



PAPER – 2: BUSINESS LAWS



QUESTIONS

Indian Regulatory Framework

1. What is the Insolvency and Bankruptcy Board of India (IBBI)? Discuss its establishment, powers, functions and the categories of persons and entities covered under the Insolvency and Bankruptcy Code, 2016.

The Indian Contract Act, 1872

2. Mr. Sharma, a trader, wrote to Mr. Verma offering to sell him 100 barrels of "oil" at ₹ 5,000 per barrel. The letter reached Verma on 1st June. On 2nd June, Sharma posted another letter revoking the offer. However, before receiving the revocation, Verma posted a letter of acceptance on 3rd June. Sharma's letter of revocation reached Verma on 4th June. When Verma later demanded delivery, Sharma refused, stating that the contract was void since he had not specified which kind of oil was being offered (mustard, groundnut, or refined), and further claimed that he had no oil stock at all. Verma sued for breach of contract, insisting that valid acceptance had already been communicated. Sharma defended himself by stating that the contract was void for uncertainty and impossibility.

Examine the relevant provisions of the Indian Contract Act, 1872, and decide whether a binding contract was created between Sharma and Verma and whether Sharma is liable for damages.

3. Mr. Das, a landowner, transferred his property to his daughter, Geeta, on the condition that she would pay ₹ 20,000 annually to her maternal uncle, Mr. Gopal. Geeta accepted the property but later failed to pay the annuity. Mr. Gopal sued Geeta for recovery. Geeta argued that since

Gopal was not a party to the agreement, he had no right to sue. Gopal contended that the consideration had moved from Das on his behalf and that he was entitled to enforce the promise.

Examine whether Mr. Gopal can recover the annuity under the Indian Contract Act, 1872.

4. Mr. Sen, an elderly widower, executed a gift deed transferring his valuable house to his nephew, Kashish. Subsequently, it was discovered that Kashish had threatened Mr. Sen that, unless the property was gifted to him, he would file a false criminal complaint of harassment against him. Further, Kashish, being Mr. Sen's sole caretaker, emotionally influenced him into believing that transferring the property would guarantee him lifelong care and affection.

Mr. Sen now seeks to set aside the transaction. Examine whether the gift deed is valid under the Indian Contract Act, 1872.

5. Mr. Rohan entered into a contract with Mr. Sohan to deliver 1,000 bags of cement to his construction site on or before 15th August. The payment was to be made immediately upon delivery. However, Rohan failed to deliver the cement by the stipulated date. On 25th August, Rohan offered to deliver the goods, but by that time, the delay had caused disruption to the construction schedule, resulting in Sohan losing a contract with a government department.

Sohan refused to accept the delayed delivery and filed a suit for damages. Rohan contended that the delay was minor and argued that Sohan was obligated to accept the goods. Examine the rights and liabilities of the parties under the Indian Contract Act, 1872.

6. Mr. Ramesh delivered his gold ornaments to a jeweller, Mr. Arun, for polishing. Arun kept the ornaments in the locker of his shop and locked the premises before leaving. Unfortunately, during the night, thieves broke into the shop and stole the ornaments. When Ramesh asked for the return of his ornaments, Arun expressed his inability to do so and stated that he had taken as much care of the goods as he would have taken of his own property. Ramesh, however, claimed compensation for the loss on the ground that the ornaments had been delivered under a contract of bailment and that the bailee was bound to return them.

Decide, under the Indian Contract Act, 1872, whether Arun is liable to compensate Ramesh.

7. Mr. VG and Mr. PG were trading in unlisted shares for the last seven years. They used to borrow funds from each other whenever required for any trade. Within a week's time, they used to refund the money to each other as per circumstances of the case. They were following this practice for the last five years. On 25th January 2025, Mr. PG wants to buy 20,000 shares of an unlisted company @ ₹ 500/- each. But due to insufficiency of funds, he asked Mr. VG for ₹ 40 lakhs. Mr. VG transferred ₹ 40 lakhs to Mr. PG. After about three months, Mr. VG reminded that Mr. PG had not refunded ₹ 40 lakhs to him till then. He asked him to pay back his money. Mr. PG told him that he was trying very hard to sell the shares at a reasonable price of 10% more than the price at which he bought these shares but was unable to do so due to market conditions. He asked Mr. VG to sell his shares on his behalf and authorised him to appropriate the amount of loan of ₹ 40 lakhs with interest out of the sale proceeds. Mr. VG agreed to do so.

After about 15 days, when market started recovering Mr. PG denied and revoked the authorization by saying that he would sell his shares himself.

With reference to provisions of the Indian Contract Act, 1872, whether the revocation of said agency by Mr. PG was lawful?

8. "Distinguish between a Contract of Indemnity and a Contract of Guarantee. Explain the points of distinction with reference to the Indian Contract Act, 1872."
9. Wagering agreements are void under Section 30 of the Indian Contract Act, 1872. However, certain transactions resemble wagering transactions but are valid in the eyes of law. Discuss such transactions.

