

Question Based on Contract Act

Problem: 1

X agrees to marry Y. Y dies before the marriage takes place. Is it a void agreement?

Solution: It is not a void agreement. It is a void contract because it was valid when it was entered into but subsequently became void on the death of Y.

Problem: 2

X agrees to pay ₹ 1,00,000 to Y if Y does not marry throughout his life. Y promises not to marry at all but later on X refuses to pay ₹ 1,00,000. Advise Y.

Solution: Y cannot recover anything. The agreement between X and Y is in restraint of marriage which has been expressly declared void under Section 26.

Problem: 3

X agrees to pay Y ₹ 1,00,000 if Y kills Z. To pay Y, X borrows ₹ 1,00,000 from W who is also aware of the purpose of the loan. Y kills Z but X refuses to pay. X also refuses to repay the loan to W. Advise Y and W.

Solution: The agreement between X and Y is an illegal agreement because its object is unlawful. Hence, Y cannot recover anything from X. Since the main agreement between X and Y is illegal, the agreement between X and W which is collateral to the main agreement is also void and hence W cannot recover anything from X.

Problem: 4

X, gave an advertisement in a newspaper that a sale of office furniture by auction will be held at 2 p.m. On 9th August 1997 at 'Pragati Maidan, Stall No. 420, New Delhi.' Y from Mumbai reached New Delhi on the appointed date and time but X had cancelled the auction sale. Advise Y.

Solution: Y cannot file a suit against X for his loss of time and expenses because the advertisement was merely an invitation to offer and not an offer to sell.

Problem: 5

X offered to sell his car for ₹ 1,00,000 to Y. Y replies "I will pay ₹ 90,000 for it." X refuses to sell at this price. Y then attempts the original offer but X refuses to sell his car. Discuss the legal position.

Solution: Y's first reply is a counter offer and not an acceptance of X's offer and has put an end to the original offer. After having made the counter offer, Y cannot accept the original offer which has already come to an end. Hence, X is not bound to sell his car to Y.

[Leading case: Nihal Chand v. Amar Nath]

Problem: 6

F offered by a letter to buy his nephew's horse for ₹ 100 saying "If I hear no more about him, I shall consider the horse mine." The nephew sent no reply at all but told B his auctioneer not to sell that particular horse as he intended to sell that horse to F. B sold the horse by mistake. F filed a suit against B. Will he succeed?

Solution: F will not succeed because his nephew had not communicated acceptance to him.

[Felthouse v. Bindley]

Problem: 7

X, on attaining majority, gave a promissory note in the satisfaction of one executed by him for money borrowed when he was a minor. Is this promissory note valid?

Solution: Sections to which the given problem relates: Section 10 and Section 11.

Decision: The promissory note is not valid and hence cannot be enforced.

Reason: There was no consideration.

[Leading case: Ramaswamy v. Anthaoppa]

Problem: 8

X agreed to sell his property worth about ₹ 1,00,000 for ₹ 10,000 only. X's mother proved that X was a congenital idiot, incapable of understanding the transaction. Is this sale valid?

Solution: Section to which the given problem relates: Section 12.

Decision: This sale is void.

Reason: X was incapable of exercising his own judgment as to whether the act he is about to do is in his interest or not.

Problem: 9

X gifted ₹ 50,000 to Y his neighbour's wife by executing a registered gift deed without any consideration. There is no near relation between X and Y. Is this gift valid?

Solution: Section to which the given problem relates: Explanation I to Section 25.

Decision: The gift is valid.

Reason: A completed gift needs no consideration and need not be a result of natural love and affection or near relation.

Problem: 10

X promises to make a gift of ₹ 50,000 to Y, his neighbour's wife. Is this promise valid?

Solution: Section to which the given problem relates: Explanation I to Section 25.

Decision: A promise to gift is not valid.

Reason: This agreement is void for want of consideration and at the same time, there is only a promise to gift and not a completed gift.

