The Indian Contract Act

Q.1 : 'A' applies to a banker for loan at a time when there is stringency in the money market. The banker declines to make the loan except at an unusually high rate of interest. A accepts the loan on these terms. Whether the contract is included by undue influence? Decide.

Answer :

The banker has not obtained any unfair advantage:-

✶ *Since there is stringency in the money market, thereby resulting in increase in interest rates.*

✶ *Since the loan is made by the banker in the ordinary course of business.*

There is no undue influence:-

✶ *Since, as between the parties on equal footing, the court does not hold a transaction to be unconscionable(Unreasonable) merely on the ground of high rate of interest.*

Q.2 'A' stands surety for 'B' for any amount which 'C' may lend to B from time to time during the next three months subject to a maximum of `50,000. One month later A revokes the guarantee, when C had lent to B `5,000. Referring to the provisions of the Indian contract Act, 1872 decide whether 'A' is discharged from all the liabilities to 'C' for any subsequent loan. What would be your answer in case 'B' makes a default in paying back to 'C' the money already borrowed i.e. `5,000?

Answer :

A is discharged:-

✶*From all the liabilities in respect of any loan given by C to B after the date of revocation of continuing guarantee.*

A is not discharged:-

✶*For the loan of ` 5,000 already given by C to B.*

Q.3 Sohan induced Suraj to buy his motorcycle saying that it was in a very good condition. After taking the motorcycle, Suraj complained that there were many defects in the motorcycle. Sohan proposed to get it repaired and promised to pay 40% cost of repairs. After a few days, the motorcycle did not work at all. Now Suraj wants to rescind the contract. Decide giving reasons.

Answer :

Suraj has impliedly affirmed the contract:-

✶ *By not avoiding the contract, but recovering 40% of the cost of repairs from Sohan.*

Suraj cannot rescind the contract:-

✶ *Since he has already affirmed the contract.*

Q.4 Sunil delivered his car to Mahesh for repairs. Mahesh completed the work, but did not return the car to Sunil within reasonable time. Though Sunil repeatedly reminded Mahesh for the return of car. In the meantime a big fire occurred in the neighbourhood and the car was destroyed. Decide whether Mahesh can be held liable under the provisions of the Indian contract Act, 1872.

Answer :

Duty of Mahesh:-

✶ *To return the car to Sunil, without demand by Sunil, after completion of repairs (Section 160).*

Mahesh is liable for the loss of car by fire:-

✶ *Since Mahesh failed to return the car within reasonable time of completion of repairs.*

✶ *Even though the car was destroyed without Mahesh's fault or negligence or due to extraordinary circumstances or acts of GOD (Section 161)*

Q.5 Shambhu Dayal started 'self service' system in his shop. Smt. Prakash entered in the shop, took a basket and after taking articles of her choice into the basket reached the cashier for payments. The cashier refuses to accept the price. Can Shambhu Dayal be compelled to sell the said articles to Smt. Prakash? Decide.

Answer :

Display of goods in the shop for sale:-

✶ *is an invitation to offer; but not an offer.*

Selection of goods by Smt. Prakash:-

✶ *Results in an offer from Smt. Prakash to the cashier.*

Refusal by cashier to accept the price:-

✶ *Results in rejection of offer of Smt. Prakash.*

Shambhu Dayal cannot be compelled to sell the said articles:-

✶ Since no contract concluded between Smt. Prakash and Shambhu Dayal.

(Pharmaceutical Society of Great Britain v Boots cash chemists Ltd.)

Q.6 Akhilesh entered into an agreement with Shekhar to deliver him (Shekhar) 5,000/- bags to be manufactured in his factory. The bags could not be manufactured because of strike by the workers and Akhilesh failed to supply the said bags to Shekhar. Decided whether Akhilesh can be exempted from liability under the provisions of the Indian Contract Act, 1872.

Answer :

Labour Strike:-

✶*Does not amount to supervening impossibility (Section 56)*

Non – delivery of bags by Akhilesh to Shekhar:-

✶*Results in a breach of contract by Akhilesh.*

Akhilesh is liable:-

✶*To compensate the loss incurred by Shekhar, i.e. to pay ordinary damages (Section 73)*

Q.7 Mr.Seth an industrial has been fighting a longdrawn litigation with Mr.Raman another industrialist. To support his legal campaign Mr.Seth enlists the services of Mr.X a legal expert stating that an amount of `5 lakhs would be paid, if Mr.X does not take up the brief of Mr.Raman. Mr.X agrees, but at the end of the litigation, Mr.Seth refuses to pay. Decided whether Mr.X can recover the amount promised by Mr.Seth under the provisions of the Indian Contract Act, 1872.

