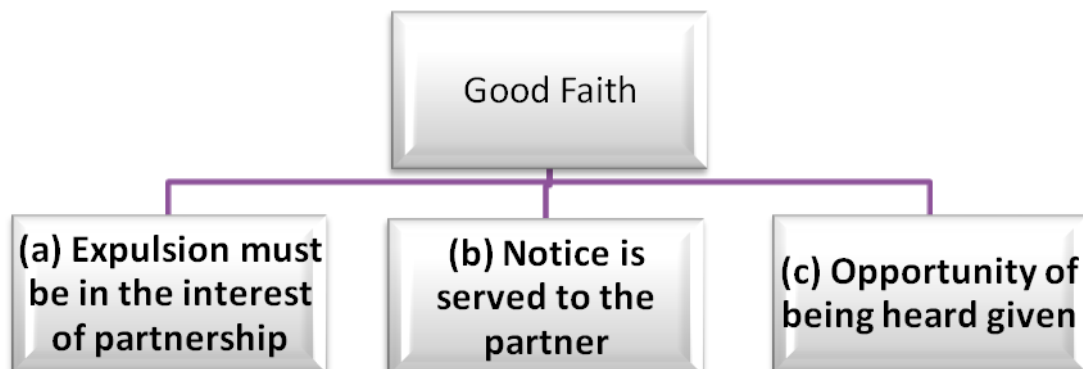
In all these cases, all the partners as well as firm are liable to third parties.

7. EXPULSION OF A PARTNER

A partner may not be expelled from a firm by a majority of partners.

Exception – A partner may be expelled when:

1. **Power of expulsion existed** in a **contract** between the partners.
2. Power has been exercised by **majority of the partners** and
3. Power has been exercised in –



➤ If a partner is otherwise expelled, such expulsion is null and void.

CHAPTER-3 REGISTRATION AND DISSOLUTION OF A FIRM

CONTENTS: -

1. REGISTRATION OF A FIRM
2. DISSOLUTION OF FIRM
3. CONSEQUENCES OF DISSOLUTION

1. REGISTRATION OF A FIRM

❖ Mode of effecting Registration

- ✚ By post
 - ✚ By hand delivery
- ❖ To the registrar of the area in which any place of business of a firm is situated or proposed to be situated.
- ❖ A statement in **prescribed form** along with **prescribed fee** stating –
- ✚ Name of the firm
 - ✚ Principal place of business
 - ✚ Names of other places of business
 - ✚ Date of joining of each partner
 - ✚ Name in full and permanent addresses of partners &
 - ✚ Duration of the firm
- ❖ Signed by all the partners or their agents specially authorized for this purpose.
- ❖ **Registration when complete** – When registrar is satisfied that all the provisions related to registration have been duly complied with, he shall record an entry of the statement in a register called the register of firms and shall file the statement. Then he shall issue a certificate of registration.
- ❖ However, registration is deemed to be complete as soon as an application in prescribed form with prescribed fees and necessary details concerning the particular of partnership is delivered to the registrar.

Q. IS REGISTRATION OF FIRMS' COMPULSORY?

Ans. No, Registration of firms is not compulsory. But as a consequence of non-registration, following disabilities are to be faced by partnership firms –

DISABILITIES

1.	No suit against third party	The firm or any other person on its behalf cannot bring an action against a third party for breach of contract entered into by him.
2.	No set off of more than Rs.100	If an action is brought against the firm by a third party, then neither the firm nor partner can claim any set off for a value more than Rs. 100 in a suit.
3.	No action against firm	A partner of an unregistered firm cannot bring legal action against the firm or any other partner.

But such a person may sue for –

- Dissolution of firm or
- For accounts and realization of his share in the firm's property where the firm is dissolved.

Note – Non-registration of a firm does not affect the right of third parties against the firm or its partners.

2. DISSOLUTION OF FIRM

Dissolution of firm means discontinuation of the Jural relation existing between all the partners of the firm.

Cases where dissolution of firm takes place –

- By agreement between all the partners.
- a. By insolvency of all the partners.
- b. When business of the firm becoming unlawful.
- c. By notice of dissolution by a partner where partnership is a will.
- d. Subject to the agreement between the partners, on happening of following contingencies –
 - + Efflux of time
 - + Completion of venture
 - + Death of a partner
 - + Insolvency of a partner
- e. By intervention of court –
 - + Partner becoming of unsound mind
 - + Permanent incapacity of a partner
 - + Misconduct of a partner affecting the business
 - + Willful or persistent breaches of agreement by a partner
 - + Transfer or sale of whole interest by a partner
 - + Improbability of business being carried on save at a loss
 - + On other equitable ground for dissolution as court may satisfies

3. CONSEQUENCES OF DISSOLUTION	
(a) Continuing liability until public notice	Inspite of dissolution of the firm, partners continue to be liable for any act done by any of them, which would have been an act of the firm if done before the dissolution, until public notice is given of the dissolution.
(b) Rights to enforce winding up	On dissolution of partnership, any partner or his representative shall have right, against other partners – <ul style="list-style-type: none"> + To have property of the firm applied in payment of the debts of the firm and + To have the surplus distributed among the partners or their representatives according to their respective rights.
(c) Authority of partners after dissolution	The authority of a partner to bind the firm & other mutual rights and obligations continue – <ul style="list-style-type: none"> + Which are necessary to wind up the firm. + To complete the unfinished transactions pending at the date of dissolution.
(d) Settlement of Partnership A/c's	i. Losses including deficiencies of capital are to be paid – <ol style="list-style-type: none"> (i) Out of profits, then (ii) Out of capital, then (iii) By partners individually in their profit sharing ratio ii. Assets of the firm + Contributions by partners on A/c of deficiencies of capital must be applied in following order:– <ol style="list-style-type: none"> (i) To pay debts of outsiders then (ii) To pay partner's loan then

		(iii) To pay partner's capital then (iv) Balance will be shared in profit sharing ratio
4. Personal profits earned after dissolution		and till the firm is wound up, partners must A/c for, the profits from carrying on business of the firm, to the other partners.
5. Return of premium on partnership's premature dissolution (Section 51)		In case of dissolution of partnership earlier than the period fixed for it, the partner paying premium is entitled to return of the premium as such part thereof as may be reasonable, regard being had to the terms of agreement & to the length of time during which he was a partner, except when partnership is dissolved:– <ul style="list-style-type: none"> + Due to death of one of the partners or + Mainly due to misconduct of the partner paying the premium or + Pursuant to an agreement containing no provisions for the return of the premium or any part thereof

MODE OF GIVING PUBLIC NOTICE (SECTION 72)

In every case where public notice of any manner in respect of partnership firm is required to be given under this act, it must be given

- + By **notification in the official Gazette**, and
- + In at least **one vernacular (local language) newspaper** circulating in the district where the firm to which it relates has its place or principal place of business.

In case of **registered firms**, in addition to above notification, a notice is also required to be **served on the Registrar of firms**.

INDIAN PARTNERSHIP ACT, 1932

DM QUESTION BANK

1. The maximum number of partners is mentioned in:

- | | |
|-----------------------------|-------------------------------------|
| (a) The Partnership Act | (c) The Companies Act |
| (b) The General Clauses Act | (d) The Societies Registration Act. |

2. A firm is the name of:

- | | |
|----------------------------|---|
| (a) the partners | (c) the business under which the firm carries on business |
| (b) the minors in the firm | (d) the collective name under which partners carry on business. |

3. In the absence of agreement to the contrary all partners are:

- | | |
|--|---|
| (a) not entitled to share profits | (c) entitled to share in proportion to their ages |
| (b) entitled to share in capital ratio | (d) entitled to share profits equally. |

4. A partnership at will is one:

- | | |
|-------------------------------------|--|
| (a) which does not have any deed | (c) which can be terminated by a notice from any partner |
| (b) which does not have any partner | (d) which cannot be dissolved. |

5. Each of the partner is _____

- | | |
|-----------------------------------|-------------------------------------|
| (a) principal as well as an agent | (c) only representative of the firm |
| (b) only agent of the firm | (d) only co-partner of the firm. |

6. The Indian partnership act came into force on

- | | |
|-----------------------------------|--------------------------------------|
| (a) 1 st October, 1932 | (c) 1 st July, 1930 |
| (b) 1 st October, 1933 | (d) 1 st September, 1932. |

7. An unregistered firm cannot claim _____

- | | |
|-------------|------------------------|
| (a) set on | (c) set on and set off |
| (b) set off | (d) none of the above. |

8. Which of the following statements, about the registration of firm, is not true?

- | | |
|--|---|
| (a) it must be done at the time of its formation | (c) it may be done before filing a suit against third party |
| (b) it may be done at the time of formation | (d) it may be done at any time after its formation. |

9. The registration of the firm is considered complete when

- | | |
|---|---|
| (a) application for registration complete in all respects is filed with the Registrar | (c) Registrar gives notice of registration to all partners |
| (b) Registrar files the statement and makes entries in the Register of firms | (d) Court records the statement and certifies the entries in the Register of firms. |

10. Which of the following is not disability of an unregistered firm?

- | | |
|---|---|
| (a) it cannot file a suit against third parties | (c) it cannot claim a set-off exceeding Rs. |
|---|---|

- (b) its partners cannot file a suit against a firm 100
(d) it can be sued by a third party.

11. A and B have entered into a partnership agreement and the partnership deed provides neither for the duration nor for the determination of partnership. What is the technical expression for this kind of partnership?

- (a) partnership for a fixed term (c) particular partnership
(b) partnership at will (d) any of these.

12. X and Y purchase 10,000 bags of cement, which they agree to sell for their joint account. The relation between X and Y is:

- (a) X and Y are partners (c) X and Y are co-ventures
(b) X and Y are only joint owners (d) None of these.

13. X agrees with Y who is goldsmith to buy and furnish gold to Y, to be worked up by him and sold, and that they shall share in the resulting profit or loss. The contract between X and Y is that of:

- (a) partnership (c) contract for labour work
(b) association of goldsmith (d) contract for sale.

14. X and Y agree to work together as carpenters but X shall receive all profits and shall pay wages to Y. The relation between X and Y is that:

- (a) partners (c) labourers
(b) carpenters (d) master-servant.

15. The partnership relation exist when:

- (a) joint owner of some property share profit or loss arising from the property (c) two friends A (age 19 years), B (17 years) decide to form a partnership
(b) a person receives a share of profit as a part of his remuneration (d) A and B agreed to sell clothes for their joint account and share the profits.

16. The partnership firm becomes an illegal association, when:

- (a) the number of partners in a banking business exceeds 10 (c) the number of partners in a banking business exceeds 20
(b) the number of partners in a non-banking business exceeds 10 (d) none of these.

17. A partnership firm may be registered with:

- (a) Registrar of Partners (c) Registrar of Companies
(b) Registrar of Firms (d) District Court.

18. In case of registered partnership firm;

- (a) a partner cannot file a suit against the firm (c) the firm cannot file a suit against third parties
(b) a partner cannot file a suit against any partner of the firm (d) All of the above.

19. Active partner is one who:

- (a) takes part in the business of the firm (c) actively shares the profits
(b) actively participates in co-curricular activities (d) makes a show of authority.

20. A partner can retire on _____

- (a) reaching the age of superannuation (c) in accordance with the partnership deed

- (b) on the balance in the capital account reaching a certain amount
- (d) on the condition of his nominee becoming a partner.

21. A new partner can be admitted in the firm with the consent of:

- (a) all the partners
- (b) simple majority of partners
- (c) special majority of partners
- (d) new partner only.

22. A partner may retire from an existing firm:

- (a) with consent of all partners
- (b) as per express agreement
- (c) by written notice in case of partnership at will
- (d) all of the above.

23. _____ does take active part in conduct of the business.

- (a) minor partner
- (b) sub partner
- (c) active partner
- (d) partner by estoppel.

24. Which of the following statements is not true about minor's position as a partner?

- (a) he cannot become a full-fledged partner in a new firm
- (b) he can become a full-fledged partner in an existing firm
- (c) he can be admitted only to the benefits of any existing firm.
- (d) He can become partner on becoming a major.

25. Every partner has the right to

- (a) take part in the business of the firm
- (b) to share exclusive profits
- (c) to use the property of the firm for personal purposes
- (d) pay taxes.

26. A partner can be expelled if _____.

- (a) such expulsion is in good faith
- (b) the majority of the partner agree on such expulsion
- (c) the expelled partner is given an opportunity to start a business competing with that of the firm
- (d) compensation is paid.

27. On dissolution the partners remain liable till:

- (a) accounts are settled
- (b) partners dues are paid off
- (c) public notice is given
- (d) the registrar strikes off the name.

28. Which of following is not the right of a partner i.e., which he cannot claim as a matter of right?

- (a) right to take part in business
- (b) right to have access to account books
- (c) right to share profits
- (d) right to receive remuneration.

29. Which of the following acts are not included in the implied authority of a partner?

- (a) to buy or sell goods on accounts of partners
- (b) to borrow money for the purposes of firm
- (c) to enter into partnership on behalf of firm
- (d) to engage a lawyer to defend actions against firm.

30. After retirement from firm, which of the following partners is not liable by holding out, even if the public notice of retirement is not given?

- (a) active partner
- (b) sleeping partner
- (c) representatives of deceased partner
- (d) both (b) and (c)

31. Doctrine of implied authority of a partner applies to the;

- (a) act of setting accounts with the person dealing with the firm
- (b) act of acquiring immovable property on behalf of the firm
- (c) act of admitting a liability in suit against the firm
- (d) all of these.

32. Death of partner has the effect of:

- (a) dissolving the partnership
- (b) its continuance of the business of the firm
- (c) her heirs joining the firm.

33. The reorganization of the firm takes place in case of:

- (a) admission of a partner
- (b) retirement of a partner
- (c) expulsion or death of a partner
- (d) all of the above.

34. A partnership firm is compulsorily dissolved where:

- (a) all partners have become insolvent
- (b) firm's business has become unlawful
- (c) the fixed term has expired
- (d) in cases (a) and (b) only.

35. On which of the following grounds, a partner may apply to the court for dissolution of the firm?

- (a) insanity of a partner
- (b) misconduct of a partner
- (c) perpetual losses in business
- (d) all of the above.

36. The decision in Garner vs. Murray requires that:

- (a) all partner should bring in cash equal to their respective shares of the loss on realization
- (b) the solvent partners should bring in cash equal to their respective shares of the loss on realization.
- (c) the solvent partners should bear the loss arising due to insolvency of a partner in their profit sharing ratio
- (d) the solvent partners should bear the loss arising due to insolvency of a partner in the ratio of their last agreed capitals.

37. A minor is:

- (a) a partner of a firm
- (b) representative of the firm
- (c) entitled to carry on the business of the firm
- (d) entitled to the benefits of the firm.