The Sale of Goods Act, 1930

10. Mr. Rohit, a trader, entered into a contract with Mr. Mohan for the purchase of 100 chairs for a total consideration of ₹ 1,00,000. The agreement expressly provided that ownership of the goods would pass to Rohit immediately, while the price was to be paid in two equal

instalments within 30 days. The goods were duly delivered in accordance with the contract.

However, when the second instalment became due, Rohit defaulted in payment and contended that since a part of the price remained unpaid, the transaction amounted only to an agreement to sell and not a completed sale. On this basis, he refused to pay the balance amount. Examine the legal validity of Rohit's contention with reference to the Sale of Goods Act, 1930.

11. Mr. Sameer, a retail shopkeeper, purchased 10 cartons of packaged fruit juice bottles from Fresh Foods Ltd., a reputed beverage dealer. The cartons were sealed and appeared to be in good condition, and therefore Sameer accepted them without objection. Subsequently, when the bottles were sold to customers, it was discovered that several of them were contaminated with fungus. A few customers even fell ill after consuming the juice, compelling Sameer to issue refunds and causing significant reputational damage to his business.

When Sameer demanded a refund and compensation from Fresh Foods Ltd., the seller refused, contending that the goods had been sealed and were accepted by him at the time of delivery. Examine whether Sameer can succeed in his claim under the Sale of Goods Act, 1930.

12. A government department conducted an auction of used vehicles. Mr. Suresh bid for a truck at ₹5,00,000. Before the auctioneer's hammer fell, Suresh tried to withdraw his bid, but the auctioneer refused. Later, the auctioneer also bid through his agent without prior notice to the bidders. Another bidder, Mr. Akash, complained that the auction was not fairly conducted. Decide, with reference to the Sale of Goods Act, 1930, whether the auction sale is valid.
13. What is meant by Reservation of Right of Disposal? Explain the circumstances under which the seller is deemed to have reserved this right under the Sale of Goods Act, 1930.
14. "What is meant by the doctrine of Caveat Emptor? State the conditions for its applicability and discuss the exceptions to this doctrine under the Sale of Goods Act, 1930."

The Indian Partnership Act, 1932

15. A, B and C are partners in an unregistered partnership firm named M/s ABC & Associates. Is the suit maintainable in the following cases as per the provisions of the Indian Partnership Act, 1932? Give justification also.
- (i) A filed a suit against B who had stolen the goods of the firm.
 - (ii) A filed a suit against M/s ABC & Associates for claiming shares of the assets on its dissolution.
 - (iii) M filed a suit against the firm M/s ABC & Associates for the recovery of ₹ 10,000/- dues from the firm. M also owed ₹ 4,000/- to the firm. The firm claimed a set off of ₹ 4,000/-.
16. M/s LMP & Associates, a partnership firm engaged in carpet manufacturing and exporting, was initially managed by senior partners L, M, and P. On 25th August, 2022, the firm admitted Mr. G, an expert in carpet manufacturing, as a partner. However, on 10th January, 2024, Mr. G was accused of unauthorized activities and subsequently expelled from the partnership with the unanimous approval of the remaining partners.
- With reference to the provisions of the Indian Partnership Act, 1932, answer each of the following:
- (i) Examine whether action by the partners was justified or not?
 - (ii) What are the factors which should be kept in mind prior to expelling a partner from the firm by other partners?
17. Describe the following kinds of partnership with reference to the Indian Partnership Act, 1932:
- (a) Partnership at will
 - (b) Partnership for a fixed period
 - (c) Particular partnership
 - (d) General partnership.

The Limited Liability Partnership Act, 2008

18. Explain the following features of a Limited Liability Partnership under the LLP Act, 2008:
- (a) Artificial legal person
 - (b) Common seal.

The Companies Act, 2013

19. Mr. Ramesh Saluja incorporated a private limited company under the name Saluja & Sons Pvt. Ltd., with himself, his wife, and his children as shareholders. The newly formed company took over his existing leather business and continued its operations.

Subsequently, the company went into liquidation. The creditors contended that the company was merely a façade or alter ego of Mr. Saluja and that it lacked an independent existence. On this basis, they argued that the corporate veil should be lifted and Mr. Saluja should be held personally liable for the company's debts. With reference to the relevant case law on lifting of the corporate veil, examine whether Mr. Saluja can be held personally liable.

20. A company, ABC limited as on 31.03.2025 had a paid-up capital of ₹ 1 lakh (10,000 equity shares of ₹ 10 each). In June 2025, ABC limited had issued additional 10,000 equity shares of ₹ 10 each which was fully subscribed. Out of 10,000 shares, 5,000 of these shares were issued to XYZ private limited company. XYZ is a holding company of PQR private limited by having control over the composition of its board of directors.

Now, PQR private limited claims the status of being a subsidiary of ABC limited as being a subsidiary of its subsidiary i.e. XYZ private limited. Examine the validity of the claim of PQR private limited.

State the relationship if any, between ABC limited & XYZ private limited as per the provisions of the Companies Act, 2013.

21. Do you agree that a company is an artificial person? Elucidate. Also explain how the authorization by Beeta Limited, a company incorporated under the Companies Act, 2013 can be made in case it does not have a common seal.

