

CHAPTER 2 - THE INDIAN CONTRACT ACT, 1872

Unit 1: Nature of Contracts

Legal Obligation

Question 1:

Can Mrs. Lali recover ₹50,000 from her husband under a registered written agreement made out of love and affection? (3 Marks) [Nov 18]

Answer:

No, she cannot recover the amount as the agreement is a social/domestic arrangement lacking intention to create legal relations, and thus is not enforceable under the Contract Act, 1872.

Registration of an agreement mainly serves as **proof of its existence and terms**, but it does **not** override the basic requirements of a valid contract under the Contract Act, 1872.

So, even if the document is registered, if it's a **purely domestic/social arrangement without legal intent**, it still won't be enforceable in court. Registration can't convert a "non-contract" into a valid contract.

Section 25(1) only addresses whether an agreement without consideration can be valid by laying down conditions (natural love and affection, near relationship, written, registered). It's not concerned with whether the agreement is a **contract** or not.

Even if Section 25(1) conditions are satisfied, it will only be a **contract** if there is an **intention to create legal relations**.

So, **valid agreement** under Section 25(1) ≠ **enforceable contract** automatically. Enforceability still hinges on legal intent.

Question 2:

Can Radha sue three friends who skipped her ₹5,000 non-refundable birthday party booking, and would it differ if it were a contributory New Year party? (4 Marks) [June 23]

Answer:

No, she **cannot sue** for a birthday party loss as it was a **social agreement without legal intent** (Sec. 10, Contract Act, 1872). However, in a **contributory party**, **legal intent exists**, making the agreement **enforceable** and allowing her to **claim the loss**.

TYPES OF CONTRACTS

Based on validity

Illegal Contract –

- Forbidden by law; void *ab initio*.
- All illegal agreements are void, but not all void agreements are illegal.
- Also renders connected collateral contracts void.
- *Example:* Agreement to purchase brown sugar (drugs) → Illegal.

Example: Collateral transactions linked to illegal agreements are void.

- Agreement to pay ₹1,00,000 for killing Z is illegal due to unlawful object.
- Y cannot recover ₹1,00,000 from X.
- Loan from W to X knowing the illegal purpose is a collateral agreement.
- Collateral agreement between X and W is also void.
- W cannot recover the loan amount from X.

Question 3:

X coerced Y into selling his house for ₹1,00,000 and borrowed that amount from Z, who knew the purpose. [ACT]

Answer:

Contract X–Y is voidable (coercion, Sec. 15 & 19, Contract Act), while X–Z is valid as the loan object is lawful.

Proposal / Offer (Sec. 2(a)) [RTP Nov 19]

Invitation to Offer

Question 4:

Can Mr. Vikram claim ₹10,000 reward from Mr. Aseem for finding his stolen car when Mr. Aseem denies liability, calling the ad an invitation to offer? [ACT]

Answer:

Yes, under the Indian Contract Act, 1872, an advertisement for a reward is a general offer; by fulfilling the condition, Mr. Vikram accepted the offer, making Mr. Aseem liable to pay ₹10,000.

Question 5:

Can Y sue X for time and travel expenses when X cancels an advertised auction on the scheduled date? [ACT] [RTP Jan 26]

Answer:

No, under the Indian Contract Act, 1872, the auction advertisement was merely an invitation to offer, not a binding offer, so X is not liable for Y's losses.

Acceptance – Section 2(b) [Back question of Module] [RTP Nov 20] [Jan 21- 7 Marks]

Legal Rules for Valid Acceptance

Question 6:

Whether Mr. Har Bhajan Lal — who, knowing of a pamphlet reward of ₹500, traced and returned the missing boy (and sent a telegram) — can claim the reward despite no prior communication of acceptance? [ACT]

Answer:

Yes. Under Sec. 8, Indian Contract Act, 1872 and *Carlill v. Carbolic Smoke Ball Co.*, a general offer is a continuing offer that may be accepted by performance (so he is entitled to ₹500), unless the offer expressly requires communication of acceptance or states that mere performance will not constitute acceptance.

Question 7:

Can Mr. Pratham sue the school for loss of salary when his job appointment was privately conveyed by a committee member but not officially communicated? [RTP Nov 21]

Answer:

No, under the Indian Contract Act, 1872, acceptance must be communicated by the offeree or an authorised agent; a committee member's private statement is not valid acceptance, so no binding contract was formed.

Communication

Question 8:

On 10 Apr 2020, B posted an offer to S to sell his house for ₹10 lakhs. S read it on 13 Apr, posted acceptance on 16 Apr (reaching B on 20 Apr), but sent a telegram on 17 Apr revoking acceptance (reaching B on 19 Apr). What is the offer completion date, is acceptance valid, and what if revocation and acceptance arrive together? [Jan 21 – 6 Marks]

Answer:

Under **Sec. 4, Indian Contract Act, 1872**, the offer completed on 13 Apr 2020. **Revocation on 19 Apr before acceptance on 20 Apr** makes acceptance **invalid**. If both arrive together, validity depends on which is read first—**telegram first cancels acceptance; letter first forms a contract**.

Question 9:

A **building society** offered to sell property to B for £750, allowing **14 days** to accept. B **posted his acceptance** at 3:30 p.m. the next day, but the society had posted a **revocation** at 1:00 p.m., which B received at 5:30 p.m. Can the revocation stand? **[ACT]**

Answer:

No, under **Secs. 4–5 of the Indian Contract Act, 1872** and **Henthorn v. Fraser**, **revocation must reach the offeree before acceptance is posted**; since B **posted acceptance before receiving revocation**, the offer stood **accepted** and a **binding contract** was formed.

Question 10:

A applied for shares, **revoked offer** (revocation reaching co. at 11:30 a.m., 27 Oct). Co. resolved **allotment** at 10:00 a.m. and gave **acceptance letter** to peon, but it was not posted till after revocation arrived. **[ACT]**

Answer:

Under **Secs. 4–5 ICA & London & Northern Bank v. Jones**, **acceptance is complete for proposer only when posted**—here, **revocation was effective**, so **no binding contract** arose.

Question 11:

A offered B **25 chairs @ ₹1,500 each** on 12.02.2024, to remain open till 15.02.2024, but sold to C on 13.02.2024; B accepted on 14.02.2024. **[Sep 2024, 2 Marks]**

Answer:

As per **Sec. 5 ICA**, an **offer can be revoked anytime before acceptance is communicated against proposer**; hence A **validly revoked**, and B cannot **claim damages**.

Question 12:

Whether Raman, who applied for **100 partly paid shares** but never received the letter of allotment sent by post, is liable to pay the balance amount?

Answer:

Yes. Under **Sec. 4, Indian Contract Act, 1872**, communication of acceptance is complete against the proposer when a properly addressed and stamped acceptance is posted, **even if lost in transit**; hence **Raman is bound to pay for the shares**.

CHAPTER 2 - THE INDIAN CONTRACT ACT, 1872

Unit 2: Consideration - Complete Unit is Important

Legal Rules Regarding Consideration

1. **Must move at promisor's request** (*Durga Prasad v. Baldeo*). Voluntary acts ≠ consideration.
2. **Performance of existing legal duty** → Not valid unless person promises to do more than he is legally bound to do and not against public policy.

Question 1:

Whether X can refuse to sell his car worth ₹1,00,000 to Y for ₹10,000, after receiving a better offer of ₹20,000, on the ground that the consideration was inadequate, when the agreement was already made and consent was freely given. [ACT]

Answer:

Under Sec. 25, Indian Contract Act, 1872, an agreement with free consent is not void merely due to inadequacy of consideration. X is liable to Y for damages for breach of contract.

Suit by a Third Party to a Contract [RTP May 20] [7 Marks June 23] [RTP May 18]

- **Rule** → Stranger to consideration allowed, but **stranger to contract cannot sue** (*Doctrine of Privity of Contract*).
- **Exceptions** – Third party can sue in:
 1. **Trust** → Beneficiary can enforce rights. Q3
 2. **Family settlement** → Non-party family member can enforce **written settlement**.
 3. **Marriage arrangements** → Beneficiary of marriage contract can sue.
 4. **Assignment** → Assignee can enforce assigned contractual benefits (non-personal skill).
 5. **Acknowledgement/Estoppel** → Promisor acknowledging third party's rights becomes bound.
 6. **Covenants running with land** → the person who purchases land with notice that the owner of land is bound by certain duties affecting land, the covenant affecting the land may be enforced by the successor of the seller.
Example: Land sold with condition “cannot be used for industrial purposes” to protect adjacent agricultural land — all future owners must comply. Q4
 7. **Agency** → Principal can enforce contracts made by agent **within authority**.

Question 2:

Whether B, the illegitimate son of A's father, can claim a certain sum of money and a village from A—who succeeded to his father's estate and had agreed with his father to give them to B on attaining majority—when A now refuses after B has attained majority. [ACT]

Answer:

Under the **Doctrine of Privity of Contract**, a third party generally cannot sue; however, an exception exists where a **trust** is created. Here, a trust was created in B's favour for the money and the village, so B, as beneficiary, can enforce it against A and recover the promised assets.

Question 3:

Whether Mr. Chotelal, son of the seller, can enforce the condition in the sale deed dated 25-09-2018—where 1 acre of the 10 acres sold for ₹25 lakhs to Mr. Mohanlal was reserved for his use—when, after the seller's death

on 12-10-2018, the purchaser began constructing an auditorium on the whole land and denied him access. [4 Marks May 2019]

Answer:

Under Sec. 2(d) of the Indian Contract Act, 1872 and the principle of privity of consideration (as in Chinnaya v. Ramayya), consideration can move from a third party, making the promise enforceable. Additionally, in the case of a covenant running with the land, the purchaser with notice is bound by such duties. Therefore, Mr. Chotelal, though a third party to the contract, can sue to enforce the promise and restrain construction on the 1 acre reserved for him.

Validity of Agreement Without Consideration [RTP Jan 25] [Sep 24 - 3 Marks]

Question 4:

Whether Mr. Ram Lal Birla's married daughter can claim ownership of a house gifted to her by her father through a written but unregistered document, where the gift was based on natural love and affection, but the donor died before registration. [RTP Nov 21] [RTP Nov 22] [RTP June 23] [MTP I Sep 24 - 4 Marks]

Answer:

Here, the document was written but not registered, hence the transfer is unenforceable, and the daughter cannot get the house as a gift under the Indian Contract Act, 1872.

Question 5:

Whether Tania can recover ₹75,000 from Anita, when Anita promised to pay Tania for treatment that was voluntarily given by Tania's mother, Sonali, during Anita's illness, without accepting payment. [ACT]

Answer:

As per Section 2(d), valid consideration must be given at the desire of the promisor, not voluntarily. Section 25(2) (promise to compensate a person who has voluntarily done something for the promisor) applies only if the promise is made to the person who actually rendered the service. Since Tania did nothing for Anita, the promise is not enforceable, and Tania cannot recover.

