

## **LL.B. I Term**

### **Paper – LB – 102 - Principles of Contract**

The law of contracts touches equally upon the lives of ordinary persons and the activities of small and big business. This branch of law deals with law relating to promises, their formation, performance and enforceability. It is scattered over several legislations. There are special legislations dealing with particular contractual relationships, e.g. The Sale of Goods Act, 1930, The Partnership Act, 1932. This paper will include a study of general principles of contracts spelt out in sections 1-75 of the Indian Contract Act, 1872. The statutory provisions would be supplemented with judicial pronouncements.

#### **Prescribed Legislations:**

- (a) The Indian Contract Act, 1872
- (b) The Specific Relief Act, 1963
- (c) The Indian Majority Act, 1875
- (d) The Information Technology Act, 2000

#### **Prescribed Books:**

- (a) Nilima Bhadbhade, **Pollock & Mulla, Indian Contract & Specific Relief Acts** (13<sup>th</sup> ed., 2006)
- (b) J. Beatson, **Anson's Law of Contract** (28<sup>th</sup> ed., 2002)
- (c) H.K. Saharay, **Dutt on Contract – The Indian Contract Act, 1872** (10<sup>th</sup> ed., 2006)
- (d) Avtar Singh, **Law of Contract and Specific Relief** (11<sup>th</sup> ed., 2013)
- (e) Sachin Rastogi, **Insights Into E-Contracts in India** , 2014
- (f) R K Singh, **Law Relating to Electronic Contracts** , 2013

#### **Recommended Book:**

M.P.Furmston, **Cheshire, Fifoot and Furmston's Law of Contract** (15<sup>th</sup> ed., 2007)

#### **Topic 1 : General Introduction – History and Nature of Contractual Obligations**

#### **Topic 2 : Formation of an Agreement**

Intention to create legal relationship; offer and invitation to treat; kinds of offer, communication, acceptance and revocation of offer and acceptance; modes of revocation of offer - Indian Contract Act, 1872, sections 2 – 10

1. *Carlill v. Carbolic Smoke Ball Co.* (1891-4) All ER Rep.127 1
2. *Pharmaceutical Society of Great Britain v. Boots Cash Chemist (Southern) Ltd.* (1952) 2 All ER Rep. 456 9
3. *Balfour v. Balfour* (1918-19) All ER 860 (CA) 11

4.	<i>Lalman Shukla v. Gauri Datt</i> (1913) XL ALJR 489 (All.)	15
5.	<i>Bhagwandas Goverdhandas Kedia v. M/s. Girdharilal Parshottamdas &amp; Co.</i> , AIR 1966 SC 543	17
6.	<i>Harvey v. Facey</i> (1893) AC 552	28
7.	<i>Felthouse v. Bindley</i> (1862) 11 CB 869	29

### **Topic 3 : Making of an Agreement – Special Situations**

Tenders and Auctions - Indian Contract Act, 1872, sections 2 – 10

8.	<i>Union of India v. Maddala Thathiah</i> , AIR 1966 SC 1724	30
9.	<i>Rajendra Kumar Verma v. State of M.P.</i> , AIR 1972 MP 131	36
10.	<i>Kanhaiya Lal Aggarwal v. Union of India</i> , AIR 2002 SC 2766	37
11.	<i>Haridwar Singh v. Bagun Sumbrui</i> (1973) 3 SCC 889	39
12.	<i>Indian Airlines Corporation v. Sm. Madhuri Chowdhuri</i> , AIR 1965 Cal. 252	42

### **Topic 4 : Consideration**

Meaning; basis and the nature of consideration; Doctrine of Privity of Contract and of consideration, its exceptions; Exceptions of consideration – Indian Contract Act, 1872, sections 2(d), 2(f), 23 and 25

13.	<i>Kedarnath Bhattacharji v. Gorie Mahomed</i> (1886) 7 I.D. 64 (Cal.)	54
14.	<i>Doraswami Iyer v. Arunachala Ayyar</i> (1935) 43 LW 259 (Mad.)	56
15.	<i>Abdul Aziz v. Masum Ali</i> , AIR 1914 All. 22	58
16.	<i>Venkata Chinnaya Rau v. Venkataramaya Garu</i> (1881) 1 ID 137 (Mad.)	60
17.	<i>Nawab Khwaja Muhammad Khan v. Nawab Husaini Begam</i> (1910) LR 37 I.A. 152	62

