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A BRIEF INTRODUCTION TO CONTRACT AND ITS TYPES

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Abstract

Contracts are legally binding agreements between two or more parties that outline the rights, obligations, and responsibilities of each party involved. They serve as a framework for conducting business and personal transactions, ensuring clarity and enforceability. Contracts provide a sense of certainty and protection. By clearly defining the terms and conditions of an agreement, contracts reduce the risk of misunderstandings and disputes, ensuring that all parties are on the same page. Contracts establish legal rights and obligations. They outline the expectations of each party, setting forth the actions and performances required to fulfill the agreement. This promotes accountability and allows parties to seek legal remedies in case of breach or non-compliance. Furthermore, contracts help manage risks and allocate responsibilities. They address potential contingencies and liabilities, providing a framework for addressing unforeseen circumstances that may arise during the course of the agreement. Additionally, contracts contribute to building trust and maintaining healthy relationships. By formalizing agreements in writing, contracts foster transparency, demonstrate commitment, and create a sense of professionalism and reliability.

Keywords: Contract, Types of Contracts, Indian Contract Law, 1872, Breach of contract

I. INTRODUCTION:

The Indian Contract Act, enacted in 1872, is a crucial piece of legislation that governs the formation and enforcement of contracts in India. It lays down the fundamental principles and rules applicable to agreements between parties, including individuals and organizations. The Act defines a contract as an agreement enforceable by law and outlines essential elements such as offer, acceptance, consideration, and intention to create legal obligations. It also specifies various types of contracts, their validity, performance, and consequences of breach. The Indian Contract Act plays a pivotal role in facilitating business transactions, ensuring fairness, and providing a legal framework for contractual relationships in India.

II. ESSENTIALS OF VALID CONTRACT:

The essentials of a valid contract, as outlined in the Indian Contract Act, are as follows:

A. **Offer and Acceptance:** There must be a clear and unequivocal offer made by one party and a corresponding acceptance of that offer by the other party. The terms of the offer and acceptance should be definite and specific.

B. **Intention to Create Legal Obligations:** The parties involved in the contract must have the intention to create legal obligations. A social or domestic agreement generally lacks this intention.

C. **Lawful Consideration:** Consideration refers to something of value given by each party to the contract. It can be in the form of money, goods, services, or a promise to do or not do something. Consideration must be lawful, i.e., it should not be illegal, immoral, or against public policy.

D. **Capacity of the Parties:** The parties entering into a contract must be competent to contract. They must be of sound mind, not disqualified by law, and not minors. If a party

lacks capacity, the contract may be voidable or unenforceable.

E. **Free Consent:** The consent of the parties must be free, voluntary, and not obtained through coercion, undue influence, fraud, misrepresentation, or mistake. Consent obtained under such circumstances may render the contract voidable.

F. **Lawful Object:** The purpose or object of the contract must be lawful. It should not be illegal, immoral, or against public policy.

G. **Certainty:** The terms of the contract must be certain and capable of being understood by the parties. Vague or uncertain terms may render the contract unenforceable.

H. **Legal Formalities:** Certain contracts may require compliance with specific legal formalities, such as writing, registration, or attestation, as prescribed by law. Failure to fulfill these formalities may affect the validity or enforceability of the contract.

III. TYPES OF CONTRACTS:

Under Indian contract law, various types of contracts are recognized. Here are some common types:

A. **Express Contract:** An express contract is formed when the terms and conditions of the agreement are explicitly stated, either orally or in writing, by the parties involved.

B. **Implied Contract:** An implied contract is created based on the conduct or behavior of the parties, rather than through explicit words or written agreement. It arises when the parties' actions indicate an intention to enter into a contractual relationship.

C. **Valid Contract:** A valid contract is a legally binding agreement that meets all the essential requirements, including offer, acceptance, consideration, intention to create legal obligations, and lawful object.