Answer :

Mr. X cannot recover `5 lakhs from Mr. Seth:-

✶ *Since the given agreement restrains Mr. X from exercising a lawful profession, and so this agreement is in restraint of trade (Section 27).*

Q.8 Dubious Textile enters into a contract with Retail Garment show Room for supply of 1,000 pieces of cotton shirts at `300 per shirt to be supplied on or before 31st December, 2012. However on 1st November, 2012 Dubious Textiles informs the retail Garments show room that he is not willing to supply the goods as the price of cotton shirts in the meantime has gone up to `350 per shirt. Examine the rights of the Retail Garments Show Room in this regard.

Answer :

If Retail Garments Show Room waits till 31st December, 2012:-

✶*Dubious Textiles shall be liable to pay damages (equal to difference between the contract price and price as on 31st December, 2012) if it fails to supply the cotton shirts up to 31st December, 2012.*

If Retail Garments Show Room does not wait till 31st December, 2012:-

✶*Dubious Textile shall be liable to pay damages (equal to difference between the contract price and price as on 1st November, 2012.*

Q.9 M Ltd. contracts with Shanti Traders to make and deliver certain machinery to them by 30.6.2012 for `11.50 lakhs. Due to labour strike, M Ltd. could not manufacture and deliver the machinery to Shanti Traders. Later, Shanti Traders procured the machinery from another manufacturer for `12.75 lakhs. Shanti Traders was also prevented from performing a contract which it had made with Zenith Traders at the time of their contract with M Ltd. and were compelled to pay compensation for breach of contract. Advise Shanti Traders the amount of compensation which it can claim from M Ltd. Referring to the legal provisions of the Indian Contract Act.

Answer :

Labour Strike:-

✶ *Does not amount to supervening impossibility (Section 56)*

Non – delivery of machinery by M Ltd.:-

✶ *Results in a breach of contract by M Ltd.*

M Ltd. is liable:-

✶ *To compensate the loss incurred by Shanti Traders, i.e. to pay ordinary damages of `1.25 lakhs (i.e. the differences between `12.75 lakhs and `11.50 lakhs)(Section 73)*

M Ltd. is not liable:-

✶ *To pay any compensation for loss caused to Shanti Traders due to non- performance of contract entered into with Zenith Traders.*

✶ *Since special circumstances, viz contract between Shanti Traders and Zenith Traders were not brought to the knowledge of M Ltd.*

Q.10 Father promised to pay his son a sum of ` one lakh if the son passed C.A. examination in the first attempt. The son passed the examination in the first attempt, but father failed to pay the amount as promised. Son files a suit for recovery of the amount. State along with reasons whether son can recover the amount under the Indian Contract Act, 1872.

Answer :

There is no contract between the father and Son:-

✶*Since there is no intention to create legal relations, as it is a domestic or social agreement;*

✶*Since the father does not receive any consideration,*

The son cannot sue the father for recovering `1 lakh:-

✶*Since there is no contract between the father and the son.*

Q.11 A hires a carriage of B and agrees to pay `500 as hire charges. The carriage is unsafe, though B is unaware of it. A is injured and claims compensation for injuries suffered by him. B refuses to pay. Discuss the liability of B.

Answer :

Nature of Bailment:-

✶ *Hire of carriage of B by A amounts to non-gratuitous bailment.*

Duty of B:-

✶ *To disclose to A that the carriage was unsafe (even though he was unaware about it)*

A is entitled to compensation:-

✶ *For injuries suffered by him due to non-disclosure of faults in the carriage.*

Q.12Miss X, a firm actress agreed to work exclusively for a period of two years, for a film production company. However, during the said period she enters into a contract to work for another film producer. Discuss the rights of the aggrieved film production company under the Indian Contract Act, 1872.

