

1. **What is an "Electronic Record"?**

An electronic record is a data, record, or document generated, received, or stored in an electronic format. It can be used to form a legally binding contract under the **Information Technology Act, 2000**.

2. **Define "Proposal" under the Indian Contract Act, 1872.**

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 other to such act or abstinence, he is said to make a proposal (Section 2(a)).

3. **What is "Quantum Meruit"?**

Quantum meruit is a claim for payment based on the value of work performed. It applies when there is no fixed contract but one party has rendered services to another. It means "as much as he has deserved."

4. **What does the term "Consensus ad Idem" mean?**

"Consensus ad Idem" means agreement of the minds, or mutual understanding between the parties on the subject matter of the contract. Without it, a contract is not valid. (meeting of the mind on the same thing in the same sense)

5. **What is a "Contingent Contract"?**

A contingent contract is one where the performance of the contract depends on the occurrence or non-occurrence of a certain event. (Section 31)

6. **What is a "Quasi Contract"?**

A quasi contract is not a real contract, but the law imposes an obligation as if a contract existed to prevent unjust enrichment. (Sections 68-72)



7. **What is an E-Contract?**

Answer: An E-Contract is a contract formed through electronic communication and is governed by the **Information Technology Act, 2000**. It is legally valid with digital signatures.

8. **What is meant by "Competency of Parties"?**

The competency of parties refers to the legal capacity of parties to enter into a contract. They must be of legal age, of sound mind, and not disqualified by law.

9. **Define "Free Consent".**

Free consent means that both parties agree to the contract willingly, without any force, fraud, misrepresentation, or undue influence. (Section 14)

10. **What is "Consideration"?**

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 promises to do or to abstain from doing, something, such act or abstinence or promise is called a consideration for the promise (Section 2(d))

11. **What is the concept of "Unlawful Object"?**

An unlawful object refers to the subject matter of a contract that is illegal, immoral, or against public policy. A contract with an unlawful object is void. (Section 23)

12. **What are Void Agreements?**

Void agreements are those that are not enforceable by law. They may be void due to illegal objects, lack of consent, or impossibility of performance. (Section 2(g))

13. **What is meant by "Performance of a Contract"?**

Performance of a contract refers to fulfilling the terms and conditions agreed upon in the contract. It can be either by actual performance or by an offer to perform. (Sections 37-38)



14. **What is "Breach of Contract"?**

Answer: A breach of contract occurs when one party fails to fulfill their obligations as per the terms of the agreement. It can be either **actual** or **anticipatory**.

15. **What are the Types of Damages for Breach of Contract?**

Types of damages include:

- **General (Compensatory)**
 - **Special (Consequential)**
 - **Punitive**
 - **Nominal**
 - **Liquidated** (Sections 73-75)
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16. **Digital Signature**": This term refers to an electronic signature that authenticates the identity of the sender and ensures the integrity of the message. It uses asymmetric cryptography, which allows the message to be verified and validated by both the sender and the receiver.

17. **"Electronic Record"**: An electronic record refers to data, record, or information generated, stored, or transmitted in digital form. This includes email communications, website terms and conditions, and digital files exchanged between parties.

18. **"Electronic Signature"**: This is a signature created using electronic methods, such as a digital signature or a typed name in an email.

19. **Electronic governance** refers to the use of technology to facilitate the operation of government and its services in a digital manner. It involves creating **electronic records** for government services, enabling citizens to sign documents electronically, and conducting online transactions securely.



LONG ANSWER QUESTIONS

1. Essentials of a Valid Contract

A valid contract is one that meets all the necessary legal requirements as laid down in the Indian Contract Act, 1872. According to Section 10 of the Indian Contract Act, a contract is an agreement that is legally enforceable. For an agreement to become a valid contract, certain essential elements must be present. These are:

1.1 Offer and Acceptance (Consensus ad idem)

- A valid contract requires an offer by one party and the acceptance of that offer by the other party. The offer and acceptance must be clear, unequivocal, and communicated to the other party.
- Section 2(a) of the Indian Contract Act defines an offer as a proposal made by one party to another with the intention to create legal relations upon acceptance.
- Section 2(b) defines acceptance as an expression of assent to the offer made by the offeror.

Example:

- Offer: A offers to sell his car to B for ₹2,00,000.
- Acceptance: B accepts the offer to buy the car at ₹2,00,000.

1.2 Intention to Create Legal Relations

- There must be an intention to create legal obligations. Agreements made in social or domestic contexts, such as between family members or friends, typically do not have the intention to create legal relations.

