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Year – II
Semester – III
Paper - V

Business Law



Centre for Distance and Online Education

श्रीचन्द्रशेखरेन्द्रसरस्वतीविश्वमहाविद्यालयः

Sri Chandrasekharendra Saraswathi Viswa Mahavidyalaya

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BC315 Business Law

Course Objectives

- ❖ To understand the basic principles and formation of valid contracts.
- ❖ To learn the legal provisions relating to bailment, pledge, indemnity, and guarantee.
- ❖ To understand the law governing sale of goods and agency relationships.
- ❖ To gain awareness of consumer rights and redressal mechanisms under consumer protection law.
- ❖ To understand the basic provisions of the FEMA Act, 2000.

UNIT – I: INDIAN CONTRACT ACT, 1872

Meaning and nature of contract – Kinds of contracts – Essentials of a valid contract – Offer and acceptance – Legal rules relating to offer and acceptance – Capacity to contract – Minor and persons of unsound mind – Free consent: coercion, undue influence, fraud, misrepresentation and mistake – Quasi contracts – Discharge of contract – Remedies for breach of contract – Concept of e-contracts and digital agreements.

UNIT – II: BAILMENT, PLEDGE, INDEMNITY AND GUARANTEE

Contract of bailment – Essential elements – Kinds of bailment – Rights and duties of bailor and bailee – Termination of bailment – Finder of lost goods – Lien – Pledge: rights and duties of pawnor and pawnee – Pledge and bailment distinguished – Contract of indemnity – Contract of guarantee – Kinds of guarantee – Rights and liabilities of surety – Discharge of surety.

UNIT – III: SALE OF GOODS ACT, 1930 AND AGENCY

Sale and agreement to sell – Formation of contract of sale – Conditions and warranties – Express and implied conditions and warranties – Doctrine of Caveat Emptor – Transfer of ownership and risk – Rights and duties of buyer and seller – Unpaid seller and his rights – Auction sale – Law of agency: meaning and definition – Creation of agency – Kinds of agents – Rights and duties of principal and agent – Termination of agency.

UNIT – IV: CONSUMER PROTECTION ACT, 2019

Concept of consumer – Consumer rights – Consumer Protection Councils – Central Consumer Protection Authority (CCPA) – Consumer Disputes Redressal Commissions: District, State and National – Jurisdiction and limitation – Product liability – Consumer protection in e-commerce – Mediation mechanism under Consumer Protection Act, 2019.

UNIT – V: Foreign Exchange Management Act, 2000

Foreign Exchange Management Act 2000- definition – main provisions.

COURSE OUTCOMES

After completing this course, the learner will be able to:

Understand the essentials and enforceability of contracts under Indian law.

Apply legal provisions relating to bailment, pledge, indemnity, and guarantee.

Analyze legal aspects of sale of goods and agency relationships.

Evaluate consumer rights and redressal mechanisms under the Consumer Protection Act, 2019.

Understand the basic provisions and objectives of the FEMA Act, 2000.

Text Books

1. Kapoor, N. D. (2022). Elements of Business Law. Sultan Chand & Sons.
2. Pillai, R. S. N., & Bhagavathi, V. (2020). Business Law. S. Chand & Company.
3. Kuchhal, M. C. (2021). Business Law. Vikas Publishing House.
4. Tulsian, P. C. (2020). Business Law. McGraw Hill Education.
5. Singh, Avtar. (2021). Law of Contract and Specific Relief. Eastern Book Company.

Reference Books

1. Gogna, P. P. S. (2021). A Textbook of Business Law. Sultan Chand & Sons.
2. Gulshan, S. S. (2021). Business Law. New Age International Publishers.
3. Maheshwari, S. N., & Maheshwari, S. K. (2020). Business Law. Himalaya Publishing House.
4. Kapoor, G. K., & Dhamija, S. (2021). Business Law and Practice. Taxmann Publications.
5. Singh, Avtar. (2022). Introduction to Cyber Law and Intellectual Property Rights. Eastern Book Company.

E-Resources

<https://legislative.gov.in/sites/default/files/A1872-09.pdf>

<https://legislative.gov.in/sites/default/files/A1930-03.pdf>

<https://consumeraffairs.nic.in/acts-and-rules/consumer-protection-act-2019>

<https://www.meity.gov.in/content/information-technology-act-2000>

<https://www.ipindia.gov.in/>

Business Law

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Structure

Overview

Learning Objectives

1.1 Meaning and nature of contract

1.2 Kinds of contracts

1.3 Essentials of a valid contract

1.4 Offer and acceptance

1.4.1 Legal rules relating to offer and acceptance

1.5 Capacity to contract

1.6 Minor and persons of unsound mind

1.7 Free consent: coercion, undue influence, fraud, misrepresentation and mistake

1.8 Quasi contracts

1.9 Discharge of contract

1.9.1 Remedies for breach of contract

1.10 Concept of e-contracts and digital agreements.

Overview

This unit provides an introduction to the Indian Contract Act, formation and classification of contracts. By this unit, students will understand the various types / forms of contracts in India.

Learning Objectives

After the completion of this unit, students will be able to:

- Understand the foundational principles of contract law, including the formation, nature, and essential elements.

- Compare contracts and agreements, and evaluate how obligations are created, enforced, and classified within the framework of Indian legal standards.

Indian Contract Act

Under Section 2(h) of the Indian Contract Act, 1872, a contract is defined as “an agreement enforceable by law.” Simply put, any agreement that the law recognizes and can enforce qualifies as a contract.

A contract is essentially a legally binding arrangement. It can be described as a promise—or a collection of promises—the breach of which entitles the aggrieved party to legal remedy, or whose fulfilment is recognized as a legal duty. Since contracts originate from mutual agreements, they can be understood as agreements.

Sir Fredrick Pollock has defined the word “Contract” as “Every agreement and promise enforceable at law is a contract”.

According to Salmond, “Contract is an agreement creating and defining obligation between parties”.

For example, A promises to sell a mobile phone to B for ₹. 6,000, and B promises to buy a mobile phone at that price.

Based on the above-mentioned definitions, it becomes evident that a contract is built upon two fundamental components:

- An agreement;
- Enforceability of that agreement

Agreements

According to Section 2(e) of the Indian Contract Act, 1872, an agreement refers to “*every promise and every set of promises, forming the consideration for each other.*” From this definition, it is evident that a promise itself constitutes an agreement, as agreements are essentially built upon reciprocal promises between parties.

Promise

Section 2(b) of the Act explains the concept of a promise. It states that when a person to whom a proposal is made expresses consent to it, the proposal is considered accepted. Once acceptance takes place, the proposal transforms into a promise. In other words, a promise is the outcome of a proposal that has been agreed to by the other party.

Formation of a Contract

How a Contract is formed?

Offer + acceptance = Promise

Promise + consideration = Agreement

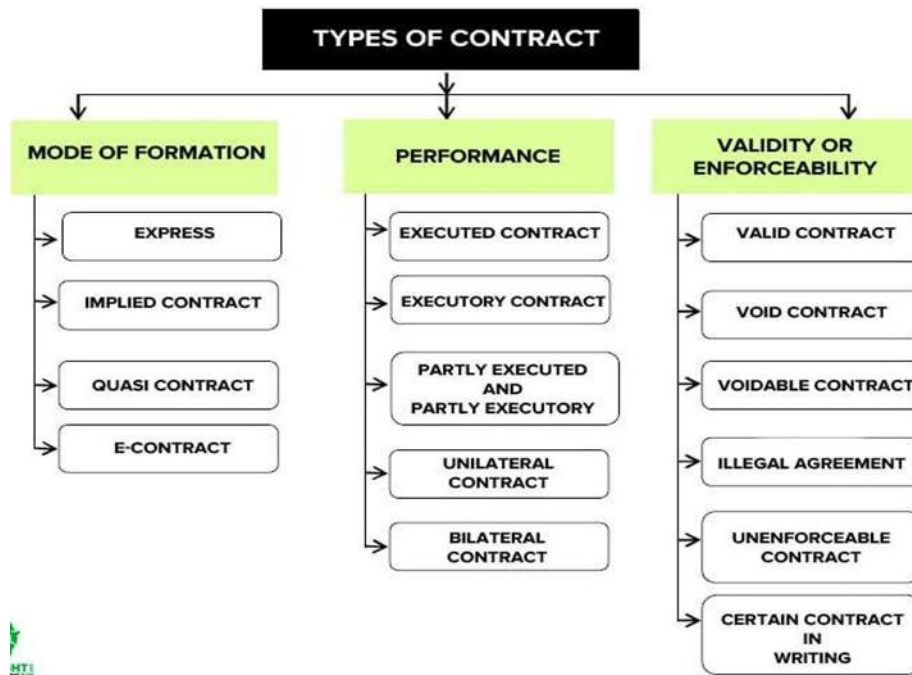
Agreement + enforceable by law = Contract

Nature / Elements of a Contract

The elements of a contract are:

- 1) an agreement,
- 2) between competent parties,
- 3) based upon the genuine assent of the parties,
- 4) supported by consideration,
- 5) made for lawful objective, and
- 6) in the form required by law, if any.

Classification of Contracts



Types of Contracts on the Basis of Validity and Enforceability

1. Valid Contracts

A contract is considered valid when it satisfies all the essential conditions prescribed under the Indian Contract Act, 1872. These requirements include a lawful offer and acceptance, the presence of consideration, parties who are legally competent to contract, genuine consent, and a lawful object. Once these elements are fulfilled, the agreement attains legal force and can be enforced by the courts, making it binding on the parties involved.

2. Void Contracts or Agreements

Section 2(j) of the Indian Contract Act, 1872 explains that a contract becomes void once it is no longer enforceable by law. In other words, when an agreement loses its legal validity and cannot be upheld in a court of law, it is treated as a void contract.

This means that a contract, though initially valid, may later lose its enforceability due to changed circumstances.

Example: If Arun agrees to repay Babu ₹10,000 after five years against a loan of ₹8,000, but Arun dies in the fourth year, the agreement cannot be enforced and thus becomes void.

3. Voidable Contracts

A voidable contract refers to an agreement that is legally enforceable, but only at the discretion of one or more parties involved. The other party or parties do not enjoy the same choice. In simple terms, such a contract remains valid and binding unless the party with the option decides to reject or rescind it.

In such contracts, one party is legally bound, while the other has the choice to either enforce or repudiate the agreement.

Example: Anbu agrees to buy an antique chair from Balu for ₹10,000. However, Balu is a minor and cannot legally enter into a contract. The agreement is binding on Anbu, but Balu may choose to affirm or reject it upon attaining majority.

4. Illegal Contracts

An illegal contract refers to an agreement that involves activities forbidden by law or contrary to public policy. Such contracts, even if they satisfy the formal requirements of a valid contract (offer, acceptance, consideration, etc.), are unenforceable because their subject matter itself is unlawful.

Example

Suppose Anil agrees to sell narcotics to Badri. Although the agreement may appear to meet the basic elements of a contract, it is inherently unlawful. Therefore, it cannot be enforced in a court of law.

Legal Provision

According to Section 2(g) of the Indian Contract Act, 1872, “An agreement not enforceable by law is said to be void.” Illegal contracts fall under this category, but with additional consequences.

5. Unenforceable Contracts

An unenforceable contract is an agreement that is valid in its formation but cannot be carried out or upheld in a court of law due to certain technical defects or practical impossibilities. Unlike void or illegal contracts, these agreements are not inherently invalid; rather, circumstances or procedural issues prevent their enforcement.

Example: Akshay agrees to sell Bagyaraj 100 kilograms of rice for ₹10,000. However, a

flood destroys all rice crops, making performance impossible. The contract, though valid in form, becomes unenforceable.

Types of Contracts – Based on Performance

1. Executed Contracts

An executed contract is one where both parties have already completed their respective obligations. The promises made under the agreement are fully performed, leaving no duties outstanding. In simple terms, the contract has been carried out in entirety.

Example: Alex visits a coffee shop, pays for a cup of coffee, and receives it immediately. Here, both sides have fulfilled their commitments, making this an executed contract.

2. Executory Contracts

An executory contract is an agreement in which the obligations of one or both parties remain to be performed at a future date. Unlike executed contracts, where duties are already fulfilled, executory contracts involve promises that are yet to be carried out.

Example: Alex agrees to tutor students in Physics for ₹2,500 per month. Since Alex must still deliver the tutoring services, the contract remains executory until performance is completed.

Executory contracts can be further divided into two categories:

a) Unilateral Contracts

A unilateral contract is an agreement in which only one party makes a promise, and the obligation becomes binding only when another party performs the specified act. Unlike bilateral contracts, where both sides exchange promises, unilateral contracts depend on the fulfillment of a condition by the other party

Example: Alex announces a reward of ₹1,000 for anyone who finds and returns his lost backpack. Here, Alex is the sole promisor, and the contract is completed only when someone fulfills the condition.

b) Bilateral Contracts

A bilateral contract is formed when two parties exchange promises, creating reciprocal

obligations. Each party agrees to perform certain duties, and the contract becomes binding from the moment the promises are made. It is essentially a “promise for a promise.”

Example

Consider a car purchase agreement:

- The buyer agrees to pay ₹5,00,000 for the vehicle.
- The seller promises to deliver the car along with valid registration documents once payment is made.

Types of Contracts – Based on Formation

1. Express Contracts

An express promise arises when an offer or its acceptance is communicated through spoken or written words.

Example

Imagine this scenario:

- Ravi emails Sita, offering to sell his laptop for ₹40,000.
- Sita replies to the email, confirming that she agrees to purchase it at the stated price.

