Consideration (money etc.)– 20 Marks Question & Answer

Q1: Define Consideration and Explain Its Essentials under the Indian Contract Act, 1872

Answer (Exam Ready – Detailed for 20 Marks)

1. Introduction

- **Definition:**
  Consideration is the **something in return** for a promise which makes the contract enforceable.

  - Section 2(d), Indian Contract Act, 1872:

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

"जब प्रस्तावक (Promisor) की इच्छा पर, प्रस्ताव-स्वीकारक (Promisee) या कोई अन्य व्यक्ति कोई कार्य करता है या करने से विरत रहता है, या करने या न करने का वचन देता है — तो ऐसा कार्य, विरति या वचन उस वादे (Promise) के लिए प्रतिफल (Consideration) कहलाता है।"

- **Importance:**

  - Consideration is the **essence of a valid contract**.

  - Without consideration, **most contracts are unenforceable**, except certain exceptions like **natural love and affection, voluntary gift, or agency contracts**.

2. Essentials / Features of Consideration

1. **Must move at the desire of the Promisor**

   - The act or abstinence must be **done at the request of the promisor**.

   - Case: *Chinnaya v. Ramayya* इस मामले में निर्णय हुआ कि यदि वचन (promise) किसी तीसरे व्यक्ति के लाभ के लिए किया गया हो, तो भी प्रतिफल (consideration) वैध माना जाएगा।
     अर्थात्, प्रतिफल देने वाला वही व्यक्ति होना आवश्यक नहीं जो अनुबंध का पक्षकार हो।

2. **Must be Real and Valuable**

   - Consideration should have **legal value**; moral consideration alone is insufficient.

   - Case: *Thomas v. Thomas (1842)* इस मामले में निर्णय हुआ कि प्रतिफल (consideration) का मूल्य महत्वपूर्ण नहीं, बल्कि उसका वास्तविक और वैधानिक होना आवश्यक है।
     अर्थात्, यदि प्रतिफल वास्तविक है तो उसका मूल्य कितना है, यह अनुबंध की वैधता को प्रभावित नहीं करता।

3. **May move from Promisee or Any Other Person**

- o Consideration need not come only from the promisee; any third party can provide it.

- o Case: *Chinnaya v. Ramayya* इस मामले में निर्णय हुआ कि यदि वचन (promise) किसी तीसरे व्यक्ति के लाभ के लिए किया गया हो, तो भी प्रतिफल (consideration) वैध माना जाएगा।
  अर्थात्, प्रतिफल देने वाला वही व्यक्ति होना आवश्यक नहीं जो अनुबंध का पक्षकार हो।

4. **Past, Present or Future Consideration**

- o Consideration may be:

  - ▪ **Past** – Already done at promisor's request (*Lampleigh v. Braithwaite, 1615*) इस मामले में न्यायालय ने कहा कि यदि कोई कार्य अनुरोध (request) पर किया गया हो और बाद में उसके लिए प्रतिफल (consideration) का वादा किया जाए, तो वह वैध अनुबंध माना जाएगा।अर्थात्, पहले से किए गए कार्य के लिए बाद में दिया गया वादा भी मान्य हो सकता है, यदि कार्य अनुरोध पर किया गया था।

  - ▪ **Present** – At the time of promise

  - ▪ **Future** – To be done later

5. **Consideration Must be Lawful**

- o Must not be **illegal, immoral, or opposed to public policy**.

- o Section 23, Indian Contract Act

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3. Maxims Related to Consideration

1. **Ex nudo pacto non oritur actio** – *No action arises from a naked promise*

   - o Without consideration, promise is unenforceable.

2. **Qui facit per alium facit per se** – *He who acts through another, acts himself*

   - o Consideration can be provided by promisee or other person.

3. **Consensus ad idem** – *Meeting of minds*

   - o Ensures that parties understand and agree on the consideration.

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4. Types of Consideration

Type	Explanation	Example / Case
Past Consideration	Done before the promise	*Lampleigh v. Braithwaite*
Present Consideration	Done at the time of promise	Payment for goods at delivery
Future Consideration	To be done later	Promise to pay for future services
Consideration by Third Party	Done by someone other than promisee	*Chinnaya v. Ramayya*

Type	Explanation	Example / Case
Consideration for Charitable Purpose	Even without direct consideration, enforceable	*Jamna Das v. Ram Avtar* इस मामले में निर्णय हुआ कि यदि कोई व्यक्ति अनुबंध का पक्षकार नहीं है, तो वह उस अनुबंध को लागू (enforce) नहीं कर सकता।

5. Rules Regarding Consideration

1. Must move **at the desire of the promisor**.

2. Must be **real, lawful, and valuable**.

3. Can move from **promisee or any other person**.

4. Can be **past, present, or future**.

5. Must not be **illusory or vague**.

6. Illustrations / Examples

1. A promises to pay B ₹10,000 if B paints his house. ✅ Valid consideration – present consideration.

2. B had painted A's house last month. A promises ₹10,000 now. ✅ Past consideration valid – *Lampleigh v. Braithwaite*

3. A promises to give B ₹5,000 out of love. ❌ No consideration – generally unenforceable.

4. Charity subscription: X promises to donate ₹1 lakh to build a school. School builds based on promise. ✅ Enforceable – *Jamna Das v. Ram Avtar*

7. Case Laws Related to Consideration

Case	Principle
Chinnaya v. Ramayya	Consideration can move from promisee or third party
Thomas v. Thomas (1842)	Consideration must be real and valuable
Lampleigh v. Braithwaite (1615)	Past consideration valid if done at promisor's request
Jamna Das v. Ram Avtar	Charitable subscription enforceable
Ex nudo pacto non oritur actio	Naked promise without consideration is unenforceable

8. Exceptions Where Consideration is Not Required

1. **Natural Love and Affection** – e.g., gift to family members

2. **Compulsory Services** – e.g., obligations of law or statutory duties

3. **Agency Contracts** – e.g., agent acting on behalf of principal

4. **Promise to Pay Time-Barred Debt**

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9. Conclusion

- Consideration is the **heart of a valid contract**.

- Must be **lawful, valuable, and at the desire of the promisor**.

- Understanding maxims, rules, and case law ensures that a promise becomes **legally enforceable**.

- Without consideration, except in certain **recognized exceptions**, a contract is **void and unenforceable**.

✅ **Answer Writing Tips for 6 Pages / 20 Marks**

1. Write headings **bold**.

2. Include **diagrams**: e.g., Offer → Acceptance → Consideration → Contract

3. Draw **case boxes** for easy visibility.

4. Write **examples for every type of consideration**.

Include **Latin maxims** (*Ex nudo pacto non oritur actio*   Naked promise without consideration is unenforceable

for extra impression.