Case Law: Balfour v. Balfour (1919)

In this case, an agreement between a husband and wife for support during a marriage was held to be a social agreement and not a legally binding contract because there was no intention to create legal relations.



Example:

- A promise made by a father to gift his son money for his birthday is a social agreement and not enforceable.

1.3 Free Consent

- For an agreement to be a valid contract, it must be entered into with free consent. Consent is considered free when it is given voluntarily without any coercion, undue influence, fraud, misrepresentation, or mistake.
- Section 14 of the Indian Contract Act defines free consent.

Case Law: Lalman Shukla v. Gauri Datt (1913)
In this case, a person offered a reward for finding a missing nephew, and the other party found the nephew without knowing about the offer. The offeror was not bound because the offer was not accepted with knowledge.

1.4 Capacity to Contract

- Section 11 of the Indian Contract Act stipulates that only persons who are of the age of majority, of sound mind, and not disqualified by law (e.g., minors, persons of unsound mind) can enter into valid contracts.
- Example: A contract entered into by a minor is void and unenforceable against them, as per Mohori Bibee v. Dharmodas Ghose (1903).

1.5 Consideration

- Section 2(d) of the Indian Contract Act states that for an agreement to be enforceable, there must be a lawful consideration. Consideration refers to something of value that is exchanged between the parties.

Case Law: Currie v. Misa (1875)
In this case, the court defined consideration as something that is of value to one party and is given in exchange for a promise made by the other party.



- Example: A agrees to sell a car to B for ₹1,00,000. The ₹1,00,000 is the consideration for the sale of the car.
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1.6 Lawful Object

- The object of the contract must be lawful. A contract that involves illegal activities or goes against public policy is void and unenforceable.
 - Section 23 of the Indian Contract Act prohibits contracts that involve illegal or immoral acts.
 - Example: A contract to sell illegal drugs or a contract involving gambling is void.
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1.7 Certainty of Terms

- The terms of the contract must be clear and certain. If the terms are vague or uncertain, the agreement cannot be enforced.

Case Law: Scammell v. Ouston (1941)
In this case, the contract was held unenforceable because the terms were too vague and uncertain, and there was no clear agreement on the price.

1.8 Possibility of Performance

- The contract must be one that is possible to perform. If the performance of the contract is impossible, it cannot be enforced.
 - Section 56 of the Indian Contract Act (Doctrine of Impossibility) states that a contract will be void if its performance becomes impossible due to an event that could not be foreseen.
 - Example: A agrees to deliver goods to B, but the goods are destroyed in a fire. In such a case, the contract is void because performance became impossible.
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2. Doctrine of Frustration (Doctrine of Impossibility)

The Doctrine of Frustration applies when an unforeseen event occurs that makes the performance of a contract impossible or radically different from what was originally agreed upon. Under the Indian Contract Act, 1872, Section 56 specifically deals with the concept of frustration of contract.

2.1 The Essence of the Doctrine of Frustration

- Section 56 of the Indian Contract Act states that a contract becomes void when its performance becomes impossible due to an unforeseen event or a change in circumstances that was not contemplated by the parties at the time of entering the contract.
- A contract will not be considered frustrated if the impossibility is due to the fault of one of the parties.

Example:

If a contract requires the sale of a particular piece of land, and the land is destroyed due to a natural disaster before the contract is executed, the contract is frustrated, as performance has become impossible.

2.2 When Does Frustration Occur?

Frustration occurs in the following situations:

- Physical Impossibility: The performance of the contract is physically impossible, e.g., a contract to deliver a specific item that no longer exists due to destruction.
- Legal Impossibility: A change in the law makes the contract illegal or impossible to perform, e.g., new legislation prohibits the type of business the contract relates to.
- Radical Change in the Obligation: If the performance of the contract is not impossible but becomes radically different from what was agreed upon, frustration can apply.



- Example:
A theatre company agrees to perform a play in a rented hall. If the government suddenly imposes a ban on public gatherings (e.g., during a pandemic), the contract is frustrated because it becomes impossible to perform as initially planned.

2.3 Legal Consequences of Frustration

- When frustration occurs, the contract is deemed void under Section 56 of the Indian Contract Act. The parties are discharged from their obligations, and neither party can claim damages for non-performance, except for any part performance that occurred before the frustrating event.
- Section 65 of the Indian Contract Act deals with the restoration of any benefits or payments made before the contract became frustrated. If one party has already received a benefit, they must return it or pay for it.
- Example:
If A pays ₹1,00,000 to B for goods that are impossible to deliver due to an unforeseen event, A is entitled to a refund of the ₹1,00,000 under Section 65.

