

Chapter 4 subject offer and Acceptance Contract

According to Section 2(b) of the Indian Contract Act, 1872, acceptance is defined as: "When the person to whom the proposal is made signifies his assent thereto, the proposal is said to be accepted. A proposal, when accepted, becomes a promise."

भारतीय संविदा अधिनियम, 1872 की धारा 2(ख) के अनुसार, स्वीकृति की परिभाषा इस प्रकार है:

"जब वह व्यक्ति, जिसके समक्ष प्रस्ताव रखा जाता है, उस पर अपनी सहमति व्यक्त करता है, तो प्रस्ताव स्वीकृत माना जाता है। स्वीकृत होने पर, प्रस्ताव एक वचन बन जाता है।"

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Essential of valid acceptance.

Below is a detailed explanation of the **essentials of a valid acceptance** under the **Indian Contract Act, 1872**, as per **Section 2(b)** and **Section 7**, with the Hindi translation/meaning provided between the lines for each point. The information is presented clearly and concisely, followed by a table summarizing the essentials with Hindi translations.

**Essentials of a Valid Acceptance:**

**1. Acceptance Must Be Absolute and Unqualified (Section 7(1)):**

- The acceptance must fully agree to all terms of the proposal without any modifications or conditions.
- स्वीकृति पूर्ण और बिना शर्त होनी चाहिए, जिसमें प्रस्ताव की सभी शर्तों को बिना किसी बदलाव या शर्त के स्वीकार किया जाए।
- Example: If A offers to sell a car for ₹5 lakh, and B agrees to buy it for ₹5 lakh, it is valid. If B adds a condition (e.g., "only if the car is repainted"), it becomes a counter-offer, not acceptance.

**2. Acceptance Must Be Expressed in Some Usual and Reasonable Manner (Section 7(2)):**

- The acceptance must be communicated in a usual or reasonable way unless the proposal specifies a particular mode (e.g., "reply by email"), in which case it must follow that mode or an equally effective one.
- स्वीकृति को सामान्य और उचित तरीके से व्यक्त करना होगा, जब तक कि प्रस्ताव में कोई विशेष तरीका निर्दिष्ट न हो।
- Example: Silence does not generally count as acceptance unless specified or implied by prior dealings.

**3. Acceptance Must Be Made by the Offeree:**

- Only the person to whom the proposal is made (the offeree) or their authorized agent can accept it.
- स्वीकृति केवल वही व्यक्ति कर सकता है जिसे प्रस्ताव दिया गया है या उसका अधिकृत प्रतिनिधि।

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- Example: If A offers to B, only B or B's agent can accept; a third party, C, cannot accept without authorization.

**4. Acceptance Must Be Communicated:**

- The offeree must express or imply their assent to the offeror, either verbally, in writing, or through conduct. Silence is not valid acceptance unless agreed otherwise.
- स्वीकृति को प्रस्तावकर्ता को स्पष्ट रूप से या निहित रूप से संप्रेषित करना होगा; मौन आमतौर पर स्वीकृति नहीं मानी जाती।
- Example: In *Felthouse v. Bindley* (a principle followed in Indian law), an offeror cannot assume silence as acceptance.

**5. Acceptance Must Be Made Within a Reasonable Time:**

- If the proposal specifies a time limit, acceptance must occur within it. If no time is specified, it must be within a reasonable time based on circumstances.
- स्वीकृति को निर्धारित समय सीमा के भीतर या उचित समय में करना होगा, यदि समय निर्दिष्ट न हो।
- Example: An offer to sell perishable goods (e.g., fruits) requires quick acceptance to be valid.

**6. Acceptance Must Be Made Before the Offer Lapses or Is Revoked:**

- Acceptance is valid only if the offer is still active. An offer may lapse due to rejection, revocation, expiry, or failure of a condition.
- स्वीकृति तब तक वैध है जब तक प्रस्ताव सक्रिय हो; प्रस्ताव रद्द होने या समाप्त होने पर स्वीकृति अमान्य हो जाती है।
- Example: If A revokes the offer before B accepts, B's later acceptance is invalid.

**7. Acceptance Must Be in Response to the Offer:**

- The acceptance must directly correspond to the proposal's terms, showing intent to form a binding agreement.
- स्वीकृति प्रस्ताव की शर्तों के जवाब में होनी चाहिए, जिसमें बाध्यकारी समझौता बनाने का इरादा हो।
- Example: If A offers to sell a book and B agrees to buy a pen, it is not a valid acceptance.

**Table Summarizing the Essentials of Valid Acceptance:**

Essential	Description	Hindi Meaning
Absolute and Unqualified	Must agree to all terms without changes or conditions.	स्वीकृति पूर्ण और बिना शर्त होनी चाहिए।

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Essential	Description	Hindi Meaning
<b>Usual and Reasonable Manner</b>	Must be communicated as specified or in a reasonable way.	सामान्य और उचित तरीके से व्यक्त होनी चाहिए।
<b>By the Offeree</b>	Only the person to whom the offer is made can accept it.	केवल प्रस्ताव प्राप्तकर्ता या उसका प्रतिनिधि स्वीकार कर सकता है।
<b>Communicated</b>	Must be expressed or implied, not assumed (e.g., silence is not valid).	स्पष्ट या निहित रूप से संप्रेषित होनी चाहिए; मौन स्वीकृति नहीं है।
<b>Within Reasonable Time</b>	Must occur within the specified or reasonable time frame.	निर्धारित या उचित समय सीमा के भीतर होनी चाहिए।
<b>Before Offer Lapses</b>	Valid only if the offer is still active and not revoked or expired.	प्रस्ताव सक्रिय होने पर ही वैध; रद्द या समाप्त होने पर अमान्य।
<b>In Response to the Offer</b>	Must directly correspond to the terms of the proposal.	प्रस्ताव की शर्तों के जवाब में होनी चाहिए।

**Legal References:**

- **Section 2(b):** Defines acceptance as when the offeree signifies assent, turning the proposal into a promise.
- **Section 7:** Requires acceptance to be absolute, unqualified, and expressed in a usual manner.

If you need further clarification, examples, or case laws (e.g., *Brogden v. Metropolitan Railway Co.* or *Lalman Shukla v. Gauri Dutt*), feel free to ask!

Ref case for acceptance essential point no 1

The case of **Neale v. Merrett [1930] WN 189** is a landmark case in contract law, particularly relevant to the principles of **acceptance** under the **Indian Contract Act, 1872**, and English common law. It illustrates the requirement that acceptance must be **absolute and unqualified** to form a valid contract. Below is a detailed explanation of the case, incorporating the essentials of valid acceptance and providing Hindi translations for key terms as per your previous request.

**Case Summary: Neale v. Merrett (1930)**

**Facts:**

- **Defendant (Merrett)** offered to sell land to the plaintiff (Neale) for £280.
  - **Hindi:** प्रतिवादी (मेरेट) ने वादी (नील) को £280 में जमीन बेचने का प्रस्ताव दिया।
- Neale responded by purporting to accept the offer but sent a cheque for £80 and promised to pay the remaining £200 in monthly installments of £50 each.
  - **Hindi:** नील ने प्रस्ताव को स्वीकार करने का दावा किया, लेकिन £80 का चेक भेजा और शेष £200 को £50 की मासिक किस्तों में चुकाने का वादा किया।

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- Merrett did not agree to this payment structure, as the original offer implied payment of the full amount in a single sum.

#### Issue:

- Did Neale's response constitute a valid acceptance of Merrett's offer, or was it a counter-offer?
  - **Hindi:** क्या नील की प्रतिक्रिया मेरेट के प्रस्ताव की वैध स्वीकृति थी, या यह एक प्रतिप्रस्ताव था?

