

SHRIMATI INDIRA GANDHI COLLEGE
DEPARTMENT OF BANK MANAGEMENT
BUSINESS LAW
SECTION-A

1. What is law?

A citizen may think as asset of rules, a lawyer may think as a vocation and a legislator may look a guide and principle to be followed in making decisions.

2. What are the types of law?

Civil law
Criminal law
Commercial or mercantile law
Industrial law and
International law

3. Define contract?

Sec2. Defines a contract as an agreement enforceable by law between the two or more persons by which rights are acquired by one or more to acts.

4. What is meant by offer?

Sec2(a), Indian contract act, 1872 defines as when one person signifies to another his willingness to do or to abstain from doing anything with a view to obtaining the assent of that other to such act or abstinence.

5. What is acceptance?

Acceptance is the manifestation by the offeree of his willingness to be bound by the terms of the offer.

6. Define consideration?

Sec2 (d) defines “When at the desire of the promise, the promise or any other person has done or obtained from doing, or does or abstains from doing or promises to do or abstains from doing something, such an act is called consideration.

7. What is free consent?

Two or more persons are said to have consented when they agree upon the same thing in the same sense.

8. What is voidable contract?

An agreement which is enforceable by law at the option of one or more of the parties there to, but not at the option of the other or others, is avoidable contract.

9. What is valid contract?

According to sec. 10, all agreements are contracts if they are made by free consent of parties competent to contract, for a lawful object and are not expressly declared to be void .

10. Define void agreement?

A void agreement does not create any legal rights or obligations. It is a nullity and is destitute of legal effects, altogether.

11. What is meant by illegal agreement?

An illegal agreement is one which transgresses some rule of basic public policy or which is criminal in nature or which is immoral.

12. What is unenforceable contract?

An unenforceable contract is one which cannot be enforced in a court of law because of technical defects such as absence of writing or where the remedy has been barred by laps of time.

13. Explain express contract.

If the terms of contract are expressly agreed upon at the time of formation of contract, the contract is said to be an express contract.

14. Define implied contract.

An implied contract is one which is inferred from the acts or conduct of the parties or course of dealings between them.

15. What is quasi-contract?

The quasi-contract is not a contract at all. A contract is intentionally entered into by the parties and is created by law.

16. Who is called as minor and guardian?

According to sec. 3 of the Indian majority act 1875, a minor is a person who has not completed 18 years of age whereas a guardian is a pointer to look over his properties.

17. When a person is said to be of unsound mind?

A person is said to be of unsound mind for the purpose of making a contract if, at the time when he makes it, he is capable of understanding it and of forming a rational judgment as to its effect upon his interest.

18. Define coercion.

When a person is compelled to enter into a contract by the use of force by the other party or under a threat, coercion is said to be employed.

19. What is undue influence?

A contract is said to be undue influence where the relations subsisting between the parties are such that one of the party is in a position to dominate the will of the other and uses that position to obtain an unfair advantage over the other.

20. What is misrepresentation?

Misrepresentation is a false statement which the person making it honestly believes to be true or which he does not know to be false.

21. What is fraud?

Fraud exists when it is shown that a false statement has been made,
1.knowingly or 2.without beliefs in its truth or 3.recklessly or 4.the maker
intense the other party to act upon it.

22. What is contingent contract?

A contingent contract is a contract to do or not to do something. If some event, collateral to such contract, does or does not happen.

23. Explain performance of contract.

Performance of contract takes place when the parties to the contract fulfill their obligations arising under the contract within the time and in the manner prescribed.

24. What is meant by breach of contract?

Breach of contract means breaking of the obligation which a contract imposes. It occurs when a party to the contract without lawful excuse does not fulfill his contractual obligation.

25. What is meant by the term indemnity?

A contract by which one party promises to save the other from loss caused to him by the conduct of the promise himself, or by the conduct of any other person.

26. Explain the term Guarantee?

A contract of guarantee is a contract to perform the promise, or discharge the liability, of a third person in case of his default.

27. What are the rights of surety?

A surety has rights against the creditor, the principal debtor and the co-sureties.

28. Define the word bailment?

The word 'bailment' is derived from the French word 'ballier' which means 'to deliver'. It means any kind of handing over.

29. What is lien?

'Lien' means the right of a person to retain possession of some goods belonging to another until some debt or claim of the person in possession is satisfied.

30. Define pledge?

The bailment of goods as security for payment of debt or performance of promise is called pledge. A pledge is a bailment for security.

31. Who is an agent and principal?

An agent is a person employed to do any act for another, or to represent another in dealings with third persons, the persons for whom such act is done or who is so represented is called the principal.

32. Who is sub-agent?

A sub-agent is a person employed by, and acting under the control of, the original agent in the business of the agency.

33. What is contract of sale of goods?

A contract of sale of goods is a contract whereby the seller transfers or agrees to transfer the property to goods to the buyer for a price.

34. What is meant by hire purchase agreement?

A hire purchase agreement is a contract where by the owner of the goods lets them on hire to another person on payment of rent to be paid in installments.

