

Mock Test Paper - Series I: December, 2024

Date of Paper: 21st December, 2024

Time of Paper: 10.30 A.M. to 1.30 P.M.

FOUNDATION COURSE
PAPER – 2: BUSINESS LAWS

Question No. 1 is compulsory.

Answer any **four** questions from the remaining **five** questions.

Wherever necessary, suitable assumptions should be made and disclosed by way of note forming part of the answer.

(Time allowed: 3 Hours)

(100 Marks)

1. (a) Rahul owns an electronics store. Pankaj visited the store to buy a water purifier priced at ₹ 54,000/-. He specifically requested Rahul for a purifier with a copper filter. As Pankaj wanted to buy the purifier on credit, with the intention of paying in 9 equal monthly instalments, Rahul demands a guarantor for the transaction. Sooraj (a friend of Pankaj) came forward and gave the guarantee for payment of water purifier. Rahul sold Pankaj, a water purifier of a specific brand. Pankaj made payment for 4 monthly instalments and after that became insolvent. Explain with reference to the Indian Contract Act, 1872, the liability of Sooraj as a guarantor to pay the balance price of water purifier to Rahul.

What will be your answer, if Rahul sold the water purifier misrepresenting it as having a copper filter, while it actually has a normal filter? Neither Pankaj nor Sooraj was aware of this fact and upon discovering the truth, Pankaj refused to pay the price. In response to Pankaj 's refusal, Rahul filed the suit against Sooraj, the guarantor. Explain with reference to the Indian Contract Act, 1872, whether Sooraj is liable to pay the balance price of water purifier to Rahul?

(7 Marks)

- (b) A company, DEF limited as on 31.03.2024 had a paid-up capital of ₹ 1 lakh (10,000 equity shares of ₹ 10 each). In June 2024, DEF limited issued additional 10,000 equity shares of ₹ 10 each which was fully subscribed. Out of 10,000 shares, 5,000 of these shares were issued to MNO private limited company. MNO is a holding company of JKL private limited by having control over the composition of its board of directors.

Now, JKL private limited claims the status of being a subsidiary of DEF limited as being a subsidiary of its subsidiary i.e. MNO private limited. Examine the validity of the claim of JKL private limited.

State the relationship if any, between DEF limited & MNO Private Limited as per the provisions of the Companies Act, 2013.

(7 Marks)

- (c) Referring to the provisions of the Indian Partnership Act, 1932, answer the following:
- (i) "If a partner is otherwise expelled; the expulsion is null and void." Discuss. **(4 Marks)**
 - (ii) "The partner who is expelled will cease to be liable to the third party for the act of the firm done after expulsion." Analyse. **(2 Marks)**
2. (a) (i) Ashish, a trader, delivered a camera to Mohan on 'sale or return' basis. Mohan delivers the camera to Raj on the terms of 'sale for cash only or return'. Afterward, Raj delivered it to Vikas on a 'sale or return' basis without paying cash to Mohan. The camera, which was in possession of Vikas, was lost by theft though he exercised due care for its safety. Referring to the provisions of the Sale of Goods Act, 1930, analyse the situation and advise whether Mohan, Raj or Vikas are, jointly or severally, liable to pay the price of the camera to Ashish. **(4 Marks)**
- (ii) Akash of Jaipur sold 100 smart TV set @ ₹ 50,000/- per set to Barun of Delhi. He delivered the TV sets to Chirag, a transport carrier for transmission to Barun. Barun further sold these 100 TV sets to Sarthak @ ₹ 60,000/- per set. On reaching the goods at the destination, Barun demanded the delivery but Chirag, wrongfully, refused to deliver the goods to Barun. That is why; he failed to deliver TV sets to Sarthak and suffered a huge loss on account of non-delivery. Akash came to know about this. He directed Chirag to stop the delivery to Barun and re-deliver the goods to him at Jaipur.
- Answer the following questions under the provisions of the Sale of Goods Act, 1930:
- (A) Whether Akash has the right to stop the goods in transit?
 - (B) Whether Barun can claim loss suffered due to non-delivery from Akash? **(3 Marks)**
- (b) Ram wants to incorporate a company in which he will be the only member. According to provisions of the Companies Act, 2013, what type of company can be incorporated? What are the salient features of this type of company? **(7 Marks)**
- (c) Referring to the provisions of the Limited Liability Partnership Act, 2008, answer the following:
- (i) Under what circumstances a Limited Liability Partnership is compulsorily required to change its name? Also, explain the compliance requirement following the change of name and the consequences, if any, in case of default therein. **(4 Marks)**
 - (ii) What do you mean by a Small Limited Liability Partnership? **(2 Marks)**

3. (a) Referring to the provisions of the Indian Partnership Act, 1932, answer the following:

(i) Ram and Shyam are partners in a partnership firm named as RS & Co. (the firm). Gaurav, a renowned businessman, is their common friend. Ram introduced Gaurav to Sahil, a supplier to the firm, as his newly joined partner. Gaurav knowing that he is not a partner preferred to keep quiet on such an introduction. This information about Gaurav, being a partner of the firm, was shared by Sahil with another businessman Madhav. Next day, Sahil supplied the raw material on credit and Madhav lent ₹ 5 lakhs to the firm for a short period on the understanding that Gaurav is a partner of the firm. On due dates, the firm failed to discharge its liability towards both. Advise Gaurav, whether he is liable to Sahil and Madhav for the aforesaid liability of the firm. **(4 Marks)**

(ii) On admission as a new partner, Ashwin agreed to be liable for the existing debts (referred to as the old debts) of the firm by an agreement signed by all partners including Ashwin. Examine, whether Ashwin will be liable in a suit filed by the creditor against the firm and all existing partners for recovery of the old debt of the firm. **(3 Marks)**

(b) (i) MN Limited borrowed a secured loan of ₹ 5 crore from Star Bank Limited (the bank) to meet its working capital requirement. However, the borrowing powers of the company, under its Memorandum of Association, were restricted to ₹ 1 crore. The bank released the loan amount in two instalments of ₹ 1 crore and ₹ 4 crore. On the due date for repayment of the loan, the company refused to accept the liability of ₹ 5 crore on the ground that the borrowing was ultra vires the company. The company's books of accounts show that the company has utilized the loan amount of ₹ 3 crore for repayment of its lawful debts. The utilization of the remaining ₹ 2 crore cannot be traced. Referring to the doctrine of ultra-vires under the Companies Act, 2013, examine the validity of the decision of the company denying the repayment of the loan and explore the remedy, if any, available to the bank for recovery of the loan. **(4 Marks)**

(ii) After incorporation of Unique Private Limited (the company) on 15th May, 2024 the share certificates were issued to Arnav, Sohail and Suman being subscribers to the Memorandum of Association of the company without affixing the common seal thereon and under the signature of Arnav and Sohail, the directors of the company. The company has yet to appoint a company secretary. On objection raised by Suman, a director, about the validity of the share certificate signed by other two directors, Arnav and Sohail, clarified that since the company has opted not to have the common

seal for the company the share certificates (i.e. the document) signed by two directors are valid. Referring to the provisions of the Companies Act, 2013, examine the correctness of the objection raised by one of the directors and in response, the clarification offered by other directors.

Would your answer be different, if the company had a company secretary? **(3 Marks)**

- (c) Explain the term Wagering agreement in the light of the Indian Contract Act, 1872. Also, explain some transactions resembling wagering transaction but which are not void. **(6 Marks)**
4. (a) (i) Mr. R extended a loan to Mr. D with X, Y, and Z as sureties. Each surety executed a bond with varying penalty amounts, X with a penalty of ₹ 10,000, Y with ₹ 20,000 and Z with ₹ 40,000, in the event of Mr. D's failure to repay the borrowed money to Mr. R. Examine the liabilities of the sureties in accordance with the Indian Contract Act, 1872, when Mr. D defaults to the tune of ₹ 42,000. Additionally, assess the situation, if there is no contractual arrangement among the sureties. **(4 Marks)**
- (ii) X agrees to pay Y ₹ 1,00,000, if Y kills Z. To pay Y, X borrows ₹ 1,00,000 from W, who is also aware of the purpose of the loan. Y kills Z but X refuses to pay. X also to repay the loan to W. Explain the validity of the contract.
- (A) Between X and Y
- (B) Between X and W **(3 Marks)**
- (b) A promissory note, payable at a certain period after sight, must be presented to the maker thereof for payment. Under which scenarios, presentment for payment is not necessary and the instrument is dishonoured at the due date for presentment according to the provisions of the Negotiable Instrument Act, 1881? **(7 Marks)**
- (c) What do you understand by Law? Also, elaborate the procedure for making a law. **(6 Marks)**
5. (a) (i) Karan agreed to sell his laptop to Vishal for a price to be fixed by Kiran a hardware engineer. However, before the delivery of the laptop, Karan changed his mind and did not share any particulars and configuration of the laptop with Kiran, which made her unable to do the valuation. Kiran refused to do valuation.
- Vishal needed laptop for his project, so he promised Karan that, if the laptop is delivered to him, he would pay a reasonable price for it. However, Karan decided not to sell his laptop to Vishal. Now, Vishal wants to know from you, being a legal expert, whether Karan is bound by his promise as he agreed earlier to deliver his laptop

to him at a reasonable price. If he does not agree to deliver what is the other remedy available to Vishal? Advise, referring to the provisions of the Sale of Goods Act, 1930. **(3 Marks)**

- (ii) Mrs. Meenu went to the local rice and wheat wholesale shop and asked for 100 kgs of Basmati rice. The Shopkeeper quoted the price of the same as ₹ 125 per kg to which she agreed. Mrs. Meenu insisted that she would like to see the sample of what would be provided to her by the shopkeeper before she agreed upon such a purchase.