38. The Partnership Act extends to

- (a) Whole of India
- (b) Whole of India except Jammu
- (c) Whole of India except Jammu and Kashmir
- (d) Whole of India except Kashmir.

39. The term partnership has been defined in section

- (a) 2
- (b) 3
- (c) 4
- (d) 5.

40. Business means and include every

- (a) Trade
- (b) Occupation
- (c) Profession
- (d) All of these.

41. Partnership arises from

- (a) Operation of law
- (b) Status
- (c) Agreement
- (d) All of these.

42. The right of joint family is created by

(a) Operation of law

(b) Status

(c) All of these

(d) Agreement

43. Co-ownership arises from

- (a) Operation of law (c) Agreement
(b) Mutual understanding (d) Both (a) and (c).

44. An agreement of partnership can be

- (a) Oral or in writing (c) In writing only
(b) Express or implied (d) Both (a) and (b)

45. Partner can be

- (a) Active partner (c) Nominal partner
(b) Sleeping partner (d) All of these.

46. The minimum number of persons required to form a partnership are

- (a) 2 (c) 20
(b) 10 (d) 5.

47. The maximum numbers of persons who can form a partnership for carrying banking business are

- (a) 2 (c) 20
(b) 10 (d) No limit

48. The maximum numbers of persons who can form a partnership for carrying any business other than banking business are

- (a) 2 (c) 20
(b) 10 (d) No limit.

49. The partnership agreement may be

- (a) In writing only (c) Express or implied
(b) Oral only (d) Only express.

50. A and B, agree to share the profit of business and the losses are to borne by A only. The agreement is

- (e) Void (g) Illegal
(f) Voidable (h) Valid.

51. A and B having a joint house, let is to C and share rent amongst themselves. They are

- (a) Partner (c) Company
(b) Club (d) Co-owners.

52. When a partner of a firm agrees to share his profit with an outsider, it is

- (a) Particular partnership (c) Sub partnership
(b) Partnership at will (d) None o these.

53. When a person become a partner with another for a particular adventure or undertaking, this kind of partnership is called

- (a) Particular partnership (c) Sub partnership
(b) Partnership at will (d) None of these.

54. Partnership at will has been defined under section

- (a) 5 (c) 7
(b) 6 (d) 8.

55. When the partners carry on the business even after the expiry of agreed fixed period, it becomes

- (a) Partnership by will (c) Illegal association
(b) Particular partnership (d) None of these.

56. Persons who have entered into partnership with one another are individually called

- (a) Firm (c) Firm's name
(b) Partners (d) None of these.

57. A person who lends his name to the firm without having any real interest in the firm, is a

- (a) Active partner (b) Dormant partner

58. The rights of management in case of Hindu undivided family vests in

- (a) Karta (c) All members
(b) All male members (d) All members except minor

59. A person who does not take active part in the conduct of business, is a

- (a) Active partner (c) Partner by holding out
(b) Dormant partner (d) Ostensible partner

60. A person who is given share by a partner is a

- (a) Active partner (c) Partner by holding out
(b) Dormant partner (d) Sub partner

61. Partner by holding out is also known as

- (a) Active partner (c) Nominal partner
(b) Dormant partner (d) Partner by estoppels.

62. The term business has been defined under

- (a) Section 2 (a) (c) Section 2 (c)
(b) Section 2 (b) (d) Section 2 (d).

63. For a valid partnership, there must be

- (a) Sharing of profits (c) Both (a) and (b)
(b) Sharing of losses (d) None of these.

64. The liability of minor admitted to the benefit of partnership is

- (a) Limited only to the extent of his share in profits and property (c) No liability
(b) Similar to that of any other partner (d) Unlimited liability.

65. A partner who has not entered into partnership, but represent himself a partner is

- (a) Sleeping partner (c) Partner by estoppel
(b) Dormant partner (d) Sub partner

66. Which of the following can enter into contract of partnership?

- (a) Business firm (c) Member of registered Company
(b) Alien enemy (d) Person of unsound mind.

67. A new partner is liable for

- (a) Acts of the firm before becoming partner (c) Acts of the firm after becoming partner.
(b) Before or after he ceases to be partner

68. Expulsion of a partner is dealt with under Section

- (a) 30 (c) 32
(b) 31 (d) 33.

69. In case of partnership at will, retiring partner has to give notice to the

- (a) Working partner (c) All the partners
(b) Managing partner (d) None of these.

70. Firm will identify the partner in respect o expenses incurred in

- (a) Protecting the firm in emergency (c) Both (a) and (b)
(b) Ordinary course of business (d) None of these.

71. Retirement of existing partner result in

- (a) Dissolving the partnership (c) Both (a) and (b)
(b) Dissolution of firm (d) None of these.

72. Which of these acts falls within implied authority?

- (a) Hiring solicitors to defend actions against the firm (c) Compromise or relinquish any claim of the firm
(b) Withdraw any suit or proceeding filed on behalf of the firm. (d) All of these.

73. Which of these acts does not fall within the implied authority?

- (a) Sale of goods of the firm (c) Withdraw any suit or proceeding filed on behalf of the firm.
(b) Receiving payment of debt due to a firm (d) All of these.

74. Partner can transfer his interest

- (a) Absolutely (c) By creating a charge on such interest
(b) By mortgage (d) All of these.

75. In case of transfer of interest by a partner, transferee can

- (a) Interfere in the conduct of the business (c) Inspect the books of the firm
(b) Require accounts (d) Receive share of profit of the transferring partner.

76. If public notice of retirement is not given, which of the following partners will not be liable by holding out?

- (a) Active partner (c) Representative of deceased partner
(b) Sleeping partner (d) Both (b) and (c).

77. Acts of the partner which is within his implied authority binds the firm, except in case of

- (a) Fraud (c) Third party is aware of the restriction
(b) Willful neglect (d) Misrepresentation.

78. For acts of the firm done after the death of partner, his estate is

- (a) Not liable (c) May be liable
(b) Liable (d) None of these.

79. A change in the nature of business can be made with the

- (a) Consent of all the partners (c) Active partners
(b) Majority of partners (d) Managing partners.

80. The implied authority of a partner by a contract can be

- (a) Restricted (a) Either (a) or (b)
(b) Extended (b) Only restricted.

81. A partner can be expelled from the firm, if such expulsion is in

- (a) Good faith (a) Is as given in the contract.
(b) Exercised by majority by partners (b) All of these.

82. Interest on advances made by partner to the firm are payable at

- (a) 6% Per annum (c) 12% Per annum
(b) 10% Per annum (d) 15% Per annum.

83. If any loss is caused to the firm, due to fraud committed by any partner in the conduct of the business, he shall indemnify the

- (a) Firm (c) Working partner
(b) Other partners (d) None of these.

84. Where a partner is entitled to interest on capital contribution, the interest shall be paid out of

- (a) Capital (c) Either (a) or (b)
(b) Profits (d) None of these.

85. Good faith for expulsion includes

- (a) Expulsion must be in the interest of partnership (c) Expelled partner is given an opportunity of being heard
(b) The partner to be expelled is served a notice (d) All of these.

86. A partner can transfer his share

- (a) Wholly (c) Either (a) or (b)
(b) Partially (d) Cannot transfer.

87. A share in a partnership can be transferred like

- (a) Goods (c) Investment
(b) Property (d) All of these.

88. Liability of partner is

- (a) Joint (c) Both (a) and (b)
(b) Several (d) None of these.

89. Introduction of new partner is dealt with under Section

- (a) 30 (c) 32
(b) 31 (d) 33.

90. The liability for holding out can be incurred by

- (a) Minor (c) Either (a) or (b)
(b) Major (d) Both (a) and (b).

91. An action for indemnity against the partner can be brought by

- (a) The firm (c) Either (a) or (b)
(b) Partner (d) None of these.

92. Any notice to a partner operates as a notice to the firm if

- (a) It is given to the working partner
- (b) It relates to affairs of the firm
- (c) Both (a) and (b)
- (d) None of these.

93. Unless agreed otherwise, if a partner in a firm is adjudicated as insolvent

- (a) Firm is automatically dissolved
- (b) Firm is not automatically dissolved
- (c) Firm become an illegal association
- (d) (a) and (c)

94. An outgoing partner cannot

- (a) Use the name of the firm
- (b) Solicit customers of the firm
- (c) Represent him as carrying on business of the firm
- (d) All of these.

95. On the retirement of the transferring partner, the transferee will be entitled

- (a) To interfere in the conduct of the business
- (b) Require accounts
- (c) Inspect the books of the firm
- (d) To receive the share of assets of the firm to which transferring partner was entitled

96. Implied authority means the capacity of the partner to bind

- (a) Third party
- (b) Firm
- (c) Legal representative
- (d) None of these.

97. If money received by the firm from third party is misapplied by the partner

- (a) Firm is liable
- (b) Firm is not liable
- (c) Defaulting partner is liable
- (d) None of these.

98. Registration of the partnership firm is

- (a) Compulsory
- (b) Optional
- (c) Occasional
- (d) None of these.

99. Registration of the firm is required to be done at the time of formation

- (a) True
- (b) False
- (c) Partly true
- (d) None of these.

100. In the case of nonregistered firm, which of the following is not a disability?

- (a) A partner can file a suit against the firm
- (b) The firm can file suit against the third parties
- (c) A partner can file a suit against other partners
- (d) Firm can be sued by a third party.

101. The application for the registration of the firm should be filed with the Registrar of Firms of that area

- (a) Where working partner resides
- (b) As agreed by the partners
- (c) Where place of business of firm is situated or proposed to be situated
- (d) All of these.

102. For unregistered firm, there is a

- (a) Penalty on partners
- (b) Penalty on firm
- (c) Both (a) and (b)
- (d) No penalty, but certain disabilities.

103. Application for registration of firm should be signed by

- (a) All the partners
- (b) Authorized agents of the partners
- (c) All working partners
- (d) Either (a) or (b).

104. registration of firm is dealt with under Section

- (a) 57 (c) 59
(b) 58 (d) 60

105. If the assets of the firm are not sufficient to meet the debts, the deficiency is to shared by partner in

- (a) Profit sharing ratio (c) Equally
(b) Capital ratio (d) None of these.

106. Registrar shall before making an entry of the statement in the register of firms, shall be satisfied about the provisions of section

- (a) 57 (c) 59
(b) 58 (d) 60.

107.In the case of unregistered firm, partner can file a suit for

- (a) Dissolution of the firm (c) Realizing of property of dissolved firm
(b) Settlements of accounts of dissolved firm (d) All of these.

108. Subject to an agreement between parties, partnership firm is dissolved

- (a) On efflux of time (c) Insolvency of partner
(b) Death of partner (d) All of these.

109. A firm can be dissolved by court in case of

- (a) Partner becoming of unsound mind (c) Misconduct of partner affecting business
(b) Permanent incapacity of partner (d) All of these.

110. A firm can be dissolved by court in case of

- (a) Willful breach of agreement by partner (c) Chances that business cannot be carried
(b) Transfer or Sale of whole interest of partner except at loss
(d) All of these.

111. Losses including deficiency of capital shall be first paid out of

- (a) Profits (c) Partners in their profit sharing ratio
(b) Capitals (d) Any of these.

112. Losses including deficiency of capital shall be paid in the order of

- 1.Profits 2. Capital 3. Partners in their profit sharing ratio
(a) 1, 2, 3 (c) 3, 2, 1
(b) 2, 3, 1 (d) 3,1, 2.

113. Firm's assets shall first be applied in

- (a) Debts of third parties (c) Advances made by partners
(b) Capital contributed by partner (d) Residue in profit sharing ratio among partners.

114. Firms assets shall be applied in the following order

1. Debts of third parties 2. Capital Contributed by partner 3. Advances made by partners
(a) 1, 2, 3 (c) 3, 2, 1
(b) 1, 3, 2 (d) 2, 1, 3.

115.A partner's separate assets shall be applied first to the payment of

- (a) Debts of firms (c) His separate debts

(b) Debt of other partners (d) None of these.

116.A public notice is not required to be given in the case of

- (a) Retirement of partner (c) Insolvency of partner
(b) Expulsion of partner (d) Dissolution of firm.

117.Premium has not to returned in the case of premature dissolution, if dissolution

- (a) Due to death of one of the partners (c) Either (a) or (b)
(b) Due to the misconduct of partner paying premium (d) None of these.

118.In case of registered firm, public notice must be given in

- (a) Official Gazette (c) To Registrar of firms
(b) At least one vernacular newspaper (d) All of these.

119.In case of unregistered firm, public notice must be given in

- (a) Official Gazette (c) To Registrar of firms
(b) At least one vernacular newspaper (d) Both (a) and (b).

120.In case of registered firm, public notice is required to be given in case of

- (a) Retirement of partner (c) Minor's exercise of option, on attaining
(b) Expulsion of partner of majority, to become a partner or cease
(d) Dissolution of the firm his relationship with the firm
(d) All of these.

121.In case of partner becoming of unsound mind, a suit for dissolution may be brought by

- (a) Next friend of partner becoming of unsound mind (c) Either (a) or (b)
(b) Any other partner (d) None of these.

122.If no date is mentioned in the notice of dissolution of the firm, in a partnership at will, the dissolution will take effect from

- (a) Date of sending notice (c) Date is mentioned in the notice
(b) Date on which notice is received (d) None of these.

123.Loss arising from partner's insolvency is to be met from

- (a) Solvent partner (c) All partner including insolvent
(b) Legal heirs of insolvent partner (d) Firm.

124.If public notice of death of a partner is not given and the firm continues the business. Than in case of the acts of the firm done after the death

- (a) Estate of deceased partner will be liable (c) Legal representatives of deceased partner
(b) Estate of deceased partner will not be liable are liable
(d) None of these.

125.A firm can be dissolved by

- (a) Compulsory dissolution (c) Court
(b) Dissolution by agreement (d) All of these.

126.Non registration of partnership is

- (a) Illegal (c) Calls for penalty
(b) Criminally punishable (d) Result in certain disabilities.

127. Who can enter into contract of partnership?

- (a) Alien enemy (c) Member of registered company
(b) Person of unsound mind (d) Business firm

128. Which of the following are not deemed to be partners?

- (a) Members of HUF carrying on family business (c) Both (a) and (b)
(b) Burmese Buddhist husband and wife carrying on business (d) None of these.

129. Relation between persons who have agreed to share profits of the business carried on by all of them or one of them acting for all is

- (a) Partnership (c) HUF
(b) Agency (d) Venture.

130. Illegal association has been defined in

- (a) The Companies Act, 1956 (c) The Partnership Act, 1932
(b) The Indian Contract Act, 1872 (d) None of these

131. Association created for _____ purposes are not partnerships

- (a) Charitable (c) Religious
(b) Social (d) All of these.