This makes it an express contract, as both parties have explicitly communicated their intentions.

2. Implied Contracts

Definition (Section 9, Indian Contract Act): An implied promise exists when an offer or its acceptance is conveyed through actions or conduct rather than spoken or written words

Example: You board a rickshaw, instruct the driver on the destination, and pay the fare upon arrival. No terms were spoken or written, but the conduct of both parties implies a contractual relationship.

3. Quasi-Contracts

The nature of a quasi-contract lies in the fact that it is not formed through mutual consent.

Rather, it is imposed by law to ensure that no party gains an unfair benefit or is unjustly enriched at the expense of another.

Example (Quantum Meruit): Suppose you hire a worker to build a small gate, but he constructs a larger, more valuable gate. Even though this exceeds the original agreement, the court may order payment under the principle of quantum meruit (“as much as is deserved”), ensuring the worker is compensated fairly for the additional work.

4. Electronic Contracts (E-Contracts)

Electronic contracts are agreements created through digital methods, including emails, online forms, e-signatures, or electronic data exchange (EDI).

Key Feature: The terms are communicated and accepted electronically, often without physical documentation.

Example: Ramesh visits an e-commerce website and selects a mobile phone priced at ₹20,000. He places the order by filling out an online form and makes payment through net banking. The company sends him a confirmation email along with an electronic invoice.

Contract vs. Agreement

Agreement

An agreement comes into existence when two or more parties reach a mutual understanding regarding their rights and responsibilities. It is essentially the result of an offer made by one party and its acceptance by the other.

Example: If Arun promises to meet Babu for dinner, it is an agreement. However, since it lacks legal enforceability, it cannot be treated as a contract.

Contract

A contract is an agreement that the law recognizes and enforces under the provisions of the Indian Contract Act, 1872.

For an agreement to attain the status of a contract, it must fulfil certain essentials: lawful offer and acceptance, lawful consideration, capacity of parties, free consent, and lawful object.

Contracts create legal obligations, meaning that if one party fails to perform, the other can seek remedy through a court of law.

Example: If A agrees to sell his bike to B for ₹10,000, and B accepts, this is a contract because it involves consideration, lawful object, and enforceability.

Basis	Agreement	Contract
Definition	Mutual understanding between parties	Legally enforceable agreement under law
Legal Enforceability	May or may not be enforceable	Always enforceable if essentials are met
Scope	Broader – includes social and moral arrangements	Narrower – only those agreements that meet legal requirements
Example	Promise to meet for lunch	Sale of goods with payment terms

Offer - Definition

An offer is a statement or action that indicates a willingness to agree.

An offer must be communicated to the person who is meant to accept it and may be made by words or conduct.

Forms of offer

1. Express Offer

An express offer is one where the proposal or acceptance is communicated directly through spoken or written words.

It is clear, explicit, and leaves no room for ambiguity.

Example: Ramesh writes to Suresh stating, “I am willing to sell my laptop to you for ₹40,000.

2. Implied Offer

An implied offer is not communicated in words but inferred from the conduct, actions, or circumstances of the parties.

The intent to contract is understood without verbal or written expression.

Example: Boarding a bus implies acceptance of the transport company’s offer to carry passengers for a fare.

3. General Offer

A general offer is one that is extended to the public as a whole, and it becomes valid when any individual who meets the specified conditions accepts it.

Example: A company declares that it will grant a reward to any person who locates and hands back its missing documents.

4. Specific Offer

A specific offer is one that is addressed to an identified individual or a clearly defined group, rather than to the public at large.

Only the intended recipient(s) can accept it.

Example: Arjun offers to sell his bike to Balram alone.

5. Cross Offer

Cross offers occur when two parties unknowingly make identical offers to each other at the same time.

Since neither offer is accepted, no contract is formed.

Example: Arvind offers to sell his car to Balachander, while Balachander simultaneously offers to buy Arvind's car, without knowledge of each other's proposal.

6. Counter Offer

A counter offer arises when the offeree responds to the original offer with modifications or new terms.

It amounts to rejection of the original offer and creates a new one.

Example: Anita offers to sell her house for ₹50 lakhs. Banu replies that she will buy it for ₹45 lakhs.

7. Standing Offer

A standing offer is one that continues to be available for acceptance throughout a defined duration of time.

It allows multiple acceptances during that time frame, often used in supply contracts.

Example: A supplier agrees to provide goods to a government department whenever required during the year at fixed rates.

Type of Offer	Definition	Example	Result
Express Offer	Clear, direct offer in words, oral or written	Arun offers to sell a car for ₹10,000 to Boney.	Creates potential contract.
Implied Offer	Offer inferred from actions or circumstances	A leaves car with price tag at B's shop.	Potential contract if accepted.
General Offer	Open offer to the public or a wide audience	A offers a reward for finding a lost dog in a poster.	Potential contract when accepted.
Specific Offer	Directed at an identified individual or group	A offers to sell a car to B for a specific price.	Creates potential contract.
Cross Offer	Simultaneous identical offers by two parties	A offers to sell a car to B while B offers to buy it.	No contract; mutual rejection.
Counter Offer	Response with modified terms to the original offer	A offers to sell a car for \$10,000; B offers \$8,000	Rejects the original offer.
Standing Offer	An offer open for acceptance over a period	A invites tenders for a year-long supply contract.	Accepted orders form contracts.

Requirements of a Valid Offer

- The valid offer must be communicated clearly.
- A valid offer has clear and definite terms. It includes an expiry date for the offer and product or service specifications.
- A valid offer creates a legal relationship between the two parties.
- A valid offer can be made either in oral or written.

Acceptance - Meaning

Acceptance refers to the assent given to an offer, through which contractual obligations, responsibilities, or advantages are created for one or more parties involved.

Legal rules as to a Valid Acceptance

1. Absolute and Unqualified

Acceptance must be complete and unconditional.

The offeree must agree to all the terms without introducing modifications or conditions. Any variation amounts to a counter-offer, not acceptance.

2. Communication to the Offeror

Acceptance must be conveyed to the offeror, ensuring that the person who proposed the offer is made aware of it.

Mere silence or mental agreement does not constitute valid acceptance.

3. By the Intended Offeree

An offer may be accepted solely by the individual or group to whom it is specifically addressed.

Acceptance by a third party who was not intended to be the offeree is invalid.

4. Within the Prescribed Timeframe

Acceptance must be made before the offer lapses or is withdrawn.

If the offer specifies a time limit, acceptance must occur within that period.

5. In the Prescribed Mode (if any)

When the offeror specifies a particular mode of acceptance—such as by email or registered post—the offeree is required to follow that prescribed method.

If no mode is prescribed, acceptance may be communicated in any reasonable manner.

6. Intention to Fulfil the Promise

The offeree must demonstrate a genuine willingness to perform the obligations arising from the contract. Acceptance without intent to perform is not valid.

Example

Ajay offers to sell 100 pens to Dinesh at ₹5 each. If Dinesh communicates offer acceptance, agreeing to the stated terms, the agreement becomes a valid contract enforceable by law.

Consideration – Definition

For a contract to be legally enforceable, it must include lawful consideration. Consideration refers to the value or benefit provided in return for the fulfilment of a promise. It does not necessarily have to be monetary; rather, it can be anything of recognized importance that both parties agree upon. In essence, consideration reflects what one party offers or commits to, in exchange for what other party provides or promises.

Types of Consideration

Past Consideration- when the promisor has accepted consideration before the date of the performance by any party. E.g. Advance payment before receiving the parcel.

Present Consideration - when consideration is given on the spot while the contract is made or executed.

Future Consideration - when consideration is given post the contract is made. For example- cash on delivery of an object.

Essentials of Consideration

1. At the Desire of the Promisor

- Consideration must arise from the request or intention of the promisor.
- If an act is performed voluntarily, without being sought by the promisor, it does not amount to valid consideration.

2. By the Promisee or Any Other Person

- Consideration may be furnished either by the promisee or by a third party.
- As long as the act is carried out at the promisor's desire, it remains valid, regardless of who performs it.

3. Past, Present, or Future

- Consideration may take three forms: it can relate to an act already performed (past consideration), an act currently being performed (present consideration), or an act promised to be carried out at a later time (future consideration).

4. Real, Certain, and Lawful

- It should be genuine and definite, not vague or illusory.
- It must be lawful in nature and should not conflict with public policy or be forbidden by law.

5. Positive or Negative

- Consideration may involve doing something (positive act) or refraining from doing something (negative act).
- Both are valid forms of consideration.

6. Need Not Be Adequate

- The law does not insist that consideration must be proportionate to the value of the promise.
- Even a token or nominal consideration is valid, so long as it is lawful in nature.

Capacity of Parties – Definition

The term capacity of a party refers to the legal competence of an individual to enter into a contractual relationship. It determines who is qualified to make a contract under the law. For a contract to be valid, the parties must possess both intellectual and mental ability, enabling them to fully comprehend the terms and make a conscious decision to bind themselves to the agreement.

Persons Competent to contract

- A person should attain 18 years of age.
- The party must be of sound mind (sane mind).
- He/ she is not disqualified from contracting by any Law to which he is subject, want of capacity may thus arise from minority, lunacy, idiocy, drunkenness etc.

Examples:

X came into a contract with Z for selling 100 pens for ₹. 5 each. Here, Z is a minor i.e., 16 years old. Hence, it's not valid.

X entered into an agreement with Z to sell 100 pens at ₹5 each. However, since X was of unsound mind at the time of making the contract, the agreement is void and cannot be considered legally valid.

X came into contract Z who is 21 years old and is of sound mind for selling 100 pens for ₹. 5 each. Hence, it's valid.

Free consent

This means parties that are entering into a contract should do it with their will without the external factors or forces.

Coercion: It is defined under Section 15 of the Act, which means committing any act which is forbidden by law defined under the IPC or unlawful to confine of property, or frightening to commit such acts.

Example:

A husband forces her wife that if she will not sign the property papers, he will throw acid on her. This is amounting to coercion and contract signed by under the coercion amounts to an invalid contract.

Undue influence: It is defined under Section 16 of the Act, which means one party uses its dominant position over the party and tries to obtain advantage out of it by influencing.

Example:

A doctor is in the dominant position with the relation to the patient, here, the doctor influences the patient to sign papers for the operation.

Fraud: Section 17 of the Act defines fraud as acts intended to deceive or cause harm to another party for personal gain. It includes situations where one party deliberately misrepresents facts, conceals material information, makes false promises without intending to fulfill them, or engages in conduct designed to mislead the other party. Such actions, when done with dishonest intent, amount to fraud in the eyes of law.

Example:

A is selling his refrigerator to B presenting the fake facts that its freezer is working well and have sufficient gas but which was all wrong.

Misrepresentation: It is defined under Section 18, which means presenting the false representation of facts without the wrong intentions or to deceive the other party.

Example:

Arun inquired with Balram about any problems in the basement's water pipeline system. Balram assured him that no such issues had ever occurred. Relying on this statement, Arun purchased the house. Shortly after moving in, heavy rains caused the basement to flood, resulting in significant damage to Arun.

Mistake: It is defined under Section 20 and 21 of the Act, if a contract is entered into under a mistake of fact or law, whether by one party or both, the agreement becomes void and cannot be enforced.

Void Agreements and Unlawful Agreements

1. Agreement Void if Object or Consideration is Unlawful in Part (Section 24)

If the object or consideration is partly lawful and partly unlawful, it becomes void.

Illustration: Arul agrees to supervise Dravid's lawful manufacture of indigo and also engage in illegal trade of other goods. Dravid promises to pay Arul ₹10,000 annually. Because a portion of the object of the agreement is illegal, the whole contract becomes void.

2. Agreement Without Consideration – Exceptions (Section 25)

Agreements are typically void if no consideration is present. However, the law recognizes certain exceptions:

Natural Love and Affection: If made in writing, registered, and between parties in close relation.

Example: Anu executes a written and registered agreement in which she undertakes to provide her son Brijesh ₹1,000, motivated by natural love and affection. This is valid.

Compensation for Voluntary Acts: A promise made to reimburse a person who has voluntarily performed an act for the promisor is valid.

Example: Arif finds Khan's purse and returns it. Khan promises to give Arif ₹50. This is valid.

A written and signed undertaking to repay a debt that has become unenforceable due to the law of limitation is valid.

Example: A owes B ₹1,000, but the debt is barred by limitation. A signs a written promise to pay ₹500. This is valid.

Other Illustrations:

A promises to give B ₹1,000 without consideration → void.

A supports B's infant son, and B promises to reimburse expenses → valid.

A sells a horse worth ₹1,000 for ₹10 with free consent → valid despite inadequacy.

3. Agreement in Restraint of Marriage (Section 26)

Any agreement restraining the marriage of a person (except a minor) is void.

Example: A contract preventing an adult from marrying is unenforceable.

4. Agreement in Restraint of Trade (Section 27)

Agreements restricting a person from carrying on a lawful profession, trade, or business are void to that extent.

Example: A contract preventing a trader from conducting business in a particular locality is void.

5. Agreements in Restraint of Legal Proceedings (Section 28)

Agreements that restrict parties from enforcing their contractual rights through usual legal proceedings are void.

This includes:

Agreements that absolutely restrict enforcement of rights in ordinary tribunals.

Agreements that limit the time for enforcing rights.

Agreements that extinguish rights or discharge liabilities after a specified period, thereby restricting enforcement.

6. Agreements Void for Uncertainty (Section 29)

An agreement becomes void if its meaning is uncertain.