D. **Void Contract:** A void contract is considered null and void from the beginning, having no legal effect. It is devoid of any legal enforceability, and the parties are not bound by its terms. Contracts that are illegal, involve unlawful consideration, or lack the necessary

elements of a valid contract may be classified as void contracts.

E. **Voidable Contract:** A voidable contract is one that is initially valid but can be legally avoided or canceled by one or both parties due to certain defects or deficiencies. Examples include contracts entered into under duress, fraud, misrepresentation, or undue influence. *Mohori Bibee v. Dharmodas Ghose (1903)* is a case established the principle that contracts entered into by minors (persons below the age of majority) are voidable at the option of the minor. The court held that a contingent contract executed by a minor for the repayment of money lent to him was voidable and unenforceable.

F. **Unilateral Contract:** A unilateral contract is a type of contract where only one party makes a promise or performs an act in exchange for the other party's acceptance by performance. The offeree is not obligated to accept the offer, but if they do, it creates a binding contract. *Carlill v. Carbolic Smoke Ball Company (1893)* case established the principle of unilateral contracts. The court held that a company's advertisement promising a reward to anyone who used their product and still contracted the flu created a binding contract, even though the company did not know the specific individuals who accepted the offer.

G. **Bilateral Contract:** A bilateral contract is the most common type of contract, where both parties exchange promises and are mutually obligated to perform certain acts or provide something of value. It involves a promise from each party to the other.

H. **Executed Contract:** An executed contract is one in which both parties have fulfilled their contractual obligations, and the agreement has been fully performed.

I. **Executory Contract:** An executory contract is a contract in which one or both parties have yet to fulfill their obligations. The performance of the contract is still pending.

J. **Unenforceable Contract:** An unenforceable contract is a valid contract that cannot be enforced due to certain legal

restrictions or limitations. While the contract may have all the essential elements, it may be unenforceable due to technicalities like the absence of required legal formalities or the operation of the statute of limitations.

K. **Quasi Contract:** A quasi contract is an obligation imposed by law to prevent unjust enrichment. It is not a true contract but resembles one, as it creates rights and obligations similar to those in a contract. These are some of the common types of contracts recognized under Indian contract law. Each type carries its own legal implications and consequences.

IV. VOID AGREEMENTS:

Under Indian contract law, certain agreements are deemed void from the beginning and are devoid of any legal effect. The Indian Contract Act, 1872, identifies the following categories of void agreements:

A. **Agreements with consideration and objects that are unlawful:** Any agreement that involves consideration or has an object that is prohibited by law or is against public policy is void. For example, an agreement to commit a crime or engage in fraudulent activities.

B. **Agreements without consideration:** An agreement without lawful consideration is generally void unless it falls within specific exceptions, such as agreements made out of natural love and affection, or a promise to compensate for a past voluntary act.

C. **Agreements in restraint of marriage:** Agreements that impose unreasonable restrictions on marriage are considered void. However, certain agreements related to divorce, separation, or personal rights incidental to marriage may be valid. In *Balfour v. Balfour (1919)* case, the court emphasized the distinction between domestic and commercial agreements. It held that an agreement between spouses during separation, where the husband promised to pay maintenance to his wife, was not a legally enforceable contract as it lacked the intention to create legal relations.

D. **Agreements in restraint of trade:** Agreements that unreasonably restrict a

person's freedom to carry on a lawful trade, business, or profession are void. Reasonable restrictions, such as those imposed through non-compete agreements, may be enforceable.

E. **Agreements by incompetent parties:** An agreement entered into by parties who are legally incompetent, such as minors, persons of unsound mind, or those disqualified by law, is void. However, in some cases, such agreements may be enforceable against the incompetent party but not against the other party.

F. **Agreements contingent on an impossible event:** Agreements that depend on the happening of an event that is impossible or uncertain to occur are void. However, if the impossibility arises after the formation of the agreement, it may be discharged by law. In *Taylor v. Caldwell (1863)* case, it introduced the concept of impossibility of performance. The court held that when a contract becomes impossible to perform due to an unforeseen event, such as the destruction of the subject matter, the parties are discharged from their obligations.

