

1. Explain document of title to goods.

Ans → "Document of title to goods" includes a bill of lading, dock warrant, warehouse-keeper's certificate, wharfinger certificate, railway receipt, Multimodal transport document warrant or order for the delivery of goods, and any other document used in the ordinary course of business as proof of the possession or control of goods, or authorising the possessor of the document to transfer or receive goods thereby represented.

2. Define "goods" under the Sale of goods Act.

Ans → "Goods" means every kind of movable property (other than actionable claim and money), and includes stock and shares, growing crops, and things attached to or forming part of the land which are agreed to be severed before sale or under the contract of sale.

→ It is to be noted that this Act applies only to movable property.

→ Sale of immovable property is governed by the Transfer of property Act.

3. What is meant by future goods?

Ans → "Future goods" means goods to be manufactured or produced or acquired by the seller after the making of the contract of sale.

4. Define "Insolvent" under sale of goods Act.

Ans → A person is said to be "insolvent" who has ceased to pay his debts in the ordinary course of business, or cannot pay his debts as they become due, whether he has committed an act of insolvency or not.

5. What is "an agreement to sell" under the sale of goods Act?

Ans → Property in the goods will be transferred to the buyer when -
the agreed time elapses or
the agreed conditions are fulfilled.

6. What is the difference between sale and agreement to sell?

Ans →	<u>sale</u>	<u>agreement to sell</u>
1)	A sale is an executed contract.	An agreement to sell is an executory contract.
2)	A sale effects a transfer of the general property in the goods to the buyer and it creates a jus (right) in rem.	An agreement to sell gives to either party a remedy against the person. it creates a jus (right) in personam.
3)	If the buyer commits a breach, the seller can sue for the price of the goods.	If the buyer commits a breach, the seller can sue for damages.

7. Explain hire purchase.

Ans → A hire purchase Agreement is a modern commercial transaction. In its usual form, it is a contract of bailment coupled with an option to purchase. It is thus a contract of hire, terminable at the will of the hirer. In India, it is governed by the Hire-purchase Act 1972.

8. What is meant by 'condition' and 'warranty'?

Ans → **condition** - A condition is a stipulated essential to the main purpose of the contract, the breach of which gives rise to right to treat the contract as repudiated. Thus, a condition is so essential that if it is broken, the other party to the contract can treat the contract as broken, and move for its remedy.

warranty - A warranty is a stipulation collateral to the main purpose of the contract, the breach of which gives rise to a claim for damages, but not to a right to reject the goods and treat the contract as repudiated.

9. Write a short note on: Distinction between condition and warranty.

Ans → There are three important points of Distinction between a condition and a warranty -

Condition

Warranty

1. A condition is an essential of a contract.

A warranty is a subsidiary term of contract.

2. The breach of condition gives a right to the other party to treat the contract as repudiated.

The breach of a warranty does not give the other party a right to treat the contract as repudiated. It merely gives him a right to claim damages.

10. Explain sale by description.

Ans → Where there is a contract for the sale of goods by description, there is an implied condition that the goods shall correspond with the description. In other words, if the seller has made a contract to sell peas, the buyer is not obliged to accept beans.

11. Explain the doctrine caveat emptor with exceptions if any.

Ans → The doctrine of caveat emptor is an integral part of the Sale of Goods Act. It translates to "let the buyer beware". This means it lays the responsibility of their choice on the buyer themselves. A seller makes his goods available in the open market. The buyer purchases all

his options and then accordingly makes his choice.

Exceptions to the doctrine of Caveat Emptor:-

- ① Fitness of product for the Buyers purpose.
- ② Goods purchased under Brand name
- ③ Goods sold by description.

12. Answer in 3 three or 4 four sentences, 'Sale by sample' as provided under Sale of goods Act.

Ans → A contract of sale by sample is one where there is a term in the contract, express or implied, to that effect. Thus, → if A sells goods to B on the term that "goods shall be equal in quality to the sample", the sale is by sample, and the incidents mentioned below will attach to such a sale.

