



NAROTTAM MORARJEE INSTITUTE OF SHIPPING

MUMBAI

Main + 04..... No. of Supplement = 05.....

Candidate's Roll No.

Examination :- PGDSM - FIRST YR./ FINAL YR./ ASSOCIATESHIP / FELLOWSHIP

Month March Year 20 25 **TOTAL MARKS**

Subject Commercial and shipping law

Q	1	2	3	4	5	6	7	8	9	10	11	12	Total
M	16	14	—	15	16	13							74

WRITE BELOW

Q.2 (i)

Q.2

- 1) i) An offer is also known as proposal.
 ii) A proposal means when a person signifies his willingness to another to do or abstain from doing anything with the view of obtaining the assent of another.
 iii) The person who offers is known as offeror and the person to whom the offer is made is known as offeree.
 iv) For Example, 'A' offers to 'B' to sell his ship for \$500. Here A makes offer to B.
 v) Thus, an offer can be conditional due to following reason:-

- a) The offeror can make as many condition in his offer.
 b) He is free to lay down the condition which he wants to be in a contract.
 c) But he has to make those offer to the notice of the offeree.
 e) If the offeree does not know the offeror condition he would not accept that offer.
 f) For Example:-
 'A' sells his house to 'B' for ₹5 lakhs but there is a condition that 'B' has to design

his own furniture. This is the condition implied by A. It should make known to 'B', in order to accept the offer by B

vi) An acceptance means that the offer or promise made to offeree by offeror is accepted by the offeree

vii) An Acceptance can't be conditional because,

a) An mere conversation between two parties on some topic is not an offer

b) The offeror cannot consider that the offeree has accepted the offer

c) There should be an acceptance through the side of offeree

d) For Example:-

'A' wants to sell his car to 'B' and send an email to B. He wrote in that He will sell his car to B for ₹ 5 lakhs if he does not reply in one week. He will consider that B has accepted the offer.

e) 21

Thus An offer can be conditional but acceptance can't be conditional

Q.2

2)

1) Consideration means something in return.

2) A contract becomes valid when there is a consideration.

3) For Example,

'A' sells his laptop to 'B' at ₹30,000. B accepted the offer and paid the amount. Here, A's consideration is the amount received and B's consideration is the receipt of laptop.

4) The consideration can be Past, Present and future :-

A) A consideration can be past :-

When the offer is made in order to renew the contract. Where the consideration was fulfilled in past. Or the payment of debt.

For Example :- A buys a car before 3 months and he is getting the delivery.

B) A consideration can be present :-

When the offer and consideration takes place simultaneously.

For Example :-

'A' sells his phone to 'B' for ₹10,000. B paid the amount and taken the phone.

Here, both acceptance and offer occurs at same time.

c) Consideration can be future:-

An offer made in order to fulfill in future.

The fulfillment of consideration offers in future.

For Example

A takes loans a car by ABC showroom, where the delivery will be received in after 6 months

Thus, the condition consideration will be on future

Q2 3

- i) The impossibility of performance of a contract means is also known as Doctrine of frustration.
- ii) It is a type of discharge of contract
- iii) ~~Text~~ The impossibility of performance means where the party is impossible to perform the contract due to the reason or factors where beyond the control of the parties.
- iv) The impossibility of performance becomes impossible after making the contract
- v) The contract parties have not reached their contract.
- vi) For Example:-

a) The law case of Taylor vs Caldwell.

b) Fact of the case: -

Taylor has booked the hall in order to organize the music event due to the circumstances the hall was in the hall was burnt. due to this the music concert got cancel.

The Taylor was asked for the damages, but not get as court has ordered that the is the destruction of subject matter of the contract thus leads to the Impossibility of contract

vii) The impossibility of which the impossibility of doctrine occurs are

i) Destruction of subject matter of contract.

The subject matter got destroyed as in the case of Taylor vs Caldwell

ii) Change in law or legislative policy

iii) Non-existence of event or thing

iv) Outbreak of war

v) Strikes, lockouts etc.

vi) The effect of law as follows:-

i) The parties are retained

ii) No need to pay the money

iii) Money paid in advance is returned

iv) Compensation to upto work done

Q.2. 4. i) Breach of contract means one of the party is not able to fulfil his obligation which leads to the breach of contract.

ii) Breach is can be happen: -

a) At time of making contract

b) While beginning of promise

c) or while performing of contract.

iii) The Anticipatory Breach means that: -

The breach happens before the performance of contract: -

For Example: -

A agrees to sell his car to B for ₹50000 on 1st March 2024. The delivery of the car will be on 30th of June 2024.

The 'B' has said to A that he will not buy the car on 28th April 2024.

Thus, A has following option

A can consider the breach of contract and claim for damages.

Also, A can wait until the last date of contract, and take respective action.

It depends on the parties to compensate before & after.



