

Business Law PYQ 2016

Q1 a State, with reasons in brief, whether the following statements are true or false:

(i) Collateral transactions to an illegal agreement are valid.

(ii) Mere silence as to facts is not fraud.

(iii) Quasi contracts are not contracts in the real sense of the term.

Ans. (i) False: Collateral transactions to an illegal agreement are not valid. Any agreement which is illegal or against public policy is void ab initio, and any collateral transaction connected to it is also void. For example, if two parties enter into an illegal agreement to sell narcotics, and one of them takes a loan from the other to finance the purchase, the loan transaction would also be void.

(ii) True: Mere silence as to facts is not fraud. In general, silence or non-disclosure of material facts does not constitute fraud, unless there is a legal duty to disclose the information. However, if one party actively conceals material facts or creates a false impression, it could amount to fraud.

(iii) True: Quasi contracts are not contracts in the real sense of the term. A quasi-contract is a legal fiction created by the courts to prevent unjust enrichment. It is not a contract in the strict sense because there is no mutual agreement between the parties. Rather, it is an obligation imposed by law to prevent one party from unjustly benefiting at the expense of the other.

Q1 b 'The law of contracts is not the whole law of agreements, nor is it the whole law of obligations.' Explain.

Ans. The law of contracts is a part of the law of agreements and obligations, but it does not encompass the entirety of it. There are other types of agreements and obligations that are governed by separate legal principles.

Firstly, the law of contracts deals with only those agreements which are enforceable by law. An agreement that lacks the essential elements of a contract, such as consideration, capacity to contract, or legality of object, may not be enforceable as a contract. However, such agreements may be enforceable under other legal doctrines, such as the law of quasi-contracts or promissory estoppel.

Secondly, there are many obligations that are not contractual in nature, such as those arising from torts, trusts, and property law. These obligations are governed by different legal principles and are not subject to the same rules as contracts.

Therefore, while the law of contracts is a significant aspect of the law of agreements and obligations, it is not the only area of law that governs them. There are other legal principles that regulate different types of agreements and obligations that fall outside the purview of the law of contracts.

OR

Q1 a State, with reasons in brief, whether the following statements are true or false:

(i) A voidable contract may remain valid.

(ii) Insurance is an example of wagering agreements.

(iii) Special damages can be claimed as a right by the aggrieved party.

Ans. (i) True: A voidable contract may remain valid until it is avoided by the party entitled to avoid it. A voidable contract is initially enforceable, but one or both parties have the option to void the contract due to some defect, such as fraud, misrepresentation, or undue influence. If the contract is not avoided within the time allowed by law, it will remain valid.

(ii) False: Insurance is not an example of wagering agreements. Wagering agreements are those agreements in which the parties bet on the happening or non-happening of an uncertain event. Such agreements are void under Indian law. In contrast, insurance contracts are based on the principle of indemnity, where the insurer agrees to compensate the insured in case of loss or damage to the insured property or life.

(iii) True: Special damages can be claimed as a right by the aggrieved party if they can prove that they suffered such damages as a direct and foreseeable consequence of the breach of contract by the other party. Special damages are the actual losses suffered by the aggrieved party due to the breach of contract, which were within the contemplation of the parties at the time of entering into the contract. The aggrieved party can claim such damages in addition to general damages that are awarded for the breach of contract.

Q1 b A, a minor, borrowed some money from B and executed a promissory note in favour of B. The promissory note was renewed by A when he attained majority. B brings a suit against A on the basis of second promissory note. Will he succeed in recovering money from A? Give reasons.

Ans. No, B will not be able to recover the money from A on the basis of the second promissory note.

A contract with a minor is void ab initio, and any promise or agreement made by a minor is not enforceable in a court of law. The initial promissory note executed by A while he was a minor would be void, and B could not recover any money on the basis of that promissory note.

When A renewed the promissory note after attaining majority, he effectively created a new contract with B. However, the renewal of the promissory note cannot validate the earlier void agreement. Thus, the renewed promissory note also becomes void, and B cannot recover any money on the basis of that promissory note either.

Therefore, B cannot succeed in recovering money from A on the basis of the second promissory note executed by A.