Answer :

Restraint on Miss X is valid:-

✶ *Since an agreement of service under which an employee agrees to serve a certain employer for certain duration, and that he will not serve anybody else during such period is a valid agreement.*

Miss X cannot be compelled to work with the film production company:-

✶ *Since specific performance is generally not allowed where personal performance is required.*

Miss X may be restrained from working for another producer:-

✶ *Since, in case of breach of a negative term of a contract, the defaulting party is generally restrained from doing what he promised not to do.*

Q.13 Mr.Ahuja of Delhi engaged Mr.Singh as his agent to buy a house in West Extension area. Mr.Singh bought a house for `20 lakhs in the name of a nominee and then purchased it himself for `24 lakhs. He then sold the same house to Mr. Ahuja for `26 lakhs. Mr. Ahuja later comes to know the mischief of Mr.Singh and tries to recover the excess amount paid to Mr.Singh. Is he entitled to recover any amount from Mr. Singh? If so, how much? Explain.

Answer :

Non-Disclosure of Profit of `6 lakhs amounts to breach of duty by Mr. Singh:-

✶ *Since Mr. Singh, without disclosing all material facts and without obtaining the consent of Mr. Ahuja, deal in the business of agency on his own account (Section 215)*

✶ *Since Mr. Singh made a secret profit(Section 216)*

Rights of Mr. Ahuja:-

✶ *Mr. Ahuja is entitled to repudiate the contract or to claim from Mr. Singh ` 6lakhs.*

Q.14Ramaswami proposed to sell his house to Ramanathan. Ramanathan sent his acceptance by post. Next day, Ramanathan sends a telegram withdrawing his acceptance. Examine the validity of the acceptance in the light of the following:

a) The telegram of revocation of acceptance was received by Ramaswami before letter of acceptance.

b) The telegram of revocation and letter of acceptance both reached together.

Answer :

a) The revocation is valid and there is no contract:-

Since revocation of acceptance binds the offer or if letter of revocation of acceptance is received by the offer or before receipt of letter of acceptance.

b) The revocation is valid and there is no contract:-

If Ramaswami opens the telegram (containing the revocation of acceptance) first and reads it.

The revocation is not valid and the contract is formed:-

If Ramaswami opens the letter (containing the acceptance) first and reads it.

Q.15Ravi becomes guarantor for Ashok for the amount which may be given to him by Nalin within six months. The maximum limit of the said amount is `1 lakh. After two months Ravi withdraws his guarantee. Upto the time of revocation of guarantee. Nalin had given to Ashok `20,000.

Referring to the provisions of the Indian Contract Act, 1872 decide:-

a) Whether Ravi is discharged form his liabilities to Nalin for any subsequent loan?

b) Whether Ravi is liable if Ashok fails to pay the amount of `20,000/- to Nalin?

Answer :

Ravi is Discharged:-

✶ *From all the liabilities in respect of any loan given by Nalin to Ashok after the date of revocation of continuing guarantee.*

Ravi is not Discharged:-

For the loan of ` 20,000/- already given by Nalin to Ashok.

Q.16 : X, a minor was studying in M. com in a college. On 1st July 2012 he took a loan of `10,000/- from B for payment of his college fees and to purchase books and agreed to repay by 31st December, 2012. X possesses assets worth `2 lakhs. On due date X fails to pay back the loan to B. B not wants to recover the loan from X out of his (X's) assets. Referring to the provisions of the Indian Contract Act, 1872 decide whether B would succeed.

Answer :

Loan of `10,000 is on account of necessities:-

✶ *Since 'necessities' means necessities of life as per the social status and conditions of life of the minor.*

✶ *Since food, clothing, housing, medical treatment and education have been held to be the 'necessities'.*

X is liable to B for `10,000:-

✶ *Since the person who supplies necessities to the incompetent person is entitled to be reimbursed from the property of such incompetent person (Section 68)*

✶ *But X shall not be personally liable.*

Q.17 : A contracts with B for a fixed price to construct a house for B within a stipulated time. B would supply the necessary material to be used in the construction. C guarantees A's performance of the contract. B does not supply the material as per the agreement. Is C discharged from his liability?

Answer :

C is discharged from liability:-

✶*Since the surety is discharged by any act or omission of the creditor, the legal consequence of which is the discharge of the principal debtor (Section 134).*

✶*Since failure to supply the necessary material by B (i.e. the creditor) amounts to an omission on the part of the creditor resulting in discharge of A (i.e. the principal debtor) and consequently, discharging C (i.e. the surety).*

Q.18 : C, the holder of an over due bill of exchange drawn by A as surety for B, and accepted by B, contracts with X to give time to B. Is A discharged from his liability?