Q.4. a

Q.4. a)

i) The delivery of goods from one person to another for some purpose, upon the contract that they shall be returned when the purpose accomplished or otherwise disposal according to the direction of the person delivering them.

ii) The duties of Bailee are -

A Bailee is a person to whom the goods are delivered

A) The duty of reasonable care:-

The Bailee should take care the goods delivered to him with proper manner as someone has the responsibility towards to the goods. If the Bailee does not take care the proper care and damages happen he will be liable for the damages

For example:-

A car parked in parking car under the supervision of watchmen or watchkeeper. Then, the watchkeeper will be liable for the damages.

B) The duty not to make unauthorized use

The Bailee should be used the product or goods has been given he should not make any unauthorized use out of it

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For Example:-

'A' has ^{given} 10 tonnes of oil to 'B' to store in the warehouse. The B has mixed the A's oil with his own oil and sold the same. B will be liable for the damages.

C) Duty to Return the goods :-

The Bailee should return the goods to Bailor after the completion of the purpose. He should not possess the goods because if the purpose is completed and any damages occurred the Bailee will be liable for the damages.

For Example

'A' has given his car to 'B' to repair. After the repairing of car the Bailee i.e. the B should return the car because if any damages occurs to the car beyond the repair the B will be liable.

D) Duty to return the Increase :-

The Bailee must return the increased sum during the possession of contract for the fulfillment of the contract.

F) Duty to Not Mix! - Bailee should not mix his own product with Bailor's goods. As he will be liable for the damage and separation cost. For Example! - A gives his grain to grain into machine to B. B have grain the grains of A with B. B will be liable for the damages.

For Example! -

A given his cow to B to take care. it is the duty of B to take care while this period cow gave birth to calf. Then B should return the cow with a calf to A.

E) Duty to not adverse title! -

The Bailee should return the goods to the Bailor only. If a third party claiming the goods then also return to Bailor. The Bailee ^{can} not set the title.

For Example! -

A gives his cycle to B to repair. B has repair the cycle and sell the cycle to C. Here, A can sue against B.

→
The rights of Bailee! -

A) Right of compensation! -

It is the Right of the Bailee to get compensated for the expenses or damages occurs to the bailee while posing the goods of Bailor.

For Example! -

A gives his phone to repair to B. B has to buy some parts to repair the phone.

B has rights to get compensated.

B) Right to necessary remuneration

The Bailee should be remunerated if there is contract to get paid.

For Example:-

A gives B his suit to stitch. A has agreed to pay ₹700 to B. After the suit is ready the Bailee has right to get the ₹700 i.e. B

C) Right to Lien:-

The Bailee has right of lien that he can retain the possession until he gets the payment.

For Example

The A gives B his suit to stitch for ₹700. The work got done then the A asking B to give B the suit but will pay afterwards. The B has the right to retain the possession until he gets the payment.

D) Right to Indemnity:-

The Bailee has the right to be indemnified by Bailor if he suffers any damages.

For Example

A gives his car to B but the car break was not working properly due to which B got up in accident then B is a right to indemnity by A.

Q.5 The Dispute arises due to the conflict between the parties.

There are various types of Dispute Resolution which are listed below:—

A) Litigation:—

- a) The parties can file a case in the court.
- b) They ask it to give the judgement for the court.
- c) The litigation is one most preferential way of dispute resolving by the people.
- d) The litigation process requires a lot of time and a huge procedure.
- e) The judgement of the court is final but the person can challenge in supreme court.
- f) The judgement of supreme court is final.
- g) The person or the parties hire their representative lawyer to defend in the court.

B) Negotiation:—

- i) A negotiation is one of type of dispute resolve which is out of court.
- ii) This is where the parties are come and put up their points and defends.
- iii) The decision through negotiation help to understand both the parties their view of point.

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No. of Supplement :21.....

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WRITE BELOW

iv) For Example :-

A sells his electronic car to B for ₹ 11 lakhs
/

iv) For Example :-

A has his retail shop in Mumbai.
He buys the product for his shop from
wholesale company XYZ. B comes at A's shop
and buy a T.V and B promises to delivery the
T.V till 15 March 2024. The B does not get
the T.V he sued the A. do they apout for
negotiation to solve the dispute and B
comes to know the delivery was not possible
due to the wholesale company XYZ does not
supply the TV.

c) Mediation / conciliation :-

- i) ~~The Parties can go for mediator or~~
the counselor for the solving of the problems
of their conflict. The mediator is appointed
by government.
- ii) ~~The parties get the mediator to communi~~
cate and discuss the issues.
- iii) The mediator gives the solution
- iv) The decision taken by the mediator is
not binding.

v) A and B has issues of payment terms in the contract. A & B had a conflict and gone to the conflict solving through mediator. The mediator solves the issue related by changing the payment term on agreed term of A & B. Thus, his decision is not binding.

D) Arbitration: -

- 1) Arbitration is more formal way of dispute solving.
- 2) It is an out side of court of dispute solving.
- 3) Before the person hire a arbitrator to solve their issues related and pass the judgement.
- 4) The judgement of the arbitrator is has binding status.
- 5) Why arbitrator opt for an:-
 - a) There is clause in the agreement to solve the conflict through arbitrators.
 - b) The way to solve the conflict-
 - c) The person/parties can hire a sole arbitrator or hire a different arbitrators to represent them & third arbitrator to solve their problems.