Question 6:

Whether Abhimanyu, after Ramesh voluntarily returned his lost documents at a railway station, is bound by a subsequent written and signed promise to pay ₹50,000. [RTP Jan 26]

Answer:

As per Section 25(2) of the Indian Contract Act, 1872, a written and signed promise to compensate past voluntary services is enforceable without consideration; hence, Abhimanyu is liable to pay ₹50,000.

Question 7:

Whether G's agreement to settle the full ₹30,00,000 time-barred debt owed to Y is enforceable under the Indian Contract Act, 1872. [Dec 20, 2 Marks]

Answer:

As per Section 25(3), a promise to pay a time-barred debt is valid only if it is in writing and signed by the debtor or his authorised agent. Therefore, G's promise is enforceable only if it meets these conditions; otherwise, it is not enforceable.

Question 8:

Whether trustees can recover ₹10,000 promised by X for temple repairs in two situations—

- when they have not incurred any liability on the faith of X's promise,
- when they have incurred liability on the faith of X's promise. [ACT]

Answer:

- Case (a): As per Abdul Aziz v. Masum Ali, without incurred liability, there is no consideration, so the promise is void and trustees cannot recover.

- Case (b): As per *Kedar Nath v. Gorie Mohammad*, if trustees incurred liability relying on X's promise, there is valid consideration (detriment to promisee) and the promise is **enforceable**, so trustees **can recover**.

Question 9:

Whether **Bluebell Middle School** can recover the promised contribution when, **acting on Mr. Shantanu's promise**, it **undertook additions and improvements to the school building**, but **Mr. Shantanu died before payment**. [ACT]

Answer:

Since a **charitable promise becomes enforceable when the promisee incurs liability on its faith** (*Kedarnath v. Gorie Mohammad*) and **promises bind legal representatives after the promisor's death** (Section 37, Indian Contract Act, 1872), the **legal representatives are bound for promised amount**, and the **suit for recovery is maintainable**.

Question 10:

Whether **₹50,000** given or promised by **X to Y** (his neighbour's wife) without consideration is valid—

- (1) when given as a **completed registered gift deed** and there is **no near relation**,
- (2) when it is merely a **promise to gift** the amount. [ACT]

Answer:

- Case 1: Under *Explanation 1 to Section 25*, a **completed gift** (even without near relation or consideration) is **valid**.
- Case 2: Under the same provision, a **mere promise to gift** without consideration is **void** as it is not a completed gift.

CHAPTER 2 - THE INDIAN CONTRACT ACT, 1872

Unit 3: Other Essential Elements of a Contract

A. Minor (Below 18 years)

Question 1:

Whether **Mobile Sales Centre** can recover ₹25,000 for a **mobile** bought on **credit** by **17-year-old Rohan** (for **online classes**), when **Rohan** has ₹15,000 **cash** and his **father** has sufficient funds, under the **Indian Contract Act, 1872**. [RTP Sep 25]

Answer:

As per **Sec. 11**, a **contract with a minor** is **void-ab-initio**; **parents** aren't liable for a **minor's contracts**. For **necessaries**, liability is limited to the **minor's assets**—thus, **Mobile Sales Centre** can recover only ₹15,000 from **Rohan's property**, not from him personally or his parents.

Question 2:

Whether a **shopkeeper** can recover ₹40,000 **loan** given to **Rahul**, a **minor** who **misrepresented his age**, gave an **expensive watch** as **security**, bought a ₹30,000 **laptop**, and spent the rest on a **trip**, under the **Indian Contract Act, 1872**. [RTP Nov 21]

Answer:

As per **Sec. 11**, a **minor's agreement** is **void-ab-initio**; **no recovery of the loan** is possible. However, under the **equitable doctrine of restitution**, **property** or **goods obtained** (e.g., the **laptop**) can be ordered to be returned, but **Rahul** cannot be compelled to repay ₹40,000.

Question 3:

Whether **Mr. Gupta**, an **authorised laptop dealer**, can recover ₹60,000 (plus **16% p.a. interest**) for a **laptop** sold on **credit** to **Srishti**, a **minor** who **falsely represented her age** and promised that her **father** would pay if she defaulted, by (i) **suing Srishti during minority**, (ii) **suing her father**, or (iii) **suing Srishti after she attains majority**, under the **Indian Contract Act, 1872**. [May 22 - 6 Marks] [RTP Dec 23] [RTP Jan 25]

Answer:

As per **Sec. 11**, a **minor's contract** is **void-ab-initio**; she **cannot be sued during minority**, her **father** is **not liable** without **express/implied authority**, and the **agreement cannot be ratified after majority**—hence **Mr. Gupta** **cannot recover** the amount in any of the three ways.

Consent - Section 13

Coercion (Section 15) [Nov 19, 5 Marks] [RTP May 18] [MTP Oct 21, 5 Marks]

Source/Target – Need **not** come from contracting party; can be against **any person**.

Threat to commit suicide = Coercion (*forbidden by IPC*). [Sep 2024, 2 Marks] [May 25 - 2 Marks]

Examples:

– Husband threatens suicide to get release deed from wife & son → Coercion.

– **Agent unlawfully detains books until released from liability** → Coercion. [ACT]

Undue influence (Section 16) [May 2019, 5 Marks] [Jan 25 – 6 Marks] [RTP May 20]

Effect – Sec. 19A

1. Contract **voidable** at option of aggrieved party.
2. Court may set aside **absolutely** or on **just terms** if benefit received.

Question 4:

Whether a **contract** can be **avoided** when **consent** is obtained by **undue influence**—examples include (i) a **teacher** inducing a **student** to sell a **car** below **purchase price** for more **exam marks**, (ii) a **doctor** making a **patient** sign a **₹5,000 promissory note** during **illness** for a **₹300 consultation**, and (iii) an **employer** inducing an **employee** to sell a **flat** below **market value** for a **promotion**—under the **Indian Contract Act, 1872**. [RTP May 18] [RTP Nov 19] [RTP Nov 22] [RTP May 22] (2 Marks – June 23)

Answer:

As per **Sec. 16**, **undue influence** arises when one party, in a **position to dominate the will** of the other, uses that **position for unfair advantage**; such **contracts** are **voidable** at the **option of the influenced party (Sec. 19A)**. In all these cases, the **aggrieved party** can **rescind the contract**; the **wrongdoer** can only claim **reasonable consideration** (e.g., **actual consultation fee**) if any **benefit** was conferred.

Fraud (Section 17) [May, 2018, 5 Marks] [MTP April 19, 5 Marks] [Sep 25 - 6 Marks]

Question 5:

Whether **sale by auction** of an **unsound horse** by P (who knows the defect) to Q is **valid** when (a) P says nothing, (b) P says nothing to Q who is his **newly adult daughter**, and (c) P remains silent when Q says **silence will mean the horse is sound**, under **Sec. 17** of the **Indian Contract Act, 1872**. [RTP May 19] [MTP I Sep 24 – 3 Marks]

Answer:

As per **Sec. 17**, **mere silence** is **not fraud** unless there is a **duty to speak** or **silence equals speech**—thus, (a) **valid contract (no duty to disclose)**, (b) **not valid (fiduciary relation makes silence fraud)**, (c) **not valid (silence amounts to speech, hence fraud)**.

Question 6:

Whether **Karan**, after paying **₹20,000** for a **wooden table** examined before purchase but with a **broken leg** concealed by **Mr. X** using **pasted wood**, can **return the table** and **claim refund** under the **Indian Contract Act, 1872**. [RTP Nov 22]

Answer:

As per **Sec. 17(2)**, **intentional concealment of a material defect** is **fraud**, giving the **aggrieved party** the **right to rescind the contract** and **claim compensation** under **Sec. 19**—thus **Karan** can **return the table** and **recover his loss** from **Mr. X**.

Question 7:

Whether a **salesman's silence** when **Kapil** mistakenly picks an **aluminium pan** instead of a **steel pan**, after being told the **section contains both types**, amounts to **fraud** under **Sec. 17** of the **Indian Contract Act, 1872**. [RTP May 22 - 6 Marks]

Answer:

As per **Sec. 17**, **mere silence** is **not fraud** unless there is a **duty to speak** or **silence equals speech**—here, the **salesman** had **no duty** to correct **Kapil's mistake**, hence **no fraud** and **Kapil cannot file a suit**.

Misrepresentation (Section 18)

Meaning:

False statement made innocently, without intent to deceive, inducing the other party to contract.

Question 8:

Whether **Suraj** can **rescind the contract** when **Sohan** induced him to buy a **motorcycle** by saying it was in **good condition**, **defects** were later found, **Sohan** agreed to bear **40% repair cost**, but after **repairs** the **motorcycle**

stopped working again — examining the concept of **misrepresentation** under **contract law**. [RTP May 19] [RTP May 20]

Answer:

As per **Section 19, Indian Contract Act, 1872**, **misrepresentation** allows the **aggrieved party** to **rescind the contract**; however, the **right is lost** if, after knowing of the **misrepresentation**, the party **affirms the contract** or **takes benefits** under it. **Suraj**, by accepting **Sohan's offer** to bear **40% repair cost**, **affirmed the sale** and therefore **cannot rescind the contract**.

Question 9:

Whether **Mr. Chhotu**, who bought a **motor car** from **Mr. Samant** for **₹3,00,000** after being told it **runs 30 km per litre**—when both **fuel and speed meters** were working perfectly—can **rescind the contract** on the ground of **misrepresentation** under the **Indian Contract Act, 1872**. [MTP Aug 18, 6 Marks] [RTP NOV 20] [RTP May 21]

Answer:

As per **Section 19** and its **exception**, since the **meters were functioning** and **Mr. Chhotu** had the **means of discovering the truth** with **ordinary diligence**, the **contract is not voidable**; hence, he **cannot rescind it**.

Question 10:

Whether **X**, who purchased **shares** based on a **prospectus** containing a **false statement** that **Z** was a **director**—when **X** had never heard of **Z** and the **statement was immaterial**—can **claim damages for fraud**. [ACT]

Answer:

Since the **false statement** did **not induce X** to buy the **shares**, as per **Smith v. Chadwick**, **X cannot claim damages**.

Question 11:

Whether a **vendor's statement** that, in his **opinion**, **land** could support **2000 sheep**—when in reality it could support only **1500**—amounts to **fraud**. [ACT]

Answer:

As per **Bisset v. Wilkinson**, the **statement** was merely an **opinion**, not a **factual representation**, and therefore does **not amount to fraud**.

Mistake

Question 12:

Whether **Tanishka**, who agreed to **let out Flat D** to **Sakshi**, is bound to give **Flat A** instead when **both parties were unaware that Flat D was already destroyed by an earthquake**, under the **Indian Contract Act, 1872**. (MTP Sep 25 II - 4 Marks)

Answer:

Under **Section 20 (bilateral mistake as to existence of subject matter)**, the agreement to let out **Flat D** is **void**, hence **Tanishka is not liable to hand over Flat A** and **Sakshi cannot demand substitution**.

