

QB365 Question Bank Software Study Materials

Discharge and Breach of a Contract Important 2,3 & 5 Marks Questions With Answers (Book Back and Creative)

11th Standard

Commerce

Total Marks : 75

2 Marks

10 x 2 = 20

1) What are the kinds of consent?

Answer : The consent may be of the following types:

- (i) Express Consent
- (ii) Implied Consent

2) What are the types of impossibility of performance?

Answer : There are two types of impossibility of performance such as:

- (i) Impossibility at the time of Agreement
- (ii) Impossibility arising subsequent to the formation of contract.

3) What are the types of Damages?

Answer : There are four types. Such as

- 1. Ordinary damages
- 2. Special damages
- 3. Vindictive or exemplary damages
- 4. Nominal damages

4) What is Quantum merit?

Answer : The meaning of the phrase quantum merit is 'as much as earned'.

5) State the reasons for discharge by supervening impossibility?

Answer : Supervening impossibility may be :

- (i) By some event bey on the control of the parties; or
- (ii) By some act either of the promiser or of the promise.

6) What do you mean by waiver?

Answer : (i) Waiver means "abandoning" the rights. When a party to the contract abandons or waives his rights the contract is discharged.

(ii) For Example: A promises to paint a picture for B. B afterwards forbids him to do so. A is no longer bound to perform the promise.

7) What do you mean by discharge of a contract?

Answer : Discharge of contract implies termination of the contractual relationship between the parties. A contract is discharged if it ceases to operate and when the rights and obligations created by it come to an end.

8) What are all the types of performance of contract?

Answer : Performance of contract is under two types namely, Actual Performance and Attempted Performance.

9) Explain the discharge of contract by lapse of time.

- Answer :** 1. According to the Limitation Act, 1963 a contract must be performed within a specified time.
2. If it is not performed within this specified time limit and against which if no action is taken by the promisee in the Court of Law within specified time, then the promisee is deprived of his remedy at law.
3. In such cases, the contract is discharged.

10) Explain claim for quantum merit.

- Answer :** (a) The claim for Quantum merit may arise if a contract performed by one party has become discharged by breach of the other party.
(b) The meaning of the term 'Quantum merit' is "as much as earned".

3 Marks

10 x 3 = 30

11) What are the various types of remedies for the injured parties?

Answer : There are various types of remedies for the injured parties listed as follows.

- (i) Rescission of Contract
- (ii) Claim for Specific Performance
- (iii) Claim for Injunction
- (iv) Claim for Quantum Merit and
- (v) Claim for Damages

12) What are the types of cases the court may order injunction?

Answer : The following are the different types of the injunction:

- 1. Preliminary injunction.
- 2. Preventive Injunction.
- 3. Mandatory injunction.
- 4. Temporary restraining order.
- 5. Permanent injunction.

13) A, a singer, enters into a contract, with B, the manager of the Theatre. To sing at his Theatre for two nights, every week during the next two months. B agrees to pay her Rs 1000 for each night. On the sixth night, A willfully absent her self from the Theater Advice B.

Answer : In the aforesaid circumstances, A shall be entitled in two-way remedy.

- (i) Right of necission,
- (ii) Right to claim damages.

(1) Since, as per facts, A willfully abstained herself. B shall be within his right to rescind the contract.

(2) In such circumstances, section 75 of the Indian Contract Act, 1872, provides that a person who rightfully rescind a contract' is entitled to a compensation for any damage which he has sustained for non-fulfilment of the contract.

(3) B, shall, therefore, be entitled, not only to do away with the services of A but also to claim compensation for the damages which he has sustained through the non-fulfilment of the contract.

14) A entered into a contract with B for supply of 1000 tonnes of sand to B within 5 months for construction of Building. A failed to make the delivery in accordance with the terms of the contract owing to Government restrictions on the transport of sand from quarries, but admitted, that sand was available and could be purchased in the foreign market. Can A successfully take the plea that the contract stood discharged because of impossibility of performance?