A void agreement is different from a voidable agreement. Void agreements are null and have no legal effect from the beginning, while voidable agreements are initially valid but can be avoided or cancelled by one or both parties due to certain defects or circumstances.

V. WAGERING CONTRACTS:

In Indian contract law, a wagering contract is an agreement where two parties mutually agree to pay or receive money or goods based on the outcome of an uncertain event. It involves placing a bet or gambling on the occurrence or non-occurrence of a future event.

Wagering contracts are specifically addressed in Section 30 of the Indian Contract Act, 1872. According to this provision, agreements that are contingent upon the determination of uncertain events, in which parties have no control or interest other than the wager itself, are deemed void. Such contracts are considered against

public policy as they promote gambling and are viewed as detrimental to society.

However, it's important to note that the Act provides certain exceptions for certain types of wagering contracts, including agreements related to horse racing or lotteries conducted by state governments. These exceptions are based on specific statutes or state laws that regulate and permit these forms of gambling.

In general, wagering contracts that do not fall within the statutory exceptions are considered void and unenforceable in India. Parties cannot seek legal remedies for the enforcement of such agreements, and any money or goods wagered cannot be recovered through the court system.

The treatment of wagering contracts varies in contract law across different jurisdictions. Here's a brief overview of how they are dealt with in India, the UK, and the USA:

- **India:** Wagering contracts, also known as gambling contracts, are generally considered void and unenforceable under Section 30 of the Indian Contract Act, 1872. However, certain exceptions exist for horse racing and lotteries held by state governments.
- **UK:** Wagering contracts are generally enforceable in the UK unless they fall within specific statutory exceptions, such as gambling involving minors or illegal activities. The UK Gambling Act 2005 regulates and provides a framework for gambling activities.
- **USA:** The legality of wagering contracts in the USA varies by state. While some states permit and regulate certain forms of gambling, others prohibit it outright. Contracts related to illegal gambling activities are generally unenforceable, but in states where gambling is legal, wagering contracts may be enforceable.

VI. CONTINGENT CONTRACT:

Under Indian contract law, a contingent contract is a contract that depends on the occurrence of a future uncertain event. The rights and obligations of the parties involved in a contingent contract are contingent upon the happening or non-happening of a specific

event. These contracts are governed by the provisions of the Indian Contract Act, 1872.

The Indian Contract Act defines a contingent contract in Section 31. According to this section, a contingent contract is a contract to do or not to do something if an event, collateral to such contract, does or does not happen. In simpler terms, it is a contract in which the performance of the contract is contingent upon the occurrence or non-occurrence of a particular event.

For example, if A agrees to sell a car to B, but only if B's loan application is approved by a bank, the contract between A and B is a contingent contract. The performance of the contract (selling the car) is contingent upon the approval of B's loan application.

In a contingent contract, there are two possible outcomes:

- **The event occurs:** If the event specified in the contract happens, then the contract becomes enforceable, and the parties are bound to perform their obligations as per the terms of the contract.
- **The event does not occur:** If the event specified in the contract does not happen, the contract becomes void, and the parties are discharged from their obligations. In such a case, neither party can sue the other for non-performance.

A. Contingent contracts under Indian contract law have certain distinct features. Here are the key features of a contingent contract:

1. **Contingency:** A contingent contract is based on the occurrence or non-occurrence of a future uncertain event. The performance of the contract depends on the happening or non-happening of this event. If the specified event takes place, the contract becomes enforceable; otherwise, it becomes void.

2. **Conditional nature:** The rights and obligations of the parties are conditional upon the occurrence or non-occurrence of the specified event. Until the event is determined, the contract remains in a state of suspense.