Illustrations:

- Alex assents to sell John “a hundred tons of oil” without specifying the type → void.
- A agrees to sell B 100 tons of oil of a specified commercial description → valid.
- A, a dealer in coconut oil, assents to sell B “100 tons of oil” → valid, as the nature of trade clarifies the meaning.
- Alex agrees to sell John “all the grain in my granary at Ramnagar” → valid, as the purpose is identifiable.
- Alice agrees to sell Peter “1,000 maunds of rice at a price to be fixed by Charles” → valid, since the price can be made certain.
- A agrees to sell B “my white horse for ₹500 or ₹1,000” without clarity → void.

7. Wagering Agreements (Section 30)

Agreements made by way of wager are void.

A suit cannot be maintained to claim money won through a wagering agreement or placed to depend on the outcome of a game or any uncertain event.

Exception: Contributions or subscriptions of ₹500 or more toward prizes in horse-racing are not unlawful.

Note: Section 294A of the IPC still applies, meaning transactions connected with lotteries or unauthorized prize schemes remain illegal.

Quasi Contract

In the field of business and commercial law, a quasi-contract refers to an obligation imposed by law to prevent one party from being unjustly enriched at the expense of another. Unlike a regular contract, which arises from mutual consent and agreement between parties, a quasi-contract is created by law, even when no formal agreement exists. It ensures fairness and justice in situations where one party benefits unfairly from another’s act or property.

Meaning and Concept

The term “quasi” means “as if” or “resembling.” Therefore, a quasi-contract is not an actual contract but is treated as if it were one. It is based on the principle of equity and natural justice, which states that no person should unjustly benefit at the cost of another.

Under the Indian Contract Act, 1872, quasi contracts are covered under Sections 68 to 72. These sections describe situations where the law imposes contractual obligations even without a formal agreement.

Characteristics of Quasi Contracts

No Prior Agreement: There is no offer, acceptance, or mutual consent between the parties.

Legal Obligation: The duty arises by operation of law, not by the will of the parties.

Unjust Enrichment: The main objective is to prevent one party from being unjustly enriched.

Right to Compensation: The person who suffers a loss or provides a benefit is entitled to reasonable compensation.

Enforceable by Law: Although not a true contract, it is enforceable in the same way as a valid contract.

Types of Quasi Contracts (Sections 68–72 of the Indian Contract Act, 1872)

1. Section 68 – Supply of Necessaries to Persons Incapable of Contracting

If a person supplies necessaries (such as food, clothing, or shelter) to someone incapable of contracting (like a minor or a person of unsound mind), the supplier is entitled to reimbursement from the property of that person.

Example: A supplies food and medicine to B, a minor. A can recover the cost from B's property.

2. Section 69 – Payment by an Interested Person

When a person pays money that another is legally bound to pay, and the payer has an interest in making that payment, the payer is entitled to reimbursement.

Example: A, a tenant, pays property tax on behalf of the landlord B to prevent the property from being seized. A can recover the amount from B.

3. Section 70 – Obligation of a Person Enjoying Benefit of a Non-Gratuitous Act

If a person lawfully does something for another or delivers something not intending it as a gift, and the other person enjoys the benefit, the latter must compensate the former.

Example: A mistakenly delivers goods to B, who uses them. B must pay A for the goods.

4. Section 71 – Responsibility of Finder of Goods

A person who finds goods belonging to another and takes them into his custody is subject to the same responsibilities as a bailee. He must take care of the goods and return them to the rightful owner.

Example: A finds B's lost watch and keeps it safe. A must take reasonable care of it and return it to B.

5. Section 72 – Money Paid or Goods Delivered by Mistake or Under Coercion

A person to whom money has been paid or goods delivered by mistake or under coercion must return them.

Example: A pays B ₹5,000 by mistake, thinking he owes that amount. B must refund the money.

Importance of Quasi Contracts

- Ensures Fairness: Prevents unjust enrichment and promotes equity.
- Protects Rights: Safeguards the interests of individuals who act in good faith.
- Legal Remedy: Provides a legal basis for compensation even without a formal contract.
- Promotes Justice: Ensures that benefits are not retained unfairly by any party.

Difference Between Contract and Quasi Contract

A contract arises from the voluntary agreement of parties, while a quasi-contract arises from legal obligations imposed to ensure fairness and prevent unjust enrichment. Both are enforceable by law, but their origins and purposes differ fundamentally.

Discharge of Contract

A contract is a legally binding agreement that creates rights and obligations between parties. When these obligations are fulfilled, terminated, or become impossible to perform, the contract is said to be discharged. Discharge of contract means the end of the contractual relationship between the parties, releasing them from their respective duties and liabilities under the agreement.

Discharge of contract refers to the termination of the contractual obligations of the parties. Once a contract is discharged, it ceases to have any legal effect, and the parties are no longer bound by its terms.

Modes of Discharge of Contract

Under the Indian Contract Act, 1872, a contract may be discharged in the following ways:

1. Discharge by Performance

When both parties fulfil their respective obligations as agreed, the contract is discharged by performance.

Types:

Actual Performance: When both parties have completely performed their promises.

Example: A agrees to sell goods to B for ₹10,000. A delivers the goods, and B pays the price.

Attempted Performance (Tender): When one party offers to perform but the other refuses to accept. The contract is considered discharged for the offering party.

Example: A offers to deliver goods to B, but B refuses to accept them.

2. Discharge by Mutual Agreement

A contract may be discharged if all parties agree to terminate, alter, or substitute it with a new one.

Forms of Discharge by Agreement:

Novation: Substitution of a new contract for an old one, either between the same or different parties.

Example: A owes B ₹10,000. Both agree that C will pay B instead of A. The old contract is discharged.

Rescission: Cancellation of the contract by mutual consent.

Alteration: Change in the terms of the contract with mutual consent.

Remission: Acceptance of a lesser performance than what was originally agreed.

Waiver: Voluntary abandonment of rights under the contract.

3. Discharge by Impossibility of Performance

A contract becomes void when its performance becomes impossible due to unforeseen events.

Types:

Initial Impossibility: When the contract is impossible to perform from the beginning.

Example: A agrees to discover treasure by magic. The contract is void.

Subsequent Impossibility: When performance becomes impossible after the contract is made due to events like natural disasters, war, or change in law.

Example: A contract to export goods to a country that later bans imports. The contract becomes void.

4. Discharge by Lapse of Time

Under the Limitation Act, 1963, if a party fails to enforce contractual rights within the prescribed time limit, the contract is discharged.

Example: A creditor does not file a suit for recovery of debt within three years. The contract is discharged by lapse of time.

5. Discharge by Operation of Law

Certain legal events can automatically discharge a contract without the consent of the parties.

Examples:

- Death or insolvency of a party (in personal contracts).
- Merger of rights (when an inferior right merges into a superior one).
- Unauthorized alteration of contract terms by one party.
- Material breach of contract.

6. Discharge by Breach of Contract

When one party fails or refuses to perform their obligations, the contract is discharged by breach. The aggrieved party may claim damages or terminate the contract.

Types:

Actual Breach: Occurs when a party fails to perform on the due date.

Anticipatory Breach: Occurs when a party declares before the due date that they will not perform their obligations.

Example: A agrees to deliver goods to B on 1st June but informs B on 25th May that he will not deliver them.

7. Discharge by Remission or Acceptance of Lesser Performance

Under Section 63 of the Indian Contract Act, a promisee may accept a lesser performance or payment in satisfaction of the whole obligation, thereby discharging the contract.

Example: A owes B ₹5,000. B agrees to accept ₹3,000 in full settlement. The contract is discharged.

Effects of Discharge of Contract

- The contractual relationship between the parties ends.
- No further rights or obligations remain enforceable.
- The aggrieved party may claim damages if the discharge is due to breach.

Discharge of contract marks the end of the legal obligations created by an agreement. It may occur through performance, mutual consent, impossibility, lapse of time, operation of law, or breach. Understanding the modes of discharge helps ensure that parties fulfil their duties responsibly and know their rights when a contract ends.

Remedies for Breach of Contract

A breach of contract occurs when one party fails to perform their obligations under a contract without a lawful excuse. When such a breach happens, the aggrieved party is entitled to certain legal remedies to protect their interests and recover losses. The Indian Contract Act, 1872 provides various remedies to ensure justice and fairness between the parties.

A remedy for breach of contract refers to the legal means available to the aggrieved party to enforce their rights, claim compensation, or seek performance of the contract. The objective of these remedies is to place the injured party in the same position as if the contract had been performed.

Types of Remedies for Breach of Contract

1. Damages

Damages are monetary compensation awarded to the aggrieved party for the loss suffered due to the breach of contract.

The purpose is to compensate, not to punish.

Types of Damages

Ordinary (General) Damages

These are damages that naturally arise from the breach.

Example: A fails to deliver goods to B. B buys them at a higher price. The difference in price is recoverable as ordinary damages.

Special Damages

These are damages arising from special circumstances communicated to the other party at the time of contract formation.

Example: A informs B that delay in delivery will cause loss of profit. If B delays, A can claim that loss as special damages.

Exemplary (Vindictive) Damages

Awarded in exceptional cases to punish the wrongdoer, such as breach of promise to marry or wrongful dishonour of a cheque by a banker.

Nominal Damages

Awarded when a breach occurs but no actual loss is suffered. It recognizes the violation of a legal right.

Liquidated Damages and Penalty

Liquidated Damages: Pre-determined amount agreed upon by the parties as compensation in case of breach.

Penalty: A sum specified in the contract that is disproportionate to the actual loss, intended to secure performance.

Under Section 74 of the Indian Contract Act, the court awards reasonable compensation not exceeding the amount specified.

2. Specific Performance

When monetary compensation is inadequate, the court may order specific performance, compelling the defaulting party to perform their contractual obligations.

This remedy is governed by the Specific Relief Act, 1963.

Example:

A agrees to sell a rare painting to B but refuses later. The court may order A to deliver the painting to B.

Conditions:

The contract must be valid and enforceable.

Damages must be inadequate as a remedy.

The act to be performed must be possible and lawful.

3. Injunction

An injunction is a court order restraining a party from doing something that would breach the contract. It is a preventive remedy rather than a compensatory one.

Example:

A singer agrees to perform exclusively for B but plans to perform for C. The court may issue an injunction preventing A from performing for C.

Types:

Prohibitory Injunction: Prevents a party from performing a specific act.

Mandatory Injunction: Compels a party to perform a specific act.

4. Rescission of Contract

Rescission means cancellation of the contract. When one party breaches the contract, the other party may rescind it and is released from all obligations under it.

Example:

A agrees to deliver goods to B, but B fails to pay the advance. A may rescind the contract.

Effects:

- The contract is terminated.

- The aggrieved party is free from performance.
- The aggrieved party may claim compensation for any loss suffered.

5. Restitution

Restitution aims to restore the aggrieved party to the position they were in before the contract. If one party has received any benefit under the contract, they must return it or compensate for it.

Example:

A pays B ₹50,000 in advance for goods. B fails to deliver. A can recover the amount paid.

6. Quantum Meruit

The term “Quantum Meruit” means “as much as earned.” It allows a party to claim payment for the part of work done or services rendered when the contract is partially performed or becomes void.

Example:

A is employed by B to build a house. After completing half the work, B stops A. A can claim payment for the work completed.

Conditions:

The contract must be partly performed.

The performance must be accepted by the other party.

The contract must not be illegal or void ab initio.

Remedy	Meaning	Purpose
Damages	Monetary compensation for loss	To compensate the aggrieved party
Specific Performance	Court orders actual performance	To ensure fulfilment of obligations

Remedy	Meaning	Purpose
Injunction	Court restrains a party from breach	To prevent violation of contract
Rescission	Cancellation of contract	To release parties from obligations
Restitution	Restoration of benefits received	To prevent unjust enrichment
Quantum Meruit	Payment for work done	To compensate for partial performance

Remedies for breach of contract ensure that the aggrieved party receives justice and fair compensation. Depending on the nature of the breach, courts may award damages, order specific performance, or grant injunctions. These remedies uphold the sanctity of contracts and promote trust and fairness in commercial and personal transactions.

Concept of E-Contracts and Digital Agreements

With the rapid advancement of technology and the widespread use of the internet, traditional paper-based contracts are increasingly being replaced by electronic contracts (e-contracts) and digital agreements. These contracts are formed, executed, and stored electronically, enabling faster, more efficient, and borderless business transactions. E-contracts have become an essential part of modern commerce, especially in e-commerce, online banking, and digital services.

Meaning and Concept

An e-contract or digital agreement is a legally binding contract created and executed electronically, without the need for physical signatures or paper documentation. It involves the exchange of contract terms, acceptance, and consent through digital means such as emails, websites, or electronic platforms.

E-contracts are governed by the same principles as traditional contracts under the Indian Contract Act, 1872, and are legally recognized under the Information Technology Act, 2000.

Definition

An e-contract can be defined as “a contract formed through electronic communication, where the offer, acceptance, and consideration are expressed digitally.”

Essential Elements of an E-Contract

Like traditional contracts, e-contracts must fulfill the basic requirements of a valid contract under Section 10 of the Indian Contract Act, 1872:

Offer and Acceptance: The offer and acceptance are communicated electronically (e.g., clicking “I Agree” on a website).

Lawful Consideration: There must be a lawful exchange of value.

Capacity of Parties: Parties must be competent to contract.

Free Consent: Consent must be free from coercion, fraud, or misrepresentation.

Lawful Object: The purpose of the contract must be legal.

Intention to Create Legal Relations: Both parties must intend to be legally bound.