Q1 c Ram's son absconded from home. He sent his manager in search of the boy. After the manager had left, he announced a reward of Rs. 10,000 for anybody giving information about his son. The manager came to know of this offer only when he had already traced the missing boy. Explain his rights giving reasons.

Ans. In this case, the manager would not be entitled to claim the reward announced by Ram for information about his son, even though he had traced the boy.

The reward was announced after the manager had already been sent to search for Ram's son. Therefore, the manager's actions were not influenced by the reward offer, and he did not provide any information about the whereabouts of the boy in response to the reward announcement.

To claim the reward, the offeror must have intended to make the offer before the offeree acted on it. The offer must have been made before the offeree started to act, and the offeree must have acted in response to the offer.

In this case, the manager had already commenced the search before the reward was announced. Therefore, the reward cannot be considered as an offer made with the intention of inducing the manager to search for the boy. As the manager's actions were not influenced by the reward announcement, he would not be entitled to claim the reward even though he had traced the missing boy.

Hence, the manager would not have any rights to claim the reward announced by Ram for anybody providing information about his son.

Q2. (a) (i) "Custody of goods implies property in goods." Comment.

(ii) X agreed to sell to Y the entire quantity of oil lying in a tanker in X's godown. The oil was to be filled into drums and then the drums were to be delivered to Y. Some drums were filled in the presence of Y; but before the remaining drums could be filled, a fire broke out and the entire quantity of oil was destroyed. Who will bear the loss? Discuss.

(iii) A delivers some jewellery to B on sale or return basis. B pledges the jewellery 'with C. A sues B for recovery of price. Will he succeed?

Ans. (i) The custody of goods does not necessarily imply the property in goods. Custody refers to the physical possession of goods, whereas ownership or property refers to the legal right to possess, use and dispose of the goods. It is possible that the person who has custody of the goods may not be the owner of the goods. For instance, a bailee may have custody of the goods without having ownership of the goods.

(ii) In the given scenario, the loss would be borne by X, who was the owner of the oil until it was sold to Y. X had agreed to sell the oil to Y, but the sale was not completed as the oil was destroyed before it could be delivered to Y. As per the Sale of Goods Act, the ownership of goods passes from the seller to the buyer when the parties intend it to pass. In this case, the intention of the parties was for the ownership to pass when the drums were filled and delivered to Y. As the entire quantity of oil was destroyed before the transfer of ownership took place, the loss would be borne by X, who was the owner of the oil at the time of its destruction.

(iii) No, A would not succeed in recovering the price of the jewelry from B. When A delivered the jewelry to B on a sale or return basis, it means that the ownership of the jewelry remains with A until B decides to purchase it. Until then, B only has possession of the jewelry. However, when B pledged the jewelry with C, it implies that B had transferred the possession of the jewelry to C, which is inconsistent with the terms of the sale or return agreement between A and B. Therefore, B had breached the agreement, and A can recover the jewelry from B, but not the price of the jewelry. The liability to pay the price arises only when the ownership of the goods has been transferred to the buyer, which had not happened in this case.

Q2 b The Doctrine of Caveat Emptor does not apply in all contracts of sale of goods." Explain the Doctrine and give the situations where this Doctrine is not applicable.

Ans. The doctrine of caveat emptor is a principle of contract law that means "let the buyer beware". It implies that in a contract for the sale of goods, the buyer assumes the risk of any defects or faults in the goods. The seller is under no obligation to disclose any defects or problems in the goods, and the buyer is expected to examine the goods and satisfy himself about their quality before making the purchase.

However, the doctrine of caveat emptor does not apply in the following situations:

Fraudulent Misrepresentation – If the seller deliberately conceals or misrepresents a defect in the goods, or provides false information about the goods, the buyer can seek remedies for breach of contract.

Sale by Description – If the goods are sold based on a description, the buyer can rely on the description to be accurate. If the goods do not conform to the description, the buyer can seek remedies for breach of contract.

Sale by Sample – If the goods are sold based on a sample, the buyer can rely on the sample to be representative of the goods. If the goods do not conform to the sample, the buyer can seek remedies for breach of contract.

Fitness for Purpose – If the buyer makes known to the seller the particular purpose for which the goods are being purchased, and relies on the seller's skill or judgment to select suitable goods, the seller is under an obligation to provide goods that are fit for that purpose. If the goods are not fit for the purpose, the buyer can seek remedies for breach of contract.