Problem: 11

X threatens to kill Y's son if Y does not sell his house to X for ₹ 1,00,000. Y signs the necessary documents for the sale of house and receives the payment. Later on, Y wants to avoid the contract.

Will he succeed?

Solution: Sections to which the given problem relates: Sections 15 and 72.

Decision: Y can avoid the contract on the ground of coercion but he will have to return ₹ 1,00,000 which he has received from X.

Reason: Y's consent is not free as it has been obtained by committing an act which is forbidden by the Indian Penal Code.

Problem: 12

X, a poor Hindu widow, was in great need of money to establish her right to maintenance. She took a loan of ₹ 1,500 bearing a rate of interest of 100% p.a. Is this transaction an unconscionable?

Solution: Section to which the given problem relates: Section 16(3).

Decision: This transaction appears to be an unconscionable.

Reason: Not only the rate of interest is too high but also the lender has used the circumstances of poor Hindu widow to obtain an unfair advantage.

[Leading case: Ranee Annapurni v. Swaminatha]

Problem: 13

X sells by auction to Y a horse which X knows to be unsound. The horse appears to be sound but X knows about the unsoundness of the horse. Is this contract valid in each of the following alternative cases:

Case

- (a) X says nothing about the unsoundness of the horse to Y.
- (b) If X says nothing about it to Y who is X's daughter who has just come of age.
- (c) If Y says to X "If you do not deny it, I shall assume that the horse is sound." X says nothing.

Solution: Section to which the given problem relates: Section 17.

Case (a)

Decision: This contract is valid.

Reason: Mere silence as to the facts likely to affect the willingness of a person to enter into a contract is not fraud. Here, it is not the duty of the seller to disclose defects.

Case (b)

Decision: This contract is not valid.

Reason: It becomes X's duty to tell Y about the unsoundness of the horse because a fiduciary relationship exists between X and his daughter Y. Here, X's silence is equivalent to speech and hence amounts to fraud.

Case (c)

Decision: This contract is not valid.

Reason: Here, X's silence is equivalent to speech and hence amounts to fraud.

Problem: 14

X buys a painting believing it to be worth ₹ 1,00,000 while in fact it is worth only ₹ 10,000. Is it a valid contract?

Solution: Section to which the given problem relates: Explanation to Section 20.

Decision: This contract is valid.

Reason: An erroneous opinion as to the value of the thing which forms the subject matter of the agreement is not treated as mistake relating to a matter of fact. Here, X will have to blame himself for ignorance of the true value of the painting.

Problem: 15

P inquired about the price of rifles from H suggested that he might buy fifty rifles. On receiving the quotation, P telegraphed "Send three rifles". But because of the mistake of the telegraph authorities, the message transmitted was "Send the rifles". H despatched fifty rifles. P accepted three rifles and returned the remaining forty-seven rifles. Is this agreement valid?

Solution: Section to which the given problem relates: Section 20.

Decision: This agreement is void.

Reason: Both the seller and the buyer made a mistake regarding the quantity of the subject matter.

[Leading case: Henked v. Pape]

Problem: 16

X sold oats to Y by sample and Y, thinking that they were old oats, purchased them. In fact, the oats were new. Is Y bound by the contract?

Solution: Section to which the given problem relates: Section 22.

Decision: Y is bound by the contract.

Reason: A contract is not voidable because of unilateral mistake (i.e. mistake by only one party to the agreement) as to the matter of fact. Here, Y will have to blame himself for ignorance or wrong judgment.

[Leading case: Smith v. Hughes]

Problem: 17

X employed Y. The terms of service agreement are-

- (a) The employee has to serve the organisation for 5 years.
- (b) The employee shall not accept any other similar engagement during the term of agreement.
- (c) The employee shall not accept similar engagement after the termination of services.
- (d) The employee shall not compete with his employer after the termination of services. State the legal position of the terms of service agreement.

Solution: Section to which the given problem relates: Section 27.

Decision: First two terms (a) and (b) are not in restraint of trade and hence valid. Last two terms (c) and (d), are restraint of trade and hence void.