132. Partnership is not created when any payment is received by

- (a) Lender of money – to person engaged or about to engage in any business (c) Widow / Child of a deceased partner as annuity
(b) Servant / Agent as remuneration (d) All of these.

133. Liability of the person is unlimited in the case of

- (a) Company (c) HUF
(b) Partnership (d) CO-ownership.

134. Registration is compulsory in the case of

- (a) Company (c) HUF
(b) Partnership (d) CO-ownership.

135. The maximum number of members in a partnership is provide in

- (a) The companies Act, 1956 (c) The Partnership Act, 1932
(b) The Indian Contract Act, 1872 (d) None of these.

136. Notice to a partner amounts to a notice to a firm if

- (a) It is given to working partner (c) Relates to firm's Business
(b) It is actual (d) All of these.

137. Property of the firm has been dealt under Section

- (a) 11 (c) 13
(b) 12 (d) 14.

138. Partnership property is the property of

- (a) Partners (c) Incoming partner
(b) Firm (d) Outgoing partner.

139.Registration of the firm can be done

- (a) At the beginning (c) Either (a) or (b).
(b) During continuous (d) None of these.

140.In English Law Registration of firm is

- (a) Compulsory (c) Not required
(b) Optional (d) Required after one year.

141.A and B becomes partner for 10 years. A pays B a premium of Rupees 10000. At the end of 5 years the firm is dissolved

- (a) A can recover rupees 10000 (c) A can recover reasonable part of premium
(b) A cannot recover any amount (d) A can recover rupees 5000 from B.

142.Upon dissolution of firm, firm's assets shall be first applied for payment o debts and liabilities of firm and shall thereafter be applied for

- (a) Payment of debts and liabilities of firm (c) Partners Capital
(b) Partner's loans (d) Distribution to partners in their profit sharing ratio.

143.Upon dissolution of firm, firm's assets shall be first applied for payment o debts and liabilities of firm and partners loans and thereafter be applied for

- (a) Payment of debts and liabilities of firm (c) Partners Capital
(b) Partner's loans (d) Distribution to partners in their profit sharing ratio.

144.X agrees with Y to carry passengers by taxi from Delhi to Gurgaon on the following terms, namely, Y is to pay X Rs. 100 per mile per annum, and X and Y are to share the costs of repairing and replacement of the cars, and to divide equally between them the proceeds of fares received from passengers, Choose the correct alternative.

- (a) X and Y are partners (c) X and Y are co-owners
(b) X and Y are cab owners (d) None of these.

145.The essential elements of partnership does not in include:

- (a) There must be an association of two or more persons. (c) There must be mutual agency among partners.
(b) There must be an agreement to share profits and losses equally (d) All of these.

146.The partnership can be formed

- (a) Two brothers Y (age 17 years) decide to form a partnership (c) Three brother W (age 19 years), X (age 17 years) decide to form a partnership with a provision that Y will share the profits only
(b) Two brothers X (age 18 years), Y (age 17 years) decide to form a partnership with a provision that Y will share the profits only (d) None of these.

147.The essential elements of a partnership.....

- (a) Must co-exist before can come into existence (c) May be brought in any time either during the creation of partnership or even thereafter before a partnership can come into existence, but they must coexist within one year of a partnership coming
(b) May be brought in within a reasonable time of a partnership coming into existence

into existence.

148. Which of the following is correct?

- (a) A partnership firm has a separate legal entity apart from partners
(b) Two firms can form a new partnership
(c) The partners of individual firm can form a partnership
(d) None of these.

149. The real of partnership is:

- (a) Business
(b) Sharing of profits
(c) Agreements
(d) Business to be carried on by all or any of them
(e) for all.

150. The case of Cax. V. Hickman, (1860) deals with

- (a) Test of partnership
(b) Registration of firm
(c) Implied authority of a partner
(d) Dissolution of firm.

151. Mutual Agency is:

- (a) Prima facie evidence of partnership
(b) Conclusive evidence of partnership
(c) None of these.

152. Sharing of profits is:

- (a) Prima facie evidence of partnership
(b) Conclusive evidence of partnership
(c) None of these.

153. Co-ownership necessarily involves:

- (a) An agreement
(b) Sharing of profit or loss
(c) Carrying on of a business
(d) Mutual Agency
(e) None of these

154. A co-owner:

- (a) Is an agent of other co-owner
(b) Has no lien on the joint property for expenses
(c) Has no right to claim partition of joint property
(d) None of these.

155. The Partnership relation exists when:

- (a) Joint owner of some property share property share profit or loss arising from the property
(b) A person receives a share of profit as a part of his remuneration.
(c) Two friends A(age years.), B(17 years) decide to form a partnership.
(d) A and B agreed to sell clothes for their joint account and share the profits.

156. X and Y purchase 20,000 bags of cement, which they agree to sell for their joint account.

- (a) X and Y are partners
(b) X and Y are only joint owners
(c) X and Y are co-ventures
(d) None of the above.

157. Member of Joint Hindu family carrying on family business are called

- (a) Partners
(b) Co-owners
(c) Co-parceners
(d) None of these.

158. A male person becomes a member in Joint Hindu family on his birth under

- (a) Mitakshara school of Hindu Law
(b) Dayabhaga school of Hindu Law
(c) None of these.

159.When a coparcener takes part in the act performed or a transaction entered into by the karta

- (a) The liability of the karta will be limited but that of Coparcener will be unlimited
- (b) The liability of both karta and coparcener will be unlimited
- (c) The liability of both the karta and that coparcener will be unlimited
- (d) The liability of karta will be unlimited but that of coparcener will be limited.

160.Which of the following is not correct?

- (a) Joint Hindu family is governed by law relating to registration of agreements.
- (b) Joint Hindu family is governed by Hindu Law
- (c) Joint Hindu family is governed by the Civil Procedure Code.
- (d) Both (a) and (c).

161.State which of the following is correct

- (a) There is no much difference in the nature of a partnership from the nature of a HUF.
- (b) There is considerable difference in the nature of a partnership from the nature of a HUF
- (c) There is difference in the nature of a partnership from the nature of a HUF because unlike the nature of a HUF, the nature of a partnership is voluntary and contractual.
- (d) There is not much difference the nature of a partnership from the nature of a HUF because both involve a certain interest of a particular individual.

162.The partnership deed must be signed by the

- (a) One of the partners
- (b) Majority of the partners
- (c) All senior partners
- (d) All partners.

163.The terms laid down in the partnership deed may be varied by the consent of:

- (a) All senior partners
- (b) Majority of the partners
- (c) All partners
- (d) None of these.

164.Registration of firm becomes effective

- (a) From the date of filling of duly signed and verified statement along with the prescribed form
- (b) From the date of issue of certificate of registration
- (c) From the date of receipt of certificate of registration
- (d) None of these.

165.Registration of partnership is complete

- (a) Only after the issue of certificate of registration by the Registrar of Firms.
- (b) As soon as an application in the prescribed form with the prescribed fee and other relevant details is delivered to the registrar of the firms.
- (c) Only after the registrar of firms records an entry of the statement in the register of firms to this effect.
- (d) After giving the information to the Central Government in this regard.

166.An unregistered firm has sold some goods to a customer. A suit against the customer for the recover of price of goods is

- (a) Maintainable if the firm is registered after filling the suit
- (b) Maintainable if the firm is registered before filling the suit
- (c) Not maintainable at all irrespective of the registration before or after filling the suit
- (d) None of these.

167. Suppose you have entered into a partnership agreement with me and the partnership-deed provides neither for the duration nor for the determination of our partnership. What is the technical expression for this kind of partnership?

- (a) Partnership for a fixed term (c) Particular Partnership
(b) Partnership at will (d) Any of these.

168. The position of a minor in a partnership firm is to be determined taking into account

- (a) The Indian Contract Act, 1973 (c) Minor's agreement
(b) The Indian Partnership Act, 1932 (d) The Majority Act, 1875.

169. If a minor on attaining majority, effect to become a partner, he becomes personally liable to third parties for all those acts of the firm which are done

- (a) After the date of his attaining majority (c) After his admission to the benefits of
(b) After the expiry of 6 months of date of partnership
his attaining majority (d) None of these.

170. Which of the following statement is not true about minor's position as a partner

1. He cannot become a full fledged partner in a new firm
2. He can become a full fledged partner in an existing firm
3. He has to bear all liabilities like other partners
4. He can become a partner on becoming a major

- (a) 1 & 2 (c) 3 & 4
(b) 2 & 3 (d) 1 & 4.

171. The liabilities of a minor when admitted to the benefits of the partnership _____

- (a) Is confined to his share of the profits and property of the firm (c) Is similar as that of any other partner of the firm
(b) Is same as that of any other partner in the firm (d) Is unlimited.

172. A minor is

- (a) A servant of the firm (c) Entitled to carry on the business of the firm
(b) Representative of the firm (d) Entitled to the benefits of the firm.

173. The mutual rights and duties of partners are governed

- (a) Only by Partnership Agreement (c) Both Partnership Agreement and the Partnership Act, 1932
(b) Only by the Partnership Act, 1932 (d) Either Partnership Agreement or the Partnership Act, 1932.

174. The provision of section 9 and 10 lay down the

- (a) Mandatory duties of partners (c) General right of partners
(b) General duties of partner (d) None of these.

175. The provision of section 9 and 10

- (a) Cannot be changed by an agreement amongst partner (c) Can be changed by consent of all partners
(b) Can be changed by consent of majority of partners (d) None of these.

176. Unless otherwise agreed, a partners

- (a) Can carry on same business as that of the firm
- (b) Cannot carry on same business as that of the firm
- (c) Cannot carry on any business other than that of firm
- (d) None of these.

177. A change in the nature of business of the firm may be made only with the consent of

- (a) Majority of partners
- (b) All partners
- (c) Senior partners
- (d) Working partners.

178. Unless otherwise agreed, every partner has right:

- (a) To prevent the introduction of a new partner without the consent of majority of the existing partner
- (b) To retire with the consent of majority of the partners
- (c) Not to be expelled from the firm by decision of all other partners
- (d) None of these.

179. In the absence of any agreement interest on advances by a partner is

- (a) Allowed at 6 per cent p.m.
- (b) Not allowed at all
- (c) Allowed at the market rate of interest
- (d) Allowed at 6 per cent p.a.

180. Where a partner is entitled to interest on capital subscribed by him, such interest will be payable

- (a) Only out of profit
- (b) Only out of capital
- (c) Only of profits or out of capital
- (d) None of these.

181. What constitutes firm's property

- (a) Property belonging to a partner who enters into an existing partnership
- (b) Any property used for the purpose of the business of the firm
- (c) Fixed assets brought in by partner to the common stock of firm
- (d) The property acquired by partner out of money, withdrawn from the firm's bank account for personal use.

182. Implied authority of the partner does not empower him to

- (a) Submit a dispute relating to the business of the firm to arbitration
- (b) Withdraw a suit or proceeding filed on behalf of the firm
- (c) Both (a) and (b)
- (d) None of the above.

183. A firm in the course of its business receives money from a third party. One of the partners misapplies it

- (a) The firm is liable to make good the loss
- (b) The firm is not liable to make good the loss
- (c) The defaulting partner alone is liable
- (d) The defaulting partner is not liable.

184. Where a partner retires, and the remaining partner carry on the business with the firm's property without any final settlement of accounts, the outgoing partner is entitled to

- (a) Interest at 6 per cent per annum on the amount due to him
- (b) Such share of the profits as may be attributable to the use of his share of the firm's property
- (c) Either of the above two at the option of the outgoing partner
- (d) Interest at the rate of 15 per cent per annum on the amount due to him.

185.The partner who has been wrongly expelled has a right;

- (a) To recover damages for wrongful expulsion
(b) To claim re-instatement as a partner
(c) Both (a) and (b)
(d) None of these.

186.A partner may be expelled from the firm on the fulfillment of the condition that the expulsion power is exercised

- (a) As given by express contract
(b) By majority of partners
(c) In absolute good faith
(d) All of the above.

187.The taste of good faith as required under Section 33(1) includes the following

- (a) That the expulsion must be in the interest of the partnership
(b) That the partner to be expelled is served with a notice
(c) That the partner to be expelled is given an opportunity of being heard
(d) All of the above.

188.Expulsion of a partner, which is not in accordance with provisions of Section 33 of the Indian partnership Act, 1932 is _____

- (a) Null and void
(b) Null and void to some extent
(c) Is unconstitutional
(d) In good faith and in the interest of the partnership.

189.A transferee of a partner's share is

- (a) Entitled to interfere with the conduct of the business
(b) Entitled to require accounts
(c) Entitled to inspect the books of the firm
(d) Bound to accept the account of profits agreed to by the partner.

190.A continuing guarantee

- (a) Is revoked as to future transactions from the date of any change in the constitution of the firm
(b) Is not revoked as to future transaction even in case of change in the constitution of the firm
(c) None of these.

191.What constitutes dissolution of firm

- (a) Change in profit sharing ratio
(b) Admission of a partner
(c) Retirement / Death of a partner
(d) All of above.
(e) None of these.

192.A firm is compulsory dissolved

- (a) If all but two partners are declared insolvent
(b) If some event takes place which makes one or more but not all business illegal
(c) On the death of a partner
(d) None of these.

193.X, Y, Z are partners in a firm and X becomes insolvent. Than _____

- (a) The firm has to dissolve by default
(b) The firm may not be dissolve unless there is any agreement between the partners to do so
(c) The statute of the firm becomes illegal from the date of adjudication of X as an insolvent
(d) X remains a partner, unless the firm is dissolved.

194. The other partners may sue for the dissolution of firm where a partner has transferred

- (a) 25% of his interest in the firm to a third party (c) 75% of his interest in the firm to a third party
(b) 50% of his interest in the firm to a third party (d) 100% of his interest in the firm to a third party.

195. Where the business of the firm cannot be carried on except at a loss, the court may order dissolution of

- (a) Any firm (c) Any firm other than partnership at will
(b) Any firm other than partnership for a fixed term (d) None of these.

196. In case of a partnership at will, notice by any partner of his intension to dissolve the firm, once given

- (a) Can be withdraw by giving another notice of his intension to withdraw earlier notice, to any of the other partners (c) Cannot be withdrawn without the consent of all other partners
(b) Cannot be withdrawn without the consent of majority of majority of the partners (d) Cannot be withdrawn without the permission of registrar of firms.

197. After the dissolution of a firm, the authority of a partner to bind the firm

- (a) Does not continue at all (c) None of these.
(b) Continues so far as many be necessary to wind up the affairs of the firm

198. Any surplus left after payment of firm's debts and partner's advances

- (a) Is divided among all partners in their capital ratio (c) None of these.
(b) Is divided among all partners in their profit sharing ratio.

199. As per Garner vs. Murray rule, any deficiency of partner's capital arising on the insolvency of a partner is shared by

- (a) All the partners in their profit sharing ratio (c) All solvent partners in their profits sharing ratio
(b) All the partners in their capital ratio (d) None of these.