In these situations, the buyer can seek remedies for breach of contract, even if he has not examined the goods or has not been informed of any defects by the seller. The doctrine of caveat emptor, therefore, does not apply in these cases.

OR

Q2 a i) "A seller becomes an unpaid seller only when the buyer has not paid the price." Comment.

(ii) A lady, who knew that her skin was abnormally sensitive, bought a coat and developed skin trouble by using it. She did not disclose to the seller that her skin was abnormally sensitive. Can the seller be held liable?

(iii) Distinguish between right of lien and right of stoppage of goods in transit.

Ans. (i) The statement is correct. A seller becomes an unpaid seller only when the buyer has not paid the price for the goods, either in whole or in part. Until that time, the seller is not an unpaid seller and does not have the rights of an unpaid seller.

(ii) The seller cannot be held liable for the skin trouble developed by the buyer. The buyer has a duty to disclose any special circumstances that may affect her ability to use the goods in the usual manner. In this case, the lady knew about her abnormally sensitive skin and should have informed the seller about it. Since she did not do so, the seller cannot be held liable for any skin trouble caused by the coat.

(iii) The right of lien and the right of stoppage of goods in transit are two different rights available to an unpaid seller.

The right of lien allows the seller to retain possession of the goods until the buyer pays the full price for the goods. This right can be exercised even if the goods are in transit, that is, on their way to the buyer. The right of lien is available to the seller only if he is in physical possession of the goods.

The right of stoppage of goods in transit allows the seller to stop the goods in transit and resume possession of the goods until the buyer pays the full price for the goods. This right can be exercised only if the goods are in transit, that is, on their way to the buyer. The right of stoppage of goods in transit is available to the seller even if he is not in physical possession of the goods. This right can be exercised only if the seller has a reasonable doubt that the buyer will not pay the full price for the goods.

Q2 b A seller cannot convey a better title to the buyer than what he himself has." Explain the statement, giving exceptions to this rule, if any.

Ans. The statement "A seller cannot convey a better title to the buyer than what he himself has" means that the seller cannot transfer a title to the buyer that is superior to the title that the seller holds. In other words, the buyer can acquire only the same rights in the goods that the seller has.

For **example**, if the seller has acquired the goods by theft, the seller has no title to the goods, and hence, cannot transfer any title to the buyer. Similarly, if the seller has only a limited right to the goods, such as a leasehold interest, he cannot transfer a greater right than what he has to the buyer.

However, there are some exceptions to this rule. They are as follows:

Sale by a mercantile agent: A mercantile agent is a person who is engaged in the business of buying and selling goods on behalf of his principal. If a mercantile agent sells goods with the consent of the owner, he can convey a better title to the buyer than what he himself has.

Sale by a buyer in possession: If a person who has bought goods but has not yet paid for them sells the goods to another person, he can convey a better title to the buyer than what he himself has.

Sale by an unpaid seller: An unpaid seller who has a right of lien or stoppage in transit can sell the goods and convey a better title to the buyer than what he himself has.

Sale by a person in possession with the owner's consent: If a person is in possession of goods with the owner's consent, he can sell the goods and convey a better title to the buyer than what he himself has.

In all other cases, the rule that "a seller cannot convey a better title to the buyer than what he himself has" applies.

Q3 (a) State the process of formation of LLP.

Ans. The process of formation of a Limited Liability Partnership (LLP) involves the following steps:

Obtain Digital Signature Certificate (DSC): At first, the designated partners of the proposed LLP have to obtain a Digital Signature Certificate (DSC) from a certifying agency. DSC is used to sign and submit the documents online.

Register for DIN and DSC: All designated partners are required to obtain a Director Identification Number (DIN) and register for a Digital Signature Certificate (DSC) for e-filing on the Ministry of Corporate Affairs (MCA) website.

Reserve a name: The next step is to reserve a name for the LLP. This can be done by filing Form RUN-LLP with the MCA. The name should not be similar to the name of an existing company or LLP.