Answer : (i) According to Section 56 of the Indian Contract Act, 1872, the contract becomes void, if, for no fault of the "promiser, the contract becomes impossible of performance.

(ii) Sine in the given case, it is admitted by the promiser that the sand was available in the other market, the promise is not concerned wherefrom the supplies are arranged.

(iii) Therefore, non-performance will entitle B to claim damages.

15) What are the ways in which a contract may be discharged?

Answer : A contract may be discharged in anyone of the following ways:

- (i) By performance
- (ii) By Mutual agreement
- (iii) By impossibility
- (iv) By operation of law
- (v) By Breach of contract
- (vi) By Lapse of time.

16) State some cases, in which the court grants specific performance.

- Answer :**
1. When the act agreed to be done is such that compensation in money for its non-performance is not sufficient.
 2. When it is probable that compensation in money cannot be received for the non- performance of the act agreed to be done.
 3. When there is no standard for ascertaining the actual damage caused by the non-performance of the act agreed to be done.

17) At what circumstances the court may order injunction at the time of claim?

Answer : **The court may order injunction in the following cases:**

1. If the contract is voidable
2. If the contract becomes void or
3. On discovering the contract as void.

18) Explain

- (a) claim of quantum merit
- (b) claim of injunction.

Answer : (i) The claim for quantum merit may arise if a contract performed by one party has become discharged by breach of the other party. The meaning of the phrase quantum merit is as much as earned. The claim is not for the original contract that has been discharged or void, but on an implied promise by the other party to pay for what he has done. The court may order injunction in the following cases

- (a) if the contract is voidable.
- (b) if the contract becomes void or
- (c) on discovering the contract as void.

(ii) Injunction is an order passed by a competent court restraining a person from doing some act. An injunction can be defined as a mode of securing the specific performance of the negative terms of a contract. Negative terms of the contract imply doing something, which a party has promised not to do. The injunction is an order which is granted by the court restraining the person to do what he had promised not to do.

19) Write notes on a) Recission of Contract b) lapse of time.

Answer : **a) Recission of Contract:**

In case of breach of contract by one party, then the other parties may rescind the contract and there by the party is absolved from his all obligations under the contract.

For Example M promises N to supply him a motor car on 1st January 2017, and N promises to pay for the motor car on 1st January 2017. N is absolved from paying its price.

b) Lapse of Time:

According to the Limitation Act, 1963 a contract must be performed within a specified time. If it is not performed within this specified time limit and against which if no action is taken by the promisee in the Court of Law within specified time, then the promisee is deprived of his remedy at law. In such cases, the contract is discharged.

20) Name the contract discharged by operation of law.

Answer : A contract can be discharged by the operation of law The operation of law by which contract can be discharged are as follows:

1. By death
2. By merger
3. By insolvency
4. Unauthorized alteration of the terms of a contract
5. Rights and liabilities vesting in the same person

5 Marks

5 x 5 = 25

21) Explain the ways of discharge of contract?

Answer : Mode of Discharge of contract:

Different modes of discharge of contract have been provided under different sections of the Act.

1. Discharge by Performance:

Performance implies carrying out the obligation of the contract. Performance must be completed according to the real intentions of the agreement. Performance must be done according to time and manner prescribed. Performance of contract may be of two types namely:

1. Actual performance
2. Attempted performance

2. By Agreement on Consent:

Agreement between the parties comes to an end by mutually agreeing for it. Any contract is created by an agreement, hence in the same way, it can be discharged by an agreement. In this connection the rule of law is as follows. "Eodem modo quod constituitur, eodem modo destruitur," the meaning of which is that a thing may be destroyed in the same manner, in which, it is constituted. The consent may be of the following types:

Express: Express consent may be given at the time of formation of the contract or subsequent to its formation.

Implied : The contracts are also discharged by implied consent, different modes of discharge by implied consent are mentioned below:

- (a) Novation
- (b) Alteration
- (c) Recession
- (d) Remission
- (e) Accord and Satisfaction
- (f) Waiver
- (g) Merger.