LEGALITY OF OBJECT AND CONSIDERATION - SECTION 23

Agreements Opposed to Public Policy [Jan 25 – 6 Marks]

- Trading with Enemy** – Trade with enemy during war without govt. licence → void.
Pre-war contracts → *suspended/dissolved*.
- Stifling Prosecution** – Preventing prosecution of offences → void.
Exception: Compoundable offences (with/without court permission) → *valid*.
- Maintenance** – Funding litigation without interest in it → void if unreasonable/malicious.
- Champerty** – Funding litigation for share in proceeds → void if unreasonable/malicious.

5. **Trafficking in Public Offices/Titles** – Money consideration for public jobs/titles → void. (Dec 23 - 7 Marks) Q16
6. **Monopolies** – Agreements to create monopolies → void. Q20
7. **Marriage Brokerage** – Negotiating marriage for reward → void.
(Marriage bureaus giving info only → not covered)
8. **Interference with Justice** – Influencing judges/witnesses or corrupt legislative influence → void. Q15
9. **Interest Against Obligation** – Agent/manager taking secret payments against duty → void.
10. **Consideration Unlawful in Part (Sec. 24)** – If part of consideration is unlawful & inseverable → whole contract void.
If severable → legal part may stand. Q17

Question 13:

Whether **Mr. Rahul** can recover ₹15,000 paid to **Mr. Kabir** for using his **influence with the selection committee to secure a medical seat in govt college** for Rahul's son, which ultimately failed. [ACT]

Answer:

Since an agreement whose **object is opposed to public policy by creating interest against public duty** is void under **Section 23 of the Indian Contract Act, 1872**, the transaction is unlawful and **Mr. Rahul is not entitled to claim refund of ₹15,000.**

Question 14:

Whether **A** can claim ₹50,000 from **B** under an agreement where **A sold his house** for ₹10,00,000 to **B** and also agreed that if **B used the house for gambling, B would pay ₹50,000**, when **B later started gambling** there. [RTP May 22]

Answer:

As per **Section 24, Indian Contract Act, 1872**, sale of the house is a **valid and enforceable agreement**, but the **clause to pay ₹50,000 for gambling use is unlawful and void**; the **lawful and unlawful parts are severable**, so **A cannot claim ₹50,000.**

Question 15:

Whether an agreement between **Vikas (Businessman Delhi)** and **Reddy (Smuggler Hyderabad)** for **smuggling gold**, with a clause to invest smuggling profits in a **lawful textile business of vikas**, is enforceable. [RTP Jan 26]

Answer:

Under **Sections 23 and 24 of the Indian Contract Act, 1872**, since the **main object (gold smuggling) is forbidden by law and opposed to public policy** and the lawful investment clause is **inseparable from the illegal profits**, the **entire agreement is void and unenforceable**, and **Reddy cannot claim any relief.**

VOID AGREEMENTS

Question 16:

Validity of restraint on trade after sale of goodwill — **Rohan** sells **grocery business** with **goodwill worth ₹1,00,000** to **Rohit** for ₹5,00,000, agrees **not to open similar store anywhere in India for 10 years**, but **opens one in same city after 2 months**. [MTP Oct 21 - 6 Marks] [RTP June 23]

Answer:

As per **Sec. 27**, **restraint after sale of goodwill is valid only if reasonable in time and area**; **restriction over whole of India for 10 years is unreasonable**, so **agreement is void** and **Rohit cannot take legal action.**

Question 17:

Scope of restraint after sale of goodwill — **Kashish** sells **artificial jewellery business** to **Naman**, agrees **not to carry on artificial or real diamond jewellery in same area for 1 year**, but **opens real diamond jewellery showroom after 2 months**. [MTP I May 25 - 4 Marks]

Answer:

As per **Sec. 27** exception, restraint applies only to similar business; real diamond jewellery is not similar to artificial jewellery, so Kashish can continue real diamond business.

Question 18:

Validity of agreement restraining trade— X pays Y ₹10 lakhs to stop selling “Popular Brand” wheat in Uttar Pradesh; X doesn’t pay, Y sues. [ACT]

Answer:

As per **Sec. 27**, restraint of trade agreements are void unless under statutory exceptions; here, the restraint creates monopoly and is against public policy, so the suit is not maintainable.

Note: A, a businessman sold the goodwill of his trade to B. Both of them agreed that A will not practice the same trade for 3 years, and also that A will not carry on any business competing in any way with the business of B. Here, the agreement being divisible, the first part was held to be valid as necessary to protect the interest of the purchaser of goodwill. The second part was held to be void as it prevented A from carrying on any business.

Question 19:

Whether a clause in a life insurance policy restricting a suit to one year from the date of death of the assured is valid, when X’s legal representatives filed a suit after 2½ years. [ACT]

Answer:

The suit is maintainable; the clause is void as an agreement in restraint of legal proceedings under **Section 28**, since it curtails the prescribed limitation period of 3 years under the Limitation Act.

Question 20:

Validity of agreements: (I) a contract clause restricting action on breach, (II) an agreement limiting filing suit to one of two courts, (III) X offers to sell his Maruti car to Y, but Y believes X has only a Wagon R and agrees to buy it, (IV) a service agreement restraining an assistant from practicing as a physician for two years. [July 21- 1 Mark each] [RTP Dec 23] [RTP Jan 25]

Answer:

(I) Void as agreement in restraint of legal proceedings (**Sec. 28**); (II) Valid, partial restriction is allowed (**Sec. 28**); (III) Valid, mistake of fact by one party does not void contract (**Sec. 22**); (IV) Valid, service agreement restraint of trade is an exception to **Sec. 27**.

Contract of Insurance Vs. Wagering Agreement [Dec 20 – 5 Marks]

Basis	Contract of Insurance	Wagering Agreement
Meaning	Contract to indemnify loss	Promise to pay on happening/non-happening of uncertain event
Consideration	Mutual (premium & compensation)	No real consideration; gambling
Insurable Interest	Required in life/property insured	None; betting on life/property
Indemnity	Indemnifies (except life insurance)	Loser pays fixed amount on uncertain event
Enforceability	Valid & enforceable	Void & unenforceable
Premium	Based on scientific/actuarial risk calculation	No logical calculation
Public Welfare	Beneficial to society	Against public welfare

CHAPTER 2 - THE INDIAN CONTRACT ACT, 1872

Unit 4: Performance of Contract

PERFORMANCE OF CONTRACT (SEC. 37)

Question 1:

Nitesh Gupta contracted with **M/s Baba Brick House** to supply **10,000 bricks** on **12-08-2023**; they delivered only **5,000 bricks** that day due to one lorry being **out of order**, promising to supply the **rest next day**; **Nitesh** sought to **cancel the contract**, supplier pleaded **no fault**. (MTP 1 June 24 - 4 Marks)

Answer:

Under **Sec. 37**, **performance** must be **complete** unless **excused**; **part performance** is **not valid performance**; plea of **supplier** not acceptable — **Nitesh** can **validly avoid the contract**.

Question 2:

Rahul, a manufacturer of **jute bags**, contracted with **Sonia** to supply **raw jute** by **25.06.2024** for **quality verification** before **production start** on **27.06.2024**; **Sonia** supplied on **27.06.2024** citing **unavoidable reasons**, assuring **no compromise in quality**; **Rahul** sought to **avoid the contract** as he had **no opportunity to examine goods**. [RTP May 25]

Answer:

Under **Sec. 37**, **performance** must be for **whole obligations** as agreed; **late supply** depriving buyer of **agreed verification time** is **not valid performance**; **Rahul** can **validly avoid the contract**.

BY WHOM A CONTRACT MAY BE PERFORMED (SECTION 40, 41 AND 42)

Question 3:

Mr. Singhania contracted with **Mr. Sonu** to sing in his hotel for six weeks on **Saturdays & Sundays** for **₹20,000 per performance**; **Sonu** performed for **two weeks**, missed **third week** due to **illness**; **Singhania** terminated the contract; scenarios include **Sonu performing in fourth week with Singhania's silent consent**, and **Mika (third person) singing in third week with Singhania's silent consent**. [RTP May 22]

Answer:

(a) Under **Sec. 39**, **Singhania** can **terminate** the contract for **non-performance**; (b) silent acceptance in **fourth week** implies **assent to continue**, termination not allowed, though **damages claimable**; (c) under **Sec. 41**, accepting **third-party performance** bars termination and **damages**.

DISTINCTION: SUCCESSION VS. ASSIGNMENT

- **Succession** – By operation of law; benefits and sometimes burdens pass to legal heirs. Liability limited to value of estate inherited.
- **Assignment** – Only benefits of a contract can be assigned, not liabilities.
 - Debtor cannot transfer his repayment obligation.
 - Creditor can assign right to receive payment, unless benefit is tied to liability or personal consideration.

Effect:

- The assignee can directly sue the debtor to recover the assigned debt or benefit.
- The assignor drops out from that benefit once transferred.

Example:

- A agrees to supply B 500 kg of rice at ₹30/kg and also transport it to B's shop.
- The "benefit" (payment from B) is tied to A's "liability" (supplying and transporting rice).
- A cannot assign this contract to C without B's consent, because C would also have to fulfil the delivery obligation.

LIABILITY OF JOINT PROMISORS & PROMISEES (SECTION 43 AND 44) [May 25- 4 Marks]

Question 4: [MTP Jan 26 II - 7 Marks]

X, Y & Z jointly borrowed ₹60,000 from L; issues:

- (i) can L compel **only Y** to pay ₹60,000;
- (ii) if X, Y, Z die, can L compel **only X's legal representatives**;
- (iii) if Y repays the **whole ₹60,000**, how much from X & Z;
- (iv) if Y repays all and Z is **insolvent** with assets **only 1/5 of his share of debts**, recovery from X & Z;
- (v) same as (iv) plus X died and W inherited ₹17,000, recovery from X & Z;
- (vi) effect if L releases X and sues Y & Z. [ACT]

Answer:

- (i) **Yes**—L may compel any one joint promisor for the **whole (Sec. 43)**;
- (ii) **No**—legal reps of **all** jointly liable (Sec. 42);
- (iii) Y recovers ₹20,000 each from X and Z (Sec. 43);
- (iv) Y recovers ₹28,000 from X (20,000 + 50 % of 16,000) and ₹4000 from Z (1/5th of ₹20,000) (Sec. 43)
- (v) Y recovers ₹17,000 from X's estate and ₹4000 from Z (1/5th of ₹20,000)
- (vi) releasing X does **not** discharge Y & Z, nor free X from **contribution** to them (Sec. 44).

PERFORMANCE OF RECIPROCAL PROMISES (SECS. 51–58)

- **Sec. 55 – Time for performance:**
 - If **time essential** & promisor fails → contract voidable at promisee's option.
A contracts to deliver wedding clothes to B on **5th Feb** for B's marriage on **6th Feb**. A delivers on **8th Feb**. B can cancel the contract and refuse payment.
 - If **time not essential** → promisee can claim compensation, but contract not voidable.
A contracts to deliver 500 bags of rice to B on **1st March**. A delivers on **5th March**. B must accept delivery but can claim compensation for loss due to delay.
 - If performance accepted late without notice → no claim for delay compensation.
If B accepts rice delivered late **without telling A** he'll claim damages for delay → B loses right to claim
- **Sec. 56 – Impossibility of performance:**
 - **Initial impossibility** → Agreement void (whether known or unknown).
 - If known only to promisor → liable for compensation.
A contracts to sell B a cargo of wheat supposed to be on a ship from England, but the ship had already sunk before the agreement (A knew, B didn't).
 - **Subsequent impossibility** → contract becomes void; parties discharged.