### **Topic 5 : Capacity to Contract**

Legal disability to enter into contract - Minors, persons of unsound mind ; person under legal disability; lunatics, idiots; Restitution in cases of minor's agreement; Liability for necessaries supplied to the minor - Indian Contract Act, 1872, sections 10, 11, 12, 64, 65, 68; Specific Relief Act, 1963, section 33; Indian Majority Act, 1875

18.	<i>Mohori Bibee v. Dhurmodas Ghose</i> (1903) 30 I.A. 114	65
19.	<i>Khan Gul v. Lakha Singh</i> , AIR 1928 Lah. 609	69
20.	<i>Ajudhia Prasad v. Chandan Lal</i> , AIR 1937 All. 610	78

### **Topic 6 : Free Consent**

Free consent ; Definition – Coercion, Undue influence, Fraud, Misrepresentation and Mistake; Effect on contracts influenced by any factor vitiating free consent - Indian Contract Act, 1872, sections 13 – 22

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| 21. | <i>Raghunath Prasad v. Sarju Prasad</i> (1923) 51 I.A. 101                    | 87  |
| 22. | <i>Subhas Chandra Das Mushib v. Ganga Prasad Das Mushib</i> , AIR 1967 SC 878 | 90  |
| 23. | <i>Lakshmi Amma v. T. Narayana Bhatta</i> , 1970 (3) SCC 159                  | 94  |
| 24. | <i>Tarsem Singh v. Sukhminder Singh</i> (1998) 3 SCC 471                      | 100 |

### **Topic 7 : Limitations on Freedom of Contract**

Circumstances in which agreements become void or voidable, Distinction between void and voidable agreements; Unlawful Agreements; Public policy; Agreements with unlawful consideration in part and objects; Agreements without consideration; Agreements in restraint of marriage; Agreements in restraint of trade; Agreements in restraint of legal proceedings; Ambiguous and uncertain agreements & Wagering agreements -Indian Contract Act, 1872, sections 23 – 30

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| 25. | <i>Gherulal Parakh v. Mahadeodas Maiya</i> , AIR 1959 SC 781   | 106 |
| 26. | <i>Niranjan Shankar Golikari v. Century Spinning &amp; Manufacturing Co. Ltd.</i> , AIR 1967 SC 1098   | 119 |
| 27. | <i>Central Inland Water Transport Corpn. Ltd. v. Brojo Nath Ganguly</i> (1986) 3 SCC 156<br>(Also see <i>D.T.C. v. D.T.C. Mazdoor Congress</i> , AIR 1991 SC 101;<br><i>Bank of India v. O.P. Swarankar</i> , AIR 2003 SC 858) | 128 |
| 28. | <i>Dhurandhar Prasad Singh v. Jai Prakash University</i> , AIR 2001 SC 2552  | 145 |

### **Topic 8 : Discharge of a Contract**

Modes -Discharge by performance; Frustration; Supervening impossibility of performance; Grounds of Frustration and its effect; Discharge by Agreement and Novation - Indian Contract Act, 1872, sections 37 – 67

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| 29. | <i>Satyabrata Ghose v. Mugneeram Bangur &amp; Co.</i> , AIR 1954 SC 44                                   | 148 |
| 30. | <i>M/s. Alopi Parshad &amp; Sons Ltd. v. Union of India</i> , AIR 1960 SC 588                            | 158 |
| 31. | <i>Punj Sons Pvt. Ltd. v. Union of India</i> , AIR 1986 Del. 158   | 162 |
| 32. | <i>Easun Engineering Co. Ltd. v. The Fertilizers &amp; Chemicals Travancore Ltd.</i> , AIR 1991 Mad. 158 | 167 |

### **Topic 9 : Remedies for Breach of Contract**

(a) Damages; Types of Damages ; Basis of Assessment of Damages; Remoteness of Damages and Measures of Damages; Mitigation of Damages; Penalty & Liquidated Damages – Indian Contract Act, 1872, sections 73 – 74

33.	<i>Hadley v. Baxendale</i> (1843-60) All ER Rep. 461	172
34.	<i>AKAS Jamal v. Moolla Dawood, Sons &amp; Co.</i> (1915) XX C.W.N. 105	175
35.	<i>Karsandas H. Thacker v. M/s. The Saran Engineering Co. Ltd.</i> , AIR 1965 SC 1981	178
36.	<i>Maula Bux v. Union of India</i> , AIR 1970 SC 1955	182
37.	<i>Shri Hanuman Cotton Mills v. Tata Air Craft Ltd.</i> , 1969 (3) SCC 522	186
38.	<i>Ghaziabad Development Authority v. Union of India</i> , AIR 2000 SC 2003	196
39.	<i>Oil &amp; Natural Gas Corporation Ltd. v. Saw Pipes Ltd.</i> (2003) 4 SCALE 92	200

### **Topic 10 : Quasi – Contracts**

Obligations resembling those created by Contract (Quasi – Contracts) : Concept and classification - Indian Contract Act, 1872, sections 68 – 72

40.	<i>State of West Bengal v. B.K. Mondal &amp; Sons</i> , AIR 1962 SC 779	211
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### **Topic 11 : E-Contracts**

Nature and scope ; Formation of E-contracts ; Legislative Framework; Judicial Approach – The Information Technology Act, 2000, sections 3--5, 10--17.

