The Indian Journal for Research in Law and Management

Open Access Law Journal – Copyright © 2026

Editor-in-Chief – Dr. Muktai Deb Chavan; Publisher – Alden Vas; ISSN: 2583-9896

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THE INDIAN CONTRACT ACT, 1872: KEY PROVISIONS AND CASE LAWS

[Your Name]

INTRODUCTION: HISTORY AND IMPLEMENTATION

Before 1872, India had no uniform law governing contracts. The Presidency towns of Bombay, Calcutta and Madras followed principles borrowed from English common law, while the rest of the country relied on scattered local customs and inconsistent judicial precedent. This absence of a settled framework created considerable difficulty in commercial dealings, particularly as trade expanded under British administration. Recognising this gap, the colonial legislature enacted the Indian Contract Act, 1872, which came into force on 1st September, 1872, and was substantially modelled on English contract principles adapted to Indian conditions.

The original statute was considerably wider than the version studied today. Subject matters such as the sale of goods and partnership were later carved out into independent legislations through the Sale of Goods Act, 1930 and the Indian Partnership Act, 1932. What remains under Sections 1 to 75 of the present Act governs the formation, performance and breach of contracts, along with specific chapters on indemnity, guarantee, bailment and agency. The Act extends to the whole of India and, even after more than a century and a half, continues to be the primary statutory source of contract law in the country.

PRINCIPLES AND TYPES OF CONTRACTS

The Act rests on a few foundational principles — free consent, lawful consideration, competency of parties and a lawful object. Section 10 provides that all agreements are contracts if made by the free consent of parties competent to contract, for a lawful consideration, with a lawful object, and are not expressly declared void by the Act itself. Contracts may be classified on several grounds. On the basis of validity, they may be valid, void, voidable, illegal or merely unenforceable. On the basis of formation, they may be express or implied, depending on

whether the terms are stated in words or inferred from conduct. On the basis of performance, they may be executed or executory.

A distinct category worth noting is the quasi-contract, dealt with under Sections 68 to 72. These are not contracts in the strict sense, since there is no real agreement between the parties, but obligations that the law imposes to prevent one party from being unjustly enriched at the cost of another. This classification matters in practice because the remedy available to an aggrieved party often depends entirely on which category the underlying agreement falls into.

KEY DEFINITIONS WITH PROVISIONS AND CASE LAWS

Section 2(a) defines a proposal as an expression of willingness by one person to do or abstain from doing something, with a view to obtaining the assent of another. In *Harvey v. Facey*, the Privy Council held that merely quoting a price in reply to an inquiry does not amount to an offer, and is at best an invitation to treat[1]. By contrast, in the celebrated case of *Carlill v. Carbolic Smoke Ball Co.*, it was held that an offer made to the public at large is a valid offer, and performance of its stated conditions amounts to acceptance without any further communication being necessary[2].

Section 2(b) provides that acceptance converts a proposal into a promise, and Section 7 requires such acceptance to be absolute and unqualified. In *Lalman Shukla v. Gauri Dutt*, the Allahabad High Court held that a person cannot be said to have accepted an offer of which he had no knowledge at the time of performing the relevant act, since acceptance necessarily presupposes awareness of the offer[3].

Consideration is defined under Section 2(d) as an act, abstinence or promise done at the desire of the promisor. Section 25 generally renders an agreement without consideration void, subject to limited statutory exceptions. In *Chinnaya v. Ramayya*, the Madras High Court held that consideration may move from a third party rather than the promisee alone, allowing a stranger to the consideration to enforce the promise — a position markedly different from the English rule[4].

OTHER IMPORTANT PROVISIONS AND CASE LAWS

Sections 11 and 12 require that a person attain the age of majority, be of sound mind, and not be disqualified by law, in order to be competent to contract. In *Mohori Bibee v. Dharmodas Ghose*,

the Privy Council held that an agreement entered into by a minor is void ab initio and cannot be enforced against him even on equitable grounds[5].

Sections 13 to 22 deal with free consent, rendering a contract voidable where consent is caused by coercion, undue influence, fraud, misrepresentation or mistake. In *Raghunath Prasad v. Sarju Prasad*, the Privy Council laid down the test for undue influence, requiring proof that one party held a dominant position and used it to secure an unconscionable bargain[6].

Sections 23 to 30 declare certain categories of agreements void, including those in restraint of trade, marriage or legal proceedings, and wagering agreements. In *Madhub Chunder v. Rajcoomar Doss*, the Calcutta High Court held that even a partial restraint on trade is void under Section 27, reflecting a considerably stricter Indian position than the English common law rule permitting reasonable restraints[7].

Sections 73 to 75 govern compensation payable on breach of contract. In *Fateh Chand v. Balkishan Das*, the Supreme Court held that where a contract names a sum as damages for breach, courts may award reasonable compensation not exceeding that sum, without requiring the aggrieved party to strictly prove the exact loss suffered[8].

CONCLUSION

The Indian Contract Act, 1872 remains one of the most enduring pieces of legislation in the country, continuing to govern everyday transactions despite being well over a century old. Its lasting strength lies in the flexibility of its language, which has allowed courts to interpret concepts such as consent, consideration and capacity in light of changing social and commercial realities. A sound grasp of these provisions, read alongside the judicial precedents that have shaped them, remains indispensable for anyone engaging with contractual relationships, whether in academic study or in practice.

CITATIONS

1. Harvey v. Facey, (1893) AC 552 (PC).

2. Carlill v. Carbolic Smoke Ball Co., [1893] 1 QB 256 (CA).

3. Lalman Shukla v. Gauri Dutt, (1913) 11 ALJ 489 (All.).

4. Chinnaya v. Ramayya, (1882) ILR 4 Mad 137.

5. Mohori Bibee v. Dharmodas Ghose, (1903) 30 IA 114 (PC).

6. Raghunath Prasad v. Sarju Prasad, (1924) 51 IA 101 (PC).

7. Madhub Chunder v. Rajcoomar Doss, (1874) 14 Beng. LR 76.

8. Fateh Chand v. Balkishan Das, AIR 1963 SC 1405.

9. The Indian Contract Act, 1872, No. 9, Acts of Parliament, 1872 (India).