Answer :

A is not discharged from his liability:-

✶ *Since, where a contract to give time to the principal debtor is made by the creditor with a third person, and not with the principal debtor, the surety is not discharged(Section 130)*

Q.19 : Mr.Ramaswamy of Chennai placed and order with Mr.Shah of Ahmedabad for supply of Urud Dal on 10.11.2012 at a contracted price of `40 per kg. The order was for the supply of 10 tonnes within a month's time viz. before 09.12.2012. On 04.12.2012 Mr. Shah wrote a letter to Mr.Ramaswamy stating that the price of Urud Dal was sky rocketing to `50 per kg and he would not be able to supply as per original contract. The price of Urid Dhall Rose to `53 on 09.12.2012 Advise Mr. Ramaswamy citing the legal position.

Answer :

Increase in price of Urud dal:-

✶ *Does not amount to supervening impossibility (Section 56)*

Non-delivery of Urud dal by Mr. Shah:-

✶ *Results in a breach of contract by Mr. Shah.*

If Ramaswamy waits till 09.12.2012:-

✶ *Mr. Shah shall be liable to pay damages to Mr. Ramaswamy. The amount of damages shall be 10 tons @ `13 per kg (i.e. differences between the contract price and price as on 09.12.2012) i.e. ` 1,30,000.*

✶ *However, if some supervening impossibility arises before 09.12.2012 (e.g. imposition of ban on trading in Urud dal by Government), the contract shall become void, and consequently, Mr. Shah shall not be liable to pay any damages.*

If Ramaswamy repudiates the contract on 04.12.2012:-

✶ *Mr. Shah shall be liable to pay damages to Mr. Ramaswamy. The amount of damages shall be 10 tons @ ` 10 per kg (i.e. difference between the contract price and price as on 04.112.2012), i.e. ` 1, 00,000.*

Q.20:Y holds agricultural land in Gujarat on a lease granted by X, the owner. The land revenue payable by X to the Government being in arrear, his land is advertised for sale by the Government. Under the Revenue law, the consequence of such sale will be termination of Y's lease. Y, in order to prevent the sale and the consequent termination of his own lease, pays the Government, the sum due from X. Referring to the provisions of the Indian Contract Act, 1872 decide whether X is liable to make good to Y, the amount so paid?

Answer ;

X is liable to pay to Y the amount paid by Y to the Government:-

✶ *Since there is a contract between X and Y, viz quasi contract.*
✶ *Since X is bound to make the payment of land revenue to the Government;*
✶ *Since Y is interested in such payment.*
✶ *Since Y is not himself liable for such payment.*

Q.21: Examine whether the following constitute a contract of 'Bailment' under the provisions of the Indian Contract Act, 1872;

(a) V parks his car at a parking lot, locks it, and keeps the keys with himself.

(b) Seizure of goods by customs authorities.

Answer :

(a) Parking the car and keeping key with himself:-

✶ *Does not result in a valid contract of bailment;*
✶ *Since delivery of goods does not take place in such a case (delivery here would refer to symbolic delivery, viz delivery of keys of the car).*

(b) Seizure of goods by custom authorities:-

✶ *Results in a valid contract of bailment;*
✶ *Since all the essential of a valid contract of bailment are satisfied in such a case.*

Q.22: A contracted with B to supply him (B) 500 tons of iron-steel @ `5,000 per ton, to be delivered at a specified time. Thereafter contracts with C for the purchase of 500 tons of iron-steel @ `4,800 per ton, and at the same tine told 'C' that he did so for the purpose of performing his contracts entered into with B. C failed to perform his contract in due course. Consequently, A could not procure any iron-steel and B rescinded the contract. What would be the amount of damages which A could claim from C in the circumstances?

Explain with reference to the provisions of the Indian Contract, 1872.