The Negotiable Instruments Act, 1881

22. Referring to the provisions of the Negotiable Instruments Act, 1881, answer the following in the given scenario:
- (i) Aman drew the bill of exchange (the bill) on Baban, who accepted it, payable to Magan or order. Magan indorsed the bill to Gagan. Gagan indorsed the bill to Akash to be delivered to him on the next day. However, on the death of Gagan on the same day, his only son Ankit delivered the bill to Akash on the next day as intended by his deceased father. On presenting the bill on the due date, Baban refused to pay. Explaining the importance of delivery in negotiation, decide, whether Akash can enforce the payment of the bill against Baban or the previous parties.
 - (ii) Reliable Limited, an Indian company, is a global leader in Petrochemical products. For payment of the sale price of machinery imported from Alex Manufacturing Limited, a USA based company (the exporter), the Indian company drew a bill of exchange on Manish, a resident of Mumbai (India) who accepted the bill at Mumbai payable to the exporter in Los Angeles, USA. Decide, whether the bill of exchange is an inland instrument or a foreign instrument. Assume that the bill of exchange was signed by the authorised person for the drawer company.
23. A promissory note, payable at a certain period after sight, must be presented to the maker thereof for payment. Under which scenarios presentment for payment is not necessary and the instrument is dishonoured at the due date for presentment according to the provisions of the Negotiable Instruments Act, 1881?



SUGGESTED ANSWERS/HINTS

1. **Insolvency and Bankruptcy Board of India (IBBI):** IBBI is the regulator for overseeing insolvency proceedings and entities like Insolvency Professional Agencies (IPA), Insolvency Professionals (IP) and Information Utilities (IU) in India.

It was established on 1 October 2016 and given statutory powers through the Insolvency and Bankruptcy Code, which was passed by Lok Sabha on 5th May 2016.

It covers Individuals, Companies, Limited Liability, Partnerships and Partnership firms. The new code will speed up the resolution process for stressed assets in the country.

It attempts to simplify the process of insolvency and bankruptcy proceedings.

It handles the cases using two tribunals like NCLT (National Company Law Tribunal) and Debt recovery tribunal.

2. **Section 4 of the Indian Contract Act, 1872 lays down the rules of communication of acceptance and revocation:**

- The communication of acceptance is complete, as against the proposer, when it is put in the course of transmission to him, so as to be out of the power of the acceptor.
- The communication of revocation is complete, as against the person who makes it, when it is put into transmission; and, as against the person to whom it is made, when it comes to his knowledge.
- Therefore, revocation is valid only if it reaches the offeree before he posts his acceptance.

Further, Section 10 provides the essentials of a valid contract. Among them, the agreement must be certain and capable of being performed. If the meaning of the agreement is uncertain, or if it is incapable of performance, it cannot be enforced. Section 56 declares that agreements

to do an impossible act are void. If a contract becomes impossible to perform after it is made, it becomes void when the act becomes impossible.

In the instant case, Mr. Sharma offered to sell "oil" to Mr. Verma and later posted a revocation. Before receiving the revocation, Verma posted his acceptance. Sharma then refused delivery, claiming the contract was void due to the unspecified "oil" and his lack of stock.

On the basis of the provisions of law and the facts of the case, it can be concluded that although acceptance was validly communicated before revocation, the agreement was void because (a) it was uncertain (the type of oil was not specified), and (b) performance was impossible (Sharma had no oil stock). Hence, no enforceable contract exists and Verma cannot claim damages.

3. Under Section 2(d) of the Indian Contract Act, 1872, consideration may move from the promisee or any other person. However, under the doctrine of privity of contract, only parties to a contract can sue upon it. An exception was recognized in *Chinnayya vs. Ramayya*, where an agreement made between two parties for the benefit of a third party was held enforceable, even though the third party was not directly a part of the agreement.

In the present case, Mr. Das transferred his property to his daughter, Geeta, on the condition that she would pay ₹20,000 annually to her maternal uncle, Mr. Gopal. Geeta accepted the property but failed to fulfil her obligation. Although Gopal was not a party to the original contract, the promise was clearly intended for his benefit, and consideration had moved from Das to Geeta on his behalf.

Although the general rule is that a stranger to a contract cannot sue, Gopal falls within the recognized exception. Since consideration moved from Das and the contract was made expressly for Gopal's benefit, he is entitled to enforce the promise. Hence, Geeta is legally bound to pay the annuity to Gopal.

4. Section 15 of the Indian Contract Act, 1872 defines coercion as committing or threatening to commit any act forbidden by the Indian Penal Code, or unlawfully detaining property, with the intention of compelling a person to enter into an agreement.

Section 16 defines undue influence as a situation where one party, being in a position to dominate the will of another, uses that position to obtain an unfair advantage. Under Sections 19 and 19A, contracts induced by coercion or undue influence are voidable at the option of the aggrieved party.