3. **Uncertainty of the event:** The event upon which the contract is contingent must be uncertain at the time of entering into the contract. It should be something that is not within the control of the parties involved. The uncertainty adds an element of risk to the contract.

4. **Collateral event:** The event on which the contract depends must be collateral or incidental to the contract. It should not be an essential term or condition of the contract itself. The event should not directly affect the performance of the contract.

5. **Future performance:** Contingent contracts involve future performance. The contractual obligations are not immediately enforceable but become operative only if the specified event occurs or does not occur. Until then, the parties are not bound to perform their respective obligations.

6. **Non-enforceability until the happening of the event:** A contingent contract is not enforceable until the occurrence or non-occurrence of the event. If the event does not happen, the contract becomes void, and the parties are released from their obligations. However, if the event does occur, the contract becomes enforceable, and the parties are bound to fulfill their respective obligations.

7. **Legal validity:** Contingent contracts are legally valid and enforceable if the specified event occurs. Once the event happens, the contract assumes the same legal status as any other valid contract, and the parties are obligated to perform their respective duties as per the contract terms.

B. Under Indian contract law, Sections 32 to 36 of the Indian Contract Act, 1872, outline different kinds of contingent contracts. These include:

1. **Contingent contracts based on the happening of an uncertain future event (Section 32):** A contingent contract may be based on the happening of an event that is uncertain. If the event does not occur, the contract becomes void.

2. **Contingent contracts based on the non-happening of an uncertain future event (Section 33):** A contingent contract may also be based on the non-happening of an uncertain event. If the event does occur, the contract becomes void.

3. **Contingent contracts based on the performance of a condition precedent (Section 34):** A contingent contract may be conditional on the performance of a condition precedent. The contract becomes enforceable only when the condition is fulfilled.

4. **Contingent contracts based on the non-performance of a condition precedent (Section 35):** A contingent contract may be conditional on the non-performance of a condition precedent. The contract becomes void if the condition is performed.

5. **Contingent contracts based on the expiration of a specified time (Section 36):** A contingent contract may be based on the expiration of a specified time. The contract becomes void if the time elapses without the occurrence of the specified event.

These sections provide the legal framework for different types of contingent contracts, covering a range of situations where the performance of a contract is dependent on the occurrence or non-occurrence of specific events or conditions. It is essential to understand these provisions to determine the enforceability and validity of contingent contracts under Indian contract law.

VII. CERTAIN RELATIONS RESEMBLING THOSE CREATED BY CONTRACT

Sections 68 to 72 of the Indian Contract Act, 1872, pertain to "Certain Relations Resembling Those Created by Contract." These sections deal with contracts that create relations similar to those created by actual contracts. Here is an overview of these sections:

1. **Section 68: Claim for Necessaries Supplied to a Person Incapable of Contracting:** This section allows a person who supplies goods or services that are necessary for the support of a person incapable of contracting (e.g., a minor or a person of unsound mind) to

claim reimbursement from the property of that person.

2. **Section 69: Reimbursement of Person Paying Money Due by Another, in Payment of Which He is Interested:**

This section allows a person who is interested in the payment of money due by another to make the payment and seek reimbursement from that person. The person making the payment is entitled to reimbursement as if he/she were the principal debtor.

3. **Section 70: Obligation of Person Enjoying Benefit of Non-Gratuitous Act:**

This section applies when a person lawfully does something for another person or delivers something to him/her, not intending to do so gratuitously. The person receiving the benefit is bound to compensate the other person for the act or thing done.

4. **Section 71: Responsibility of Finder of Goods:**

This section applies to a person who finds someone else's goods by chance. The finder of the goods is subject to certain responsibilities and obligations, such as making reasonable efforts to find the true owner and returning the goods.

5. **Section 72: Liability of Person to Whom Money is Paid, or Thing Delivered, by Mistake or Under Coercion:**

This section deals with situations where money is paid or a thing is delivered by mistake or under coercion. The person receiving the money or thing is bound to repay or return it to the person from whom it was received.

