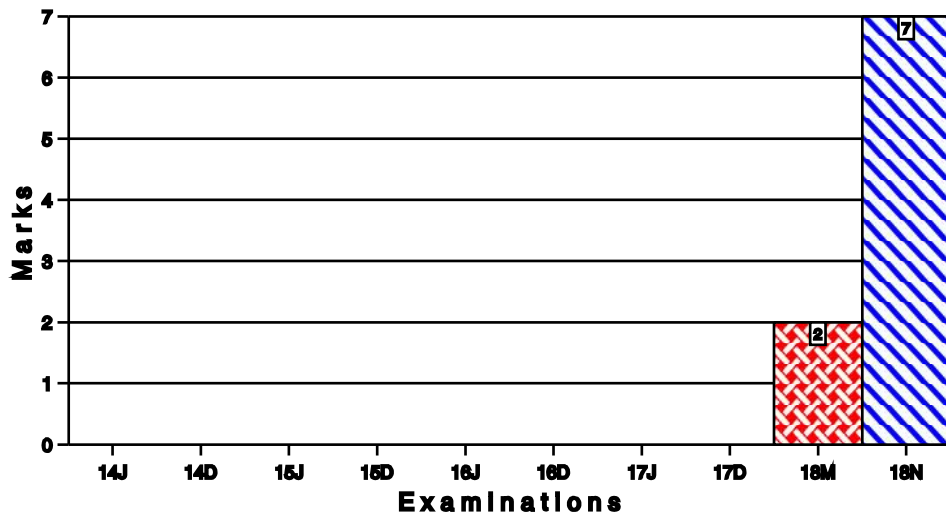


CHAPTER	<h1>The Indian Contract Act, 1872</h1>
<b>1</b>	
Unit: 6	Contingent and Quasi Contracts

Marks of Short Notes, Distinguish Between, Descriptive & Practical Questions

**Legend**



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**SELF STUDY QUESTIONS**

**Q.1: Described the Rules Relating to Enforcement Under the Indian Contract Act, 1872.**

**Answer:**

Sr. No.	Rules	Enforcement
1.	Happening of future uncertain event	Cannot be enforced by law unless and until that event happens. Contract becomes void if event becomes impossible.
2.	Non-happening of an uncertain future event	Can be enforced when the happening of that event becomes impossible and not before.
3.	Behaviour of a person at an unspecified time in future	Event is considered impossible when that person does anything' which renders it impossible that he should so act within any definite time or otherwise than under further contingencies.
4.	Happening of a specified uncertain event within a fixed time	Becomes void if: (a) at the expiration of the time, such event has not happen, or (b) before the time fixed, such event becomes impossible.
5.	Non-happening of a specified uncertain event within a fixed time	Can be enforced by law: (a) When the time fixed has expired and such event has not happened, or (b) Before the time fixed has expired, it becomes certain that such event will not happen.

6.	Impossible Event	Are void, whether the impossibility of the event is known or not known to th parties at the time of making the agreement.
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**Q.2: State Briefly the Law Relating to Quasi Contracts.**

**Answer:**

**Quasi Contracts**

- A obligation is imposed by law upon a person for the benefit of another even in the absence of a contract. They are known as quasi contracts.
- They are based on principles of equity, justice and good conscience.
- They are based on principles of equity, justice and good conscience.
- They are termed as certain relations resembling those created by contracts.
- It is also known as Law of Restitution.
- **It has following features:**
  - (i) It does not arises from any agreement between the parties but is imposed by law.
  - (ii) It is a right only available against a particular person or persons and not against the entire world.
- **They are of following types:**
  - (i) Supply of necessaries
  - (ii) Reimbursement of money due
  - (iii) Obligation to pay for benefit out of non-gratuitous act
  - (iv) Responsibility of finder of goods
  - (v) Persons receiving goods or money by mistake
  - (vi) Quantum merit (as much as earned or reasonable remuneration)

**Supply of necessaries (Section 68)**

- “If a person, incapable of entering into a contract, or anyone whom he is legally bound to support, is supplied by another person, with necessaries 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”

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- If necessaries are supplied to a minor or person of unsound mind, the supplier is entitled to claim their price from the property of such a person.
- If there is no property, nothing will be realizable.