In the present case, Kashish forced Mr. Sen to execute a gift deed by threatening to lodge false criminal proceedings, which constitutes coercion. Further, as Mr. Sen's caretaker and close relative, Kashish held a fiduciary position and emotionally manipulated him into believing that the transfer would secure lifelong care. This amounts to undue influence, since Kashish used his position to dominate Mr. Sen's will and obtain an unconscionable advantage.

Here, the gift deed suffers from two vitiating factors—coercion and undue influence. Therefore, it is voidable at the option of Mr. Sen. He can approach the court to have the deed set aside, and he is not bound to transfer his property under such unfair circumstances.

5. As per section 52 of the Indian Contract Act, 1872, when the order of performance of reciprocal promises is expressly fixed, they must be performed in that order. While section 53 provides, if the promisor prevents the promisee from performing his promise, the promisee is entitled to compensation. Further, section 55 provides if time is expressly of the essence, and promisor fails, contract becomes voidable at the option of the promisee. If not of essence, contract continues but damages can be claimed for delay.

In the instant case, Rohan promised to deliver 1,000 bags of cement by 15th August, which was crucial for Sohan's construction project. Rohan failed to deliver on the stipulated date and instead offered the goods after 10 days. Because of this delay, Sohan's project was disrupted, and he lost a government contract.

In commercial contracts such as supply of materials for construction projects, time is usually regarded as the essence of the contract. Since Rohan failed to deliver the cement by the stipulated date, the contract became voidable at the option of Sohan. He was justified in refusing the delayed performance. Furthermore, under Section 53, Rohan's failure prevented Sohan from performing his reciprocal obligation with the government department, resulting in financial loss. Therefore, Sohan is entitled to reject the goods and claim damages from Rohan for the actual loss suffered. Rohan's defense of a "minor delay" is not valid under the law.

6. According to Section 148 of the Indian Contract Act, 1872, bailment is the delivery of goods from one person to another for a specific purpose, upon a contract that the goods shall be returned once the purpose is completed.

Section 151 provides that the bailee is bound to take as much care of the goods bailed as a man of ordinary prudence would take of his own goods. Further, Section 152 states that if the bailee has taken such reasonable care, he is not responsible for loss, destruction or deterioration of the goods.

In the present case, Ramesh entrusted his ornaments to Arun, the jeweller, for polishing. Arun locked them securely in his shop's locker. A theft occurred at night, and the ornaments were stolen despite the precautions taken. Ramesh demanded compensation, but Arun refused, claiming he exercised ordinary care.

On the basis of the law provisions and facts of the case concerned, it is clear that Arun has taken reasonable precautions by locking the ornaments in the locker and securing the shop. The theft was beyond his control and does not amount to negligence. Therefore, Arun cannot be held liable to compensate Ramesh for the stolen ornaments.

7. According to Section 202 of the Indian Contract Act, 1872 an agency becomes irrevocable where the agent has himself an interest in the property which forms the subject-matter of the agency and such an agency cannot, in the absence of an express provision in the contract, be terminated to the prejudice of such interest.

The rule of agency coupled with interest applies and does not come to an end even on death, insanity or the insolvency of the principal.

In the instant case, Mr. PG appointed Mr. VG to sell his shares on his behalf and authorized him to appropriate the amount of loan of ₹ 40 lakh with interest out of the sale proceeds.

Since, interest was created in favour of Mr. VG, thus the revocation of the said agency is not lawful.

8. Distinction between a Contract of Indemnity and a Contract of Guarantee

Point of distinction	Contract of Indemnity	Contract of Guarantee
Number of party/ parties to the contract	There are only two parties namely the indemnifier [promisor] and the indemnified [promisee]	There are three parties- creditor, principal debtor and surety.
Nature of liability	The liability of the indemnifier is primary and unconditional.	The liability of the surety is secondary and conditional as the primary liability is that of the principal debtor.
Time of liability	The liability of the indemnifier arises only on the happening of a contingency.	The liability arises only on the non-performance of an existing promise or non-payment of an existing debt.
Time to Act	The indemnifier need not act at the request of indemnity holder.	The surety acts at the request of principal debtor.
Right to sue third party	Indemnifier cannot sue a third party for	Surety can proceed against principal

	loss in his own name as there is no privity of contract. Such a right would arise only if there is an assignment in his favour.	debtor in his own right because he gets all the right of a creditor after discharging the debts.
Purpose	Reimbursement of loss	For the security of the creditor
Competency to contract	All parties must be competent to contract.	In the case of a contract of guarantee, where a minor is a principal debtor, the contract is still valid.

9. Wagering agreements are void under Section 30 of the Indian Contract Act, 1872. However, certain transactions resemble wagering transactions but are valid in the eyes of law which are following:
- (i) **Chit fund:** Chit fund does not come within the scope of wager (Section 30). In case of a chit fund, a certain number of persons decide to contribute a fixed sum for a specified period and at the end of a month, the amount so contributed is paid to the lucky winner of the lucky draw.
 - (ii) **Commercial transactions or share market transactions:** In these transactions in which delivery of goods or shares is intended to be given or taken, do not amount to wagers.
 - (iii) **Games of skill and Athletic Competition:** Crossword puzzles, picture competitions and athletic competitions where prizes are awarded on the basis of skill and intelligence are the games of skill and hence such competition are valid. According to the Prize Competition Act, 1955 prize competition in games of skill are not wagers provided the prize money does not exceed ₹ 1,000.
 - (iv) **A contract of insurance:** A contract of insurance is a type of contingent contract and is valid under law and these contracts are different from wagering agreements.