The shopkeeper showed her a bowl of rice as a sample. The sample exactly corresponded to the entire lot.

Mrs. Meenu examined the sample casually without noticing the fact that even though the sample was that of Basmati Rice, but it contained a mix of long and short grains.

The cook on opening the bags complained that the dish if prepared with the rice would not taste the same as the quality of rice was not as per the requirement of the dish.

Now Mrs. Meenu wants to file a suit for fraud against the seller alleging him of selling a mix of good and cheap quality rice. Will she be successful?

Decide the fate of the case and options open to Mrs. Meenu for grievance redressal as per the provisions of Sale of Goods Act, 1930?

What would be your answer in case Mrs. Meenu specified her exact requirement as to the length of rice? **(4 Marks)**

- (b) "Indian Partnership Act, 1932 does not make the registration of firms compulsory nor does it impose any penalty for non-registration." In light of the given statement, discuss the consequences of non-registration of the partnership firms in India? **(7 Marks)**

- (c) (i) In case of breach of contract, the court may award compensation or damages. Explain the circumstances when court may award ordinary damages, special damages and liquidated damages under the provisions of the Indian Contract Act, 1872. **(3 Marks)**

- (ii) What are the conditions need to be fulfilled to make the following agreements valid without consideration as per the provisions of the Indian Contract Act, 1872?

(A) Agreement made based on natural love and affection

(B) Promise to pay time-barred debts **(3 Marks)**

6. (a) Mr. Y issued a cheque for ₹ 10,000 to Mr. Z which was dishonoured by the Bank because Y did not have enough funds in his account and has no authority to overdraw. Examine as per the provisions of the Negotiable Instruments Act, 1881 whether-
- (i) Mr. Y is liable for dishonour of cheque, if yes, what are the consequences for such an offence?
 - (ii) What would be your answer if Y issued a cheque as a donation to Mr. Z? **(7 Marks)**
- (b) Explain the term 'Quasi Contracts' and state their characteristics. **(6 Marks)**
- (c) Distinguish between 'Sale' and 'Hire Purchase' under the Sale of Goods Act, 1930. **(7 Marks)**

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ANSWERS

1. (a) As per section 126 of the Indian Contract Act, 1872, the contract of guarantee is defined as a contract to perform the promise or discharge the liability of a third person in case of his default.

In this case, Sooraj has given a guarantee for Pankaj 's payment obligation towards Rahul. When Pankaj defaulted after making four monthly instalments and became insolvent, Sooraj 's liability as a guarantor will come into existence.

According to Section 128 of the Act, the liability of the surety is co-extensive with that of the principal debtor, unless it is otherwise provided by the contract.

Since Pankaj failed to pay the remaining instalments due to insolvency, Sooraj, as the guarantor, is liable to pay the balance price of the water purifier to Rahul. In the given situation, Sooraj will have to pay the balance amount of ₹ 30,000 to Rahul. [54,000-(4x6,000)]

In the second situation, Rahul sold the water purifier misrepresenting it as having a copper filter, while it actually has a normal filter; this changes the situation significantly.

According to Section 142 of the Act, any guarantee which has been obtained by means of misrepresentation made by the creditor, or with his knowledge and assent, concerning a material part of the transaction, is invalid. Here, guarantee is obtained by means of misrepresentation made by the creditor (Rahul), and therefore the guarantee is invalid.

Furthermore, under Section 143, any guarantee which the creditor has obtained by means of keeping silence as to material circumstances, is invalid.

Here Rahul misrepresented the filter type and both Pankaj and Sooraj were unaware of this fact. The creditor (Rahul) has obtained the guarantee by remaining silent as to material circumstances. Therefore, the guarantee obtained from Sooraj will be considered to be invalid.

Consequently, Sooraj cannot be held liable to pay the balance price of the water purifier to Rahul.

- (b) As per Section 2(46) of the Companies Act, 2013, holding company in relation to one or more other companies, means a company of which such companies are subsidiary companies.

Section 2(87) defines “subsidiary company” in relation to any other company (that is to say the holding company), means a company in which the holding company—

- (i) controls the composition of the Board of Directors; or
- (ii) exercises or controls more than one-half of the total voting power either at its own or together with one or more of its subsidiary companies.

In the instant case, as on 31.03.2024, DEF Limited had a paid-up capital of ₹ 1 lakh (10,000 equity shares of ₹ 10 each). In June 2024, DEF Limited issued an additional 10,000 equity shares, which was fully subscribed. Post-issue, the total paid-up capital of DEF Limited is ₹ 2 lakhs (20,000 equity shares of ₹10 each).