File incorporation documents: After obtaining the DIN and DSC and reserving a name for the LLP, the designated partners have to file incorporation documents with the Registrar of Companies (RoC) within 60 days of name approval. The following documents need to be filed:

LLP Agreement

Subscription sheet

Consent to act as a Designated Partner

Address proof of the registered office

PAN Card and address proof of designated partners

Obtain Certificate of Incorporation: Once the documents are verified and approved by the Registrar of Companies, the LLP will be issued a Certificate of Incorporation. The Certificate of Incorporation is proof that the LLP is now registered and can commence its business.

File LLP Agreement: After the incorporation of the LLP, the LLP Agreement has to be filed with the Registrar of Companies within 30 days of incorporation.

Obtain PAN and TAN: After obtaining the Certificate of Incorporation, the LLP has to apply for a Permanent Account Number (PAN) and Tax Deduction and Collection Account Number (TAN) with the Income Tax Department.

Once all the above steps are completed, the LLP is formed and can commence its business operations.

Q3 (b) State the circumstances under which a Limited Liability Partnership (LLP) can be wound up by the court.

Ans. A Limited Liability Partnership (LLP) can be wound up by the court under the following circumstances:

On the petition of partners: The court may wind up an LLP if a petition for winding up is filed by not less than two-thirds of the total number of partners of the LLP.

If it is just and equitable to wind up the LLP: The court may wind up an LLP if it is just and equitable to do so. This may be the case if there is a deadlock between the partners, if the LLP is carrying on business in a manner oppressive to any partner, or if there has been a breakdown in the relationship between the partners.

If the LLP is unable to pay its debts: The court may wind up an LLP if it is unable to pay its debts. This may be the case if the LLP has failed to pay its debts even after receiving a demand for payment, or if the LLP is deemed to be unable to pay its debts.

If the LLP has acted against the interests of sovereignty and integrity of India: The court may wind up an LLP if the LLP has acted against the interests of the sovereignty and integrity of India, the security of the State, or public order.

The winding up of an LLP may result in the sale of its assets to pay off its debts and liabilities. The process of winding up an LLP is governed by the Limited Liability Partnership Act, 2008 and the rules made thereunder.

OR

Q3 (a) Explain the following statements:

(i) An LLP has a legal entity separate from its partners.

(ii) The responsibility for carrying out the legal obligations as laid down by the LLP Act shall be solely of the designated partners.

Ans. (i) An LLP has a legal entity separate from its partners: This means that an LLP is a separate legal entity distinct from its partners. It has its own identity, and it can own property, sue and be sued in its own name. The liabilities of the LLP are the liabilities of the LLP itself and not of its partners. The assets of the LLP are owned by the LLP and not by the partners individually. This is in contrast to a partnership, where the partners are jointly and severally liable for the debts and obligations of the partnership.

ii) The responsibility for carrying out the legal obligations as laid down by the LLP Act shall be solely of the designated partners: The LLP Act requires every LLP to have at least two designated partners, who are responsible for complying with the legal obligations under the Act. The designated partners are responsible for maintaining the books of accounts of the LLP, filing the annual return of the LLP, and ensuring that the LLP complies with all the provisions of the LLP Act. They are also responsible for signing and filing various documents with the Registrar of Companies. If the designated partners

fail to comply with their obligations, they may be held personally liable for any losses or damages caused to the LLP or to any third party. Therefore, it is important for the designated partners to ensure that the LLP complies with all the legal obligations under the LLP Act.

Q3 b State the provisions of LLP Act, 2008 relating to change in registered office of an LLP.

Ans. According to the LLP Act, 2008, an LLP may change its registered office by following the procedure laid down under the Act. The following provisions of the LLP Act, 2008 relate to the change in the registered office of an LLP:

Notice to Registrar of Companies: An LLP must give notice to the Registrar of Companies (ROC) within 30 days of the change of its registered office. The notice must be in Form 15 and must be accompanied by the necessary documents.

Resolution by Partners: A resolution must be passed by the partners of the LLP to approve the change in the registered office. The resolution must be filed with the ROC.

Publication of Notice: A notice of the change in the registered office must be published in a newspaper in the English language and in the language of the state where the LLP has its registered office.

Intimation to ROC: The LLP must file Form 18 with the ROC within 30 days of the change in the registered office. Form 18 must be accompanied by the following documents:

Copy of the resolution passed by the partners

Copy of the notice published in the newspaper

Proof of address of the new registered office

Penalty for Non-Compliance: If an LLP fails to comply with the provisions of the LLP Act, 2008 relating to the change in the registered office, the LLP and every designated partner may be liable to pay a fine of up to Rs. 1,00,000.