Types of E-Contracts

Click-Wrap Agreements

Users indicate acceptance by clicking an “I Agree” or “Accept” button before using a service or software.

Example: Accepting terms and conditions while installing software.

Browse-Wrap Agreements

Terms are available on a website, and users are deemed to have accepted them by continuing to use the site.

Example: Terms of use on e-commerce websites.

Shrink-Wrap Agreements

Common in software purchases, where terms are enclosed within the product packaging and become binding once the package is opened.

Example: Software license agreements included in CD or DVD packaging.

E-Mail Contracts

Contracts formed through offer and acceptance communicated via email.

Example: A supplier accepts a purchase order sent by email.

Online Service Agreements

Contracts between service providers and users for online services such as cloud storage, streaming, or subscriptions.

Legal Recognition of E-Contracts in India

The Information Technology Act, 2000 provides legal validity to electronic records and digital signatures.

Key Provisions

Section 4: Legal recognition of electronic records.

Section 5: Legal recognition of digital signatures.

Section 10A: Validity of contracts formed through electronic means.

Section 11–13: Rules regarding attribution, acknowledgment, and dispatch of electronic records.

Thus, e-contracts are legally enforceable in India, provided they meet the essential elements of a valid contract.

Advantages of E-Contracts

- **Convenience:** Can be created and executed anytime, anywhere.
- **Speed and Efficiency:** Reduces time and paperwork.
- **Cost-Effective:** Eliminates printing, mailing, and storage costs.
- **Global Reach:** Enables cross-border transactions.
- **Security:** Digital signatures ensure authenticity and integrity.
- **Easy Record-Keeping:** Electronic storage simplifies retrieval and management.

Disadvantages of E-Contracts

- Risk of Fraud and Identity Theft: Potential misuse of digital identities.
- Lack of Personal Interaction: May lead to misunderstandings.
- Jurisdictional Issues: Difficult to determine applicable law in cross-border contracts.
- Technical Challenges: Dependence on technology and internet connectivity.
- Data Privacy Concerns: Risk of unauthorized access to sensitive information.

Examples of E-Contracts

- Online shopping transactions (Amazon, Flipkart).
- Subscription services (Netflix, Spotify).
- Online banking and insurance agreements.
- Cloud service and software license agreements.
- Employment contracts executed through digital platforms.

E-contracts and digital agreements represent the evolution of commerce in the digital age. They offer speed, convenience, and global accessibility while maintaining legal validity under Indian law. However, businesses and individuals must ensure compliance with legal requirements and adopt secure digital practices to prevent misuse. As technology continues to advance, e-contracts will remain a cornerstone of modern business transactions.

Unit II

Bailment and Pledge

Contract of Bailment -Definition and essential elements

Kinds of bailment

Rights and duties of bailer and bailee

Pledge

Contract of indemnity and guarantee

What is Bailment?

Bailment is a legal relationship between both parties. In this, one person gives his personal property to another person for security. There must be consent for bailment from both sides. The Bailee must have the intention of physical possession. Section 148 deals with [bailment].

Bailor

A Bailor is the individual who delivers possession of their personal property to another person for a specific purpose, under a bailment agreement.

Bailee

A Bailee is the person who receives possession of that property from the Bailor and is responsible for returning it once the intended purpose of the bailment has been completed.

Essentials of bailment

1. Existence of a Contract

Bailment must arise out of a contract between the bailor and the bailee.

The contract may be express (clearly stated in words, either orally or in writing) or implied (inferred from conduct).

Example: A hands over his car to B for repair. Here, A is the bailor, B is the bailee, and the purpose of bailment is explicitly stated—to repair the car.

2. Delivery of Possession

Actual possession or control of the goods must be delivered by the bailor to the bailee.

Ownership is not transferred; only possession is handed over.

Delivery may be:

- Actual (physical): Goods are physically handed over.
- Constructive: Possession is transferred without physical delivery, often through acknowledgment.

Example: Ram, who was holding property on behalf of Shyam, agrees to hold it on behalf of Mohan. This constitutes constructive delivery of possession.

3. Purpose of Bailment

Goods must be delivered for a specific purpose agreed upon by both parties.

The bailee is bound to use the goods only for that purpose.

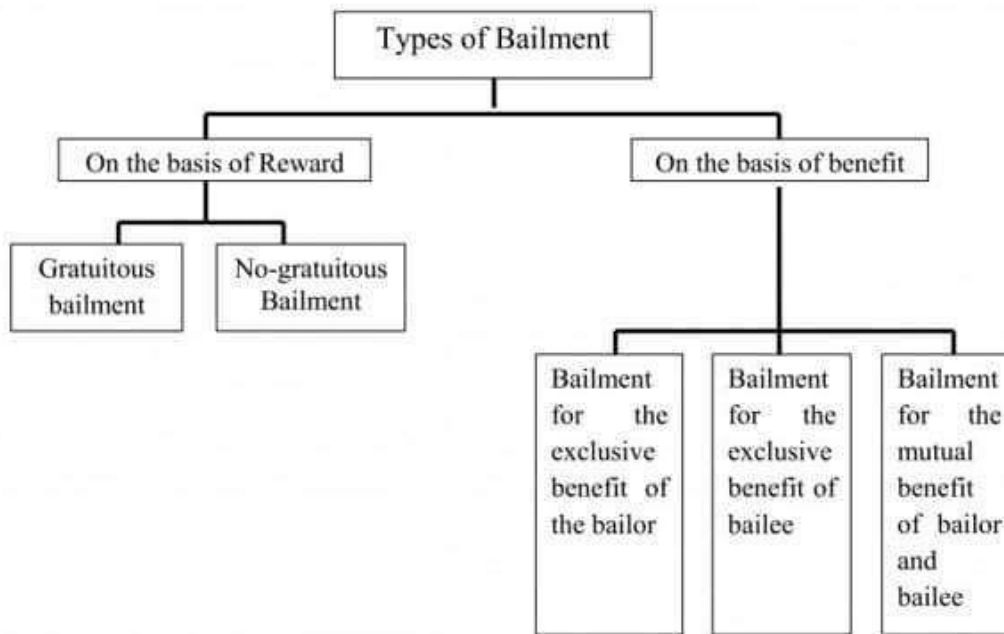
Example: A gives his car to X for repair. The repair work is the defined purpose of the bailment.

4. Return of Goods

The bailee must return the goods to the bailor once the purpose of bailment is fulfilled.

Goods may be returned in their original form or in an altered form, depending on the terms of the contract.

Example: If A gives cloth to B (a tailor) to stitch into a suit, B must return the stitched suit to A after completing the work.



Rights of the Bailer

a. Right to claim damages

The bailer can claim compensation if the bailee is negligent or uses the goods improperly.

b. Right to terminate bailment

If the bailee acts inconsistently with the terms of the contract, the bailer may terminate the contract.

c. Right to demand return of goods

After the purpose is fulfilled, the bailer can demand the return of goods.

d. Right to claim compensation for unauthorized use

If the bailee uses the goods without permission, the bailer can claim damages.

e. Right to receive any increase or profit from goods

Any natural increase or profit (e.g., calf born to a cow) must be returned to the bailer.

Duties of the Bailer

a. Duty to disclose faults

The bailer must inform the bailee of known defects in the goods.

b. Duty to bear extraordinary expenses

In case of gratuitous bailment (no reward), the bailer must bear extraordinary expenses incurred by the bailee.

c. Duty to indemnify the bailee

The bailer must compensate the bailee for losses arising due to defects in title or instructions given.

d. Duty to receive back the goods

The bailer must accept the goods after the purpose is completed.

Rights of the Bailee

a. Right to deliver goods to any joint bailor

If several persons jointly bail goods, the bailee may return them to any one of them.

b. Right to deliver goods according to bailer's directions

The bailee is protected if goods are delivered as per instructions.

c. Right to claim necessary expenses

In gratuitous bailment, the bailee can claim necessary expenses from the bailer.

d. Right of lien

The bailee has the right to retain the goods until lawful charges are paid.

e. Right to sue third parties

If a third party damages the goods, the bailee can take legal action.

Duties of the Bailee

a. Duty to take reasonable care

The bailee must take care of the goods as a prudent person would take care of his own goods.

b. Duty not to make unauthorized use

The goods must be used only for the agreed purpose.

c. Duty not to mix goods

The bailee must not mix bailer's goods with his own without consent.

d. Duty to return goods

After the purpose is completed, goods must be returned without delay.

e. Duty to return increase or profit

Any increase or profit from the goods must be returned to the bailer.

The relationship between bailer and bailee is based on trust and mutual responsibility. The bailer must disclose defects and bear necessary expenses, while the bailee must take proper care and return the goods after use. Understanding these rights and duties is essential for commerce students, as bailment principles apply in banking, warehousing, transport, and insurance.

Termination of Bailment

Termination of bailment means the ending of the contract between the bailer and bailee. After termination, the bailee must return the goods to the bailer or dispose of them according to the bailer's directions.

Modes of Termination

a. On completion of purpose

Bailment ends when the specific purpose (e.g., repair, safe custody) is completed.

b. On expiry of time

If bailment is for a fixed period, it ends when the period expires.

c. Inconsistent use of goods by bailee

If the bailee uses the goods in an unauthorized manner, the bailer may terminate the bailment.

d. Destruction of subject matter

If the goods are destroyed or become unfit for use, bailment automatically ends.

e. Death of either party

In case of gratuitous bailment (without reward), the contract terminates on the death of the bailer or bailee.

f. By mutual agreement

Both parties may agree to terminate the bailment.

Termination of bailment occurs when the objective of the contract is fulfilled or when certain legal events occur. After termination, the bailee is bound to return the goods to the bailer.

Finder of Lost Goods

A finder of lost goods is a person who finds goods belonging to another person and takes them into his custody. According to law, the finder is subject to the same responsibilities as a bailee. This means the finder must take reasonable care of the goods and act honestly.

2. Duties of Finder of Lost Goods

1. Duty to take reasonable care

The finder must take care of the goods as a prudent person would take care of his own goods.

2. Duty not to use goods for personal benefit

The finder should not use the goods for personal purposes.

3. Duty not to mix goods

The finder must not mix the found goods with his own goods.

4. Duty to make reasonable efforts to find the true owner

The finder must try to locate and return the goods to the rightful owner.

3. Rights of Finder of Lost Goods

1. Right of lien

The finder can retain the goods until he receives compensation for expenses incurred in preserving the goods.

2. Right to sue for reward

If the owner has announced a reward, the finder can sue for it.

3. **Right to retain reward**

The finder may retain the goods until the reward is paid.

4. **Right to sell the goods (in certain cases)**

The finder may sell the goods if:

- The goods are perishable, or
- The lawful charges amount to two-thirds of the value of goods, or
- The owner cannot be found with reasonable diligence.

4. **Position of Finder**

- The finder has no right to file a suit against the owner for compensation unless there is a promise of reward.
- The finder becomes responsible as a bailee once he takes custody of the goods.

The finder of lost goods has both rights and duties similar to a bailee. The law encourages honesty by protecting the finder's expenses while ensuring the goods are returned to the rightful owner.

Pledge

A pledge is a particular form of bailment where goods are handed over by one party to another as collateral for a loan or to ensure the fulfilment of a promise. It acts as a security arrangement, ensuring that the creditor has possession of the goods until the debtor fulfils their obligation.

- The individual who provides goods as collateral for a loan or obligation is referred to as the pawnor or pledger.
- The individual who receives and holds those goods until the debt or promise is fulfilled is called the pawnee or pledgee.

The title to the goods stays with the pledger, but the pledgee holds possession of them until the loan or obligation is fully settled.

Essentials of a Pledge

1. Transfer of Goods

For a pledge to be valid, the goods must be delivered to the pledgee. Delivery can take two forms:

- **Actual Delivery:** The physical handover of goods from the pledger to the pledgee.
- **Constructive (Symbolic) Delivery:** Transfer of control without direct physical movement, such as giving the warehouse key or handing over documents of title like a bill of lading, railway receipt, or warehouse warrant.

2. Ownership vs. Possession

- **Ownership:** The pledger continues to be the legal owner of the goods.
- **Possession:** Only custody of the goods passes to the pledgee, who retains them until the debt is repaid or the obligation is fulfilled.

3. Remedies Available to the Pledgee on Default

If the pledger fails to meet repayment obligations within the stipulated time, the pledgee is entitled to certain rights:

- **Right of Sale:** The pledgee may dispose of the pledged goods after giving reasonable notice to the pledger.
- **Right to Legal Action:** The pledgee can initiate a civil suit to recover the outstanding dues.
- **Right to Debt Realization:** The pledgee may approach the court to order the sale of goods and apply the proceeds toward the debt.

Rights and Duties of Pawnor and Pawnee

A pledge is a special type of bailment where goods are delivered as security for payment of a debt or performance of a promise.

The person who delivers the goods as security is called the Pawnor (Pledgor).

The person who receives the goods as security is called the Pawnee (Pledgee).

Example: A person pledges gold ornaments to a bank to obtain a loan.

Rights of the Pawnee

a. Right of Retainer

The pawnee can retain the goods until payment of the debt, interest, and necessary expenses.

b. Right to Extraordinary Expenses

The pawnee can recover extraordinary expenses incurred for preservation of the goods.

c. Right in Case of Default

If the pawnor fails to pay:

- The pawnee may sue for the debt and retain the goods as collateral security, or
- Sell the goods after giving reasonable notice to the pawnor.

d. Right to Receive Deficiency

If the sale proceeds are less than the debt amount, the pawnee can claim the balance from the pawnor.

e. Right to Compensation

The pawnee can claim damages if the pawnor has no valid title to the goods.