- 10.** Section 4 of the Sale of Goods Act, 1930, defines a contract of sale of goods as a contract whereby the seller transfers or agrees to transfer the property in goods to the buyer for a price. If the property in goods is transferred at the time of the contract, it is a sale. If the transfer is to take place in the future or subject to some conditions, it is an agreement to sell. Thus, the distinction lies in the passing of ownership, not in the time of payment or delivery. Once ownership is transferred, the buyer becomes owner and must pay the agreed consideration.

In the present case, Mohan delivered 100 chairs to Rohit and ownership was intended to pass immediately as per their agreement. However, Rohit failed to pay the second installment and contended that the contract was incomplete and only an agreement to sell.

Since the ownership of chairs had already passed to Rohit at the time of delivery, the contract was a completed sale under Section 4 of the Act. Rohit's contention that it was only an agreement to sell is legally unsustainable. He is bound to pay the balance of the price to Mohan, and his refusal amounts to a breach of contract.

- 11.** As per Section 16(2) of the Sale of Goods Act, 1930, when goods are bought by description from a seller who deals in goods of that description, there is an implied condition that the goods shall be of merchantable quality. In addition, in case of eatables and consumable goods, there is an implied condition as to wholesomeness, i.e., the goods must be fit for human consumption. Where such goods are harmful or dangerous to health, the buyer is entitled to reject them and also claim damages.

In this case, Sameer purchased fruit juice bottles from Fresh Foods Ltd. The cartons were sealed and appeared proper from outside. However, when consumed, they were found contaminated, making them harmful for human health. Customers who consumed them became sick, and Sameer suffered both financial and reputational loss. Fresh Foods Ltd. denied liability citing that the cartons were sealed and accepted.

On the basis of the above provisions and facts, the juice bottles were not of merchantable quality and also failed the implied condition of wholesomeness. It was the duty of the seller to ensure that food products supplied were fit for human consumption. Hence, Sameer is

entitled to reject the goods, recover the price, and also claim damages for the loss suffered. The seller cannot escape liability merely because the cartons were sealed.

12. Section 64 of the Sale of Goods Act, 1930 deals with auction sales. A sale is complete when the auctioneer announces its completion by the fall of the hammer or in other customary manner. Until then, a bidder may withdraw his bid. The seller has the right to reserve bidding, but if he intends to bid himself or through an agent, such right must be expressly notified. If the seller bids without such notice, the sale may be treated as fraudulent and voidable.

Here, Suresh made a bid of ₹5,00,000 for a truck but attempted to withdraw it before the fall of the hammer. Legally, he was entitled to do so. The auctioneer's refusal to permit withdrawal was incorrect. Further, the seller also bid through his agent without notifying bidders of such right, which amounts to fraudulent conduct under Section 64.

Therefore, on the basis of the above provisions, the auctioneer's refusal to allow Suresh to withdraw his bid was invalid, as a bid can be withdrawn before completion of sale. Further, the seller's secret bidding through an agent without notice made the auction unfair and voidable at the option of buyers. Hence, the auction was not validly conducted.

13. **Reservation of right of disposal (Section 25 of the Sale of Goods Act, 1930)**

This section preserves the right of disposal of goods to secure that the price is paid before the property in goods passes to the buyer.

Where there is contract of sale of specific goods or where the goods have been subsequently appropriated to the contract, the seller may, by the terms of the contract or appropriation, as the case may be, reserve the right to dispose of the goods, until certain conditions have been fulfilled. In such a case in spite of the fact that the goods have already been delivered to the buyer or to a carrier or other bailee for the purpose of transmitting the same to the buyer, the property therein will not pass to the buyer till the condition imposed, if any, by the seller has been fulfilled. (sub-section1)

Circumstances under which the right to disposal may be reserved: In the following circumstances, seller is presumed to have reserved the right of disposal:

- (1) If the goods are shipped or delivered to a railway administration for carriage and by the bill of lading or railway receipt, as the case may be, the goods are deliverable to the order of the seller or his agent, then the seller will be prima facie deemed to have reserved to the right of disposal. (sub-section 2)
- (2) Where the seller draws a bill on the buyer for the price and sends to him the bill of exchange together with the bill of lading or (as the case may be) the railway receipt to secure acceptance or payment thereof, the buyer must return the bill of lading, if he does not accept or pay the bill.

And if he wrongfully retains the bill of lading or the railway receipt, the property in the goods does not pass to him. (sub-section 3)

14. Caveat Emptor

In case of sale of goods, the doctrine 'Caveat Emptor' means 'let the buyer beware'. When sellers display their goods in the open market, it is for the buyers to make a proper selection or choice of the goods. If the goods turn out to be defective, he cannot hold the seller liable. The seller is in no way responsible for the bad selection of the buyer. The seller is not bound to disclose the defects in the goods which he is selling.