200. Public notice is not given on the death of a partner but the firm continues the business. For the acts of the firm done after his death

- (a) The estate of the deceased partner is liable (c) His legal representatives are personally liable.
(b) The estate of the deceased partner is not liable

201. Only the consent of majority of partners is required

- (a) To dissolve a particular partnership (c) To introduce a new partner
(b) To change the nature of the business of firm. (d) To expel any partner

202. X fraudulently induced Y to enter into partnership with him and Y pays a premium of Rs. 5,000/- to X. Within three months the firm incurs liabilities to the extent of Rs. 10,000/-. On discovering the fraud, Y files a suit for the rescission of the contract creating partnership and contract is rescinded. The creditors of the firm also levy attachment on Y who pays Rs. 3,000/- to them as well. Which of the following is correct?

- (a) Y can obtain a decree for Rs. 8,000/- against X. (c) Y can obtain a decree for Rs. 3,000/- against X.
(b) Y can obtain a decree for Rs. 5,000/- against X. (d) Y cannot obtain a decree for either Rs. 5,000/- or Rs. 3,000/- or Rs. 8,000/- against.

203. A & B are partners in a partnership firm. A introduced C, a former partner, as his partner to D. C remained silent at that moment, but later on informed D that he is actually a former partner of the firm. C has also issued public notice in the year of his retirement from the partnership firm. D, a trader supplied 500 refrigerators to the firm on credit. The credit period expired and D did not get the price of his supplies. D filed a suit against A and C for the recovery of price. In light of the above circumstances answer which of the following is correct?

- (a) C is liable for the price to D (c) C is not liable for the price to D.
(b) C is liable for the price to D, irrespective of the fact, whether C remained silent or not (d) None of the above.

204. A and B becomes partners for 16 years. A pays B a premium of Rs. 5,000/-. At the end of 8 years there is dispute between A & B and they declared a dissolution

- (a) A can get back entire amount of the premium paid by him to B (c) A can get back Rs. 2,500/- from B
(b) A can get back a reasonable part of the premium (d) A cannot get back any amount of the premium paid by him

205. The limit for maximum number of partners in a firm is provided in

- (a) Section 11 of the Indian Partnership Act, 1932 (c) Section 11 of the Indian Contract Act, 1872
(b) Section 11 of the Companies Act, 1956 (d) None of these.

206. A written agreement by which a partnership firm is created is known as

- (a) Partnership Deed (c) License Agreement
(b) Deed document (d) None of these.

207. A partnership firm is formed to carry on some joint business and such business should consist of a

- (a) Long and permanent undertaking (c) Any of these two, as the only requirement is that there has to be some business
(b) Single business venture or undertaking. (d) None of these, as the requirement is of joint property and not of joint business.

208. The important case of Cox v. Hickman, (1860) HLC 268 lays down the principle of

- (a) Registration of a firm (c) Dissolution of the firm
(b) Test of partnership (d) Express authority of partners.

209. A, a contractor, appointed B to manage his entire work. It was agreed that B would receive 50% of the profits as his remuneration and would bear all the losses, if any. Here, B is

- (a) A's partner
- (b) A's agent
- (c) Sole proprietor
- (d) None of these.

210. Which of the following statement about 'partnership for a fixed period' is incorrect?

- (a) It is dissolved on the expiry of fixed period
- (b) It can also be dissolved before fixed period by adopting the modes of dissolution
- (c) Both of these
- (d) None of these.

211. If after the completion of particular adventure or undertaking, the firm continues to carry on some other adventure, then it becomes a

- (a) Void partnership
- (b) Renewed partnership
- (c) Illegal association
- (d) Partnership at will.

212. On any partner's refusal to sign the application form for the registration, the registration of the firm

- (a) Can be obtained by dropping the name of such a partner from the firm
- (b) Can be obtained without dropping the name of such partner
- (c) Cannot be obtained with such a form which is not signed by all the partners
- (d) Both (a) and (c)

213. Where a new partner joins the firm after its registration, such a change in the constitution of the firm, requires

- (a) Almost a new registration
- (b) A notice, along with date of joining, to the registrar
- (c) A simple information to the court
- (d) None of these.

214. Where an existing partner retires from the firm after its registration, such a change in the constitution of the firm, requires

- (a) Almost a new registration
- (b) A notice along with date of retirement, to the Registrar
- (c) An indemnity bond from a retiring partner
- (d) None of these.

THE SALE OF GOODS ACT, 1930

CHAPTER-1 FORMATION OF CONTRACT OF SALE

CONTENTS :-

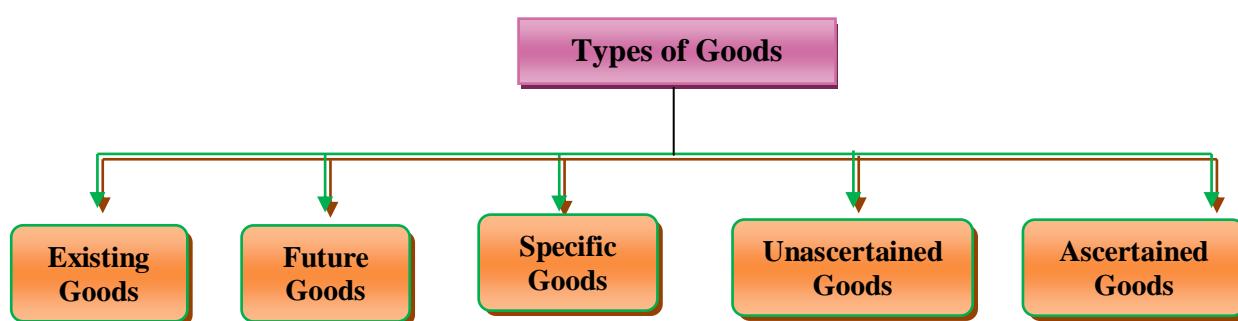
1. DEFINITIONS
2. SALE V. AGREEMENT TO SELL
3. SALE V. HIRE PURCHASE
4. SALE V. BAILMENT
5. SALE V. CONTRACT FOR WORK AND LABOUR
6. MODES OF FORMING CONTRACT OF SALE
7. DESTRUCTION OF SUBJECT MATTER OF CONTRACT
8. ASCERTAINMENT OF PRICE
9. STIPULATION AS TO TIME

1. DEFINITIONS

- ✚ **Buyer [Sec 2 (1)] :-** Buyer means a person who **buys** or **agrees to buy** goods.
- ✚ **Seller [Sec 2 (13)] :-** Seller means a person who **sells** or **agrees to sell** goods.
- ✚ **Goods [Sec 2 (7)] :-** Goods means every kind of **movable property** *other than actionable claims & money* and **includes** :
 - Stock and shares
 - Growing crops
 - Grass &
 - Things attached to or forming part of land,

which are agreed to be severed before sale or under the contract of sale.

[**Actionable claims** are claims which can be enforced only by an action or suit e.g. Debt.]

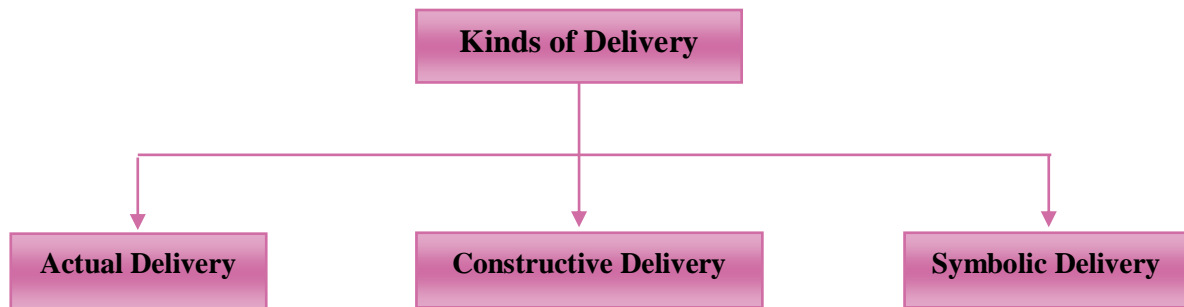


Existing Goods	Goods which are in existence at the time of contract of sale <i>i.e.</i> those owned & possessed by the seller.
Future goods	Means goods to be manufactured or produced or acquired by seller after making the contract of sale. In case of future goods, there is an agreement to sell.
Specific Goods	Means goods identified & agreed upon at the time of a contract of sale has been made.
“Unascertained” or “Generic” goods	Means goods defined only by description and not identified and agreed upon.

Ascertained goods

Means goods **identified** in accordance with the agreement **after the contract of sale has been made**

- ✚ **Goods in Deliverable State:-** Goods are said to be in a deliverable state when they are in such a condition that the buyer is bound to take delivery of them under the contract.
E.g. – A contracts to sell timber and makes bundles thereof, Goods will be in a deliverable state, after A has put the goods in such a condition.
- ✚ **Delivery [Sec. 2 (2)]:** - Delivery means voluntary **transfer of possession** by one person to another.



a. Actual Delivery	It is actual when the goods are physically delivered to the buyer.
b. Constructive delivery	When it is effected without any change in the custody or actual procession of thing. E.g. Delivery by attornment (acknowledgement). E.g. Where a warehouseman holding the goods of A, agrees to hold them on behalf of B, at A's request.
c. Symbolic Delivery	When there is a delivery of thing in token of a transfer of something else E.g. Delivery of goods in transit by handing over the documents to title (ownership) to goods, B/L, Dock warrant, Delivery of key of a Warehouse.

- ✚ **Document of title to goods :-** Includes:
 - ➡ Bill of lading
 - ➡ Dock warrant
 - ➡ Warehouse keeper's certificate
 - ➡ Wharfingers' certificate
 - ➡ Railway receipt
 - ➡ Multimodal transport document
 - ➡ Warrant or order for delivery of goods or any other document used in the ordinary cause of business as a proof of possession or control of goods.
- ✚ **Mercantile Agent [Sec 2 (9)]:** - It means an agent having in the customary course of business as such agent an authority either
 - ➡ To sell goods or
 - ➡ To consign goods for the purpose of sale or
 - ➡ To buy goods or
 - ➡ To raise money on the security of the goods..
- ✚ **Property [Sec 2 (ii)]**
It means **General property** (Right of ownership in goods) and **not merely special property**.
- ✚ **Insolvent [Sec 2 (8)]**

A person is said to be insolvent when he **ceased to pay** his debts in the ordinary course of business **or cannot pay** his debts as they become due whether he has committed an act of insolvency or not.

✚ Contract of sale [Sec.4 (1)]

A contract of sale is a **contract** whereby the **seller transfers** (sale) **or agrees to transfer** (agreement to sell) **property** (ownership) in **goods** to the **buyer** for a **price**.

❖ Essentials:

- At least two parties
- Subject matter of contract must be Goods
- Price in money only (not in kind) should be paid or promised.
- Transfer of ownership in goods
- A contract of sale must be absolute or conditional.
- Other essentials of a valid contract.

2. SALE Vs. AGREEMENT TO SELL

S. NO.	BASIS	SALE	AGREEMENT TO SALE
1.	Property in goods	Transfer	Not transfer
2.	Risk	Transfer	Not transfer
3.	Type	Executed contract	Executory contract
4.	Sue for Price	Yes	No, only damages unless price was payable at stated date.
5.	Loss of destruction Breach by Seller	Buyer Buyer's Right (i) To recover the goods (ii) Suit for damages.	Seller Buyer's right to claim damages only.

3. SALE Vs. HIRE PURCHASE

S. NO	BASIS	SALE	HIRE PURCHASE
1.	Transfer of property	Immediate	On the payment of last instalment
2.	Position	Buyer → Owner	Hirer → Bailee till he pays last instalment
3.	Right of termination	Buyer cannot terminate the contract and is bound to pay the price.	Hirer may terminate the contract by returning the goods to its owner without any liability to pay remaining instalment.
4.	Buyer's Insolvency	Risk of loss → Seller	Seller has no risk, right to take back goods
5.	Passing of title by buyer	Buyer can pass good title to bonafide purchaser	Hirer cannot pass any title even to a bonafide purchaser
6.	Tax	Tax is levied at the time of contract.	Tax is not leviable unless it eventually ripens into sale

4. Sale v. Bailment

BAILMENT

A bailment is the delivery of goods for some specific purpose under a contract on the condition that the same goods to be returned to the bailer or are to be disposed off according to directions of the bailer.

SALE Vs. BAILMENT

S.NO	BASIS	SALE	BAILMENT
1.	Transfer of ownership	Yes	No Only transfer of possession
2.	Return of goods	Return of goods in contract of sale not possible.	Bailee must return the goods to the bailor on accomplishment of the purpose for which the bailment was made.
3.	Consideration	Consideration price money only	Consideration may be gratuitous or non gratuitous.

5. SALE Vs. CONTRACT FOR WORK AND LABOUR

S. NO	SALE	CONTRACT FOR WORK & LABOUR
1. Transfer of ownership	Yes	No Only doing some work of labour. ➤ E.g. Gold supplied to goldsmith for preparing an ornament ➤ An artist ask to paint a picture.

6. Modes of forming contract of sale –

There may be:-

- ✚ Immediate delivery of goods or
- ✚ Immediate payment of price but delivery at the some future date or
- ✚ Immediate delivery of goods and immediate payment of price or
- ✚ Delivery or payment or both are to be made in instalments or
- ✚ Delivery or payment or both are to be made at some future date.

7. Destruction of subject matter of contract (Sec. 7 & 8) :-

- (a) Goods not existing at the time of contract.
 - ✚ Goods destroyed without knowledge of the seller, **contract is void-ab-initio.**
- (b) If there was agreement to sell & Goods perishing after contract is made.
 - ✚ Without any fault of buyer or seller, agreement becomes void.

8. Ascertainment of price (Sec. 9 and 10)

Price is the monetary consideration for sale of goods [Sec 2 (10)]

✚ Price may be:

- Fixed by the contract or
- Agreed to be fixed in a manner provided by the contract. E.g. by a valuer or
- Determined by the course of dealings between the parties.
- Where price cannot be fixed in any of above ways, buyer is bound to pay a reasonable price to the seller.

9. Stipulation as to time (Section 11)

As regard time for payment of price, unless a different intention appears from the contract, stipulation as regard this is not deemed to be essence of the contract of sale.

But delivery of goods must be made without delay. Stipulations as to time of delivery are usually the essence of contract.

CHAPTER-2 CONDITIONS & WARRANTIES

CONTENTS :-

1. CONDITION
2. WARRANTY
3. DISTINCTION BETWEEN CONDITION & WARRANTY
4. WHEN A CONDITION MAY BE TREATED AS WARRANTY
5. EXPRESS & IMPLIED CONDITIONS & WARRANTIES
6. CAVEAT EMPTOR

1. Condition – A condition is a stipulation **essential to the main purpose of contract**, the breach of which gives the **right to repudiate the contract & to claim damages**.