Of these, 5,000 shares were issued to MNO Private Limited. Since MNO Private Limited holds only 25% of the shares in DEF Limited, it does not have control of more than one-half of the total voting power of DEF Limited. Hence, MNO Private Limited cannot be considered as a subsidiary company of DEF Limited in terms of the second criteria stated above, that of controlling of voting power.

MNO Private Limited is the holding company of JKL Private Limited, having control over the composition of its Board of Directors. But since MNO Private Limited cannot be termed as a subsidiary company of DEF Limited, JKL Private Limited cannot claim the status of being a subsidiary of DEF Limited in terms of the first criteria, that of controlling the composition of directors.

As per section 2(6) of the Act, Associate Company in relation to another company, means a company in which that other company has a significant influence, but which is not a subsidiary company of the company having such influence and includes a joint venture company.

The expression “significant influence” means control of at least twenty per cent of total voting power, or control of or participation in business decisions under an agreement.

In terms of the above provision, the relationship between DEF Limited and MNO Private Limited can be of an Associate Company.

Since MNO Private Limited holds more than 20 percent of voting power in DEF Limited, it can be considered as an Associate Company of DEF Limited.

- (c) (i) **If a partner is otherwise expelled, the expulsion is null and void.**

According to Section 33 of the Indian Partnership Act, 1932

- (i) the power of expulsion must have existed in a contract between the partners;

- (ii) the power has been exercised by a majority of the partners; and
- (iii) it has been exercised in good faith.

If all these conditions are not present, the expulsion is not deemed to be in bona fide interest of the business of the firm.

The test of good faith as required under Section 33(1) includes three things:

- (i) The expulsion must be in the interest of the partnership.
- (ii) The partner to be expelled is served with a notice.
- (iii) He is given an opportunity of being heard.

Hence, it is correct to say that, if a partner is otherwise expelled, the expulsion is null and void.

(ii) “The partner who is expelled will cease to be liable to the third party for the act of the firm done after expulsion”

According to Section 32(3) of the Indian Partnership Act, 1932, notwithstanding the expulsion a partner from a firm, he and the partners continue to be liable as partners to third parties for any act done by any of them which would have been an act of the firm if done before the expulsion, until public notice is given of the expulsion.

However, an expelled partner is not liable to any third party who deals with the firm without knowing that he was a partner.

Hence, the statement given is partially correct.

- 2. (a) (i)** As per the provisions of section 24 of the Sale of Goods Act, 1930, when goods are delivered to the buyer on approval or “on sale or return” or other similar terms, the property therein passes to the buyer when he does something to the good which is equivalent to accepting the goods e.g. he pledges or sells the goods.

Referring to the above provisions, we can analyse the situation given in the question.

Since, Mohan, who had taken delivery of the camera on Sale or Return basis and delivers the same to Raj on sale for cash only or return, has attracted the third condition that he has done something to the good which is equivalent to accepting the goods e.g. he pledges or sells the goods. Therefore, the property therein (Camera) passes to Mohan.

Now, Raj delivered it to Vikas on a sale or return without paying cash to Mohan.

Since Raj did not pay cash and had not exercised the option to purchase, ownership of the camera did not pass to Raj. Therefore, Raj is not liable to pay the price of the camera either.

Since Vikas did not accept the goods and the camera was lost by theft (despite his due care), Vikas is not liable for the price of the camera as ownership had not passed to him.

Therefore, Mohan is solely liable to pay the price of the camera to Ashish, as he accepted the camera on a "sale or return" basis and did not return it within a reasonable time.

- (ii) According to Section 51 of the Sale of Goods Act, 1930, when the carrier wrongfully refuses to deliver the goods to buyer, the right of stoppage in transit is lost and transit comes to an end.

On the other hand, according to section 57 of the Sale of Goods Act, 1930, where buyer suffers losses due to non-delivery, he can sue seller for damages on account of non-delivery.

In the instant case, the transit came to an end when Chirag wrongfully refused to deliver the goods to Barun, and he suffered a huge loss due to non-delivery. Hence, Akash cannot exercise the right of stoppage of goods in transit as the transit has already come to an end.

Barun can claim loss suffered due to non-delivery from Akash.

- (b) Section 2(62) of the Companies Act, 2013 defines one person company (OPC) as a company which has only one person as a member.

Ram wants to incorporate a company in which he will be the only member. Hence, he can incorporate an One person Company.

According to section 3(1)(c) of the Companies Act, 2013, OPC is a private limited company with the minimum paid up share capital as may be prescribed and having one member.