41.	<i>P R Transport Agency v. Union of India</i> , AIR 2006 ALL 23	
42.	<i>Timex International Fze Ltd Dubai v. Vedanta Aluminium Ltd.</i> (2010) 3 SCC 1	

### **IMPORTANT NOTE:**

1. The topics and cases given above are not exhaustive. The teachers teaching the course shall be at liberty to add new topics/cases.
2. The students are required to study the legislations as amended up-to-date and consult the latest editions of books.

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**LL.B. I Term Examinations, December, 2010**

**Note:** Attempt *five* questions including Question No. 1 which is compulsory.  
All questions carry *equal* marks.

1. Write short notes on any 4 (four) of the following:
  - (a) Kalia saves Gabber's property from fire. The circumstances show that Kalia had intended to act gratuitously. Can Kalia claim compensation from Gabber later on?
  - (b) Certain consignment of edible goods were sent by ship 'Peerless' from A in Chennai to B in Andaman Islands. The edibles were perishable and the port authorities refused to deliver up the goods to B except upon payment of an illegal charge for carriage. The consignee B pays the sum charged in order to obtain the goods. Can B later on recover the charge which was illegal and excessive?
  - (c) Pritam pays Rs. 10,000 to Shyam, in consideration of Shyam's promising to marry Lovely, who is Pritam's daughter. Unfortunately, Lovely is dead at the time of making the promise. What is the fate of the contract and can Pritam recover Rs. 10,000 from Shyam?
  - (d) A sends a letter to B promising to sell his car to him for Rs. 2,00,000. When is the proposal complete? B sends reply by telegram accepting A's proposal. When is the acceptance complete? A sends a telegram amending the price to Rs. 2,50,000. Upto what time it could be sent by A so as to be workable?
  - (e) Murari owes Mohan Rs. 20,000 but the debt is barred by the Limitation Act. Murari signs a written promise to pay Mohan Rs. 15,000 on account of the debt. Decide the fate of the contract.
2. Explain the meaning of past, present and future consideration. Give examples of each of them. Examine the validity of these types of consideration on the parity of Indian Contract Act, 1872.

'M' was an old lady. Just before dying she called for her daughter 'D' and her sister 'MS'. 'M' asked 'D' to grant an annuity of Rs. 50,000 per year to 'MS' for her life after 'M' is no more. 'D' in the presence of 'MS' agrees to do the same and afterwards enters into a written agreement to this effect with 'M'. 'M' dies thereafter and 'D' refused to pay her aunt 'MS' the promised sum. 'MS' sues 'D' for breach of contract. You are required to decide the case giving reasons.

3. What are the modes of communication of acceptance? When can we say that acceptance is complete with respect of these modes?

'N' was in the business of selling horses. His uncle 'U' visited his stud farm on a pleasure trip. 'N' gladly took him around and showed him the horses. 'U' returned to his place and after three days sent an e-mail to 'N' which said, "If I hear no more from you about that black horse, I shall consider it as mine for Rs. 15,00,000.00" Thereafter, 'N' did not reply back but instructed his manager not to put that black horse up for auction as it had already been sold to his uncle 'U'. The manager followed the instructions diligently and as a result all the horses except that black horse were sold. But 'U' never came forward to make payment for that black horse. 'N' sues 'U' to enforce the contract. Would he succeed? Give reasons for your answer.

4. Write a detailed essay on the legal position of agreements of minors. While writing your essay you are required to analyse the statutory provisions together with leading cases decided by courts in the context.
5. What are the essential ingredients of 'undue influence'? How is a plaintiff required to proceed when he seeks to avoid the contract because it was caused by undue influence? The onus of proof lies on whom in cases of undue influence?
6. What do you understand by discharge of contract? Mention the ways in which a contract would be discharged? Explain the 'doctrine of frustration' in the light of statutory provisions and case law.
7. What do you understand by breach of contract? Explain in detail the various remedies that are available for a breach of contract.
8. Analyse the definition of contract under the Indian Contract Act, 1872. What is the difference between a void agreement and void contract?