Duties of the Pawnee

a. Duty to Take Reasonable Care

The pawnee must take care of the pledged goods as a prudent person would take care of his own goods.

b. Duty Not to Make Unauthorized Use

The pawnee must not use the goods without the pawnor's consent.

c. Duty to Return Goods

After repayment of the debt, the pawnee must return the goods.

d. Duty to Return Surplus

If the goods are sold and the sale proceeds exceed the debt, the surplus must be returned to the pawnor.

Rights of the Pawnor

a. Right to Redeem Goods

The pawnor has the right to redeem (take back) the goods by paying the debt before sale.

b. Right to Receive Notice Before Sale

The pawnor must receive reasonable notice before the goods are sold.

c. Right to Surplus

The pawnor has the right to receive any surplus from the sale of pledged goods.

Duties of the Pawnor

a. Duty to Repay Debt

The pawnor must repay the loan as agreed.

b. Duty to Compensate for Extraordinary Expenses

The pawnor must reimburse extraordinary expenses incurred by the pawnee.

c. Duty to Disclose Defects in Goods

The pawnor must inform the pawnee of known defects in the goods pledged.

The relationship between pawnor and pawnee is based on mutual rights and obligations. The pawnee is protected by the right to retain or sell goods in case of default, while the pawnor is protected by the right to redeem goods and receive surplus. Understanding pledge is important in banking and financial transactions.

Difference Between Bailment and Pledge

Basis	Bailment	Pledge
Definition	Delivery of goods for a specific purpose	Delivery of goods as security for payment of debt
Parties	Bailer and Bailee	Pawnor (Pledgor) and Pawnee (Pledgee)
Purpose	Repair, safe custody, transport, etc.	Security for loan or performance of promise

Basis	Bailment	Pledge
Right to Sell Goods	Bailee has no right to sell goods	Pawnee can sell goods on default after notice
Consideration	May be with or without reward	Always for security of debt
Example	Giving a watch for repair	Pledging gold for bank loan

Contract of Indemnity

A contract of indemnity is a special type of contract under the Indian Contract Act, 1872, designed to protect one party from loss caused by the conduct of another party or by the conduct of any third person. It is a form of security arrangement that ensures compensation for losses suffered due to specific events or actions.

Meaning and Definition

The term indemnity means security against loss or compensation for damage or injury.

According to Section 124 of the Indian Contract Act, 1872:

In simple terms, it is a contract where one party (the indemnifier) agrees to compensate the other (the indemnified or indemnity-holder) for any loss suffered.

Parties to a Contract of Indemnity

Indemnifier: The person who promises to compensate for the loss.

Indemnified (Indemnity-Holder): The person who is protected or compensated against the loss.

Example

A contracts to indemnify B against the consequences of any proceedings that C may take against B for a certain act. If C sues B and B suffers a loss, A must compensate B.

Essentials of a Valid Contract of Indemnity

- **Promise to Compensate:** There must be a clear promise to save the other party from loss.
- **Loss Must Be Caused by Human Conduct:** The loss must arise from the conduct of the promisor or a third person.
- **All Elements of a Valid Contract:** Offer, acceptance, consideration, lawful object, and capacity of parties must be present.
- **Express or Implied:** The contract may be express (written or oral) or implied from the conduct of the parties.

Rights of the Indemnified (Section 125)

When the indemnified party is sued or suffers a loss, they are entitled to recover the following from the indemnifier:

All Damages: All damages which they may be compelled to pay in any suit related to the matter covered by the indemnity.

All Costs: All legal costs incurred in defending such a suit, provided they acted prudently and within the authority of the indemnifier.

All Sums Paid: All sums paid under any compromise of such a suit, if the compromise was made with the consent of the indemnifier.

Rights of the Indemnifier

Although not expressly mentioned in the Act, the indemnifier has certain implied rights:

- **Right to Control Défense:** The indemnifier can take over the Défense of the indemnified party in legal proceedings.
- **Right to Recover:** The indemnifier can recover from the indemnified any benefits received due to the indemnity.
- **Right to Subrogation:** After compensating the indemnified, the indemnifier can step into their shoes and exercise all their rights against third parties.

Commencement of Liability

The indemnifier's liability begins as soon as the indemnified party suffers a loss or incurs liability, not necessarily after actual payment. Courts have held that the indemnified can compel the indemnifier to make good the loss once liability becomes certain.

Examples of Contracts of Indemnity

- Insurance Contracts: Except for life and personal accident insurance, all insurance contracts (like fire or marine insurance) are contracts of indemnity.
- Agency Contracts: An agent is indemnified by the principal for lawful acts done in the course of business.
- Guarantee and Suretyship: In some cases, indemnity forms part of guarantee arrangements.

Difference Between Indemnity and Guarantee

Basis	Contract of Indemnity	Contract of Guarantee
Number of Parties	Two parties - indemnifier and indemnified	Three parties - creditor, principal debtor, and surety
Nature of Liability	Primary liability of the indemnifier	Secondary liability of the surety
Purpose	To compensate for loss	To ensure performance of a promise or repayment of debt
Number of Contracts	One contract	Three contracts (between creditor, debtor, and surety)
Example	A promises to indemnify B against loss from C's conduct	A guarantees payment of B's loan to C

Importance of Contract of Indemnity

- Provides financial protection against potential losses.
- Encourages business confidence and risk-taking.
- Forms the basis of insurance and commercial transactions.

- Ensures fairness and security in contractual relationships.

A contract of indemnity is a vital legal mechanism that safeguards individuals and businesses from unforeseen losses. By ensuring compensation for damages caused by another's conduct, it promotes trust, stability, and fairness in commercial dealings. Governed by Sections 124 and 125 of the Indian Contract Act, 1872, it remains a cornerstone of modern business and insurance law.

Contract of Guarantee

A contract of guarantee is a special type of contract under the Indian Contract Act, 1872, designed to ensure the performance of a promise or the repayment of a debt by a third party. It provides security to the creditor by involving a third person (surety) who undertakes to fulfil the obligation if the principal debtor fails to do so.

Meaning and Definition

According to Section 126 of the Indian Contract Act, 1872:

In simple terms, it is a contract where one party (surety) guarantees the performance or repayment obligation of another (principal debtor) to a third party (creditor).

Parties to a Contract of Guarantee

- **Creditor:** The person to whom the guarantee is given.
- **Principal Debtor:** The person whose default is guaranteed.
- **Surety:** The person who gives the guarantee and undertakes to be liable if the principal debtor defaults.

Example

A lends ₹50,000 to B. C promises to repay the amount if B fails to do so. Here, A is the creditor, B is the principal debtor, and C is the surety.

Kinds of Guarantee

a. Specific (Simple) Guarantee

Given for a single transaction or debt. Once the transaction is completed, the guarantee is discharged.

Example: C guarantees payment of ₹10,000 for goods supplied by A to B.

b. Continuing Guarantee

Extends to a series of transactions until revoked.

Example: C guarantees payment for all goods supplied by A to B over the next six months.

c. Conditional Guarantee

Becomes effective only when certain conditions are fulfilled.

Example: C guarantees B's loan only if B provides collateral security.

d. Fidelity Guarantee

Given to ensure the honesty or faithful performance of duties by an employee.

Example: A company takes a fidelity guarantee from C for its cashier B.

e. Bank Guarantee

A bank undertakes to pay a specified amount to a beneficiary if the customer fails to fulfill contractual obligations.

Example: A bank guarantees payment to a supplier if the buyer defaults.

f. Performance Guarantee

Ensures the satisfactory completion of a project or contract.

Example: A contractor provides a performance guarantee to ensure timely completion of construction work.

Rights of Surety

1. Rights Against the Principal Debtor

Right of Subrogation (Section 140): After paying the debt, the surety steps into the shoes of the creditor and can recover the amount from the principal debtor.

Right of Indemnity (Section 145): The surety is entitled to be indemnified by the principal debtor for all payments made lawfully under the guarantee.

Right to Securities: The surety is entitled to all securities held by the creditor against the principal debtor, whether known or unknown to the surety.

2. Rights Against the Creditor

Right to Benefit of Securities (Section 141): The surety can claim the benefit of all securities held by the creditor at the time of the contract.

Right to Set-off: The surety can use any Défense available to the principal debtor against the creditor.

Right to Demand Creditor Action: The surety can ask the creditor to proceed against the principal debtor before enforcing liability against the surety (if agreed).

3. Rights Against Co-Sureties

Right to Contribution (Section 146): When multiple sureties guarantee the same debt, they share the liability equally unless agreed otherwise.

Right to Equal Contribution (Section 147): If sureties are bound for different sums, they contribute equally up to their respective limits.

Liabilities of Surety

Co-Extensive Liability (Section 128):

The surety's liability is equal to that of the principal debtor unless otherwise stated in the contract.

Example: If the debtor owes ₹1,00,000, the surety is liable for the same amount.

Immediate Liability:

The creditor can directly proceed against the surety without first suing the principal debtor.

Liability for Interest and Costs:

The surety is liable for the principal amount, interest, and legal costs incurred by the creditor.

Conditional Liability:

The surety's liability arises only when the principal debtor defaults.

Extent of Liability:

The surety's liability may be limited by the terms of the contract (e.g., limited to a specific amount or period).

Discharge of Surety

A surety is discharged from liability under the following circumstances:

1. By Revocation

- **By Notice (Section 130):** A continuing guarantee can be revoked by notice to the creditor for future transactions.
- **By Death (Section 131):** The death of a surety automatically revokes a continuing guarantee for future transactions.

2. By Conduct of the Creditor

- **Variance in Terms (Section 133):** Any change in the terms of the contract without the surety's consent discharges the surety.
- **Example:** If the creditor extends the repayment period without the surety's consent, the surety is discharged.
- **Release of Principal Debtor (Section 134):** If the creditor releases the principal debtor, the surety is also discharged.
- **Composition or Compromise (Section 135):** If the creditor makes a composition or agreement with the debtor without the surety's consent, the surety is discharged.
- **Impairment of Securities (Section 141):** If the creditor loses or parts with securities held against the debtor, the surety is discharged to that extent.

3. By Invalidation of Contract

- **Misrepresentation (Section 142):** If the guarantee is obtained by misrepresentation, it is invalid.
- **Concealment (Section 143):** If material facts are concealed from the surety, the contract is void.
- **Failure of Consideration:** If the consideration for the guarantee fails, the surety is discharged.

4. By Performance or Payment

When the principal debtor or surety performs the obligation or pays the debt, the surety is discharged.

Kinds of Guarantee

1. Specific Guarantee

A specific guarantee is given for a single transaction or a particular debt.

- It comes to an end after the debt is paid or the obligation is fulfilled.
- It cannot be used for future transactions.

Example: A guarantees payment for one loan taken by B from a bank.

2. Continuing Guarantee

A continuing guarantee extends to a series of transactions over a period of time.

- It covers multiple transactions unless revoked.
- It remains in force until the surety withdraws it or it is discharged by law.

Example: A guarantees payment for all goods supplied by a trader to B for one year.

3. Revocation of Continuing Guarantee

A continuing guarantee can be revoked:

1. **By Notice** – The surety may revoke it for future transactions by giving notice to the creditor.
2. **By Death of Surety** – The death of the surety revokes the guarantee for future transactions (unless there is a contract to the contrary).

There are two main kinds of guarantee: Specific Guarantee and Continuing Guarantee. A specific guarantee is limited to one transaction, while a continuing guarantee applies to a series of transactions. Understanding these types is important in banking and credit transactions.

Rights and Liabilities of Surety

A **surety** is a person who promises to discharge the liability of the principal debtor if the debtor fails to pay. The contract involving surety is called a contract of guarantee.

There are three parties:

- Creditor
- Principal Debtor
- Surety

I. Rights of Surety

The rights of a surety can be classified into three categories:

A. Rights Against the Principal Debtor

1. Right of Subrogation

After paying the debt, the surety acquires all the rights of the creditor against the principal debtor.

2. Right of Indemnity

The surety has the right to recover from the principal debtor the amount paid under the guarantee.

B. Rights Against the Creditor

1. Right to Securities

The surety is entitled to benefit of every security held by the creditor against the principal debtor.

2. Right to Set-off

The surety can claim any set-off or counterclaim available to the principal debtor.

C. Rights Against Co-Sureties

1. Right of Contribution

If there are multiple sureties, each surety is liable to contribute equally (unless agreed otherwise).

II. Liabilities of Surety

1. Co-extensive Liability

The liability of the surety is equal to that of the principal debtor, unless the contract provides otherwise.

2. Immediate Liability

The surety's liability arises immediately upon default of the principal debtor.

3. Liability for the Whole Debt

The creditor may recover the entire debt from the surety if necessary.

The surety plays an important role in credit transactions. While the surety is liable to pay the debt in case of default, the law protects him by granting rights such as subrogation, indemnity, and contribution. Understanding these rights and liabilities is essential in banking and commercial law.

Discharge of Surety

Discharge of surety means the release of the surety from his liability under the contract of guarantee. Once discharged, the surety is no longer responsible for the debt of the principal debtor.

Modes of Discharge of Surety

1. By Revocation

By Notice – In case of continuing guarantee, the surety may revoke the guarantee for future transactions by giving notice to the creditor.

By Death of Surety – Death of the surety revokes a continuing guarantee for future transactions (unless otherwise agreed).

2. By Variance in Terms of Contract

If the creditor makes any material change in the terms of the contract between the creditor and principal debtor without the consent of the surety, the surety is discharged.

