



CA Nikesh Agrawal

CA Foundation May 2025

BUSINESS LAW

EXAM ORIENTED FREE

FASTRACK BATCH

Must Watch For Unsuccessful Students

LIVE 
STREAMING

FREE FOR ALL
ON YOUTUBE
EVERYDAY

Details

Time : 4:30 pm to 6:15 pm daily

Source : ICAI Module

Batch Completion : Upto 15th April



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Chapter: 2 - Indian Contract Act, 1872

Unit: 8 - Bailment & Pledge

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

11 - In accordance with the provisions of The Indian Contract Act, 1872, Answer the following :

i) Rights of Bailor against any wrong doer (Third Party)

ii) Duties of Pawnee 5)c)6m,MDTP8,10, 5)c)6m,MTP2,Jan2025, 4)a)i)4m,Sept2024

Ans - Suit by bailor & bailee against wrong doers [Section 180 of the Indian Contract Act, 1872]: If a third person wrongfully deprives the bailee of the use or possession of the goods bailed, or does them any injury, the bailee is entitled to use such remedies as the owner might have used in the like case if no bailment had been made; and either the bailor or the bailee may bring a suit against a third person for such deprivation or injury.

(ii) Duties of the Pawnee

Pawnee has the following duties:

- a. Duty to take reasonable care of the pledged goods.
- b. Duty not to make unauthorized use of pledged goods.
- c. Duty to return the goods when the debt has been repaid or the promise has been performed.
- d. Duty not to mix his own goods with goods pledged.
- e. Duty not to do any act which is inconsistent with the terms of the pledge
- f. Duty to return accretion to the goods, if any.

10 - R gives his umbrella to M during raining season to be used for two days during Examinations. M keeps the umbrella for a week. While going to R's house to return the umbrella, M accidentally slips and the umbrella is badly damaged. Who bear the loss and why under the provisions of the Indian Contract Act, 1872?

4)a)ii)3m,MDTP6, 4)a)ii)3m,MTP2,Sept2024, ICAI Module

Ans - Section 161 of the Indian Contract Act, 1872 clearly says that where a bailee fails to return the goods within the agreed time, he shall be responsible to the bailor for any loss, destruction or deterioration of the goods from that time notwithstanding the exercise of reasonable care on his part. Hence, in the instant case, M shall have to bear the loss since he failed to return the umbrella within the stipulated time.

09 - Mr. Stefen owns a chicken farm near Gurugram, where he breeds them and sells eggs and live chicken to retail shops in Gurugram. Mr. Flemming also owns a similar farm near

Gurugram, doing the same business. Mr. Flemming had to go back to his native place in Australia for one year. He needed money for travel, so he had pledged his farm to Mr. Stefen for one year and received a deposit of ` 25 lakhs and went away. At that point of time, the stock of live birds was 100,000 and eggs 10,000. The condition was that when Flemming returns, he will repay the deposit and take possession of his farm with live birds and eggs.

After one year Flemming came back and returned the deposit. At that time there were 109,000 live birds (increase is due to hatching of eggs out of 10,000 eggs he had left), and 15,000 eggs. Mr. Stefen agreed to return 100,000 live birds and 10,000 eggs only.

State the duties of Mr. Stefen as Pawnee and advise Mr. Flemming about his rights in the given case. RTP, Sept2024

Ans - According to section 163 of the Indian Contract Act, 1872, in the absence of any contract to the contrary, the bailee is bound to deliver to the bailor, or according to his directions, any increase or profit which may have accrued from the goods bailed.

In the given question, when Mr. Flemming returned from Australia there were 1,09,000 live birds and 15,000 eggs (1,00,000 birds and 10,000 eggs were originally deposited by Mr. Flemming). Mr. Stefen agreed to return 1,00,000 live birds and 10,000 eggs only and not the increased number of live birds and eggs.