13. What is meant by goods must be ascertained?

Ans → Where there is a contract for the sale of unascertained goods, no property in the goods passes to the buyer, unless and until the goods are ascertained.

→ Ex- If A agrees to sell to B 20 tons of oil of a certain description in his cistern, and he has more than 20 tons of oil of that description in his cistern, no property passes to B, until the 20 tons are separated

from the rest and they are appropriated to the contract.

14. What is meant by delivery of goods? State the various modes of delivery of goods and the rules governing them.

Ans → According to sales of goods Act Delivery means - A voluntary transfer of possession from one person to another. Thus, to effect a valid delivery, goods from one person to another must be transferred willingly and not by means of fraud, theft, force, etc.

→ Delivery of goods may be made in any of the following three ways:

1. Actual Delivery: Also known as Physical delivery, actual delivery takes place when the goods are physically handed over by the seller or his/her authorised agent to the buyer or his/her authorised agent to take possession of the goods.
2. Symbolic delivery: where the goods are bulky and heavy and it is not possible to physically hand over them to the buyer, delivery thereof may be made by indicating or giving a symbol. Here the goods itself are not delivered, but the means of obtaining possession

of goods is delivered.

3. Constructive delivery: In this case neither physical nor symbolic delivery is made. In constructive delivery the individual possessing the products recognizes that he holds the merchandise for the benefit of, and at the disposal of the purchaser. Constructive delivery is also called attornment.

15. Write a short note on: Unpaid seller's rights.

Ans → The unpaid seller of goods, who is in possession of the goods, is entitled to retain their possession until payment or tender of the price, in the following three cases:

- (i) where the goods have been sold without any stipulation as to credit;
- (ii) where the goods have been sold on credit, but the term of the credit has expired;
- (iii) where the buyer becomes insolvent.

16. Answer in two three sentences. Effect of repudiation of contract before due date.

Ans → Where either party to a contract of sale repudiates the contract before the date of delivery, the other may either treat the contract as subsisting and wait till the date of

delivery, or he may treat the contract as rescinded and sue for damages for the breach.

17. write a short note on: Auction sale.

Ans → Auction sales are a special type of sale of goods. Section 64 of the Act governs such sales.

In an auction sale, the sale is complete when the auctioneer announces it by the fall of the hammer or any other customary manner. Until that is done, a bidder can retract his offer.

A bidder is at liberty to withdraw his bid at any time before it is finally accepted by the auctioneer. The bid is merely an offer, and it becomes irrevocable only when its acceptance is announced by the auctioneer.

18. what is meant by "act of the firm"?

Ans → An "Act of the firm" - means any act or omission by all the partners, (or by any partner or agent of the firm) which gives rise to a right enforceable by or against the firm.

19. Define "partnership" under Indian Partnership Act.

Ans → Section 4 of the Partnership Act defines "partnership" as the relation between persons who have agreed to share the profits of a business carried on by all or any of them acting for all.

→ The word "Partnership" is defined as a voluntary contract between two or more competent persons, to place their money, effects, labour and skill, or some or all of them, in lawful commerce or business with the understanding that there shall be a communion of the profits thereof between them.

20. Write a short note on: Distinction between Partnership and a company.

<u>Partnership</u>	<u>Company</u>
1) A partnership is not a distinct legal person.	1) A company is a distinct legal person.
2) A partner cannot transfer his interest without the consent of other partners.	2) Shares of a public company are freely transferable.
3. Every partner is an agent of the other partner.	3) A shareholder is not the agent of other S/H.
4. A partner's liability is unlimited.	4) A shareholder's liability is limited.

