

Quasi-Contractual Obligations under Indian Contract Act

Introduction

If, while riding on a train, a shoe shiner comes, and without us saying anything, starts to polish our shoes and when they're done, they ask for some money. Are we obliged to pay them that amount? Or can we tell them "I did not ask you to polish my shoe anyway!". Imagine another situation, where someone else's Amazon package, with its payment already done, is left at your door. Do you become all excited and say "YAY! Free Gifts!" or do you make an effort to find the owner or return the package? This blog post will give you answers to similar questions.

There are certain obligations, specified in the Indian Contract Act, that are not actually contracts because they miss one or the other elements of a contract, but are still enforceable in a court of law. Such obligations are called Quasi-contractual obligations. Each of them has been talked about separately in Sections 68 to 72 ([Chapter V](#)) of the Indian Contract Act, 1872. Let us first look where these obligations arise from, and then discuss each of them separately.

Background

It is first important to note that a contract before it becomes so, is an agreement. Therefore, where there is no agreement, there is no contract. Yet, there are some obligations that do not have their origin in an agreement. The obligation not to harm another person or his property (Torts), for instance, the judgments or orders of courts, quasi-contractual obligations, etc. These obligations are not 'contracts' by definition, but they are enforceable in a court of law.

The Principle of Unjust Enrichment

Quasi-contracts are based on the principle of "*Nemo debet locupletari ex aliena jactura*", which means 'No man should grow rich out of another person's loss'. Therefore, liability in the case of quasi-contractual obligations is based on the principle of 'unjust enrichment'. It essentially means that no man should get unjustly enriched at the cost of another person's loss. That means no person should gain anything unjustly, when his gaining such a thing may mean a loss for another person.

Features of a Quasi-Contract

- Their origin does not lie in the offer and its acceptance, that is, in an agreement between the parties.
- They are rather based on justice, equity, and a good conscience and on the principles of natural justice.

Section 68 (Claim for necessities supplied to person incapable of contracting, or on his account)

If the “necessaries” for a person, who is incapable of contracting (for example, a minor or a mentally disabled person) or of the dependants of such a person are taken care of by someone, he has the right to be reimbursed from the property of such incapable person. Although the word “necessaries” has not specifically been defined in the Act, it is impliedly clear that it means the necessities to sustain life, basic things like food, clothing, education, etc. These are things without which a person cannot reasonably exist. In simple terms, if a person A supplies another person B (who is incapable of entering into a contract) or his family or anybody else who is dependant on him, with necessities for life, he is entitled to take his due return from the property of person B. He is entitled only to such a reasonable amount as the value of the goods or services he may have supplied hold.

Section 69 (Reimbursement of person paying money due by another, in payment of which he is interested)

If a person A pays something in someone’s (a person B’s) place, that which person B is himself ‘bound by law’ to pay, A will be reimbursed by B. Please note that the person A should be ‘interested’ in this payment. It is a case of implied [indemnity](#).

For instance, Joe is a Zamindar. Annie holds one of his lands on lease in Punjab. The revenue of Joe's land is payable to the government in arrears. So, the land ends up being advertised for sale by the government. According to the Revenue Law, if the land is sold, it will end Annie's lease. To prevent this sale, Annie pays Joe's dues to the government. Joe is bound to pay back to Annie.

The aforementioned illustration satisfies the following conditions-

1. The party paying the other party's dues is interested in the payment.
2. The party whose payment is due was in fact bound by law to pay.

Section 70 (Obligation of person enjoying the benefit of the non-gratuitous act)

When a person lawfully does something for another person (for example, delivers a good or a service) without intending to do so 'gratuitously', and the other person enjoys the benefit of the delivery of that good or service, the latter is bound to pay back to the former.

A gratuitous act is one that is done for a person by another without the expectation of a return. For example, giving someone a gift is a gratuitous act. Here comes your Amazon package delivered to the wrong address. A pack of chocolate chip cookies that you ate as soon as they arrived. You are liable to compensate the actual owner of the package. The illustration of a shoe-shiner unsolicitedly polishing one's shoes or that of the coolie picking up one's goods will lie under Section 70. Such acts and services are not done gratuitously and therefore a liability to pay back arises on the part of the person on the receiving end.

Section 71 (Responsibility of finder of goods)

Simply, a person who finds goods that belong to another person shall be treated as a **bailee**. A bailee is essentially a safe keeper of the goods, who is supposed to return the goods to the actual owner or dispose them in the manner in which the actual owner may want them to. The bailee has certain duties and rights as the 'possessor' or 'custodian' of the goods for the time being. For example, Sarah finds a diamond lying on the floor in a shop. She picks it up and keeps it in her safe possession. Sarah makes all reasonable efforts to find the true owner of the diamond. The diamond actually belonged to Nadia. Sarah has the right to hold the possession of the diamond against all the world except Nadia, and is supposed to make reasonable efforts to find her, and return it to her. In this case, Nadia will have to pay the compensation for all the loss suffered by Sarah in finding her.

Duties of the finder of goods

1. The finder has a duty to take reasonable care.
2. He/she has a duty not to use the goods for his personal purposes.
3. He/she has a duty not to mix the found goods with his own goods.
4. He/she has a duty to make reasonable efforts to find the actual owner of the goods.

Rights of the finder of goods

1. Right to Lien– The right to retain the goods found until he receives compensation for all the expenses suffered in finding the owner.
2. Right to Sue– If the owner had announced a reward for whoever finds the good, the finder has the right to sue the owner for such reward or retain the goods until he is compensated.
3. Right to Sell– The finder of goods has the right to sell the goods in certain specific circumstances, for example:

- i) If the owner could not be found even after reasonable efforts.
- ii) If the owner is found but refuses to pay compensation or the lawful charges of the finder.
- iii) If the goods are in immediate danger of perishing if not used.
- iv) If the lawful charges of the finder amount to two-thirds of the value of goods.

Section 72 (Liability of person to whom money is paid or thing delivered by mistake or under coercion)

As the heading suggests, if something is delivered to a person by 'mistake' or under 'coercion', he is liable to pay it back. For instance, Aristotle and Dante share a flat and contribute in half for the rent to be paid. Aristotle, without knowing that Dante has already paid the due rent to the landlord in whole, pays again to the landlord. The landlord, in this case, is liable to give back the money delivered to him by mistake. The term mistake here can mean both mistake of fact or mistake of law.

The section also uses the term 'coercion'. Here is an example of something delivered under coercion- A railway company refuses to deliver goods to a certain consignee except upon the payment of a certain illegal sum of money. The consignee pays the sum to obtain his goods. The company is liable to return the sum of money illegally charged.

Conclusion

A contract has certain elements, like the offer, and its acceptance, that give rise to an agreement. The agreement, if it is legally enforceable becomes a contract, that is, it can be taken care of in a court of law in case it is not performed by either of the parties involved. Yet, there are certain situations where even in the

absence of an 'agreement' as such, one or the other party is obliged to perform something. Such obligations are called quasi-contractual obligations. Chapter V of the Indian Contract Act, 1872 deals with such obligations.