Subject Name: Contract Act
Topic Name: Exceptions of Consideration

Table of Content:-

Exception 1: Promise made out of natural love and affection [Section 25 (1)]..... 1
Exception 2: Promise to Compensate for Past Voluntary Services [Section 25 (2)].....2
Exception 3: Promise to Pay a Time-Barred Debt [Section 25 (3)]..... 2
Exception 4: Completed Gift [Section 25 (Explanation 1)]..... 3
Exception 5: Remission of Promise (Section 63).....4
Exception 6: Contract of Agency (Section 185)..... 4
Exception 7: Creation of Bailment.....4

The overarching principle of law, outlined in Section 25, stipulates that an agreement lacking consideration is null. This echoes Lord Loughborough's concise assertion: “A bargain without consideration is a contradiction in terms and cannot exist.” Nevertheless, Section 25 itself delineates particular exemptions to this principle. In these instances, an agreement, despite lacking consideration (termed gratuitous agreement), might still hold as valid and enforceable under the law.

Exception 1: Promise made out of natural love and affection [Section 25 (1)]

Section 25 (1) provides an exception where an agreement lacking consideration can be deemed valid. It states that such an agreement is valid if it meets the following criteria:

(a) The agreement must be expressed in writing. Verbal agreements are insufficient.

(b) Additionally, the agreement must be registered according to the prevailing laws.

(c) The agreement must arise from natural love and affection between the involved parties. It's important to note that mere closeness of a relationship doesn't necessarily imply natural love and affection.

(d) Lastly, the parties must have a close relationship, typically through blood ties or marriage. It's worth clarifying that close friendship alone doesn't meet this criterion.

In **Venkataswamy vs Rangaswamy (1903) 13 MLJ 428**, a person agreed in writing to pay the debts of his younger brother out of natural love and affection, and the agreement was duly registered. The court upheld the validity of the agreement under Section 25 (1).

In **Poonoo Bibi vs Fyaz Buksh (1874) Bom LR 57,** a Mohammedan promised through a written and registered document to pay his earnings to his wife. Despite lacking consideration, the agreement was deemed valid as it fulfilled the conditions of Section 25 (1).

However, in **Rajlakhi Debi vs Bhootnath Mukerjee ((1900) 4 Cal WN 488)**, a couple, amidst ongoing quarrels, entered into a written agreement where the husband promised to provide maintenance to the wife without consideration. Despite registration, the court denied relief to the wife as the natural love and affection had diminished, indicated by their constant disagreements. Thus, this exception didn't apply, although the wife could seek maintenance through alternative legal avenues.

Important Links for Judiciary Free Resources (Click on Each to Open Respective Pages)	
Subject Wise Mains PYQ Solution	Essay for Judiciary
Subject Wise Notes	Legal Doctrines
Landmark Judgements	GS Notes
Weekly Current Affair	Subject Wise Prelims PYQ Solution
Free Answer Writing Course	Judgement Writing
Telegram Link	Youtube Link

Exception 2: Promise to Compensate for Past Voluntary Services [Section 25 (2)]

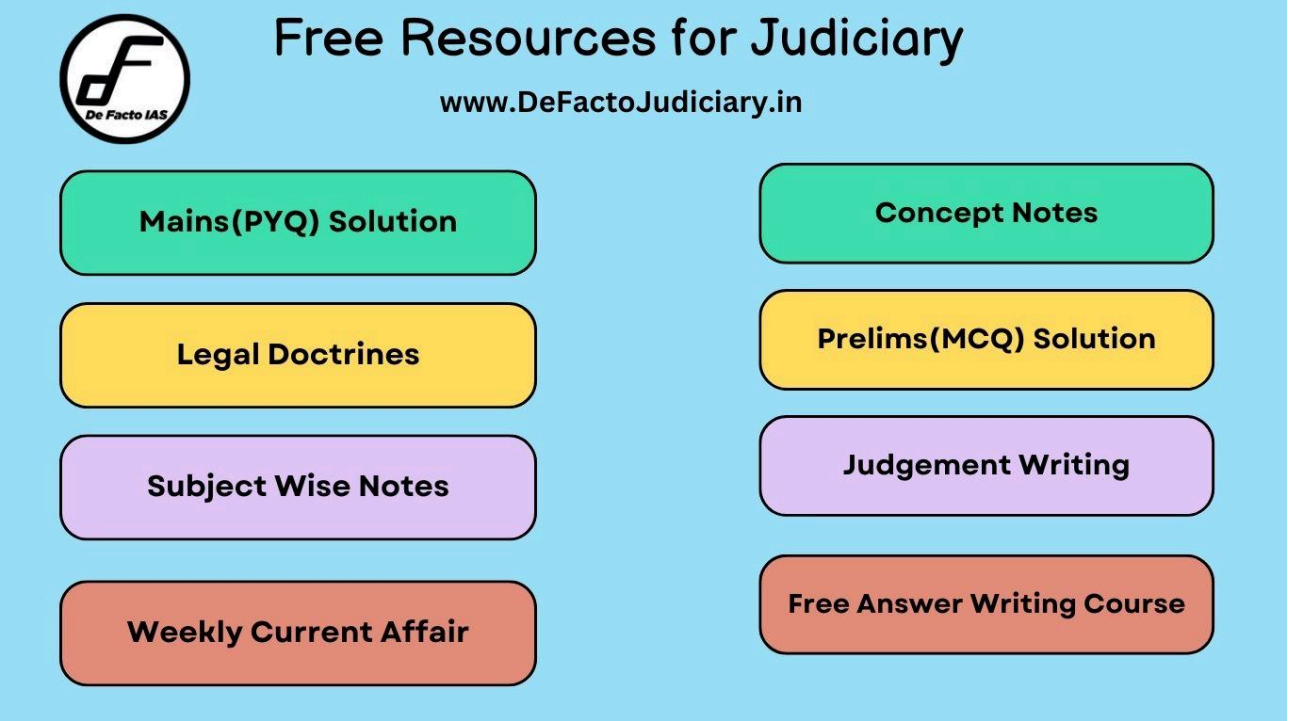
A fundamental aspect of valid consideration is that it must be provided at the promisor's behest. Thus, if one party renders a service to another party voluntarily, without the latter's explicit request, does it constitute valid consideration for any promise made in return (absent the promisor's express will at the time of the voluntary service)?