#### Legal Principle:

- According to the principles of contract law (aligned with **Section 7** of the Indian Contract Act, 1872), acceptance must be **absolute and unqualified**, meaning it must mirror the terms of the offer exactly without introducing new conditions.
  - **Hindi:** अनुबंध कानून के सिद्धांतों के अनुसार (भारतीय अनुबंध अधिनियम, 1872 की धारा 7 के अनुरूप), स्वीकृति पूर्ण और बिना शर्त होनी चाहिए, अर्थात् यह प्रस्ताव की शर्तों के साथ पूरी तरह मेल खाना चाहिए बिना कोई नई शर्त जोड़े।
- A response that varies the terms of the offer is considered a **counter-offer**, which rejects the original offer and does not form a binding contract unless accepted by the original offeror.
  - **Hindi:** एक प्रतिक्रिया जो प्रस्ताव की शर्तों में बदलाव करती है, उसे प्रतिप्रस्ताव माना जाता है, जो मूल प्रस्ताव को अस्वीकार करता है और तब तक बाध्यकारी अनुबंध नहीं बनता जब तक कि मूल प्रस्तावकर्ता द्वारा स्वीकार न किया जाए।

#### Decision:

- The court held that there was **no contract** because Neale's response was not a valid acceptance but a **counter-offer**.
  - **Hindi:** न्यायालय ने निर्णय दिया कि कोई अनुबंध नहीं था क्योंकि नील की प्रतिक्रिया वैध स्वीकृति नहीं थी, बल्कि एक प्रतिप्रस्ताव था।
- Neale's proposal to pay in installments varied the terms of Merrett's offer, which required payment of £280 as a single sum. This variation meant Neale did not accept the offer as it was, and thus, no binding contract was formed.
  - **Hindi:** नील का किस्तों में भुगतान करने का प्रस्ताव मेरेट के प्रस्ताव की शर्तों से भिन्न था, जिसमें £280 का एकमुश्त भुगतान आवश्यक था। इस बदलाव का मतलब था कि नील ने प्रस्ताव को जैसा था वैसा स्वीकार नहीं किया, और इसलिए कोई बाध्यकारी अनुबंध नहीं बना।

#### Relevance to Indian Contract Act, 1872:

- **Section 2(b):** Defines acceptance as when the offeree signifies assent to the proposal, making it a promise.
  - **Hindi:** धारा 2(b): स्वीकृति को परिभाषित करता है कि जब प्रस्ताव प्राप्तकर्ता प्रस्ताव के प्रति अपनी सहमति व्यक्त करता है, तो यह एक वादा बन जाता है।
- **Section 7(1):** Requires acceptance to be absolute and unqualified.
  - **Hindi:** धारा 7(1): स्वीकृति को पूर्ण और बिना शर्त होने की आवश्यकता है।

- The case of *Neale v. Merrett* is often cited to illustrate that any deviation from the original offer's terms results in a counter-offer, not a valid acceptance, aligning with Indian law principles.

#### Connection to Essentials of Valid Acceptance:

The case directly relates to the first essential of valid acceptance:

##### 1. Acceptance Must Be Absolute and Unqualified:

- Neale's response failed this requirement because it introduced new terms (installment payments) that did not match the original offer.
- नील की प्रतिक्रिया इस आवश्यकता को पूरा नहीं करती थी क्योंकि इसने नई शर्तें (किस्तों में भुगतान) पेश कीं जो मूल प्रस्ताव से मेल नहीं खाती थीं।
- This principle is reinforced in other sources, such as *Neale vs. Merrett [1930] W.N. 189* (,).

#### Table Summarizing *Neale v. Merrett (1930)* and Essentials of Acceptance:

Aspect	Details	Hindi Meaning
Case Name	Neale v. Merrett [1930] WN 189	नील बनाम मेरेट [1930] WN 189
Key Fact	Neale offered £80 and installments instead of £280 in one sum.	नील ने £280 के एकमुश्त भुगतान के बजाय £80 और किस्तों की पेशकश की।
Legal Issue	Was Neale's response a valid acceptance or a counter-offer?	क्या नील की प्रतिक्रिया वैध स्वीकृति थी या प्रतिप्रस्ताव?
Court Ruling	No contract; Neale's response was a counter-offer, not valid acceptance.	कोई अनुबंध नहीं; नील की प्रतिक्रिया प्रतिप्रस्ताव थी, न कि वैध स्वीकृति।
Relevant Essential of Acceptance	Acceptance must be absolute and unqualified (Section 7(1)).	स्वीकृति पूर्ण और बिना शर्त होनी चाहिए (धारा 7(1))।
Outcome	No binding contract formed due to variation in terms.	शर्तों में बदलाव के कारण कोई बाध्यकारी अनुबंध नहीं बना।

#### Additional Notes:

- The case is widely referenced in contract law to emphasize the **mirror image rule**, where acceptance must exactly match the offer's terms (,).
- It aligns with other cases like *Felthouse v. Bindley* (silence is not acceptance) and *Carlill v. Carbolic Smoke Ball Co.* (unilateral offers), which clarify the rules of acceptance (,).
- If you need further details, such as comparisons with other cases or specific applications under Indian law, let me know!

Case ref for acceptance must be communicated to the offeree. Point no 3 or essential of valid acceptance.

**Case Summary: Brogden v. Metropolitan Railway Co. (1877)**

**Facts:**

- **Background:** Mr. Brogden, a coal supplier, had been supplying coal to the Metropolitan Railway Company for several years without a formal written contract.
  - पृष्ठभूमि: श्री ब्रॉगडेन, एक कोयला आपूर्तिकर्ता, कई वर्षों तक मेट्रोपॉलिटन रेलवे कंपनी को बिना किसी औपचारिक लिखित अनुबंध के कोयला आपूर्ति कर रहे थे।
- **Proposal for Formal Contract:** Brogden suggested entering into a formal contract for long-term coal supply. The parties' agents negotiated, and Metropolitan Railway drafted an agreement, leaving some parts blank for Brogden to fill in.
  - औपचारिक अनुबंध के लिए प्रस्ताव: ब्रॉगडेन ने दीर्घकालिक कोयला आपूर्ति के लिए औपचारिक अनुबंध करने का सुझाव दिया। पक्षों के एजेंटों ने बातचीत की, और मेट्रोपॉलिटन रेलवे ने एक समझौता तैयार किया, जिसमें कुछ हिस्से खाली छोड़ दिए गए थे।
- **Brogden's Amendments:** Brogden filled in the blanks, added an arbitration clause, wrote "approved" on the document, and sent it back to Metropolitan. Metropolitan's agent filed the document but did not formally communicate acceptance.
  - ब्रॉगडेन के संशोधन: ब्रॉगडेन ने खाली स्थानों को भरा, एक मध्यस्थता खंड जोड़ा, दस्तावेज पर "स्वीकृत" लिखा, और इसे मेट्रोपॉलिटन को वापस भेज दिया। मेट्रोपॉलिटन के एजेंट ने दस्तावेज को फाइल कर दिया लेकिन औपचारिक रूप से स्वीकृति की सूचना नहीं दी।
- **Conduct:** Both parties acted as per the draft agreement's terms for several years, with Brogden supplying coal and Metropolitan paying for it. A dispute later arose, and Brogden argued no contract existed due to lack of formal acceptance.
  - आचरण: दोनों पक्षों ने कई वर्षों तक मसौदा समझौते की शर्तों के अनुसार कार्य किया, जिसमें ब्रॉगडेन ने कोयला आपूर्ति की और मेट्रोपॉलिटन ने इसके लिए भुगतान किया। बाद में विवाद उत्पन्न हुआ, और ब्रॉगडेन ने तर्क दिया कि औपचारिक स्वीकृति की कमी के कारण कोई अनुबंध नहीं था।

**Legal Issue:**

- Did a valid contract exist between Brogden and Metropolitan Railway, despite no formal communication of acceptance?
  - क्या ब्रॉगडेन और मेट्रोपॉलिटन रेलवे के बीच औपचारिक स्वीकृति की सूचना न होने के बावजूद एक वैध अनुबंध था?

**Legal Principles (Indian Contract Act, 1872 & English Common Law):**

- **Section 2(b), Indian Contract Act, 1872:** "When the person to whom the proposal is made signifies his assent thereto, the proposal is said to be accepted. A proposal, when accepted, becomes a promise."
  - धारा 2(b): "जब वह व्यक्ति जिसे प्रस्ताव दिया गया है, उसकी सहमति व्यक्त करता है, तो प्रस्ताव को स्वीकार माना जाता है। स्वीकार होने पर प्रस्ताव एक वादा बन जाता है।"
- **Section 7(1):** Acceptance must be absolute and unqualified.

