

1 (J) Quasi Contract

Subject : Commerce

Lesson : Quasi Contract

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1 (J) Quasi Contract

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The scope of the Unit is given below:

10.1 Definition

10.2 Types of Quasi Contract

10.3 Quantum Meruit

A contract is formed by an agreement, which is enforceable by law. However in some cases a contract is formed without any agreement. When there is no offer and acceptance and the parties have no intension to enter into a contract, yet a contract is formed, such a contract is called a Quasi Contract.



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10.1 Definition

Chapter V (section 68-72) of the Indian Contract Act deals with Quasi Contracts. Quasi Contracts arise by law. The law binds the parties in these contracts. The law imposes obligation on one party and confers a right in favor of the other. Such contracts are also called Constructive Contracts. The term 'Quasi Contract' is used because such a contract resembles a contract but is different a contract in respect of the mode of creation. The Law creates these contracts.



Figure 10.1 Quasi Contract

Table 10.1 Shows the difference between Quasi Contracts and Contracts

Basis of difference	Contract	Quasi Contract
Formation	It is formed by the parties	It is formed by law
Elements of contract	All the essential elements (according to section 10 of the Indian Contract Act) for the formation of a contract are present	The essential elements (according to section 10 of the Indian Contract Act) for formation of a contract are absent
Obligation	The obligation of the parties is imposed by law	The obligation of the parties is created by the parties themselves

However there is one similarity between a Quasi Contract and a Contract. In case of breach of quasi contract, the remedies available for the breach are the same as those available for contracts under section 73 of the Indian Contract Act¹⁸.

A quasi contract is based on the principle of 'unjust enrichment' that was given by Lord Mansfield. According to this a person shall not enrich himself / herself unjustly at the cost of another person.

The Supreme Court of India applied the principle of unjust enrichment to cases of imported raw materials secretly consumed in the manufacture of the final produce¹⁹

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Illustration

Heena with her mother went to a boutique and bought a party dress for Rs.5000. She had only Rs.2000 with her so she paid that and promised the boutique owner to pay the remaining Rs.3000 within a day. In the evening Heena's mother went to the boutique and paid Rs.3000. The next day Heena also went and gave Rs.3000 to the boutique owner. She gave the money in ignorance, as she did not know that her mother had already paid the money. In this case the boutique owner gets unjust benefit at the cost of Heena, therefore he is obliged and bound to return Heena's money.

Case law 1

Mahabir Kishore Vs. State of M.P. (1990) S.C. 313

In this case the Court held that in an action for unjust enrichment, the following essentials have to be proved

- a) The receipt of a benefit has enriched the defendant.
- b) The enrichment has been at the expense of the plaintiff
- c) The retention of the enrichment is unjust

Check your Progress

'Difference' & not 'Different'

Contract	Quasi Contract
<ul style="list-style-type: none">● It is formed by the parties.● All the essential elements (according to section 10 of the Indian Contract Act) for the formation of a contract are present.● The obligation of the parties is imposed by law.	<ul style="list-style-type: none">● It is formed by law.● The essential elements (according to section 10 of the Indian Contract Act) for formation of a contract are absent.● The obligation of the parties is created by the parties themselves.

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10.2 Types of Quasi Contracts

The various types of Quasi-Contracts are as follows:

1 Supply of Necessaries:

According to section 68 of the Indian Contract Act, "if a person has supplied necessary goods and services to an incompetent person²⁰ or to any one whom the incompetent person is legally bound to support, then the person is entitled to be reimbursed from the property of the incompetent person".



Figure 10.2 Types of Contracts

Illustration

Raunak Ali was a lunatic and his children were studying in school and their tuition fee had not been paid for the last three months. In this case Raunak Ali is liable for the payment of his children's school fee and the fee will be paid from his property. He cannot be made personally liable for the school fee.

2 Payment by an Interested Person:

According to section 69 "a person who is interested in the payment of money which another is bound by law to pay, and who therefore pays it, is entitled to be reimbursed by the other".