It is the duty of the buyer to satisfy himself before buying the goods that the goods will serve the purpose for which they are being bought. If the goods turn out to be defective or do not serve his purpose or if he depends on his own skill or judgment, the buyer cannot hold the seller responsible.

The rule of Caveat Emptor is laid down in the Section 16, which states that, "subject to the provisions of this Act or of any other law for the time being in force, there is no implied warranty or condition as to the quality or fitness for any particular purpose of goods supplied under a contract of sale".

Following are the conditions to be satisfied:

- if the buyer had made known to the seller the purpose of his purchase, and
- the buyer relied on the seller's skill and judgement, and
- seller's business to supply goods of that description

Exceptions: The doctrine of Caveat Emptor is, however, subject to the following exceptions:

1. **Fitness as to quality or use:** Where the buyer makes known to the seller the particular purpose for which the goods are required, so as to show that he relies on the seller's skill or judgment and the goods are of a description which is in the course of seller's business to supply, it is the duty of the seller to supply such goods as are reasonably fit for that purpose [Section 16 (1)].
2. **Goods purchased under patent or brand name:** In case where the goods are purchased under its patent name or brand name, there is no implied condition that the goods shall be fit for any particular purpose [Section 16(1)]. Here, the buyer is relying on the particular brand name.
3. **Goods sold by description:** Where the goods are sold by description there is an implied condition that the goods shall correspond with the description [Section 15]. If it is not so, then seller is responsible.
4. **Goods of Merchantable Quality:** Where the goods are bought by description from a seller who deals in goods of that description there is an implied condition that the goods shall be of merchantable quality. The rule of Caveat Emptor is not applicable for latent defects. But where the buyer has examined the goods, this rule shall apply if the defects were such which ought to have not been revealed by ordinary examination [Section 16(2)].
5. **Sale by sample:** Where the goods are bought by sample, this rule of Caveat Emptor does not apply if the bulk does not correspond with the sample [Section 17].

6. **Goods by sample as well as description:** Where the goods are bought by sample as well as description, the rule of Caveat Emptor is not applicable in case the goods do not correspond with both the sample and description or either of the condition [Section 15].
7. **Trade Usage:** An implied warranty or condition as to quality or fitness for a particular purpose may be annexed by the usage of trade and if the seller deviates from that, this rule of Caveat Emptor is not applicable [Section 16(3)].
8. **Seller actively conceals a defect or is guilty of fraud:** Where the seller sells the goods by making some misrepresentation or fraud and the buyer relies on it or when the seller actively conceals some defect in the goods so that the same could not be discovered by the buyer on a reasonable examination, then the rule of Caveat Emptor will not apply. In such a case the buyer has a right to avoid the contract and claim damages.
15. (i) **A filed a suit against B who had stolen the goods of the firm:**
The said suit by A is Maintainable.
Justification: According to Section 69(1) of the Indian Partnership Act, 1932, a partner of an unregistered firm cannot file a suit in any court against the firm or any partner to enforce a right arising from a contract, unless the firm is registered. Section 69 only bars civil suits to enforce contractual rights. It does not prevent criminal action. But, in this case, A had filed a suit against B for stealing the goods of the firm which is a criminal offense.
Hence the suit filed against B for the theft of the goods of the firm, is maintainable.
- (ii) **A filed a suit against M/s. ABC & Associates for claiming share of the assets on its dissolution**
The said suit by A is Maintainable.
Justification: According to Section 69(3) of the Indian Partnership Act, 1932, a partner of an unregistered firm is precluded from bringing legal action against the firm. But such a person may sue for realization of his share in the firm's property where the firm is

dissolved. Here, A's claim is valid as the shares are the assets of the dissolved firm and A can claim it even if the firm is unregistered.

- (iii) **M filed a suit against the firm for recovery of ₹10,000/- dues. M also owed ₹ 4,000/-. The firm claimed a set-off.**

The said suit by M is Maintainable

Justification: According to Section 69(2) of the Indian Partnership Act, 1932, in case of an unregistered firm, an action can be brought against the firm by a third party. If an action is brought against the firm by a third party, then neither the firm nor the partner can claim any set-off, if the suit be valued for more than ₹ 100 or pursue other proceedings to enforce the rights arising from any contract.

Here, M filed a suit against the firm for the recovery of ₹ 10,000 dues from the firm. M also owed ₹ 4,000/- to the firm.

The firm cannot set-off the claim of ₹4,000/- as it is more than ₹ 100/. Nevertheless, M is entitled for recovery of ₹ 10,000 from firm.

16. (i) **Whether action by the Partners was Justified?**

Expulsion of a Partner (Section 33 of the Indian Partnership Act, 1932): A partner may not be expelled from a firm by a majority of partners except in exercise, in good faith, of powers conferred by contract between the partners.

The test of good faith as required under Section 33(1) includes three things:

- The expulsion must be in the interest of the partnership.
- The partner to be expelled is served with a notice.
- He is given an opportunity of being heard.