**Reimbursement of money due (Section 69)**

- “A person, who is interested in the payment of money and pays such money,” which another is bound by law to pay, is entitled to be reimbursed by the other.”
- A person who has paid a sum of money which another is obliged to pay, is entitled to be reimbursed by that other person provided the payment has been by him protect this own interest.
- Payment must be bonafide.

**Obligation to pay for benefit out of non-gratuitous act (Section 70)**

- “Where a person lawfully does something for another person or delivers anything to him, not intending to do so gratuitously and the other person accepts and enjoy the benefits thereof, then he is bound to make compensation to the other in respect of or to rectory the thing so done or delivered”.

**Q.3: Explain the Liabilities of Person receiving goods or money by mistake.**

**Answer:**

**Person receiving goods or money by mistake**

- “A person to whom money has been paid, or anything delivered by mistake or under coercion, must repay or return it”
- Mistake, need not be unintentional, it may be even intentional.

**SHORT PRACTICE QUESTIONS**

1. Write Short note on Contingent Contract
2. Define Quasi Contracts
3. Differentiate between Wagering Agreement and Contingent Contract.

## PAST YEAR QUESTIONS AND ANSWERS

### OBJECTIVE QUESTIONS

**1995 - May [1]** State with reason whether the following statement is true or false:

- (ii) A contract of indemnity is not a contingent contract. (2 marks)

**Answer:**

**Incorrect:** A contract of indemnity is a class of contingent contracts. Because in such a contract, the performance depends upon the happening or non-happening of certain event i.e. occurrence of loss caused by the conduct of the promisor or any other person.

**1995 - Nov [1]** State with reason whether the following statement is true or false:

- (ii) A stranger to the consideration can enforce the contract. (2 marks)

**Answer:**

**Correct:** Under the Indian Law, consideration may move from the promisee or any other person, i.e. even a stranger. This rule applies in the cases of marriage settlement, partition or other family arrangements, trust, agency, assignment, etc.

**1996 - Nov [1]** State with reason whether the following statement is true or false:

- (iv) Insurance contracts are covered under contracts of indemnity. (2 marks)

**Answer:**

**Correct:** According to Section 124 contract of indemnity is a contract by which one party promises to save the other from loss caused to him by the conduct of the promisor himself, or by the conduct of any other person. In the insurance contract if insured suffers any loss, the same is made good by the

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insurer i.e. the insurance companies. Such contracts are covered under the above definition. However, a life insurance is a contingent contract and not a contract of indemnity.

**1997 - Nov [1]** State with reason whether the following statement is true or false:

- (iii) In Quasi contracts, the promise to pay is always an implication of law and not of facts. (2 marks)

**Answer:**

**Correct:** Though quasi-contracts are not contracts in the strict sense (as there is no offer, acceptance, consensus-ad-idem etc), yet the law from the circumstances of the case, conduct and relationship of parties, implies by fiction an obligation on the one party and confirming a right to a money payment in favour of the other.

**2002 - May [1]** State with reason whether the following statement is true or false:

- (v) A 'Contract of indemnity' is not a 'Contingent contract'. (2 marks)

**Answer:**

**Incorrect:** Indemnity is an act to compensate or protect somebody against loss or to make good the loss suffered (Section 124 of Indian Contract Act, 1872). The contingency upon such the whole contract of indemnity depends upon the event of suffering loss by the other party. Thus, a contract of indemnity is a type of contingent contract.

## SHORT NOTES

**1995 - Nov [7]** Write short notes on the following:

- (a) Contingent Contract. (5 marks)

**Answer:**

**Contingent Contract:**

A contingent contract is a contract to do or not to do something, if some event, collateral to such contract, does or does not happen. (Section 31 of the Indian Contract Act). It is a contract in which the performance becomes due only upon the happening of some event which may or may not happen.

For example, A contracts to pay B ₹ 10,000 if B's house is burnt. This is a contingent contract. The following characteristics of contingent contracts can be printed out:

1. The performance of a contingent contract depends upon the happening or non-happening of some uncertain future event.
2. Contingent contracts may be subject to a condition precedent or subsequent.
3. The event on which the performance is made to depend upon is an event collateral to the contract. The event should neither be a performance promised, nor the consideration for the promise.
4. The contingent event should not be the mere will of the promisor.
5. The happening of the event is uncertain.