3. By Release of Principal Debtor

If the creditor releases the principal debtor or enters into a contract that discharges the debtor, the surety is also discharged.

4. By Compounding or Giving Time

If the creditor makes an agreement with the principal debtor to:

- Give extra time,
- Make a compromise, or
- Promise not to sue,
- without the consent of the surety, the surety is discharged.

5. By Loss of Security

If the creditor loses or parts with the security held against the principal debtor without the consent of the surety, the surety is discharged to the extent of the value of such security.

6. By Invalidation of Contract

The surety is discharged if:

The guarantee was obtained by misrepresentation, or

The guarantee was obtained by concealment of material facts.

A surety is discharged when certain legal events occur, such as change in contract terms, release of debtor, loss of security, or revocation of guarantee. These provisions protect the surety from unfair liability and ensure fairness in contract of guarantee.

Unit III

Sale of Goods Act, 1930

Structure

Overview

Learning Objectives

- 4.1 Sale and Contract of Sale
- 4.2 Sale vs. Agreement to Sell
- 4.3 Definition of Goods
- 4.4 Conditions and Warranty
- 4.5 Caveat Emptor
- 4.6 Buyer and Seller of Goods
- 4.7 Unpaid Seller and their Rights

Overview

This unit focuses on the sale and contract of sale, agreement to sell, meaning of goods, the associated conditions and warranties, buyer and seller of the goods, and the rights of an unpaid seller. It also discusses the concepts namely, Caveat Emptor and Caveat Venditor.

Learning Objectives

After completing this unit, students can:

- Understand the Legal Framework Governing Sale Transactions
- Evaluate Buyer-Seller Relationships and Contractual Terms
- Analyze the Rights of an Unpaid Seller

Sale and Contract of Sale

- A sale refers to a finalized transaction in which the ownership of goods passes from the seller to the buyer in exchange for a price.
- A contract of sale is a comprehensive term that covers both a completed sale and an agreement to sell. It represents a legally enforceable arrangement in which the seller

either transfers, or undertakes to transfer, the ownership of goods to the buyer in return for a price.

Essentials of Contract of Sale

1. **Two Parties:** A buyer and a seller, both legally competent to contract.
2. **Goods:** Must be movable property (not immovable or money).
3. **Price:** Consideration in a contract must consist of money or something that holds equivalent value.
4. **Transfer of Ownership:** Either immediate (sale) or future (agreement to sell).
5. **Consent:** Free and mutual consent without coercion, fraud, or misrepresentation.

Example

If A sells a laptop to B for ₹50,000 and delivers it immediately, it's a **sale**.

If A agrees to sell the laptop to B next month for ₹50,000, it's an **agreement to sell** - a **contract of sale** in progress.

Sale vs. Agreement to Sell

Basis of Difference	Sale	Agreement to Sell
Ownership Transfer	Ownership of goods passes to the buyer immediately.	Ownership is transferred at a future date or upon fulfillment of conditions.
Nature of Contract	It is an executed contract —completed at the time of transaction.	It is an executory contract —performance is pending.

Basis of Difference	Sale	Agreement to Sell
Risk of Loss	Risk passes to the buyer once the sale is complete.	The responsibility for risk stays with the seller until the ownership of the goods passes to the buyer.
Legal Remedies	The buyer has the right to take legal action either to compel delivery of the goods or to claim compensation for any loss.	Only damages can be claimed; specific goods cannot be demanded.
Right to Resell	Seller loses the right to resell the goods.	Seller may resell if conditions are not met.
Existence of Goods	Goods must exist and be identified at the time of sale.	Goods may be existing or future goods.
Effect of Breach	Breach leads to remedies like refund or compensation.	Breach leads to claim for damages only.

Definition of Goods

Under **Section 2(7)** of the *Act*, the term “**goods**” refers to every kind of **movable property**, excluding **money** and **actionable claims**. It includes items like:

- **Stock and shares**
- **Crops and grass**
- **Objects attached to land**, provided they are agreed to be severed before sale

Key Characteristics of Goods

1. Movable in Nature

Goods must be capable of being moved—unlike land or buildings, which are immovable.

2. Excludes Money and Legal Claims

Currency and rights to sue (actionable claims) are not considered goods.

3. Includes Future and Existing Goods

Goods may already exist or be manufactured or acquired in the future.

Conditions and Warranty

Condition

A **condition** is an essential term that forms the foundation of the agreement and directly affects its purpose. If a condition is breached, the aggrieved party has the right to:

- Cancel the contract
- Reject the goods
- Claim damages

As per **Section 12(2)** of the Act, a condition is a stipulation essential to the main purpose of the contract.

Warranty

A **warranty** is a secondary term and does not affect the core purpose of the agreement. If a warranty is breached, the buyer can:

- Claim damages, but
- Cannot reject the goods or cancel the contract

According to **Section 12(3)**, a warranty is a stipulation collateral to the main purpose of the contract.

Situations When a Condition is Treated as a Warranty

1. Voluntary Waiver

If the buyer chooses to receive the goods despite a breach of condition, they may treat it as a breach of warranty and claim damages instead of rejecting the goods.

2. Acceptance of Goods

In the case of an indivisible contract, once the buyer accepts all or part of the goods, they cannot later reject them. Their remedy is limited to claiming damages for any loss arising from the breach.

3. Impossibility or Legal Excuse

If fulfilling the condition becomes impossible or is excused by law, the breach may be treated as a warranty.

4. Buyer's Conduct or Agreement

If the buyer's actions or express agreement denote that they are ready to proceed with the contract despite the breach, the condition may be downgraded to a warranty.

Example

Suppose A buys 100 shirts from B with a condition that all must be made of pure cotton. If A finds that 10 shirts are mixed fabric but still accepts the delivery, A may treat the breach as a **warranty** and claim damages for the defective shirts—rather than canceling the entire contract.

Caveat Emptor

Caveat Emptor is a Latin phrase meaning “*let the buyer beware.*”

It places the responsibility on the buyer to examine goods before purchase. The seller is not liable for defects unless they've made specific representations or warranties.

Under **Section 16** of the *Act*, the doctrine denotes that there is **no implied condition or warranty** as to the quality or fitness of goods unless certain exceptions apply.

Exceptions to Caveat Emptor

Despite its strict nature, the law recognizes several exceptions to protect buyers from unfair transactions:

Exception	Description
Fitness for Buyer's Purpose	If the buyer informs the seller of a specific purpose and relies on the seller's skill, the goods must meet that purpose.
Merchantable Quality	Goods sold by description must be of reasonable quality and usable in the market.
Sale by Sample and Description	Goods must match both the sample and the description provided.
Trade Usage or Custom	Implied conditions may arise from established business practices.
Express Terms or Warranty	If the seller provides a specific warranty, it overrides the caveat emptor rule.
Fraud or Misrepresentation	If the seller conceals defects or misleads the buyer, the buyer is protected.

Example

If A buys a generator from B, stating it's needed for continuous power backup, and B sells one that fails after 30 minutes, A can claim a breach of **fitness for purpose**—an exception to caveat emptor.

Caveat Venditor is a Latin phrase meaning "*let the seller beware.*"

It places the responsibility on the **seller** to ensure that the goods or services provided meet the expectations and legal standards required by the buyer. This doctrine is the modern counterpart to **Caveat Emptor** (*let the buyer beware*) and reflects the shift toward **consumer protection** in commercial law.

Buyer and Seller of Goods

Who is a Buyer?

A **buyer** is a person or entity that agrees to purchase goods in exchange for a price.

As per **Section 2(1)** of the *Act*, a buyer is defined as:

“A person who buys or agrees to buy goods.”

This includes:

- Individuals purchasing for personal use
- Businesses acquiring goods for resale or production
- Institutions procuring items for operational needs

The buyer initiates the transaction, negotiates terms, and accepts delivery upon payment.

Who is a Seller?

A seller is the individual or entity that conveys, or undertakes to convey, ownership of goods to the buyer in return for a price.

According to **Section 2(13)** of the *Act*:

“A person who sells or agrees to sell goods.”

This includes:

- Manufacturers
- Wholesalers and retailers
- Service providers offering goods as part of their business

The seller is responsible for supplying goods that meet the contract terms and ensuring lawful transfer of ownership.

Rights of the Buyer

1. Right to Receive Conforming Goods

The buyer is entitled to receive goods that match the description, quality, and quantity agreed upon.

2. **Right to Reject Defective or Excess Goods**

If goods are faulty or delivered in surplus, the buyer may reject them or accept only what was contracted.

3. **Right to Examine Goods**

Before accepting, the buyer can inspect the goods to ensure they meet the contract terms.

4. **Right to Claim Damages**

If the seller breaches the contract, the buyer can sue for compensation or specific performance.

5. **Right to Recover Price Paid**

If the contract is rescinded due to breach, the buyer is entitled to recover any amount already paid.

Duties of the Buyer

1. **Accept Delivery of Goods**

The buyer should accept goods when delivered as per contract terms.

2. **Pay the Agreed Price**

Payment is required to be made in accordance with the time and method laid down in the contract.

3. **Take Reasonable Care of Goods**

When goods are delivered prior to the buyer's formal acceptance, the buyer should protect them until a decision is made.

4. **Notify Seller of Rejection**

If rejecting goods, the buyer should inform the seller promptly and clearly.

Rights of the Seller

1. **Right to Receive Payment**

The seller has the right to receive the price stipulated upon delivery of goods.

2. **Right to Retain Possession (Lien)**

If payment is not made, the seller has the right to retain goods until dues are cleared.

3. **Right of Stoppage in Transit**

If the buyer is declared insolvent, the seller has the right to halt the goods while they are in transit and recover possession from the carrier.

4. Right to Sue for Price or Damages

If a breach of contract occurs, the seller is legally entitled to seek remedies. They may initiate proceedings to recover the agreed price of the goods or pursue a claim for damages to compensate for the loss suffered.

Duties of the Seller

1. Deliver Goods as Agreed

The seller must deliver goods in the correct quantity, quality, and time frame.

2. Ensure Merchantable Quality

Goods must be fit for the purpose and of reasonable marketable quality.

3. Transfer Clear Title

The seller must ensure the buyer receives ownership free from encumbrances.

4. Disclose Material Defects

Any known defects must be communicated to the buyer to avoid misrepresentation.

Transfer of Ownership and Risk

In the sale of goods, ownership and risk play a vital role in determining the rights and liabilities of the buyer and seller. The Sale of Goods Act, 1930 governs these aspects in India. It defines when ownership (property in goods) and risk pass from the seller to the buyer, the rights of an unpaid seller, and the legal rules governing auction sales.

Meaning

Ownership or property in goods refers to the legal right to possess, use, and dispose of goods. The transfer of ownership means the transfer of this legal title from the seller to the buyer.

Importance of Transfer of Ownership

- Determines who bears the risk of loss or damage.
- Determines who can sue or be sued for breach of contract.
- Determines the rights of third parties over the goods.

Rules Regarding Transfer of Ownership

Specific or Ascertained Goods (Section 19)

Ownership passes when the parties intend it to pass. The intention is determined by the terms of the contract, conduct of the parties, and circumstances of the case.

Unascertained or Future Goods (Section 18)

Ownership does not pass until the goods are ascertained or identified.

Goods in Deliverable State (Section 20)

When goods are in a deliverable state and the contract is unconditional, ownership passes when the contract is made.

Goods to be Put in Deliverable State (Section 21)

If the seller must do something to make the goods deliverable, ownership passes only after that act is done and the buyer is informed.

Goods to be Weighed or Measured (Section 22)

When goods must be weighed or measured to determine the price, ownership passes after such act is done and the buyer is notified.

Sale on Approval or Return (Section 24)

Ownership passes when the buyer approves the goods, adopts the transaction, or retains the goods beyond the fixed or reasonable time.

Transfer of Risk

Risk refers to the responsibility for loss, damage, or deterioration of goods. The general rule is that risk follows ownership.

Rules Regarding Transfer of Risk

- Risk Passes with Ownership:

Once ownership passes, the buyer bears the risk, even if the goods are not yet delivered.

Example: If goods are sold and ownership has passed, any loss due to fire is borne by the buyer.

- Risk Before Ownership:

If delivery is delayed due to the fault of either party, the risk lies with the party at fault.

Agreement to the Contrary:

The parties may agree that risk will pass at a different time than ownership.

Unpaid Seller and His Rights

Meaning

According to Section 45 of the Sale of Goods Act, 1930, a seller is called an unpaid seller when:

The whole price has not been paid or tendered, or

A bill of exchange or other negotiable instrument received as conditional payment has been dishonoured.

Rights of an Unpaid Seller

(A) Rights Against the Goods

- Right of Lien (Sections 47–49):

The right to retain possession of goods until full payment is made.

Applicable when goods are sold without credit, or credit has expired, or the buyer becomes insolvent.

Lost when goods are delivered to a carrier or buyer without reserving ownership rights.

- Right of Stoppage in Transit (Sections 50–52):

The right to stop goods in transit and regain possession if the buyer becomes insolvent.

Can be exercised while goods are in transit.

Ends when goods reach the buyer or his agent.

- Right of Resale (Section 54):

The right to resell goods if the buyer defaults after notice.

If resale is done after notice, the seller can recover any loss.

If resale is done without notice, the seller cannot claim damages.

(B) Rights Against the Buyer Personally

- Right to Sue for Price (Section 55):

The seller can sue the buyer for the price if ownership has passed and payment is not made.

- Right to Sue for Damages (Section 56):

If ownership has not passed, the seller can sue for damages for non-acceptance.