Question 5:

Woollen Garments Limited contracted in **July 2023** with a group of women to supply **woollen clothes** (sweaters, monkey caps, mufflers, coats, gloves etc.) **before commencement of winter** i.e. by **October 2023**; due to **strike**, supply was made in **March 2024** when **winter was over**; questions — (A) whether company can **reject supply**, (B) whether company can **accept on request** of women group. [Sep 24 - 3 Marks]

Answer:

Under **Section 55**, since **time was of essence**, the **company can reject the supply**. However, the **company may accept delayed supply** if it **elects to do so**, but in such case it **cannot claim compensation for delay** unless notice of intention is given at time of acceptance.

Sec 59 60 61

Question 6:

When T owes **multiple debts to G**, including **time-barred debts** (₹5,000 & ₹3,000 – barred on 1 July 2023), and **current debts** (₹12,500 due 1 April 2022, ₹10,000 due 15 July 2023, ₹7,500 due 25 Nov 2023). On **1 April 2023**, T

makes two payments – ₹12,500 (cheque) and ₹4,000 – without specifying appropriation; G also does not indicate appropriation. (Dec 23 - 4 Marks)

Answer:

As per **Sec. 59**, ₹12,500 cheque exactly matching the debt due on **1 April 2022** will be appropriated to that debt. As per **Sec. 61**, ₹4,000 will be appropriated in **order of time**, including time-barred debts, proportionately between ₹5,000 and ₹3,000 in the ratio **5:3**, i.e., ₹2,500 and ₹1,500 respectively.

Question 7:

Appropriation of payments under **Sec. 60**, where **Albert** owes the Bank two loans — ₹3,00,000 (**guaranteed by Robert**) and ₹4,00,000 (**not guaranteed**). **Albert** pays ₹2,00,000 without specifying appropriation; the **Bank applies it entirely to the ₹4,00,000 loan**; Robert objects, claiming it should first go to the guaranteed loan. [MTPI May 25, 3 Marks] [RTP Sep 25]

Answer:

Under **Sec. 60**, when the debtor gives no intimation, the creditor may appropriate payment at their discretion to **any lawful debt due**, including one **not guaranteed**. Hence, the Bank's decision was **valid**.

CONTRACTS WHICH NEED NOT BE PERFORMED (SECS. 62–67) [Dec 21 7 Marks] [RTP Sep 24]

Question 8:

Whether **Mr. Rich** can (i) **compel Mr. K** to complete an **oil painting self-portrait** contract entered with **Mr. C**, who became **paralyzed** midway (after **5 sittings out of 10** over 3 months) and (ii) **claim refund** of ₹50,000 advance, in light of of the **Indian Contract Act, 1872**. [May 19, 6 marks]

Answer:

(i) Since the contract was based on **personal artistic skill** of **Mr. C**, performance became **impossible** due to **paralysis**, hence **Mr. K cannot be compelled** to perform. (**Sec. 40**)
(ii) The contract became **void due to supervening impossibility**, and under **Sec. 65**, **Mr. Rich** can **claim refund** from **Mr. K**, limited to **property inherited** from **Mr. C**.

Question 9:

Whether **legal representatives** of **Mr. S**, who died before performance, can be **bound** to (i) **complete a family painting** promised for ₹20,000 (personal skill contract) and (ii) **deliver photographs** promised for ₹10,000, under **Sec. 37** (*binding effect on legal representatives*) and **Sec. 40** (*personal performance requirement*) of the **Indian Contract Act, 1872**. (4 Marks June 23)

Answer:

(i) **Painting** requires **personal artistic skill**; under **Sec. 40**, the promise must be performed **personally** by **Mr. S**, hence **legal representatives are not bound**.
(ii) **Delivery of photographs** does not require **personal skill**; under **Sec. 37**, **legal representatives are bound** to deliver.

Question 10:

Whether **Mr. X** can claim ₹10,000 damages and refuse refund of ₹50,000 advance when a **contract dated 1 Aug 2018** for supply of **50 tons sugar within 10 days** became impossible to perform due to **flood on 2 Aug 2018** damaging the **only road route**, making delivery within time impossible, under **Indian Contract Act, 1872**. [Nov 18, 4 Marks] [MTP March 19, 6 Marks] [MTP II Sep 24 - 4 Marks] [MTP Jan 26 I - 4 Marks]

Answer:

Performance became **impossible** due to **supervening impossibility** (contract void); under **Sec. 65**, ₹50,000 **advance** must be **refunded** to Mr. Y; Mr. X's claim for ₹10,000 is **not sustainable**.

Question 11:

Whether **Mr. J**, who agreed to purchase **Mr. S's house for ₹20 lakh** and paid ₹50,000 as **token money**, is entitled to refund when the house was **demolished by local administration in an anti-encroachment drive before completion of sale**. (June 24 - 4 Marks) (MTP II Jan 25 – 4 Marks)

Answer:

As per **Section 56**, the contract becomes **void due to subsequent impossibility**, and under **Section 65**, any benefit received under a void contract must be restored; hence **Mr. J is entitled to refund of ₹50,000 from Mr. S.**

Question 12:

Mr. JHUTH agreed to buy **Mr. SUCH's** motor car for ₹5,00,000 within **3 months**, paid ₹20,000 as security; did not respond even after **another 3 months**; after **6 more months** refused to buy and demanded refund. **Alternate situation** — car destroyed in accident within the **3-month** agreement period. [MTP Aug 18, 4 Marks]

Answer:

First case — **Contract not void, buyer's negligence; security is ancillary, not refundable (Sec. 65 inapplicable).**
Second case — **Car's destruction** makes **contract void; security must be refunded** under **Sec. 65.**

Question 13:

Whether **Mr. Lal** is liable for breach when an **original ₹10-crore mall construction contract** was **mutually replaced** by a **₹12-crore hotel construction contract**, and subsequently a **Government Urban Development policy** prohibited hotel construction in that zone while malls remained permitted. The question is whether the **substituted contract survives or becomes void due to subsequent illegality/impossibility**, and whether **Mr. Kumar can claim damages** for non-performance. [RTP Jan 26]

Answer:

The **₹10-crore mall construction contract** between **Mr. Lal** and **Mr. Kumar** was **mutually substituted** by a **₹12-crore hotel construction contract**, thereby discharging the original agreement under **Section 62 of the Indian Contract Act, 1872.**

Subsequently, a **Government Urban Development Policy** prohibiting hotel construction made performance **unlawful**, and hence under **Section 56**, the substituted contract became **void due to supervening impossibility**, absolving **Mr. Lal from liability** and **barring any claim for damages** by **Mr. Kumar.**

DISCHARGE OF A CONTRACT [MTP I Sep 24 - 6 Marks]

1. **By Performance**
2. **By Mutual Agreement (Sec. 62)**
3. **By Impossibility of Performance (Sec. 56)**
4. **By Lapse of Time**
 - Not performed within limitation period → remedy lost.
5. **By Operation of Law**
 - Death, insolvency, etc.
6. **By Breach**
 - **Actual breach** – on due date.
 - **Anticipatory breach** – before due date.
7. **By Waiver/Remission (Sec. 63)**
 - Promisee forgives, reduces, extends, or accepts other satisfaction.
8. **By Neglect of Promisee (Sec. 67)**
 - If promisee fails to give facilities, promisor excused.
9. **By Merger of Rights**
 - Inferior right merges into superior right in same person → old contract ends.

CHAPTER 2 - THE INDIAN CONTRACT ACT, 1872

Unit 5: Breach of Contract and its Remedies

Wisdom Blueprint

S. no	Section/Provision	Relevancy
1	Suit For Damages (Section 73)	PQ
2	Rest all - Reading Category	

ANTICIPATORY BREACH OF CONTRACT [JUNE 24 - 6 MARKS]

- **Meaning:** Breach **before the due date of performance**; promisor refuses/ disables himself from performance.
- **Ways:**
 - (a) **Express** – by words spoken/written.
 - (b) **Implied** – by conduct.
- **Examples:**
 1. **Express:** A informs B before due date that goods won't be supplied.
 2. **Implied:** A sells horse to C before due date despite contract with B.
- **Section 39, ICA:** If a party refuses or disables himself from performing, promisee may end the contract (unless he agrees to continue).
- **Effect:**
 1. Promisee excused from performance/further performance.
 2. Options available:
 - **Rescind contract** immediately + sue for damages.
 - **Keep contract alive** till due date → wait for actual breach.
 - But then guilty party may still perform.
 - Guilty party can also claim benefit of **supervening impossibility** if arises.

SUIT FOR DAMAGES (Section 73)

Question 1:

X contracted with Y to supply **1,000 water bottles @ Rs. 5 each**; to fulfill this, X purchased from Z at **Rs. 4.50 each** and informed Z that it was for Y's contract; Z defaulted, and the **market price rose to Rs. 5.25 each**; Y rescinded the contract. Advise. [MTP Oct 2018, 6 Marks - Based on Bottles] [MTP March 18, 6 Marks- Based on Bottles] [MTP April 19] [MTP April 19, 6 marks] [RTP Nov 20]

Answer:

Since Z had **knowledge of special circumstances**, X can recover **Rs. 500 (1000 × 0.50)** being the **profit lost (Rs. 5 – Rs. 4.50)**. If Z had **no knowledge of Y's contract**, then damages are limited to **Rs. 750 (1000 × 0.75)**, i.e., the **difference between market price (Rs. 5.25) and contract price (Rs. 4.50)**.

Question 2:

Mr. Murti and his wife were travelling by **Himalya Travels Pvt. Ltd. bus**, which stopped midway at night due to a **technical defect**; passengers advised to walk **1 km to nearest hotel**; wife caught cold and fell ill; suit filed for **personal inconvenience, hotel charges, and wife's medical treatment**. Advise. [MTP May 22 - 4 Marks] [MTP I Sep 24 – 4 Marks]

Answer:

Under **Sec. 73**, Mr. Murti can recover **damages for personal inconvenience and hotel charges (direct loss)** but **not medical expenses** for his wife, as they are **remote/indirect loss**.

Question 3:

Whether **B can claim compensation from A (builder)** when **A, knowing that B had contracted to let the house to C by 1st January**, constructed the house so defectively that it **collapsed before the due date**, **B lose rent, and compensate C**. [ACT]

Answer:

Since compensation is payable for losses naturally arising from breach and for special losses within the knowledge of the parties at the time of contract (Section 73, Indian Contract Act, 1872), A is liable to compensate B for rebuilding cost (ordinary damages) and for lost rent and compensation paid to C (special damages).

Types of Damages [Sep 24 - 3 Marks] [MTP I Jan 25 - 3 Marks]

(i) Ordinary Damages (Sec. 73, ICA – Rule in Hadley v. Baxendale)

- Compensation for loss/damage **naturally arising** in the usual course of things, or known at contract formation.
- Not allowed for **remote/indirect loss**.
- **Case law:** *Hadley v. Baxendale*.
- **Example:** Rise in rice price – difference in market price recoverable.