In the light of the provision of law and facts of the question, following are the answers:

Duties of Mr. Stefen: Mr. Stefen (pawnee) is bound to deliver to Mr. Flemming (pawnor), any increase or profit (9,000 live birds and 5,000 eggs) which has occurred from the goods bailed (i.e. the live birds and eggs).

Right of Mr. Flemming: Mr. Flemming is entitled to recover from Pawnee any increase in goods so pledged.

08 - State the essential elements of a contract of bailment.

5)c)6m, MDTP4, 6)b)6m, MDTP2, 6)b)6m, MDTP1, 6)b)ii)6m, MTP1, June2024,
5)c)6m, MTP3, June2024, ICAI Module

Ans - Essential elements of a contract of bailment: Section 148 of the Indian Contract Act, 1872 defines the term 'Bailment'. A 'bailment' is the delivery of goods by one person to another for some purpose upon a contract that they shall, when the purpose is accomplished, be returned or otherwise disposed of according to the directions of the person delivering them. The essential elements of the contract of the bailment are:

- (i) Delivery of goods—The essence of bailment is delivery of goods by one person to another.
- (ii) Bailment is a contract—In bailment, the delivery of goods is upon a contract that when the purpose is accomplished, the goods shall be returned to the bailor.
- (iii) Return of goods in specific—The goods are delivered for some purpose and it is agreed that the specific goods shall be returned.
- (iv) Ownership of goods—In a bailment, it is only the possession of goods which is transferred, and the bailor continues to be the owner of the goods.
- (v) Property must be movable—Bailment is only for movable goods and never for immovable goods or money.

07 - Examine whether the following constitute a contract of 'Bailment' under the provisions of the Indian Contract Act, 1872:

(i) Vikas parks his car at a parking lot, locks it, and keeps the keys with himself.

(ii) Seizure of goods by customs authorities.

RTP, June 2024, ICAI Module

Ans - As per Section 148 of the Indian Contract Act, 1872, bailment is the delivery of goods by one person to another for some purpose, upon a contract, that the goods shall, when the purpose is accomplished, be returned or otherwise disposed of according to the directions of the person delivering them.

For a bailment to exist, the bailor must give possession of the bailed property and the bailee must accept it.

i) No. Mere custody of goods does not mean possession. In the given case, since the keys of the car are with Vikas, Section 148, of the Indian Contract Act, 1872 shall not be applicable.

ii) Yes, the possession of the goods is transferred to the custom authorities. Therefore, bailment exists, and section 148 is applicable.

06 - Give differences between Bailment and Pledge.

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Ans - Distinction between bailment and pledge: The following are the distinction between bailment and pledge:

(a) As to purpose: Pledge is a variety of bailment. Under pledge goods are bailed as a security for a loan or a performance of a promise. In regular bailment the goods are bailed for other purpose than the two referred above. The bailee takes them for repairs, safe custody etc.

- (b) As to right of sale: The pledgee enjoys the right to sell only on default by the pledgor to repay the debt or perform his promise, that too only after giving due notice. In bailment the bailee, generally, cannot sell the goods. He can either retain or sue for non-payment of dues.
- (c) As to right of using goods: Pledgee has no right to use goods. A bailee can, if the terms so provide, use the goods.
- (d) Consideration: In pledge there is always a consideration whereas in a bailment there may or may not be consideration.
- (e) Discharge of contract: Pledge is discharged on the payment of debt or performance of promise whereas bailment is discharged as the purpose is accomplished or after specified time.

05 - A hires a carriage from B and agrees to pay ` 500 as hire charges. The carriage is unsafe, though B is unaware of it. A is injured and claims compensation for injuries suffered by him. B refuses to pay. Discuss the liability of B. ICAI Module

Ans - Problem asked in the question is based on the provisions of the Indian Contract Act, 1872 as contained in Section 150. The section provides that if the goods are bailed for hire, the bailor is responsible for such damage, whether he was or was not aware of the existence of such faults in the goods bailed. Accordingly, applying the above provisions in the given case, B is responsible to compensate A for the injuries sustained even if he was not aware of the defect in the carriage.