OPC (One Person Company) – salient features

- ◆ Only one person as member.
- ◆ Minimum paid up capital – no limit prescribed.
- ◆ The memorandum of OPC shall indicate the name of the other person, who shall, in the event of the subscriber's death or his incapacity to contract, become the member of the company.
- ◆ The other person whose name is given in the memorandum shall give his prior written consent in prescribed form and the same shall be filed with Registrar of companies at the time of incorporation.
- ◆ Such other person may be given the right to withdraw his consent.
- ◆ The member of OPC may at any time change the name of such other person by giving notice to the company and the company shall intimate the same to the Registrar.
- ◆ Any such change in the name of the person shall not be deemed to be an alteration of the memorandum.

- ◆ Only a natural person who is an Indian citizen whether resident in India or otherwise and has stayed in India for a period of not less than 120 days during the immediately preceding financial year.
 - shall be eligible to incorporate an OPC;
 - shall be a nominee for the sole member of an OPC.
- ◆ No person shall be eligible to incorporate more than one OPC or become nominee in more than one such company.
- ◆ No minor shall become member or nominee of the OPC or can hold share with beneficial interest.
- ◆ Such Company cannot be incorporated or converted into a company under section 8 of the Act. Though it may be converted to private or public companies in certain cases.
- ◆ Such Company cannot carry out Non-Banking Financial Investment activities including investment in securities of any body-corporate.
- ◆ If One Person Company or any officer of such company contravenes the provisions, they shall be punishable with fine which may extend to ten thousand rupees and with a further fine which may extend to one thousand rupees for every day after the first during which such contravention continues.

Here the member can be the sole member-cum-director.

(c) (i) Change of name of LLP (Section 17 of Limited Liability Partnership Act, 2008):

- (1) Notwithstanding anything contained in sections 15 and 16, if through inadvertence or otherwise, a LLP, on its first registration or on its registration by a new body corporate, its registered name, is registered by a name which is identical with or too nearly resembles to —
 - (a) that of any other LLP or a company; or
 - (b) a registered trade mark of a proprietor under the Trade Marks Act, 1999, as is likely to be mistaken for it,
 then on an application of such LLP or proprietor referred to in clauses (a) and (b) respectively or a company, the Central Government may direct that such LLP to change its name or new name within a period of 3 months from the date of issue of such direction.
- (2) Where a LLP changes its name or obtains a new name under sub-section (1), it shall within a period of 15 days from the date of such change, give notice of the change to Registrar along with the order of the Central Government, who shall carry out necessary changes in the certificate of incorporation and within 30 days of such change in the certificate of

incorporation, such LLP shall change its name in the LLP agreement.

- (3) If the LLP is in default in complying with any direction given under sub-section (1), the Central Government shall allot a new name to the LLP in such manner as may be prescribed and the Registrar shall enter the new name in the register of LLP in place of the old name and issue a fresh certificate of incorporation with new name, which the LLP shall use thereafter.

Nothing contained in this sub-section shall prevent a LLP from subsequently changing its name in accordance with the provisions of section 16.

(ii) Small Limited Liability Partnership [Section 2(1)(ta) of the Limited Liability Partnership Act, 2008]: It means a limited liability partnership—

- (i) the contribution of which, does not exceed twenty-five lakh rupees or such higher amount, not exceeding five crore rupees, as may be prescribed; and
- (ii) the turnover of which, as per the Statement of Accounts and Solvency for the immediately preceding financial year, does not exceed forty lakh rupees or such higher amount, not exceeding fifty crore rupees, as may be prescribed; or
- (iii) which meets such other requirements as may be prescribed, and fulfils such terms and conditions as may be prescribed.

3. (a) (i) Partner by holding out (Section 28 of the Indian Partnership Act, 1932):

Anyone who by words spoken or written or by conduct represents himself, or knowingly permits himself to be represented, to be a partner in a firm, is liable as a partner in that firm to anyone who has on the faith of any such representation given credit to the firm, whether the person representing himself or represented to be a partner does or does not know that the representation has reached the person so giving credit.

In the instant case, since Gaurav allowed himself to be represented as a partner to the RS & Co. and third parties acted based on this belief and therefore, Gaurav is held liable to Sahil as he represented himself by his act to be a partner to the RS & Co.

However, Gaurav is not liable to Madhav for the liabilities incurred by the firm. Information of Gaurav being a partner to the firm was shared by the Sahil (Supplier to the firm) which is not falling within the ambit of doctrine of holding out.

Hence Gaurav is liable to Sahil and not to Madhav for the liability of the Firm.

- (ii) **Rights and liabilities of new partner:** The new firm, including the new partner who joins it, may agree to assume liability for the existing debts of the old firm, and creditors may agree to accept the new firm as their debtor and discharge the old partners. The creditor's consent is necessary in every case to make the transaction operative. Novation is the technical term in a contract for substituted liability, of course, not confined only to case of partnership.