During the rainy season when dengue was assuming epidemic proportions in Delhi, Mosrap Co. Ltd. announced by advertisement that whosoever light their popular mosquito repellent (Smokefall) in their bed-room during sleeping hours will not be hit by dengue. One condition of the use mentioned in the advertisement was that the windows of the room during sleeping hours should remain closed. Further it was announced that if anyone is still hit by dengue, he will be compensated with Rs. 10,000. Sheela files a suit against the Co. successfully proving that she had bought Smokefall and still contracted dengue. The Co. refuses to pay compensation and defends by saying that how could the plaintiff prove that she always used the repellent during sleeping hours and with window closed which is an essential condition of the contract. Decide the case and support your answer with reasons, legal provisions and case law.

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### **LL.B. I Term (Supplementary) Examinations, July, 2011**

**Note:** Attempt *five* questions including Question No. 1 which is compulsory. All questions carry *equal* marks.

1. Attempt briefly any four of the following:-
  - (a) Liability to pay for non-gratuitous acts
  - (b) Privity of Contract
  - (c) Difference between void Agreement and void Contract
  - (d) Exceptions to consideration
  - (e) Revocation of offer
2. Explain the difference between 'offer' and 'invitation to treat' and discuss whether the following facts constitute offer or not:
  - (i) Display of goods with price tags in a Self-Service Departmental store

- (ii) Menu Card handed over to a customer in a restaurant
  - (iii) Advertisement inviting tenders
  - (iv) Bid at an auction
3. Critically examine the discuss the legal principles laid down in Bhagwandas Govardhan Kedia V. M/s Girdharilal Parshottamdas & Co. (AIR 1966 SC 543) with respect to communication of acceptance.
  4. Analyse the definition of consideration given in Section 2(d) of the Contract Act, 1872 and explain its main elements. Whether a promise to subscribe a certain sum of money for construction of a Hospital can be enforced by law?
  5. Explain the nature of an agreement with a minor with reference to decision in Mohiribibi v. Dharmoda Ghosh.

A while still a minor by falsely representing himself to be the age of majority entered into an agreement to sell his house to B and took from him full consideration amount of Rs. 50 lakhs. However, later A refused to execute the sale deed of his house in favour of B on the plea of minority. Advise B about legal remedies available to him against A.

6. What is meant by free consent? When is a contract said to be included by Undue Influence? What essentials are to be proved and by whom if a contract is sought to be avoided on the ground of Undue Influence?
7. "It is well settled that if and when there is frustration the dissolution of the contract occurs automatically."  
Examine the above statement with reference to statutory provisions and decided cases and discuss specific grounds of frustration which have become well established.
8. "Section 73 of the Indian Contract Act, 1872 is declaratory of Hadley V Baxandle Rules."  
Examine the above statement and discuss the rules laid down by Anderson B is Hadley V. Baxandale.

### **LL.B. I Term Examinations Question Paper, December, 2011.**

**Note:** Attempt all *five* questions. All questions carry *equal* marks.

1. Indian Contract Act, 1872 does not provide separately for communication of acceptance by post, telephone or SMS.  
Some of these modes of communication were unknown in 1872 and no attempt has been made to modify the law. It may, thus, be presumed that the language of the Act has been considered adequate to cover cases of new inventions."  
Critically examine the validity of the above statement with reference to decided cases.
2. Attempt any two of the following:
  - (a) Explain the difference between void agreement and void contract. What agreements have been expressly declared as void by the provisions of Indian Contract Act, 1872?

