

Consideration

What is Consideration?

Consideration refers to something of value that is exchanged between parties entering into a contract. It can be anything from a service, an abstention, or a promise to do or not do something. The Indian Contract Act in Section 2(d) defines consideration as when the promisor 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. This action or abstention must be at the desire of the promisor but not necessarily to their direct benefit.

The Legal Framework

The requirement of consideration is captured succinctly in the Indian Contract Act, which states that an agreement without consideration is void unless it falls under certain specified exceptions as outlined in the Act (like gifts made out of love and affection, compensation for past voluntary services, etc.). The Act does not necessarily demand that consideration must be adequate but insists that it must be something which the law considers as having some value.

Landmark Judgements

Currie v. Misa (1875) - A foundational case that laid down the jurisprudential basis for consideration in contract law. The court defined consideration as a benefit to the promisor or a detriment to the promisee, which is a central pillar in understanding contractual obligations.

Kedar Nath vs Gorie Mohammad (1886) - This case highlighted that an agreement is void without consideration. It established the precedent that mere promises, without any exchange, are not legally binding under the Indian Contract Act unless covered by exceptions.

Durga Prasad vs Baldeo (1880) - In this case, the court held that consideration must be real and not illusory. The case is often cited to illustrate that mere promises of a non-economic nature, which do not result in any detriment or benefit, are not enforceable.

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In everyday transactions, from buying a cup of coffee to complex corporate deals, consideration plays a crucial role.

Each party promises to give up something, whether it's money, a product, or a service. This exchange, or the promise of it, is what the law requires for a binding contract.



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Exceptions to Consideration

The Indian Contract Act, specifically in Section 25, provides exceptions to the rule of consideration. Here's a look at these exceptions:

Love and Affection: An agreement made without consideration is valid if it is expressed in writing and registered under the law for the time being in force, and is made on account of natural love and affection between parties standing in a near relation to each other.

Compensation for Past Voluntary Service: An agreement without consideration is valid if it is a promise to compensate wholly or in part a person who has already voluntarily done something for the promisor, or something which the promisor was legally compellable to do.

Promise to Pay a Time-Barred Debt: A promise to pay a debt, barred by the limitation law, is enforceable if it is made in writing and signed by the person or his authorised agent.