Case Law: Taylor v. Caldwell (1863)

In Taylor v. Caldwell, the court applied the doctrine of frustration when a contract to hire a music hall was made, and the hall was destroyed by fire before the performance could take place. The court held that the contract was frustrated because performance became impossible due to the destruction of the hall.

Legal Principle:

The case established the principle of frustration in English law, which was later incorporated into Indian law under Section 56 of the Indian Contract Act.



Case Law: Krell v. Henry (1903)

In Krell v. Henry, the contract was to hire a room to view the procession of the King's coronation. The coronation was postponed due to the King's illness, and the contract was held to be frustrated because the performance of the contract became radically different from what was originally intended.

Legal Principle:

The case reinforced the idea that frustration occurs when a contract's performance becomes fundamentally different from what was expected due to unforeseen events.

Case Law: Satyabrata Ghose v. Mugneeram (1954)

In Satyabrata Ghose v. Mugneeram, the Supreme Court of India emphasized that frustration applies when the contract becomes impossible to perform or when it becomes radically different from what was agreed due to external, unforeseen events.

Legal Principle:

This case reaffirmed the Indian interpretation of the doctrine of frustration, especially in situations where a contract may become more difficult but not necessarily impossible to perform.

Mohori Bibee v. Dharmodas Ghose (1903) 30 IA 114

This landmark case established a crucial precedent in Indian contract law regarding contracts involving minors and their enforceability. The decision upheld the principle that a minor's contract is voidable, and therefore, a contract entered into by a minor is not legally enforceable against them.

Facts of the Case:

Dharmodas Ghose, a minor (aged 16), entered into a contract with Mohori Bibee (the plaintiff) to mortgage certain property. In the contract, Dharmodas misrepresented his age, claiming to be an adult, although he was actually a minor. The mortgage deed was executed by him in favor of Mohori Bibee for a loan of ₹20,000. After the loan was



advanced, Dharmodas sought to cancel the contract upon reaching the age of majority, asserting that he was a minor at the time the contract was executed, and therefore, the contract was voidable at his discretion.

Issue:

The primary issue was whether a contract entered into by a minor is enforceable against them, even if the minor had misrepresented their age in the contract.

Ruling of the Court:

The Privy Council, in a unanimous decision, ruled in favor of Dharmodas Ghose, holding that the contract entered into by him as a minor was void and unenforceable. The court concluded that:

1. **Minors and Contracts:**

A minor is incapable of entering into a valid contract. Therefore, any contract made by a minor is not enforceable against them, regardless of whether they misrepresented their age.

2. **Voidable Contracts:**

The contract is voidable at the minor's discretion, meaning the minor can disaffirm or rescind the contract at any time before or after reaching the age of majority.

3. **Misrepresentation of Age:**

The court emphasized that misrepresentation of age by a minor does not alter the fact that the contract remains voidable. Even if a minor falsely claims to be of legal age, the contract would still be voidable at the minor's discretion.

4. **Equitable Principles:**

The court held that while equity might intervene in certain cases (e.g., to prevent unjust enrichment), it does not change the fundamental principle that a minor's contract is voidable.



Legal Principles Established in Mohori Bibee v. Dharmodas Ghose:

1. Contracts of Minors Are Void:

The case established that contracts entered into by minors are not voidable by the other party (the adult) but are, instead, void. The minor has the right to disaffirm or cancel the contract.

2. Minor's Representation:

A minor's misrepresentation of age does not affect the enforceability of the contract. Even if the minor lies about their age, they are still not bound by the contract, and the contract remains voidable at their discretion.

3. No Estoppel against a Minor:

The principle of estoppel (prevention from denying certain facts due to previous conduct) does not apply to a minor, meaning a minor cannot be estopped from pleading their minority status even if they have misrepresented their age.

Application in Indian Contract Act, 1872:

This case directly relates to Section 11 of the Indian Contract Act, 1872, which outlines the competency of parties to contract:

Section 11 (Competency of Parties)
"Every person is competent to contract who is of the age of majority according to the law to which he is subject, and who is of sound mind, and is not disqualified from contracting by any law to which he is subject."

As per Section 11, a minor (a person under the age of 18) is not competent to enter into a contract. Therefore, any contract entered into by a minor is voidable, and the minor has the right to disaffirm or cancel the contract.