- (b) Explain the difference between offer and invitation to offer and discuss whether display of goods with price tags in a self-service departmental store at the time of discount sale amounts to offer.
- (c) Whether acceptance of A's tender by a Government Departmental for supply of coal upto 10,000 tons during the calendar year 2012 creates contractual obligations?
3. Briefly state the facts and discuss the principles of law laid down in any two of the following cases:
- (a) Haridwar Singh vs. Begum Sumbrui (1973), 3 SCC 889
- (b) State of West Bengal vs. B.K. Mondal & Sons, AIR 1962 SC 779.
- (c) Carlill vs. Carbolic Smoke Ball Co. (1891-4) ALL ER 127.
4. Analyse the definition of consideration given in Section 2(d) of the Contract Act and explain the doctrine of privities of contract and of consideration with reference to decided cases.
5. A, a well built young boy of 17 years of age by fraudulently misrepresenting himself to be of 19 years, agreed to sell a plot of land to B for Rs. 1.80 crores and took an advance of Rs. 50 lakh from B at the time of registration of sale deed within 90 days of the agreement to sell. However, upon A's refusal to execute and register the sale deed. B files a suit for specific performance of contract or Refund of advance paid. Decide with reference to statutory provisions and decided cases.
6. Discuss the principles of law laid down in Hadley vs. Baxendale for assessment of damages for breach of contract. How far Section 73 of the Indian Contract Act, 1872 incorporates the law laid down in the above said case?
7. What are the essential ingredients of undue influence and how a plaintiff who seeks relief on this ground should proceed to prove this case. Explain the three stages for consideration of a case of undue influence as expounded in the case of Raghunath Prasad vs. Sarju Prasad (AIR 1924 PC 60).
8. What is the true scope and effect of Section 56 of the Indian Contract Act and to what extent, if any, it incorporate the English rule of frustration of contracts.

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**LL.B. I Term Examinations Question Paper, June-July, 2012.**

**Note:** Attempt any *five* questions. All questions carry *equal* marks.

1. M/S Global fashion (Pvt.) Ltd. (hereinafter referred as the company) advertised in several newspapers of their latest invention for colouring white hair to black through a medicinal preparation to be taken orally thrice a day for a continuous period of forty days. To show their sincerity and effectiveness of their deny, the company also stated in the advertisement that a reward of Rs. 50,000 would be paid to anyone who would not get the



result after using the said magic drug. Miss Anita purchased the drug and despite using the same as per the printed directions, found that the so-called magic drug was not at all effective. She comes to seek your expert opinion. Prepare a memorandum of opinion of your client, explaining whether she can claim the reward as stated above.

2. Critically examine the rule of law laid down by the Supreme Court in *Bhagwandas Goverdhandas Kedia V. Girdharilal Parshottamdas & Co.* A.I.R. 1966 S.C. 543 particularly with the reference to dissenting opinion.
3. The management committee of 'Lord Ganesh Temple' Vikaspuri decided to construct on 'Yatri Niwas' for the devotees. It approached Dharmachand for subscription was promised to pay a sum of Rs. ten lakh for construction of the said building. Later on, Dharamchand declined to pay the promised amount as his supporters had not been inducted in the management committee. The committee try their best to persuade Dharamchand that it did not make any such promise that the said contribution is subject to his supporters being inducted in the Committee, But Dharamchand is adamant not to pay the amount. Suppose the Committee approaches you for legal advise. Advise, whether Dharamchand can be legally compelled to pay the above said promised amount.
4. MB, a moneylender, lends Rs. 50,000 to a minor on the basis of a representation that he was of full age. Out of this amount Rs. 31,000 are spent by the minor for purchasing a two-wheeler scooter and Rs. 19,000 are spent on entertaining his friends in a Five-star Hotel. On minor's failure to pay back the borrowed amount, MB files a suit for recovery of Rs. 55,000 (inclusive of interest). The defendant pleads that the contract was absolutely void because of his minority.

Discuss whether:

- (a) The minor is stopped from pleading his minority.
  - (b) MB can seek the refund of money under section 64 or 65 of the Indian Contract Act, 1872.
  - (c) MB can at all seek some relief.
5. Write short notes on any two of the following:
    - (a) Invitation of treat
    - (b) Privity of Contract
    - (c) Quasi-contracts
  6. Discuss the essential ingredients of 'undue influence' and explain how the court should proceed in a case where there is allegation of 'undue influence', Refer relevant case law.
  7. Ghaziabad Awas Nigam offered to sell specified plots to the intending purchasers at Rs. 9,400/- per sq. mtrs. out of the total cost, 10% was to be paid in advance as earnest money. Retish, an intending purchaser, paid the requisite advance to the Nigam in 1990. However, the entire land of the Nigam was requisitioned by the Government of India on

December 23, 1991 for certain military purposes. On April 4, 1992 the Nigam informed Retish about the requisition of the land and further that the agreement having been rendered impossible of performance, he treated as cancelled and the earnest money would be refunded in due course of time.

Retish insists that the Nigam must keep its promise and sell him the developed plot of land. He seeks your expert advice in this matter. Prepare a memorandum of opinion for Retish.

8. The consequences of breach of contract may be endless, but there must be an end to liability. The defendant cannot be held liable for all that follows from his breach of contract.”

Discuss the principle ‘measure of damages’ in the light of the above statement.

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**LL.B. I Term**

**Principles of Contract  
(General Principles)**

**Cases Selected and Edited by**

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