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Legal Reasoning for CLAT 2020: Introduction to Contracts

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Legal Reasoning for CLAT 2020

What is a Contract?

Essentially, a contract is any agreement between two or more parties which is enforceable by law and wherein each party promises to do or not to do something in return for another party promising to do or not to do something for the former party.

Here, “enforceable” means having the binding effect of law. For example, a person X enters into a contract with person Y for sale of his (X’s) car to Y for Rs. 50,000. Now X and Y may choose to record the terms and conditions governing the sale in question on a piece of paper.

Then, this paper will represent the contract between X and Y and the terms and conditions of the sale shall form the substance of the contract. These terms will include aspects such as sale price, description of the car, date on which X will deliver possession of car to Y etc.

This contract is enforceable under law which means that if Y takes possession of X’s car but refuses to pay Rs. 50,000 to X, as was agreed, X can approach a court of law and seek appropriate relief such as requiring Y to return the car to X.

The essence of entering into a contract is to bind each party to the contract to perform its respective obligation which is recorded in the contract.

While Indian law also recognizes oral contracts, it is common to record the terms of a contract on paper which can be used as tangible evidence in a court of law by any party to the contract.

If the contract is in written form, it will be easier to prove its execution and accordingly prove the liability of the other parties to fulfil their respective contractual obligations.

In India, the law governing contracts is the Indian Contract Act, 1872 (**ICA**) which is a legislation containing detailed provisions on various aspects of contracts including execution and

enforcement. The various provisions contained in the Act are referred as “Sections”.

Definitions under Indian Contract Act

Section 2(h) of the ICA defines “contract” as *“an agreement enforceable by law*“. Further, “agreement” has been defined under section 2(e) of ICA which states that *“Every promise and every set of promises, forming the consideration for each other, is an agreement*“.

In other words, an agreement involves an understanding between two parties (atleast two) who promise to do something for each other and the promise made by either party forms the consideration for the promise made by the other party.

In the above example, the promise by X to sell his car acts as the consideration for Y to pay Rs. 50,000 to X and correspondingly, Y’s promise to pay Rs. 50,000 forms consideration for X to sell his car.

The formation of an agreement takes place when an “offer” is made by one party and is “accepted” by another. Under ICA, an offer is termed as “proposal” and a person making a proposal is called “promisor”.

Any person who accepts the proposal made by a promisor is called “promisee”. If there is no proposal at all or if a proposal has been made but not accepted, an agreement does not come into existence.

It must also be remembered that a proposal/offer is valid only if it contains *an intention to create a legal relationship* by binding the other party to a legal obligation. For example, an offer to watch a movie with a friend is not a valid offer as it is not coupled with an intention to create a legal relationship.

So, if such person later refuses to accompany his friend to the movie, the friend cannot compel him to do so and such an offer shall not lead to formation of a valid agreement.

The definition of contract given under section 2(h) of ICA is self-explanatory and makes it clear that ICA treats only those agreements to be contracts which are “enforceable by law”. Thus, it can be said that *all contracts are agreements but all agreements are not contracts*.

Essential Elements of a Contract as per Indian Contract Act

Since ICA clearly states that every contract is an agreement while an agreement gets formed only when a proposal gets accepted, each contract must necessarily contain an offer/proposal and acceptance of that proposal.

Thus, the *first essential element of a contract is a valid offer/proposal and its acceptance*.

The other essential elements of a contract are evident from section 10 of ICA which states that " *All agreements are contracts if they are made by the free consent of parties competent to contract, for a lawful consideration and with a lawful object, and are not hereby expressly declared to be void*".