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- धारा 7(1): स्वीकृति पूर्ण और बिना शर्त होनी चाहिए।
- **Section 7(2):** Acceptance must be expressed in a usual and reasonable manner, which can include conduct.
  - धारा 7(2): स्वीकृति को सामान्य और उचित तरीके से व्यक्त करना होगा, जिसमें आचरण शामिल हो सकता है।
- **English Common Law (Applied in Brogden):** A contract can be formed by the conduct of the parties, even without formal communication of acceptance, if their actions demonstrate mutual assent (*Brogden v. Metropolitan Railway Co.* [1877] 2 App Cas 666). This principle is also applicable under Indian law (*Dhyeya Law, IPSA Loquitur*).

**Decision:**

- The **House of Lords** held that a valid contract existed:
  - Brogden's amendments to the draft constituted a **counter-offer**.
    - ब्रॉगडेन के मसौदे में संशोधन एक प्रतिप्रस्ताव थे।
  - Metropolitan's conduct (accepting coal and making payments as per the draft terms for years) constituted **acceptance by conduct**, binding both parties to the contract.
    - मेट्रोपॉलिटन का आचरण (मसौदे की शर्तों के अनुसार कोयला स्वीकार करना और भुगतान करना) आचरण द्वारा स्वीकृति था, जो दोनों पक्षों को अनुबंध से बाध्य करता था।
- The court ruled that no formal communication of acceptance was necessary when the parties' conduct clearly showed mutual agreement (*Brogden v. Metropolitan Railway Co., LawTeacher.net*).
  - न्यायालय ने निर्णय दिया कि जब पक्षों का आचरण स्पष्ट रूप से आपसी सहमति दर्शाता है, तो औपचारिक स्वीकृति की सूचना आवश्यक नहीं थी।

**Outcome:**

- A binding contract was formed, and Brogden was held liable for breaching it by refusing to supply coal.
  - एक बाध्यकारी अनुबंध बना, और ब्रॉगडेन को कोयला आपूर्ति से इनकार करने के लिए अनुबंध भंग करने का दोषी ठहराया गया।

**Connection to Essentials of Valid Acceptance:**

The case directly relates to the essentials of valid acceptance under the Indian Contract Act, 1872 (as discussed in your earlier question):

**1. Acceptance Must Be Absolute and Unqualified (Section 7(1)):**

- Brogden's amendments created a counter-offer, which required Metropolitan's acceptance to form a contract.
  - **Hindi:** ब्रॉगडेन के संशोधनों ने एक प्रतिप्रस्ताव बनाया, जिसके लिए अनुबंध बनाने हेतु मेट्रोपॉलिटन की स्वीकृति आवश्यक थी।

2. **Acceptance Must Be Expressed in a Usual and Reasonable Manner** (Section 7(2)):

- Metropolitan's acceptance was implied through conduct (acting on the draft terms), which was deemed valid (*Brogden v. Metropolitan Railway Co., Dhyeya Law*).
  - **Hindi:** मेट्रोपॉलिटन की स्वीकृति आचरण के माध्यम से निहित थी (मसौदे की शर्तों पर कार्य करना), जिसे वैध माना गया।

3. **Acceptance Must Be Communicated:**

- While formal communication was absent, the parties' consistent conduct (supplying and paying for coal) served as communication of acceptance (*IPSA Loquitur, LawTeacher.net*).
  - **Hindi:** यद्यपि औपचारिक संप्रेषण नहीं था, पक्षों का निरंतर आचरण (कोयला आपूर्ति और भुगतान) स्वीकृति का संप्रेषण था।

4. **Other Essentials** (e.g., within reasonable time, before offer lapses, by offeree) were satisfied, as both parties acted promptly and were the intended parties to the contract.

**Table Summarizing Brogden v. Metropolitan Railway Co. (1877):**

Aspect	Details	Hindi Meaning
Case Name	Brogden v. Metropolitan Railway Co. (1877) 2 App Cas 666	ब्रॉगडेन बनाम मेट्रोपॉलिटन रेलवे कंपनी (1877) 2 App Cas 666
Key Fact	Brogden amended draft; Metropolitan acted on it without formal acceptance.	ब्रॉगडेन ने मसौदा संशोधित किया; मेट्रोपॉलिटन ने बिना औपचारिक स्वीकृति के कार्य किया।
Legal Issue	Was there a valid contract despite no formal acceptance?	क्या औपचारिक स्वीकृति न होने के बावजूद वैध अनुबंध था?
Court Ruling	Valid contract formed by conduct; Brogden's counter-offer was accepted.	आचरण द्वारा वैध अनुबंध बना; ब्रॉगडेन का प्रतिप्रस्ताव स्वीकार किया गया।
Relevant Essential of Acceptance	Acceptance can be by conduct, must be absolute and unqualified (Section 7).	स्वीकृति आचरण द्वारा हो सकती है, पूर्ण और बिना शर्त होनी चाहिए (धारा 7)।
Outcome	Contract binding; Brogden liable for breach.	अनुबंध बाध्यकारी; ब्रॉगडेन भंग के लिए उत्तरदायी।

**Relevance to Indian Contract Act, 1872:**

- The principles in *Brogden v. Metropolitan Railway Co.* are directly applicable to Indian law, particularly under **Sections 3, 4, and 8** of the Indian Contract Act, which recognize acceptance by conduct (*Dhyeya Law*). For example:

- **Section 8:** “Performance of the conditions of a proposal, or the acceptance of any consideration for a reciprocal promise which is offered with a proposal, is an acceptance of the proposal.”
  - **Hindi:** धारा 8: “प्रस्ताव की शर्तों का पालन, या प्रस्ताव के साथ दी गई पारस्परिक वादे के लिए किसी प्रतिफल की स्वीकृति, प्रस्ताव की स्वीकृति है।”
- The case illustrates that acceptance can be implied through conduct, even without explicit communication, aligning with Indian law (*e-lawresources.co.uk*).

**Comparison with Neale v. Merrett (1930):**

- Unlike *Neale v. Merrett* (where a counter-offer negated acceptance due to unaccepted new terms), *Brogden* shows that a counter-offer can become a binding contract if the other party accepts it through conduct.
  - **Hindi:** नील बनाम मेरेट (जहाँ एक प्रतिप्रस्ताव ने स्वीकृति को नकार दिया क्योंकि नई शर्तें स्वीकार नहीं की गईं) के विपरीत, ब्रॉगडेन दिखाता है कि यदि दूसरा पक्ष आचरण के माध्यम से स्वीकार करता है तो प्रतिप्रस्ताव बाध्यकारी अनुबंध बन सकता है।

**Conclusion:**

- *Brogden v. Metropolitan Railway Co. (1877)* establishes that a contract can be formed through the conduct of the parties, even without formal communication of acceptance, provided the conduct clearly indicates assent (*Brogden v. Metropolitan Railway Co., uollb.com*). This aligns with the Indian Contract Act’s provisions on acceptance by conduct.
  - **Hindi:** ब्रॉगडेन बनाम मेट्रोपॉलिटन रेलवे कंपनी (1877) स्थापित करता है कि पक्षों के आचरण के माध्यम से अनुबंध बन सकता है, भले ही औपचारिक स्वीकृति की सूचना न हो, बशर्ते आचरण स्पष्ट रूप से सहमति दर्शाए।
- If you meant a different case (e.g., a specific Indian case from 1916 or another “Rao” case), please provide additional details (e.g., court, issue, or full citation), and I’ll tailor the response accordingly. Alternatively, I can provide more examples or compare *Brogden* with other cases like *Lalman Shukla v. Gauri Dutt (1913)* for further clarity on acceptance.

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Case ref for point no 7 is the acceptor must be aware of the proposal at the time of offer.