35. What is bailment?

A bailment is the delivery of goods for some specific purposes under a contract on the condition that the same goods are to be returned to the bailor or are to be disposed of according to the directions of the bailor.

36. Define price?

The price in a contract of sale means the money consideration for sale of goods. It forms an essential part of the contract and must be expressed in money.

37. Define the term partnership?

Partnership is the relation between persons who have agreed to share the profits of a business carried on by all or any of them acting for all.

38. What is partnership deed?

The agreement creating partnership may be express or implied, and the latter may be inferred from the conduct or course of dealings of the parties.

39. What is meant by dissolution of firm?

Dissolution of firm means complete breakdown or extinction of relationship of partnership between all the partners of the firm.

40. What is limited partnership?

A partnership in which the liability of a partner is limited is called limited partnership. The law does not permit the formation of limited partnership in India.

SECTION-B

1. What are the essential elements of a valid contract?

According to sec.10, all agreements are contracts if they are made by the free consent of parties competent to contract, for a lawful consideration and with a lawful object and are not expressly declared to be void. In order to become a contract, an agreement must have the following elements:

1. Offer and acceptance
2. Intention to create legal relationship
3. Lawful consideration
4. Capacity of parties-competency
5. Free and genuine consent
6. Lawful object
7. Agreement not declared void
8. Certainty and possibility of performance
9. Legal formalities.

2. What are the legal rules to offer?

Offer must be such as in law is capable of being accepted and giving rise to legal relationship. A social invitation, even if it is accepted, does not create legal relations because it is not so intended. An offer, therefore, must be such as would result in a valid contract when it is accepted.

Terms of offer must be definite, unambiguous and certain and not loose and vague. If the terms of an offer are vague or indefinite, its acceptance cannot create any contractual relationship.

An offer may be distinguished from a declaration of intention and an announcement, an invitation to make an offer or do business, newspaper advertisements are not offer, offer must be communicated, and offer must be made with a view to obtaining the assent.

3. What are the legal rules to acceptance?

The acceptance of an offer is the very essence of a contract. To be legally effective, it must satisfy the following conditions:

- I. It must be absolute and unqualified
- II. It must be communicated to the offeror
- III. It must be according to the mode prescribed or usual and reasonable mode
- IV. It must be given within a reasonable time
- V. It cannot precede an offer
- VI. It must show an intention of the part of the acceptor to fulfill terms of the promise
- VII. It must be given by the party or parties to whom the offer is made
- VIII. It must be given before the offer lapses or before the offer is withdrawn
- IX. It cannot be implied from silence

4. What are the legal rules for consideration?

Sec2 (d) defines "When at the desire of the promisee, the promisee or any other person has done or obtained from doing, or does or abstains from doing or promises to do or abstains from doing something, such an act is called consideration.

The following are the legal rules for consideration:

1. It must move at the desire of the promisee
2. It may move from the promisee or any other person
3. It may be an act, abstinence or forbearance or return of promise
4. It may be past, present or future
5. It need be adequate
6. It must be real and not illusory
7. It must be something which the promiser is not already bound to do
8. It must not be illegal, immoral or opposed to public policy.

5. What are the types of contracts of persons of unsound mind?

A person is said to be of unsound mind for the purpose of making a contract if, at the time when he makes it, he is capable of understanding it and of forming a rational judgment as to its effect upon his interest. The following are the types of persons of unsound mind:

LUNATICS:

A lunatic is a person who is mentally deranged due to some mental strain or other personal experience.

IDIOTS:

An idiot is a person who has completely lost his mental powers.

DRUNKEN OR INTOXICATED PERSONS:

A drunken or intoxicated person suffers from temporary incapacity to contract.

6. What are the difference between coercion and undue influence?

When a person is compelled to enter into a contract by the use of force by the other party or under a threat, coercion is said to be employed

A contract is said to be undue influence where the relations subsisting between the parties are such that one of the party is in a position to dominate the will of the other and uses that position to obtain an unfair advantage over the other.

COERCION	UNDUE INFLUENCE
The concerned is given under the threat of offense.	The concerned is given by a person who is so situated in relation to other.
Coercion is mainly of physical character.	Under influence is of moral character.
There must be intension of causing any person to enter into an agreement.	The influence party uses its position to obtain an unfair advantage over the other party.
It involves a criminal act.	No criminal act is involved.

7. What are the essential elements of fraud?

Fraud exists when it is shown that a false statement has been made, 1.knowingly or 2.without beliefs in its truth or 3.recklessly or 4.the maker intense the other party to act upon it.

Following are the essential elements of fraud:

- I. There must be a representation or assertion and it must be false.

- II. The representation must relate to a material fact which exists now or existed in the past.
- III. The representation must have been made before the conclusion of contract with the intension of inducing the other party to act upon it.
- IV. The representation or statement must have been made with a knowledge of its falsity or without belief in its truth, or recklessly not caring whether its true or false.
- V. The other party must have been induced to act upon the representation or assertion.
- VI. The other party must have relied upon the representation and must have been deceived.