It is important to note that the change in the registered office of an LLP does not affect the continuity of the LLP or its legal entity.

Q4 (a) Comment on the following statements:

(i) Electronic records are not as authentic as hard copies.

(ii) Cyber Terrorism has been regarded as a cyber crime under IT (Amendment) Act, 2008.

(iii) One of the main objects of IT Act is to facilitate e-governance.

Ans. (i) The statement "Electronic records are not as authentic as hard copies" is not entirely true. Electronic records have legal recognition and can be as authentic as hard copies, provided they fulfill the legal requirements for authentication and are stored in a secure manner. In fact, the IT Act 2000

recognizes electronic records as evidence in a court of law and provides for their admissibility as evidence in court proceedings.

(ii) The statement "Cyber Terrorism has been regarded as a cyber crime under IT (Amendment) Act, 2008" is true. The IT (Amendment) Act, 2008 introduced Section 66F into the IT Act, which defines cyber terrorism as any act committed with the intent to threaten the unity, integrity, security or sovereignty of India or to strike terror in the people by using a computer resource or communication device.

(iii) The statement "One of the main objects of IT Act is to facilitate e-governance" is true. The IT Act, 2000 has been enacted to provide legal recognition for transactions carried out through electronic means and to facilitate e-governance. It provides a legal framework for electronic transactions, digital signatures, electronic records, and cybersecurity. The Act aims to promote the use of electronic transactions and documents in various sectors, including e-commerce, e-governance, and e-banking, to enhance the efficiency and transparency of these sectors.

Q4 b Define Certifying Authority. What are the duties of certifying authorities?

Ans. A Certifying Authority (CA) is a third-party entity that provides digital certificates to verify the identity of individuals, organizations, and other entities in electronic transactions. Digital certificates issued by CAs contain the public key of the certificate holder and are used to authenticate the identity of the certificate holder in electronic transactions.

The duties of a Certifying Authority (CA) include:

Issuing digital certificates: The CA is responsible for issuing digital certificates to individuals and organizations after verifying their identity.

Maintaining a secure repository of digital certificates: The CA must maintain a secure repository of digital certificates and make it available to relying parties upon request.

Revoking digital certificates: If a digital certificate is compromised or is no longer valid, the CA must revoke the certificate and update the repository accordingly.

Ensuring compliance with legal and regulatory requirements: The CA must comply with all applicable legal and regulatory requirements related to digital certificates.

Ensuring the security of digital certificates: The CA must ensure that the digital certificates it issues are secure and cannot be forged or tampered with.

Providing audit trails and logs: The CA must maintain audit trails and logs of all transactions related to digital certificates.

Overall, the main duty of a Certifying Authority is to provide a trusted mechanism for verifying the identity of individuals and organizations in electronic transactions.

Q4 a Define the following terms:

(i) Hash function

(ii) Key pair

(iii) Computer network and computer virus.

Ans. (i) Hash function: A hash function is a mathematical function that takes input data of arbitrary size and converts it into a fixed-size output, called a hash value or message digest. The hash value is typically a unique and non-reversible representation of the input data.

(ii) Key pair: In cryptography, a key pair is a pair of cryptographic keys, consisting of a private key and a public key. The private key is kept secret by the owner, while the public key is shared with others. The public key can be used to encrypt data, while the private key is used to decrypt it.

(iii) Computer network: A computer network is a group of computers and other devices that are connected together to share resources and communicate with each other. Computer networks can be used for a variety of purposes, including sharing files and printers, accessing the internet, and communicating with other users.

Computer virus: A computer virus is a type of malicious software that can replicate itself and spread from one computer to another. Viruses can cause damage to computer systems, including loss of data, theft of personal information, and disruption of normal operations.

Q4 b Any person may make an application to a certifying authority for issue of Digital Signature Certificate." Explain the provisions of IT Act for grant and revocation of Digital Signature Certificate.

Ans. Under the IT Act, 2000, any person can apply to a certifying authority for the issuance of a digital signature certificate (DSC). The certifying authority is a recognized body that issues and verifies digital certificates used to confirm the identity of individuals, organizations, or devices in electronic transactions.