The case you are referring to is likely **Powell v. Lee (1908)**, reported as (1908) 99 LT 284, a landmark English contract law case that is also relevant to the **Indian Contract Act, 1872**, particularly in the context of valid acceptance. This case is frequently cited for its ruling on the necessity of **authorized communication** for a valid acceptance. Given your previous queries about contract law and acceptance under the Indian Contract Act, 1872, and your request for Hindi translations, I will provide a detailed analysis of *Powell v. Lee* with a focus on its relevance to the essentials of valid acceptance, incorporating Hindi translations for key terms. If you meant a different case (e.g., a misspelling of “Pawell” or a specific Indian case), please clarify, and I’ll tailor the response.

**Case Summary: Powell v. Lee (1908)**

**Citation:**

- **Powell v. Lee (1908) 99 LT 284** (King’s Bench Division).

**Facts:**

- **Mr. Powell** (the plaintiff) applied for the position of headmaster at a school.
  - **Hindi:** श्री पॉवेल (वादी [...])

System: ### Case Summary: Powell v. Lee (1908)

**Citation:**

- **Powell v. Lee (1908) 99 LT 284** (King's Bench Division).

**Facts:**

- **Mr. Powell** (the plaintiff) applied for the position of headmaster at a school.
  - **Hindi:** श्री पॉवेल (वादी) ने एक स्कूल में हेडमास्टर के पद के लिए आवेदन किया।
- The school managers (the defendants) decided to appoint Powell, and this decision was made during a board meeting.
  - **Hindi:** स्कूल प्रबंधकों (प्रतिवादी) ने पॉवेल को नियुक्त करने का निर्णय लिया, और यह निर्णय एक बोर्ड बैठक के दौरान लिया गया।
- One of the managers, acting without authority, informally informed Powell that he had been selected for the position.
  - **Hindi:** एक प्रबंधक ने, बिना प्राधिकार के, पॉवेल को अनौपचारिक रूप से सूचित किया कि उन्हें पद के लिए चुना गया है।
- Later, the school managers changed their decision and appointed someone else instead of Powell.
  - **Hindi:** बाद में, स्कूल प्रबंधकों ने अपना निर्णय बदल दिया और पॉवेल के बजाय किसी और को नियुक्त किया।
- Powell sued the school, alleging a breach of contract, claiming that a valid contract was formed when he was informed of his selection, and he suffered damages (loss of salary) due to the non-appointment.
  - **Hindi:** पॉवेल ने स्कूल पर मुकदमा दायर किया, अनुबंध भंग का आरोप लगाते हुए, दावा किया कि उनकी चयन की सूचना मिलने पर एक वैध अनुबंध बना था, और गैर-नियुक्ति के कारण उन्हें नुकसान (वेतन हानि) हुआ।

**Legal Issue:**

- Was there a valid contract formed between Powell and the school, given that the acceptance was communicated by an unauthorized person?
  - **Hindi:** क्या पॉवेल और स्कूल के बीच एक वैध अनुबंध बना था, यह देखते हुए कि स्वीकृति एक अनधिकृत व्यक्ति द्वारा संप्रेषित की गई थी?

**Relevant Legal Principles:**

- **Indian Contract Act, 1872** (applicable principles, as the case is relevant to Indian law):

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- **Section 2(b):** “When the person to whom the proposal is made signifies his assent thereto, the proposal is said to be accepted. A proposal, when accepted, becomes a promise.”
  - **Hindi:** धारा 2(b): “जब वह व्यक्ति जिसे प्रस्ताव दिया गया है, उसकी सहमति व्यक्त करता है, तो प्रस्ताव को स्वीकार माना जाता है। स्वीकार होने पर प्रस्ताव एक upkeep: keep-together-1.5; tab-stops: 0.25in 0.5in 0.75in 1.0in 1.25in 1.5in; text-align: left”>एक वादा बन जाता है।”
- **Section 7(1):** Acceptance must be absolute and unqualified.
  - **Hindi:** धारा 7(1): स्वीकृति पूर्ण और बिना शर्त होनी चाहिए।
- **Section 7(2):** Acceptance must be expressed in some usual and reasonable manner, unless the proposal prescribes a particular mode.
  - **Hindi:** धारा 7(2): स्वीकृति को सामान्य और उचित तरीके से व्यक्त करना होगा, जब तक कि प्रस्ताव में कोई विशेष तरीका निर्दिष्ट न हो।
- **English Common Law (Applied in Powell v. Lee):** For a valid contract, acceptance must be communicated by the offeree or an authorized agent to the offeror. Unauthorized communication does not constitute valid acceptance.

**Decision:**

- The **King’s Bench Division** held that **no valid contract was formed:**
  - The communication of acceptance by an unauthorized manager was not valid because it lacked authority from the school board.
    - **Hindi:** एक अनधिकृत प्रबंधक द्वारा स्वीकृति की सूचना वैध नहीं थी क्योंकि स्कूल बोर्ड से इसका कोई प्राधिकार नहीं था।
  - For acceptance to be binding, it must be communicated by the offeree or someone duly authorized to act on their behalf, as per the principles of contract law.
    - **Hindi:** स्वीकृति के लिए बाध्यकारी होने के लिए, इसे प्रस्ताव प्राप्तकर्ता या उनके द्वारा विधिवत प्राधिकृत व्यक्ति द्वारा संप्रेषित किया जाना चाहिए।
- The court ruled that since no authorized communication of acceptance was made, there was no contract, and Powell’s claim for breach of contract failed.
  - **Hindi:** चूंकि स्वीकृति की कोई प्राधिकृत सूचना नहीं दी गई थी, इसलिए कोई अनुबंध नहीं था, और पॉवेल का अनुबंध भंग का दावा विफल रहा।

**Outcome:**

- The case was dismissed, as no binding contract existed due to the lack of authorized communication of acceptance.
  - **Hindi:** मामला खारिज कर दिया गया, क्योंकि प्राधिकृत स्वीकृति की सूचना के अभाव में कोई बाध्यकारी अनुबंध नहीं था।

**Table Summarizing Powell v. Lee (1908):**

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Aspect	Details	Hindi Meaning
Case Name	Powell v. Lee (1908) 99 LT 284	पॉवेल बनाम ली (1908) 99 LT 284
Key Fact	Unauthorized manager informed Powell of his selection, later revoked.	अनधिकृत प्रबंधक ने पॉवेल को उनके चयन की सूचना दी, जिसे बाद में रद्द कर दिया गया।
Legal Issue	Was there a valid contract due to unauthorized communication of acceptance?	क्या अनधिकृत स्वीकृति की सूचना के कारण वैध अनुबंध था?
Court Ruling	No contract; unauthorized communication was not valid acceptance.	कोई अनुबंध नहीं; अनधिकृत संप्रेषण वैध स्वीकृति नहीं था।
Relevant Essential of Acceptance	Acceptance must be communicated by offeree or authorized agent (Section 7).	स्वीकृति को प्रस्ताव प्राप्तकर्ता या प्राधिकृत एजेंट द्वारा संप्रेषित करना होगा (धारा 7)।
Outcome	Case dismissed; no contract formed.	मामला खारिज; कोई अनुबंध नहीं बना।

**Relevance to Indian Contract Act, 1872:**

- The principle in *Powell v. Lee* aligns with **Section 7** of the Indian Contract Act, 1872, which requires acceptance to be properly communicated by the offeree or an authorized agent. Unauthorized communication does not create a binding contract.
  - पॉवेल बनाम ली* का सिद्धांत भारतीय अनुबंध अधिनियम, 1872 की धारा 7 के साथ संरेखित है, जिसमें स्वीकृति को प्रस्ताव प्राप्तकर्ता या प्राधिकृत एजेंट द्वारा उचित रूप से संप्रेषित करने की आवश्यकता है। अनधिकृत संप्रेषण एक बाध्यकारी अनुबंध नहीं बनाता।
- The case is often cited in Indian legal education to illustrate the requirement of proper communication of acceptance, alongside cases like *Felthouse v. Bindley* (silence is not acceptance) and *Brogden v. Metropolitan Railway Co.* (acceptance by conduct).