8. What is mean by discharge of contract?

Discharge of contract means termination of contractual relationship between the parties. The contract may be discharged either by an act of parties or by an operation of law in the different base set out below.

- I. Discharge by performance.
- II. Discharge by mutual agreement.
- III. Discharge by impossibility of performance.
- IV. Discharge by lapse of time.
- V. Discharge by operation of law.
- VI. Discharge by breach of contract.
- VII. A promise may dispense with or remit the performance.
- VIII. When a promise neglects or refuses to afford the promises.

9. What is mean by breach of contract?

Breach of contract means breaking of the obligation which a contract imposes. It occurs when a party to the contract without lawful excuse does not fulfill his contractual obligation. Breach of contract may be

- I. Actual breach of contract.
- II. Anticipatory or constructive breach of contract.

Actual breach of contract:

It may take place at the time when the performance is due and also occurs when during the performance of contract, one party fails or refuse to perform this obligation under the contract. This refusal to perform may be by 1. Express repudiation 2. Implied repudiation

Anticipatory or constructive breach of contract:

It occurs when a party to an executive contract declares his intension of not performing the contract before the performance is due. He may do so 1.by expressly renouncing his obligations under the contract 2.by doing some act so that the performance of his promise becomes impossible. The rights of the promisee in case of anticipatory breach does not necessarily discharge the contract unless the promisee so chooses.

10. **What are kinds of quasi-contract?**

The quasi-contract is not a contract at all. A contract is intentionally entered into by the parties and is created by law. Secs 68 to 72 deal with five kinds of quasi-contractual obligations.

I. **Supply of necessities:**

If a person, incapable of entering into a contract, or anyone whom he is legally bond to support, is supplied by another with necessities.

II. **Payment by interested person:**

A person, who is interested in payment of money which another is bound by law to pay and who therefore pays it, entitled to be reimbursed by the other.

III. **Obligation to pay for non-gratuitous acts:**

When a person lawfully does anything for another person or delivers anything to him.

11. **Difference between contract of indemnity and guarantee.**

contract of indemnity	contract of guarantee
There are two parties of contract.	There are three parties of contract.
The liability of the indemnifier to the indemnified is primary an independent.	The liability of the surety to the creditor is collateral or secondary.
There is only one contract between the indemnifier and indemnified.	The contract of guarantee, there are three contracts.
It is not necessary to act at request of the indemnified.	It is necessary that the surety should give the guarantee at the request of the debtor.
The liability of the indemnifier arises only on the happening of a contingency.	There is usually an existing debt or duty.
An indemnifier cannot sue a third party for loss in his own name.	The surety on discharging the debt due by the principal debtor, steps into the shoes of the

	creditor.
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12. **What is meant by discharge of surety and what are its types?**

A surety is said to be discharged when his liability comes to an end. The various modes of his discharge are shown below

Discharge by surety of revocation:

Revocation by surety by giving notice

Revocation by death

Revocation by novation

Discharge of surety by the conduct of creditor:

Variance in terms of contract

Release or discharge of principal debtor

Compounding by creditor with principal debtor

Creditor's act or omission impairing surety's eventual remedy

Discharge of surety by invalidation of contract:

Guarantee obtained by misrepresentation

Guarantee obtained by concealment

Guarantee on contract that creditor shall not act on it until a co-surety joins

13. **Difference between particular lien and general lien?**

A particular lien is one which is available to the bailee against only those goods in respect of which he has rendered some service involving the exercise of labor or skill.

A general lien is a right to retain all the goods or any property of another until all the claims of the holder is satisfied.

PARTICULAR LIEN	GENERAL LIEN
This is a right available to the bailee against only those goods in respect of which skill and labor have been expended by him.	This is a right to retain any property belonging to the other party in respect of any payment lawfully due, provided the property is in the possession of the person exercising the right
This is the right to retain the goods only for a charge for labor employed or expenses incurred upon the goods.	This is a right to retain any property belonging to the other property for a general balance of account.

14. **What is creation of agency?**

An agent is a person employed to do any act for another, or to represent another in dealings with third persons, the persons for whom such act is done or who is so represented is called the principal.

The relation of principal and agent may arise

1. by express agreement
2. by implied agreement
3. by ratification
4. by operation of law

Agency by express agreement:

The authority given by a principal to his agent is an express authority which enables the agent to bind the principal by acts done within the scope of his authority.

Agency by implied agreement:

Implied agency arises from the conduct, situation or relationship of the parties. The types of implied agency are 1. Agency by estoppels 2. Agency by holding out 3. Agency by necessity

Agency by ratification:

A person may act on behalf of another without his knowledge or consent.

15. Explain termination of agency?

Sec 201 describes the modes of termination of agency. The section is not comprehensive. The various modes of termination of agency as mentioned in sec .201 and other modes are indicated below. In certain cases the agency is irrevocable.

Termination of agency by the act of the parties:

Agreement:

The relation of principal and agent like any other agreement may be terminated at any time.