**Rules:**

**Section 32:** Contingent contract cannot be enforced until the relevant event has happened.

**Section 33:** It can be enforced on non-happening of such event, if it becomes impossible.

**Section 34:** The event is considered impossible when a person does some act so as to make it impossible.

**Section 35:** If time fixed for an event to occur expires, it becomes impossible.

**Section 36:** Contingent agreement based on happening of impossible events are void.

**DISTINGUISH BETWEEN**

**1998 - May [6]** (b) Distinguish Between of the following:

- (i) Wagering agreement and Contingent contract. (5 marks)

**Answer:**

**Wagering agreement and Contingent contract:** Agreement by way of wager are void, according to Section 30. In a wagering agreement, two parties have opposite views regarding an uncertain event, and they stipulate that upon the determination of the event in a certain way the parties shall win or lose from each other, a certain sum of money and the parties have no other interest in the event except winning or losing a bet.

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According to Section 31 of the Indian Contract Act, 1872 a contingent contract is a contract to do or not to do something, if some event collateral to such contract, does or does not happen. Contracts of Indemnity or of insurance are of this type. But however, there is difference between the wagering agreements and contingent contract which may be enumerated as follows:

- (i) A wagering agreement consists of reciprocal promises whereas a contingent, contract may not contain reciprocal promises.
- (ii) In a wagering agreement the uncertain event is the sole determining factor, while in a contingent contract the event is only collateral.
- (iii) A wagering agreement is essentially of a contingent nature whereas a contingent contract may not be of a wagering nature.
- (iv) A wagering agreement is void whereas a contingent contract is valid.
- (v) In a wagering agreement, the parties have no other interest in the subject matter of the agreement except the winning of losing of the amount of the wager. In other words, a wagering agreement is a game of chance. This is not so in case of a contingent contract.

**2018 - May [2]** (c) (i) Distinguish between wagering agreement and contract of insurance. (2 marks)

**Answer:**

**Difference between a Contingent Contract/Contract of Insurance and a Wagering Contract:**

**Contract of Insurance:**

<b>S. No.</b>	<b>Contingent Contracts</b>	<b>Wagering Contracts</b>
1.	It is a contract to do or not to do something if an event collateral to main contract happens or does not happen.	It is a promise to give money or money's worth on an uncertain event happening or not happening.
2.	It may not be wagering in nature.	It is essentially contingent in nature.
3.	It is valid.	It is void.
4.	It may not contain reciprocal promises.	It does consists of reciprocal promise.



**DESCRIPTIVE QUESTIONS**

**1994 - Nov [3]** (a) Explain the term 'Quasi Contracts' and state their characteristics. Illustrate your answer by giving examples. (10 marks)

**Answer:**

**Quasi Contracts:** Under certain special circumstances obligation resembling those created by a contract are imposed by law although the parties have never entered into a contract. Such obligations imposed by law are referred to as 'Quasi-contracts'. Such a contract resembles with a contract so far as result or effect is concerned but it has little or no affinity with a contract in respect of mode of creation. These contracts are based on the doctrine that a person shall not be allowed to enrich himself unjustly at the expense of another. The salient features of a quasi-contract are:

1. It does not arise from any agreement of the parties concerned but is imposed by law.
2. Duty and not promise is the basis of such contract.
3. The right under it is always a right to money and generally, though not always, to a liquidated sum of money.
4. Such a right is available against specific person(s) and not against the whole world.
5. A suit for its breach may be filed in the same way as in case of a complete contract.

Section 68 to 72 of [the Indian Contract Act deals with the following types of quasi-contracts]:

1. **Claim for necessaries supplied to a person incapable of contracting (Sec. 68).** If a person incapable of entering into a contract or anyone whom he is legally bound to support, is supplied with necessaries suited to his condition in life by another person the supplier is entitled to recover the price from the property of the incapable person.

**Example:** (a) A supplies B, a lunatic, or a minor, with necessaries suitable to his condition in life. A is entitled to be reimbursed from B's property.