(ii) Special Damages

- Arise due to **special circumstances** communicated at time of contract.
- Claimable only if notice of such circumstances given.
- **Example:** Delay in delivering machine → mill profits lost (recoverable). Loss of Govt. contract (not recoverable as not informed).

(iii) Vindictive / Exemplary Damages

- Awarded only in 2 cases:
 - (a) Breach of promise to marry.
 - (b) Wrongful dishonour of cheque by banker.
- Trader gets heavy damages due to loss of reputation (*Gibbons v. Westminster Bank*).

(iv) Nominal Damages

- Awarded where breach proven but **no real loss** sustained.
- Purpose: recognition of legal right.
- Amount: very small (token).

(v) Damages for Deterioration by Delay

- If goods deteriorate due to **delay by carrier**, damages recoverable even without notice.
- “Deterioration” = physical damage + loss of special opportunity of sale.

(vi) Pre-fixed Damages (Sec. 74)

- Parties may stipulate damages at contract formation.
- May be:
 - **Liquidated damages:** reasonable pre-estimate.
 - **Penalty:** arbitrary/fixed higher amount.
- Court awards **reasonable compensation not exceeding stipulated sum**.
- **Examples:**
 - Penalty 1,00,000, actual loss 70,000 → only 70,000 recoverable.
 - If loss 1,50,000 → only 1,00,000 recoverable.
 - Promise to pay charity, reliance loss incurred → actual reliance loss recoverable.

Basis	Liquidated Damages [May 22 – 6 Marks]	Penalty [May 22 – 6 Marks]
1. Meaning	Fair & genuine estimate of probable loss due to breach.	Disproportionate, very high sum fixed to ensure performance.
2. Intention	Recovery of damages that might arise due to breach.	To ensure performance; acts as deterrent.
3. Basis for Classification	Pre-estimate of loss made conscientiously by parties.	No attempt to estimate loss; coercive sum, not proportional to loss.
4. Example	<i>A contracts with B</i> to deliver possession of house within 6 months, else pay monthly rent = liquidated damages.	<i>P contracts with Q</i> to deliver 50 petrol engines, else pay ₹5 lakhs (disproportionate) = penalty.

Remedies for Breach of Contract (besides damages)

(i) Rescission of Contract (Sec. 75)

- Aggrieved party may treat contract as **rescinded**.
- He is absolved of obligations & entitled to compensation for damages suffered.
- **Example:** A fails to deliver cement → B discharged from liability to pay.

(ii) Quantum Meruit ("as much as earned") [RTP Sep 25]

- Compensation for value of work done/services rendered.
- **Conditions:**
 1. Contract must be discharged.
 2. Claim must be by party **not in default**.
- **Nature:** Restitutory (reasonable compensation), not compensatory.
- **Cases where it arises:**
 - a) Agreement discovered void/contract becomes void.
Example: A contracts to sing at B's theatre for 6 months for ₹10,000 per month. After 2 months, the theatre is destroyed by fire (contract becomes void).
A can claim payment for 2 months' performance (work already done).
 - b) Service done without intent to be gratuitous.
Example: A, a tradesman, leaves goods at B's house by mistake. B uses the goods.
B must pay a **reasonable price** for the goods (since they were not meant to be free).
 - c) Service contract exists, but no remuneration fixed.
Example: A, a lawyer, renders legal services to B under an agreement, but no fee is mentioned.
A can claim **reasonable remuneration** for his services.
 - d) One party abandons/refuses to perform.
Example: A is employed to construct a house for B for ₹5,00,000. After completing half the work, A abandons the project.
A can claim **reasonable compensation for the work done**, but not for the uncompleted portion.
 - e) Divisible contract → part performance enjoyed.
Example: A contracts to deliver 100 bales of cotton to B at ₹1,000 each, in two instalments of 50. A delivers the first 50, but fails to deliver the second.
B must pay for the 50 bales actually received.
 - f) Indivisible contract performed badly → lump sum payable, but deduction for bad work.
Example: A contracts to paint B's house for ₹1,00,000. A completes the work but does it badly.
A can claim the lump sum, but B can **deduct an amount** for the bad quality work.
- **Examples:**
 - Ex. 12: Agent's authority wrongfully revoked → can recover for work done.
 - Ex. 13: Partial delivery of cotton bales → payment for part supplied.

(iii) Suit for Specific Performance [Dec 20, 2 Marks]

- Court may direct party in breach to **perform the promise** as per contract.
- Granted when **damages are not adequate remedy**.

(iv) Suit for Injunction

- Court restrains party from **doing something contrary** to contract.

(v) Compensation on Rightful Rescission (Sec. 75)

- A party who rightfully rescinds contract is entitled to compensation for loss sustained.
- **Example:** Singer wilfully absent, manager rescinds → manager entitled to compensation.

CHAPTER 2 - THE INDIAN CONTRACT ACT, 1872

Unit 6: Contingent and Quasi Contracts - Complete Unit is Important

CONTINGENT CONTRACT - Section 31 [Nov 18, 7 Marks] [MTP I Sep 24 - 6 Marks]

Definition: A contract to do/not do something if some event, **collateral to such contract**, happens/does not happen.

Essentials of a Contingent Contract

- 1. Dependence on Event** – Performance depends on happening/non-happening of an event (condition precedent/subsequent).
 - Eg: A pays B ₹50,000 if it rains on 1st of next month.
- 2. Collateral Event** – Event must be collateral (neither performance promised nor consideration).
 - Conditional contracts ≠ Contingent contracts.
 - Eg: Payment on completion of swimming pool = conditional, not contingent.
- 3. Not Mere Will of Promisor** – Event must not be merely promisor's will.
 - Eg: A to pay B if he chooses → not contingent.
 - A to pay B if it rains and A travels → contingent (rain not in A's will).
- 4. Uncertainty of Event** – Event must be uncertain.
 - If event is bound to happen (e.g., collector's routine permission), → not contingent.

Rules for Enforcement of Contingent Contracts [July 21 – 7 Marks] [RTP May 22 – 7 Marks] [RTP Jan 26]

Sec. 32 – Enforcement contingent on happening of an event

Rule: Contract enforceable only if uncertain event happens. If event impossible → void.

Example:

A contracts to sell his car to B **if India wins the ICC World Cup 2027**.

- If India wins → contract enforceable.
- If tournament cancelled / India eliminated → contract void.

Sec. 33 – Enforcement contingent on non-happening of an event

Rule: Contract enforceable only when the happening of event becomes impossible.

Example:

X promises to pay Y ₹5,00,000 **if a particular plane does not return from its international flight**.

- If plane crashes mid-air (cannot return) → contract enforceable.
- If plane returns safely → contract void.

Sec. 34 – Event contingent on conduct of a living person

Rule: If contingent on act of living person, becomes impossible when that person does something making it impossible.

Example:

P promises to transfer property to Q **if Q's daughter marries R**.

Later, **R marries another woman** → Q's daughter cannot marry R (unless divorce happens).
→ Event impossible, contract void.

Sec. 35(i) – Event happening within a fixed time

Rule: Contract void if event doesn't happen within time or becomes impossible before time.

Example:

M promises to pay N ₹2,00,000 **if a ship carrying goods from London reaches Mumbai within 3 months**.

- Ship arrives in 2 months → enforceable.
- Ship sinks before reaching → contract void.

- Ship does not arrive within 3 months → contract void.

Sec. 35(ii) – Event not happening within a fixed time

Rule: Contract enforceable if event does not happen within fixed time, or becomes certain it won't happen before time.

Example:

R promises to pay S ₹1,00,000 **if a cargo ship does not arrive in Chennai within 6 months.**

- If ship does not arrive within 6 months → contract enforceable.
- If ship sinks in 2nd month → contract enforceable immediately.

Sec. 36 – Contingent agreement on impossible event

Rule: Always void, whether impossibility known or unknown.

Examples:

1. A agrees to pay B ₹10 lakh **if the sun rises in the west** → void.
2. X agrees to pay Y ₹1 lakh **if Y discovers treasure under Red Fort by magic** → void.

Question 1:

PQR hospital (Delhi) recruits Dr. A on 3-month contract, promising to pay Rs. 1,00,000 if Dr. A tests Covid-19 positive during this period. **Identify the type of contract. [RTP Nov 21]**

Answer:

It is a **contingent contract** u/s 31, governed by s. 35, and if Dr. A does not contract Covid-19 within 3 months, the contract becomes void.

Basis	Contingent Contract	Wagering Contract
Meaning	To do/not do something on a collateral event happening/not happening.	Promise to pay money/money's worth on uncertain event happening/not happening.
Reciprocal Promises	May not contain reciprocal promises.	Always consists of reciprocal promises.
Uncertain Event	Event is collateral.	Event is the core factor.
Nature of Contract	May not be wagering in nature.	Essentially contingent in nature.
Interest of Parties	Parties have real interest in subject matter.	Parties have no real interest in subject matter.
Mutuality of Gain/Loss	Not based on mutual gain/loss.	Purely based on mutual gain/loss (like a bet).
Effect of Contract	Valid.	Void.

QUASI CONTRACTS [May 25 – 3 Marks] [MTP Jan 26 II - 3 Marks]

Essence

- No offer, acceptance, consent or consideration.
- Imposed by **law** (equity, justice, good conscience).
- Principle → *No man must grow rich at another's expense.*
- Always → right to money (liquidated sum).
- Resembles contractual obligation but without agreement.

Difference between Quasi-Contracts and Contracts

Basis	Quasi-Contract	Contract
Essentials of Valid Contract	Absent	Present
Obligation	Imposed by law	Created by consent of parties

Salient features of Quasi-Contracts

1. **Right to Money** – Always a right to money, generally to a liquidated sum.
2. **No Agreement** – Does not arise from agreement; imposed by law.
3. **Right Against Specific Person(s)** – Enforceable only against particular person(s), not against the whole world
→ resembles contractual right.

Circumstances under which Quasi-Contract arises [May 25 - 3 Marks]

Question 2:

Mr. Y, aged 21, lost his **mental balance** after his **parents' death** and lived with his **85-year-old grandmother (incapable of walking and dependent on him)** in his **parents' house**; neighbour **Mr. M** supplied **food and necessaries** for **4 years** and also gave **Rs. 7 Lakhs** for grandmother's **emergency medical treatment**, later demanding **Rs. 15 Lakhs**, while **Y pleaded** he could only adjust **jewellery worth Rs. 4 Lakhs**, which **M refused**, threatening a **legal suit**. [Nov 22 - 6 Marks]

Answer:

As per **Section 68, Indian Contract Act, 1872**, **Mr. M will succeed** in recovering **Rs. 15 Lakhs** as **necessaries supplied** to an **incapable person** can be **reimbursed from their property (jewellery + house)**, and the **provision** also covers **grandmother's medical treatment** since **Y was legally bound to support her**.