Revocation by the principal:

The principal may revoke the authority of the agent at any time before the agent has exercised his authority.

Revocation by the agent:

An agency may also be terminated by an express renunciation by the agent after giving a reasonable notice of the principal.

Termination of agency by operation of law:

Performance of the contract

Expiry of the time

Death and insanity

Insolvency

Destruction of subject matter

Principal becoming an alien enemy

Dissolution of a company

Termination of sub-agent's authority

16. **Distinction between sale and hire purchase agreement?**

A contract of sale of goods is a contract whereby the seller transfers or agrees to transfer the property to goods to the buyer for a price.

A hire purchase agreement is a contract where by the owner of the goods lets them on hire to another person on payment of rent to be paid in installments.

SALE	HIRE PURCHASE AGREEMENT
Ownership is transferred from the seller to the buyer as soon as the contract is entered in to.	Ownership is transferred from the seller to the hire purchaser only when a certain agreed number of installments is paid.
The position of buyer is that of owner.	The position of the hire-purchaser is that of bailee.
The buyer cannot terminate the contract and as such is bound to pay the price of the goods.	The hire-purchaser has an option to terminate the contract at any stage, and cannot be forced to pay the further installments.
If the payment is made by the buyer in installments, the amount paid by the buyer to the seller is reduced.	The installments paid by the hire-purchaser are regarded as hire charges and not as payment

17. **What are the rights and duties of the buyer?**

Rights of the buyer:

1. Right to have delivery as per contract.
2. Right to reject the goods
3. Right to repudiate
4. Right to notice of insurance
5. Right to examine
6. Rights against the seller for breach of contract
 - I. Suit for damages
 - II. Suit for price

- III. Suit for specific performance
- IV. Suit for breach of warranty
- V. Repudiation of contract before the due date
- VI. Suit for interest

Duties of the buyer:

- a. Duty to accept the goods and pay for them in exchange for possession
- b. Duty to apply for delivery
- c. Duty to demand delivery at a reasonable hour
- d. Duty to accept installment delivery and pay for it
- e. Duty to take risk of deterioration in the course of transit
- f. Duty to intimate the seller where he rejects the goods
- g. Duty to take delivery
- h. Duty to pay price
- i. Duty to pay price for non-acceptance

18. Define partnership? What are the characteristics of partnership?

Partnership is the relation between persons who have agreed to share the profits of a business carried on by all or any of them acting for all.

Characteristics of partnership:

1. Association of two or more persons:

There must be at least two competent persons to form a partnership

2. Agreement:

The partnership relation is one of contractual nature and arises from contract and not from status.

3. Business:

A partnership can be formed only for the purpose of carrying on some business

4. Sharing of profits:

The object of partnership must be to make profit the excess of what is obtained over the cost of obtaining it.

5. Mutual agency:

The business of partnership may be carried on by all the partners or any of them acting for all.

19. **Explain the registration of firms?**

The partnership act does not provide for the compulsory registration of firm. It has left to the option of the firms to get themselves registered.

Procedure for registration:

The registration of firm may be effected at any time by filing an application in the form of a statement, giving the necessary information, with the register of the firms of the area. Sec.57 empowers a state government to appoint a registers of firms for the purpose of the partnership act and define the areas within which they all exercise their powers and perform their duties.

The application of the firm shall be accompanied by the prescribed fee. It shall state:

- i. The nature of the firm
- ii. The place or principal place of business of the firm
- iii. The names of other places where the firm carries on business
- iv. The date when each partner joined the firm
- v. The name in full and permanent addresses of the partners; the duration of the firm.

20. **What are the rights of partner?**

The relations of the partners of a firm to one another are usually governed by the agreement among them.

Rights of a partner:

Right to take part in business

Right to be consulted

Right of access to accounts

Right to share to profits

Right to interest on capital

Right to interest on advance

Right to be indemnified

Right to the use of partnership property

Right of partner as agent of the firm

No new partner to be introduced

No liability before joining

Right to retire

Right not to be expelled

Right of outgoing partner to share in the subsequent profit.

SECTION-C

1. What are the sources of mercantile law?

The bulk of Indian mercantile law is based on, and follows, the English mercantile law. In the absence of any specific law, usage or custom on a particular point arising before a court, rules of the English law are applied. The courts in India are however, selective in the application of the English law.

The important sources of the Indian mercantile law:

1. English mercantile law:

English mercantile law is the common law of England as modified and supplemented by equity and statute law.

Common law:

It refers to a system of law based upon English customs, usages and traditions which were developed over centuries by the English court.

Equity:

It refers to that branch of English law which developed separately from the common law. It is based upon concepts of justice developed by the judges whose decisions became precedents.

Statute law:

The statute law refers to the law laid down in the acts of parliament. It is superior to and overrides any rule of the common law of equity.

The other sources of English law are the:

Law merchant or maritime usage:

The Law merchant was the forerunner of the English mercantile law. It was the branch law which was based on customs and usages prevalent amongst merchants and bankers.