Problem: 18

A clause in a life insurance policy was that "no suit to recover under the policy shall be brought after one year from the date of death of assured." X died and his legal representatives filed a suit to recover the assured sum after two and half years. Is this suit maintainable?

Solution: Section to which the given problem relates: Section 28.

Decision: This suit is maintainable.

Reason: The clause in policy is void because it curtailed the prescribed period of limitation (which is 3 years) according to Law of Limitation Act.

Problem: 19

A agrees to pay B ₹ 50,000 if B marries C within 1 year. State the legal position in each of the following alternative case:

Case (a) If B marries C after 1 year. Case (b) If B marries C within 1 year.

Case (c) If B marries D within 6 months of agreement.

Case (d) If B marries D within 6 months of agreement. Subsequently, D dies and B marries C within 6 months of marriage D.

Solution:

Case (a): Section to which the given problem relates: Section 35.

Decision: B cannot recover anything from A.

Reason: The contract becomes void on the expiry of 1 year.

Case (b): Section to which the given problem relates: Section 32.

Decision: B can recover ₹ 50,000 from A.

Reason: The contract can be enforced by law when the event has happened (i.e. the marriage of B to C).

Case (c): Section to which the given problem relates: Sections 34, 35.

Decision: B cannot recover anything from A.

Reason: The contract becomes void because the event (i.e. the marriage of B to C) has become impossible.

Case (d): Section to which the given problem relates: Section 32.

Decision: B can recover ₹ 50,000 from A when he marries C.

Reason: The contract can be enforced by law when the event has happened (i.e., the marriage of B to C).

Problem: 20

X owes Y three sums, one for ₹ 2,000 which is barred by limitation, second for ₹ 3,000 which is not barred, and third for ₹ 4,000 which is not barred. X sends ₹ 1,000 to Y. Can Y appropriate ₹ 1,000 towards ₹ 2,000 (a) if X gives no direction in this regard (b) if X asks Y to appropriate ₹ 1,000 towards the third debt of ₹ 4,000?

Solution: Section to which the given problem relates: Section 59.

Decision:

Case (a) Y can appropriate ₹ 1,000 towards ₹ 2,000.

Case (b) Y cannot appropriate ₹ 1,000 towards ₹ 2,000. He must appropriate ₹ 1,000 towards ₹ 4,000 only because the creditor is bound to follow the instruction of debtor regarding application of the payment

Problem: 21

X owes Y ₹ 1,000 and Z owes X ₹ 1,000. Can Y recover ₹ 1,000 from Z (a) if no agreement has been entered into between X, Y and Z (b) if Y accepts Z as his debtor in pursuance of an agreement entered into between X, Y and Z?

Solution: Section to which the given problem relates: Section 62.

Decision:

Case (a) Y cannot recover from Z because there is privity of contract between Y and Z.

Case (b) Y can recover from Z because X, the promisor has transferred his liability by novation (i.e. by tripartite agreement between promisor, promisee and transferee)

Problem: 22

X, Y and Z jointly borrowed ₹ 60,000 from L. Decide in the light of The Indian Contract Act, 1872:

- (i) whether L can compel only Y to pay the entire loan of ₹ 60,000,
- (ii) If X, Y and Z died, whether L can compel only the Legal representatives of X to pay the loan of ₹ 60,000,
- (iii) If the whole amount was repaid to L by Y. How much Y can recover from X and Z?
- (iv) If the whole amount was repaid to L by Y and Z became insolvent and his private assets are sufficient to pay only 1/5 of his share of debts. How much Y can recover from X and Z?
- (v) If the whole amount was repaid to L by Y, Z became insolvent and his private assets are sufficient to pay only 1/5 of his share of debts and X died and his son W inherited the assets of ₹ 17,000. How much Y can recover from X and Z?
- (vi) If L releases X from his liability and sues Y and Z for payment. whether Y and Z are also released from their liability to L and X is released from his liability to Y and Z for contribution.