But a mere agreement amongst partners cannot operate as Novation. Thus, an agreement between the partners and the incoming partner that he shall be liable for existing debts will not ipso facto give creditors of the firm any right against him.

In the instant case, Ashwin will not be liable in a suit filed by the creditor against the firm and all existing partners for recovery of the old debt of the firm.

- (b) (i) **Doctrine of ultra vires:** The meaning of the term ultra vires is simply "beyond (their) powers". It is a fundamental rule of Company Law that any act done, or a contract made by the company which travels beyond the powers not only of the directors but also of the company is wholly void and inoperative in law and is therefore not binding on the company.

The impact of the doctrine of ultra vires is that a company can neither be sued on an ultra vires transaction, nor can it sue on it. Since the memorandum is a "public document", it is open to public inspection. Therefore, when one deals with a company one is deemed to know about the powers of the company. If in spite of this you enter into a transaction which is ultra vires the company, you cannot enforce it against the company.

In the instant case, borrowing more than ₹1 crore was clearly beyond MN Limited's powers as per its MoA, making the loan transaction ultra vires to the extent of the excess amount over ₹1 crore.

Hence, the decision of the company denying the repayment of the loan being ultra virus the company shall be valid for ₹ 4 crore.

If the funds have been applied for legitimate business purposes (such as repaying lawful debts), the lender steps into the shoes of the debtor paid off and consequently he would be entitled to recover his loan to that extent from the company.

Therefore, MN Limited cannot deny repayment of ₹3 crore, as it was utilised for lawful purposes, despite the ultra vires nature of the loan.

Ultimately, the company has no remedy available to recover the balance amount of loan of ₹ 1 crore as the spending thereof is not traceable.

- (ii) The documents which need to be authenticated by a common seal will be required to be so done, only if the company opts to have a common seal.

In case a company does not have a common seal, the authorization shall be made by two directors or by a director and the Company Secretary, wherever the company has appointed a Company Secretary.

In the instant case, the objection of Suman is not valid as the share certificate was signed by two directors Arnav and Sohail as the company secretary was not appointed.

If the company had a company secretary, then the share certificate has to be signed by a director and the Company secretary.

Hence, yes, the answer will be different.

(c) **Wagering agreement (Section 30 of the Indian Contract Act, 1872):**

An agreement by way of a wager is void. It is an agreement involving payment of a sum of money upon the determination of an uncertain event. The essence of a wager is that each side should stand to win or lose, depending on the way an uncertain event takes place in reference to which the chance is taken and in the occurrence of which neither of the parties has legitimate interest.

Transactions resembling with wagering transaction but are not void

- (i) **Chit fund:** Chit fund does not come within the scope of wager (Section 30). In case of a chit fund, a certain number of persons decide to contribute a fixed sum for a specified period and at the end of a month, the amount so contributed is paid to the lucky winner of the lucky draw.
- (ii) **Commercial transactions or share market transactions:** In these transactions in which delivery of goods or shares is intended to be given or taken, do not amount to wagers.
- (iii) **Games of skill and Athletic Competition:** Crossword puzzles, picture competitions and athletic competitions where prizes are awarded on the basis of skill and intelligence are the games of skill and hence such competitions are valid.
- (iv) **A contract of insurance:** A contract of insurance is a type of contingent contract and is valid under law and these contracts are different from wagering agreements.

4. (a) (i) As per section 146 of the Indian Contract Act, 1872, when two or more persons are co-sureties for the same debt either jointly, or severally and whether under the same or different contracts and whether with or without the knowledge of each other, the co-sureties in the absence of any contract to the contrary, are liable, as between themselves, to pay each an equal share of the whole debt, or of that part of it which remains unpaid by the principal debtor.

Section 147 provides that the principle of equal contribution is, however, subject to the maximum limit fixed by a surety to his liability. Co-sureties who are bound in different sums are liable to pay equally as far as the limits of their respective obligations permit.

In the given question, Mr. D makes a default of ₹ 42,000, and X, Y and Z as sureties have executed the bond with varying penalty amounts. Hence, X is liable to pay ₹ 10,000, and Y and Z ₹ 16,000 each.

In the given case, if there is no contractual arrangement among the sureties, they would be liable for equal contribution. Hence, X, Y and Z will be liable to pay ₹ 14,000 each.

- (ii) **Illegal Agreement:** It is an agreement which the law forbids to be made. As an essential condition, lawful consideration and object is a must to make the agreement valid. (Section 10 of the Indian Contract Act, 1872). As per Section 23, an agreement is illegal and void, if the consideration and object is unlawful/contrary to law i.e. if forbidden by law. Such an agreement is void and is not enforceable by law. Even the connected agreements or collateral transactions to illegal agreements are also void.