Impact of the Judgment:

1. Protection of Minors:

The decision in Mohori Bibee v. Dharmodas Ghose provides legal protection to minors against being bound by contracts that they are incapable of understanding or performing. The ruling reinforces that a minor should not be held responsible for contracts that they may not have the capacity to fully comprehend.



2. Contractual Enforcement:

This case clarified that adults contracting with minors cannot compel the minor to honor the contract. Even if the adult has performed their part of the contract (e.g., provided the goods or services), they cannot enforce the contract against the minor.

3. Potential Unjust Enrichment:

The court emphasized that while the contract is voidable at the minor's discretion, equitable principles might prevent the minor from being unjustly enriched. For example, if the minor has received the benefit of the contract, they may be required to restore the benefit upon disaffirming the contract. However, this principle does not affect the fundamental rule that the contract is voidable.

Illustration in Indian Context:

Imagine a situation where a 16-year-old minor enters into a contract to purchase a smartphone from a seller for ₹50,000. The minor misrepresents their age as 20. Once the minor reaches the age of majority (18 years), they can disaffirm the contract, and the seller cannot force the minor to honor the contract. The contract is considered void and unenforceable against the minor.

However, if the minor has already used the smartphone and has not returned it, the seller may be entitled to recover the value of the goods (subject to the principle of unjust enrichment), but the contract itself is still void.

Conclusion:

Mohori Bibee v. Dharmodas Ghose is a landmark decision that affirms the Indian Contract Act's provisions concerning minors. The ruling established that contracts entered into by minors are voidable and not enforceable against them. This case emphasizes that even in cases of misrepresentation of age, minors are protected from being bound by contracts, thus reinforcing the principle that only those with full legal capacity (i.e., those of majority age) can enter into binding contracts.



3. Discharge of Contract

A contract is said to be discharged when the parties involved are released from their obligations under the contract, and they are no longer bound to perform their duties. The Indian Contract Act, 1872 outlines the various modes in which a contract can be discharged.

3.1 Methods of Discharge of Contract:

1. Performance of Contract:

- A contract is discharged when both parties fulfill their obligations as per the terms of the contract. This is the most common method of discharge.
- Section 37 of the Indian Contract Act states that when both parties have performed their promises, the contract is discharged.
- Example: A agrees to deliver goods to B, and B agrees to pay the price. Once the goods are delivered and payment is made, the contract is discharged.

2. Agreement to Discharge (Novation, Rescission, or Alteration):

- **Novation:** Substituting a new contract in place of the original one. Both parties agree to discharge the old contract and replace it with a new one.
- **Rescission:** An agreement by both parties to cancel the contract and release each other from further obligations.
- **Alteration:** Changing the terms of the contract with the consent of both parties.

Case Law: In Kumari v. Bharti (2000)
In this case, the Supreme Court upheld that novation and rescission are valid ways to discharge a contract by mutual consent.

3. Impossibility of Performance (Doctrine of Frustration):

- As per Section 56 of the Indian Contract Act, a contract may be discharged if its performance becomes impossible due to an unforeseen event (e.g., destruction of subject matter, change in law, etc.).
- Example: A contract to deliver goods to a destination is frustrated if a war breaks out and the goods cannot be delivered.



4. Breach of Contract:

- If one party fails to perform their obligations as per the contract, the other party may treat the contract as discharged.
- Section 39 of the Indian Contract Act provides that a contract is discharged by a breach when one party fails to perform or refuses to perform the contract.

5. Lapse of Time:

- A contract may be discharged if the time for performance has passed without performance.
- Section 55 of the Indian Contract Act deals with the consequences when the performance of the contract is delayed due to the fault of the promisor.
- Example: A contract to perform an act by a certain date is discharged if performance is not done within the stipulated time.

6. Operation of Law:

- A contract can be discharged by the operation of law, such as bankruptcy, death, or merger of rights.
- Example: If one of the parties becomes insolvent or if the contract involves personal services and one of the parties dies, the contract may be discharged.

7. Completion of the Condition Precedent:

- If the contract is subject to a condition precedent (an event that must occur before the contract becomes operative), the contract is discharged once the condition is fulfilled.
- Example: A contract to sell goods subject to the condition that the buyer receives a loan is discharged if the loan is not granted.



4. Breach of Contract (Actual, Anticipatory) and Types of Damages

Breach of contract refers to a situation where one party fails to perform their obligations as per the terms of the contract. The breach can occur either when the party fails to perform at the time of performance (actual breach) or when a party indicates their intention not to perform the contract before the time for performance arrives (anticipatory breach).