Answer :

A can recover `1 lakh as special damages from C:-

✶ *Since it was within C's knowledge that breach of contract by him (C) would result in non-performance of contract between A and B resulting in loss of `1 lakh (i.e. the difference between `5,000 per ton and ` 4,800 per ton for 500 tons) to A (Section 73)*

Q.23: 'X' agreed to become an assistant for 5 years to 'Y' who was a doctor practising at Ludhiana. It was also agreed that during the term of agreement 'X' will not practise his own account in Ludhiana. At the end of one year, X' left the assistantship of 'Y' and began to practise on his own account. Referring to the provisions of the Indian Contact Act, 1872, decide whether X' could be restrained from doing so?

Answer :

Restraint on X is valid:-

✶ *Since an agreement of service under which an employee agrees to serve a certain employer for a certain duration, and that he will not serve anybody else during such period is a valid agreement.*

X may be restrained from practicing on his own account:-

✶ *Since, in case of breach of a negative term of a contract, the defaulting party is generally restrained from doing what he promised not to do.*

Q.24:X transferred his house to his daughter M by way of gift. The gift deed, executed by X, contained a direction that M shall pay a sum of `5,000 per month to N (the sister of the executant). Consequently M executed on instrument in favour of N agreeing to pay the said sum. Afterwards, M refused to pay the sum to N saying that she is not liable to N because no consideration had moved from her. Decide with reasons under the provisions of the Indian Contract Act, 1872 whether M is liable to pay the said sum to N.

Answer :

M is liable to pay to N the amount of `5,000 per month:-

- ✶ *Since there is a contract between M and N.*
- ✶ *Since in consideration of payment of `5,000 per month to N, M has received house of X'*
- ✶ *Since M has received consideration, although she has not received such consideration from the other party to the contract, viz N;*
- ✶ *Since privity of consideration is not required, i.e. consideration need not move from the other party to the contract'*
- ✶ *Since the same decision was given in **Chinnaya v Rammaya** on the same facts as in the given case.*

Q.25 :X, Y and Z jointly borrowed `50,000 from A. The whole amount was paid to A by Y. Decide in the light of the Indian Contract Act, 1872 whether;

a) Y can recover the contribution from X and Z.
b) Legal representatives of X are liable in case of death of X,
c) Y can recover the contribution from the assets, in case Z becomes insolvent.

Answer.

a) Y can recover the contribution equally from X and Z:-

✶ *Since in case of a joint promise, the liability of the joint promisors is joint and several;*

✶ *Since a joint promise is entitled to recover from the other joint promisors equal contribution in case he makes the entire payment.*

b) Legal representatives of X are liable in case of death X:-

- ✶ *Since in case of death of a joint promise, his legal representatives is liable for performance of promise;*
- ✶ *But the liability of the legal representatives shall be limited to the value of the estate inherited by him.*

c) Y can recover the contribution from Z's estate:-

- ✶ *Since in case of insolvency of a joint promise, his official assignee/official receiver is liable to pay the contribution.*

Q.26:A, B and C are partners in a firm. They jointly promise to pay `1,50,000 to P. C become insolvent and his private assets are sufficient to pay only 1/5 of his share of debts. A is compelled to pay the whole amount to P. Examining the provisions of the Indian Contract Act, 1872, decide the extent to which A can recover the amount from B.

Answer :

Liability of A, B and C:-

✶ *is ` 50,000 each since joint promisors are jointly liable to fulfil the promise.*

Payment made by C:-

✶ *is `10,000 only.*

Deficiency of C to be shared by A and B:-

✶ *is `20,000 each.*

Amount recoverable from B by A:-

✶ *is `70,000 only*

Q.27 : Answer any four of the following:-
Point out with reasons whether the following agreements are valid or void;
(a) Kamala promises Ramesh to lend `50,000 in lieu of consideration that Ramesh gets Kamala's marriage dissolved and himself marries with her.
(b) Sohan agrees with Mohan to sell his black horse. Unknown to both the parties, the horse was dead at the time of agreement.
(c) Ram sells the goodwill of his shop to Shyam for `4,00,000 and promises not to carry on such business forever and anywhere in India.
(d) In an agreement between Prakash and Girish, there is a condition that they will not institute legal proceeding against each other without consent.,
(e) Ramamurthy, who is a citizen of India, enters into an agreement with an alien friend.
Answer :
(a) The agreement is void:-
✶ *Since the object or consideration of the agreement is against the public policy. (Section 23)*
✶ *Since an agreement interfering with marital relations is against the public policy.*
(b) The agreement is void:-
✶ *Since there is no consensus-ad-idem, i.e. there is a bilateral mistake as to the fact, viz. subject matter of the contracts (Section 20)*
✶ *Since the agreement to sell and purchase a horse, which is dead at the time of formation of agreement, is impossible to perform, and is therefore, void.*
(c) The agreement is void:-
✶ *Since it is in restraint of trade;*
✶ *Since the restrictions on Ram is for 'forever' and for 'anywhere' in India', and so the restraint is not reasonable as to the 'duration' and 'place' of business (Section 27)*
(d) The agreement is void:-
✶ *Since it is in restraint of legal proceedings (Section 28)*
(e) The agreement is void:-
✶ *Since it is not an agreement with an alien enemy.*