The person who makes the payment and later claims reimbursement is the plaintiff who has an interest in making the payment. He /she makes the payment to protect his/her interest. The person who is bound by law to pay is the defendant. After the plaintiff has discharged the defendant's debt, he/she is entitled to be reimbursed by the defendant. However if the plaintiff is bound to pay and also makes the payment, then he/she cannot have an action against the defendant.

Illustration

Jhumpa had kept her car in Shambhu's garage as there was renovation going on in her house. Shambhu took Jhumpa's car without her consent and hit the car against a tree. He left the car at the nearest motor station for repair and informed Jhumpa about it. Jhumpa went to the motor station and paid the bill for repair amounting to Rs.5000. In this case Jhumpa is entitled to be reimbursed by Shambhu.

Illustration

Jhumpa had kept her car in Shambhu's garage as there was renovation going on in her house. Jhumpa took the car from Shambhu's garage without telling him and hit the car against a tree. She took the car to the nearest motor station for repair and informed

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Shambhu about it. She paid the bill for repair amounting Rs.5000. In this case Jhumpa is bound to pay the bill therefore she cannot ask Shambhu to reimburse the money.

Case law 2

Abid Hussain Vs. Ganga Sahai (1928) 26 All. L.J. 435

In this case the goods belonging to Abid were wrongfully attached in order to realize arrears of government revenue due from Ganga. Abid paid the amount to save the goods from sale. Hence, he was entitled to recover the amount from Ganga.

3 Obligation to Pay for Non-gratuitous Acts:

According to section 70 "when a person lawfully does anything for another person or delivers anything to him, not intending to do it gratuitously, and such other person enjoys the benefit thereof, the latter is bound to make compensation to the former in respect of, or to restore, the thing so done or delivered. If the person does something for the other gratuitously, then the latter is not bound to compensate".

Illustration

Runjhun bought vegetables and then went to see her friend Munmun at her house. While leaving Munmun's house she forgot to take the vegetables. Munmun instead of returning the vegetables to Runjhun cooked them and ate them. She is liable to compensate Runjhun for the vegetables.

Illustration

Runjhun bought vegetables and then went to see her friend Munmun at her house. While leaving Munmun's house she forgot to take the vegetables. Munmun called up Runjhun and told her about the vegetables. Runjhun asked her to eat them. Hence Munmun is not liable to compensate Runjhun for the vegetables.

Case Law 3

Damodar Mudaliar Vs. Secretary of State for India (1894) 18 Mad. 88

In this case a tank irrigated a village of the Zamindars. The government conducted repair work for the preservation of the tank non-gratuitously. The Zamindars enjoyed the benefit from the repairs. The court held that the Zamindars were liable to pay.

4 Responsibility of the Finder of Goods

According to section 71 of the Indian Contract Act "a person who finds goods belonging to another and takes them into his custody, is subject to the same responsibility as a bailee²¹. He is bound to take as much care of the goods as a man of ordinary prudence would, under similar circumstances, take of his own goods of the same bulk, quality and value. He must also take all necessary measures to trace its owner". In case the finder of goods does not try to trace the owner then he/she will be guilty of wrongful possession of goods. Till the owner is found the finder of goods can retain the goods as his own property.

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Illustration

Liliput was walking on the road and found a purse on the pavement. He picked it and found two thousand rupees, a driving license and two credit cards in the purse. It was Liliput's responsibility and therefore obligation to find the owner of the purse and return the purse to him or else he could deposit the purse at the nearest police station but he was at no point in time entitled to retain the purse and its ingredients as his own.

However in some cases the finder can retain the goods and use them for his/her own purpose or even sell them if he/she wishes to. The cases where the finder has the right to sell the goods are discussed below:

A. When the good found is in a perishable condition:

Many times the good, which a person finds, is of a perishable nature. If it is not used or consumed within a definite period of time, the good might become stale or get destroyed. In such cases the finder has a right to sell the good before it perishes.