3. By a possibility of Performance:

A Contract may be discharged if its performance becomes impossible. The rule of impossibility of performance is based on the following maxims

1. the law does not recognize what is impossible and
2. what is impossible does not create an obligation.

According to the Section 56 of the Act, all acts to do impossible acts are void. There are two types of impossibility of performance such as

1. Impossibility existing at the time of agreement
2. Impossibility arising subsequent to the formation of contract.

On the other hand, impossibility of performance existing at the time of performance of a contract may be either.

1. known to the parties
2. not known to the parties.

Likewise impossibility arising subsequent to the formation of a contract or supervening impossibility may be

1. By some event beyond the control of the parties or
2. By some act either of the promisor or of the promisee.

4. By Lapse of Time:

1. According to the Limitation Act, 1963 a contract must be performed within a specified time.
2. If it is not performed within this specified time limit and against which if no action is taken by the promisee in the Court of Law within specified time, then the promisee is deprived of his remedy at law
3. In such cases, the contract is discharged.

5. By Operation of Law:

A contract can be discharged by the operation of law. The operation of law by which contract can be discharged are as follows

By death :

If the contracts depend on the personal skill or ability, then such contract may be discharged on the death of the promisor.

By merger:

Merger will take place when an inferior right accruing to the same party either under the same or another contract.

By insolvency:

An insolvent is discharged from all liabilities incurred prior to his adjudication.

Unauthorized alteration of the terms of a contract:

If one party makes any material alteration in the contract without the consent of the other party, then the other party can avoid the contract.

Rights and liabilities vesting in the same person:

Where the right and liability become vested in the same person, the other parties are discharged.

Answer : There are four types of damages which can be claimed by the aggrieved party.

- (i) Ordinary damages
- (ii) Special damages
- (iii) Vindictive or Exemplary damages and
- (iv) Nominal damages

(i) Ordinary or General damages:

- (1) Damages that arise in the ordinary course of events from the breach of contract are called ordinary or general damages.
- (2) These include damages, which are the natural and probable consequences of the breach of the contract.
- (3) For Example A contracted to sell and deliver B 50 bags of rice at Rs 1400 per bag and price to be paid at the time of delivery.
- (4) The price is raised to Rs1500 per bag and A refused to sell the rice. B can claim damages at the rate of Rs100 per bag.

(ii) Special damages:

- (1) Special damages are those damages that are payable for the loss arising on account of some special or unusual circumstances.
- (2) That is, they are not due to the natural and probable consequences of the breach of the contract.
- (3) For Example A entered into a contract with B, to supply B 500 tons of iron at Rs 100 a ton, to be delivered at a stated time, and at the same time contracted with C for the purchase of 500 tons of iron at Rs 80 a ton; telling C that he does so far the purpose of performing his contract with B.
- (4) C failed to perform his contract with A, who cannot procure the iron and B, in consequence, rescinded the contract.
- (5) C must pay to A Rs10,000 being the profit which A would have made by the performance of his contract with B.

(iii) Vindictive or Exemplary damages:

- (1) These damages are awarded against the party who has committed a breach of the contract with the object of punishing the erring as defaulting party and compensating the aggrieved party.
- (2) Generally these damages are awarded in case of action on loss or breach of promise.
- (3) Example breach of contract to marry, dishonour of customers' cheque by the bank without any proper reason.

(iv) Nominal damages:

- (1) Nominal damages are awarded to the aggrieved party when there is an only technical violation of the legal rights.
- (2) Here no substantial loss is caused. These damages are very small in amount.

23) Write about the various remedies for breach of contract.

Answer : All parties to a contract are expected to perform their promises. When one party refuses to perform his promise, then the breach of contract takes place. The other party or parties are called aggrieved or injured party or parties. There are various types of remedies for the injured parties as follows:

1. Rescission of contract
2. Claim for specific performance.
3. Claim for injunction.
4. Claim for quantum meruit and
5. Claim for damages.