**Comparison with Other Cases:**

- Neale v. Merrett (1930):** Unlike *Powell v. Lee*, where the issue was unauthorized communication, *Neale v. Merrett* dealt with a counter-offer due to varied terms, but both cases emphasize the need for valid acceptance to form a contract.
  - Hindi:** *नील बनाम मेरेट (1930)* के विपरीत, जहां मुद्दा अनधिकृत संप्रेषण था, *नील बनाम मेरेट* में भिन्न शर्तों के कारण प्रतिप्रस्ताव का मुद्दा था, लेकिन दोनों मामले अनुबंध बनाने के लिए वैध स्वीकृति की आवश्यकता पर जोर देते हैं।
- Brogden v. Metropolitan Railway Co. (1877):** While *Brogden* allowed acceptance by conduct, *Powell v. Lee* clarifies that such conduct or communication must come from an authorized party.

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- **Hindi:** जबकि ब्रॉगडेनने आचरण द्वारा स्वीकृति की अनुमति दी, *पॉवेल बनाम ली* स्पष्ट करता है कि ऐसा आचरण या संप्रेषण एक प्राधिकृत पक्ष से आना चाहिए।

**Conclusion:**

- *Powell v. Lee (1908)* establishes that for a contract to be valid, acceptance must be communicated by the offeree or an authorized agent. Unauthorized communication, as in this case, does not create a binding contract, aligning with **Section 7** of the Indian Contract Act, 1872.
    - **Hindi:** *पॉवेल बनाम ली (1908)* स्थापित करता है कि अनुबंध के वैध होने के लिए, स्वीकृति को प्रस्ताव प्राप्तकर्ता या प्राधिकृत एजेंट द्वारा संप्रेषित किया जाना चाहिए। अनधिकृत संप्रेषण, जैसा कि इस मामले में, एक बाध्यकारी अनुबंध नहीं बनाता, जो भारतीय अनुबंध अधिनियम, 1872 की धारा 7 के साथ संरेखित है।
- 
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\*\*\*\*\*                      \*\*\*\*\*                      \*\*\*\*\*                      \*\*\*\*\*                      \*\*\*\*\*

Date 11.09.25 Contract period -3, time 11.30

Subject Contract>consideration > amount or something else against our work which we had done, or doing now, or some work which we will do later.

### **Quid pro quo**

#### Usage and context

- General: *Quid pro quo* refers to a mutual agreement of reciprocal exchange. An example is bartering, such as "I'll paint your fence if you mow my lawn".
- Legal: In contract law, it signifies the "consideration"—the value exchanged by each party to validate an agreement. It is often used with a negative connotation to describe an illegal exchange, such as a bribe where a government official receives money in exchange for official acts.
- Workplace: *Quid pro quo* can also be a form of sexual harassment where an employment benefit, like a promotion, is contingent on the employee's submission to sexual favors.
- Political: The term is frequently used to imply corruption or wrongdoing. For example, using political favors as a *quid pro quo* for campaign contributions.
- Neutral vs. Negative: The term has acquired a negative association in recent decades due to its connection with political and corporate scandals. It can still be used neutrally, such as when describing an exchange of information.
- Simple meaning in exchange or something.

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Definition of consideration.

#### **Correct Version:**

#### **According to Section 2(d) of the Indian Contract Act, 1872:**

**“When, at the desire of the promisor, the promisee or any other person has done or abstained from doing, or does or abstains from doing, or promises to do or to abstain from doing something, such act, abstinence or promise is called a consideration for the promise.”**

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👉 Key corrections I made:

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- Changed “*promiser*” → **promisor**
  - Changed “*promise*” → **promisee** (the person who accepts the promise)
  - Corrected “*obstain/obstined*” → **abstain/abstinence**
  - Polished sentence for clarity.
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**According to Blackstone:**

“A consideration is the recompense given by the party contracting to the other, for what the latter has done, or is to do, for him.”

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👉 **Meaning:**

- Consideration is something of value (money, goods, act, or promise) given in return for a promise.
  - It is the **reason** or  **motive** for which the other party enters into a contract.
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**According to Sir Frederick Pollock:**

“**Consideration is the price for which the promise of the other is bought, and the promise thus given for value is enforceable.**”

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👉 **Meaning in simple words:**

- Consideration is the *price* paid (not necessarily money, it can be an act, abstinence, or promise) for the promise.
  - Without consideration, a promise generally cannot be enforced by law.
- 
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**According to Patterson:**

“**Consideration means something which is of some value in the eye of law, moving from the promisee, either of benefit to the promisor or a detriment to the promisee.**”

---

👉 **Explanation:**

- Consideration must have **some value in the eyes of law** (not just a moral or social obligation).
  - It can be:
    - A **benefit** to the promisor (e.g., receiving money, goods, services), or
    - A **detriment** to the promisee (e.g., giving up something, doing extra work, abstaining from a right).
- 
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📌 Patterson's definition is important because it highlights the **dual aspect**:

- Benefit to one party,
- Detriment to the other.

## • Definitions of Consideration – Comparative Chart

Author / Source	Definition (English)	परिभाषा (Hindi)
<b>Section 2(d), Indian Contract Act, 1872</b>	“When, at the desire of the promisor, the promisee or any other person has done or abstained from doing, or does or abstains from doing, or promises to do or to abstain from doing something, such act, abstinence or promise is called a consideration for the promise.”	"जब प्रस्थापक (Promisor) की इच्छा पर, प्रापक (Promisee) या कोई अन्य व्यक्ति कुछ करता है, या करने से रुकता है, या करने का वचन देता है, या करने से रुकने का वचन देता है, तो ऐसा कार्य, विरति या वचन प्रतिज्ञा का प्रतिफल (Consideration) कहलाता है।"
<b>Blackstone</b>	“A consideration is the recompense given by the party contracting to the other, for what the latter has done, or is to do, for him.”	"प्रतिफल वह प्रतिदान है जो अनुबंध करने वाला पक्ष दूसरे पक्ष को देता है, उसके बदले जो उसने उसके लिए किया है या करने वाला है।"
<b>Sir Frederick Pollock</b>	“Consideration is the price for which the promise of the other is bought, and the promise thus given for value is enforceable.”	"प्रतिफल वह मूल्य है जिसके बदले दूसरे का वचन खरीदा जाता है, और इस प्रकार मूल्य देकर दिया गया वचन न्यायालय में प्रवर्तनीय (Enforceable) होता है।"
<b>Patterson</b>	“Consideration means something which is of some value in the eye of law, moving from the promisee, either of benefit to the promisor or a detriment to the promisee.”	"प्रतिफल का अर्थ है ऐसी कोई वस्तु जिसका कानून की दृष्टि में मूल्य हो, और जो प्रापक (Promisee) की ओर से आती है, जो या तो प्रस्थापक (Promisor) के लिए लाभ होती है या प्रापक के लिए हानि।"

Definition of the given maxim

**Great 👍 You mentioned the Latin maxim “Ex nudo pacto non oritur actio.” Let me explain it clearly with meaning and example.**

 **Maxim:**

**Ex nudo pacto non oritur actio**

 **Meaning (English):**

"No action arises from a bare promise."

👉 **This means that if a promise is made without consideration, it is a *nude contract* (bare agreement) and cannot be enforced in a court of law.**

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📖 **Meaning (Hindi):**

"नग्न वचन (नग्न समझौते) से कोई कानूनी कार्यवाही उत्पन्न नहीं होती।"

👉 अर्थात्, यदि किसी वचन या समझौते के पीछे प्रतिफल (consideration) नहीं है, तो वह केवल एक नैतिक वचन है, कानूनन प्रवर्तनीय (enforceable) नहीं है।

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🏠 **Illustration / Example:**

- A promises to give B ₹1,000 as a gift.
- There is no consideration from B's side.
- This is a nude pact (bare promise).
- If A refuses later, B cannot sue him in court.

But if B gives something in return (say, B agrees to paint A's house), then consideration exists, and the agreement becomes enforceable.

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**Question what is consideration? Describe the consideration?**

#### ■ LLB Exam Preparation – 20 Marks

##### Possible Question Patterns (20 Marks)

###### 1. Direct Question Style

👉 Explain the legal maxim "Ex nudo pacto non oritur actio." Discuss its relevance under the Indian Contract Act, 1872 with illustrations.