2. Warranty – A warranty is a stipulation **collateral to the main purpose of contract** the breach of which gives rise to a **claim for damages** but **not to a right to reject the goods** and treat the contract as repudiated.

3. DISTINCTION BETWEEN CONDITION AND WARRANTY

CONDITION	WARRANTY
1. Essential to the main purpose of contract.	1. Collateral to the main purpose of contract.
2. Aggrieved party can repudiate the contract or claim damages or both in case of breach of condition.	2. Aggrieved party can claim only damages in case of breach of warranty.
3. A breach of condition may be treated as breach of warranty.	3. A breach of warranty cannot be treated as breach of condition.

4. WHEN A CONDITION MAY BE TREATED AS WARRANTY

(i) When buyer altogether waives the performance of the condition.
(ii) Where buyer elects to treat the breach of condition as one of warranty. He may only claim damages instead of repudiating the contract.
(iii) Contract is non-severable, the buyer has accepted either the whole goods or any part thereof.
(iv) Where fulfillment of any condition or warranty is excused by law by reason of impossibility or otherwise.

5. EXPRESS & IMPLIED CONDITIONS & WARRANTIES

✚ Express Conditions – are those which are agreed between the parties at the time of contract and are expressly provided in the contract.
✚ Implied Conditions – are those which are presumed by law to be present in the contract. An implied condition may be negated or waived by an express agreement.

❖ Implied Conditions :-

Condition as to title	
✚	In case of sale, seller has right to sell the goods &
✚	In case of agreement to sell, he will have right to sell the goods at the time when property is to pass.
✚	If the sellers title turnout to be defective, buyer must return the goods to the true owner and recover the price from the seller.
Sale by description	In this case, there is implied condition that goods correspond with the

	description.
Sale by sample	<ul style="list-style-type: none"> ✚ Bulk shall correspond with the sample in quality. ✚ The buyer shall have a reasonable opportunity of comparing the bulk with the sample and ✚ The goods should be free from any defect rendering them unmerchantable, which would not be apparent on reasonable examination of the sample.
Condition by sample as well as description	Bulk must correspond with sample & description
Condition as to quality or fitness	<ul style="list-style-type: none"> ✚ No implied condition as to quality or fitness of the goods sold for any particular purpose. ✚ Condition as to reasonable fitness of goods for a particular purpose is implied if the buyer had made known to the seller the purpose of his purchase and relied upon the skill & judgment of the seller to select the best goods and seller has ordinarily dealing in those goods.
Condition as to wholesomeness	In case of eatables & provisions, in addition to merchantable quality, goods shall be wholesome.

❖ IMPLIED WARRANTIES	
1. Warranty as to undisturbed possession	Buyer shall have & enjoy quite possession of goods.
2. Warranty as to non-existence of encumbrances	Goods shall be free from any charge in favour of a third party not declared or known to the buyer before or at the time contract is entered into.
3. Disclosure of dangerous nature of goods	Goods are dangerous & buyer is ignorant of danger, seller must warn the buyer of the probable danger.
4. Warranty as to quality or fitness by usage of trade	An implied warranty as to quality or fitness for a particular purpose may be annexed by the usage of trade.

6. CAVEAT EMPTOR

Means Let the buyer beware

- It is the responsibility of the buyer to make proper selection of goods. If the goods turn out to be defective he cannot hold the seller liable. The seller is in no way responsible for bad selection of the buyer. The seller is not bound to disclose the defects in the goods which he is selling.

EXCEPTIONS

1. Where buyer make known to the seller the particular purpose for which the goods are required, so as to show that he relies on seller's skill & judgement.	
2. Goods purchased under patent name or brand name	No implied condition that the goods shall fit for any particular purpose.
3. Sale by description	Goods shall correspond with the description. Goods shall be of merchantable quality, if purchased from dealer. the rule shall not apply. But if buyer has examined the goods & the defects were such which ought to have been revealed by ordinary examination, the rule shall apply.
4. Sale by sample	if bulk does not correspond with sample.
5. Goods by sample as well as description	Goods shall correspond with both description as well as sample.
6. When quality or fitness assumed by usage of trade	for a particular purpose & seller deviates from that.
7. Fraud or misrepresentation by	

the seller.

CHAPTER-3

TRANSFER OF OWNERSHIP AND DELIVERY OF GOODS

CONTENTS :-

1. PASSING OF PROPERTY
 2. PASSING OF RISK
 3. TRANSFER OF TITLE
 4. RULES REGARDING DELIVERY OF GOODS
 5. ACCEPTANCE OF DELIVERY OF GOODS
-

1. PASSING OF PROPERTY (PASSING OF OWNERSHIP)

❖ Rules:

- (i) No transfer of property to the buyer, unless & until goods are ascertained.
- (ii) Where there is a contract of sale of specific or ascertained goods, property passes to the buyer at the time when parties intend to pass it.
- (iii) Where there is an unconditional contract for the sale of specific goods in a deliverable state, property in goods passes to the buyer when the contract is made. (Sec. 20). The property shall not pass when the goods are made in deliverable state but shall pass only when the buyer has notice of it. (Sec. 21)
- (iv) Where the goods are in deliverable state, but the seller is bound to weigh, measure, test or to do same act or thing for the purpose of ascertaining price, the property does not pass until such act or thing is done. When the seller has done its part the property passes even if the buyer has to do something for his own satisfaction. (Sec. 22)

(v) **Unascertained goods**

Property passes when

- ✚ There is ascertainment of goods &
- ✚ There unconditional appropriation to the contract.

Appropriation of goods It involves selection of goods with the intention of using them in performance of contract and with the mutual consent of seller & the buyer.

(vi) **Goods sent on approval or 'sale' or 'pattern'**

Property passes –

- ✚ When buyer signifies his approval or acceptances to the seller.
- ✚ When he does any act adopting the transaction &
- ✚ If he does not signifies his approval or acceptance to the seller but retained the goods beyond a reasonable time. (Sec. 24)

(vii) **Sale for cash only or return** Property pass only when the cash is paid for.

(viii) **Conditional appropriation** When the seller reserves the right of disposal until certain conditions are fulfilled, the property therein will not pass to the buyer till the condition imposed, if any, by the seller has been fulfilled.

2. PASSING OF RISK [Sec. 26]

“Risk follows ownership”. The general rule is “*Risk passes with property*”.

Exceptions –

- ✚ If there is delay of delivery due to fault of seller or buyer, the goods shall at the risk of the party in default, as regards loss which might not have arisen but for the default.
- ✚ The duties and liabilities of the seller and buyer as bailee of goods for the other party remain unaffected even when the risk has passed generally.

3. TRANSFER OF TITLE [Sec. 27 to 30]

The general rule regarding transfer of title is that the seller cannot transfer to the buyer of goods a better title than he himself has. If the seller is not the owner of the goods, then the buyer also will not become the owner i.e., the title of buyer shall be the same as that of the seller. Latin maxim “**Nemo dat quod non habet**”. which means no one can give what he has not got.

Exceptions – Sale by non-owner → valid

Sale by Mercantile Agent

- ✚ For documents of title to goods
- ✚ Agent in possession of goods with consent of owner
- ✚ Sale made acting in ordinary course of business as mercantile agent &
- ✚ Buyer acted in good faith & at the time of contract of sale, no notice of fact that seller has no authority to sell.

Sale by one of the joint promisors

Buyer - Good title (Purchase in good faith + No knowledge of fact that seller has no authority to sell).

Sale by person in possession under voidable contract provided contract has not been rescinded until the time of sale.

Sale by one who already sold the goods but continues to be in possession thereof. (Person obtains delivery in good faith + No notice of previous sale)

Sale by buyer obtaining possession before property in goods has vested in him.

Effect of estoppel Where the owner is estopped by the conduct from denying the seller's authority to sell, the transferee will get a good title on against the true owner.

Sale by an unpaid seller

Sale by official receiver or liquidator of a company.

Sale by finder of goods under certain circumstances.

4. RULES REGARDING DELIVERY OF GOODS

(i) Buyer to apply for delivery The seller is not bound to deliver the goods until the buyer has applied for delivery, unless otherwise agreed

(ii) **Place of Delivery** –

- ✚ If there is no contract to the contrary, goods must be delivered at the place where they were at the time of sale.
- ✚ In case of agreement to sell, goods agreed to be sold are required to be delivered at the spot where they were at the time when agreement was entered into.
- ✚ If goods were not in existence when agreement to sell was entered into, then delivery will be made at the place where they would be manufactured or produced.

(iii) Time of Delivery If not fixed by the parties, the seller must send them within reasonable time.

(iv)	Goods with third party	In this case, there will be no delivery unless and until such third person acknowledges to the buyer that he hold goods on his behalf.
		In case, there is a transfer of document of title to goods, it will be treated as symbolic delivery. Even if the goods are in custody of a third person, no acknowledgement is required.
(iii)	Time for tender of Delivery	Demand or tender of delivery should be made at a reasonable hour otherwise such demand is ineffectual. What is reasonable hour is a question of fact.
(iv)	Expenses for Delivery	Expenses related to putting the goods into a deliverable state must be borne by the seller, unless there is a contract to the contrary.
(v)	Delivery of wrong quantity	<ul style="list-style-type: none"> ✚ In case of delivery of lessor quantity of goods, the buyer may either accept the same and pay for it or reject it. ✚ In case of excess delivery, the buyer may accept or reject the delivery, if he accepts the whole of goods, he shall pay for them at the contract rate. ✚ In case goods mixed with goods of a different description and delivery in made, the buyer may accept the relevant goods and reject the rest or reject the whole. ✚ Note: Mixing of goods with inferior goods does not amount to a mixing of goods of different description.
(vi)	Part Delivery	Part Delivery would have the same effect for the purpose of passing of property in such goods as delivery of the whole. But delivery of part of goods will not be treated as delivery of the whole.
(vii)	Installment deliveries	<p>Unless otherwise agreed, the buyer is not bound to accept delivery in installments.</p> <ul style="list-style-type: none"> ✚ The parties to the contract thereon may determine the rights and liabilities in case of delivery by installments and payments.
(x)	Delivery of carrier	Subject to the terms of contract, the delivery of the goods to the carrier for transmission to the buyer, is prima facie deemed to be delivery to the buyer.
(xi)	Goods deteriorate during transit	Where goods are delivered at a distant place, the liability for deterioration necessarily incidental to the course of transit will fall on the buyer, though the seller agrees to deliver at his own risk.
(xii)	Buyer's right to examine the good	If goods are not previously examined by the buyer, the seller is bound, on request, to afford the buyer a reasonable opportunity of examining the goods.

5. Acceptance of delivery of Goods

- ❖ Acceptance is deemed to take place when the buyer:
 - ✚ Intimates to the seller that he had accepted the goods; or
 - ✚ Does any act to the goods which is inconsistent with ownership of the seller; or
 - ✚ Retain the goods after the lapse of a reasonable time, without intimating to the seller that he has rejected them.

CHAPTER-4 UNPAID SELLER

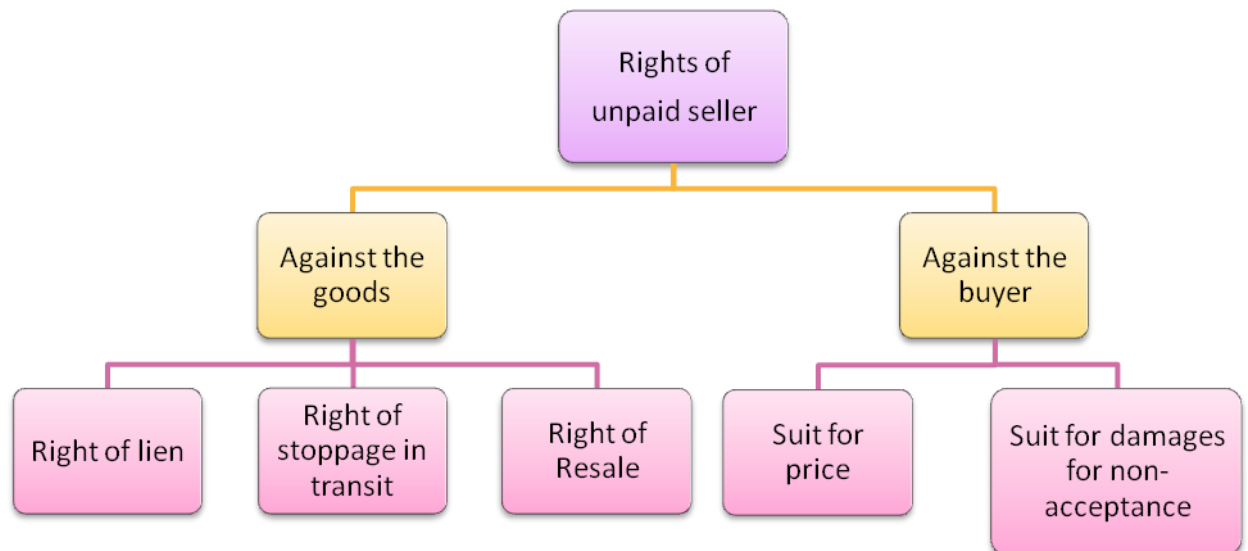
CONTENTS :-

1. UNPAID SELLER
2. RIGHTS OF AN UNPAID SELLER
3. RIGHT OF LIEN vs. RIGHT OF STOPPAGE IN TRANSIT
4. EFFECT OF SUB-SALE OR PLEDGE BY THE BUYER ON UNPAID SELLER'S RIGHT
5. RIGHTS OF BUYER AGAINST THE SELLER IN CASE OF BREACH OF CONTRACT BY SELLER
6. AUCTION SALE

1. **Unpaid Seller** – The seller of goods is deemed to be an unpaid seller when –

- ✚ The whole of the price has not been paid or tendered and the seller has an immediate right of action for the price. A bill of exchange or other negotiable instrument was given as payment, but the same has been dishonoured, unless this payment was an absolute, and not a conditional payment.

2.



(A) RIGHTS OF UNPAID SELLER AGAINST THE GOODS

(i) **Right of Lien (Section 47)**

- ✚ Goods are in possession of seller
- ✚ Lien until the payment or tender of the price of such goods.

✚ **Cases where right of lien can be exercised:**

- (a) Goods sold without any stipulation of credit or
- (b) Goods sold on credit but term of credit has expired or
- (c) Buyer becomes insolvent

✚ **Cases under which seller loses his right of lien**

- ➔ Where he delivers the goods to a **carrier** or other **bailee** for the purpose of **transmission** to the **buyer** without reserving the right of disposal of goods.
- ➔ Where the **buyer** or his agent lawfully **obtains possession** of the goods.
- ➔ Where seller the **waived** the right of lien.
- ➔ **By Estoppel** *i.e.*, where the seller so conducts himself that he leads third parties to believe that the lien does not exist.