Roman law:

A reference to Roman law was made when custom and usage failed to afford solution to a particular case.

Case law:

This is also very important source of the English mercantile law. It is built up on previous judicial decisions i.e., on the principle that what has been decided in an earlier case.

2. Statute law:

In India, the bulk of mercantile law is statute law based largely on English law.

3. Judicial decisions or the system of precedents:

It is based upon the previous judicial decisions which have to be followed in future similar cases.

4. Customs and usage:

Customs and usages established by long use and constantly put in to practice become binding on the parties entering in to commercial transactions.

2. Explain classification of contracts and essential elements?

A contract is an agreement enforceable by law between the two or more persons by which rights are acquired by one or more to acts. Contracts may be classified according to their validity, formation, or performance.

Classification according to validity:

Void able contract

Void agreement

Void contract

Illegal agreement

Unenforceable contract

Classification according to formation:

Express contract

Implied contract

Quasi contract

E-commerce contract

Classification according to performance:

Executed contract

Executor contract

Unilateral or one-sided contract

Essentials elements of valid contract:

According to sec.10, all agreements are contracts if they are made by the free consent of parties competent to contract, for a lawful consideration and with a lawful object and are not expressly declared to be void. In order to become a contract, an agreement must have the following elements:

10. Offer and acceptance
11. Intention to create legal relationship
12. Lawful consideration
13. Capacity of parties-competency
14. Free and genuine consent
15. Lawful object
16. Agreement not declared void
17. Certainty and possibility of performance
18. Legal formalities.

3. What are the legal rules to offer? When does it come to an end?

Legal rules to offer:

Offer must be such as in law is capable of being accepted and giving rise to legal relationship. A social invitation, even if it is accepted, does not create legal relations because it is not so intended. An offer, therefore, must be such as would result in a valid contract when it is accepted.

1. Terms of offer must be definite, unambiguous and certain and not loose and vague. If the terms of an offer are vague or indefinite, its acceptance cannot create any contractual relationship.

2. An offer may be distinguished from a declaration of intention and an announcement, an invitation to make an offer or do business, newspaper advertisements are not offer, offer must be communicated, and offer must be made with a view to obtaining the assent.

An offer may come to an end by revocation or lapse of time, or rejection.

Revocation or lapse of offer: sec. 6 deals with various modes of revocation of offer. According to it, an offer is revoked

1. By communication of notice of revocation by the offeror at any time before its acceptance is complete as against him.

2. by lapse of time

3. by non-fulfillment by the offeree of a condition precedent to acceptance

4. by death or insanity of the offeror

5. If a counter offer is made to it

6. If an offer is not accepted according to the prescribed or usual mode

7. If the law is changed

Rejection of offer: An offeree may reject the offer. Once he does that he cannot subsequently accept it.

4. Explain legal rules for acceptance and consideration?

Acceptance:

The acceptance of an offer is the very essence of a contract. To be legally effective, it must satisfy the following conditions:

- X. It must be absolute and unqualified
- XI. It must be communicated to the offeror
- XII. It must be according to the mode prescribed or usual and reasonable mode
- XIII. It must be given within a reasonable time
- XIV. It cannot precede an offer
- XV. It must show an intention of the part of the acceptor to fulfill terms of the promise
- XVI. It must be given by the party or parties to whom the offer is made
- XVII. It must be given before the offer lapses or before the offer is withdrawn
- XVIII. It cannot be implied from silence

Consideration:

Sec 2 (d) defines "When at the desire of the promisee, the promisee or any other person has done or obtained from doing, or does or abstains from doing or promises to do or abstains from doing something, such an act is called consideration.

The following are the legal rules for consideration:

- 9. It must move at the desire of the promisee
- 10. It may move from the promisee or any other person
- 11. It may be an act, abstinence or forbearance or return of promise
- 12. It may be past, present or future
- 13. It need not be adequate
- 14. It must be real and not illusory
- 15. It must be something which the promisor is not already bound to do
- 16. It must not be illegal, immoral or opposed to public policy.

5. **What is mean by discharge and breach of contract?**

Discharge of contract means termination of contractual relationship between the parties. The contract may be discharged either by an act of parties or by an operation of law in the different base set out below.

- IX. Discharge by performance.
- X. Discharge by mutual agreement.
- XI. Discharge by impossibility of performance.
- XII. Discharge by lapse of time.
- XIII. Discharge by operation of law.
- XIV. Discharge by breach of contract.
- XV. A promise may dispense with or remit the performance.
- XVI. When a promise neglects or refuses to afford the promises.

Breach of contract means breaking of the obligation which a contract imposes. It occurs when a party to the contract without lawful excuse does not fulfill his contractual obligation. Breach of contract may be

- III. Actual breach of contract.
- IV. Anticipatory or constructive breach of contract.