Suppose Raghunath loses a packet containing some of his share certificates while on his way to the share broker’s office. Saurabh discovers these share certificates lying on the roadside and, with sincere efforts, manages to trace Raghunath's house and return the certificates to him. In gratitude, Raghunath promises to compensate Saurabh with a certain sum of money for his voluntary service. Saurabh agrees. Now, the question arises: Is such a promise enforceable without the necessary intent of the finder, especially in the absence of consideration?

To address this legal query, we must turn to the exceptional circumstance outlined in Section 25 (2), which states:

An agreement lacking 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."

In light of this provision, the scenario depicted in the example aligns with all the criteria outlined in Section 25 (2). Consequently, the promise made by the owner of the packet to its finder would indeed be legally enforceable.



Exception 3: Promise to Pay a Time-Barred Debt [Section 25 (3)]

Sub-Section 25 (3) establishes that an agreement to pay a debt that has surpassed the statute of limitations can still be deemed valid, even in the absence of consideration, provided certain conditions are met.

According to Sub-Section 25 (3):

An agreement lacking consideration shall be valid if "it is a promise, made in writing and signed by the person to be charged therewith or by his agent generally or specially authorised in that behalf, to pay wholly or in part a debt of which the creditor might have enforced payment but for the law for the limitation of suits."

The Limitation Act of 1963 delineates the statutes regarding limitations in India. Under this Act, various time limits are established for commencing legal action against another party under different circumstances. Typically, an ordinary debt becomes time-barred after three years. Consequently, legal action must be initiated before this three-year period elapses; otherwise, the right to sue expires and becomes time-barred.

Therefore, ordinarily, a promise to pay a time-barred debt, lacking consideration, would be void. However, Sub-Section 25 (3) provides that under certain conditions, such a promise, despite the absence of consideration, would be considered valid and binding upon the promisor, thus rendering the time-barred debt payable.

The additional specified conditions are as follows:

(a) There must be an existing and definite debt that would have been enforceable in law if not for its expiration under the statute of limitations. Thus, contingent liabilities do not fall under this exception. Additionally, the debt must be a specific amount; a promise to pay an undetermined amount after reconciling accounts does not qualify **[Chowksi vs Chowksi, 8 Bom. 194].**

(b) The promise to pay must be expressly stated and not merely implied. For instance, a debtor acknowledging owing Rs 10,000 to a creditor does not constitute a promise to pay.

(c) Furthermore, the express promise must be to pay the time-barred debt, not merely acknowledge its existence. Simply stating that one owes a sum without committing to payment does not qualify. However, acknowledging a debt may extend the limitation period by three years if done before the debt becomes time-barred.

(d) The promise to pay the time-barred debt must originate from the original debtor. This provision does not apply if a third party pledges to pay the debt owed by the original debtor **[Pestonji vs Meherbai, 30, Bom. LR 1407].**

(e) The promise must be in writing and signed by the original debtor. It can be in the form of a separate document specifically drafted for this purpose or a simple letter.

Exception 4: Completed Gift [Section 25 (Explanation 1)]

A promise to give a gift is typically deemed void due to the absence of consideration. However, if the promised gift has not only been pledged but also physically transferred to the recipient, it becomes valid. Consequently, it cannot be revoked or invalidated on the grounds of lacking consideration. In such cases, the recipient rightfully becomes the owner of the gift.

This legal principle is elucidated in Section 25 (Explanation 1), which states:

“Nothing in this section shall affect the validity, as between the donor and donee, of any gift actually made.”

Exception 5: Remission of Promise (Section 63)

A promisee may hold contractual rights against another party. However, if the promisee agrees to grant a unilateral concession regarding the performance of the contract by the other party—referred to as ‘remission’ in legal terms—such remission is valid even without consideration. In essence, it is binding on the party granting the remission (Section 63).

Exception 6: Contract of Agency (Section 185)

Section 185 explicitly states that no consideration is required to establish an agency relationship. Thus, if a person agrees to act as an agent for another person, even without any form of compensation, a valid agency relationship is established without consideration.

However, if such an agreement remains merely a verbal arrangement and is not put into action (i.e., the gratuitous agent has not commenced acting as the agent), it is void due to lack of consideration. In other words, the gratuitous agent can withdraw from the agreement until they commence acting as an agent. Once the agent begins working under the agreement, it is deemed executed, allowing the agent to act on behalf of the principal and bind them.

Exception 7: Creation of Bailment

Consideration is unnecessary to establish a bailment (Section 148).

De Facto IAS