###### 2. Concept-based Question

👉 What do you understand by the rule "No consideration, no contract"? Explain in the light of the maxim "Ex nudo pacto non oritur actio."

###### 3. Case-law Oriented Question

👉 Discuss the maxim "Ex nudo pacto non oritur actio" with the help of judicial pronouncements. How far is this maxim applicable under Section 25 of the Indian Contract Act, 1872?

###### 4. Applied Question (Problem style)

👉 A promises to give B ₹10,000 as a gift. Later A refuses. Can B file a suit for recovery? Explain with reference to the maxim "Ex nudo pacto non oritur actio."

---

### Model Answer (For Any 20 Marks Question)

#### Meaning of Maxim

The Latin maxim "**Ex nudo pacto non oritur actio**" means "*No action arises from a bare promise.*" It emphasizes that an agreement **without consideration** is not enforceable by law.

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#### Definitions by Jurists

1. **Blackstone:**  
"A consideration is the recompense given by the party contracting to the other, for what the latter has done, or is to do, for him."
2. **Sir Frederick Pollock:**  
"Consideration is the price for which the promise of the other is bought, and the promise thus given for value is enforceable."
3. **Patterson:**  
"Consideration means something which is of some value in the eye of law, moving from the promisee, either of benefit to the promisor or a detriment to the promisee."

 These definitions highlight that without consideration, a promise has no legal force—hence supporting the maxim *Ex nudo pacto non oritur actio*.

---

#### Legal Position

- **English Law:** Consideration is an essential element of a valid contract. A bare promise (nudum pactum) creates only a moral obligation, not a legal one.
  - **Indian Law (Section 25, Indian Contract Act, 1872):** "An agreement made without consideration is void" unless it falls under exceptions (natural love and affection, past voluntary services, promise to pay a time-barred debt, etc.).
- 

#### Illustration

- A promises to gift B ₹5,000. There is no consideration from B. This is a bare promise. If A fails, B cannot sue.
  - But if B agrees to perform some service in return, there is consideration, and the promise becomes enforceable.
- 

#### Case Laws

1. **Abdul Aziz v. Masum Ali (1914)** – A promise to donate money without consideration is not enforceable.
2. **Durga Prasad v. Baldeo (1880)** – Past voluntary act without request from promisor is not valid consideration.

3. **Dunlop Pneumatic Tyre Co. Ltd. v. Selfridge & Co. Ltd. (1915)** – Pollock’s definition approved: consideration is “the price for which the promise is bought.”

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#### ✦ Important Notes for Exam

- Maxim supports the doctrine “**No consideration, no contract.**”
- Exceptions exist under **Section 25 ICA, 1872.**
- Maxim ensures contracts are based on **reciprocal obligations**, not moral promises.
- Protects courts from being flooded with suits on mere voluntary promises.

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#### ✔ Conclusion

The maxim “**Ex nudo pacto non oritur actio**” lays the foundation of contract law both in England and India. It establishes that **consideration is the soul of a contract**, and without it, no legal action can be sustained, except in statutory exceptions.

#### Conclusion

The maxim “*Ex nudo pacto non oritur actio*” forms the backbone of the doctrine of consideration. As explained by jurists like **Pollock, Blackstone, and Patterson**, consideration is essential for the enforceability of contracts. In Indian law, this principle is codified under **Section 25 of the Indian Contract Act, 1872**, ensuring that **no legal action can be taken on a bare promise, unless it falls under statutory exceptions.**

---

**What is the legal requirement regarding consideration?**

✔ If the question is “What is the legal requirement regarding consideration?” then you can answer like this (20 marks version):

---

#### ■ Answer – Legal Requirement of Consideration

1. **Definition (Sec. 2(d), ICA 1872):** Consideration means when, at the desire of the promisor, the promisee or any other person does, abstains, or promises to do or abstain, such act or abstinence is called consideration.
2. **Legal Requirement (Sec. 25, ICA 1872):**
  - **General Rule** → *No consideration, no contract.*
  - **Exception** → A contract without consideration is void except:
    1. Made out of natural love & affection (in writing & registered).
    2. Past voluntary services.
    3. Promise to pay a time-barred debt.
3. **Juristic Views:**

- Pollock: "Consideration is the price for which the promise of the other is bought."
  - Blackstone: "Consideration is the recompense given by one party for what the other has done or will do."
  - Patterson: "Something of value in the eye of law moving from promisee, either benefit to promisor or detriment to promisee."
4. Maxim: *Ex nudo pacto non oritur actio* → "No action arises from a bare promise."
5. Case Laws:
- Abdul Aziz v. Masum Ali (1914)
  - Durga Prasad v. Baldeo (1880)
  - Dunlop Pneumatic Tyre Co. Ltd. v. Selfridge & Co. Ltd. (1915)
6. Conclusion: Consideration is the backbone of enforceable contracts. Without it, a promise is merely a moral obligation, not a legal one.
- 
- 

\*\*\*\*\*  
\*\*\*\*\*  
\*\*\*\*\*

#### Subject legal requirement of the consideration.

- a)  Consideration at the Desire of the Promisor
- b) subscription for charitable purpose.
- c) Consideration by promise or any other person.

#### Meaning

- Consideration must move at the desire of the promisor, not at the wish of a third party, nor voluntarily.
- If a person does something without the promisor's request, it is not valid consideration.

---

#### Legal Provision (Sec. 2(d), ICA, 1872)

*"When, at the desire of the promisor, the promisee or any other person has done or abstained from doing... such act or abstinence is called consideration."*

 Key point: Promisor's desire / request is essential.

---

#### Illustrations

##### 1. Valid Consideration

- A asks B to deliver goods to C.
- B delivers goods to C.
- Here, B's act is at the desire of A (promisor) → valid consideration.

2. Invalid Consideration (Voluntary Act)

- B, without asking, repairs A's house.
- Later, A promises to pay ₹5,000.
- Since the act was not at A's desire, the promise is void (Durga Prasad v. Baldeo, 1880).

---

🔴 Important Case Laws

1. **Durga Prasad v. Baldeo (1880):**  
Plaintiff built shops at his own expense at the request of the Collector. Defendants promised to pay him a commission. Held → Not enforceable, as the act was not done at the desire of defendants (promisors).
2. **Kedar Nath v. Gorie Mohammad (1886):**  
Defendant promised donation for a town hall. Plaintiff incurred liability on faith of that promise. Held → Consideration was valid since expenses were incurred at the desire of promisor.

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🌟 Notes for Exam

- Consideration must move from promisee or any other person (Privity of Consideration not required in India).
- BUT it must always be at promisor's desire.
- Voluntary acts or acts at third party's request do not count.

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✅ Conclusion

The rule ensures that only obligations consciously undertaken by the promisor become binding. Thus, *consideration at the desire of the promisor* is a fundamental legal requirement for a valid contract under Indian law.

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d) **consideration by promise or any other purpose.**

Ref case

📄 Case Brief: Chinnaya v. Ramaiya (1882) 4 Mad 137

✅ Facts:

- An old lady (plaintiff's mother) transferred some property to her daughter (the plaintiff).
- In return, the daughter promised to pay an annuity to her mother's brother (the defendant).
- Later, the daughter refused to pay.
- The brother (defendant) argued that since he gave **no consideration**, he could not be held liable.

 **Issue:**

Whether consideration must move only from the **promisee** or it can move from **any other person**?

---

 **Judgment:**

- The Madras High Court held that **consideration need not move from the promisee only**.
  - As long as there is consideration and it is **at the desire of the promisor**, the contract is valid.
  - In this case, consideration moved from the mother (who transferred the property), though she was not the direct promisee.
- 

 **Principle (Ratio Decidendi):**

- Under **Section 2(d), Indian Contract Act, 1872**, consideration may move **from the promisee or any other person**.
  - Thus, **Privity of Consideration** is *not required* in India.
- 

 **Significance:**

- This case distinguishes Indian law from English law.
  - In English law → consideration must move **from the promisee only**.
  - In Indian law → consideration can move **from promisee or any other person**.
- 

 **Example for Exam:**

- If **A** makes a promise to **B** on the consideration provided by **C**, the agreement is valid in India (but not in English law).
- 

 **Conclusion:**

**Chinnaya v. Ramaiya** is the leading case establishing that in India, **consideration may move from the promisee or any other person**, provided it is **at the desire of the promisor**.