(1) Rescission of contract:

(a) In case of breach of contract by one party, then the other parties may rescind the contract and thereby the party is absolved from his all obligations under the contract.

(b) For Example M promises N to supply a motor car on 1st January 2017, and N promises to pay for the Motor car on 1st January 2017. N is absolved from paying its price.

(2) Claim for the specific performance or suit for the specific performance:

In some specific cases if the damages are not the adequate remedy, then the court can direct the party in breach for the specific performance of the contract. In such case, the promise is carried out as per terms and conditions of the contract. Generally in the following cases, the court grants specific performance

1. When the act agreed to be done is such that compensation in money for its non-performance is not sufficient.
2. When it is probable that compensation in money cannot be received for the non-performance of the act agreed to be done.
3. When there is no standard for ascertaining the actual damage caused by the non performance of the act agreed to be done.

On the other hand, the court does not grant specific performance in the following cases:

1. Damages are an adequate remedy
2. The contract is not certain
3. The contract is inequitable to either party
4. The contract is of revocable nature
5. The contract is made by the trustee in breach of trust
6. The contract is of personal nature i.e, contract to marry
7. The contract made by a company ultra-vires of its Memorandum of Association
8. The court cannot supervise its carrying out

(3) Claim for injunction or suit for an injunction:

Injunction is an order passed by a competent court restraining a person from doing some act. Injunction can be defined as a mode of securing the specific performance of the negative terms of the contract. Negative terms of the contract imply doing something, which a party has promised not to do. Injunction is an order which is granted by the court restraining the person to do what he had promised not to do. The court may order injunction in the following cases:

1. if the contract is voidable.
2. if the contract becomes void or
3. on discovering the contract as void.

(4) Claim for Quantum meruit:

The claim for quantum meruit may arise if a contract performed by one party has become discharged by breach of the other party. The meaning of the phrase quantum meruit is 'as much as earned'. The claim is not for the original contract that has been discharged or void, but on an implied promise by the other party to pay for what he has done. Quantum meruit arises in the following circumstances.

1. If a contract is found to be void.
2. If something is done without any intention to do so gratuitously.
3. If one party abandons or refuses to perform the contract.
4. If a contract is divisible.
5. If a contract is performed badly.

(5) Claim for damages:

Damages are monetary compensation awarded by the court to the injured party for the loss or injury suffered by him. As per the contract, one party can claim damages if the other parties breach the contract. The main purpose of awarding the damages is to make good the loss suffered by him. It is known as the doctrine of restitution. The Section 73 of the Indian Contract Act, 1872 deals with the compensation for loss or damages caused by a party for breach of contract. There are mainly four types of damages. Such as:

- (i) Ordinary damages
- (ii) Special damages
- (iii) Vindictive or exemplary damages and
- (iv) Nominal damages.

24) In what cases the court doesn't grant specific performance?

Answer : Claim for Specific Performance:

In some specific cases if the damages are not the adequate remedy, then the court can direct the party in breach for the specific performance of the contract. In such case, the promise is carried out as per terms and conditions of the contract. Generally in the following cases, the court grants specific performance

1. When the act agreed to be done is such that compensation in money for its non-performance is not sufficient
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3. When there is not any standard for ascertaining the actual damage caused by the non-performance of the act agreed to be done. On the other hand, the court does not grant specific performance in the following cases:

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6. The contract is of personal nature i.e. contract to marry
7. The contract made by a company ultra-vires of its Memorandum of Association
8. The court cannot supervise its carrying out

25) Discuss the different types of damages awarded to the injured party.

Answer : 1. Damages are a monetary compensation awarded by the court to the injured party for the loss or injury suffered by him

2. As per contract, one party can claim damages if other party breach the contract.
3. The main purpose of awarding the damages is to make good the loss suffered by him.
4. It is known as doctrine of restitution.
5. The Section 73 of the Indian Contract Act, 1872 deals with the compensation for loss or damages caused by a party for breach of contract.

There are mainly four types of damages, such as

1. Ordinary damages
2. Special damages
3. Vindictive or exemplary damages and
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