Question 2A:

Whether **Jewellers** can recover **₹15 lakhs** from **Ajay** when his wife **Kajal, a lunatic**, purchased a **diamond set on credit?** (MTP Sep 25 II 3 Marks)

Answer:

Under **Section 68**, reimbursement is allowed only for **necessaries suited to the condition in life** of an incapable person and **only from such person's property**; since a **diamond set is not a necessary**, the **Jewellers cannot recover ₹15 lakhs from Ajay**.

Question 3:

Mr. L let out his **house** to **Mr. M** for **₹50,000 p.m. (1 year)** with **rent agreement** requiring **L to pay electricity bills**, but **L defaulted for 5 months**; on **notice of disconnection**, **M paid ₹50,000 (with penalty)**, which **L later refused to reimburse** saying **payment was voluntary**. [Sep 24 – 3 Marks] [MTP II Jan 25 – 4 Marks]

Answer:

As per **Section 69, Indian Contract Act, 1872**, **M is entitled to reimbursement of ₹50,000** since he paid **money** which **L was contractually bound to pay**.

Question 4:

X found a wallet in a restaurant, enquired for the owner but could not find him, and handed it to the **manager** for safekeeping; after a week, when **X asked for it back**, the **manager refused**, saying it did not belong to **X**. [Nov 19, 4 Marks] [RTP Dec 23] [RTP Jan 25]

Answer:

As per **Section 71, Indian Contract Act, 1872**, **X as finder of goods** has rights similar to a bailee and can retain the wallet against all except the true owner; hence the **manager must return the wallet to X**.

Question 5:

A, a gold dealer, regularly paid **sales tax**, but after the **government lowered the tax rate**, he unknowingly continued paying at the **higher rate** and later claimed the **excess payment** back. [ACT]

Answer:

As per **Section 72, Indian Contract Act, 1872** (money paid by mistake or under coercion), A can **recover the excess payment** from the government.

Question 6:

A insured goods against fire, but they were **stolen from the godown**; the **insurance company mistakenly paid** thinking loss was by fire, and on realizing theft was not covered, it sought a **refund from A. [ACT]**

Answer:

As per **Section 72, Indian Contract Act, 1872** (money paid by mistake or under coercion), the **insurance company can recover the money** from A.

Question 7:

Akhil ordered **100 Kgs wheat** from **M/s Sahil Kirana Store** for evening delivery, but the **hawker mistakenly delivered** it to Akhil's **neighbor**, who **accepted the goods. [RTP Sep 25]**

Answer:

As per **Section 72, Indian Contract Act, 1872** and **Shivprasad v. Sirish Chandra**, mistaken delivery creates a **quasi-contract**, making the **neighbor liable to pay** the price of wheat.

CHAPTER 2 - THE INDIAN CONTRACT ACT, 1872

Unit 7: Contract of Indemnity and Guarantee - Complete Unit is Important

Contract of Indemnity (Sec 124)

- **Definition (Sec 124): Contract (Express or implied)** where one party promises to save the other from loss caused by:
 1. Conduct of promisor himself, or
 2. Conduct of any other person.
- **Insurance Contracts:**
 - Fire & Marine Insurance = Contracts of Indemnity.
 - Life Insurance ≠ Contract of Indemnity.

Rights of Indemnity-holder (Sec 125) [Sep 24, 2 Marks] [MTP II Jan 25 -2 Marks]

Indemnity-holder (promisee), acting within authority, can recover from indemnifier:

1. **Damages** → All damages he is compelled to pay in any suit.
2. **Costs** → All costs incurred in bringing/defending suit.
3. **Compromise Sums** → All sums paid under terms of compromise.

Contract of Guarantee (Sec 126)

Essentials of a Valid Contract of Guarantee [RTP Jan 26]

1. **Purpose** → Must secure repayment of debt / performance of duty. No principal debt = No valid guarantee.
2. **Consideration (Sec 127)**
 - Consideration received by principal debtor = sufficient for surety.
 - Past consideration = not valid.
 - Surety must be competent; principal debtor may be incompetent.
3. **Existence of Liability** → Liability must be:
 - Existing or future promise,
 - Legally enforceable,
 - Not time-barred.
4. **No Misrepresentation or Concealment**
 - **Sec 142:** Guarantee obtained by misrepresentation = Invalid.
 - **Sec 143:** Guarantee obtained by concealment = Invalid.
5. **Form** → May be **oral or written** (Sec 126).
6. **Joining of Co-sureties (Sec 144)** → If guarantee is conditional on another person joining as co-surety, but he doesn't join → Guarantee is invalid.

Question 1:

Validity of a **contract of guarantee** where **Manish, a minor**, receives groceries from **Mr. Sohel** based on a **guarantee by Mr. Ganesh (major)**, and the surety later contests it on grounds of **lack of consideration** and **minority of principal debtor**. [ACT]

Answer:

The contention of **Mr. Ganesh is not tenable** because **consideration** for the surety exists under **Section 127** (benefit to principal debtor suffices) and the **minority of principal debtor does not invalidate the guarantee**; however, if **both principal debtor and surety are minors**, the **guarantee is void** from inception.

Nature & Extent of Surety's Liability (Sec 128) [May 25- 6 Marks] [MTP Jan 26 II - 6 Marks]

1. **Co-extensive Liability (Sec 128):** Surety's liability = same as principal debtor's liability, unless otherwise agreed.
2. **Secondary Nature:** Surety liable only on **default of principal debtor**.
3. **Defect in Document:** If debtor not liable due to defect in document → Surety also not liable.
4. **Creditor's Choice:** Creditor may proceed **against surety first** (no need to exhaust remedies against debtor), unless contract provides otherwise.
5. **Extent:** Liability covers **principal amount + interest + charges** (if any).

Question 2:

Liability of a surety (Mr. Raman) under a guarantee for payment by Mr. Salil when part payment (Rs. 20,000) is made by father of principal debtor before surety pays the full debt to Mr. Pooran. [ACT]

Answer:

As per Section 128 of the Indian Contract Act, 1872, the surety's liability is co-extensive with the principal debtor; since Rs. 20,000 was already paid, Mr. Raman can claim refund of Rs. 20,000 from Mr. Pooran.

Types of Guarantees

DISCHARGE OF A SURETY

Question 3:

Liability of a surety (Abhishek) under a continuing guarantee in a hire-purchase agreement for a bike worth Rs. 96,000 payable in 24 monthly instalments, where Ashok paid 12 instalments but defaulted, and the surety either revokes guarantee after paying 13th and 14th instalments or dies after 15 months. [ACT]

Answer:

As per Sections 130 and 131 of the Indian Contract Act, 1872, Abhishek can revoke a continuing guarantee for future instalments by notice and is liable only for past instalments paid (13th and 14th); similarly, death of the surety revokes future liability, but the estate remains liable for past instalments (up to 15th month).

Question 4:

Liability of legal heirs of a surety (Sooraj) under a continuing guarantee where Vikas supplied goods worth ₹30,000 (01.03.2023) and ₹20,000 (03.03.2023) before Sooraj's death on 05.03.2023, and a further supply of ₹40,000 on 10.03.2023 was made without knowledge of death, followed by default by Nikhil. [RTP Sep 24]

Answer:

As per Section 131 of the Indian Contract Act, 1872, the estate of Sooraj is liable only for transactions before death (₹50,000), not for the supply made after death (₹40,000), and if the estate is worth only ₹45,000, the legal heirs' liability is restricted to ₹45,000.

Question 5:

Liability of a surety (X) where Y advanced a loan of ₹10,000 to Z at 10% interest, later reduced interest to 7% and extended time for repayment without X's consent, and Z became insolvent. [RTP Sep 25]

Answer:

As per Sections 133 and 135 of the Indian Contract Act, 1872, any variance in contract terms or grant of time to debtor without surety's consent discharges the surety; hence, Y cannot sue X for recovery.

Question 6:

Liability of a surety (Mr. Janak) for the good conduct guarantee of Mr. Ram, an employee of Swaraj Ltd. drawing ₹45,000 salary, whose salary was later reduced to ₹35,000 without surety's consent, and who was found manipulating funds either since appointment or after the salary reduction. [ACT]

Answer:

As per **Section 133 of the Indian Contract Act, 1872**, if manipulation existed since appointment, the surety (Janak) is liable for company's loss during entire 3 years; but if manipulation began after the salary reduction (a variance without surety's consent), the surety is discharged for subsequent losses.

Question 7:

Liability of a surety (C) where A contracts with B to build a house for a fixed price using materials supplied by B, and C guarantees A's performance, but B fails to supply the materials. [ACT]

Answer:

As per **Section 134 of the Indian Contract Act, 1872**, since B's omission (not supplying materials) discharges A (principal debtor), the surety (C) is also discharged from liability.

Question 8:

Liability of surety (Mr. Pramod) where Mr. Sanjeev supplies timber on credit to Mr. Amit (principal debtor) guaranteed by Pramod, but later Amit assigns his property to creditors (including Sanjeev) in exchange for release from debts, and Sanjeev sues the surety for payment. [ACT]

Answer:

As per **Section 134 of the Indian Contract Act, 1872**, since Amit (principal debtor) was released from liability by creditors' arrangement, the surety (Pramod) is also discharged, and therefore Sanjeev cannot recover payment from Pramod.

Question 9:

Whether surety (A) is discharged when C (creditor) holding an overdue bill of exchange drawn by A as surety for B (principal debtor) and accepted by B, contracts with X (a third person) to give time to B. [ACT]

Answer:

As per **Section 136 of the Indian Contract Act, 1872**, since the agreement to give time was with X (a third person) and not with B (principal debtor), the surety (A) is not discharged.

RIGHTS OF A SURETY (June 24 - 6 Marks) (RTP May 25) [RTP Sep 25]

1. Rights against the Principal Debtor

(a) Right of Subrogation [Sec 140]

- After paying the guaranteed debt, surety steps into the creditor's shoes.
- Can enforce creditor's rights against principal debtor.

(b) Implied Promise to Indemnify [Sec 145]

- Principal debtor must **indemnify surety** for amounts rightly paid.
- Surety can recover **principal + reasonable costs**, but not wrongful payments.
- **Example: Wrongful Payment (Indemnity Not Allowed)**

Facts:

A's loan installment is **not yet due**.

Without any demand from the bank, B (surety) voluntarily pays the amount.

Legal Position:

✗ No default by A

✗ No legal obligation on B at that time

Result:

B cannot recover the amount from A

(because payment was **wrongful / premature**).

2. Rights against the Creditor

(a) Benefit of Creditor's Securities [Sec 141]

- Surety benefits from **all existing securities** of creditor.
- If creditor **loses or parts with security without consent**, surety discharged to extent of loss. **Q10**

(b) Right to Set-off

- Surety can use **principal debtor's claims against creditor** to reduce liability.

(c) Right to Share Reduction

- If principal debtor **partially insolvent**, surety's liability reduces proportionately.

3. Rights against Co-Sureties

(a) Equal Contribution [Sec 146]

- Co-sureties contribute equally unless **otherwise agreed**.

(b) Co-Sureties Bound in Different Sums [Sec 147]

- Liability shared **up to the maximum limit** fixed in each surety's bond.
- Contribution proportional if sums differ; full bond payable if default exceeds total sum.