These sections establish legal principles for situations that resemble contractual relationships, but where an actual contract may be absent or invalid. They provide remedies and obligations in cases involving necessities supplied to incapacitated individuals, reimbursement for payments made by interested parties, non-gratuitous acts, finding and returning goods, and the return of money or things received by mistake or under coercion.

VIII. BREACH OF CONTRACT:

In India, a breach of contract occurs when one party fails to perform its obligations as agreed

upon in a valid contract. The Indian Contract Act, 1872 governs the law relating to contracts in India, including the consequences of a breach.

A. Under Indian contract law, a breach of contract can take several forms:

1. **Actual Breach:** This occurs when a party fails to perform its obligations as stated in the contract within the specified time or in the agreed-upon manner.

2. **Anticipatory Breach:** Also known as anticipatory repudiation, this happens when one party clearly communicates to the other party, either through words or actions, that they will not fulfill their contractual obligations in the future.

3. **Fundamental Breach:** A fundamental breach is a severe violation of the terms of the contract that goes to the root of the agreement. It is a breach that substantially deprives the innocent party of the benefits it expected from the contract.

4. **Partial Breach:** A partial breach occurs when a party performs the contract but fails to fulfill all the obligations stated in the agreement. This breach may entitle the innocent party to claim damages for the incomplete performance.

5. **Time-based Breach:** If a party fails to perform within the agreed-upon time frame or within a reasonable time if no specific time frame is mentioned, it is considered a breach of contract.

A. When a breach of contract occurs, the innocent party may be entitled to various remedies, including:

1. **Damages:** The non-breaching party may claim monetary compensation to cover the losses suffered as a result of the breach. *Hadley v. Baxendale (1854)* dealt with the concept of foreseeability of damages. The court held that a party can only recover damages that arise naturally from the breach or that were within the contemplation of both parties at the time of entering into the contract. Damages that are too remote or speculative are not recoverable.

2. **Specific Performance:** In some cases, the court may order the breaching party to fulfill its contractual obligations as agreed upon. This is typically applicable when monetary compensation would not adequately remedy the situation.

3. **Rescission:** Rescission means canceling the contract and returning the parties to their pre-contract position. This remedy is usually available when there has been a serious breach that makes it impracticable to continue with the contract.

4. **Injunction:** In exceptional cases, the court may grant an injunction to prevent the breaching party from engaging in certain actions or to enforce specific performance.

IX. CONCLUSION

The Indian Contract Act, 1872 is a fundamental piece of legislation that governs contracts in India. It establishes the rights and obligations of the parties involved and provide a comprehensive framework for the formation and enforcement of contracts, fostering certainty and fairness in business transactions.

X. REFERENCE:

1. Balfour Vs. Balfour [1919] 2KB 571
2. MOHORI BIBEE Vs. DHARMODAS GHOSE ILR (1903) 30 CAL 539 (PC)
3. Carlill v Carbolic Smoke Ball Company [1892] EWCA Civ 1
4. Taylor v Caldwell [1863] EWHC J1 (QB), (1863) 3 B & S 826, 122 ER 309 (6 May 1863), Court of Queen's Bench
5. Hadley & Anor v Baxendale & Ors [1854] EWHC J70
6. Rachit Garg, All about different types of contracts, <https://blog.iplayers.in/all-about-different-types-of-contracts/> (Last Accessed on 1st July, 2023 – 7.44 PM)
7. Seha Mahanwar, Types of breach of contract that you should know about <https://blog.iplayers.in/types-breach-contract-should-know-about/> (Last Accessed on 1st July, 2023 – 7.45 PM)
8. Law of Contracts Notes, Study Materials and Case Laws, Law Bhoomi, <https://lawbhoomi.com/law-of-contracts->

[notes-study-materials-and-case-laws/](https://iledu.in/notes-study-materials-and-case-laws/) (Last Accessed on 1st July, 2023 – 7.46 PM)