

CONSIDERATION

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MEANING OF CONSIDERATION

- ❖ Consideration is one of the essential elements to support a contract .
- ❖ Consideration is a technical term used in the sense of quid pro quo(i.e., **something in return**). When a party to an agreement promises to do something , he must get “something “in return. This “something “is defined as consideration .

EXAMPLE

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‘P’ agrees to sell his car to ‘Q’ for Rs.50,000 Here ‘Q’s Promise to pay Rs50,000 is the consideration for P’s promise and ‘P’s promise to sell the car is the consideration for ‘Q’s promise.

DEFINITION OF CONSIDERATION

“A valuable consideration in the sense of the law may consist either in some right ,interest ,profit or benefit accruing to one party , or some forbearance , loss or responsibility given , suffered or undertaken by the other”.

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LEGAL RULES AS TO CONSIDERATION

- It must move at the desire of the promisor.
- It may move from the promisee or any other person.
- It may be an act, abstinence or forbearance or a return promise.
- It may be past, present or future.
- It need not be adequate.
- It must be real and not illusory.
- It must be something which the promisor is not already bound to do.
- It must not be illegal, immoral or opposed to public policy.

EXCEPTIONS

“No consideration, no contract” -Exceptions

- The general rule is ‘ex nudo pacto non oritur actio’, i.e., an agreement made without consideration is void.

Sec.25 and 185 dealt with the exceptions to this rule.

In such cases agreements are enforceable even though they are made without consideration. These cases are---

“No consideration, no contract” -Exceptions

1. Love and Affection [Sec.25(1)]:

Where an agreement is expressed in writing and registered under the law for the time being in force for the registration of documents and is made on account of natural love and affection between the parties standing in near relation to each other, it is enforceable even if it is without consideration.

Examples:

- (a) **F**, for natural love and affection, promises to give his son, **S**, Rs.1,000. **F** puts his promise to **S** in writing and registers it. There is a contract.
- (b) By a registered agreement, **V** on account of natural love and affection for his brother, **R**, promises to discharge his debt to **B**. If **V** does not discharge the debt, **R** may discharge it and then sue **V** to recover the amount.

[**Venkataswamy vs. Ramaswamy,**
(1903)]

“No consideration, no contract”. **-Exceptions**

- **2.Compensation for voluntary services.[Sec.25(2)]**

A promise to compensate, wholly or in part, a person who has already voluntarily done something for the promisor, is enforceable, even though without consideration. In simple words, a promise to pay for a past voluntary service is binding.

Examples: (a) **A** finds **B**'s purse and gives it to him . **B** promises to give Rs. 50 .This is a contract.

(b)**A** says to **B**, “ At the risk of your life you saved me from a serious accident. I promise to pay you Rs.1,000.”There is a contract between **A** and **B**.

“No consideration, no contract”. **-Exceptions**

- **3.Promise to pay a time barred debt:[Sec.25(3)]**

A promise by a debtor to pay a time barred debt
[Sec.25(3)]

A promise by a debtor to pay a time barred debt is enforceable provided it is made in writing and is signed by the debtor or by his agent generally or specially authorized in that behalf.

The promise may be to pay the whole or any part of the debt. The debt must be such “ of which the creditor might have enforced payment but for the law for the limitation of suits.”

**A contract without consideration is void
-Exceptions**

- **A debt is barred by limitation if it remains unpaid or unclaimed for a period of three years. Such a debt becomes legally recoverable.**

Example: D owes C Rs.1,000 but the debt is barred by the Limitation Act. D signs a written promise to pay C, Rs.500 on account of the debt. This is a contract.

A contract without consideration is void
-Exceptions

4. Gift:

The rule “ No consideration, no contract” does not apply to completed gifts. According to explanation 1 to Sec.25, nothing in Sec.25 shall affect the validity, as between the donor and donee , of any gift actually made.

**A contract without consideration is void
-Exceptions**

- **5. Agency [Sec.185] No consideration is necessary to create an agency.**

- **6. Charitable Subscription:**

Where the promisee on the strength of the promise makes commitments, i.e., changes his position to his detriment. [

Refer. Kedarnath Vs. Gauri Mohammad].

Thank you