B. Com. Semester-II
Business Law
(Code : 52411201)

M.M. : 100

Note : Answer may be written either in English or in Hindi;
but the same medium should be used throughout the paper.

टिप्पणी : इस प्रश्न पत्र का उत्तर अंग्रेजी या हिन्दी किसी एक भाषा
में दीजिए; लेकिन सभी उत्तरों का माध्यम एक ही होना चाहिए।

Attempt any two questions in all.
All questions carry equal marks.
Use of simple calculator is allowed.

(Write your Name and Roll No. on each page of your answer sheet.)

Note : *The maximum marks printed on the question paper are applicable for the students. These marks will, however be scaled down proportionately in respect of the students of regular colleges, at the time of posting of awards for compilation of result.*

Q.1   (a) An agreement without consideration is void. Comment.

     (b) Distinguish between (i) Void and voidable contract

                         (ii) Void agreement and Illegal agreement

     (c) "Agreement in restrain of trade are void" Critically examine the statement.

     (d) A minor fraudently represented to a moneylender that he was of full age and obtained a loan of Rs.10,000. Has the moneylender any right of action against the minor. Explain.

प्र.1   (क) विचार के बिना एक समझौता शून्य है। टिप्पणी।

     (ख) अंतर करना (i) शून्य और शून्य अनुबंध

                       (ii) शून्य समझौता और अवैध समझौता

     (ग) "व्यापार पर लगाम लगाने में समझौता शून्य है" बयान की गंभीरता से जाँच करें।

     (घ) एक नाबालिग धोखे से एक साहूकार को दर्शाता है कि वह पूर्ण आयु का था और उसने ऋण प्राप्त किया, साहूकार का नाबालिग के खिलाफ कार्रवाई का कोई अधिकार नहीं, बताएं।

Q.2   (a) Differentiate between contract of indemnity and contract of guarantee.

     (b) Define Bailment and also duties of Bailor.

     (c) Explain the various implied conditions in a contract of Sale.

     (d) Explain the rights of unpaid seller against goods.

प्र.2 (क) क्षतिपूर्ति के अनुबंध और गारंटी के अनुबंध के बीच अंतर।

(ख) जमानत को भी परिभाषित करें और बेलीर के कर्तव्यों को भी।

(ग) बिक्री के अनुबंध में विभिन्न निहित शर्तों को समझाइए।

(घ) वस्तुओं के खिलाफ अवैतनिक विक्रेता के अधिकारों की व्याख्या करें।

Q.3 (a) "Doctrine of Caveat Emptor does not apply in all contracts of Sale of Goods "Explain the doctrine and give the situations where this Doctrine is not applicable.

(b) Explain the procedure and effects of conversion of a partnership into LLP as per LLP Act, 2008.

(c) "A partner shall never be liable to an unlimited extent for the debts of the LLP." Critically examine the statement.

(d) "The court can wind up an LLP on just and equitable grounds.' Comment

प्र.3 (क) "कैविट एम्प्टर के सिद्धांत, बिक्री के सामान के सभी अनुबंधों में लागू नहीं होते हैं" सिद्धांत बताएं और उन स्थितियों को दे जहां यह सिद्धांत लागू नहीं है।

(ख) एलएलपी अधिनियम, 2008 के अनुसार एलएलपी में भागीदारी के रूपांतरण की प्रक्रिया और प्रभाव की व्याख्या करें।

(ग) "एलएलपी के ऋणों के लिए एक साथी असीमित सीमा तक उत्तरदायी नहीं होगा।" कथन की जांच करें

(घ) "न्यायालय न्यायसंगत और न्यायसंगत आधार पर LLP को समाप्त कर सकता है।" टिप्पणी

Q.4 (a) What is E-Governance? How does IT act, 2000 facilitate e-governance?

(b) What is meant by Digital Signature? State the procedure of creation and verification

(c) Define : (i) Hash function   (ii) Computer network and computer virus.