Solution: Section to which the given problem relates: Section 42 to 45

Decision:

- (i) Yes. L can compel only Y to pay ₹ 60,000 since as per Sec. 43 in the absence of express agreement to the contrary, the promisee may compel any one or more of the joint promisors to perform the whole of the promise.
- (ii) No. L can compel the Legal representatives of X, Y and Z jointly to pay the loan of ₹ 60,000, since as per Sec. 45 unless a contrary intention appears from the contract, the right to claim performance rests, as between him and them, with them during their joint lives, and, after the death of any of them, with the representative of such deceased person jointly, with the survivor or survivors and after the death of the last survivor, with the representatives of all jointly.
- (iii) Y can recover the contribution of ₹ 20,000 each from X and Z since as per Sec. 43 in the absence of express agreement to the contrary, the promisors, may compel every joint promisor to contribute equally to the performance of the promise (unless a contrary intention appears from the contract).
- (iv) Y can recover the contribution of ₹ 28,000 (i.e. ₹60,000 × 1/3) + (16,000 × 1/2) from X and ₹ 4,000 (i.e. ₹ 60,000 × 1/3 × 1/5) from Z since as per Sec. 43 in the absence of express agreement to the contrary, if any one of the joint promisors makes default in such contribution the remaining joint promisors must bear the loss arising from such default in

equal shares.

- (v) Y can recover the contribution of ₹ 17,000 from X and ₹ 4,300 [i.e. $(₹60,000 \times 1/3) + (3,000 \times 1/2)$] $\times 1/5$ from Z since as per Sec. 43 in the absence of express agreement to the contrary, if any one of the joint promisors makes default in such contribution the remaining joint promisors must bear the loss arising from such default in equal shares.

Note: A legal representative is liable only to the extent of property of the deceased received by him as per Sec. 42.

- (vi) If L releases X from his liability and sues Y and Z for payment neither Y and Z are released from their liability to L nor X is released from his liability to Y and Z for contribution since as per Sec. 44 a release of one of such joint promisors by the promisee, does not discharge the other joint promisors neither does it free the joint promisor so released from responsibility to the other joint promisors.

Problem: 23

X of Delhi agreed to sell 100 bales of cotton @ ₹ 1,000 per bale and to deliver within a fortnight at buyer's godown at Lahore. X failed to supply these goods. State the legal position in each of the following alternative cases:

Case (a) If, unknown to both the parties, the goods were destroyed by fire at the time of agreement.

Case (b) If X knew that goods were destroyed by fire at the time of agreement. Case (c) If the goods were destroyed by fire after the formation of agreement. Case (d) If war is declared between India and Pakistan.

Case (e) If these goods were to be manufactured by Z who is ready to supply @ ₹ 1,100 per bale because of unexpected increase in the cost of material and labour.

Case (f) If these goods were to be manufactured by Z who did not manufacture those goods.

Case (g) If these goods could not be delivered because of strike of transport operators.

Solution: Section to which the given problem relates: Section 56.

Decision and Reason:

Case (a) The contract is void on the ground of mutual mistake.

Case (b) The contract is void but X, the promisor, must compensate the buyer for the promisee for any loss which such promisee sustains through the non-performance of the promise.

Case (c, d) The contract has become void on the ground of supervening possibility.

Case (e) The contract is not discharged because of commercial impossibility.

Case (f) The contract is not discharged because of default of third party.

Case (g) The contract is not discharged because of non-performance due to strikes, lock-out or civil disturbances.

Problem: 24

Mr X, a Hindu contracts to marry Y a muslim. State the legal position in each of the following alternative cases:

Case (a) If Mr X is already married to Z who lives with X; Case (b) If Mr X goes mad before the date fixed for marriage; Case (c) If Mr X dies before the date fixed for marriage.

Solution: Section to which the given problem relates: Section 56.

Decision and Reason:

Case (a) The contract is void ab-initio because such contract is forbidden by law. X must compensate Y for the loss caused to her by the non-performance of the promise.