Question 10:

Liability of surety (A) where C advances ₹2,00,000 to B on A's guarantee, also takes mortgage of B's furniture worth ₹2,00,000 (without A's knowledge), later cancels the mortgage, B becomes insolvent, and C sues A; market value of furniture is ₹80,000. [ACT]

Answer:

As per Section 141 of the Indian Contract Act, 1872, since the creditor (C) lost the security without A's consent, the surety (A) is discharged to the extent of ₹80,000 (value of furniture), and remains liable for balance ₹1,20,000.

Question 11:

Liability of surety (S) where R sells a water purifier worth ₹54,000 on 9 instalments to P (with S as guarantor), P pays 4 instalments (₹24,000) and becomes insolvent; further, in an alternate case, R misrepresents purifier as having copper filter (while it had normal filter), unknown to both P and S. (June 24 - 7 Marks) (RTP Jan 25) [MTP I Jan 25 – 7 Marks]

Answer:

As per Sections 126 & 128 of the Indian Contract Act, 1872, the surety's liability is co-extensive with the principal debtor's, so S must pay balance ₹30,000 (₹54,000 – ₹24,000) to R. However, in the misrepresentation case, under Sections 142 & 143, the guarantee is invalid, hence S is not liable.

CHAPTER 2 - THE INDIAN CONTRACT ACT, 1872

Unit 8: Bailment and Pledge

WHAT IS BAILMENT? - SEC 148

Question 1:

Whether there was a **bailment for hire** when X leased a Honda City to Y for 10 days @ ₹50,000 (petrol/toll by Y), during which the engine choked (₹10,000 repair by Y), brakes failed causing an accident (₹50,000 hospital bill), and Y claimed ₹60,000 damages which X denied on ground of ignorance of defects; further, whether Y can withhold ₹50,000 hire charges. [May 25 - 7 Marks]

Answer:

As per **Section 150, Indian Contract Act, 1872**, in **bailment for hire**, the **bailor is liable for defects whether known or unknown**; hence **X is liable to compensate Y ₹60,000 (₹10,000 repair + ₹50,000 hospital)**, and **Y can withhold/set-off the ₹50,000 hire charges against damages**.

DUTIES OF BAILOR

1. Duty to Disclose Faults [Sec. 150]

- **Gratuitous Bailment** → Disclose known defects; liable if not disclosed.
- **Non-Gratuitous Bailment** → Liable for defects whether known or unknown.
- If goods are dangerous → must disclose nature.

2. Duty to Pay Expenses [Sec. 158]

- **Gratuitous** → Bailor to pay necessary + extraordinary expenses.
Example: X delivers his horse to Y, his friend, to take care of it without any charge.
Y incurs **necessary expenses** like feeding, grooming, and providing shelter.
Later, the horse falls sick and Y spends money on **medical treatment (extraordinary expenses)**.
X (Bailor) must reimburse Y for both ordinary and extraordinary expenses.
- **Non-Gratuitous** → Bailor to pay extraordinary expenses only.
Example: A hires a taxi from B to travel from Delhi to Jaipur.
Petrol, toll tax, and driver's food = **ordinary expenses** → to be borne by A (Bailee).
Midway, a major engine breakdown occurs and repair costs ₹10,000 = **extraordinary expenses**.
Here, B (Bailor) must bear the extraordinary repair charges.

3. Duty to Indemnify for Premature Termination [Sec. 159]

- If bailment is gratuitous and ended before time/purpose → Bailor must compensate bailee for loss beyond benefit received.
- **Example:** P lends his car **gratuitously** to Q for one month. Q spends ₹5,000 on fuel, servicing, and arrangements for a planned trip.
After 10 days, P asks for the car back (premature termination).
Q derived benefit worth only ₹2,000 from use of the car.
P (Bailor) must **indemnify Q for the loss exceeding benefit**, i.e., ₹5,000 – ₹2,000 = **₹3,000**.

DUTIES OF BAILEE

Question 2:

Whether Arun (bailee) is liable when gold ornaments delivered by Ramesh for polishing were kept in the shop locker and the premises were locked, yet stolen during a night theft. [RTP Jan 26]

Answer:

Since Arun took the same care as an ordinary prudent owner would take of his own goods (Section 151) and a bailee is not responsible for loss when such care is taken and there is no negligence (Section 152), Arun is not liable to compensate Ramesh.

Question 3:

Whether liability for accident caused death of third-party during repair lies on Mr. Sukesh (vehicle owner) or the workshop owner (bailee), when the vehicle was allowed to be driven by a person without a driving licence. [ACT]

Answer:

Since a bailee must take the same care of the bailed goods as an ordinary prudent owner would take of his own goods, permitting an unlicensed person to drive amounts to lack of due care, making the workshop owner liable to compensate both Mr. Sukesh and the legal representatives of the deceased. [Section 151]

Question 4:

Whether there is a bailee's liability when Mr. A bailed 1,000 bottles of energy drinks (marked with five star) to Mr. B, who without consent mixed them with his own differently marked bottles, and on demand of 500 bottles Mr. B refused immediate return, asking Mr. A to pay labour charges for separation. [ACT]

Answer:

As per Section 156, Indian Contract Act, 1872, if a bailee mixes bailor's goods without consent but they can be separated, the bailee must bear expenses of separation and damages; hence Mr. B must return 500 bottles (and all 1,000 later) at his own cost, and cannot demand labour charges from Mr. A.

Question 5:

Whether Manoj (bailee) is liable when Raj bailed his umbrella for 2 days during exams, but Manoj kept it for a week and while returning slipped, causing the umbrella to be badly damaged. [MTP Jan 26 I - 3 Marks]

Answer:

As per Sections 160 & 161, Indian Contract Act, 1872, the bailee must return goods on time, and if delayed, he is liable for any loss/damage after expiry of bailment period, even if due to accident; hence Manoj must bear the loss.

Question 6:

Whether a pawnee's duty includes returning increase/profits when Mr. Flemming pledged his poultry farm to Mr. Stefen for ₹25 lakhs (with 1,00,000 live birds + 10,000 eggs), and after 1 year the stock became 1,09,000 birds + 15,000 eggs, but Mr. Stefen agreed to return only the original 1,00,000 birds and 10,000 eggs. [RTP Sep 24]

Answer:

As per Section 163, Indian Contract Act, 1872, in the absence of any contract to the contrary, the pawnee must deliver to the pawnor any increase/profit from pledged goods; hence Mr. Stefen must return all 1,09,000 live birds and 15,000 eggs, and Mr. Flemming is entitled to recover the additional 9,000 birds and 5,000 eggs.

RIGHTS OF A BAILOR

Question 7:

Whether M/s Kushwah Travels (bailor) can demand premature return of a car hired to Rahul for 15 days, when after 5 days they asked for the car back (offering compensation for loss), but Rahul refused and bailor sued for recovery. [RTP Sep 25]

Answer:

As per **Section 159, Indian Contract Act, 1872**, the right to **premature recovery exists only in gratuitous bailment**; in **bailment for hire**, the bailor **cannot recover goods before the agreed time**, even if willing to compensate. Hence, **M/s Kushwah Travels cannot recover the car before 15 days**.

RIGHTS OF BAILOR AND BAILEE AGAINST ANY WRONG DOER (THIRD PARTY) [Sep 24 - 6 Marks] [MTP Jan 26 II - 3 Marks]

1. Right to Sue (Sec. 180)

- If a third person wrongfully deprives bailee of goods or causes injury →
 - Bailee can sue as if he were the owner.
 - Bailor or bailee may bring suit against third party.

2. Apportionment of Relief (Sec. 181)

- Compensation/relief obtained → shared between bailor & bailee **as per their respective interests** in goods.

Termination of Bailment [MTP II May 25, 6 Marks]

1. Expiry of Period – Bailment ends when stipulated time lapses.

2. Fulfillment of Purpose – Ends when specific purpose is accomplished.

3. By Notice

- If bailee acts inconsistently → Bailor may terminate by notice.
- **Gratuitous bailment** → Bailor may terminate anytime with notice, but must compensate bailee if loss > benefit derived (**Sec. 159**).

4. By Death – Gratuitous bailment ends on death of bailor or bailee.

5. Destruction of Subject Matter – Bailment ends if goods are destroyed or become unusable for intended purpose.

Finder of Lost Goods (Sec. 168–169, ICA 1872) [MTP Jan 26 II - 3 Marks]

Definition – A person who finds goods belonging to another. Duty → take care, find true owner, return goods.

Rights of Finder

1. Right to Retain Goods (Sec. 168) – Until compensated for trouble/expenses in preserving goods.

2. Right to Reward (Sec. 168) – May sue for specific reward (if announced) & retain goods until paid.

3. Right to Sell Goods (Sec. 169) – Finder may sell if:

- Owner cannot be found with reasonable diligence, **OR** refuses to pay lawful charges, **AND**
- (i) Goods are perishable/likely to lose major value, **OR**
- (ii) Finder's lawful charges $\geq 2/3$ of value of goods.

Question 8:

Whether **Raghav, who found a gold & diamond studded wristwatch worth ₹1,00,000 and incurred ₹20,000 expenses in searching the true owner (Madhav), later gifted it to his son Mahesh, warned Madhav of suing for expenses, retained possession, and threatened to sell the watch, can lawfully do so under the Indian Contract Act, 1872. [Sep 24 - 4 Marks]**

Answer:

As per **Sections 71, 168 & 169**, a finder is treated as a **bailee—he cannot gift/appropriate (unlawful), cannot sue for expenses (unlawful), but may retain goods till reimbursed (valid)**; however, he **cannot sell** since the watch is not perishable and expenses of ₹20,000 are **far below two-thirds of its value ₹1,00,000**.

RIGHT OF LIEN (Sec. 170–171, ICA 1872)

Question 9:

Whether a bank can retain **gold pledged** for a ₹50,000 secured loan (taken on **1.07.2019**) under an agreement **which contains a clause that the bank shall have a right of particular lien**, after granting an additional **unsecured ₹20,000** loan on **1.08.2019**, when the **secured ₹50,000** was **fully repaid on 30.09.2019**, by continuing lien on the gold until the unsecured loan is cleared. [ACT]

Answer:

Under **Section 171, Indian Contract Act, 1872**, bankers have **general lien “in the absence of any contract to the contrary”**; here the contract expressly gave only a **particular lien** for the ₹50,000 loan, so once that loan was repaid, the lien **extinguished**—the bank **cannot retain the gold** for the ₹20,000 unsecured loan; the bank’s decision is **invalid**.

General Lien V Particular Lien

Basis	General Lien	Particular Lien
Section	Sec. 171, Indian Contract Act, 1872	Sec. 170, Indian Contract Act, 1872
Meaning	Right to retain goods for general balance of account	Right to retain specific goods for non-payment
Nature	Not automatic – requires agreement/recognition	Automatic
Labour/Skill	Can be exercised without labour/skill	Applicable only when labour/skill increases value of goods
Persons entitled	Bankers, factors, wharfingers, policy brokers, attorneys (as per Sec. 171)	Bailee, finder of goods, pledgee, unpaid seller, agent, partner, etc.