(ii) **Right of stoppage in transit** – This right can be exercised only if all the following conditions are fulfilled:

- ✚ **Seller** must be **unpaid**.
- ✚ Seller must have **parted with the possession** of the goods.
- ✚ **Goods** are **in transit**.
- ✚ **Buyer** has become **insolvent**.

(iii) **Right of re-sale** – The right to re-sell the goods can be exercised by the unpaid seller under the following conditions:

- ➡ Goods are of perishable nature, no need to inform to the buyer of intention of resale.
- ➡ In case of other goods, when notice of intention of resale is given by unpaid seller to the buyer & buyer does not within reasonable time pay or tender the price.

(B) RIGHT OF UNPAID SELLER AGAINST THE BUYER

(i) **Suit for price (Section 55)**

- (a) Property has passed to the buyer (ownership).
Buyer wrongfully neglects or refuses to pay price of goods.
- (b) Property has not passed to the buyer.
Price is payable on a particular date irrespective of delivery.
Buyer wrongfully neglects or refuses to pay price of goods.

(ii) **Suit for damages for non-acceptance (Section 56)**

When buyer wrongfully neglects or refuses to accept and pay for the goods, the seller may sue him for damages for non-acceptance.

(iii) **Suit for damages for Breach (Section 60)** – Where the contract is repudiated by the buyer before the date of delivery, the seller may treat the contract as rescinded and sue for damages for the breach.

(iv) **Suit for interest** – Where there is –

- Specific agreement between seller and buyer as to interest on price of goods from the date.
- On which payment becomes due, the seller may recover the interest from the buyer.

3. RIGHT OF LIEN Vs. RIGHT OF STOPPAGE IN TRANSIT

S.No.	RIGHT OF LIEN	RIGHT OF STOPPAGE IN TRANSIT
1.	It is a right to retain possession.	It is a right to regain possession
2.	Seller should be in possession of the goods.	✚ Seller should have parted with the possession. ✚ Possession should be with a carrier & ✚ Buyer has not acquired the possession.
3.	The right of lien can be exercised even when the buyer is not insolvent.	It can be exercised only if buyer is insolvent.
4.	The right of stoppage in transit starts where right of lien ends.	Its starting point is the end of right of lien.

4. EFFECT OF SUB-SALE OR PLEDGE BY THE BUYER ON UNPAID SELLER'S RIGHT

- The unpaid seller's right of lien or stoppage in transit is not effected by any further sale or other disposition of goods by the buyer.

✚ *Exceptions –*

- ✚ When seller has given his assent to such sale, mortgage or other disposition of goods made by the buyer.
- ✚ When a document of title of goods has been transferred to the buyer and the buyer transfers the documents to a person who has bought the goods in good faith & for value.

5. RIGHT OF BUYER AGAINST THE SELLER IN CASE OF BREACH OF CONTRACT (Section 57 to 59)

(i)	Suit for non-delivery [Section 57] –	Where the seller wrongfully neglects or refuses to deliver the goods to the buyer, the buyer may sue the seller for damages for non-delivery.
(ii)	Suit for specific performance [Section 58]	Where property has passed to the buyer, the buyer can also exercise the right to sue for specific performance.
(iii)	Suit for damages for Breach of warranty [Section 59]	Buyer is entitled to claim damages from the seller.
(iv)	Suit for recovery of price [Section 61]	The buyer has right to recover the money paid to the seller where the consideration for payment of it has failed.

6. AUCTION SALE

- ✚ It is a mode of selling property by inviting bids publicly and the property is sold to the highest bidder.
- ✚ An auctioneer is an agent governed by law of agency.

PROVISIONS RELATED TO AUCTION SALE

Where goods are put for sale in lot, each lot is prima facie deemed to be subject matter of a separate contract of sale.

The sale is complete when auctioneer announces its completion:

- ✚ By fall of hammer or
- ✚ Any other customary manner.

Any bidder may retract from his bid until announcement is made.

Right to bid may be **reserved expressly** by or behalf of the seller and where such a right is expressly reserved, but not otherwise, the **seller** or any one person on his behalf **may bid** at the auction.

If seller's right to bid has not been expressly reserved, it shall not be lawful for the seller to bid himself or to employ any person to bid at such sale

Reserve Price – The sale may be notified to be subject to a reserve or upset price.

Pretended bidding – If the seller makes use of pretended bidding to raise the price, the **sale is voidable** at the option of the buyer.

THE SALE OF GOODS ACT, 1930

DM QUESTION BANK

1. A contract for the sale of goods where property would pass to the buyer on payment of total price would be:

- | | |
|-----------------------|----------------------------|
| (a) Sale | (c) hire-purchase contract |
| (b) agreement to sell | (d) sale on approval. |

2. The term “goods” under the Sale of Goods Act, 1930 does not include:

- | | |
|-----------------------|-----------------------|
| (a) old silver coins | (c) stocks and shares |
| (b) actionable claims | (d) harvested crops. |

3. A contract for the sale of “future goods” is:

- | | |
|-----------------------|-----------------------------|
| (a) Sale | (c) void |
| (b) agreement to sell | (d) hire-purchase contract. |

4. The Sale of Goods Act, 1930 deals with the:

- | | |
|--------------------------|--------------------------------------|
| (a) movable goods only | (c) both movable and immovable goods |
| (b) immovable goods only | (d) all goods except ornaments. |

5. Under the Sale of Goods Act, 1930, the term “goods” means every kind of movable property and it includes:

- | | |
|-------------------------|------------------------|
| (a) stock and shares | (c) both (a) and (b) |
| (b) growing crop, grass | (d) none of the above. |

6. The Sale of Goods Act, 1930 deals with the:

- | | |
|--------------|------------------------|
| (a) Sale | (c) agreements to sell |
| (b) mortgage | (d) both (a) and (c). |

7. The conditions and warranties may be in the form of:

- | | |
|-------------|------------------------|
| (a) express | (c) either (a) or (b). |
| (b) implied | (d) None of the above. |

8. Goods which are in existence at the time of the Contract of Sale are known as:

- | | |
|--------------------|------------------------|
| (a) present goods | (c) specific goods |
| (b) existing goods | (d) none of the above. |

9. Which one of the following is / are document of title to goods?

- | | |
|------------------------------|------------------------------------|
| (a) railway, receipt | (c) warehouse keeper’s certificate |
| (b) wharfinger’s certificate | (d) all of the above. |

10. Which of the following is not true?

- | | |
|--|---|
| (a) document showing title is not different from document of title | (c) specific goods are the goods identified and agreed upon at the time of the contract of sale |
| (b) bill of lading is a document of title to goods | (d) none of the above. |

11. Contract of Sale is:

- | | |
|------------------------|------------------------|
| (a) executory contract | (c) both of the above |
| (b) executed contract | (d) none of the above. |

12. In which form of the contract, the property in the goods passes to the buyer immediately:

- | | |
|-----------------------|-----------------------|
| (a) agreement to sell | (c) sale |
| (b) hire purchase | (d) installment sale. |

13. If A agrees to deliver 100 kg. of sugar to B in exchange of 15 mts. of cloth, then it is:

- | | |
|-----------------------|----------------------|
| (a) contract of sale | (c) sale on approval |
| (b) agreement to sell | (d) barter. |

14. In a hire-purchase agreement, the hirer

- | | |
|------------------------------------|---|
| (a) has an option to buy the goods | (c) must return the goods |
| (b) must buy the goods | (d) is not given the possession of goods. |

15. A agrees to deliver his old car valued at Rs. 80,000 to B, a car dealer, in exchange for a new car, and agrees to pay the difference in cash it is:

- | | |
|-----------------------|--------------|
| (a) contract of sale | (c) exchange |
| (b) agreement to sell | (d) barter. |

16. A contract for the sale of goods which provides that the property would pass to the buyer on full payment of price and execution of sale deed is known as:

- | | |
|-----------------------|-----------------------------|
| (a) sale | (c) hire-purchase agreement |
| (b) agreement to sell | (d) sale on approval. |

17. The person who buys or agrees to buy goods is known as:

- | | |
|--------------|--------------------------|
| (a) consumer | (c) both (a) and (b) |
| (b) buyer | (d) neither (a) nor (b). |

18. 'X' engaged 'Y', an artist, to paint a portrait of 'X' for Rs. 50,000 and 'Y' uses his own canvas and paint, it is:

- | | |
|------------------------------------|------------------------------|
| (a) contract of sale | (c) sale on approval |
| (b) contract of work and materials | (d) hire-purchase agreement. |

19. A purchased a refrigerator on hire purchase from B and pledged with C. D purchased the refrigerator from C in good faith, on knowing the facts B wants to recover the refrigerator from D. Which of the following statements is / are correct?

- | | |
|--|---|
| (a) B can recover the refrigerator from D | (c) B cannot recover the refrigerator from D |
| (b) B can recover the refrigerator from A only | (d) D will get good title for the refrigerator as he bought it in good faith. |

20. In a concluded sale, if the goods are destroyed, the loss is to be borne by:

- | | |
|----------------|--|
| (a) the seller | (c) both seller and buyer in equal proportions |
| (b) the buyer | (d) the party who is in possession of goods. |

21. A stipulation in a contract of sale of goods whose violation by seller gives a right of rescission to buyer, is called:

- | | |
|---------------|---------------|
| (a) guarantee | (c) condition |
| (b) warranty | (d) term. |

22. A stipulation which is collateral to the main purpose of the contract, and if proved false, gives the buyer only a right to claim damages, is known as:

- | | |
|---------------|------------------------|
| (a) condition | (c) warranty |
| (b) guarantee | (d) none of the above. |

23. Which of the following is not an implied condition in a contract of sale?

- | | |
|---------------------------------|---|
| (a) condition as to title | (c) condition as to free from encumbrance |
| (b) condition as to description | (d) condition as to sample. |

24. Which of the following is not an implied warranty?

- | | |
|---|--|
| (a) warranty as to undisturbed possession | (c) disclosure of dangerous nature of goods |
| (b) warranty as to existence of encumbrance | (d) warranty as to quality or fitness by usage of trade. |

25. Doctrine of Caveat Emptor means:

- | | |
|---------------------------|-----------------------------|
| (a) let the seller beware | (c) let the creditor beware |
| (b) let the buyer beware | (d) none of the above. |

26. Under the Doctrine of Caveat Emptor, the seller is:

- | | |
|---|------------------------|
| (a) responsible for the bad selection of goods by the buyer | (c) both (a) and (b) |
| (b) not responsible for the bad selection of goods by the buyer | (d) none of the above. |

27. The Doctrine of Caveat Emptor does not apply, when

- | | |
|---|---|
| (a) the goods are bought by sample | (c) buyer has made known to the seller the exact purpose and the seller happens to be a regular dealer. |
| (b) the goods are bought by sample as well as description | (d) All of the above. |

28. In case of goods sold by sample, the goods should correspond with the sample otherwise:

- | | |
|-----------------------------------|---|
| (a) buyer can reject the goods | (c) contract is automatically terminated. |
| (b) buyer cannot reject the goods | (d) seller is liable to punishment. |

29. 'X' a shopkeeper, sold a Television set to 'Y', who purchased it in good faith. The set had some manufacturing defect and it did not work after a few days inspite of repairs. In this case, Television was not merchantable as it was not fit for the designated purpose:

- | | |
|--|--------------------------|
| (a) the buyer has no right to reject the television | (c) both (a) and (b) |
| (b) the buyer has the right to reject the television and to have refund of the price | (d) neither (a) nor (b). |

30. Where the buyer is deprived of goods by their true owner, then the buyer:

- | | |
|---|--------------------------|
| (a) may recover the price for breach of the condition as to title | (c) either (a) or (b) |
| (b) can not recover the price for breach of the condition as to title | (d) neither (a) nor (b). |

31. In case, a condition is changed to the status of a warranty, then the buyer:

- | | |
|---|-------------------------|
| (a) loses the right to reject goods | (c) both (a) and (b) |
| (b) retains right to claim damages only | (d) neither (a) nor (b) |

30. Under the Sale of Goods Act, 1930, which of the following is / are the implied warranty(ies)?

1. Warranty of quiet possession 2. Warranty of freedom from encumbrances
3. Warranty of title 4. Warranty as to wholesomeness

- | | |
|-----------|------------|
| (a) 1 & 2 | (c) 2 & 4 |
| (b) 1 & 3 | (d) 3 & 4. |

33. A timber merchant agreed to supply best teak at a certain agreed price to a builder. Later the merchant supplied timber which was identified as ordinary class of timber and demanded the payment from the builder. Which of the following statements is / are true?

- (a) builder can reject the goods and claim damages
(b) builder has to accept the goods
(c) builder has to pay the price by taking delivery of teak wood
(d) timber merchant can plead the doctrine of caveat emptor.

34. R, a grain merchant, displays wheat of different varieties. A after satisfying himself the quality buys the wheat is of earlier harvest. In fact the wheat is of recent harvest. A wants to return the wheat and refuses to pay the price.

- (a) A can return the wheat
(b) A cannot return the wheat
(c) A can refuse to pay the price.
(d) R cannot sue A to recover the money.

35. Mercantile Agent is having an authority to:

- (a) sell or consign goods
(b) raise money on the security of goods
(c) sell or buy goods
(d) any of the above.

36. Where there is an unconditional contract for the sale of specific goods in a deliverable state:

- (a) property in the goods passes to the buyer when the contract is made
(b) property in the goods does not pass to the buyer when the contract is made
(c) property in the goods remains with the seller when the contract is made
(d) none of the above.

37. Selection of goods with the intention of using them in performance of the contract and with the mutual consent of the seller and the buyer is known as:

- (a) distribution
(b) appropriation
(c) amortization
(d) storage.

38. The property in the goods means the:

- (a) possession of goods
(b) ownership of goods
(c) custody of goods
(d) both (a) and (c).

39. The goods are at the risk of a party who has the

- (a) ownership of goods
(b) possession of goods
(c) custody of goods
(d) both (b) and (c)

40. In case of unconditional contract of sale, the property passes to the buyer at the time of making the contract. For this rule to apply, the goods must be:

- (a) specific
(b) in a deliverable state
(c) physically transferred to buyer
(d) both (a) and (b).

41. In case of sale of standing trees, the property passes to the buyer when trees are:

- (a) felled and ascertained
(b) not felled but earmarked
(c) counted and ascertained
(d) both (b) and (c).

42. In case of sale of ascertained goods, the ownership is transferred to the buyer when the goods are :

- (a) ascertained
(b) appropriated to the contract
(c) weighed and measured
(d) both (a) and (b).

43. In case of sale on approval, the ownership is transferred to the buyer when he:

- (a) accepts the goods
(c) fails to return goods

(b) adopts the transaction (d) in all the above cases.