Illustration

On Monday morning a lady went to Sonpari, a flower vendor, and purchased flowers from her. She was carrying a bag full of vegetables and by mistake left it at Sonpari's place. Sonpari on finding the bag tried to trace the lady but couldn't find her. By evening the vegetables were getting dry. Sonpari did not have a refrigerator and if the vegetables were kept like this they would become stale by next morning so she decided to sell the vegetables

B. When the owner could not be found with reasonable diligence:

It is the responsibility of the finder of the good to find the owner of the good or at least take all the appropriate measures to trace the real owner of the good. If the finder cannot trace the owner himself / herself then he /she should definitely inform the police about it. If after taking all these measures the owner is not found, then the finder has a right to sell the good.

Illustration

On Monday morning a lady went to Sonpari, a flower vendor, and purchased flowers from her. She was carrying a bag full of vegetables and by mistake left it at Sonpari's place. Sonpari on finding the bag tried to trace the lady but couldn't find her. By evening the vegetables were getting dry. Sonpari did not have a refrigerator and if the vegetables were kept like this they would become stale by next morning so she decided to sell the vegetables

C. When the owner is found but he/she refuses to pay the lawful charges of the finder.

When the finder of good spends money on its possession or for its safe custody and the owner refuses to reimburse the money spent on the good by the finder of the good, then the finder has a right to sell the good.

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Illustration

On Monday morning a lady went to Sonpari, a flower vendor, and purchased flowers from her. She was carrying a bag full of vegetables and by mistake left it at Sonpari's place. Sonpari on finding the bag tried to trace the lady but couldn't find her. Sonpari did not have a refrigerator, so she bought ice from the market and kept the vegetables in it to protect them from drying. The next morning the lady came to collect her vegetables. Sonpari asked her to reimburse the money she had spent on ice. The lady refused to pay. Hence Sonpari had the right to sell the vegetables.

D. Lastly when the lawful charges of the finder, in respect of the thing found, amounts to two-thirds of the value of the thing found.

When the finder of the good spends money for its safe custody and the money spent exceeds two-thirds of the value of the thing found, then the finder has a right to sell the good.

Illustration

On Monday morning a lady went to Sonpari a flower vendor, and purchased flowers from her. She was carrying a bag full of vegetables and by mistake left it at Sonpari's place. Sonpari on finding the bag tried to trace the lady but couldn't find her. The bag contained about one kilogram of tomatoes and some green chillies and lemons. The cost of the vegetables was around rupees thirty. Sonpari did not have a refrigerator so she bought ice worth rupees eleven from the market and kept the vegetables in it to protect them from drying. The next day again she bought ice for rupees eleven and kept the vegetables in it. As Sonpari had spent rupees twenty-two, which was more than two-third of the cost of the vegetable, she had the right to sell the vegetables.

5 Mistake or coercion

According to section 72 "a person to whom money has been paid, or anything delivered, by mistake²² or coercion²³, must repay or return it to the person who paid it by mistake or coercion".

Illustration

Rajbir went for shopping and bought a shirt worth rupees three hundred. He gave cash to the salesman. He gave 2 hundred rupee notes and 1 five hundred rupee notes thinking that it was a one hundred rupee note. It was a mistake, therefore the salesman is liable to return the extra money he got to Rajbir.

Case law 4

Norwich etc., Society Ltd. vs. Price (W.H.) Ltd. (1934) A.C. 455.

An insurance company by mistake paid the insurance amount on a policy for destruction of goods under the assumption that the goods were destroyed by a peril insured against. But in reality the goods had been sold. The Court held that the insurance company could recover the money.

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Check your Progress

Types of Quasi Contract

The diagram is set against a parchment-like background with faint tree silhouettes. It features five blue, rounded rectangular buttons arranged around a central button. The central button is labeled 'Payment by an Interested Person'. To its left are two buttons: 'Supply of Necessaries' (top) and 'Mistake or coercion' (bottom). To its right are two buttons: 'Obligation to Pay for Non-gratuitous Acts' (top) and 'Responsibility of the Finder of Goods' (bottom).

Click the flash cards to know more on the Types of Quasi Contract .