The provisions for the grant and revocation of a DSC are as follows:

Grant of DSC:

Any person may make an application to a Certifying Authority (CA) for the issue of a Digital Signature Certificate.

The application must be made in a prescribed form and manner, and the applicant must submit relevant documents as specified by the CA.

The CA shall verify the application and, if satisfied, issue the DSC to the applicant.

Revocation of DSC:

The CA may revoke a DSC if:

a. The certificate holder has violated any terms and conditions subject to which the certificate was issued.

- b.** The certificate holder has acted in a manner that is inconsistent with the provisions of the IT Act or rules made thereunder.
- c.** The certificate was issued based on misrepresentation or fraud.

The CA must give notice to the certificate holder before revoking the certificate.

The certificate holder may also voluntarily request the CA to revoke the certificate.

In case of revocation of a DSC, the CA must immediately communicate the revocation to all subscribers and the Controller of Certifying Authorities. Any person who continues to use a revoked DSC will be deemed to have knowledge of the revocation, and any electronic signature generated using the revoked DSC shall be deemed to be invalid.

Q5 a Write short notes on the following:

(i) Agency by Rectification

Ans. Agency by ratification refers to the creation of an agency relationship where an individual or a party (principal) authorizes another person (agent) to act on their behalf after the agent has already taken action without the principal's prior consent or knowledge. In other words, the principal approves or ratifies the acts of the agent after the fact.

As per the Indian Contract Act, 1872, an agency by ratification may arise when the following conditions are met:

The agent must act on behalf of the principal without prior authority.

The principal must have complete knowledge of the facts surrounding the agent's actions.

The principal must accept or ratify the agent's actions.

The principal must have the capacity to enter into a valid contract at the time of ratification.

Once the principal ratifies the agent's actions, the agency relationship comes into existence as if the principal had originally authorized the agent to act on their behalf. The principal is then bound by the acts of the agent, and the agent becomes responsible to the principal.

However, it is essential to note that the principal is not bound to ratify the acts of the agent, and they have the right to refuse to accept the agent's actions. Furthermore, any act that is illegal or opposed to public policy cannot be ratified by the principal.

In conclusion, agency by ratification allows a principal to create an agency relationship with an agent after the agent has acted on their behalf without prior authorization. It is a valuable legal concept that allows individuals to authorize others to act on their behalf and provides a legal framework for handling such situations.

Q5 a (ii) Surety as a favored debtor

Ans. Surety is a person who promises to be responsible for the debt or obligation of another person. The surety undertakes this responsibility to ensure that the creditor receives the due amount in case the principal debtor fails to fulfill the obligation. Under the Indian Contract Act, a surety is considered as a favored debtor, and several provisions have been made to protect their rights and interests.

The surety enjoys certain privileges and exemptions under the law. Some of these are:

- 1. Right of subrogation:** If the surety has paid the debt of the principal debtor, then he has the right to step into the shoes of the creditor and claim the amount from the debtor. This is known as the right of subrogation.
- 2. Right of set-off:** If the creditor owes any amount to the surety, then the surety has the right to set-off the amount against the debt owed by the principal debtor.
- 3. Right of indemnity:** The surety has the right to claim indemnity from the principal debtor for any loss or damage suffered by him due to the default of the debtor.
- 4. Right of contribution:** If there are multiple sureties for the same debt, then each surety has the right to claim contribution from the other sureties in case he has paid a larger share of the debt.

However, the surety is also subject to certain liabilities and obligations. If the principal debtor fails to pay the debt, then the surety is liable to pay the entire amount to the creditor. The surety cannot escape this liability by claiming that he did not know about the debtor's default or that he was misled by the creditor.

In conclusion, the Indian Contract Act provides several provisions to protect the rights and interests of the surety. However, the surety must also fulfill his obligations and liabilities towards the creditor and the principal debtor.

Q5 a (iii) Doctrine of Supervening impossibility

Ans. The doctrine of supervening impossibility is a principle of contract law that applies when the performance of a contract becomes impossible due to circumstances beyond the control of the parties. Under this doctrine, if a contract becomes impossible to perform due to an event that was not foreseeable or preventable by the parties, then the parties are excused from their obligations under the contract.