If a partner is otherwise expelled, the expulsion is null and void.

Action by the partners of M/s LMP & Associates, a partnership firm to expel Mr. G from the partnership was justified as he was expelled by unanimous approval of the partners exercised in good

faith to protect the interest of the partnership against the unauthorized activities charged against Mr. G. Provided, a proper notice and opportunity of being heard has been given to Mr. G.

(ii) Factors to be kept in mind before expelling a Partner

The following are the factors to be kept in mind prior expelling a partner from the firm by other partners:

- (a) the power of expulsion must have existed in a contract between the partners;
- (b) the power has been exercised by a majority of the partners; and
- (c) it has been exercised in good faith.

17. The various kinds of partnership are as follows:

(a) Partnership at will according to Section 7 of the Act, partnership at will is a partnership when:

- 1. no fixed period has been agreed upon for the duration of the partnership; and
- 2. there is no provision made as to the determination of the partnership.

These two conditions must be satisfied before a partnership can be regarded as a partnership at will. But, where there is an agreement between the partners either for the duration of the partnership or for the determination of the partnership, the partnership is not partnership at will.

Where a partnership entered into for a fixed term is continued after the expiry of such term, it is to be treated as having become a partnership at will.

A partnership at will may be dissolved by any partner by giving notice in writing to all the other partners of his intention to dissolve the same.

(b) **Partnership for a fixed period:** Where a provision is made by a contract for the duration of the partnership, the partnership is called 'partnership for a fixed period'. It is a partnership created for a particular period of time. Such a partnership comes to an end on the expiry of the fixed period.

(c) **Particular partnership:** A partnership may be organized for the prosecution of a single adventure as well as for the conduct of a continuous business. Where a person becomes a partner with another person in any particular adventure or undertaking the partnership is called 'particular partnership'.

A partnership, constituted for a single adventure or undertaking is, subject to any agreement, dissolved by the completion of the adventure or undertaking.

(d) **General partnership:** Where a partnership is constituted with respect to the business in general, it is called a general partnership. A general partnership is different from a particular partnership. In the case of a particular partnership, the liability of the partners extends only to that particular adventure or undertaking, but it is not so in the case of general partnership. General partnership is different from limited liability partnership.

18. **Artificial Legal Person:** A LLP is an artificial legal person because it is created by a legal process and is clothed with all rights of an individual. It can do everything which any natural person can do, except of course that, it cannot be sent to jail, cannot take an oath, cannot marry or get divorce nor can it practice a learned profession like CA or Medicine. A LLP is invisible, intangible, immortal (it can be dissolved by law alone) but not fictitious because it really exists.

Common Seal: A LLP being an artificial person can act through its partners and designated partners. LLP may have a common seal, if it decides to have one [Section 14(c)]. Thus, it is not mandatory for a LLP to have a common seal. It shall remain under the custody of some responsible official and it shall be affixed in the presence of at least 2 designated partners of the LLP.

19. Under the Companies Act, 2013, a company on incorporation becomes a distinct legal person, separate from its members. The principle was established in the landmark case of *Salomon v. Salomon & Co. Ltd.*, where it was held that even if one person holds substantially the entire shareholding, the company is not his agent or trustee. Creditors can proceed only against the company, and not against its members, unless the corporate veil is lifted in exceptional cases.

In this case, the creditors contended that *Saluja & Sons Pvt. Ltd.* was in reality the business of Mr. Ramesh Saluja and that he should be personally liable for the company's debts. However, the company was duly incorporated with separate legal existence and had complied with statutory requirements.

Applying the principle in *Salomon v. Salomon & Co. Ltd.*, the company is a separate legal entity. The creditors cannot make Mr. Saluja personally liable merely because he held almost all the shares. Thus, the veil cannot be lifted in this case, and liability rests with the company alone.

20. As per Section 2(46) of the Companies Act, 2013, holding company in relation to one or more other companies, means a company of which such companies are subsidiary companies.

Section 2(87) defines "subsidiary company" in relation to any other company (that is to say the holding company), means a company in which the holding company—

- (i) controls the composition of the Board of Directors; or
- (ii) exercises or controls more than one-half of the total voting power either at its own or together with one or more of its subsidiary companies.

In the instant case, as on 31.03.2025, ABC Limited had a paid-up capital of ₹ 1 lakh (10,000 equity shares of ₹ 10 each). In June 2025, ABC Limited issued additional 10,000 equity shares, which was fully subscribed. Post-issue, the total paid-up capital of ABC Limited is ₹ 2 lakhs (20,000 equity shares of ₹ 10 each).

Out of these, 5,000 shares were issued to XYZ Private Limited. Since XYZ Private Limited holds only 25% of the shares in ABC Limited, it does

not have control of more than one-half of the total voting power of ABC Limited. Hence, XYZ Private Limited cannot be considered as a subsidiary company of ABC Limited in terms of the second criteria stated above, that of controlling of voting power.

XYZ Private Limited is the holding company of PQR Private Limited by having control over the composition of its Board of Directors. But since XYZ Private Limited cannot be termed as a subsidiary company of ABC Limited, PQR Private Limited cannot claim the status of being a subsidiary of ABC Limited in terms of the first criteria, that of controlling of the composition of directors.