PLEDGE

Rights of Pawnee / Pledgee (Sections 173–176)

Rights & Duties

Rights of Pawnor

1. **All rights of bailor** (since pledge = bailment).
2. **Right of redemption [Sec. 177]** → Pawnor can redeem goods **anytime before actual sale** by pawnee (must pay debt + expenses from default).

Duties of Pawnee [Sep 24 - 6 Marks] [MTP Jan 26 II - 3 Marks]

- a. Take reasonable care of goods.
- b. No unauthorized use.
- c. Return goods after repayment/performance.
- d. Not to mix goods with own.
- e. Not to act inconsistently with pledge terms.
- f. Return any **accretions** (e.g., increase/offspring).

Duties of Pawnor

- a. Pay debt / perform promise.
- b. Compensate pawnee for extraordinary preservation expenses.
- c. Disclose faults in goods (to avoid extraordinary risk).
- d. Indemnify pawnee if title is defective.
- e. Pay deficit if pawnee sells goods on default.

PLEDGE BY NON-OWNERS [MTP Jan 26 II - 4 Marks]

General Rule

Only **owner/authorized person** can pledge goods.
Exceptions allowed for **bonafide mercantile transactions**.

Exceptions (Valid Pledge by Non-Owners)

1. **Pledge by Mercantile Agent [Sec. 178] [May 25 – 6 Marks] [Sep 25 - 2 Marks - True/False]**
 - Must have possession of goods or document of title with **owner's consent**.
 - Pledge in **ordinary course of business**.
 - Pawnee → good faith + no notice of defect.
2. **Pledge by Person in Possession under Voidable Contract [Sec. 178A] [May 25 – 6 Marks]**
 - Possession obtained by fraud, coercion, misrepresentation, undue influence.
 - Contract not rescinded when pledge made.
 - Pawnee → good faith + no notice.
3. **Pledge by Person with Limited Interest [Sec. 179]**
 - Pledge valid **only up to extent of interest**.
 - Eg. Finder/repairer/lien-holder can pledge for repair charges.
4. **Pledge by Co-owner in Possession**
 - One co-owner in possession (with consent of others) may validly pledge.
5. **Pledge by Seller or Buyer in Possession**
 - **Seller:** After sale but retains possession → can pledge.
 - **Buyer:** Before sale but with consent obtains possession → can pledge.
 - Pawnee must act in **good faith + without notice** of defect.

Question 10:

Whether **B** can validly sub-pledge goods for ₹8,000 when **A** had originally pledged them to **B** for ₹5,000, and whether **A** can recover the goods by paying ₹5,000 to **C**. [ACT]

Answer:

As per **Section 179 of the Indian Contract Act, 1872**, a pledge by a person having **limited interest is valid only to that extent**; hence the sub-pledge is valid only up to ₹5,000, **C** gets a valid title to that extent, and **A** can recover the goods by paying ₹5,000 only.

Basis	Bailment	Pledge
Meaning	Transfer of goods for a specific purpose.	Transfer of goods as security for debt/promise.
Parties	Bailor (delivers), Bailee (receives).	Pawnor (delivers as security), Pawnee (receives as security).
Purpose	Any purpose – safe custody, repairs, processing, etc.	Only for securing payment of debt/performance of promise.
Consideration	May be with or without consideration.	Always for consideration.
Right to Sell Goods	Bailee → No right to sell; only lien or suit for charges.	Pawnee → Right to sell if pawnor defaults.
Right to Use Goods	Bailee can use only for agreed purpose.	Pawnee cannot use pledged goods.

CHAPTER 2 - THE INDIAN CONTRACT ACT, 1872

Unit 9: Agency

Implied Agency – Types & Essentials

1. Agency by Estoppel [Sec. 237]

- Principal induces 3rd party to believe another is his agent.
- Essentials:
 1. Representation by principal (express/implied).
 2. Representation shows agent has authority (though actually not).
 3. Inducement of 3rd party.
 4. 3rd party believes representation.
 5. Contract made on that belief.
- Effect → Principal bound, cannot deny agency.

2. Agency by Necessity

- Arises in **emergency situations**.
- Agent acquires **extraordinary authority** to protect principal's interest.
- Principal liable for expenses incurred by agent of necessity.

3. Agency by Operation of Law

- Agency arises automatically under law.
- Example: Partner = agent of firm for business purposes.

4. Agency by Ratification [Sec. 196]

- Acts done **without authority** may be ratified later by principal.
- Ratification = express or implied.
- Effect → Act becomes binding as if authorised originally.

EXTENT OF AGENT'S AUTHORITY

(a) Normal Circumstances – Sec. 188

- Agent has authority to do:
 - Every **lawful thing necessary** to perform the act.
 - Every **lawful thing usually done** in the course of that business.
- **Examples:**
 - Agent to recover debt → can use legal process & give valid discharge.
 - Shipbuilding agent → can buy timber, materials & hire workmen.

(b) Emergency – Sec. 189 - [Jan 25 – 6 Marks] [MTP Jan 26 I - 4 Marks]

- Agent has authority to act as a **person of ordinary prudence** to protect principal from loss.
- **Conditions for valid emergency authority:**
 1. No opportunity to communicate with principal.
 2. Actual & definite commercial necessity to act promptly.
 3. Acted **bonafide** for principal's benefit.
 4. Adopted most **reasonable & practicable** course.
 5. Agent had **possession of principal's goods** (subject of contract).
- **Examples:**
 - Repairing goods before sale if necessary.
 - Selling perishable goods if they start decaying before reaching destination.

Question 1:

Mr. Yadav (cargo owner) who chartered a vessel to carry wheat from a foreign port to Chennai; the vessel got stranded on a reef 300 miles from the destination; the ship's managing agents signed a salvage agreement; since wheat was perishable, the salvors stored it at their own expense and intimated the cargo owner; Mr. Yadav refused to reimburse salvors, arguing that the ship owner, being bailee, was liable until contract termination.

Answer:

As per **Section 189, Indian Contract Act 1872**, the salvors acted as agents of necessity with implied authority to protect the cargo, hence **Mr. Yadav (cargo owner) is liable** to reimburse them (they have **lien on goods**) and **not the ship owner**.

SUB-AGENTS

SUBSTITUTED AGENT

SUB-AGENTS Vs SUBSTITUTED AGENT [Jan 25- 6 Marks]

S. No	Sub-Agent	Substituted Agent
1	Works under control & directions of agent	Works under instructions of principal
2	Agent delegates part of his duty	Agent does not delegate duty
3	No privity of contract with principal	Privity exists with principal
4	Responsible to agent only	Responsible to principal , not agent
5	Agent responsible to principal for sub-agent's acts	Agent not responsible for substituted agent's acts
6	No right to sue principal for remuneration	Can sue principal for remuneration
7	May be improperly appointed	Cannot be improperly appointed
8	Agent remains liable for acts of sub-agent	Agent's duty ends after naming substituted agent

TERMINATION OF AGENCY [RTP Jan 26]

Ends when: **[Sec. 201]**

- Principal revokes authority.
- Agent renounces agency.
- Business is completed.
- Principal/Agent dies or becomes of **unsound mind**.
- Principal is **insolvent**.

By Revocation

- Principal may revoke authority **[Sec. 201]**.
- If agent has **interest in property** → cannot be terminated without express contract **[Sec. 202]**.
- Revocation possible **before authority exercised** **[Sec. 203]**.
- After authority partly exercised → cannot revoke for obligations already done **[Sec. 204]**.
- **Fixed period agency** → premature revocation without sufficient cause = compensation **[Sec. 205]**.
- **Not fixed period** → reasonable notice, else compensation **[Sec. 206]**.
- Revocation may be **express/implied** **[Sec. 207]**.
- Termination takes effect **when known** to agent/third party **[Sec. 208]**.
- Termination of agent → also terminates **sub-agent's authority** **[Sec. 210]**. **[Sep 25 - 2 Marks - True or False]**

By Agent Renouncing Business [Sec. 201]

- Agent may renounce by **express/implied** conduct **[Sec. 201]**.
- **Fixed period agency** → premature renunciation without sufficient cause = compensation to principal **[Sec. 205]**.
- **Not fixed period** → reasonable notice, else compensation **[Sec. 206]**.

Question 2:

Whether **agency shall be terminated** in two cases: **(i) A gives authority to B to sell A's land and pay himself debts due from A; afterwards A becomes insane. (ii) A appoints B as agent to sell land; B appoints C as his agent; afterwards A revokes B's authority but not of C. (MTP 1 June 24 - 6 Marks)**

Answer:

Under **Section 202**, since **B has interest in the subject matter**, the **agency is irrevocable** and not terminated by **A's insanity**; under **Sections 191 & 210**, since **C is a sub-agent of B**, **revocation of B's authority by A terminates C's authority** also.

Question 3:

Whether **Mr. PG can lawfully revoke the authority** given to **Mr. VG** to sell **20,000 unlisted shares @ ₹500 each** and appropriate **₹40 lakhs with interest**, after VG had advanced the loan and acquired an interest in the sale proceeds.
[Sep 25 - 3 Marks]

Answer:

Under **Section 202 of the Indian Contract Act, 1872 (agency coupled with interest)**, an agency where the agent has a **personal financial interest** in the subject matter is **irrevocable to that extent**; hence **Mr. PG's revocation is not lawful**, as it prejudices VG's right to recover ₹40 lakhs.

Question 4:

ABC Infrastructure Ltd., through its **Purchase Manager (P)**, authorised **Agent (Q)** to buy **Mazboot Brand Cement** only at **₹2,000–2,500 per ton**. Q instead purchased **1,000 tons @ ₹3,500 per ton** from **Vendor R** without disclosing that he was acting for the company. **P refused payment**, rejecting goods for **exceeding authority**, and **R suffered loss**. [May 25 – 7 Marks]

Answer:

As per **Sec. 226 & 228**, **Principal (P)** is **not bound** since **Q exceeded inseparable authority** (purchase beyond limit). As per **Sec. 230 Exception**, since **Q did not disclose Principal's name**, **Q is personally liable**. Hence, **R can sue Q** for compensation.

PERSONAL LIABILITY OF AGENT TO THIRD PARTIES [Sep 24, 4 Marks] [MTP II Jan 25 - 4 Marks]

General Rule (Sec. 230)

- Agent **cannot personally enforce** contracts made on behalf of principal.
- Agent is **not personally bound**, cannot sue or be sued.

Exceptions – Agent Personally Liable

1. **Foreign Principal** – Contract for sale/purchase of goods for a merchant resident abroad.
2. **Undisclosed Principal** – Agent does not disclose the principal's name.
3. **Non-existent/Incompetent Principal** – Principal cannot be sued (e.g., minor, unsound mind).
 - Example: Agent contracts for a minor → agent personally liable.
4. **Pretended Agent (Sec. 235)** – Claims to act as agent but has no authority, and principal disowns the act.
5. **Exceeding Authority** – Agent misleads 3rd party into believing he has authority → personally liable (breach of warranty of authority).