The Advantages of Arbitration over litigation are:-

A) It is less cost:-

The judgement by the arbitrator is less costly than the court judgement as it requires to pay a amount for filing and hiring the lawyer etc.

B) It is less time consuming:-

The judgement in the arbitrator is less time consuming as there is no date given by the arbitrator the parties decide the time. Also have very less procedure than court.

C) It is flexible:-

The arbitration is less has flexibility than it is less complexity and simple.

D) The parties decide the time and venue:-

The parties decide the time and venue of the arbitration which is one of the major benefit by the parties.

E) Enforceability & Binding Nature:-

The Decision taken by the Arbitrator is

has legal enforceability and it enjoys binding. The Award is final. It can be challenged in court.

~~F) The Party~~

16 F) The Arbitrator is not fully from law background. He has been worked in their field so his decision will not be fully as per the law.

Q.7. 1) The Himalayan clause is an contractual purpose in order to ~~save on~~ ~~save~~

Q.6. 1) The Inland vessel Act-1917, was formed in order to govern and maintain the safety of Inland vessel.

2) The objectives of Inland vessel act are

a) To ensure the safety of Inland waters/sea.

b) Monitor that the vessel should have certificate of registry and certificate of survey

c) Monitor that the Master and crew has the certificate of compliance

d) Avoid the collision in Inland water
Authorize the rules and regulation

f) Protect the sea, and Passenger and the third party interest.

e Prevention of Pollution.

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No. of Supplement : 3

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WRITE BELOW

3) The Provision of survey are:-

- a) The state government grants the duplicate certificate of survey to the master and for owner
- b) The certificate of survey should be in duplicate and should be compulsory be on the vessel
- c) The certificate of survey is valid in the state for 1 year
- d) The certificate of survey can be endorsed and used in the other state
- e) The certificate of survey is renewed after 1 year with fresh survey.
- f) The certificate of survey where giving as any deficiencies should be closed within 14 days.

4) The Registration of Survey Certificate

- a) ~~The vessel cannot proceed without the certificate of survey.~~
- b) The state government gives report of registry and appoint a surveyor [public servant]
- c) The Registry authorities issues the certificate of Registry if they satisfy if not reason is given
- d) The Registry authority should put the Registration certificate particulars in the Book of registry.

e) The extract and true copy of certificate of registry is to be sent to State government by Registry authorities.

f) The transfer of Registration is prohibited.

g) Alteration is intended.

h) The vessel not capable are prohibited to ply.

i) The certification of Registration is welcome, cannot and deleted on the destruction of the vessel.

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Q.1.a

1) The agreement between the Jaya and her friend Maya was related to the dinner.

2) The agreement involve is not a contract as ~~a~~ contract ~~is~~ is a agreement which is enforceable by law.

3) The essential of valid contract is

Contract = Agreement + enforceable by law

Agreement = Proposal + Acceptance

Enforceable = consideration + Object + free consent by law + Agreement to be ^{not be} void + competent parties.

4) In the situation of the Jaya and Maya there is no enforceability of law and there is no legal obligation between them is created

5) Also there is no consideration involved.

6) The remedy that Jaya has against the Maya can be

a) As there is no enforceability of law in the contract so no legal compliance will occur. so Jaya can break her friendship with her.

b) The ^{Jaya} ~~Maya~~ can also communicate with the Maya when she is not available.

c) ~~the~~ Maya can take the amount of amount that she invested in preparing

clust with mutual interest

d) ~~Maya~~ Jaya can also sue against
Maya for harming her intention

e) ~~the son~~ Jaya can do the same that
Maya did.

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No. of Supplement : 4

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WRITE BELOW

Q.1.b

- 1) The Maya has breached the contract by not fulfilling her obligation.
- 2) The Jaya in the scenario becomes the unpaid seller.
- 3) The remedy that Jaya has against the Maya are -

i) Jaya can

Rights of unpaid seller:

Right against goods

Right against the Personal

<u>Lien</u>	<u>Stoppage in transit</u>	<u>Resale</u>	<u>Right to Sue for Price</u>	<u>Sue for Damages</u>	<u>Sue for Interest</u>	<u>Sue for Reparation of contract</u>
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~~1) The right to lien -~~

Jaya has right

1) Right to sue for price -

Jaya has sue Maya for Price i.e. ₹150,000 and ask her to pay

The amount that Jaya incurred loss due to not taking packing the total amount along with the delivery charges of car

2) Right to suit for Damages:-

The ^{Jaya} ~~Maya~~ can also sue the Maya for the Damages that Jaya faces.

For Expenses like the delivery cost of car along with the remaining amount i.e. ₹ 150,000 as compensation

3) Repudiation of Contract:-

The Maya can Jaya can consider that the Maya does not follow the contract and does not fulfil their obligation and consider the Contract of Breach.

The Maya Jaya can sue for the breach of contract and can take compensation

4) Suit for Interest:-

Along with the Price, Damages the ~~Jaya~~ ^{Jaya} can also sue the Maya for Interest

The interest can be the Delay of days will be calculated.

The above remedies can be available to Jaya against Maya.

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End