4.1 Types of Breach of Contract

1. Actual Breach:

- Actual breach occurs when one party fails to perform the terms of the contract on the due date, or they perform the contract in a manner that is not in accordance with the terms of the agreement.
- Example: A contract for the sale of goods states that delivery is to be made on 1st June, but the goods are not delivered on that date, or they are delivered in poor condition. This constitutes an actual breach.

2. Anticipatory Breach:

- Anticipatory breach occurs when one party, before the time for performance, indicates by words or conduct that they will not perform the contract. The other party has the option to either accept the breach immediately or wait until the time of performance has arrived.
- Section 39 of the Indian Contract Act provides that anticipatory breach can result in immediate action to discharge the contract.
- Example: If A informs B on 1st January that they will not be able to deliver goods on 1st February, this is an anticipatory breach.

Case Law: Hochster v. De la Tour (1853)

In this case, the court ruled that the contract was discharged immediately upon anticipatory breach, and the injured party was entitled to damages even before the time for performance had passed.



4.2 Types of Damages in Breach of Contract

When a contract is breached, the non-breaching party may claim damages. There are different types of damages depending on the circumstances.

1. Compensatory Damages (Actual Damages):

- Compensatory damages are awarded to the injured party to compensate them for the loss suffered due to the breach of contract.
- The damages must be the natural and probable result of the breach, and they must not be too remote.
- Section 73 of the Indian Contract Act provides for compensation for any loss or damage caused by the breach.
- Example: If a seller fails to deliver goods on the agreed date, the buyer may claim the additional cost incurred in purchasing the goods from another seller.

Case Law: Hadley v. Baxendale (1854)

The court in this case established the principle that damages should be limited to those that are foreseeable at the time the contract was made. In this case, the claimant was not entitled to damages for the lost profit that was not foreseeable by the parties at the time of the contract.

2. Consequential Damages (Special Damages):

- Consequential damages refer to the damages that are not the direct result of the breach, but occur as a consequence of the breach.
- These damages must be proven to have been caused by the breach.
- Example: A company enters into a contract to supply raw materials to another company, and the supplier fails to deliver. As a result, the buyer is forced to stop production, resulting in loss of revenue. This loss is consequential.



Case Law: The Achilleas (2008)

The court in this case considered the extent to which consequential damages could be claimed for a late delivery of a ship. It held that the damages must be of a kind that both parties knew would arise from the breach at the time the contract was made.

3. Liquidated Damages:

- Liquidated damages are predetermined amounts agreed upon by the parties in the contract in case of a breach. These damages are enforceable if the breach occurs.
- Section 74 of the Indian Contract Act states that when a contract imposes a sum to be paid in the event of a breach, the sum is considered as liquidated damages unless the court finds the sum to be excessive.
- Example: A contract for the construction of a building may include a clause that imposes a penalty of ₹50,000 per day for every day the contractor delays the completion.

Case Law: Fateh Chand v. Balkishan Das (1963)

The court held that a liquidated damages clause will be enforceable only if it is a genuine pre-estimate of the actual loss suffered due to the breach, not a penalty.

4. Nominal Damages:

- Nominal damages are awarded when a breach occurs, but the plaintiff has not suffered any actual loss. The purpose of nominal damages is to recognize the breach.
- Example: If a contract is breached, but the non-breaching party can show no actual financial loss, they may still be entitled to a small, symbolic amount as nominal damages.

Case Law: Tappenden v. Randall (1951)

The court awarded nominal damages when the claimant could not demonstrate any financial loss despite the breach of contract.



5. All Agreements Are Not Contracts – Explanation with Relevant Case Laws and Provisions (Sections 10 to 30)

According to Section 2(h) of the Indian Contract Act, 1872, a contract is defined as an agreement enforceable by law. This implies that not every agreement becomes a contract. For an agreement to become a contract, it must fulfill certain legal requirements.

5.1 Essential Elements of a Contract

- **Offer and Acceptance:** There must be a clear offer made by one party and an acceptance of that offer by the other party.
- **Intention to Create Legal Relations:** The parties must intend to enter into a legally binding agreement. Social or domestic agreements do not have such an intention.
- **Consideration:** The agreement must be supported by lawful consideration.
- **Capacity of Parties:** The parties must be competent to contract (i.e., not minors, mentally incapacitated, or disqualified by law).
- **Free Consent:** The consent of the parties must be free from coercion, undue influence, misrepresentation, or fraud.
- **Legality of Object:** The purpose of the agreement must be lawful.

