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CA Foundation May 2025




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**KEYWORDS KA KYA**  
**CHAKKAR HAI?**  
**MAAN SE CHALEGA!**

KEYWORDS KA JHANJHAT  
KHATAM ISKE BAAD



NADAN PARINDO



**1<sup>ST</sup> YA 2<sup>ND</sup> ATTEMPT**  
**MAI KAISE NIKALEGA**  
**APKA CA FOUNDATION**

3RD ATTEMPT HAI TOH KAISE  
MUMKIN HAI?



**Chapter: 2 - Indian Contract Act, 1872**

**Unit: 9 - Agency**

**(Covers All RTP, MTP, PYQ, ICAI SM, MDTP till Jan 2025)**

14 - Both a sub-agent and a substituted agent are appointed by the agent, however, there are some points of distinction between the two. Elaborate any 6 points. 6)b)6m,Jan2025

OR

Both a sub-agent and a substituted agent are appointed by the agent. But, however, there are some points of distinction between the two. Explain any three points under the Indian Contract Act, 1872. 5)c)a)3m,MDTP2

Ans -

S.No.	Sub Agent	Substituted Agent
1.	A sub-agent does his work under the control and directions of agent.	A substituted agent works under the instructions of the principal.
2.	The agent not only appoints a sub-agent but also delegates to him a part of his own duties.	The agent does not delegate any part of his task to a substituted agent.
3.	There is no privity of contract between the principal and the sub-agent.	Privity of contract is established between a principal and a substituted agent.
4.	The sub-agent is responsible to the agent alone and is not generally responsible to the principal.	A substituted agent is responsible to the principal and not to the original agent who appointed him
5.	The agent is responsible to the principal for the acts of the sub-agent.	The agent is not responsible to the principal for the acts of the substituted agent.
6.	The sub-agent has no right of action against the principal for remuneration due to him.	The substituted agent can sue the principal for remuneration due to him.
7.	Sub-agents may be improperly appointed.	Substituted agents can never be improperly appointed.
8.	The agent remains liable for the acts of the sub-agent as long as the sub-agency continues.	The agent's duty ends once he has named the substituted agent.

**13 - What are the conditions to be satisfied for an "Agent's authority in an emergency" under the provisions of The Indian Contract Act, 1872?** 6)b)6m,Jan2025

**Ans - Agent's authority in an emergency [Section 189 of the Indian Contract Act, 1872]:**

An agent has authority, in an emergency, to do all such acts for the purpose of protecting his principal from loss as would be done by a person of ordinary prudence, in his own case, under similar circumstances.

To constitute a valid agency in an emergency, following conditions must be satisfied:

- (i) Agent should not be in a position or have any opportunity to communicate with his principal within the time available.
- (ii) There should have been actual and definite commercial necessity for the agent to act promptly.
- (iii) the agent should have acted bonafide and for the benefit of the principal.
- (iv) the agent should have adopted the most reasonable and practicable course under the circumstances, and
- (v) the agent must have been in possession of the goods belonging to his principal and which are the subject of contract.

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**12 - Answer the following as per the provisions of the Indian Contract Act, 1872:**

**i) 'Agent cannot personally enforce, nor be personally bound by, contracts on behalf of the principal' however there are some exceptions to this general rule, explain.**

6)b)i)4m,MDTP10, 6)b)i)4m,MTP2,Jan2025, 6)b)i)4m,Sept2024

**Ans - Agent cannot personally enforce, nor be bound by, contracts on behalf of principal.**

**EXCEPTIONS:** In the following exceptional cases, the agent is presumed to have agreed to be personally bound:

**(1) Where the contract is made by an agent for the sale or purchase of goods for a merchant resident abroad/foreign principal:** - When an agent has entered into a contract for the sale or purchase of goods on behalf of a principal resident abroad, the presumption is that the agent undertakes to be personally liable for the performances of such contract.

**(2) Where the agent does not disclose the name of his principal or undisclosed principal; (Principal unnamed):** when the agent does not disclose the name of the principal then there arises a presumption that he himself undertakes to be personally liable.

**(3) Non-existent or incompetent principal:** Where the principal, though disclosed, cannot be sued, the agent is presumed to be personally liable.

**(4) Pretended agent** - if the agent pretends but is not an actual agent, and the principal does not rectify the act but disowns it, the pretended agent will be himself liable.

**(5) When agent exceeds authority-** When the agent exceeds his authority, misleads the third person in believing that the agent he has the requisite authority in doing the act, then the agent can be made liable personally for the breach of warranty of authority.

