

**CLASS :-LLM IIIrd SEM (BUSINESS GROUP)**

**SUBJECT:-GENERAL PRINCIPLES OF CONTRACT**

**CODE:- L-3005**

**CONSIDERATION**



Meaning



Quid pro quo



i.e. something in return

- (i) Some benefit right, interest loss or profit that may accrue to one party or
- (ii) Some forbearance , detriment loss or responsibility suffered on undertaken by the other party

**[ Currie v Mussa 1875 LR 10 Ex 153,162]**

- **According to sir Frederick Pollack**, “consideration is the price for which the promise of the other is bought and the promise thus given for value is enforceable”.

### **Definition**

**According to sec. 2(d) of Contract Act 1872:-**when at the desire of the promisor the promise or any other person-

- a) Has done or abstained from doing or [**past consideration**]
- b) Does or abstains from doing or [**present consideration**]
- c) Promises to do or abstain from doing something [**future consideration**] such act or abstinence or promise is called a consideration for the promise.

### **Example :-**

- (i) ‘p’ agrees to sell his car to ‘Q’ for Rs 5,00,000 here ‘Q’s promise to pay Rs 5,00,000 is the consideration for p’s promise and ‘p’ s promise to sell the car is the consideration for ‘Q’s promise to pay Rs 5,00,000
- (ii) ‘M’ promise his debtor ‘N’ not to file a suit against him for one year on ‘M’s agreeing to pay him Rs 20,000 more. Here the abstinence of ‘M’ is the consideration for ‘N’s promise to pay

## Essential Element of valid consideration

### 1. Consideration must more at the desire of the promisor

'A' constructed a market at the instance of district collector. Occupants of shops promised to pay. 'A' commission on articles sold through their shops. Held there was no consideration because money was not spend by plaintiff at the request of the defendants, but at instance of a third person viz. the collector and thus the contract was void.

**[Durga Prasad vs Baldeo (1880) 3 All. 221]**

### 2. Consideration may more from the promises or any other person who is not a party to the contract.

**[Chinnaya's vs Ramayya (1882) 4 Madras 137]**

A owed Rs 50,000 to 'B' A persuaded C to sign a pro note in Favour of B. C promised B that he would pay the amount. On faith of promise by C, B credited the amount to A's account held, the discharge of A's account was consideration for C's promise. (National Bank of upper India Vs Bansidhar)

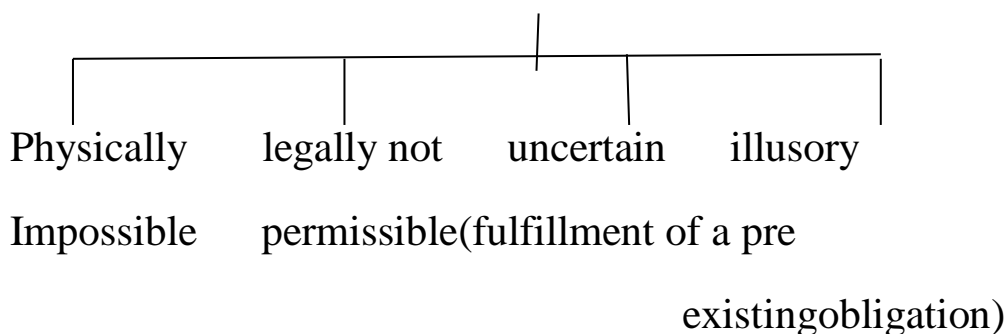
### 3. Consideration may be past, present, future

- Under English law past consideration is no consideration
- Present consideration :- cash sale
- Future or executory consideration

**Ex.** 'A' promises to 'B' to deliver him 200 bags of rice at a future date. Promise to pay first on delivery.

### 4. Consideration should be real and not illusory

Illusory consideration renders the transaction void  
**consideration is not valid if it is-**



## **5. Must be legal**

Consideration must not be unlawful, immoral or opposed to public policy.

**6. Consideration need not be adequate:-** A contract is not void merely because of the fact that the consideration is inadequate. The law simply requires that contract should be supported by consideration. So long as consideration exists and it is of some value, courts are not required to consider its adequacy.

**Ex:-** 'A' agreed to sell a watch worth Rs 2,000 for Rs 100, 'A's consent to the agreement was freely given. The consideration, though inadequate. Will not affect the validity of the contract. However, the inadequacy of the consideration can be considered on order to know whether the consents of the promisor was free and not. **[Section 25 explanation II]**

**7. The performance of an act what one is legally bound to perform is not consideration** for the contract mean's something other than the promisor's existing obligation-

➤ **A contract not supported by consideration is void**

**Ex:-Nudopacto non oritur action**

i.e an agreement without consideration void

### **Exception to the rule “no consideration no contract”**

**1- Written and registered agreements arising out of love and affection [ Sec. 25(1)]**

- Expressed in writing and registered under law for the time being in force for registration of document.
- Natural love and affection
- Between parties standing in a near relation to each other

**Ex.** An elder brother on account of natural love and affection, promised to pay the debts of his younger sister. Agreement was put to writing and registered. Held agreement was valid.

**RajlukhyDabeevsBhootnathMukharjee (1900) 4 CWN 488**

A Hindu husband by a registered document after referring to quarrels and disagreements between himself and his wife promised to pay his wife a sum of money for her maintenance and separate residence court

held that the promise was unenforceable since natural love and affection was missing.

## **2. Promise to compensate [Sec.25(2)]**

- Promise to compensate wholly or in part.
- Who has already voluntarily done something for the promise.
- Something which the promisor was legally compellable to do.

### **Case (Abdulla khan vsParshotam, 1947 Bom. 807)**

**Ex.** A finds B's purse and give to him B promise to give aRs 500 this is a valid contract.

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

- A debt barred by limitation cannot recovered. Hence, a promise to pay such a debt is without any consideration.
- Can be enforced only when-in writing and signed by debtor or his authorized agent.

### **(Devi Prasad vsBhagwati PrasadAIR 1943 All 63)**

**Ex:-** A owes B Rs 1,00000 but the debt is barred by limitation act A signs a written promise to pay B Rs 80,000 on account of dept. This is a valid contract.

## **4. Completed Gift- Gift do not require any consideration**

## **5.Bailment (Sec. 148 of Contract Act, 1872)**

Consideration is not necessary to effect a valid bailment of goods. It is called Gratuitous Bailment.

## **6.Agency (Sec. 185 of Contract Act, 1872)**

No consideration is necessary to create an agency.

## **7.Remission (Sec .63 of Contract Act, 1872)**

**8.Charity-** If a person promises to contribute to charity and on this faith the promises undertakes a liability to the extent not exceeding the promised subscription, the contract shall be valid.

Compiled by  
Dr. Vikas Kumar  
Assistant Professor  
ILS, CCSU campus, Meerut  
For further queries you may reach us via..  
E-mail - [vikasrathimrt@gmail.com](mailto:vikasrathimrt@gmail.com)  
Mob - 9058459666