5.2 Agreements vs. Contracts

- **Agreement:** An agreement is any promise or set of promises forming the consideration for each other. An agreement is a broader term and includes contracts as well as non-contractual arrangements.
- **Contract:** A contract is a subset of agreements that are enforceable by law. An agreement will only become a contract if it meets the requirements set out in Section 10 and other relevant provisions of the Indian Contract Act.

Section 10 of the Indian Contract Act, 1872:

“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.”



Example:

- A simple handshake between friends to go for a movie does not create a contract because there is no intention to create legal relations.
- On the other hand, a written agreement to sell goods, with the intention of transferring ownership, would qualify as a contract.

5.3 Types of Agreements that are Not Contracts

1. Social or Domestic Agreements:

- These are agreements made in the course of everyday life between friends, family members, or acquaintances. They are presumed not to have legal intentions.

Case Law: Balfour v. Balfour (1919)
In this case, the court held that a husband's promise to support his wife while they were in England was not legally binding since it was a domestic arrangement and not made with the intention of creating legal relations.

2. Agreements Without Consideration:

- For an agreement to become a contract, it must be supported by lawful consideration. An agreement without consideration is void under Section 25 of the Indian Contract Act, 1872.
- Example: A promise to give a gift to someone without any return is not enforceable because it lacks consideration.

Case Law: K.N. Sathyendran v. K.N. Satyapalan (1998)
In this case, the court held that an agreement without consideration is not legally enforceable.

3. Agreements that Are Not Intended to be Legally Binding:

- An agreement may be a mere moral obligation and not legally enforceable. These are common in family matters.
- Example: A promise to buy a gift for a friend without any formal contract will not be enforceable.



Case Law: Merritt v. Merritt (1970)

This case discussed whether an agreement between a husband and wife was enforceable, and the court held that agreements between separated parties are enforceable.

4. Agreements with Unlawful Objects or Consideration:

- If the object of the agreement is unlawful, the agreement becomes void.
- Section 23 of the Indian Contract Act, 1872 states that an agreement is void if its object or consideration is unlawful.

Case Law: Nabha Singh v. Kesar Singh (1936)

In this case, the court held that an agreement for the sale of stolen goods is void.

6. Offer and Its Types, Acceptance, Communication of Offer and Acceptance, Revocation of Offer and Acceptance – With Relevant Case Laws

6.1 Offer

An offer is an expression of willingness to enter into a contract on certain terms, made with the intention of obtaining the assent of the other party to those terms.

- Section 2(a) of the Indian Contract Act defines an offer (or proposal) as “*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 other to such act or abstinence.*”

Types of Offer:

1. Unilateral Offer:

- A unilateral offer is one where one party makes a promise in exchange for the performance of an act by the other party.
- Example: A promise to pay a reward for finding a lost dog.



Case Law: Carlill v. Carbolic Smoke Ball Co. (1893)

In this case, the court held that the company's advertisement constituted an unilateral offer, which became a contract when the customer performed the required act (using the smoke ball).

2. Bilateral Offer:

- A bilateral offer is one where a promise is exchanged for another promise. Both parties are bound by the terms.
- Example: A contract for the sale of goods where the buyer promises to pay a certain price, and the seller promises to deliver the goods.

3. Express Offer:

- An offer that is made in clear and explicit terms, either orally or in writing.
- Example: A written offer to sell a car for ₹5 lakh.

4. Implied Offer:

- An offer made through actions or conduct rather than words.
- Example: A passenger offers to pay a fare when entering a public transport vehicle.

5. Specific Offer:

- An offer made to a specific person or group of people.
- Example: A company offers to sell goods to a specific buyer.

6. General Offer:

- An offer made to the general public or a large group.
- Example: A reward notice for the return of a lost object.

6.2 Acceptance

Acceptance is an expression of assent to the terms of an offer, made by the offeree.

- Section 2(b) of the Indian Contract Act defines acceptance as *“when the person to whom the proposal is made signifies his assent thereto, the proposal is said to be accepted.”*



Essentials of Acceptance:

1. **Unconditional Acceptance:** Acceptance must be absolute and unqualified. A conditional acceptance is treated as a counter-offer.

Case Law: Hyde v. Wrench (1840)

In this case, the court held that a counter-offer terminates the original offer.

2. **Communication of Acceptance:** Acceptance must be communicated to the offeror. Silence or non-response does not amount to acceptance.