As per section 2(6) of the Act, Associate Company in relation to another company, means a company in which that other company has a significant influence, but which is not a subsidiary company of the company having such influence and includes a joint venture company.

The expression "significant influence" means control of at least twenty per cent of total voting power, or control of or participation in business decisions under an agreement.

In terms of the above provision, the relationship between ABC Limited and XYZ Private Limited can be of an Associate Company.

Since XYZ Private Limited holds more than 20 percent of voting power in ABC Limited, it can be considered as an Associate Company of ABC Limited.

21. Do you agree that a Company is an artificial person?

Yes, I agree that a company is an Artificial Person:

A Company incorporated under the provisions of the Companies Act, 2013 is an artificial person as it is created by a process other than natural birth. It is legal or judicial as it is created by law.

Further, the Company being a separate legal entity can own property, have banking account, raise loans, incur liabilities and enter into contracts. Even members can contract with company, acquire right against it or incur liability to it. It can sue and be sued in its own name. It can do everything which any natural person can do except be sent to

jail, take an oath, marry or practice a learned profession. Hence, it is a legal person in its own sense.

As the Company is an artificial person, it can act only through some human agency, viz., directors. The directors can control affairs of the company but they are not the "agents" of the members of the company. The directors can either on their own or through the common seal, if any, (of the company) can authenticate its formal acts.

Further, the Company being an artificial person has perpetual succession and it continues to exist until it is legally dissolved. The members of a company may come and go but the company will go on forever.

However, the Company being an artificial person cannot have citizenship, lack of physical action and corporate veil can be lifted.

Thus, a company is an artificial legal person.

Authorization by a Company not having a Common Seal:

In case a company does not have a common seal, the authorization shall be made by two directors or by a director and the Company Secretary, wherever the Company has appointed a Company Secretary.

Hence, Beeta Limited can do the authorization as mentioned in the above manner.

22. (i) Importance of Delivery in Negotiation [Section 46 of the Negotiable Instruments Act, 1881]

Delivery of an instrument is essential whether the instrument is payable to bearer or order for effecting the negotiation. The delivery must be voluntary, and the object of delivery should be to pass the property in the instrument to the person to whom it is delivered. The delivery can be, actual or constructive. Actual delivery takes place when the instrument changes hand physically. Constructive delivery takes place when the instrument is delivered to the agent, clerk or servant of the indorsee on his behalf or when the indorser, after indorsement, holds the instrument as an agent of the indorsee.

Section 46 also lays down that when an instrument is conditionally or for a special purpose only, the property in it does not pass to the transferee, even though it is indorsed to him, unless the instrument is negotiated to a holder in due course.

The contract on a negotiable instrument until delivery remains incomplete and revocable. Delivery is essential not only at the time of negotiation but also at the time of making or drawing of negotiable instrument. The rights in the instrument are not transferred to the indorsee unless after the indorsement the same has been delivered. If a person makes the indorsement of instrument but before the same could be delivered to the indorsee, the indorser dies, the legal representatives of the deceased person cannot negotiate the same by mere delivery thereof. (Section 57).

In the instant case, Ankit the only son of Gagan delivered the bill to Akash on the next day as intended by his deceased father (Gagan) which is not valid.

Hence, Akash cannot enforce the payment of the bill against Baban or the previous parties.

- (ii) As per section 11 of the Negotiable Instruments Act, 1881, a promissory note, bill of exchange or cheque drawn or made in India and made payable in, or drawn upon any person resident in India shall be deemed to be an inland instrument.

In the instant case, the bill of exchange was:

- Drawn in India (since it was drawn by Reliable Limited, an Indian company).
- Accepted in India (Manish, a resident of Mumbai, accepted the bill in Mumbai).
- Payable outside India, in Los Angeles, USA.

The bill of exchange in this case is an inland instrument because it was drawn in India and accepted by a person resident in India, even though it is payable outside India (Los Angeles, USA).

- 23.** As per Section 76 of the Negotiable Instruments Act, 1881, no presentment for payment is necessary, and the instrument is dishonoured at the due date for presentment, in any of the following cases:
- (a)
 - (i) If the maker, drawee or acceptor intentionally prevents the presentment of the instrument, or
 - (ii) if the instrument being payable at his place of business, he closes such place on a business day during the usual business hours, or
 - (iii) if the instrument being payable at some other specified place, neither he nor any person authorised to pay it attends at such place during the usual business hours, or
 - (iv) if the instrument not being payable at any specified place, he cannot after due search be found;
 - (b) as against any party sought to be charged therewith, if he has engaged to pay notwithstanding non-presentment;
 - (c) as against any party if, after maturity, with knowledge that the instrument has not been presented—
 - he makes a part payment on account of the amount due on the instrument,
 - or promises to pay the amount due thereon in whole or in part,
 - or otherwise waives his right to take advantage of any default in presentment for payment;
 - (d) as against the drawer, if the drawer could not suffer damage from the want of such presentment.