In the present case,

- (A) X agrees to give ₹ 1,00,000 to Y if Y kills Z. Thus, the agreement between X and Y is void agreement being illegal in nature.
- (B) X borrows ₹ 1,00,000 from W and W is also aware of the purpose of the loan. Thus, the agreement between X and W is void as the connected agreements of an illegal agreements are also void.

- (b) **As per Section 76 of the Negotiable Instruments Act, 1881:** No presentment for payment is necessary, and the instrument is dishonoured at the due date for presentment, in any of the following cases:

- (A) (i) If the maker, drawee or acceptor intentionally prevents the presentment of the instrument, or
 - (ii) if the instrument being payable at his place of business, he closes such place on a business day during the usual business hours, or
 - (iii) if the instrument being payable at some other specified place, neither he nor any person authorised to pay it attends at such place during the usual business hours, or
 - (iv) if the instrument not being payable at any specified place, he cannot after due search be found;
- (B) as against any party sought to be charged therewith, if he has engaged to pay notwithstanding non-presentment;

- (C) as against any party if, after maturity, with knowledge that the instrument has not been presented—
- he makes a part payment on account of the amount due on the instrument,
 - or promises to pay the amount due thereon in whole or in part,
 - or otherwise waives his right to take advantage of any default in presentment for payment;
- (D) as against the drawer, if the drawer could not suffer damage from the want of such presentment.

(c) **Meaning of Law:** Law is a set of obligations and duties imposed by the government for securing welfare and providing justice to society. India's legal framework reflects the social, political, economic, and cultural aspects of our vast and diversified country.

The Process of Making a Law

- When a law is proposed in parliament, it is called a Bill.
- After discussion and debate, the law is passed in Lok Sabha.
- Thereafter, it has to be passed in Rajya Sabha.
- It then has to obtain the assent of the President of India.
- Finally, the law will be notified by the Government in the publication called the Official Gazette of India.
- The law will become applicable from the date mentioned in the notification as the effective date.
- Once it is notified and effective, it is called an Act of Parliament.

5. (a) (i) Section 10 of the Sale of Goods Act, 1930 provides for the determination of price by a third party.

1. Where there is an agreement to sell goods on the terms that price has to be fixed by the third party and he either does not or cannot make such valuation, the agreement will be void.
2. In case the third party is prevented by the default of either party from fixing the price, the party at fault will be liable to the damages to the other party who is not at fault.

In the instant case, as Kiran cannot do valuation of laptop due to non-sharing of particulars and configuration by Karan who was bound by his promise, the agreement will be void.

The other remedy available to Vishal is that he can claim damages from Karan as he will be liable for the damages to Vishal who is not at fault.

(ii) As per the provisions of Sub-Section (2) of Section 17 of the Sale of Goods Act, 1930, in a contract of sale by sample, there is an implied condition that:

- (a) the bulk shall correspond with the sample in quality;
- (b) the buyer shall have a reasonable opportunity of comparing the bulk with the sample.

In the instant case, in the light of the provisions of Sub-Clause (b) of Sub-Section (2) of Section 17 of the Act, Mrs. Meenu will not be successful as she casually examined the sample of rice (which exactly corresponded to the entire lot) without noticing the fact that even though the sample was that of Basmati Rice but it contained a mix of long and short grains.

- (ii) In the instant case, Mrs. Meenu does not have any option available to her for grievance redressal.
 - (iii) In case Mrs. Meenu specified her exact requirement as to length of rice, then there is an implied condition that the goods shall correspond with the description. If it is not so, the seller will be held liable.
- (b) It is true to say that the Indian Partnership Act, 1932 does not make the registration of firms compulsory nor does it impose any penalty for non-registration.

Following are consequences of Non-registration of Partnership Firms in India:

The Indian Partnership Act, 1932 does not make the registration of firms compulsory nor does it impose any penalty for non-registration. However, under Section 69, non-registration of partnership gives rise to a number of disabilities which we shall presently discuss. Although registration of firms is not compulsory, yet the consequences or disabilities of non-registration have a persuasive pressure for their registration. These disabilities are as follows:

- (i) **No suit in a civil court by firm or other co-partners against third party:** The firm or any other person on its behalf cannot bring an action against the third party for breach of contract entered into by the firm, unless the firm is registered and the persons suing are or have been shown in the register of firms as partners in the firm. In other words, a registered firm can only file a suit against a third party and the persons suing have been in the register of firms as partners in the firm.
- (ii) **No relief to partners for set-off of claim:** If an action is brought against the firm by a third party, then neither the firm nor the partner can claim any set-off, if the suit be valued for more than ₹ 100 or pursue other proceedings to enforce the rights arising from any contract.
- (iii) **Aggrieved partner cannot bring legal action against other partner or the firm:** A partner of an unregistered firm (or any other person on his behalf) is precluded from bringing legal action against the firm or any person alleged to be or to have been a partner in

the firm. But such a person may sue for dissolution of the firm or for accounts and realization of his share in the firm's property where the firm is dissolved.