From the analysis of section 10, the essential elements of a contract (besides formation of an agreement by offer and acceptance) become clear as follows:

1. Parties competent to contract – All parties to a contract must be competent to enter into a contract. Section 11 of ICA considers only such party to be competent who is not minor in age, not having an unsound mind and not disqualified from entering into a contract as per any law governing him/her.
2. Free consent – All parties to a contract must have freely consented to enter into the contract i.e. no party can be compelled to enter into a contract against his/her choice
3. Lawful consideration – As explained above, each party entering into a contract agrees to do something for the other in return for something being done for them.This is called "consideration" under contract law. In the above example, the consideration for X to sell his car was the payment of Rs. 50,000 by Y for purchasing the car. Each contract must involve some consideration which must also be lawful and not illegal. Any agreement having an unlawful consideration shall be void and non-enforceable. For example, if A agrees to pay Rs. 10,000 to B for murder of C, the murder of C by B is an unlawful consideration as murder is illegal and an offence under law. Hence, such agreement shall be void and not enforceable in a court of law by either A or B. Similarly, the object of a contract must also be lawful. "Object" can be understood to mean the key purpose which a contract intends to achieve and is generally synonymous with consideration. In the given example, the consideration for B is murder of C so "murder" becomes the key object of the said agreement due to which the agreement is void.
4. Agreement not expressly barred – Section 10 of ICA ends with the phrase "not hereby expressly declared to be void". All such kinds of agreements which are expressly barred or

prohibited under some law do not constitute a valid contract.The ICA also declares certain agreements to be void, for example, an agreement in restraint of marriage. Thus, if A promises to pay Rs. 10,000 to B for not marrying C, such agreement is void and non-enforceable under law.

Note – The various sections of ICA mentioned above are only for reference and need not be memorized.

Multiple Choice Questions

Q1. Principle: Acceptance of proposal must be the exact mirror image of the proposal.

Facts: 'A' made a proposal to 'B' to sell a chair for Rs. 500. 'B' is desirous of buying the said chair for Rs. 400.

(A) B has accepted the proposal of A.

(B) B has not accepted the proposal of A.

(C) It is not clear if B has accepted the proposal of A.

(D) It is not clear whether A made a proposal to B.

[CLAT 2019]

Q2. Principle: An agreement with a boy below the age of eighteen years is not enforceable by law.

Facts: A man entered into an agreement with a girl of seventeen years of age.

(A) The agreement is enforceable by law.

(B) The agreement is not enforceable by law.

(C) The agreement is enforceable by the girl.

(D) No inference can be drawn.

[CLAT 2019]

Q3. Principle: An agreement may be entered into orally, in writing, or by conduct.

Facts: 'A' went to the shop of 'B' and picked a toothbrush and gave a cheque of Rupees twenty to B and left the shop.

(A) A entered into an agreement with B.

(B) A did not enter into an agreement with B.

(C) Payment of tooth brush cannot be made through a cheque.

(D) A should have carried a currency note of Rupees twenty to make the payment.

[CLAT 2019]

Q4. Principle: An agreement without free consent can be enforced only at the option of the party whose consent was not free.

Facts: A obtains the consent of B to enter into an agreement by putting a gun on the head of B's girl friend.

(A) B can enforce the agreement.

(B) B cannot enforce the agreement.

(C) A can enforce the agreement.

(D) Neither A nor B can enforce the agreement.

[CLAT 2019]

Q5. Principle: The consideration or object of an agreement is unlawful if the Court regards it as opposed to public policy. Every agreement of which the object or consideration is unlawful is void.

Facts: A promises to obtain for B an employment in the public service and B promises to pay Rs. 5,00,000/- to A.

Which of the following is correct?

(A) There is a contract between A and B.

(B) There is a voidable contract between A and B.

(C) There is an agreement between A and B which can be enforced by the court of law.

(D) There is an agreement between A and B which cannot be enforced by the court of law.

Q6. Principle: Acceptance of a proposal must be absolute and unqualified.

Facts: 'A' made a proposal to sell his motorcycle to 'B' for rupees 25,000/-. 'B' agreed to buy it for rupees 24,000/-. 'A' sold his motorcycle to 'C' for 26,000/- the next day. 'B' sues 'A' for damages.

Which of the following is correct?

(A) ‘B’ will get damages from ‘A’

(B) ‘B’ will get the difference of rupees 1,000/- only

(C) ‘B’ can proceed against ‘C’

(D) ‘B’ will not get any damages from ‘A’

[CLAT 2017]

Q7. Principle: An offer made by one party when accepted by another makes it a contract.