Actual breach of contract:

It may take place at the time when the performance is due and also occurs when during the performance of contract, one party fails or refuse to perform this obligation under the contract. This refusal to perform may be by 1. Express repudiation 2. Implied repudiation

Anticipatory or constructive breach of contract:

It occurs when a party to an executive contract declares his intension of not performing the contract before the performance is due. He may do so 1.by expressly renouncing his obligations under the contract 2.by doing some act so that the performance of his promise becomes impossible. The rights of the promisee in case of anticipatory breach does not necessarily discharge the contract unless the promisee so chooses.

6. **Discuss about the dissolution of firm?**

The dissolution of partnership between all the partners of a firm is called the dissolution of firm. It means complete breakdown or extinction of the relationship of partnership between all the partners of the firm. It may be of two types:

- 1. Dissolution without the order of court
- 2. Dissolution by court

Dissolution without the order of court:

It may take place in any of the following ways

Dissolution by agreement

A firm may dissolve with the consent of all partners or in accordance with a contract between them.

Compulsory dissolution

By adjudication of all the partners but all the partners but one is insolvent

By the happening of any event which is unlawful

Dissolution on the happening of certain contingencies

The expiry of the term for which the was constituted

The completion of particular adventure or adventures

The death of a partner

The adjudication of the partner as an insolvent

Dissolution by notice of partnership at will

Where the partnership is at will the firm may dissolved by any partner by giving notice in writing to all the partners of his intention to dissolve.

Dissolution by court:

The court may at the suit of a partner, dissolve a firm on the following grounds

Insanity

Where a partner has become of unsound mind, the court may

Dissolve a firm on the petition of any of the other partner.

Permanent incapacity

Where a partner other than the partner suing is incapable of performing his duties as a partner the court may Dissolve a firm.

Misconduct

Where a partner other than the partner suing is guilty of misconduct and is likely to affect prejudicially the nature of business, the court may dissolve a firm.

Transfer of interest

Where a partner has in any way transferred the whole of his interest in the firm to the third party, the court may dissolve a firm.

7. Explain the steps taken for the reconstitution of the firm?

The partnership firm is said to be reconstituted when any of the following changes occurs.

Introduction of a partner

A person may admit as a new partner either with the consent of all the partners or in accordance with a contract.

Liability of an incoming partner:

An incoming partner does not become liable for any act of the firm done prior to his admission as a partner.

Retirement of a partner

A partner may retire from a firm

1. with the consent of the entire partner
2. in accordance with the express agreement
3. Where the partnership is at will, by giving notice in writing to all the partners

Liability of the retired partner before retirement

A retired partner continues to be liable for all the acts of the firm done before his retirement or acts pending at the time of his retirement.

Liability of the retired partner after retirement

A retired partner along with all the partners at the time of his retirement continues to be liable as a partner to third parties.

Expulsion of a partner

A partner may be expelled from partnership subject to the following three conditions:

1. The power should be expulsion of a partner should be conferred by the contract
2. The power should be exercised by a majority of persons
3. The power should be exercised in good faith

Irregular expulsion

The expelled partner may in such a case claim re-instatement as a partner or sue for the refund of his rights.

Regular expulsion

The expelled partner subject to the satisfaction of conditions of rights and liabilities.

Insolvency of a partner

Where partner in a firm is adjudicated insolvent, he ceases to be a partner on the date on which the order of adjudication is made, whether or not the firm is thereby dissolved.

Death of a partner

Subject to contracts between the parties, a firm is dissolved by death of a partner. The estate of deceased partner is not liable for any act of the firm done after his death.

Transfer of a partner's interest

The transfer may be absolute or partial,

1. to interfere in the conduct of the business of the firm
2. to require accounts of the firm
3. To inspect the books of the firm.

8. Comment on auction sales?

A sale by auction is a public sale where different intending buyers try to outbid each other. The goods are ultimately sold to the highest bidder. His relationship with the owner of the good is governed by the general principle of the law relating to the agency.

Procedure to auction sale:

The proposed auction is duly advertised and a printed catalogue of the goods together with the terms of sale is circulated. On the appointed day and time the intending buyer assembles and the auctioneer puts the different lots to auction and invites bids from the intending buyer. The highest bid constitutes the offer.

Rules of auction sale

The law on auction sale is contained in the case of sale by auction the following rules apply

1. Goods put up for sale lots

Where goods put up for sale in lots each lot is prima-facie deemed to be subjected of a separate contract of sale.

2. Completion of sale

The sale is completed when the auctioneer announces its completion by the fall of the hammer or in some other customary manner

3. Right to seller to bid

A right to bid may be reserved expressly by or on behalf of the seller. Where such right is expressly reserved the seller or any other person on his behalf may bid at the auction.

4. Sale not notified subject to a right bid

Where a sale not notified subject to a right bid on behalf of the seller, it is not lawful. Any sale contravening this rule may be treated as fraudulent by the buyer.

5. Reserve price

The sale may be notified to be subject to a reserve or upset price. But where the sale is without reserve, the goods will be sold to the highest bidder.

9. What are the rules as to deliver the goods?

Delivery means voluntary transfer of possession of goods from one person to another. Delivery of goods may be actual, symbolic or constructive.