(d) What are the duties of a Subscriber under IT Act?

प्र.4 (क) ई-गवर्नेंस क्या है? आईटी अधिनियम, 2000 ई-गवर्नेंस की सुविधा कैसे देता है?

(ख) डिजिटल हस्ताक्षर से क्या अभिप्राय है? निर्माण और सत्यापन की प्रक्रिया बताएं।

(ग) परिभाषित करें : (i) हैश फंक्शन (ii) कंप्यूटर नेटवर्क और कंप्यूटर वायरस।

(घ) आईटी अधिनियम के तहत एक सब्सक्राइबर के कर्तव्य क्या हैं?

Contract of Indemnity	Contract of Guarantee
• It refers to a contract by which one party promises to Save the other from loss caused by conduct of the promisor or another person.	• It refers to a contract to perform the promise or discharge the liability of a third person in case of his default.
An contract of indemnity, the liability of the promisor is primary.	An contract of guarantee, the primary liability is of principal debtor and the liability of surety is secondary.
Contact b/w the indemnifier and the indemnity holder is express and Specific.	Contract b/w Surety and principal debtor is implied and b/w creditor and principal debtor is express.
In contract of indemnity there are two parties indemnifier and the indemnity holder.	In contract of guarantee there are three parties i.e. creditor, the principal debtor and surety.

• Contract b/w the indemnifier and the indemnity holder is express and specific.	• Contract b/w surety and principal debtor is implied and b/w creditor and principal debtor is express.
• In contract of indemnity there are two parties indemnifier and the indemnity holder.	• In contract of guarantee there are three parties i.e. creditor, the principal debtor and Surety.
• In contract of indemnity there is only one agreement i.e. the agreement b/w indemnifier and indemnity holder.	• In contract of guarantee there are three agreements i.e. agreement b/w the creditor and principal debtor, the creditor and surety and surety principal and principal debtor.
• Contract of indemnity protects the promise from loss.	• Contract of guarantee is for the surety of the creditor.

Q.2 (a) Q.2 (a) Differentiate between contract of indemnity and contract of guarantee.

b) Define Bailment and also duties of Bailor.

(c) Explain the various implied conditions in a contract of Sale.

(d) Explain the rights of unpaid seller against goods.

B.

Bailment is a legal relationship in common law, where the owner transfers physical possession of personal property ("chattel") for a time, but retains ownership. The owner giving up custody is the "bailor" and person who takes is "bailee".[

Duties of a bailor are as follows:

1. It is the duty of a bailor 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.

2. Also, the bailor is under the duty to pay the extraordinary expenses incurred by the bailee for such bailment.

3. It is the duty of the bailor to accept the goods after the purpose for which such goods were bailed is accomplished.

4. It is the duty of the bailor to indemnify the bailee for the cost incurred due to the defective title of goods bailed to the bailee.

Solved Example on Duties of Bailee and Bailor

Explain Bailee's, Particular Lien?

Ans. As per section 170 of the Indian Contract Act, 1872, the bailee has a lien on the goods that he receives under the contract of bailment. When the bailor bails the goods to the bailee for a particular purpose and the bailee expands skill and labour on these goods, he has a right to retain the goods until the bailor pays him his charges in respect

of skill and labour. However, the right of lien arises only when the bailee uses skill and labour on the goods to confer an additional value on the goods.

For example, X gives a piece of cloth to Y for stitching a shirt. Y promises to deliver the shirt in a week's time. After a week Y has the shirt ready. But, he has a right to retain it until X pays him his charges.

Section 171 states the provisions for a general lien. It is a right to detain any property belonging to another person which is in the possession of the person exercising the lien in respect of any payment lawfully due to him.

C.