04 - A bails his jewellery with B on the condition to safeguard it in a bank's safe locker. However, B kept it in safe locker at his residence, where he usually keeps his own jewellery. After a month all jewellery was lost in a religious riot. A filed a suit against B for recovery. Referring to provisions of the Indian Contract Act, 1872, state whether A will succeed. ICAI Module

Ans - According to section 152 of the Indian Contract Act, 1872, the bailee, in the absence of any special contract, is not responsible for the loss, destruction or deterioration of the thing bailed, if he has taken reasonable care as required under section 151.

Here, A and B agreed to keep the jewellery at the Bank's safe locker and not at the latter's residence (i.e. B's residence). Thus, B is liable to compensate A for his negligence to keep jewellery at his (B's) residence.

03 - Amar bailed 50 kg of high quality sugar to Srijith, who owned a kirana shop, promising to give ` 200 at the time of taking back the bailed goods. Srijith's employee, unaware of

this, mixed the 50 kg of sugar belonging to Amar with the sugar in the shop and packaged it for sale when Srijith was away. This came to light only when Amar came asking for the sugar he had bailed with Srijith, as the price of the specific quality of sugar had trebled. What is the remedy available to Amar? **ICAI Module**

Ans - According to section 157 of the Contract Act, 1872, if the bailee, without the consent of the bailor, mixes the goods of the bailor with his own goods, in such a manner that it is impossible to separate the goods bailed from the other goods and deliver them back, the bailor is entitled to be compensated by the bailee for the loss of the goods.

In the given question, Srijith's employee mixed high quality sugar bailed by Amar and then packaged it for sale. The sugars when mixed cannot be separated. As Srijith's employee has mixed the two kinds of sugar, he (Srijith) must compensate Amar for the loss of his sugar.

Q2 - Mrs. A delivered her old silver jewellery to Mr. Y a Goldsmith, for the purpose of making new a silver bowl out of it. Every evening she used to receive the unfinished good (silver bowl) to put it into box kept at Mr. Y's Shop. She kept the key of that box with herself. One night, the silver bowl was stolen from that box. Was there a contract of bailment? Whether the possession of the goods (actual or constructive) delivered, constitute contract of bailment or not? **ICAI Module**

Ans - Section 148 of Indian Contract Act 1872 defines 'Bailment' as the delivery of goods by one person to another for some purpose, upon a contract that they shall, when the purpose is accomplished, be returned or otherwise disposed of according to the direction of the person delivering them.

According to Section 149 of the Indian Contract Act, 1872, the delivery to the bailee may be made by doing anything which has the effect of putting the goods in the possession of the intended bailee or of any person authorised to hold them on his behalf. Thus, delivery is necessary to constitute bailment.

Thus, the mere keeping of the box at Y's shop, when A herself took away the key cannot amount to delivery as per the meaning of delivery given in the provision in section 149. Therefore, in this case there is no contract of bailment as Mrs. A did not deliver the complete possession of the good by keeping the keys with herself.

Q1 - Srushti acquired valuable diamond at a very low price by a voidable contract under the provisions of the Indian Contract Act, 1872. The voidable contract was not rescinded. Srushti pledged the diamond with Mr. VK. Is this a valid pledge under the Indian Contract Act, 1872? **ICAI Module**

Ans - Pledge by person in possession under voidable contract [Section 178A of the Indian Contract Act, 1872]: When the pawnor has obtained possession of the goods pledged by him under a contract voidable under section 19 or section 19A, but the contract has not been rescinded at the time of the pledge, the pawnee acquires a good title to the goods, provided he acts in good faith and without notice of the pawnor's defect of title. Therefore, the pledge of diamond by Srushti with Mr. VK is valid.

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