Q.28:Ravi sent a consignment of goods worth `60,000 by railway and got railway receipt. He obtained an advance of `30,000 from the bank and endorsed and delivered the railway receipt in favour of the bank by way of security. The railway failed to deliver to the goods at the destination. The bank filed a suit against the railway for `60,000.
Decide in the light of provisions of the Indian Contract Act, 1872. whether the bank would succeed in the said suit?
Answer ;
The contract between Ravi and Bank is a contract of pledge:-
✶ *Since deposit of title deeds with the bank as security against an advance constitutes a pledge.*
The bank would succeed in suit filed against the railway:-
✶ *Since in case of pledge, the pawnee can exercise all the rights which the pawnor could exercise in respect of such goods, if the goods are damaged or some third party deprives of such* goods

Q.29 : R is the wife of P. she purchased some sarees on credit from Q. Q demanded the amount from P. P refused. Q filed a suit against P for the said amount. Decide in the light of provisions of the Indian Contract Act, 1872, whether Q would succeed?
Answer :
Q is entitled to sue P:-
✶ *Since a husband is liable for the necessities supplied to his wife'*
✶ *Since the wife has an implied authority to pledge his husband's credit for necessities;*
✶ *Since it is legal presumption that a married woman is an agent of her husband*

Q.30 : P appoints A as his agent to sell his estate. A on looking over the estate before selling it, finds the existence of a good quality Granite-Mine on the estate, which is unknown to P. A buys the estate himself after informing P that he (A) wishes to buy the estate for himself but conceals the existence of Granite-Mine. P allows A to buy the estate, in ignorance of the existence of Mine. State giving reasons in brief the rights of P, the principal against A the agent.
What would be your answer if a had informed P about the existence of Mine before he purchased the estate, but after two months he sold the estate at a profit of `1lakhs?

Answer :

Non-disclosure of fact of existence of mine amounts to breach of duty by A:-

✶ *Since A without disclosing all material facts and without obtaining the consent of P,dealt in the business of agency on his own account.*

If A had informed P about the existence of mine:-

✶ *Then, A would not be liable, even though he makes a profit of `1lakh, since in such a case, there is no breach of duty of disclosure and obtaining consent.*

Q.31 : A gives to C a continuing guarantee to the extent of `5000/- for the vegetables to be supplied by C to B from time to time on credit. Afterwards, B become embarrassed, and without the knowledge of A, B and C contracts that C shall continue to supply B with vegetables for ready money, and that the payments shall be applied to the then existing debts between B and C.
Examining the provision of the Indian Contract Act, 1872. decide whether A is liable on his guarantee given to C.

Answer :

A is not liable to C:-

✶ *For the transactions that take place after variation between B and C;*

✶ *Since a surety discharged if any variation is made in a contract of guarantee without the consent of the surety.*

Q.32 : M lends a sum of `5,000 to B, on the security of shares of a limited company on 1st April 2012. on 15th June. 2012, the company issued two bonus shares. B returns the loan amount of `5,000 with interest but marks returns only shares which were pledged and refuses to give the two bonus shares. Advise B in the light of the provisions of the Indian Contract Act, 1872.

Answer :

B is entitled to the two bonus shares:-

✶ *Since the bailor (pawnor, in case of pledge of goods) is entitled to any accretion to the goods;*

✶ *Since the issued of two bonus shares by the company amounts to accretion to the goods.*

Q.33:B owes C a debt guaranteed by A. C does not sue B for a year after the debt has become payable. In the meantime, B becomes insolvent. Is A discharged? Decide with reference to the provisions of the Indian Contract Act, 1872.