Case (a) The contract becomes void because of change in the state of things which formed the basis of the contract.

Case (c) The contract is discharged on the death of X.

Problem: 25

X, a singer enters into a contract with Y, the manager of a theatre, to sing at his theatre two nights every week during the next two months and Y engages to pay her at the rate of ₹ 100 for each night on completion of the contract. State the legal position in each of the following alternative cases:

Case (a) On sixth night if X willfully absents herself from the theatre and wants to sing on the seventh night but Y does not allow her to sing on the seventh night.

Case (b) On the sixth night if X willfully absents herself from the theatre and Y allows X to sing on seventh night.

Case (c) On sixth night, X is too ill to sing.

Case (d) On sixth night, X dies before she sings.

Solution: Section to which the given problem relates: Sections 39, 56.

Decision and Reason:

Case (a) Y can rescind the contract and can claim the damages for the breach of contract [Section 39].

Case (b) Y cannot rescind the contract but can claim the compensation for the damages sustained by him through X's failure to sing on the sixth night [Section 39].

Cases (c,d) X is discharged on the sixth night because of her incapability to sing and Y cannot claim the compensation for the damages sustained by him through Y's failure to sing on the sixth night.

Problem: 26

X contracts to pay a sum of money to Y on a day specified. X does not pay the money on that day. Y in consequence of not receiving the money on that day, is unable to pay his debt and is totally ruined. Discuss the legal position.

Solution: Section to which the given problem relates: Section 73.

Decision and Reason: Y will not be able to recover anything except the principal sum together with interest up to the date of payment because Y's insolvency is an indirect consequence of breach of contract.

Problem: 27

X borrows ₹ 1,00,000 from Y @ 12% p.a. interest payable by five half-yearly instalments of ₹ 20,000 each. State the legal position in each of the following alternative stipulations:

Case (a) "In case of default in payment of any instalment, interest rate shall be raised to 15% p.a."

Case (b) "In case of default in payment of any instalment, interest rate shall be raised to 75% from the date of default."

Case (c) "In case of default in payment of any instalment, the interest shall be calculated @ 12% p.a. on monthly compounding basis."

Case (d) "In case of default in payment of any instalment, the interest shall be calculated @ 15% p.a. on monthly compounding basis."

Case (e) "In case of no default, the interest rate shall be 9% p.a."

Case (f) "In case of default in payment of any instalment, the whole sum shall become due."

Solution: Section to which the given problem relates: Section 74.

Decision and Reason:

Cases (a), (b) and (d) Y is entitled to recover from X such compensation as the court considers reasonable because the stipulation is in the nature of a penalty.

Cases (c) and (e) Y is entitled to recover from X as per stipulation because the stipulation is not in the nature of a penalty.

Case (f) The contract may be enforced according to its terms because the stipulation is not in the nature of a penalty.

Problem: 28

X borrows ₹ 100 from Y and gives him a bond for ₹ 200 payable by five yearly instalments of ₹ 40 with a stipulation that in default of payment of any instalment, the whole shall become due. Discuss the legal position.

Solution: Section to which the given problem relates: Section 74.

Decision and Reason: Y is entitled to recover from X such compensation as the court considers reasonable because the stipulation is in the nature of a penalty.

Problem: 29

A, a singer, contracts with B, the manager of a theatre, to sing at his theatre for two nights in every week during the next two months and engages to pay her ₹ 100 for each night's performance. On the sixth night, A willfully absents herself from the theatre, and B, in consequence, rescinds the contract.

Solution: Section to which the given problem relates: Section 75.

Decision and Reason: B is entitled to claim compensation for the damage which he has sustained through the non-fulfilment of the contract because a person who rightfully rescinds a contract is entitled to compensation for any damage which he has sustained through the non-fulfilment of the contract.

Problem: 30

On 20th September X agreed to sell to Y of 10 tons of a particular chemical to be manufactured in his factory @ ₹ 8,000 per ton to be delivered on 20th October. Calculate the amount of damages which could be recovered by Y from X in each of alternative cases:

Case(a): The chemical could not be manufactured because of strike by the workers and X failed to supply the said chemical to Y on 20th October.