Transactions:

1. P offered to sell his house for Rs. 20 lakhs to R; R told P that he was interested to buy a house for 15 lakhs only.
2. C was looking for a house for not more than 25 lakhs; P informed C that his house was available for 20 lakhs.
3. K wanted to buy some old furniture; L told K that he would sell his furniture for Rs. 10, 000.
4. R advertised to sell his old car for a price of Rs. Three lakhs; S found the

advertisement and offered to buy it for Rs. 2 lakhs 50 thousand; R agrees to sell it to S.

Which among the above is actually a contract?

(A) Situations 1 and 2 are contracts

(B) Situation 4 only is a contract

(C) Situation 3 only is a contract

1. Situations 2 and 4 are contracts [CLAT 2017]

Q8. Principle: An agreement in restraint of marriage is void and does not constitute an enforceable contract.

Facts: A promises to pay Rs. 20,000 to B if B does not marry C. B marries D and thereafter claims Rs. 20,000 from A as the law governing B allows him to have only one wife.

Choose the correct option.

(A) B can claim Rs. 20,000 from A

(B) B cannot claim Rs. 20,000 from A

(C) B cannot claim anything from A because he was not supposed to marry D

(D) Data is insufficient

Q9. Principle: Consent is said to be free when it is not caused by coercion or undue influence or fraud or misrepresentation or mistake. When consent to an agreement is caused by coercion, undue influence, fraud or misrepresentation, the agreement is a contract voidable (rescindable or terminable) at the option of the party whose consent was so caused.

Facts: A threatens to kill B by shooting him with a gun if B does not sell his land to A for Rs. 10,000. Pursuant to A's threat, B agrees to sell his land to A.

Choose the correct option.

(A) There is a contract between A and B

(B) There is an agreement between A and B which can be enforced by the court of law

(C) There is an agreement between A and B which cannot be enforced by the court of law

(D) There is a contract between A and B which voidable at the option of B

Q10. Principle: An agreement entered into by a minor (person aged below 18 years) is void and does not constitute a valid contract.

Facts: A, a boy of 16 years of age, agrees to buy a pencil box from B, who is a girl of 21 years of age.

Choose the correct option.

(A) There arises a contract between A and B to sell/buy the pencil box

(B) There arises an enforceable agreement between A and B to sell/buy the pencil box

(C) There does not arise any contract between A and B to sell/buy the pencil box

(D) None of the above

Answer Key with explanations

Question 1 – Option (B) is the correct answer.

Explanation – B did not accept the proposal of A as it is but gave a counter offer to purchase the chair for Rs. 400 hence, as per given principle, he did not accept A's proposal.

Question 2 – Option (D) is the correct answer.

Explanation – The given principle only talks about a boy aged below 18 years while the given facts refer to a girl aged 17 years so the given principle cannot be applied to the given facts to arrive at a correct answer. Hence, option (D) is correct.

Question 3 – Option (A) is the correct answer.

Explanation – The giving of cheque by A to B indicates that he intended to purchase the tooth brush from B's shop so, as per the given principle, option (A) is correct.

Question 4 – Option (A) is the correct answer.

Explanation – As per the given facts, the consent of B had not been freely obtained so, as per the given principle, the agreement is enforceable only at the option of B.

Question 5 – Option (D) is the correct answer.

Explanation – Appointments in public service must be done only on basis of merit and not on basis of extraneous considerations such as payment of money. Hence, the consideration involved is opposed to public policy due to which the agreement between A and B is void.

Question 6 – Option (D) is the correct answer.

Explanation – Applying the given principle, it is clear that B never accepted the proposal of A but raised a counter offer which A never accepted hence B cannot claim any damages from A as a contract was never formed between A and B.

Question 7 – Option (B) is the correct answer.

Explanation – The acceptance of the offer has taken place only in situation 4 hence option (B) is the correct answer.

Question 8 – Option (B) is the correct answer.

Explanation – As per the given principle, agreements restraining marriage are void so B cannot claim anything from A despite complying with the condition put forth by A as a valid contract was never formed between A and B.

Question 9 – Option (D) is the correct answer.

Explanation – B's consent was obtained by coercion so, as per the given principle, the contract between A and B is voidable at the option of B.

Question 10 – Option (C) is the correct answer.

Explanation – Since the boy A is a minor, as per the given principle, no contract is formed between A and B.

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