Rules as to delivery of goods:

The following are the rules to be followed

Mode of delivery:

Delivery should have the effect of putting the goods in the possession of buyer or his duly authorized agent.

Delivery and payment conditions:

Delivery of goods and payment of price must be according to the terms of the contract. The seller shall be ready and willing to give possession of the goods to the buyer.

Effect of part of delivery:

A delivery of part of goods in the progress of delivery of the whole has the same effect for the purpose of passing the property in such goods.

Buyer to apply for delivery:

Apart from any express contract, the seller of the goods is not bound to deliver them until the buyer applies for delivery.

Place of delivery:

Where the place at the delivery of the goods is to take place is specified in the contract, the goods must be delivered at the place during business.

Time of delivery:

Where under the contract of sale the seller is bound to send the goods to the buyer, but not at the time for sending them is fixed, the seller is bound to sell them within a reasonable time.

Goods in a possession of third party:

When at the time of the sale the goods are with the third party there is no delivery by the seller to the buyer until he holds them on his behalf.

Cost of delivery:

Unless otherwise agreed, all expenses of and incidental to making of delivery are borne by the seller.

Delivery of wrong quantity:

Where the seller delivers the buyer a quantity of goods less than he contracted to sell, the buyer may reject the goods.

10. Express and implied warranties- Discuss

In a contract of sale of goods conditions and warranties may be express or implied. Express conditions are those which are expressly provided in the contract. Implied conditions are those which law implies in to the contract.

Implied conditions:**Conditions as to title**

In a contract of sale unless the circumstances of the contract are such as to show different intention, there is an implied condition on the part of the seller.

Sale by description

Where there is a contract for the sale of goods by description, there is an implied condition that the goods shall correspond with the description.

Conditions as to quality or fitness

In a contract of sale, there is no implied condition as to quality or fitness of the goods for a particular purpose.

Conditions as to merchantability

Where a goods are bought by description from a seller who deals in goods of that description there is no implied conditions the goods are of merchantable quality.

Conditions implied by custom

An implied conditions as to quality or fitness for a particular purpose may be annexed by the usage of trade.

Sale by sample

A contract of sale is a contract for sale by sample where there is a term in the contract, express or implied, to that effect.

Conditions as to wholesomeness

In the case of eatables and provisions, in addition to the implied conditions as to merchantability, there is another implied condition that the goods shall be wholesome.

Implied warranties

The implied warranties in a contract of sale are as follows

1. Warranty of quiet possession

Unless there is a implied warranty that the buyer shall have and enjoy quiet possession of goods.

2. Warranty of freedom from encumbrances

If his possession is in any way disturbed by reason of the any change or encumbrances on the goods in favor of any third party, he shall have a right to claim.

3. Warranty as to quality or fitness by usage of trade

An implied warranty as to quality or fitness by usage of trade for a particular purposes may be annexed.

11. Explain the right of surety?

A surety has the right against

1. The creditor
2. The principal debtor
3. The co-sureties

Rights against creditor

Before payment of the guaranteed debt:

A surety after the debt has become due and before he is called upon to pay requires the creditor to sue the principal debtor.

Right of set off

On being sued by the creditor, the surety can rely on any set off or counter claim which the debtor has against the creditor.

On payment of the guaranteed debt

The surety is subrogated to all the rights of the creditor and gets the right to demand from the creditor at the time of payment all the securities.

Right to securities

On payment of the guaranteed debt, the surety is entitled to all equities which the creditor could have enforced not only against the principal debtor.

Right of subrogation

Where a guaranteed debt has become due and the surety has paid all that he is liable for, he is invested with all the rights which the creditor has against the principal debtor.

Rights against the principal debtor

Right to be relived of liability

Before the payment has been made, the surety can compel the principal debtor to relieve him from liability by paying off the debt.

Right to indemnity

In every contract of guarantee there is an implied promise by the principal debtor to indemnify the surety, and the surety is entitled to recover from the principal debtor.

Rights against the co-sureties

Right of contribution

When a debt is guaranteed by two or more sureties they are called co-sureties. The co-sureties are liable to contribute, as agreed, towards the payment of the guaranteed debt.

12. Discuss rights and duties of bailor?

Rights of bailor

Enforcement of rights:

The bailor can enforce by suit all the liabilities or duties of the bailee, as his rights.

Avoidance of contract:

The bailor can terminate the bailment if the bailee does, with regard to the goods bailed, any act which is inconsistent with the terms of the bailment.

Return of goods lent gratuitously:

When the goods are lent gratuitously, the bailor can demand their return whenever he pleases even though he lent them for a specified time or purpose.

Compensation from a wrong-doer:

If a third person wrongfully deprives the bailee of the use or possession of the goods bailed, or does them any injured the bailor or the bailee may bring a suit.

Duties of bailor

To disclose known faults:

It is the first and foremost duty of the bailor to disclose the known faults about the goods bailed to the bailee.

To bear extraordinary expenses of bailment:

The bailee is bound to bear ordinary and reasonable expenses of the bailment but for any extraordinary expenses the bailor is responsible.