44. Which of the following is not a form of delivery?

- (a) constructive delivery (c) actual delivery
(b) structured delivery (d) symbolic delivery.

45. Acceptance of delivery of goods is deemed to take place when the buyer:

- (a) intimates to the seller that he had accepted the goods. (c) rejects and retains the goods after the lapse of a reasonable time, without intimating the seller
(b) does any act to the goods, which is inconsistent with the ownership of the seller (d) any of the above.

46. If a seller hands over the keys of a warehouse containing the goods to the buyer, it result in:

- (a) constructive delivery (c) symbolic delivery
(b) actual delivery (d) none of the above.

47. Under which circumstances the unpaid seller can exercise right of re-sale:

- (a) when the goods are of perishable nature (c) when the gives notice to the buyer of the intention to resell and the buyer does not within a reasonable time pay the price
(b) when the gives notice to the buyer for making payment (d) both (a) and (c).

48. Where the buyer wrongfully neglects of refuse to accept and pay for the goods, then:

- (a) the seller may sue buyer for damages for none-acceptance (c) none of the above.
(b) the seller cannot sue buyer for damages for non-acceptance

49. Which of the following modes of delivery of goods is considered effective for a valid contract of sale?

- (a) constructive delivery (c) symbolic delivery
(b) actual delivery (d) all of these.

50. Where the goods are delivered to a carrier or wharfinger for the purpose of transmission to the buyer, the delivery is:

- (a) invalid and ineffective (c) conditional
(b) valid and effective (d) none of these.

51. The unpaid seller has right of stoppage of goods in transit only where the buyer

- (a) Become insolvent (c) Acts fraudulently
(b) Refuses to pay price (d) All of these.

52. Which of the following is true?

- (a) The provisions of Sale of Goods were originally with the Indian Contract Act, 1872 (c) The Sale of Goods Act restricts the parties to modify the provisions of law.
(b) The Sale of Goods Act, 1930 deals with mortgage (d) None of the above.

53. Where there is an unconditional contract for the sale of specific goods in a deliverable state-

- (a) Property in the goods passes to the buyer when the contract is made (c) None of the above.
(b) Property in the goods does not pass to the buyer when the contract is mad

54. Selection of goods with the intention of using them in performance in the contract and with the mutual consent of the seller and the buyer is known as

- (a) Distribution
- (b) Appropriation
- (c) Amortization
- (d) Storage.

55. An unpaid seller is having rights against

- (a) Goods only
- (b) The buyer only
- (c) Both goods and buyer
- (d) None of the above.

56. When the unpaid seller has parted with the goods to a carrier and the buyer has become insolvent he can exercise

- (a) Right of lien
- (b) Right of stoppage in transit
- (c) Right of resale
- (d) None of the above.

57. The essence of right of lien is to

- (a) Deliver the goods
- (b) Retain the possession
- (c) Regain the possession
- (d) None of the above.

58. Which of the following right can be exercised by an unpaid seller against the buyer, who is not insolvent

- (a) Right of lien
- (b) Right of stoppage in transit
- (c) Both (a) and (b).
- (d) None of the above.

59. Which of the following is a buyer right against the seller in case of breach of contract?

- (a) Suit for non-delivery
- (b) Suit for specific performance
- (c) Suit for damages for breach of warranty
- (d) All of the above.

60. An auction sale is complete on the

- (a) Delivery of goods
- (b) Payment of price
- (c) Fall of hammer
- (d) None of the above.

61. If the buyer reject the whole quantity of goods due to short delivery or express delivery, the contract is treated as

- (a) Subsisting
- (b) Cancelled
- (c) Void
- (d) Invalid.

62. Seller has right of resale where

- (a) Goods are perishable
- (b) Seller has reserved such right.
- (c) Seller gives notice.
- (d) All of these.

63. Legally, a contract of sale include

- (a) Sale
- (b) Agreement to sell
- (c) Barter
- (d) Both (a) and (b).

64. In case of goods sold by sample, the goods should correspond with the sample other wise

- (a) Buyer can reject the goods
- (b) Buyer cannot reject the goods
- (c) Contract is automatically terminated
- (d) Seller is liable to punishment.

65. A contract for the sale of goods which provide that the property would pass to the buyer on full payment of price and execution of sale deed, is known as

- (a) Sale
- (b) Agreement to sell
- (c) Hire-purchase agreement
- (d) Sale of approval.

- 66.** The sale of Goods Act, 1930 came into force on
(a) 15th March, 1930 **(c)** 30th July, 1930
(b) 1st July, 1930 **(d)** 30th June, 1930.
- 67.** The person who buys or agrees to buy goods is known as
(a) Consumer **(c)** Both (a) and (b)
(b) Buyer **(d)** None of these.
- 68.** Voluntary transfer of possession by one person to another is popularly known as
(a) Transfer **(c)** Delivery
(b) Possession **(d)** None of the above.
- 69.** Where the seller wrongfully neglects to deliver the goods to the buyer, then the buyer
(a) Cannot sue the seller for damages for non-delivery **(c)** Either (a) or (b).
(b) May sue the seller for damages for non-delivery **(d)** None of the above.
- 70.** Where the buyer is deprived of goods by their true owner, then the buyer
(a) May recover the price for breach of the condition as to title **(c)** The seller can sue buyers' banker for damages.
(b) Cannot recover the price for breach of the condition as to title **(d)** None of the above.
- 71.** In an auction sale, the property shall be sold to the
(a) Lowest bidder **(c)** All bidders
(b) Highest bidder **(d)** None of the above.
- 72.** In an auction sale, if the seller makes use of pretended bidding to raise the price, then the sale is
(a) Valid **(c)** Voidable
(b) Void **(d)** Illegal.
- 73.** If X commissioned Y, an artist, to paint a portrait of A for 200 dollars & Y uses his own canvas & paint then it is
(a) Contract of sale **(c)** Sale on approval
(b) Contract of work and materials **(d)** Hire-purchase agreement.
- 74.** The implied condition that goods shall be fit to buyer's specific purpose, is applicable only where the buyer tells his purpose to the seller and relies upon seller's skill and judgment as
(a) It is requirement of law **(c)** Seller can be silent
(b) It is buyer's duty to select goods, which serve his purpose **(d)** All of the above.
- 75.** The bidder at an auction sale can withdraw his bid
(a) Any time during auction **(c)** Before payment of price
(b) Before fall of hammer **(d)** None of these.
- 76.** Where in an auction sale, the seller appoints more than one bidder, the sale is
(a) Void **(c)** Conditional
(b) Illegal **(d)** Voidable.
- 77.** Where in an auction sale notified with reserve price, the auctioneer mistakenly knocks down the goods for less than the reserve price, then the auctioneer is

- (a) Bound by auction (c) Liable for damages
(b) Not bound by auction (d) Both (a) and (b).

78. Which of the following is/are necessary constitute(s) of a contract of sale?

1. Three distinct parties – seller, buyer and a mediator 2. Movable goods for a price 3. Transfer of general property 4. Exchanging of goods without money

- (a) 1 & 2 (c) 2 & 4
(b) 2 & 3 (d) 3 & 4

79. The term ‘goods’ for the purpose of Sale of Goods Act, does not include

1. Money 2. Actionable claims 3. Stock and Shares 4. Growing crops, grass

- (a) 1 & 2 (c) 2 & 4
(b) 1 & 3 (d) 3 & 4.

80. A buyer may make some payment in advance to the seller as a guarantee for performance of contract. This money is known as

1. Earnest money 2. Security deposit 3. Fixed deposit 4. Deposit.

- (a) 1 & 2 (c) 2 & 4
(b) 1 & 3 (d) 3 & 4.

81. Which of the following is a document of title to goods

1. Bill of lading 2. Railway Receipt 3. Dock Warrant 4. Performa invoice

- (a) 2, 3 (c) 1, 2, 3
(b) All the above (d) 2, 3, 4.

82. A seller is unpaid when

1. Whole of the price have not been tendered 2. A negotiable instrument gives has been dishonored 3. A bill of exchange gives was dishonored 4. A part of the price has only been paid

- (a) 1, 2, 3 (c) 1, 2, 3, 4
(b) 2, 3, 4 (d) 1, 3, 4.

83. Which of the following is the right of Unpaid seller

1. Right of re-sale 2. Right to stop the goods in transit 3. Right of lien 4. Right to demand back the goods

- (a) 2, 3, 4 (c) 1, 3, 4
(b) 1, 2, 3 (d) 1, 2, 3, 4.

84. A sold a tin of disinfectant powder to K without warning knowing fully that if the tin was not opened with care, it will likely to cause injury. K was injured while opening the tin. Which of the following statement(s) is/are correct?

- (a) A is not liable to K under the Doctrine of caveat emptor (c) A has no duty to disclose the facts to K
(b) A is liable to the damages (d) The buyer has the responsibility to enquire about all the things before purchasing the goods.

85. In a concluded sale, if the goods are destroyed, the loss is to be borne by

- (a) The seller (c) Both seller and buyer in agreed proportions
(b) The buyer (d) The party who is in possession of goods.

86. The Sale of Goods Act extends to

- (a) Whole of India (c) Whole of India except Jammu and Kashmir
(b) Whole of India except Jammu (d) Whole of India except Kashmir.

87. Goods under the Sale of Goods Act, has been defined in Section

- (a) 2(1) (c) 2(4)
(b) 2(2) (d) 2(7).

88. Document of title to goods under the Sale of Goods Act, has been defined in Section

- (a) 2(1) (c) 2(4)
(b) 2(2) (d) 2(7)

89. A contract of sale which provides for immediate payment of price and immediate delivery of goods, is a

- (a) Void contract (c) Voidable contract
(b) Valid contract (d) Illegal contract

90. A contract of sale which provides for payment of price and delivery of goods in installments, is a

- (a) Void contract (c) Voidable contract
(b) Valid contract (d) Illegal contract

91. Which one of the following is/are document of title to goods?

- (a) Bill of lading (c) Warehouse keeper's certificate
(b) Share certificate (d) All of these

92. A mate's receipt is

- (a) Document of title to goods (c) Acknowledgement for receipt of goods
(b) Document showing title to goods (d) None of these.

93. In case of agreement to sell, the aggrieved party can sue for

- (a) Price (c) Sue the buyer for injunction
(b) Damages (d) All of these.

94. Goods the acquisition of which depend upon a contingency, which may or may not happen

- (a) Unascertained goods (c) Existing goods
(b) Contingent goods (d) Future goods.

95. Goods which are manufactured or produced or acquired by the seller, after making of contract of sale is

- (a) Unascertained goods (c) Existing goods
(b) Specific goods (d) Future goods.

96. The appropriation of goods require that

- (a) Goods should conform to the description and quality stated in the contract (c) The goods must be unconditionally appropriated to the contract
(b) The goods must be in deliverable state (d) All of these.

97. In case of concluded, buyer's position in respect of goods is of

- (a) Owner (c) Hirer
(b) Bailee (d) None of these.

98. An agreement to sell in respect of goods creates

- (a) Jus in personam (c) Both (a) and (b)
(b) Jus in rem (d) None of these.

99. The term goods under the sale of goods, Act, does not includes

- (a) Patent (c) Goodwill
(b) Copyright (d) Actionable claim.

100. Mercantile agent have an authority to

- (a) Sell or consign goods
- (b) Raise money on the security of goods
- (c) Sell or buy goods
- (d) All of these.

101. A contract for the sale of goods that provide that the property would pass to the buyer on full payment of the price and execution of sale deed, is known as

- (a) Sale
- (b) Hire purchase agreement
- (c) Agreement to sell
- (d) Void.

102. If no price is fixed in a contract of sale, the buyer shall pay

- (a) Reasonable price
- (b) Maximum price
- (c) Lowest price
- (d) Price as demanded by seller.

103. A contract to sell new currency note at a premium is

- (a) Void
- (b) Voidable
- (c) Valid
- (d) None of these.

104. The term buyer has been defined in Section

- (a) 2(1)
- (b) 2(2)
- (c) 2(11)
- (d) 2(13).

105. The term seller has been defined in section

- (a) 2(1)
- (b) 2(2)
- (c) 2(11)
- (d) 2(13)

106. According to sale of goods act, price means

- (a) Consideration in money
- (b) Economic exchange value
- (c) Either (a) or (b)
- (d) None of these.

107. A agrees to deliver 5 chairs to B in exchange of 3 tables. This is a

- (a) Sale
- (b) Agreement to sell
- (c) Barter
- (d) Hire purchase.

108. Where third party fails to fix the price, but the buyer has received and appropriated the goods, then the buyer is liable to pay

- (a) Whatever he likes
- (b) Penalty
- (c) As demanded by seller
- (d) Reasonable price.

109. An agreement to sell becomes sale when

- (a) Time elapses
- (b) Condition are fulfilled subject to which property in the goods is transferred
- (c) Either (a) or (b)
- (d) Agreement to sell does not become a sale.

110. A agrees to sell his car to B at a price to be fixed by C. This contract is

- (a) Void
- (b) Voidable
- (c) Valid
- (d) Illegal.

111. A agrees to sell his car to B at a price to be fixed by C. But C failed to fix the price. This contract is

- (a) Void
- (b) Voidable
- (c) Valid
- (d) Illegal.

112. The condition in defined in the Sale of Goods Act, under section

- (a) 12(1) (c) 12(3)
(b) 12(2) (d) 12(4).

113.Implied condition can be waived by express agreement

- (a) True (c) Partly true
(b) False (d) Partly false.

114.A breach of condition may be treated as breach of warranty in the following circumstances

- (a) Where the buyer altogether waives the performance of the condition (c) Either (a) or (b)
(b) Where the buyer elects to treat breach of condition as of warranty (d) None of these.

115.The Doctrine of caveat emptor is incorporated in the sale of goods act under section

- (a) 15 (c) 17
(b) 16 (d) 18.

116.Caveat Emptor means

- (a) Let the buyer beware (c) Let the Government beware
(b) Let the seller beware (d) Both (a) and (b).

117.If a breach of condition is treated as breach of warranty by the buyer, he

- (a) Loses the right to reject goods (c) Does not loses the right to reject goods
(b) Can only claim damages (d) Both (a) and (b).

118.Breach of condition can be treated as breach of warranty under section

- (a) 11 (c) 13
(b) 12 (d) 14.

119.A buys wheat from B, believing it to be of recent harvest, but in fact it is of earliest harvest.
A

- (a) Can return the wheat (c) Can refuse to pay the price
(b) Cannot return the wheat (d) Both (a) and (c).

120.In every contract of sale there is an implied condition that the seller has a right to

- (a) Sell the goods (c) Claim the price
(b) Get back the goods (d) Both (b) and (c).