The doctrine of supervening impossibility is based on the principle of "force majeure," which refers to an unforeseeable or uncontrollable event that makes it impossible for a party to fulfill its contractual obligations. Some examples of force majeure events include natural disasters, war, strikes, and government actions.

When an event of force majeure occurs, the affected party is generally not held liable for any breach of contract that may result from its failure to perform. Instead, the contract may be terminated or suspended, or the parties may renegotiate the terms of the contract to accommodate the changed circumstances.

However, for the doctrine of supervening impossibility to apply, the event that made performance impossible must be truly unforeseeable and beyond the control of the parties. If the event could have been anticipated or prevented by the parties, then they may still be held liable for any breach of

contract that occurs. Additionally, the party claiming impossibility must demonstrate that the impossibility was not caused by its own fault or negligence.

Q5 b Who can become partner in an LLP? What are the disqualifications for becoming a partner? How can a person become a partner of an LLP?

Ans. Any individual or body corporate may become a partner in a Limited Liability Partnership (LLP) as per the LLP Act, 2008. However, the following persons are disqualified from becoming a partner:

An undischarged insolvent;

A person of unsound mind;

A person who has been convicted of an offence involving moral turpitude and sentenced to imprisonment for a period of not less than six months, and a period of five years has not elapsed from the date of expiry of the sentence;

A person who has been disqualified from acting as a partner of an LLP or director of a company by a court or the Tribunal.

A person can become a partner of an LLP by subscribing to the incorporation document at the time of incorporation or by agreeing to become a partner in an existing LLP. The LLP agreement must be executed by all partners, and the person intending to become a partner must consent to become a partner and must be admitted as a partner in accordance with the terms of the LLP agreement.

OR

Q5 a A stranger to consideration can sue, but a stranger to contract cannot sue."Explain the statement, giving exceptions, if any.

Ans. The statement "a stranger to consideration can sue, but a stranger to contract cannot sue" is a fundamental principle of the law of contract. It means that a person who is not a party to the contract, but has provided consideration for the contract, can sue to enforce the contract. However, a person who is not a party to the contract and has not provided consideration cannot sue to enforce the contract.

This principle is based on the doctrine of privity of contract, which means that only parties to a contract are bound by it and can enforce it. Therefore, a person who is not a party to the contract cannot enforce it, unless he or she is a beneficiary under the contract.

Exceptions to this rule include cases where the contract is intended to confer a benefit on a third party, and the third party is named in the contract or is easily identifiable from the contract terms. In such cases, the third party may be able to enforce the contract as a beneficiary.

Another exception is the doctrine of promissory estoppel, which may be used to enforce a promise made to a third party, even if the promise was made without consideration. In such cases, the third

party may be able to enforce the promise, provided that he or she relied on the promise to his or her detriment.

In summary, while the principle of privity of contract generally limits the ability of non-parties to enforce a contract, there are exceptions to this rule, including where the third party is a beneficiary under the contract or has relied on a promise made by a party to the contract to his or her detriment.

Q5 b Describe the procedure of conversion of a private company into LLP.

Ans. The conversion of a private company into an LLP involves the following steps:

Hold a meeting of the board of directors and pass a resolution to approve the conversion of the company into an LLP. A notice of the meeting should be sent to all the directors at least 7 days before the meeting.

Hold a general meeting of the shareholders and pass a special resolution approving the conversion. A notice of the meeting should be sent to all the shareholders at least 21 days before the meeting.

File an application with the Registrar of Companies (ROC) along with the necessary documents, including a copy of the special resolution, statement of assets and liabilities of the company, and a list of all the creditors and debenture holders.

Obtain a no-objection certificate from the income tax authority.

Obtain a no-objection certificate from the creditors and debenture holders of the company.

Once the ROC is satisfied with the application and the documents submitted, it will issue a certificate of registration of conversion.

The company must then file the certificate of registration with the ROC within 15 days of the issue of the certificate.

Obtain a new PAN and TAN for the LLP.

Make the necessary changes to the company's letterheads, stationery, and other documents to reflect the conversion.

It is important to note that the conversion will not affect any liabilities, obligations, or contracts of the company that were entered into prior to the conversion. The LLP will assume all these liabilities and obligations after the conversion.