

**TEST -2 (ICA – Topic 3, 4 & 5)**

**Answer any 6 questions. Each question carries 4 marks each. Duration – 60 Mins**

1. X, minor was studying B.Com, in a college. On 1<sup>st</sup> July, 2008 he took a loan of Rs. 10, 000 from B for payment of his college fees and to purchase books and agreed to repay by 31<sup>st</sup> December, 2008. X possesses assets worth Rs. 2 lakhs. On due date X fails to pay back the loan to B. B now wants to recover the loan from X out of his (X's) assets. Referring to the provisions of Indian Contract Act, 1872 decide whether B should succeed.

**Answer:**

**As per provisions** of Sec. 68 of The Indian Contract Act, 1872, For Supply of necessities to incompetent person the estate (property) of incompetent person is liable.

**As per Facts of the case:** X, minor studying B.com took a loan of Rs.10,000 from B, after possessing X's assets worth of Rs. 2,00,000 promising to pay loan at 31<sup>st</sup> December. On the due date X fails to repay the loan. B wants to recover the loan from X's assets.

**Question involved** is whether B would succeed in recovering the loan from X out of his assets.

**Applying the provisions of Sec.68**, we understand that "If a person, incapable of entering into a contract, or any one whom he is legally bound to support, is supplied by another person with necessities suited to his condition in life, the person who has furnished such supplies is entitled to be reimbursed from the property of such incapable person."

Also, we know that education is considered as necessity.

**Hence**, Here in this case X, although he is a minor took loan for necessity purpose and Since the loan given to X is for the necessities suited to the conditions in his life, his assets can be sued to reimburse B.

2. X, agreed to sell his property worth about Rs.1,00,000 for Rs.10,000 only. X's mother proved that X was a congenital idiot, incapable of understanding the transaction. Is this sale valid?

**Answer:**

**As per the provisions of Sec. 12** of The Indian Contract Act, 1872, A person is said to be of sound mind for the purposes of making a contract if, at the time when he makes it, he is capable of understanding it and of forming a rational judgment as to its effect upon his interests.

**As per Facts of the case:** X, agreed to sell his property worth about Rs.1,00,000 for Rs.10,000 only.

**Question involved** is whether the sale is valid or not.

**Applying the above provisions in the given case**, we understand that idiot is incompetent to enter into a contract and here X was incapable of exercising his own judgment as to whether the act he is about to do is in his interest or not.

**Therefore** the sale is void.

3. X beats Y and compels him to sell his house for Rs.1,00,000. Y agrees to sell his house to X. Y signs the necessary documents for the sale of house and receives the payment. Later on, Y wants to avoid the contract? Will he succeed?

**Answer:**

**As per Provision of Sec. 15** of the Indian Contract Act states that coercion is the committing or threatening to commit any act forbidden by the Indian Penal Code or the unlawful detaining or threatening to detain

any property, to the prejudice of any person whatever, with the intention of causing any person to enter into an agreement.

**Also, as per Sec.19** The person whose consent was obtained by coercion can avoid the contract as he gets a voidable option.

**Fact of the case:** X compels Y to sell his house for Rs.100000 by beating Y agrees and sell the house, later Y want to avoid the contract.

**Question involved is** whether Y can avoid the contract or not?

Applying the above provisions in the given case, we understand that Here in this case X threatened Y to sell his house which means X has applied coercion.

**Decision:** Y can avoid the contract on the ground of coercion but he will have to return Rs. 1,00,000 which he has received from X.

4. X is having two horses, a white and another black. X offers to sell his black horse to Y. Y not knowing that X has two horses, thinks of white horse and agrees to buy the horse. Is this agreement valid?

**Answer:**

**Provision:** As per Sec. 22 of The Indian Contract Act, 1872, "Where one of the parties to an agreement is under a mistake as to a matter of fact essential to the agreement, the agreement is valid". However one of the exception is Mistake as to the identity of subject-matter.

**Facts of the case:** X having two horses white and black. X offers to sell his black horse, but Y has no knowledge that X has two horses, thinks of white horse and agreed to buy the horse.

**Question involved is** whether the agreement to sell the horse is valid or not?

**Applying the above provisions in the given case,** Here in this case Y believed that X has only one horse i.e. White horse and he agreed to buy the horse. So, there's only one party who was under mistake but the mistake is about the subject matter of contract & hence we can **Conclude that** This agreement is void.

5. "A" applies to a banker for a loan at a time where 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 induced by undue influence? Decide.

**Answer:**

**Facts of the case:** A approaches the banker for a loan at the time where there is money stringency in the market. The banker grants loan on the condition that an unusually high rate of interest.

**Question involved is** whether the contract is induced by undue influence or not?

**Provision & Analysis:** This is a transaction in the ordinary course of business, and the contract is not induced by undue influence, as between parties on an equal footing, the court will not hold a bargain to be unconscionable merely on the ground of high interest. Only where the lender is in a position to dominate the will of the borrower, the relief is granted on the ground of undue influence.

**Conclusion:** In this case A intentionally accepts the loan; therefore the contract is not induced by undue influence.

6. A appoints M, a Minor, as his agent to sell his watch for cash at a price not less than Rs. 700. M sells it to D for Rs. 350. Is the sale valid? Explain the legal position of M and D, under the Contract Act, 1972.

**Answer:**

**As per the provisions of the Indian Contract Act, 1872,** a minor can act as an agent and bind the principal. But, the minor cannot be made liable for actions which results in loss the principal.

**In the given case,** A appoints M, a Minor, as his agent to sell his watch for cash at a price not less than Rs. 700. M sells it to D for Rs. 350.

**Question involved is** whether the sale is a valid one or not.

**Applying the above provisions in the given case,** we can **conclude** that sale by M (minor) to D is valid. But the difference of Rs. 350 (Rs. 700-Rs. 350) cannot be recovered from M by A (the Principal).

7. 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 Rs.5,000 per month to N (the sister of the executants). Consequently M executed an 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 of N.

**Answer:**

**As per section 2(d) of the Indian Contract Act, 1872,** in India, it is not necessary that consideration must be supplied by the party, it may be supplied by any person including a stranger to the transaction.

The given case is based on a case “Chinnaya vs. Ramayya” in which Honorable Court clearly observed that the consideration need not necessarily move from the party clearly observed that the consideration need not necessarily move from the party itself, it may move from any person.

**In the given case,** the same reason applies.

**Hence,** M is liable to pay the said sum to N, and cannot deny from liability on the ground that consideration did not move from N.