Partnership

Company

- | | |
|---|---|
| 5.) Partnership, minimum members of partner is 2 and maximum 20 | 5) In public company, minimum 7 member and maximum unlimited S.H. |
| 6.) Registration is optional | 6.) Registration is compulsory. |

21. Explain the rights and duties of a partner

Ans → Rights of a partner:

- 1) Right to take part in the business (S-12(a))
- 2) Right to have access to the books (S-12(d))
- 3) Right to profits (S-13(b))
- 4) Right to interest (S-13(c & d))
- 5) Right to indemnity (S-13(e))
- 6) Majority rights (S-12(c))
- 7) No rights to remuneration (S-13(a))

→ Duties of a partner:

- 1) Duty of good faith (S-9)
- 2) Duty to render true accounts (S-9)
- 3) Duty to indemnify for fraud (S-10)
- 4) Duty to act with due diligence (S-12)
- 5) Duty to indemnify for wilful neglect (S-13)
- 6) Duty to contribute to the losses (S-13)
- 7) Duty regarding proper use of property (S-16)
- 8) Duty not to compete (S-16)
- 9) Joint and several liabilities for acts of the firm (S-25)

22. What is a partners authority in an "emergency"?

Ans → Under section-21 of the act, a partner has authority, in an emergency, to do all such acts for purpose of protecting the firm from loss, as would be done by a person of ordinary prudence in his own case, acting under similar circumstances, and such acts bind the firm. A similar authority to act in an emergency is given to an agent by s-189 of the Indian contract Act. It is submitted that even in the absence of s-21, a partner would be able to claim the protection of said s-189, in view of the fact that the act expressly declares a partner to be an agent of the firm.

23. Write a brief note on: doctrine of "holding out".

Ans → Doctrine of "holding out" basically refers to an act or omission of th act which led others to believe that the person is a partner of the company and has authority and hence in this faith they made an agreement while in actual he does not have.

24. Write any three duties of bailor.

- Ans →
- (i) Duty to disclose all faults. If bailor fails to disclose such faults then he will be responsible for the damage caused to goods or loss suffered by the bailee.
 - (ii) Duty to pay the extraordinary expenses incurred by the bailee for such bailment.
 - (iii) Duty to accept the goods after the purpose for which such goods were bailed is accomplished.

25. Three differences between contract of indemnity and guarantee.

- Ans →
- | Contract of indemnity | Contract of guarantee |
|---|--|
| ① There are two parties in a contract of indemnity, namely the indemnifier and the indemnity holder. | ① There are three parties in a contract of guarantee, namely the principal, debtor, the creditor, and the surety. |
| ② It consists of only one contract between the indemnifier and the indemnity holder. | ② It consists of three contracts, a contract between the debtor and creditor, second is with surety and creditor and third one is surety and debtor. |
| ③ Once the indemnifier indemnifies the indemnity holder, he cannot recover that amount from anybody else. | ③ After the surety has made the payment, he steps into the shoes of the creditor and can recover the paid amount from the debtor. |

26. Define "bailee", and explain his liability.

Ans In any property transaction, who delivers the property is known as bailor and who receives it is called bailee.

The duty of the bailee is to return the goods without demand on the accomplishment of the purpose or the expiration of the time period. In case of his failure to do so, he shall be liable for the loss, destruction, damages of goods even without negligence.

- Take proper care of goods
- Not to make unauthorized use
- Keep goods separate
- Return goods etc.

27. Define bailment as per ICA, 1872.

Ans → Bailment is defined in section 148 of ICA, 1872 as, "A 'bailment' is the delivery of goods by one person to another for some purpose, upon a contract that they shall, when the purpose is accomplished, be returned or otherwise disposed of according to the directions of the person delivering them."

28. Define "Principal" and Agent as per ICA 1872

Ans → Agent and principal are defined under section 182 of the ICA, 1872; An agent is a person employed to do any act for

Another or to represent another in dealings with third persons. The person for whom such act is done, or who is so represented, is called principal.

29. State any four kind of bailment.

- Ans →
1. Gratuitous Bailment
 2. Non-Gratuitous Bailment
 3. Bailment for the benefit of Bailor
 4. Bailment for the benefit of bailee.

30. Define "lien". How many types of lien are there?

Ans → A "lien" is a claim or legal right against assets that are usually used as collateral satisfy a debt. The creditor may be able to seize the asset that is the subject of the lien. According to ICA, 1872, Rights of lien are two types -

- (i) Particular lien (170 section)
- (ii) General lien (Section-171) - Bankers^{etc}

The End

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