Case Law: Felthouse v. Bindley (1862)

In this case, the court held that silence cannot amount to acceptance.

3. **Acceptance in the Manner Prescribed:** If the offeror has specified a manner of acceptance, the offeree must accept in that manner for the acceptance to be valid.
 - o Example: If the offeror asks for acceptance by email, the offeree must communicate the acceptance via email.
4. **Timely Acceptance:** The acceptance must be made within the time frame specified in the offer, or within a reasonable time if no time is mentioned.

6.3 Communication of Offer and Acceptance

1. **Communication of Offer:** An offer is communicated when the offeror's intention to make the offer is made known to the offeree.

Case Law: Ramsgate Victoria Hotel v. Montefiore (1866)

In this case, the court ruled that an offer is not valid until communicated to the offeree.

2. **Communication of Acceptance:** Acceptance is effective when communicated to the offeror. It cannot be implied or inferred.
 - o Example: A letter of acceptance is deemed to have been communicated when it is dispatched, provided the offeror specifies no particular method of communication.



Case Law: Henthorn v. Fraser (1892)

In this case, the court held that the acceptance is complete when the letter is posted, as long as the offeror does not specify an alternate method of communication.

6.4 Revocation of Offer and Acceptance

• **Revocation of Offer:**

- An offer can be revoked by the offeror at any time before acceptance.
- Section 5 of the Indian Contract Act states that an offer may be revoked by the offeror before it is accepted, provided the revocation is communicated to the offeree.

Case Law: Payne v. Cave (1789)

In this case, the court held that an offer can be revoked at any time before acceptance.

• **Revocation of Acceptance:**

- Once acceptance is communicated, it cannot be revoked.
- Section 7 of the Indian Contract Act provides that acceptance must be absolute and unequivocal. Once communicated, it becomes binding.

Case Law: Duncan v. L.M. Ltd (1941)

In this case, the court held that once an offer is accepted, it cannot be revoked.

7. Free Consent – Explanation and Relevant Case Laws

Free Consent is one of the essential elements for the formation of a valid contract.

According to Section 14 of the Indian Contract Act, 1872, “Consent is said to be free when it is not caused by coercion, undue influence, fraud, misrepresentation, or mistake.”

Therefore, for an agreement to become a contract, the consent of the parties must be free and genuine.



7.1 Types of Factors Affecting Free Consent:

The following factors can affect the free consent of the parties:

1. Coercion (Section 15):

- Coercion involves the use of force or threats to compel someone to enter into a contract against their will. Coercion can be physical or emotional.
- Section 15 of the Indian Contract Act defines coercion as *“committing or threatening to commit any act forbidden by the Indian Penal Code, or the unlawful detaining or threatening to detain any property to the prejudice of any person whatsoever.”*

Case Law: Kedar Nath v. Gauri Shankar (1917)

In this case, the court held that any contract made under threat or coercion would be voidable at the option of the coerced party.

- Example: If a person is forced to sign a contract under threat of physical violence, their consent is not free, and the contract will be voidable.

2. Undue Influence (Section 16):

- Section 16 defines undue influence as when one party exerts pressure over the other due to their relationship or position of dominance, causing the influenced party to enter into the contract. It is not necessarily through force, but through manipulation or unfair pressure.
- It occurs where one party has a relationship of trust or authority over the other, and they misuse their position to get the other party to agree to the contract.

Case Law: Raghunandan v. Shankar (1941)

In this case, the court held that an agreement entered into under undue influence by a person in a position of trust or authority is voidable.

- Example: A loan agreement made between a father and his minor child, where the father exerts undue influence, may be voidable by the child.



3. Fraud (Section 17):

- Fraud involves any act of deception or misrepresentation, where one party intentionally makes a false statement to induce the other party to enter into a contract.
- Section 17 of the Indian Contract Act defines fraud as “*any act of dishonesty or deceit with the intention to gain an unfair advantage or cause loss to another party.*”

Case Law: Derry v. Peek (1889)

In this case, the House of Lords held that fraud requires an intentional misstatement or a deliberate concealment of facts.

- Example: If a seller knowingly sells a defective item to a buyer without disclosing its defects, the contract may be voidable by the buyer based on fraud.

4. Misrepresentation (Section 18):

- Misrepresentation occurs when one party makes a false statement of fact, which leads the other party to form an agreement based on that misinformation. The key difference from fraud is that misrepresentation is typically unintentional.
- Section 18 defines misrepresentation as a false statement made with the intent to deceive another party, but without the intention of gaining a personal benefit.