(iv) **Third party can sue the firm:** In case of an unregistered firm, an action can be brought against the firm by a third party.

(c) (i) **Ordinary damages:** When a contract has been broken, the party who suffers by such breach is entitled to receive, from the party who has broken the contract, compensation for any loss or damage caused to him thereby, which naturally arose in the usual course of things from such breach, or which the parties know, when they made the contract, to be likely to result from the breach of it.

Special damages: Where a party to a contract receives a notice of special circumstances affecting the contract, he will be liable not only for damages arising naturally and directly from the breach but also for special damages.

Liquidated damage is a genuine pre-estimate of compensation of damages for certain anticipated breach of contract. This estimate is agreed to between parties to avoid at a later date detailed calculation and the necessity to convince outside parties.

(ii) (A) **Agreement made based on natural love and affection:** Conditions to be fulfilled under section 25(1) of the Indian Contract Act, 1872

(i) It must be made out of natural love and affection between the parties.

(ii) Parties must stand in near relationship to each other.

(iii) It must be in writing.

(iv) It must also be registered under the law.

A written and registered agreement based on natural love and affection between the parties standing in near relation (e.g., husband and wife) to each other is enforceable even without consideration.

(B) **Promise to pay time barred debts:** Where a promise in writing signed by the person making it or by his authorised agent, is made to pay a debt barred by limitation it is valid without consideration [Section 25(3)].

6. (a) **Dishonour of Cheque for Insufficiency, Etc., of funds in the accounts [Section 138 of the Negotiable Instruments Act, 1881]**

Where any cheque drawn by a person on an account maintained by him with a banker—

- for payment of any amount of money
- to another person from that account

- for the discharge, in whole or in part, of any debt or other liability, [A cheque given as gift or donation, or as a security or in discharge of a mere moral obligation, or for an illegal consideration, would be outside the purview of this section]
- is returned by the bank unpaid,
- either because of the—
 - o amount of money standing to the credit of that account is insufficient to honour the cheque, or
 - o that it exceeds the amount arranged to be paid from that account by an agreement made with that bank,

such person shall be deemed to have committed an offence and shall, be punished with imprisonment for a term which may extend to two years, or with fine which may extend to twice the amount of the cheque, or with both.

In the instant case,

- (i) Since Y's cheque was dishonoured by the Bank due to insufficiency of funds in his account, he shall be deemed to have committed an offence and shall, be punished with imprisonment for a term which may extend to two years, or with fine which may extend to ₹ 20,000, or with both.
- (ii) A cheque given as gift or donation, or as a security or in discharge of a mere moral obligation, or for an illegal consideration, would be outside the purview of this section. Hence, if Y issued a cheque as a donation to Mr. Z, he shall not be liable under section 138 of the Act.

(b) Quasi Contracts: Under certain special circumstances, obligations resembling those created by a contract are imposed by law although the parties have never entered into a contract. Such obligations imposed by law are referred to as 'Quasi-contracts'. Such a contract resembles a contract so far as result or effect is concerned but it has little or no affinity with a contract in respect of mode of creation. These contracts are based on the doctrine that a person shall not be allowed to enrich himself unjustly at the expense of another. The salient features of a quasi-contract are:

1. It does not arise from any agreement of the parties concerned but is imposed by law.
2. Duty and not promise is the basis of such contract.
3. The right under it is always a right to money and generally though not always to a liquidated sum of money.
4. Such a right is available against specific person(s) and not against the whole world.

5. A suit for its breach may be filed in the same way as in case of a complete contract.

(c) The main points of distinction between the 'Sale' and 'Hire-Purchase' are as follows:

Sr. No.	Basis of difference	Sale	Hire-Purchase
1	Time of passing property	Property in the goods is transferred to the buyer immediately at the time of the contract	Property in goods passes to the hirer upon payment of the last installment.
2	Position of the property	The position of the buyer is that of the owner of the goods	The position of the hirer is that of a bailee till he pays the last installment.
3	Termination of contract	The buyer cannot terminate the contract and is bound to pay the price of the goods	The hirer may, if he so likes, terminate the contract by returning the goods to its owner without any liability to pay the remaining installments.
4	Burden of Risk of Insolvency of the buyer	The seller takes the risk of any loss resulting from the insolvency of the buyer	The owner takes no such risk, for if the hirer fails to pay an installment, the owner has right to take back the goods.
5	Transfer of title	The buyer can pass a good title to a bona fide purchaser from him	The hirer cannot pass any title even to a bona fide purchaser.
6	Resale	The buyer in sale can resell the goods	The hire purchaser cannot resell unless he has paid all the installments.