2. **Reimbursement of person paying money due by another, in payment of which he is interested.** A person who is interested in the payment of money which another is bound by law to pay, and who therefore pays it, is entitled to be reimbursed by the other (Sec. 69).  
**Example:** B holds land in Bengal, on a lease granted by A, the zamindar. The revenue payable by A 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 the annulment of B's lease. B, to prevent sale and the consequent annulment of his own lease, pays to the government the sum due from A. A is bound to make good to B the amount so paid.
3. **Obligation of person enjoying benefit of non-gratuitous act.** Where a person lawfully does anything for another person, or delivers anything to him, not intending to do so gratuitously, and such other person enjoys the benefit thereof, the latter is bound to make compensation to the former in respect of, or to restore, the thing so done or delivered (Sec. 70).  
**Example:** A, a tradesman, leaves goods at B's house by mistake, B treats the goods as his own. He is bound to pay A for them.
4. **Responsibility of finder of goods.** A person who finds goods belonging to another and takes them into his custody, is subject to the same responsibility as a bailee (Sect. 71).
5. **Liability of persons to whom money is paid, or thing delivered by mistake or under coercion.** A person to whom money has been paid, or anything delivered by mistake or under coercion, must repay or return it (Sec. 72).  
**Example:** A and B jointly owe 100 rupees to C. A alone pays the amount to C and B, not knowing this fact, pays 100 rupees over and above to C. C is bound to repay the amount to B.
6. **Quantum meruit.** In addition to the above types of quasi contracts expressly provided in the Act, a claim can also be made on the basis of quantum meruit. Where a person has rendered some service to another under the circumstances which indicate that it is to be paid for though no

remuneration was fixed, the law implies a promise to pay for the amount of the work actually done. It means payment in proportion to the amount of work done.

**1996 - May [2]** Comment on the following:

(c) A contract of indemnity is a contingent contract. (5 marks)

**Answer:**

**A contract of indemnity is a contingent contract:** The statement is correct in the sense that a contract of indemnity is one by which one party promises to save the other from the loss caused to him by the conduct of the promisor himself or by the conduct of any other person. A contingent contract is a contract to do or not to something if some event collateral to such contract does or does not happen. From the above definitions, it can be seen that both contracts are conditional contracts. Their performance depends upon some contingency which is uncertain. A contract of indemnity is really a part of the general class of contingent contracts. It is entered into with the object of protecting the promisee against any anticipated loss. The contingency upon which the whole contract of indemnity depends is the happening of loss.

**1996 - Nov [3]** (a) State briefly the law relating to 'Quasi contract'.

(10 marks)

**Answer:**

**Quasi contracts:** Under certain circumstances, a person may receive a benefit to which the law regards another person as better entitled, or for which the law considers he should pay to the other person, even though there is no contract between the parties. Such relationships are termed as "Quasi-Contracts". A quasi contract rests on the ground of equity that a person shall not be allowed to enrich himself unjustly at the expense of another.

Sections 68 to 72 of the Indian Contract Act has prescribed the following relationships creating quasi-contractual relations:

1. **Supply of necessaries:** Under Section 68, if a person, incapable of entering into a contract, or anyone whom he is legally bound to support,

is supplied by another person with necessaries suited to his conditions in life, the person who has furnished such supplies is entitled to be reimbursed from the property of such incapable person.

2. **Payment by an interested person:** It has been laid down in Section 69 of the Indian Contract Act that a person who is interested in the payment of money which another is bound by law to pay and who therefore, pays it, is entitled to be reimbursed by the other.
3. **Obligation to pay for non-gratuitous Act:** Section 70 of the Indian Contract Act states that where a person lawfully does anything for another person or delivers anything to him not intending to do so gratuitously, and such other person enjoys the benefit thereof, the latter is bound to make compensation in respect of or to restore, the thing so done or deliver.
4. **Responsibility of finder of goods:** Under Section 7 of the Act, a person who finds goods belonging to another and takes them into his custody, is subject to the same responsibility as a bailee.
5. **Case where money is paid by mistake or under coercion:** Finally, Section 72 of the Indian Contract Act provides that a person to whom money has been paid, or anything delivered by mistake or under coercion, must repay or return it. Thus, quasi contractual right is always a right to money and generally though not always to a liquidated sum of money. It does not arise from any agreement of the parties concerned, but is imposed by the law. It is a right which is not available against all the world but against a particular person or persons only. There is no contract between the parties in cases of quasi contracts, yet they are put in the same position as if there were a contract between them.