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**11 - Who is considered as an agent under the Indian Contract Act, 1872, and what are the duties and obligations associated with this role? 3)c)6m,MDTP5, RTP,Sept2024**

**Ans** - The Indian Contract Act, 1872 does not define the word 'Agency'. However, section 182 of the Indian Contract Act, 1872 defines Agent and Principal as:

Agent means a person employed to do any act for another or to represent another in dealing with the third persons and

The principal means a person for whom such act is done or who is so represented.

#### **Duties and obligations of an Agent**

**i) Duty to follow instructions or customs:** According to Section 211, an agent is bound to conduct the business of his principal according to the direction given by the principal, or, in the absence of any such directions, according to the customs which prevails in doing business of the same kind at the place where the agent conducts such business. When the agent acts otherwise and any loss is sustained by the Principal, he must indemnify him, and, if any profit accrues, he must account for it.

**ii) Duty of reasonable care and skill:** According to section 212, an agent is bound to conduct the business of the principal with as much skill as is generally possessed by persons engaged in similar business, unless the principal has notice of his want of skill.

The agent is always bound to act with reasonable diligence, and to use such skill as he possesses; and to make compensation to his principal in respect of the direct consequences of his own neglect, want of skill or misconduct, but not in respect of loss of damage which are indirectly or remotely caused by such neglect, want of skill or misconduct.

**iii) Duty to render proper accounts [Section 213]:** An agent is bound to render proper accounts to his principal on demand. Rendering accounts does not mean showing the accounts but the accounts supported by vouchers. (Anandprasad vs. Dwarkanath)

- iv) Agent's duty to communicate with principal [Section 214]:** It is the duty of an agent, in cases of difficulty, to use all reasonable diligence in communicating with his principal, and in seeking to obtain his instructions.
- v) Duty not to deal on his own account:** Agent should not deal on his own account without first obtaining the consent of the principal, otherwise the principal may—
- (a) repudiate the transaction, (Section 215)
  - (b) claim from the agent any benefit which may have resulted to him from the transaction. (Section 216)
- vi) Duty not to make secret profits:** It is the duty of an agent not to make any secret profit in the business of agency. His relationship with the principal is of fiduciary nature and this requires absolute good faith in the conduct of agency.
- Secret Profit means** any advantage obtained by the agent over and above his agreed remuneration and which he would not have been able to make but for his position as agent.
- vii) Duty not to delegate:** According to section 190, an agent cannot lawfully employ to perform acts which he has expressly or impliedly undertaken to perform personally, unless by the ordinary custom of trade a sub-agent may, or, from the nature of agency, a sub-agent, must be employed.
- viii) Agent's duty to pay sums received for principal [Section 218]:** Subject to such deductions, the agent is bound to pay to his principal all sums received on his account.
- ix) Duty not to use any confidential information received in the course of agency against the principal.**

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**10 - Rahul, a transporter was entrusted with the duty of transporting tomatoes from a rural farm to a city by Aswin. Due to heavy rains, Rahul was stranded for more than two days. Rahul sold the tomatoes below the market rate in the nearby market where he was stranded fearing that the tomatoes may perish. Can Aswin recover the loss from Rahul on the ground that Rahul had acted beyond his authority?**

**1)a)ii)3m,MDTP6, 4)a)ii)3m,MDTP1, 1)a)ii)3m,MTP2,Sept2024, 4)b)ii)3m,MTP1,June2024, ICAI Module**

**Ans - Agent's authority in an emergency (Section 189 of the Indian Contract Act, 1872):** An agent has authority, in an emergency, to do all such acts for the purpose of protecting his principal from loss as would be done by a person of ordinary prudence, in his own case, under similar circumstances.

In the instant case, Rahul, the agent, was handling perishable goods like 'tomatoes' and can decide the time, date and place of sale, not necessarily as per instructions of the Aswin, the principal, with the intention of protecting Aswin from losses.

Here, Rahul acts in an emergency as a man of ordinary prudence, so Aswin will not succeed against him for recovering the loss.

**09 - Rama directs Shyam to sell laptops for him and agrees to give Shyam eleven percent (11%) commission on the sale price fixed by Rama for each laptop. As Government of India put restrictions on import of Laptops, Rama thought that the prices of laptops might go up in near future and he revokes Shyam's authority for any further sale. Shyam, before receiving the letter at his end sold 5 laptops at the price fixed by Rama. Shyam asked for 11% commission on the sale of 5 Laptops for ` 1 lakh each. Explain under the provisions of the Indian Contract Act, 1872:**

**(1) Whether sale of laptops after revoking Shyam's authority is binding on Rama?**

**(2) Whether Shyam will be able to recover his commission from Rama, if yes, what will be the amount of such commission?**

**4)a)ii)3m, MDTP8,9, 4)a)ii)MTP1, Jan2025, RTP, Jan2025, 4)a)ii)3m, June2024**

Ans - When termination of agent's authority takes effect as to agent, and as to third persons [Section 208 of the Indian Contract Act, 1872]: The termination of the authority of an agent does not, so far as regards the agent, take effect before it becomes known to him, or, so far as regards third persons, before it becomes known to them.