- Right to Sue for Interest (Section 61):

The seller can claim interest on the unpaid amount from the date of payment due.

Auction Sale

Meaning

An auction sale is a public sale where goods are sold to the highest bidder. The process is conducted by an auctioneer acting as an agent for the seller.

Legal Provisions (Section 64 of the Sale of Goods Act, 1930)

- Each Lot as a Separate Contract:

When goods are sold in lots, each lot is treated as a separate contract of sale.

- Completion of Sale:

The sale is complete when the auctioneer announces its completion by the fall of the hammer or any customary method. Until then, any bidder may withdraw their bid.

- Right to Bid:

The seller may reserve the right to bid, but if not expressly reserved, neither the seller nor his agent can bid.

- Pretended Bidding:

If the seller uses fake bids to raise the price, the sale is voidable at the buyer's option.

- Reserve Price:

The seller may fix a minimum (reserve) price below which goods will not be sold.

- Knockout Agreement:

An agreement among bidders not to compete and later share the goods is lawful unless intended to defraud the seller.

Difference Between Transfer of Ownership and Transfer of Possession

Basis	Transfer of Ownership	Transfer of Possession
Meaning	Transfer of legal title in goods	Transfer of physical control over goods
Rights Transferred	Ownership rights	Custody or control only
Legal Effect	Buyer becomes owner	Possessor may not be owner
Example	Sale of goods	Delivery of goods for storage

The transfer of ownership and risk determines when the buyer becomes responsible for the goods. The unpaid seller enjoys strong legal protection through rights such as lien, stoppage in transit, and resale. The auction sale provisions ensure transparency and fairness in public sales. Together, these concepts form the foundation of commercial transactions under the Sale of Goods Act, 1930, ensuring justice and balance between buyers and sellers.

Law of Agency / Agency law

Agency law governs the relationship between an agent and a principal, where one party is legally empowered to act on behalf of the other. This arrangement allows the agent to make decisions or perform tasks that bind the principal.

Principal

As per Section 182, the principal is the person for whom an act is carried out or who is represented in dealings with third parties.

In simple terms, the principal is the individual who delegates authority to another person to act on his or her behalf.

Illustration: When X empowers Y to negotiate a contract with Z, X assumes the role of the principal, since Y is acting on X's behalf in the transaction.

Agent

Section 182 of the Act defines an agent as a person employed to perform an act for another or to represent another in dealings with third persons.

An agent represents the principal, allowing the principal to establish contractual obligations and relationships with third parties through the agent's actions.

Illustration: When Y enters into a contract with Z on X's behalf, Y acts as the agent, and the commitments made by Y are legally enforceable against X, the principal.

Agency

Definition: Agency refers to a legal relationship in which one party, known as the agent, is authorized to act for another party, called the principal. Through this authority, the agent can enter into agreements and establish binding obligations between the principal and third parties.

Legal Effect: The agent is not merely a messenger or intermediary. While acting within the scope of authority, the agent's actions are treated as those of the principal, making the principal legally accountable for such acts.

Characteristics of the Agency

Legal Binding: The crux of the contract of agency is that the principal is legally bound by the acts performed by the agent.

Consideration is not mandatory: There is no legal requirement of consideration, to support the relationship between the principal and agent.

Capacity of Principal: One who is legally competent to contract is eligible to employ an agent, i.e. he should have attained the age of 18 years and of sound mind.

Authority to contract: Authority to contract is the basic requirement to become an agent. So, a minor can also act as an agent, though he is not having the capacity, however, he can have the authority to act as agent. This is due to the fact that an agent initiates a contractual relationship amidst the principal and third party, and so the contractual capacity of the agent is irrelevant.

Kinds of Agents

An agent is a person employed to act on behalf of another, called the principal, to create legal relations with third parties. The law of agency is governed by Sections 182 to 238 of the Indian Contract Act, 1872. The relationship between a principal and an agent is based on trust, confidence, and authority. Agents play a vital role in business transactions by representing principals in dealings with others.

Meaning and Definition

According to Section 182 of the Indian Contract Act, 1872:

The person for whom such act is done or who is so represented is called the principal.

Example

A authorizes B to sell his car on his behalf. Here, A is the principal, and B is the agent.

Kinds of Agents

Agents can be classified based on the extent of authority, nature of work, and relationship with the principal.

1. Classification Based on Authority

(a) General Agent

A general agent is appointed to perform all acts connected with a particular business or employment.

Example: A manager of a company who can buy and sell goods, hire employees, and manage operations.

Features of General Agent:

- Has broad authority within the scope of business.
- Acts continuously for the principal.
- Binding on the principal for all lawful acts done within authority.

(b) Special Agent

A special agent is appointed for a specific purpose or transaction and has limited authority.

Example: A person appointed to sell a particular property.

Features of Special Agent:

- Authority ends once the specific act is completed.
- Cannot bind the principal beyond the assigned task.

(c) Universal Agent

A universal agent has unlimited authority to act on behalf of the principal in all matters that can be lawfully delegated.

Example: A person holding a general power of attorney to manage all affairs of the principal.

Features of Universal Agent:

- Has the widest authority.
- Can perform all acts the principal can lawfully do.

2. Classification Based on Nature of Work

(a) Commercial or Mercantile Agent

A commercial agent is appointed for business-related transactions such as buying, selling, or dealing in goods.

Types of Commercial Agents:

- Factor: Has possession of goods and authority to sell them in his own name.
- Broker: Acts as a middleman to negotiate contracts but does not possess goods.
- Commission Agent: Buys or sells goods on behalf of the principal for a commission.
- Del Credere Agent: Guarantees payment to the principal in addition to earning commission.
- Auctioneer: Sells goods by public auction on behalf of the principal.
- Banker: Acts as an agent when collecting cheques, bills, or making payments for clients.

(b) Non-Commercial Agent

A non-commercial agent acts in personal or domestic matters, not related to trade or business.

Example: A person authorized to manage a house or personal property.

3. Classification Based on Relationship with Principal

(a) Sub-Agent (Section 191)

A sub-agent is appointed by an agent under the authority of the principal to assist in the business of agency.

Example: A shipping agent appoints a sub-agent to handle customs clearance.

Rules:

- The principal is bound by the acts of the sub-agent if properly appointed.
- The agent is responsible to the principal for the sub-agent's conduct.

(b) Substituted Agent (Section 194)

A substituted agent is appointed by the agent with the principal's authority, and acts directly under the principal.

Example: A lawyer appoints another lawyer to represent the client in another city with the client's consent.

Difference:

A sub-agent works under the control of the agent, while a substituted agent works directly under the principal.

4. Other Types of Agents

(a) Co-Agent

When two or more agents are appointed jointly to perform a single act, they are called co-agents.

Example: Two agents jointly authorized to sell a property.

(b) Gratuitous Agent

An agent who acts without any remuneration or commission.

Example: A friend selling another's car without charging a fee.

(c) Agency by Necessity

An agent appointed by law in emergency situations to protect the principal’s interests.

Example: A ship captain selling perishable goods to prevent loss during a delay.

(d) Agency by Estoppel

When a person, by words or conduct, leads another to believe that someone is his agent, he is bound by that person’s acts.

Example: If A allows B to act as his agent before others, A cannot later deny B’s authority.

(e) Agency by Ratification

When a person acts without authority, and the principal later approves the act, it becomes a valid agency.

Example: A sells goods on behalf of B without authority. B later accepts the sale, thereby ratifying the act.

Difference Between General Agent and Special Agent

Basis	General Agent	Special Agent
Scope of Authority	Broad and continuous	Limited to a specific act
Duration	Continuous	Temporary
Binding Effect	Binds the principal for all acts within authority	Binds the principal only for the specific act
Example	Manager of a business	Agent appointed to sell a car

Agents play a crucial role in facilitating business and legal transactions. Depending on the scope of authority and nature of work, agents may be general, special, universal, or commercial. Understanding the kinds of agents helps in determining their powers, duties, and the extent to which their acts bind the principal under the Indian Contract Act, 1872.

Unit IV

Consumer Protection Act, 2019

The Consumer Protection Act, 2019 was enacted to protect the interests of consumers and replace the 1986 Act. It aims to provide timely and effective redressal of consumer disputes.

Key Features

Consumer Rights: Right to safety, information, choice, to be heard, to seek redressal, and consumer awareness.

Central Consumer Protection Authority (CCPA): Established to protect and enforce consumer rights.

Three-tier Redressal System:

- District Commission
- State Commission
- National Commission

Product Liability: Manufacturers, sellers, and service providers can be held liable for defective products or deficient services.

E-commerce Coverage: Online transactions are covered under the Act.

Unfair Trade Practices & Misleading Advertisements: Strict action including penalties.

Mediation: Provision for mediation to settle disputes quickly.

Objective

To ensure consumer welfare, speedy dispute resolution, and protection against unfair trade practices in both offline and online markets.

Concept of Consumer

A **consumer** is a person who:

- Buys goods for consideration (paid, promised, partly paid, or under deferred payment),
or
- Hires/avails services for consideration.

A person who obtains goods for resale or commercial purpose is not considered a consumer (except self-employment for livelihood).

Consumer Rights

Under the Act, consumers have the following rights:

1. **Right to Safety** – Protection against hazardous goods and services.
2. **Right to be Informed** – Information about quality, quantity, price, purity, and standard.
3. **Right to Choose** – Access to a variety of goods/services at competitive prices.
4. **Right to be Heard** – Consumer interests must be considered.
5. **Right to Seek Redressal** – Against unfair trade practices or exploitation.
6. **Right to Consumer Awareness** – Knowledge about rights and remedies.

Consumer Protection Councils

Consumer Protection Councils are advisory bodies established at:

- **Central Level**
- **State Level**
- **District Level**

Objective:

To promote and protect consumer rights and spread awareness.

They advise the government on consumer welfare measures.

Consumer Disputes Redressal Commissions (CDRC)

A three-tier quasi-judicial system has been established for speedy resolution of disputes:

1. District Commission

- Handles cases where the value of goods/services paid as consideration does not exceed ₹50 lakh.

2. State Commission

- Handles cases above ₹50 lakh and up to ₹2 crore.

- Hears appeals against District Commission orders.

3. National Commission

- Handles cases above ₹2 crore.
- Hears appeals against State Commission orders.

Jurisdiction

A. Pecuniary Jurisdiction (Based on Value)

- District: Up to ₹50 lakh
- State: ₹50 lakh – ₹2 crore
- National: Above ₹2 crore

B. Territorial Jurisdiction

Complaint can be filed where:

- Opposite party resides or carries on business, or
- Cause of action arises, or
- Consumer resides (as per 2019 Act provisions).

Limitation Period

- Complaint must be filed within **2 years** from the date on which the cause of action arises.
- Delay may be condoned if sufficient cause is shown.

Product Liability

Product liability means the responsibility of a manufacturer, seller, or service provider to compensate for harm caused by defective products.

A product liability action can be filed against:

- Product manufacturer
- Product seller
- Product service provider

Grounds:

- Manufacturing defect
- Design defect
- Deviation from manufacturing specifications
- Inadequate instructions or warnings

Central Consumer Protection Authority (CCPA)

The Central Consumer Protection Authority (CCPA) is a regulatory body established under the Consumer Protection Act, 2019 to promote, protect, and enforce the rights of consumers in India. It acts as a watchdog to prevent unfair trade practices, misleading advertisements, and violations of consumer rights. The CCPA ensures that consumers are not exploited and that businesses operate with transparency and accountability.

Establishment of CCPA

The Consumer Protection Act, 2019 came into force on 20th July 2020, replacing the earlier Consumer Protection Act, 1986.

Under Section 10 of the Act, the Central Consumer Protection Authority (CCPA) was established by the Central Government.

Headquarters: New Delhi

Administrative Control: Ministry of Consumer Affairs, Food and Public Distribution, Government of India.

Objectives of CCPA

- To protect the rights of consumers as guaranteed under the Act.
- To prevent unfair trade practices and misleading advertisements.
- To ensure that goods and services are safe and meet quality standards.
- To promote consumer awareness and education.
- To take action against violators of consumer rights.

Composition of CCPA

According to Section 10(2) of the Consumer Protection Act, 2019, the CCPA consists of:

Chief Commissioner: Head of the Authority.

Two Commissioners:

One Commissioner (Goods)

One Commissioner (Services)

Appointment:

All members are appointed by the Central Government.

Tenure:

As prescribed by the Central Government (generally 5 years or until attaining the age of 65 years).

Powers and Functions of CCPA

The powers and functions of the CCPA are defined under Section 18 of the Consumer Protection Act, 2019.

1. Protection of Consumer Rights

Protects, promotes, and enforces the rights of consumers.

Prevents unfair trade practices and ensures fair treatment of consumers.

2. Investigation and Inquiry

Conducts inquiries or investigations into violations of consumer rights.

Refers matters to the District Collector or Director-General (Investigation) for further action.

3. Orders and Directions

The CCPA can:

- Recall unsafe goods and withdraw hazardous services.
- Order reimbursement of the price paid by consumers.
- Discontinue unfair or misleading advertisements.
- Impose penalties on manufacturers, endorsers, or publishers.

4. Regulation of Misleading Advertisements

- Takes action against false or misleading advertisements.
- Can impose penalties up to ₹10 lakh for the first offence and ₹50 lakh for subsequent offences.
- Can prohibit the endorser of a misleading advertisement from promoting any product or service for up to 1 year (and up to 3 years for repeat offences).

5. Consumer Awareness and Education

- Promotes consumer rights through campaigns, publications, and outreach programs.
- Coordinates with state authorities and other organizations for consumer education.