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10.3 Quantum Meruit

Quantum Meruit means "as much as earned" or as much as merited. According to the Indian Contract Act "When a person has done some work under a contract, and the other party repudiates the contract, or some event happens which makes the further performance of the contract impossible, then the party who has performed the work can claim remuneration for the work he/she has already done. Similarly if a person expressly or impliedly requested another person to render him/her service without specifying any remuneration, but the circumstances of the request imply that the service is to be paid for, there is implied a promise to pay quantum meruit, i.e., so much as the party rendering the service deserves. The right to claim quantum meruit does not arise out of a contract as the right to damages does; it is a claim on quasi-contractual obligation, which according to the law is implied in the circumstances".

The claim for quantum meruit arises only when the contract is discharged and only the party that is not in default can bring it. In the following cases, claim for quantum meruit can arise:

- 1. When an agreement or contract is void:** When either an agreement or a contract becomes void the person who receives advantage under this agreement or contract is supposed to make compensation for it or restore it to the person from whom he/she received the benefit.

Illustration

Salim was a horse trader from Saudi Arabia who had come to visit his friend Raju in India. Raju wanted to buy a horse named Abdula and gave Salim an advance of rupees twenty thousand for it. After Salim went back to Saudi Arabia, he found that the horse had died. Hence the contract became void and so Salim was liable to return twenty thousand rupees to Raju.

Case Law 5

Craven–Ellis vs. Cannon Ltd (1936) 2 K.B. 403

Craven–Ellis was employed as a managing director in a company. After he rendered service for three months, it was found that the directors were not qualified to appoint him. It was held that Craven could recover remuneration for the services rendered by him on Quantum Meruit.

- 2. When something is done without any intention to do so gratuitously:** When a person without any intention to do so gratuitously to another person does a thing and that person enjoys the benefit from it, then he or she is supposed to make compensation to the former.

Illustration

Anita went to visit her friend Ekta and by mistake left her newly bought jacket at Ekta's place. The next day Ekta went to Shimla for a ten day vacation and took the jacket with her. As the jacket was not a gift from Anita to Ekta therefore Ekta, therefore Ekta was bound to either return the jacket or pay the price for the jacket to Anita.

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3. When there is an express or implied contract to render services but there is no agreement as to remuneration: If the parties to a contract agree upon something which is to be done but do not decide about the payment or remuneration for that work then in such cases a reasonable remuneration is quantum meruit, which is determined by the Court.

Illustration

Ghanshyam a painter promised to paint Shyam's house but nothing about the remuneration was decided. As per the agreement Ghanshyam painted the house and so was entitled for a reasonable remuneration to be paid by Shyam.

Case law 6

District Council vs. Powell
(1942) 1 All E.R. 220

There was an implied agreement between Powell and a fire brigade for the services of the brigade. It was held that reasonable remuneration was payable by Powell for the services received .

Check your Progress

Welcome to Escape the Hangman. You will be given a question on-screen along with all the character spaces the answer will take. A panel at the bottom provides you with the letters of the English alphabet and numerals zero to nine. To fill in your answer, click all the alphabets or numerals in the answer, or alternatively type in the answer and click the Guess the Answer button. After your sixth incorrect entry, the hangman fills in the answer

FRANCE

Start

4. When the completion of the contract has been prevented by the act of the other party to the contract. When two parties enter into a contract and one of them later prevents the other from executing the contract, then in that case the party that has been prevented is to be compensated for the quantum of work done by him/her.

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Illustration

Ghanshyam a painter promised to paint Shyam's entire house for rupees thirty thousand. Ghanshyam painted one room and a kitchen and was asked by Ghanshyam to quit. Ghanshyam was entitled to be paid the remuneration for painting one room and a kitchen.

Case Law 7

De Bernady vs. Harding (1853) 8 Ex. 22.

In this case the principal wrongfully revoked his agent's authority before the agent could complete his duties. It was held by the Court that the agent could recover quantum meruit for the work he had done and the expenses he had incurred in the course of his duties.

5. When a contract is divisible: If the contract is not divisible which means that the contract requires complete performance as a condition of payment, the party in default cannot claim remuneration on the ground of quantum meruit.