**1997 - May [6]** (a) Explain the meaning of 'Contingent Contracts' and state the rules relating to such contracts. (10 marks)

**Answer:**

**Essential characteristics of a contingent contract:** A contract may be absolute or contingent. A contract is said to be absolute when the promisor undertakes to perform the contract in all events. A contingent contract, on the other hand "is a contract to do or not to do something, if some event, collateral to such contract does or does not happen" (Section 31). It is a

contract in which the performance becomes due only upon the happening of some event which may or may not happen. For example, A contracts to pay B ₹ 10,000, if he is elected President of a particular association. This is a contingent contract. The essential characteristics of a contingent contract may be listed as follows:

- (i) There must be a contract to do or not to do something.
- (ii) The performance of the contract must depend upon the happening or non-happening of some event.
- (iii) The happening of the event is uncertain.
- (iv) The event on which the performance is made to depend upon is an event collateral to the contract i.e. it does not form part of the reciprocal promises which constitute the contract. The event should neither be a performance promised, nor the consideration for the promise.
- (v) The contingent event should not be the mere will of the promisor. However, where the event is within the promisor's will, but not merely his will, it may be a contingent contract.

**The rules regarding the contingent contract are as follows:**

- (1) Contingent contract dependent on the happening of an uncertain future event cannot be enforced until the event has happened. If the event becomes impossible, such contracts become void. (Section 32).
- (2) Where a contingent contract is to be performed if a particular event does not happen, its performance can be enforced only when happening of that event becomes impossible. (Section 33).
- (3) If a contract is contingent upon, how a person will act at an unspecified time the event shall be considered to become impossible, when such person does anything which renders it impossible that he should so act within any definite time or otherwise than under further contingencies. (Section 34, 35).
- (4) The contingent contracts to do or not to do anything if an impossible event happens, are void whether or not the fact is known to the parties. (Section 36)

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**1999 - May [3]** (a) What is meant by Quasi-contract? Explain the types of Quasi-contracts which have been described in the Indian Contract Act, 1872. (10 marks)

**Answer:**

*Please refer 1996 - Nov [3] (a) on page no. 1227*

**1999 - Nov [2]** Explain briefly the following:

- (iii) The duties and liabilities of a finder of goods are treated at par with bailee. (5 marks)

**Answer:**

**Duties and Liabilities of finder of goods:** The duties and liabilities of a finder of goods are treated at par with bailee. A person who finds goods belonging to another and takes them into his custody, is subject to the same responsibility as a bailee. (Section 71 of the Indian Contract Act, 1872). He is bound to take as much care of the goods as a man of ordinary prudence would, under similar circumstances, take of his own goods of the same bulk quality and value. He must also take all necessary measures to trace its true owner. If he does not take, he will be guilty of wrongful conversion of the property. Till the owner is found out, the property in the goods will vest in the finder and he can retain the goods as his own against the whole world except the real owner. He can sell the goods in the following cases:

- (a) where the owner cannot with reasonable diligence be found; or  
(b) when found, he refuses to pay the lawful charges of the finder; or  
(c) if the thing is in danger of perishing or losing greater part of its value.  
(d) if the lawful charges amount to  $\frac{2}{3}$  of the value of the thing.

**2001 - May [5]** Briefly answer of the following:

- (a) What is a contingent contract and what are its essentials? (5 marks)

**Answer:**

*Please refer 1997 - May [6] (a) on page no. 1228*

**2002 - May [5]** (c) Briefly answer the following:

What are the salient features of a quasi contract? (5 marks)

**Answer:**

*Please refer 1996 - Nov [3] (a) on page no. 1227*

**2018 - Nov [2]** (a) What is Contingent Contract? Discuss the essentials of Contingent Contract as per the Indian Contract Act, 1872. (7 marks)

**Answer:**

A Contingent Contract is a contract to do or not to do something, if some event, collateral to such contract, does or does not happen. Contracts of insurance, indemnity and guarantee fall under this category.

The essential constituents of a contingent contract are :

- (a) The performance of a contingent contract would depend upon the happening or non-happening of some event or condition.

**Example :**

A promises to pay ₹ 50,000 to B if it rains on first of the next month.

- (b) The event referred to is collateral to the contract. The event is not part of the contract. The event should be neither performance promised nor a consideration for a promise.
- (c) The contingent event should not be a mere will of the promisor. The event should be contingent in addition to being the will of the promisor.
- (d) The event must be uncertain. Where the event is certain or bound to happen, the contract is due to be performed, then it is not a contingent contract.