In the instant case,

(1) The revocation of Shyam's authority becomes effective only when it is communicated to and received by Shyam. Since Shyam had not received the revocation letter at the time of selling the laptops, his authority to sell on behalf of Rama was still valid. Hence, the sale of laptops conducted by Shyam is binding on Rama.

(2) Shyam is entitled to receive his commission for the sales made while he still had the authority to sell. Since he sold the laptops before receiving the revocation, he is entitled to his commission as per the initial agreement with Rama.

Amount of Commission: Shyam sold 5 laptops at the price fixed by Rama, which is ` 1 lakh each. The total sales amount to ` 5 lakh. The agreed commission rate is 11% i.e. ` 55,000.

**08 - Explain whether the agency shall be terminated in the following cases under the provisions of the Indian Contract Act, 1872:**

(i) A gives authority to B to sell A's land, and to pay himself, out of the proceeds, the debts due to him from A. Afterwards, A becomes insane.

(ii) A appoints B as A's agent to sell A's land. B, under the authority of A, appoints C as agent of B. Afterwards, A revokes the authority of B but not of C. What is the status of agency of C? **5)c)6m,MDTP3, 5)c)6m,MTP2,June2024**

**Ans - i)** According to section 202 of the Indian Contract Act, 1872, where the agent has himself an interest in the property which forms the subject matter of the agency, the agency cannot, in the absence of an express contract, be terminated to the prejudice of such interest.

In other words, when the agent is personally interested in the subject matter of agency, the agency becomes irrevocable.

In the given question, A gives authority to B to sell A's land, and to pay himself, out of the proceeds, the debts due to him from A.

As per the facts of the question and provision of law, A cannot revoke this authority, nor it can be terminated by his insanity.

**ii)** According to section 191 of the Indian Contract Act, 1872, a "Sub agent" is a person employed by, and acting under the control of, the original agent in the business of the agency.

Section 210 provides that, the termination of the authority of an agent causes the termination (subject to the rules regarding the termination of an agent's authority) of the authority of all sub-agents appointed by him.

In the given question, B is the agent of A, and C is the agent of B. Hence, C becomes a sub-agent.

Thus, when A revokes the authority of B (agent), it results in termination of authority of sub-agent appointed by B i.e. C (sub-agent).

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**07 - A appoints M, a minor, as his agent to sell his watch for cash at a price not less than ` 700. M sells it to D for ` 350. Is the sale valid? Explain the legal position of M and D, referring to the provisions of the Indian Contract Act, 1872. **ICAI Module****

**Ans -** According to the provisions of Section 184 of the Indian Contract Act, 1872, as between the principal and a third person, any person, even a minor may become an agent. But no person who is not of the age of majority and of sound mind can become an agent, so as to be responsible

to his principal. Thus, if a person who is not competent to contract is appointed as an agent, the principal is liable to the third party for the acts of the agent. Thus, in the given case, D gets a good title to the watch. M is not liable to A for his negligence in the performance of his duties.

**06 - State with reason whether the following statement is correct or incorrect:**

**Ratification of agency is valid even if knowledge of the principal is materially defective.**

**ICAI Module**

**Ans - Incorrect:** Section 198 of the Indian Contract Act, 1872 provides that for a valid ratification, the person who ratifies the already performed act must be without defect and have clear knowledge of the facts of the case. If the principal's knowledge is materially defective, the ratification is not valid and hence no agency.

**05 - Mr. Ahuja of Delhi engaged Mr. Singh as his agent to buy a house in West Extension area. Mr. Singh bought a house for ` 20 lakhs in the name of a nominee and then purchased it himself for ` 24 lakhs. He then sold the same house to Mr. Ahuja for ` 26 lakhs. Mr. Ahuja later comes to know the mischief of Mr. Singh and tries to recover the excess amount paid to Mr. Singh. Is he entitled to recover any amount from Mr. Singh? If so, how much? Explain.**

**ICAI Module**

**Ans -** The problem in this case, is based on the provisions of the Indian Contract Act, 1872 as contained in Section 215 read with Section 216. The two sections provide that where an agent without the knowledge of the principal, deals in the business of agency on his own account, the principal may:

- (1) repudiate the transaction, if the case shows, either that the agent has dishonestly concealed any material fact from him, or that the dealings of the agent have been disadvantageous to him.
- (2) claim from the agent any benefit, which may have resulted to him from the transaction.