Illustration

Ghanshyam a painter promised to paint Shyam's car for rupees five thousand. Ghanshyam painted just half the car and left the work unfinished. Hence he was not entitled for the remuneration because the work was not divisible and the contract required complete performance

Case law 8

Cutter vs. Powell (1795) 6 T.L.R. 320

Powell agreed to pay Cutter, 30 guineas on the completion of a voyage from Jamaica to Liverpool. Cutter died before the completion of the voyage. Held, C's widow was not entitled to claim proportionate payment for the part of the voyage completed as the contract imposed one indivisible obligation, which had not been performed.

6. When a contract is completely performed but badly: In such a contract the person who performed the contract can claim the lump sum but the other party can make deductions for bad work.

Illustration

Ramu a cook promised to make food for 20 guests at a party, which was to be held at Mr Nair's house for rupees ten thousand. As per the agreement Ramu cooked food but the food was very bad to taste. There was too much of salt and pepper in the food as a result the guests left the party without eating much. Mr. Nair had a right to deduct an amount from the remuneration promised to Ramu on account of bad cooking.

Case Law 9

Dakin (H) & Co. Ltd. vs. Lee (1916) 1 K.B. 566

A agreed to repair B's house for 265 pounds payable on completion in accordance with specifications. A did the repairs but these were defective. Held A was entitled to recover 265 pounds less a reduction in respect of the defective work.

Check Your Progress

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Match the following

1. Match the pairs by clicking on an item in the left column and then clicking on an item in the right column.

Match the following

Contract

Quasi Contract

Supply of necessities

Payment by an interested perso

Finder of goods

Incompetent person

Not bound by law to pay

Bailee

Formed by law

Offer and Acceptance

Attempt the questions and scroll down to click the Submit button for results.

Practical Problem

Sweetie went to her college and found a pair of sunglasses lying on a chair in an empty class-room. She started wearing them. After a week Sita approached her and claimed that the

Is Sweetie liable to return them to Sita?

Yes

No

Read the question carefully, then answer the questions by clicking the appropriate option.

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Practical Problem

Riki was attending her Physics lecture and after the lecture she found a lunch box on the her adjacent table. She called out to find if someone had left it by mistake. When no one came to

Is Riki liable to compensate for the lunch she ate to Puja?

Yes

No

Read the question carefully, then answer the questions by clicking the appropriate option.

Practical Problem

Tracy found a puppy at her door step. She enquired in the neighbourhood if the puppy belonged to anyone. No one came to claim it. Tracy kept the puppy with her and one day when the puppy

Could Tracy claim compensation from the owner for the medical treatment?

Yes

No

Read the question carefully, then answer the questions by clicking the appropriate option.

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Practical Problem

Mr Srivastava went to buy a shirt for himself. By mistake the shirt he bought was replaced by another shirt which seemed more expensive than the one he had purchased.

Is he liable to return the shirt to the shop?

Yes

No

Read the question carefully, then answer the questions by clicking the appropriate option.

Practical Problem

Rustam took an advance payment from Jugnu for the delivery of a pizza and a burger. On the way the delivery boy met with an accident and the pizza and burger fell on the road.

Is Rustam liable to return the advance payment to Jugnu?

Yes

No

Read the question carefully, then answer the questions by clicking the appropriate option.

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Summary

Discharge of Contract by Performance

- Actual Performance
- Attempted Performance

Discharge of Contract by Mutual Agreement or Consent

- Novation
- Alteration
- Rescission
- Remission
- Waiver

Discharge of Contract by Lapse of Time

- A contract is to be performed within a reasonable period and if it is not performed within that period, then the contract comes to an end due to lapse of time.

Discharge of Contract by Operation of Law

- Death
- Insolvency
- Merger
- Unauthorized Material Alteration

Discharge of Contract by Impossibility of Performance

- Initial Impossibility
- Subsequent Impossibility



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Glossary

Glossary

 Search For
A B C D E F G H I J K L M N O P Q R S T U V W X Y Z
Cartel
Chargeable Event
Co-efficient
Credit Reference Agency
Demography
Deposit Administration
Director
Disbursement
Earnings Cap

A group of individuals or businesses which try to profit from a trading situation by fixing prices and/or regulating/restricting the supply of a product.

Click each term to know its definition.

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