To indemnify the bailee for loss in case of premature termination of gratuitous bailment:

A gratuitous bailment can be terminated by the bailor at any time even though the bailment was for a specific time or purpose.

To receive back the goods:

It is the duty of the bailor to receive back the goods when the bailee returns them after the expiry of the term of the bailment.

To indemnify the bailee:

Where the title of the bailor to the goods is defective and the bailee suffers as a consequence, the bailor is responsible to the bailee.

13. Explain the rights of pawner and Pawnee?

Rights of Pawnee

Right of retainer:

The Pawnee may retain the goods pledged until his dues are paid. He can however exercise only a particular lien over the goods.

Right of retainer for subsequent advances:

When the Pawnee lends money to the same pawner after the date of the pledge, it is presumed that the right of retainer over the pledged goods extends to subsequent advances also.

Right to extraordinary expenses:

The Pawnee is entitled to receive from the pawnor extraordinary expenses incurred by him for the preservation of goods pledged.

Right against true owner, when the pawnor's title is defective:

When the pawnor has obtained possession of the goods pledged by him under a contract the pawnee acquires a good title to the goods.

Pawnee's right when pawnor makes default:

Where the pawnor fails to redeem his pledge, the Pawnee can exercise the suit against the pawnor.

Rights of pawnor

Right to get back goods:

On the performance of promise or repayment of loan and interest if any, the pawnor is entitled to get back the goods pledged.

Right to redeem debt:

Quite often a time is stipulated for the payment of the debt, or performance of the promise, for which the pledge is made.

Preservation and maintenance of the goods:

The pawnor has a right to see that the pawnee like bailee preserves the goods pledged and properly maintains them.

Rights of an ordinary debtor:

The pawnor has in addition to the above rights, the rights of an ordinary debtor which are conferred on him by various statutes meant for the protection of debtor

14. What are the classifications of agents?

An agent is a person employed to do any act for another, or to represent another in dealings with third persons, the persons for whom such act is done or who is so represented is called the principal. A general classification of agents from the point of view of the extent of their authority is as follows:

1. Special agent:

A special agent is one who is appointed to perform a particular act or to represent his principal in some particular transactions.

2. General Agent:

A General Agent is one who has authority to do all acts connected with the particular trade, Business or Employment. Such authority of the agent is continuous until it is put to an end.

3. Universal Agent:

A Universal Agent is one whose authority to act for the principal is unlimited. He has authority to bind his principal by an act which he does.

Another classification of agents from the point of view the nature of work performed by them,

1. Commercial or mercantile agent:

A mercantile agent having in the customary course of business as such agent, authority either to sell goods or to consign goods for the purpose of sale. This definition does not cover all kinds of mercantile agent which are as follows:

1. Factor:

A factor is a mercantile agent entrusted with the possession of goods for the purpose of selling them. He sells the goods in his own name as an apparent owner upon such terms as he thinks fit.

2. Auctioneer:

An auctioneer is an agent appointed by a seller to sell his goods by public auction for a reward generally in the form of a commission.

3. Broker:

A broker is an agent who is employed to buy or sell the goods on behalf of another. He is employed primarily to bring about a contractual relation between the principal and the third parties.

4. Commission agent:

A Commission agent belongs to a somewhat indefinite class of agents. He is employed to buy and sell goods, or transact business generally for other persons.

2. Banker:

The relationship between a banker and his customer is really that of debtor and creditor. But there is a super- added obligation on the part of the banker to pay when called upon to pay.

3. Non-mercantile agents:

These include attorneys, solicitors, insurance agents, clearing and forwarding agents and wife.

15. What is creation of agency? When it is terminated?

An agent is a person employed to do any act for another, or to represent another in dealings with third persons, the persons for whom such act is done or who is so represented is called the principal.

The relation of principal and agent may arise

1. by express agreement
2. by implied agreement
3. by ratification
4. by operation of law

Agency by express agreement:

The authority given by a principal to his agent is an express authority which enables the agent to bind the principal by acts done within the scope of his authority.

Agency by implied agreement:

Implied agency arises from the conduct, situation or relationship of the parties. The types of implied agency are 1. Agency by estoppels 2. Agency by holding out 3. Agency by necessity

Agency by ratification:

A person may act on behalf of another without his knowledge or consent.

Termination of agency:

Sec 201 describes the modes of termination of agency. The section is not comprehensive. The various modes of termination of agency as mentioned in sec .201 and other modes are indicated below. In certain cases the agency is irrevocable.

Termination of agency by the act of the parties:

Agreement:

The relation of principal and agent like any other agreement may be terminated at any time.

Revocation by the principal:

The principal may revoke the authority of the agent at any time before the agent has exercised his authority.

Revocation by the agent:

An agency may also be terminated by an express renunciation by the agent after giving a reasonable notice of the principal.

Termination of agency by operation of law:

Performance of the contract

Expiry of the time

Death and insanity

Insolvency

Destruction of subject matter

Principal becoming an alien enemy

Dissolution of a company

Termination of sub-agent's authority.

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