121.If the buyer buys the goods under a patent or trade name, then

- (a) The fitness of goods for buyer's particular purpose does not apply (c) The fitness of goods for buyer's particular purpose is applicable if buyer relies upon seller's skill and judgment for his particular purpose
(b) The fitness of goods for buyer's particular purpose applies (d) Both (a) and (c).

122.Unless circumstances of the contract show a different intention, following conditions is implied in the contract of sale of good

- (a) Condition as to title (c) Sale by sample as well as description
(b) Sale by sample (d) All of these.

123.In a contract of goods, implied condition as to wholesomeness applies to

- (a) Eatables (c) Medicines
(b) Clothes (d) Computers.

124. Goods must be same as wanted by the seller. This is condition as to

- (a) Sample
- (b) Description
- (c) Title
- (d) Wholesomeness.

125. The buyer shall have and enjoy quit possession of the goods. This is an

- (a) Implied warranty as to title
- (b) Implied condition as to title
- (c) Implied warranty as to possession
- (d) Implied condition as to possession.

126. Waiver of condition is presumed, where buyer accepts the goods in parts in a

- (a) Non severable contract
- (b) Severable contract
- (c) Contingent contract
- (d) All of these.

127. The general rule is that buyer must be aware and cautious while buying goods. This Doctrine is

- (a) Caveat emptor
- (b) Jus in Rem
- (c) Ignorantia juris non excusat
- (d) Quid pro quo.

128. In commercial contracts, stipulation as to time of payment is

- (a) Usually of essence of the contract
- (b) Usually not of essence of the contract
- (c) Never of essence of the contract
- (d) None of these.

129. In case of conflict between express and implied warranties, which one will prevail

- (a) Express warranties
- (b) Implied warranties
- (c) As decided by the court
- (d) None of these.

130. A person brought milk which contained typhoid germs. His wife consumed the milk and died. He

- (a) Can recover damages
- (b) Cannot recover damages
- (c) Can recover damages only if there is an agreement to that effect
- (d) None of these.

131. In case of sale, buyer becomes

- (a) Owner of goods
- (b) Finder of goods
- (c) Bailee of goods
- (d) Hirer of goods.

132. Delivery of thing in token of transfer of something else is known as

- (a) Constructive delivery
- (b) Actual delivery
- (c) Structured delivery
- (d) Symbolic delivery.

133. If seller handed over the keys of the warehouse containing the goods to buyer, it is a

- (a) Constructive delivery
- (b) Actual delivery
- (c) Structured delivery
- (d) Symbolic delivery.

134. In case of sale of unascertained goods, the ownership is transferred to the buyer, when the goods are

- (a) Ascertained
- (b) Appropriated to the contract
- (c) Both (a) and (b)
- (d) None of these.

135. When the goods to be delivered under the contract is identified by the seller, this process is called

- (a) Storage
- (b) Ascertainment
- (c) Appropriation
- (d) Distribution.

136. Appropriation of goods to the contract can be made with the consent of

- (a) Buyer
- (b) Seller
- (c) Both buyer and seller
- (d) None of these.

137. Where the goods are delivered to the carrier for the purpose of transmission to the buyer, the delivery is

- (a) Valid
- (b) Invalid
- (c) Conditional
- (d) None of these.

138. A mercantile agent can transfer a valid title to a buyer when

- (a) He has the possession of the goods with the consent of owner
- (b) He is acting in the ordinary course of business
- (c) The buyer buys the goods in good faith
- (d) All of these.

139. Under certain circumstances sale by which of the following persons is valid, even though they are not the owners

- (a) Mercantile agent
- (b) Finder of goods
- (c) Official receiver
- (d) All of these.

140. If time of sending the goods has not been fixed by the parties, the seller must send them within

- (a) 7 days
- (b) 15 days
- (c) 30 days
- (d) Reasonable time.

141. Where goods are delivered at a distant place, the liability for deterioration in the course of transit will fall on

- (a) Buyer
- (b) Seller
- (c) Bailee
- (d) Agent.

142. Goods are deemed to be accepted, if buyer

- (a) intimates to the seller, that he had accepted the goods
- (b) Does any act, which is inconsistent with the ownership of seller
- (c) Retains the goods after reasonable time
- (d) All of these.

143. Where the specific goods are in deliverable state, but seller is bound to do some act for ascertaining the price, the property in goods passes to the buyer when the

- (a) Seller has done that act
- (b) Buyer is informed of act being done
- (c) Both (a) and (b).
- (d) None of these.

144. Where the goods are sold by transfer of document of title, delivery takes place on

- (a) Transfer of document of title
- (b) Commencement of transit
- (c) End of transit
- (d) Both (a) and (c).

145. The goods are at the risk of seller until

- (a) Possession in with the seller
- (b) Ownership of the goods is transferred to the buyer
- (c) Goods are delivered to the buyer
- (d) Buyer refuses to bear the risk.

146. The goods are at the risk of buyer if

- (a) Possession in with the buyer
- (b) Ownership of the goods is with the buyer
- (c) Goods are delivered to the buyer
- (d) Seller refuses to bear the risk.

147.Where no place has been mentioned for delivery under the contract of sale, the goods are to be delivered at

- (a) Where the buyer desires
- (b) Where the goods are at the time of sale
- (c) Any reasonable place
- (d) None of these.

148.The appropriate place of delivery in case of goods agreed to be sold is

- (a) Where the buyer desires
- (b) Where the goods are at the time of sale
- (c) At the place at which they are at the time of agreement to sell
- (d) Place where goods are manufactured.

149.In case of future goods, if no place has been mentioned for delivery under the contract of sale, the goods are to be delivered at

- (a) Where the buyer desires
- (b) Where the goods are at the time of sale
- (c) Any reasonable place
- (d) Place where goods are manufactured.

150.The general rule is that risk follows _____ of goods

- (a) Possession
- (b) Delivery
- (c) Ownership
- (d) All of these.

151.Where goods are not delivered to the buyer, but property in goods is transferred to the buyer, then the goods is at the risk of

- (a) Buyer
- (b) Seller
- (c) Carrier
- (d) All of these.

152.Where delivery has been delayed through the fault of either buyer or seller, as regards any loss which might not have occurred but for such default, goods are at the risk of

- (a) Buyer
- (b) Seller
- (c) Party in fault
- (d) None of these.

153.The 'sale on approval' is also known as

- (a) Restricted sale
- (b) Hire purchase agreement
- (c) Sale on return basis
- (d) All of these.

154.A person having possession of the goods under voidable contract can sell the goods before

- (a) Confirmation of the contract by the aggrieved party
- (b) Execution of the contract by the aggrieved party
- (a) Ratification of the contract by the aggrieved party
- (b) Rescission of the contract by the aggrieved party.

155.Unless otherwise agreed, the buyer is

- (a) Bound to accept installment delivery
- (b) Not bound to accept installment delivery
- (c) Liable for damages if buyer does not accept the delivery by instalments
- (d) None of these.

156.A seller is an unpaid seller if

- (a) Only a part of the price has been paid
- (b) Cheque has been issued and the same was dishonored
- (c) Whole of the price has not been paid
- (d) Any one of these.

157.An unpaid seller has right

- (a) Against the goods sold
- (b) Against the buyer
- (c) Both (a) and (b)
- (d) None of these.

158.The unpaid seller can exercise his right of lien over the goods for
(a) Price (c) Any lawful charges
(b) Storage charges (d) All of these.

159.The unpaid seller can exercise his right of lien over the goods, when he is in possession of the goods as a
(a) Owner (c) Bailee
(b) Agent (d) All of these.

160.The objective right of lien is to
(a) Deliver the goods (c) Regain possession
(b) Retain possession (d) None of these.

161.The right of lien can be exercised for
(a) Price only (c) Either (a) or (b)
(b) Expenses (d) Both (a) and (b).

162.The essence of stoppage of goods in transit is to
(a) Retain possession (c) Recover damages
(b) Regain possession (d) (a) and (c).

163.Right of lien and right of stoppage in transit
(a) Actually mean the same right (c) Are consequential or sequential in nature, i.e. the end of right of lien is the starting point of stoppage of goods in transit.
(b) Are actually similar rights (d) Are rights available to any seller of goods.

164.The unpaid seller can withhold the delivery of the goods, where the buyer
(a) Fails to pay the price (c) Fails to pay damages
(b) Becomes insolvent (d) Both (a) and (b).

165.Where the goods are rejected by the buyer and the carrier continues to be in possession of goods, than the transit
(a) Comes to an end (c) Commences
(b) Does not comes to an end (d) None of these.

166.When unpaid seller has not given notice of resale to the buyer. On resale there is a loss. The unpaid seller
(a) Can recover it from buyer (c) Must be compensated by buyer
(b) Cannot recover it from buyer (d) None of these.

167.Where property in the goods is transferred to the buyer, unpaid seller has a right of
(a) Lien (c) Resale of goods
(b) Stoppage in transit (d) All of these.

168.Any seller of goods by auction may
(a) Always bid in the auction (c) Cannot bid in the auction
(b) Bid if he reserves his right to bid by notice to the public (d) Both (a) and (b).

169.Where goods are put for sale in lots in a sale of goods by auction, each lot is prima facie deemed to be
(a) Separate contract of sale (c) Either (a) or (b)

(b) A single contract of sale (d) Both (a) and (b).

170.In an auction sale if bidders make an agreement, refraining from bidding against each other, it is

- (a) Illegal (c) Neither (a) nor (b)
(b) Immoral (d) Valid.

171.Which of the following are goods?

- (a) Trademark (c) Electricity
(b) Water (d) All of these.

172.Money does not include

1. Old coins 2. foreign currency 3. Indian rupees

- (a) 1 & 2 (c) 2 & 3.
(b) 1 & 3

173.If specific goods at the time of contract without the knowledge of the seller have perished or become so damaged as no longer to answer their description in the contract. Such contract is

- (a) Void (c) Valid
(b) Voidable (d) Illegal.

174.If there is an agreement to sell specific goods, and subsequently the goods, without any fault on the part of buyer or seller, perish or become so damaged as no longer to answer their description in the agreement, before the risk passes to the buyer. The agreement

- (a) Is void (c) Is invalid
(b) Is illegal (d) None of these.

175.Contract of sale can be

- (a) Oral (c) Implied from the conduct of the parties
(b) In writing (d) All of these.

176.Consideration in a contract of sale is called

- (a) Gift (c) Barter
(b) Reward (d) Price.

177.In a contract of sale unless goods are ascertained there is a

- (a) Sale (c) Void agreement
(b) Agreement to sell (d) Voidable agreement.

178.Section 9 of the Sale of Goods Act deals with

- (a) Right of lien (c) Agreement to sell
(b) Right of stoppage of goods in transit (d) Ascertainment of price.

179.Delivery can be

- (a) Actual (c) Symbolic
(b) Constructive (d) All of these.

180.A, a fisherman agrees to sell to B, a certain kind of fish, provided there is no cyclonic storm. The goods are

- (a) Future goods (c) Contingent goods
(b) Specific goods (d) Unascertained goods.

181.A agrees to sell to B, all apples to be grown on his field during next season, for rupees 2,00,000. In this case, the goods are

- (a) Future goods (c) Contingent goods
(b) Specific goods (d) Unascertained goods.

182.In case of sale of goods by sample, there is an implied condition that

- (a) Goods should be in conformity with sample
- (b) Buyer shall have reasonable opportunity of comparing the bulk with the sample
- (c) Goods should be of merchantable quality
- (d) All of these.

183.A purchased a hot water bottle from a chemist, it burst causing injury to him. The Chemist is

- (a) Liable on account of implied condition as to quality.
- (b) Not liable
- (c) Liable on account of express condition as to quality
- (d) Both (a) and (c).

184.In case of contract for sale of specific or ascertained goods the property in them is transferred to the buyer when the parties intend to pass it. The intention of the parties can be ascertained from

- (a) Terms of contract
- (b) Conduct of parties
- (c) Circumstances of the case
- (d) All of these.

185.The pre condition for transfer of property from seller to buyer in case of unascertained goods is

- (a) Ascertainment of goods
- (b) Appropriation of the contract
- (c) Either (a) or (b)
- (d) Both (a) and (b).

186.Maxim "Nemo Dat quod Non Habet"

- (a) No one can give what he himself has not got
- (b) One can give what he himself has not got
- (c) One can give what he himself has not got subject to fulfillment of certain conditions
- (d) All of these.

187.If time is not fixed for delivery, it must be delivered by the seller within

- (a) Reasonable time.
- (b) 2 days
- (c) 15 days
- (d) I week.

188.Unless otherwise provided _____ shall apply for delivery

- (a) Buyer
- (b) Seller
- (c) Warehouse keeper
- (d) None of these.

189. Unless otherwise provided expenses for delivery shall be borne by

- (a) Buyer
- (b) Seller
- (c) Warehouse keeper
- (d) None of these.

190. If goods delivered are less than the contracted for the buyer may

- (a) Accept them and claim damages for shortage
- (b) Reject them
- (c) Accept contracted goods and reject rest
- (d) All of these.

191. Finder of goods can sell the goods if owner of the goods cannot be found with

- (a) Due diligence
- (b) Ordinary diligence
- (c) Reasonable diligence
- (d) None of these.

192.The following right can be exercised by unpaid seller only when property in the goods has not passed to the buyer

- (a) Withholding delivery
- (b) Stoppage of goods in transit
- (c) Resale
- (d) Both (a) and (b)

193. The parties making a contract of sale

- (a) Have to follow the provisions of the Sale of Goods Act
- (a) Have to remain within the purview of this act

(b) Can modify any provision of this act by express stipulations (b) Can go beyond the purview of this act.

194. The subject matter of a contract of sale does not include

- (a) Shares and debentures (c) Agricultural crops
(b) Agricultural land (d) Stock of goods.

195. Which are of the following statements, in connection with contract of sale is correct

- (a) There may be immediate delivery of goods (a) There may be immediate delivery of goods and immediate payment of price
(b) Delivery or payment both may be made at some future date (b) All A, B & C.

196. A sold his car to B for Rs. 1.5 lakhs before A could deliver the car, it is destroyed by fire without any fault of A. Who will bear the loss

- (a) A will bear the loss (c) Both of them will share it
(b) B will bear the loss (d) Insurance company will bear the loss.

197. 'Sale' is also known as

- (a) Absolute sale (c) Contingent sale
(b) Conditional sale (d) All of the above.

198. What is common between contract of sale and Bailment

- (a) Transfer of ownership (c) Payment of price
(b) Both are species of general contract (d) Rights of the parties.

199. The provisions of the Sale of Goods Act are applicable

- (a) Only in a contract of sale (c) In a contract for work and material
(b) In a hire purchase of goods (d) In A & B.

200. A hire purchase agreement is a

- (a) Bailment of goods (c) Both bailment and agreement to sell
(b) Agreement to sell the goods (d) Sale of goods.