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 **Privity of Contract vs. Privity of Consideration**

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 **1 Privity of Contract (Stranger to a Contract)**

 **Meaning:**

## CONTRACT 01-09-25 TO 15-09-25

Only parties to a contract can sue or be sued on it.

👉 A stranger (third party) cannot enforce a contract even if it is made for his benefit.

⚖️ English Rule:

- Established in *Tweddle v. Atkinson* (1861) – A father and father-in-law promised to pay money to the groom, but he could not sue as he was not a party to the contract.
- Reaffirmed in *Dunlop Pneumatic Tyre Co. v. Selfridge* (1915).

🇮🇳 Indian Position:

- General Rule is the same → a stranger to a contract cannot sue.
- But exceptions exist (trust, family settlements, marriage contracts, acknowledgment, agency, statutory provisions, etc.).

---

### 2 Privity of Consideration

✅ Meaning:

Question is — *from whom must consideration move?*

- English Law: Consideration must move from the promisee only.
- Indian Law (Sec. 2(d), ICA 1872): Consideration may move from the promisee or any other person, provided it is at the desire of the promisor.

🇮🇳 Case Law (India):

- *Chinnaya v. Ramaiya* (1882): Consideration can move from a third party; contract still valid.

---

### 🔑 Key Difference Table

Point	Privity of Contract	Privity of Consideration
Definition	Only parties to a contract can sue or be sued.	Who can furnish the consideration for a contract?
Rule (English Law)	Stranger to a contract cannot sue.	Consideration must move from promisee only.
Rule (Indian Law)	Stranger to a contract generally cannot sue (with exceptions).	Consideration may move from promisee or any other person (Sec. 2(d) ICA).
Leading Case	<i>Tweddle v. Atkinson</i> (1861)	<i>Chinnaya v. Ramaiya</i> (1882)
Example	A & B contract for benefit of C → C cannot sue (stranger).	A contracts with B; C gives consideration → valid in India, not in England.

\*\*\*\*\*

Date 12.9.25 period 4 time 1.30 pm Ela Aggarwal

Subject legal requirement regarding consideration.

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D Consideration may be past present or future.

1 past consideration means that the consideration for any promise was given earlier and the promise is made thereafter.

2 present or executed consideration when one of the parties to the contract has perform his part of promise constituting the consideration for the promise by the other side it is executed consideration.

3 future consideration / executory consideration when are person makes a promise in exchange for the promise by the other side the performance of the obligations by each side to be made subsequent to the making of the contract the consideration is known as executory.

E consideration need not be adequate a contract supported by consideration is vailid even though it is in adequate. It must be good consideration.

F consideration must be real, of some value.

Ref case

**Whit vs bluett**

**Case Name:**

**White v. Bluett (1853) 23 LJ Ex 36**

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**Facts:**

- **A son (Bluett) owed money to his father.**
  - **After the father's death, the executor (White) sued the son for repayment.**
  - **The son argued that his father had promised to release him from the debt if he stopped complaining about how his father distributed property among his children.**
  - **In simple words, the son claimed: "My father said if I stopped grumbling about inheritance, I don't need to pay back."**
-

**Issue:**

- Was the son's promise to stop complaining valid consideration for the father's promise to discharge the debt?
- 

**Judgment (Held):**

- No, it was not valid consideration.
  - Pollock CB said: A son has no legal right to complain to his father about how he distributes property.
  - Therefore, forbearance from something you have no legal right to do cannot be consideration.
  - **Result: The father's promise was unenforceable, and the son had to repay the debt.**
- 

**G** performance of an existing duty is not consideration.

**1** performance of legal duty.

**Ref case**

Collins vs godfroy

**Case Name:**

Collins v. Godefroy (1831) 109 ER 1040

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**Facts:**

- Collins, an attorney, was subpoenaed (legally compelled) to appear as a witness in a trial involving Godefroy.
  - Godefroy promised to pay Collins a certain sum of money for attending court as a witness.
  - Collins attended court but was not always called to give evidence.
  - When Godefroy refused to pay, Collins sued to recover the money.
- 

**Issue:**

- Was Collins' act of attending court as a witness valid consideration for Godefroy's promise to pay?
- 

**Judgment (Held):**

- No, there was no valid consideration.
- Collins was already under a legal duty to attend court once he was subpoenaed.

- **Performing an act which a person is legally bound to do cannot amount to consideration for a contract.**
  - **Therefore, Godefroy's promise to pay Collins was unenforceable.**
- 

2 performance of contractual duty.

Ref case

Stilk vs Myrick

**Case Name:**

**Stilk v. Myrick (1809) 170 ER 1168**

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**Facts:**

- Stilk was a sailor employed on a ship from London to the Baltic and back.
  - During the voyage, **two sailors deserted.**
  - The captain promised that the remaining crew would share the deserters' wages if they worked the ship back to London.
  - The sailors did the work and demanded the extra wages.
  - The captain refused to pay, and Stilk sued.
- 

**Issue:**

- Was the sailors' act of sailing the ship back valid **consideration** for the captain's promise to pay extra?
- 

**Judgment (Held):**

- **No, there was no valid consideration.**
  - The sailors were already bound by their contract to face emergencies, including desertion of crew.
  - Since they did **nothing over and above their existing contractual duty**, the promise of extra wages was unenforceable.
- 

**H no consideration no contract.**

1 natural love and affections.

2 past voluntary services.

3 time barred debt.

---

Make a table for the given

Legal requirement regarding the consideration.

- a)  Consideration at the Desire of the Promisor
- b) subscription for charitable purpose.
- c) Consideration by promise or any other person.
- d) Consideration may be past present or future. (past,present,future)
- e)

---

\*\*\*\*\*        \*\*\*\*\*        \*\*\*\*\*        \*\*\*\*\*        \*\*\*\*\*

CONTRACT 01-09-25 TO 15-09-25

Date 15-9-2025 period 3 time 11.30 contract by ela Aggarwal

Privity of contract

\*3<sup>rd</sup> person can't file the case. In Indian contract law as well as England law.

\*\*\* if any one has interest than it is exception can he can file the case.

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Privity of contract

A stranger to contract can know as general rule sue upon a contract both under English law and india law.

Case

**Jamna Das v. Ram Avtar (1952, SC)**

- **Facts:** A promise was made to contribute to the construction of a dharamshala (charitable purpose). Later, the promisor refused to pay.
  - **Issue:** Whether such a promise, without direct consideration, is enforceable.
  - **Held (SC):** The subscription was enforceable because, on the faith of that promise, the construction work had already started.
  - **Principle:** Even if there is **no direct consideration**, a promise made for a **charitable purpose** becomes binding when the promisee has undertaken liability or acted upon it.
- 
- 

👉 This case is often cited under the **rule of consideration**: *"A charitable subscription is enforceable if liability has been incurred on the faith of the promise."*

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Exception of privity of contract.

- 1 **trust** – case *Uma Nath Bakhsh Singh vs Jang Bahadur* – it was held that in the circumstances a trust was created in favour of certain person for the specific amount and hence he was entitled to maintain the suit.----- **Uma Nath Bakhsh Singh v. Jang Bahadur (1938, PC)**

**Facts:** The court passed an order affecting the rights of Uma Nath Bakhsh Singh **without giving him an opportunity of being heard.**

**Issue:** Whether an order passed without hearing the affected party is valid.

**Held (Privy Council):** The order was **invalid**, as it violated the principle of **natural justice.**

**Principle: "No man shall be condemned unheard" (Audi Alteram Partem).** Any order made without giving the person concerned a reasonable opportunity to present his case is void and unenforceable.

- 2 **Charge** – a person in whose favour a charge or other interest in same specific property has been created may enforce it whether he is not a party to the contract.