Answer :

A is not discharged:-

✶ *Since mere forbearance on the part of the creditor to sue the principal debtor does not discharge the surety.*

Q.34 :"Good Girl" Soap Co. advertised that it would give a reward of `1,000 who developed skin disease after using "Good Girl" soap of the company for a certain period according to the printed directions. Miss Rakhi purchased the advertised "Good Girl" and developed skin disease in spite of using this soap according to the printed instructions. She claimed reward of `1,000. The company refused the reward on the ground that offer was not made to her and that in any case she had not communicated her acceptance of the offer.
Decided whether Miss Rakhi can claim the reward or not. Refer the relevant case law, if any.

Answer :

✶*Since there is a contract between Miss Rakhi and Good Girl Soap Company;*

✶*Since in case of a general offer, the acceptance of offer is not to be given by way of communication of acceptance, but is given by way of performance of the terms and conditions of offer.*

Q.35: W is the wife of H, who is lunatic, purchase a diamond set of `10 lakh from Beauty Jeweller on credit. Referring to the provisions of the Indian Contract Act, 1872, decide whether the Beauty Jeweller is entitled to claim the above amount from the property of H.

Answer :

Jeweller is not entitled to recover the amount of diamond set from H:-

Since H is not competent to contract;

Since H is not liable u/s 68, as the diamond set of ` 10 lakh sold to his wife is not 'necessities'.

Q.36 : R of New Delhi sends his agent M to purchase certain goods from Global Enterprise. Mumbai on credit for him. later on R pays the amount for the goods purchased. On another occasion, he again sends M to purchase goods but this time pays sufficient cash to M for the purpose. M however again purchases the goods from Global Enterprise but on credit and soon thereafter he dies. Global Enterprise files a suit against R for recovery of the said amount. Decide whether Global Enterprise would be given any relief by the court under the provisions of the Indian Contract Act, 1872.

Answer :

R is liable to Global Enterprise for goods Purchased by M:-

✶ *Since the principal is bound to third parties for all such acts of the agent as are within the scope authority of the agent'*

✶ *Since on a previous occasion, purchase of goods by M on behalf of R, and subsequent payment for such goods by R, established that it was within scope of authority of M to purchase goods on behalf of R.*

Q.37 : A, the bailor, pledges cinema projector and other accessories with Cine Association co-operative Bank limited, the bailee, for loan. A requests the bank to allow the pledged goods to remain in his possession and promises to hold the same in trust for the bailee and also further promises to handover the possession of the same to the bank whenever demanded.

Examining the provisions of Indian Contract Act, 1872 decide, whether a valid contract of pledge has been made between A, the bailor and Bank, the bailee?

Examining the provision of the Indian Contract Act, 1872, decide whether A is liable on his guarantee given to C.

Answer :

There is a valid contract of pledge:-

✶*Since Mr. A has pledged the goods with the Bank as a security for the loan;*

✶*Although the Bank has given permission to Mr. A to continue to posses the goods in trust for the Bank;*

✶*Since the Bank is legally entitled to the possession of the goods, although the physical possession of goods is with Mr. A*

✶*Since 'constructive delivery of cinema projector' from Mr. A to the Bank has taken place in the given case.*

Q.38 : Mr. Singh an old man, by a registered deed of gift, granted certain landed property to A, his daughter. By the terms of the deed, it was stipulated that an annuity of `2,000/- should be paid every year to Board of Directors, who was the brother of Mr. Singh. On the same day, A made a promise with B and executed in his favour an agreement to give effect to stipulation. A failed to pay the stipulated sum. In an action against her by B, she contended that since B had not furnished any consideration, he has no rights of action.

Examining the provisions of Indian Contract Act, 1872, decide whether the contention of A is valid.

Answer :

Privity of consideration is not required:-

✶ *Since so long as there is consideration for promise, it is immaterial as to who has furnished it;*

✶ *Since if a party receives consideration, the contract is valid, even though the person furnishing the consideration is not a party to the contract;*

✶ *Since as long as there is consideration in a contract, it is immaterial as to who has given this consideration.*

Contention of A is not valid:-

✶ *Since privity of consideration is not required, as explained above;*

✶ *Since the same decision was given in Chinnaya v Rammaya on the same facts as in the given case.*