Case (b): On 19th October, the entire chemical in the factory was destroyed by fire without the fault of either party and X failed to supply the said chemical to Y on 20th October.

Case (c): On 1st October, X informed Y that he was not going to supply the goods since the price of that chemical rose to ₹ 10,000 per ton on 1st October. The price of that chemical further rose to ₹ 12,000 per ton on 20th October. Y decided to rescind the contract on 1st October

Case (d): On 1st October, X informed Y that he was not going to supply the goods since the price of that chemical rose to ₹ 10,000 per ton on 1st October. The price of that chemical further rose to ₹ 12,000 per ton on 20th October. Y decided not to rescind the contract on 1st October and to wait till 20th October.

Case (e): On 1st October, X informed Y that he was not going to supply the goods since the price of that chemical rose to ₹ 10,000 per ton on 1st October. The price of that chemical further rose to ₹ 12,000 per ton on 20th October. Y decided not to rescind the contract on 1st October and to wait till 20th October. On 19th October, the entire chemical in the factory was destroyed by fire without the fault of either party.

Solution:

Case (a): Section to which the given problem relates: Section Sec 56, para 2

Impossibility of performance is, as a rule, not an excuse from performance. A contract is not discharged by the supervening impossibility on the grounds of strikes, lockouts and civil disturbances unless otherwise agreed by the parties to the contract.(Budget V Bennington; Jacobs V Credit Lyonnais).

This difficulty in performance cannot be considered as supervening impossibility attracting Section 56 (Para 2) and hence X is liable to Y for non-performance of contract and Y can claim damages of ₹ 40,000@ ₹ 4000 per ton [i.e. ₹ 12,000 – ₹ 8,000].

Case (b): Section to which the given problem relates: Section Sec 56, para 2

As per Sec. 56 (Para 2) of the Indian Contract Act, 1872 when the performance of a contract becomes impossible subsequent to its formation, the contract becomes void. Hence, this contract is discharged by the supervening impossibility since the subject matter of the contract was destroyed after the formation of the contract without any fault of either party.

Hence, X is not liable to Y for non-performance of contract and Y can not claim any damages.

Case (c),(d) & (e): Section to which the given problem relates: Section 39

The stated problem is a case of 'Anticipatory breach of Contract' as per Sec. 39 of the Indian Contract Act, 1872.

The case law applicable here is Frost vs. Knight.

The answer to the problem is that

Case (c): Y can claim damages of ₹ 20,000@ ₹ 2000 per ton [i.e. ₹ 10,000 – ₹ 8,000].

Case (d): Y can claim damages of ₹ 40,000@ ₹ 4000 per ton [i.e. ₹ 12,000 – ₹ 8,000].

Case (e): Y had lost his right to sue X for damage since the contract had become void on the ground

of supervening impossibility. [Sec 56, para 2]. As per Sec. 56 (Para 2) of the Indian Contract Act, 1872 when the performance of a contract becomes impossible or unlawful subsequent to its formation, the contract becomes void, this is termed as 'supervening impossibility' (i.e. impossibility which does not exist at the time of making the contract, but which arises subsequently).

Problem: 31

X picked up a diamond from the floor of Y's shop and handed it over to Y to keep it till owner is found, Y did his best to find out the owner but true owner could not be found. After sometime, X offered Y the lawful charges incurred by Y for finding out the true owner and asked him to return the diamond to him. Y refused to do so. Discuss the legal position.

Solution: Section to which the given problem relates: Sections 71 and 168.

Decision and Reason: Y must return the diamond to X because X was entitled to retain it against the whole world except the true owner.

Problem: 32

X engaged Y to write a book to be published as series in a magazine. The magazine was abandoned after a few issues. Can Y recover anything from X.

Solution: Y can recover compensation for the work done by him on quantum meruit basis.
[Planche v. Colburn]