Therefore, based on the above provisions, Mr. Ahuja is entitled to recover ` 6 lakhs from Mr. Singh being the amount of profit earned by Mr. Singh out of the transaction.

**04 - Comment on the statement 'Principal is not always bound by the acts of a sub-agent'.**

**ICAI Module**

**Ans -** The statement is correct. Normally, a sub-agent is not appointed, since it is a delegation of power by an agent given to him by his principal. The governing principle is, a delegate cannot delegate'. (Latin version of this principle is, "delegates non potest delegare"). However, there are certain circumstances where an agent can appoint sub-agent.

In case of proper appointment of a sub-agent, by virtue of Section 192 of the Indian Contract Act, 1872 the principal is bound by and is held responsible for the acts of the sub-agent. Their relationship is treated to be as if the sub-agent is appointed by the principal himself.

However, if a sub-agent is not properly appointed, the principal shall not be bound by the acts of the sub-agent. Under the circumstances the agent appointing the sub agent shall be bound by these acts and he (the agent) shall be bound to the principal for the acts of the sub-agent.

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**Q3 - ABC Ltd. sells its products through some agents and it is not the custom in their business to sell the products on credit. Mr. Pintu, one of the agents sold goods of ABC Ltd. to M/s. Parul Pvt. Ltd. (on credit) which was insolvent at the time of such sale. ABC Ltd. sued Mr. Pintu for compensation towards the loss caused due to sale of products to M/s. Parul Pvt. Ltd. Will ABC Ltd. succeed in its claim? ICAI Module**

**Ans - To conduct the business of agency according to the principal's directions (Section 211 of the Indian Contract Act, 1872):** An agent is bound to conduct the business of his principal according to the direction given by the principal, or, in the absence of any such directions, according to the custom which prevails in doing business of the same kind at the place where the agent conducts such business. When the agent acts otherwise, if any loss be sustained, he must make it good to his principal, and, if any profit accrues, he must account for it.

In the present case, Mr. Pintu, one of the agents, sold goods of ABC Ltd. to M/s Parul Pvt. Ltd. (on credit) which was insolvent at the time of such sale. Also, it is not the custom in ABC Ltd. to sell the products on credit.

Hence, Mr. Pintu must make good the loss to ABC Ltd.

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**Q2 - R is the wife of P. She purchased sarees on credit from Nalli. Nalli demanded the amount from P. P refused. Nalli filed a suit against P for the said amount. Decide in the light of provisions of the Indian Contract Act, 1872, whether Nalli would succeed.**

**ICAI Module**

**Ans -** The position of husband and wife is special and significant case of implied authority. According to the Indian Contract Act 1872, where the husband and wife are living together in a domestic establishment of their own, the wife shall have an implied authority to pledge the credit of her husband for necessaries. However, the implied authority can be challenged by the husband only in the following circumstances.

(1) The husband has expressly forbidden the wife from borrowing money or buying goods on credit.

(2) The articles purchased did not constitute necessities.

(3) Husband had given sufficient funds to the wife for purchasing the articles she needed to the knowledge of the seller.

(4) The creditor had been expressly told not to give credit to the wife.

Further, where the wife lives apart from husband without any of her fault, she shall have an implied authority to bind the husband for necessities, if he does not provide for her maintenance.

Since, none of the above criteria is being fulfilled; Nalli would be successful in recovering its money.

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**01 - Bhupendra borrowed a sum of ` 3 lacs from Atul. Bhupendra appointed Atul as his agent to sell his land and authorized him to appropriate the amount of loan out of the sale proceeds. Afterward, Bhupendra revoked the agency.**

**Decide under the provisions of the Indian Contract Act, 1872 whether the revocation of the said agency by Bhupendra is lawful.**

**ICAI Module**

**Ans -** According to Section 202 of the Indian Contract Act, 1872 an agency becomes irrevocable where the agent has himself an interest in the property which forms the subject-matter of the agency, and such an agency cannot, in the absence of an express provision in the contract, be terminated to the prejudice of such interest.


In the instant case, the rule of agency coupled with interest applies and does not come to an end even on death, insanity or the insolvency of the principal.

Thus, when Bhupendra appointed Atul as his agent to sell his land and authorized him to appropriate the amount of loan out of the sale proceeds, interest was created in favor of Atul and the said agency is not revocable. The revocation of agency by Bhupendra is not lawful.

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