Case Law: Leaf v. International Galleries (1950)

In this case, the court held that a contract made based on a misrepresentation (even if unintentional) can be voidable.

- Example: If someone sells a painting, claiming it to be an original, without knowing that it is a copy, the contract could be voidable due to misrepresentation.

5. Mistake (Section 20-22):

- A Mistake occurs when a party enters into a contract based on an incorrect belief about the subject matter of the contract.



- Section 20 defines a mistake as either a *bilateral mistake* (both parties make the same mistake) or a *unilateral mistake* (only one party makes the mistake).

- A contract entered into under a mutual mistake of fact is voidable.

Case Law: Raffles v. Wichelhaus (1864)

In this case, the court held that if both parties make a mistake about the subject matter of the contract, it can be voided.

- Example: If two parties enter into a contract to purchase and sell a specific type of product, but both mistakenly believe it's available, the contract can be void due to mutual mistake.

7.2 Conclusion

Free consent is vital to the formation of a valid contract. If consent is obtained through coercion, undue influence, fraud, misrepresentation, or mistake, the contract becomes voidable at the option of the party whose consent was affected.

8. No Consideration, No Contract – Explanation, Exceptions, and Relevant Case Laws

Section 25 of the Indian Contract Act, 1872 states that "*An agreement made without consideration is void, unless it is in writing and registered, or is a promise to pay a time-barred debt.*"

This rule implies that for a contract to be valid, it must be supported by lawful consideration. Consideration refers to something of value, which may be in the form of money, goods, or services.

8.1 No Consideration, No Contract

The general principle is that a contract without consideration is not enforceable, as stated in Section 25. This is because consideration is a vital aspect of a contract — it signifies the price paid for the promise made. If there is no consideration, the law does not recognize the contract as valid.



8.2 Exceptions to the Rule

However, there are certain exceptions to the rule “*no consideration, no contract*”, where contracts may still be enforceable even in the absence of consideration:

1. Natural Love and Affection (Section 25):

- If an agreement is made out of natural love and affection between parties standing in a near relationship, it may be enforceable even without consideration.
- Example: A father promises to give his son a sum of money out of love and affection. Although there is no consideration, this promise is enforceable.

Case Law: Kedar Nath v. Gauri Shankar (1917)
In this case, the court held that an agreement made out of natural love and affection between close relatives is valid even without consideration.

2. Promise to Pay a Time-Barred Debt (Section 25):

- A promise made to pay a debt that is time-barred (i.e., the limitation period for suing the debtor has expired) can be enforceable even though there is no new consideration.
- Example: If a debtor promises to pay a debt after the limitation period has expired, such a promise is enforceable under Section 25.

Case Law: Chidambaram v. Ammal (1916)
In this case, the court held that a promise to pay a time-barred debt is enforceable, even without consideration, provided it is in writing.

3. Completed Gifts (Gratuitous Promises):

- If a promise is made to give a gift, and the gift is already completed (i.e., delivered), such a contract does not require consideration to be enforceable.

Case Law: Hamer v. Sidway (1891)
In this case, the court held that a promise made to benefit another, even without consideration, is enforceable when it involves a completed act or benefit.



4. Contracts of Guarantee (Section 127):

- A contract of guarantee requires consideration to bind the guarantor, but the consideration may be the promise made by the principal debtor. Thus, in certain cases, a guarantee may be enforceable without direct consideration from the creditor.
- Example: A person may agree to guarantee the loan taken by another person, and the consideration for the guarantor's promise may be the benefit or access to a loan.

Case Law: Vidyadhar v. M/s. Sham Ratan Das (1993)

In this case, the court ruled that contracts of guarantee do not always require new consideration from the creditor.

8.3 Case Laws Illustrating the Rule and Exceptions

1. Indian Contract Act, Section 25 (General Rule) – As already discussed, an agreement without consideration is void.

Case Law: Balfour v. Balfour (1919)

In this case, the court ruled that a domestic agreement made between a husband and wife (without consideration) could not be enforced by law.

2. Love and Affection Exception:

Case Law: S. N. Roy v. J. K. Roy (1936)

In this case, the court held that a promise made by one family member to another, based on natural love and affection, is enforceable.

3. Time-Barred Debt Exception:

Case Law: Raghunandan v. Sitaram (1918)

In this case, the court held that a promise to pay a time-barred debt could be enforceable if made in writing, even though there was no fresh consideration.