6. Safety of Goods and Services

- Ensures that goods and services comply with safety standards.
- Orders recall of unsafe products and directs discontinuation of hazardous services.

Investigation Wing of CCPA

Under Section 15, the CCPA has an Investigation Wing, headed by a Director-General (Investigation), responsible for conducting inquiries and investigations into:

- Consumer rights violations,
 - Unfair trade practices, and
 - Misleading advertisements.
- Penalties and Enforcement Powers
- Penalty for Misleading Advertisements:
 - Up to ₹10 lakh for the first offence.
 - Up to ₹50 lakh for subsequent offences.

Ban on Endorsers:

Prohibition from endorsing any product or service for up to 1 year (first offence).

Up to 3 years for subsequent offences.

Product Recall and Refund:

Orders recall of unsafe goods and refund of the price to consumers.

Discontinuation of Unfair Practices:

Directs businesses to stop unfair or deceptive trade practices.

Consumer Rights Protected by CCPA

The CCPA enforces the following six consumer rights under the Consumer Protection Act, 2019:

- Right to safety.
- Right to be informed.
- Right to choose.
- Right to be heard.
- Right to seek redressal.
- Right to consumer education.

Difference Between CCPA and Consumer Commissions

The CCPA acts as a regulatory and enforcement body ensuring consumer protection at a national level, while Consumer Commissions function as quasi-judicial bodies that adjudicate consumer disputes and provide remedies to aggrieved consumers. Both work together to strengthen the consumer protection framework under the Consumer Protection Act, 2019.

Example of CCPA Action

The CCPA directed a major e-commerce platform to withdraw misleading advertisements for health products claiming false medical benefits.

It also ordered recall of unsafe pressure cookers sold online that did not meet BIS safety standards.

Importance of CCPA

- Strengthens consumer protection in the digital era.
- Ensures accountability of manufacturers, advertisers, and service providers.

- Promotes fair trade and ethical business practices.
- Provides a centralized mechanism for consumer safety and awareness.
- Acts as a deterrent against deceptive marketing and unsafe products.

Conclusion

The Central Consumer Protection Authority (CCPA) is a landmark initiative under the Consumer Protection Act, 2019, ensuring that consumer rights are effectively protected in a rapidly evolving marketplace. By regulating unfair trade practices, misleading advertisements, and unsafe goods, the CCPA plays a crucial role in maintaining consumer trust and promoting responsible business conduct in India.

Product Liability

The Consumer Protection Act, 2019 modernized consumer law in India by addressing new challenges such as e-commerce transactions, product liability, and alternative dispute resolution. It ensures that consumers are protected from defective products, unfair trade practices, and delays in justice. The Act introduces product liability provisions, consumer protection in e-commerce, and a mediation mechanism to promote speedy and fair resolution of disputes.

Meaning

Product liability refers to the responsibility of a manufacturer, seller, or service provider to compensate consumers for harm caused by defective products or deficient services. It ensures accountability throughout the supply chain.

Legal Provision

Chapter VI (Sections 82–87) of the Consumer Protection Act, 2019 deals with product liability.

Definition (Section 2(34))

Parties Liable

Product Manufacturer

Liable if:

- The product has a manufacturing defect or design defect.

- The product deviates from manufacturing specifications.
- The product fails to contain adequate instructions or warnings.
- The product does not conform to express warranties.

Product Service Provider

Liable if:

The service is deficient or faulty.

- There is negligence in providing the service.
- The service does not meet safety or quality standards.

Product Seller

Liable if:

- The seller exercised substantial control over product design or testing.
- The seller modified or altered the product.
- The seller failed to warn consumers about known defects.
- The seller made false or misleading representations.

Exceptions to Liability (Section 87)

A product liability action cannot be brought if:

- The product was misused, altered, or modified by the consumer.
- The product was used contrary to instructions or warnings.
- The product was purchased for resale or commercial purpose.
- The consumer was aware of the defect and still used the product.

Importance

- Ensures consumer safety and accountability.
- Encourages manufacturers to maintain quality standards.

- Provides compensation for injury, loss, or damage caused by defective goods.

Consumer Protection in E-Commerce

Meaning

E-commerce refers to buying and selling goods or services through digital platforms or electronic networks. The Consumer Protection (E-Commerce) Rules, 2020, framed under the Consumer Protection Act, 2019, regulate online transactions to safeguard consumer interests.

Objectives

- To ensure transparency and fair-trade practices in online transactions.
- To protect consumers from unfair, misleading, or fraudulent online activities.
- To hold e-commerce entities accountable for product quality and service standards.

Applicability

The rules apply to:

- All goods and services sold online.
- All e-commerce entities offering goods or services to Indian consumers, even if based outside India.

Key Provisions

Duties of E-Commerce Entities

- Must display complete information about the seller, product, and price.
- Must not adopt unfair trade practices or manipulate prices.
- Must provide a grievance redressal mechanism and appoint a Grievance Officer.
- Must acknowledge consumer complaints within 48 hours and resolve them within 1 month.

Liability of Marketplace E-Commerce Entities

- Must ensure that sellers display accurate product information.
- Must not influence product prices or discriminate among sellers.

- Must provide details of return, refund, and warranty policies.

Liability of Sellers on E-Commerce Platforms

- Must not misrepresent goods or services.
- Must honor warranties and guarantees.
- Must not refuse refunds or replacements for defective goods.
- Prohibition of Unfair Trade Practices
- False reviews, fake discounts, and misleading advertisements are prohibited.
- Manipulation of search results or rankings is not allowed.

Cross-Border E-Commerce

Foreign e-commerce entities offering goods or services to Indian consumers must comply with Indian consumer protection laws.

Importance

- Builds consumer trust in online transactions.
- Ensures accountability of digital platforms.
- Protects consumers from fraud, counterfeit goods, and misleading advertisements.

Mediation Mechanism under Consumer Protection Act, 2019

Meaning

Mediation is an alternative dispute resolution (ADR) process where a neutral third party (mediator) helps the disputing parties reach a mutually acceptable settlement. It promotes quick, cost-effective, and amicable resolution of consumer disputes.

Legal Provision

Chapter V (Sections 74–81) of the Consumer Protection Act, 2019 provides for the establishment of a Consumer Mediation Cell attached to each Consumer Commission.

Objectives

- To reduce the burden on consumer courts.

- To provide speedy and amicable settlement of disputes.
- To encourage voluntary resolution without litigation.

Establishment of Mediation Cells

- Each District, State, and National Consumer Commission must establish a Consumer Mediation Cell.
- The Central and State Governments maintain panels of qualified mediators.

Procedure for Mediation

Reference to Mediation (Section 37):

The Consumer Commission may refer a dispute to mediation if there is a possibility of settlement.

Consent of Parties:

Both parties must consent to mediation.

Appointment of Mediator:

A mediator is appointed from the panel maintained by the Commission.

Mediation Proceedings:

- Conducted confidentially and informally.
- Mediator facilitates discussion but does not impose a decision.

Settlement Agreement:

If parties reach an agreement, it is recorded in writing and signed by both parties.

The agreement is binding and has the same effect as an order of the Commission.

Failure of Mediation:

If mediation fails, the case is returned to the Commission for adjudication.

Advantages of Mediation

- Quick and cost-effective resolution.
- Maintains confidentiality and relationships.

- Reduces court backlog.
- Encourages voluntary compliance.

Difference Between Adjudication and Mediation

Basis	Adjudication	Mediation
Nature	Formal judicial process	Informal negotiation process
Decision Maker	Judge or commission	Neutral mediator
Outcome	Binding order by authority	Mutually agreed settlement
Time and Cost	Time-consuming and costly	Quick and inexpensive
Confidentiality	Public proceedings	Private and confidential

The Consumer Protection Act, 2019 strengthens consumer rights in the modern marketplace by introducing product liability, e-commerce regulations, and a mediation mechanism. These provisions ensure that consumers are protected from defective products, unfair online practices, and prolonged litigation. Together, they create a balanced framework that promotes consumer confidence, corporate accountability, and efficient dispute resolution in India's evolving digital economy.

Unit V

Foreign Exchange management Act, 2000

FEMA, 2000 – Definition and Main Provisions

Definition

FEMA (Foreign Exchange Management Act), 1999 is an Act passed by the Government of India to regulate foreign exchange transactions and to promote orderly development and maintenance of the foreign exchange market in India.

It replaced the earlier FERA, 1973 and shifted from a control-oriented law to a management-oriented system.

Objectives of FEMA

- To facilitate external trade and payments
- To promote orderly development of foreign exchange market
- To regulate foreign exchange transactions in India

Important Definitions under FEMA

Authorized Person – A person authorized by the Reserve Bank of India (RBI) to deal in foreign exchange (e.g., banks, money changers).

Foreign Exchange – Foreign currency, deposits, credits, and balances payable in foreign currency.

Capital Account Transaction – Transaction that alters assets or liabilities outside India (e.g., foreign investment).

Current Account Transaction – Day-to-day transactions like import, export, travel, education fees, etc.

Person Resident in India – A person residing in India for more than 182 days during the preceding financial year (with certain exceptions).

Main Provisions of FEMA

1. Regulation of Foreign Exchange

All foreign exchange transactions must be conducted through authorized persons (banks or dealers approved by RBI).

2. Current Account Transactions

Generally permitted unless restricted by the Central Government.

3. Capital Account Transactions

Permitted only as per RBI regulations and subject to conditions.

4. Export and Import of Currency

Regulated by RBI rules.

5. Penalties for Contravention

FEMA is a civil law, not criminal.

Penalty may extend up to three times the amount involved in contravention.

Imprisonment only in case of failure to pay penalty.

6. Adjudication and Appeal

Adjudicating Authority

Special Director (Appeals)

Appellate Tribunal

Further appeal lies to High Court

5. Difference between FERA and FEMA

Basis	FERA	FEMA
Nature	Criminal law	Civil law
Approach	Control-oriented	Management-oriented

Basis	FERA	FEMA
Objective	Conservation of forex	Promotion and management of forex

FEMA, 2000 regulates foreign exchange transactions in India in a liberal and business-friendly manner. It supports international trade and investment while maintaining stability in the foreign exchange market.

What Is Intellectual Property (IP)?

Intellectual Property Law protects creations of the mind—like inventions, artistic works, brand names, and product designs. It gives creators exclusive rights to use, profit from, and control their creations, encouraging innovation and creativity.

India’s IP framework is shaped by several statutes, including:

- The Patents Act, 1970
- The Trade Marks Act, 1999
- The Copyright Act, 1957
- The Designs Act, 2000

Types of Intellectual Property Rights

1. Patent

- Purpose: Protects inventions that are new, useful, and non-obvious
- Examples: A new drug formula, a water-saving irrigation system
- Duration: 20 years from the filing date
- Key Features:
 - Must be novel and have industrial application
 - Grants exclusive rights to make, use, and sell the invention
 - Subject to public disclosure after grant

2. Trademark

- Purpose: Protects brand identity—names, logos, slogans, etc.
- Examples: Nike’s swoosh, Tata’s logo, Amul’s tagline
- Duration: 10 years (renewable indefinitely)

Key Features:

- Must be distinctive and capable of graphical representation
- Prevents others from using similar marks that cause confusion
- Includes service marks, certification marks, and collective marks

3. Copyright

- Purpose: Protects original literary, artistic, musical, and dramatic works
- Examples: Novels, films, songs, software code
- Duration: Lifetime of the author + 60 years (varies by work type)

Key Features:

- Automatic protection upon creation—no registration required
- Covers expression of ideas, not the ideas themselves
- Includes moral rights and economic rights

4. Industrial Design

- Purpose: Protects the visual appearance of products
- Examples: Shape of a perfume bottle, pattern on a textile
- Duration: 10 years (extendable by 5 more years)

Key Features:

- Must be new and original
- Focuses on aesthetic appeal, not functionality
- Registered under the Designs Act, 2000

Comparative Snapshot

Aspect	Patent	Trademark	Copyright	Industrial Design
Protects	Inventions	Brand identity	Creative expression	Product appearance
Registration Needed	Yes	Yes	Optional	Yes
Duration	20 years	10 years (renewable)	Life + 60 years	10 + 5 years
Governing Law	Patents Act, 1970	Trade Marks Act, 1999	Copyright Act, 1957	Designs Act, 2000

Geographical Indication (GI)

A Geographical Indication (GI) is a sign used on products that have a specific geographical origin and possess qualities, reputation, or characteristics essentially attributable to that place of origin.

In simple terms, GI identifies goods as originating from a particular region where a given quality or reputation is linked to that location.

In India, GI is protected under the Geographical Indications of Goods (Registration and Protection) Act, 1999.

Features of Geographical Indication

- It applies only to **goods** (not services).
- The product must originate from a specific place.
- The quality or reputation must be connected to that geographical area.
- It gives legal protection against misuse.

Types of Goods Covered

1. **Agricultural Products** – e.g., Basmati Rice
2. **Natural Products** – e.g., Makrana Marble
3. **Manufactured / Handicraft Products** – e.g., Kanchipuram Silk Sarees

Importance of GI

- Protects traditional knowledge and culture
- Prevents unauthorized use of product name
- Promotes rural development
- Increases export value
- Enhances brand reputation

Difference between GI and Trademark

Basis	Geographical Indication	Trademark
Ownership	Collective (producers of a region)	Individual or company
Transfer	Cannot be transferred	Can be sold or assigned
Purpose	Indicates origin and quality	Identifies brand

Geographical Indication protects products that have unique identity due to their place of origin. It helps safeguard traditional products and ensures economic benefits to local producers.