Case **Khwaja Muhammad Khan v. Husaini Begum (1910, PC)**

- **Facts (तथ्य):** इस केस में एक विवाह अनुबंध (marriage agreement) था, जिसमें दूल्हे के पिता (Khwaja

Muhammad Khan) ने दुल्हन (Husaini Begum) को *Kharch-e-pandan* (monthly allowance) देने का वादा किया। यह वादा सीधे दुल्हन से नहीं, बल्कि दूल्हे के पिता और अन्य व्यक्तियों के बीच हुआ था।

- **Issue (प्रश्न):**  
क्या दुल्हन, जो इस अनुबंध की प्रत्यक्ष पक्षकार (party) नहीं थी, फिर भी इस वादे को लागू करा सकती है?
- **Held (निर्णय):**  
प्रिवी काउंसिल ने माना कि यह वादा enforceable है। दुल्हन इस अनुबंध से लाभ पाने वाली **third-party beneficiary** थी और इसलिए वह अपने अधिकार का दावा कर सकती थी।
- **Principle (सिद्धांत):**
  - यह केस **Doctrine of Privity of Contract** का अपवाद (exception) है।
  - जब किसी अनुबंध का उद्देश्य किसी **third party के लाभ** के लिए हो, तो वह third party भी अनुबंध को enforce कर सकती है।
  - इस केस ने भारतीय कानून में यह स्थापित किया कि *beneficiary under a contract can sue to enforce it, even if not a direct party.*

---

3 marriage settlement- partition of hindu family and family arrangement.  
Case- **Draupadi Devi v. Jaspal Rai**

- **Facts (तथ्य):**  
इस केस में एक व्यक्ति ने अपनी पत्नी (Draupadi Devi) के लिए कुछ संपत्ति का प्रावधान (settlement) किया। यह वादा पति और किसी तीसरे व्यक्ति के बीच हुआ था। पत्नी सीधे इस अनुबंध की पार्टी नहीं थी।
- **Issue (प्रश्न):**  
क्या Draupadi Devi, जो अनुबंध की प्रत्यक्ष पक्षकार नहीं थी, इस वादे को enforce कर सकती है?
- **Held (निर्णय):**  
अदालत ने माना कि पत्नी, जो इस अनुबंध की **लाभार्थी (beneficiary)** थी, अपने **अधिकार** का दावा कर सकती है, भले ही वह अनुबंध की पार्टी न हो।
- **Principle (सिद्धांत):**
  - यह केस **Doctrine of Privity of Contract** का **अपवाद (exception)** है।
  - यदि कोई अनुबंध किसी तीसरे पक्ष (third party) के प्रत्यक्ष लाभ के लिए किया गया है, तो वह third party इसे enforce कर सकती है।
  - यह निर्णय **Khwaja Muhammad Khan v. Husaini Begum (1910, PC)** की लाइन में है, जहाँ beneficiary को अधिकार दिया गया था।

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4 acknowledgment and estoppel.- whether a party to a contract admit liability to ward a third party it shall be letter on estoppel from deny the third parties right to enforce the contract.

**\* Contract theory to the doctrine of privity.**

**1 Will Theory & Privity of Contract**

- **Will Theory / Intention Theory:**
  - इसे **Intention Theory** भी कहा जाता है।
  - इसका आधार है **consensus ad idem** अर्थात् *meeting of minds* (दोनों पक्षों की मर्जी/सहमति का मेल)।
  - अनुबंध तभी मान्य होगा जब पक्षकारों की **इच्छा और सहमति** मेल खाए।
- **Limitation in Privity:**

- Will Theory केवल उन्हीं व्यक्तियों को अनुबंध का **अधिकार (interest)** देती है, जिनकी सहमति/इच्छा अनुबंध में शामिल है।
- इसीलिए, **Doctrine of Privity of Contract** (कि केवल parties ही enforce कर सकती हैं) Will Theory से ही जुड़ी हुई है।
- लेकिन, Will Theory **third-party beneficiaries** को कोई अधिकार नहीं देती, क्योंकि उनकी "will/consent" अनुबंध में शामिल नहीं होती।

• **Conclusion:**

- Will Theory अनुबंध को केवल **पक्षकारों की मर्जी** तक सीमित कर देती है।
- इस कारण यह **Doctrine of Privity** को सही ठहराती है, लेकिन उन परिस्थितियों को **justify नहीं कर पाती** जहाँ अनुबंध का लाभ किसी तीसरे पक्ष (beneficiary) को दिया गया हो।
- इसलिए ही **Indian law और case laws (जैसे Khwaja Muhammad v. Husaini Begum, Draupadi v. Jaspat Rai)** ने exceptions विकसित कीं।

☞ इसको exam में ऐसे लिख सकते हैं:

**"Will Theory (or Intention Theory) is based on consensus ad idem, i.e., meeting of minds. It restricts contractual rights only to the parties who consented. Thus, it justifies privity but fails to protect third-party beneficiaries."**

- 2 promise theory – not applicable to privity of contract.
- 3 bargain theory - not applicable to privity of contract.
- 4 rational theory – base on economic relation of the parties . not applicable to privity of contract.
- 5 interest theory.- applicable on privity of contract.

Privity of contract <consideration<any other person can allow the consideration.

- A in Indian law can allow? No
- B in England law can allow? No

Consideration -\* agreement without consideration is void.

◆ **1. Ex nudo pacto non oritur actio**

☞ **Meaning:** No action arises from a naked promise

☞ हिंदी में: बिना किसी consideration (प्रतिफल) के वादे पर कोई कानूनी कार्यवाही नहीं की जा सकती।

☞ Principle: हर वादा enforceable contract नहीं है, जब तक उसके पीछे कोई consideration न हो।

◆ **2. Qui facit per alium facit per se (indirect relevance)**

☞ **Meaning:** He who acts through another does the act himself

☞ यह consideration के उस principle को support करता है कि consideration **promisee या कोई अन्य व्यक्ति** भी दे सकता है (उदाहरण: *Chinnaya v. Ramaya*)।

◆ **3. Consensus ad idem (general contract law maxim, consideration में भी लागू)**

👉 **Meaning:** *Meeting of minds*

👉 कोई भी agreement valid तब ही है जब दोनों पक्ष एक ही चीज़ के बारे में सहमत हों।

✅ **Exam में सबसे ज़्यादा बार पूछा जाने वाला maxim:**

“*Ex nudo pacto non oritur actio*” (यानी *Naked promise is not enforceable without consideration*).

#### Consideration – Maxims & Key Cases

Maxim / Principle	Meaning (Hindi)	Important Case / Example	Notes
<b>Ex nudo pacto non oritur actio</b>	बिना किसी consideration के वादे पर कोई कानूनी कार्यवाही नहीं की जा सकती	<i>Chinnaya v. Ramayya</i>	Basic principle of consideration; “naked promise” is unenforceable
<b>Qui facit per alium facit per se</b>	जो किसी के द्वारा काम करवाता है, वह स्वयं करता है	<i>Chinnaya v. Ramayya</i>	Consideration can be done by promisee or some other person
<b>Consensus ad idem</b>	पक्षों के बीच सहमति का मेल (Meeting of minds)	General principle in contract law	Ensures that parties agree on the same subject
<b>Consideration must move at the desire of the promisor</b>	Consideration वही मान्य होगा जो वादाकर्ता की इच्छा से किया गया हो	<i>Re McArdle</i>	Past consideration is not valid unless requested by promisor
<b>Consideration may be past, present, or future</b>	Consideration वर्तमान, भूत या भविष्य में हो सकती है	<i>Lampleigh v. Braithwaite</i> (Past consideration valid if at promisor’s request)	Helps to determine enforceability of promises
<b>Consideration must be real and valuable</b>	Consideration वास्तविक और कानूनी मूल्य वाली होनी चाहिए	<i>Thomas v. Thomas</i>	Moral consideration alone is not sufficient
<b>Consideration need not be adequate</b>	Consideration की मात्रा या मूल्य समान नहीं होना चाहिए, सिर्फ कानूनी मान्यता जरूरी	<i>Chinnaya v. Ramayya</i>	Courts do not judge fairness of consideration

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