Implied conditions are dealt with in Sections 14 to 17 of the Sale of Goods Act, 1930. Unless otherwise agreed, the law incorporates into a contract of a sale of goods the following implied conditions:

Condition As To Title

In every contract of sale, the first implied condition on the part of the seller is that:

i.   in case of a sale, he has a right to sell the goods,

ii.   and in the case of an agreement to sell, he will have the right to sell the goods at the time when the property is to pass. Buyer is entitled to reject the goods and to recover the price if the title turns out to be defective. [Section 14(a)].

Let us try to understand this with the help of an example. Let us say that person A bought a tractor from another person B. The person B had no title to the tractor. Person A then goes on to use the tractor for three months. Three months later, the legal owner of the tractor spots it and demands it back from A. In this, the law holds that A is bound within the law to hand over the tractor to the real owner of the tractor. A has the right to sue B, for the recovery of the purchase price.

Condition As To Description

If there is a contract of sale of goods by description, a default implied condition is that these goods must correspond with this description. The buyer is not bound to accept and pay for the goods which are not in accordance with the description of goods. [Section (15)]

Let us consider an example. Suppose a ship was contracted to be sold as "copper-fastened vessel" but actually it was only partly copper-fastened. This means that the goods did not correspond to the description and hence they can be returned or if the buyer took the goods, he could claim damages for breach.

Sale By Sample

In a contract of sale by sample, there is an implied condition that:

iii. the bulk shall correspond with the sample in the quality;

iv. the buyer shall have or shall be given a reasonable opportunity/chance of comparing the bulk with the sample, and

v. the goods shall be free from any defect that may render them unmerchantable, which would not be apparent on a reasonable examination of the sample. [Section (17)]

For example, a company sells certain belts made up of a special material by sample for the Indian Army. The belts are found to be made up of plastic of cheaper quality, not discoverable by ordinary inspection. In this case, the buyer is entitled to the refund of the price plus damages.

Sale By Sample As Well As By Description

Where the goods are sold by a sample as well as by description the implied condition is that the bulk of the goods supplied must correspond both with the sample and the description. In case the goods correspond with the sample but do not tally with the description or vice versa, the buyer can repudiate the contract. [Section 15]

For example, A agrees to sell a certain oil described as refined rapeseed oil to B, warranted only equal to sample. The goods that A tenders are found to be equal to the sample but containing a mixture of hemp oil. In such a case B can reject the goods.

Condition As To Quality Or Fitness

Generally, there is no implied condition as to the quality or fitness of the goods that are sold for a particular purpose. However, the condition as to the reasonable fitness of goods for a particular purpose may be implied on the part of the seller for which the buyer wants them. Following are the conditions to be satisfied:

5. If the buyer had made known to the seller the purpose of his purchase

6. and the buyer relied on the seller's skill and judgment, and

7. seller's business to supply goods of that description. [Section 16]

For example, A purchases a hot water bottle from a chemist. The bottle burst and injured A's wife. A breach of condition as to the fitness was thus committed. Hence A is liable for a refund of the price and also the damages.

Condition As To Merchantability

This is implied only where the sale is by description and the goods should be of 'merchantable quality' i.e. the goods must be such as are reasonably saleable under the description by which they are known in the market. [Section 16(2)]

For example, A purchases a certain quantity of black yarn from B who is a dealer in yarn. A finds the black yarn to be damaged by the white ants. Thus the condition as to merchantability has been broken and A is entitled to reject it as unmerchantable.

Conditions As To Wholesomeness

In the case of eatables and provisions, there is another implied condition that the goods shall be wholesome, in addition to the implied condition as to merchantability.

For example, A supplies B with milk. The milk contains bacteria and B's wife consumes the milk and is diagnosed with a disease. She later succumbs to the disease. Hence, there was a breach of condition as to the fitness of the supplies and A was liable to pay damages to B in this case.

D.

the sections of the Sale of Goods Act, 1930 and look at the rights of an unpaid seller against goods namely rights of lien, rights of stoppage in transit etc.

Rights of Unpaid Seller Against Goods

An unpaid seller has certain rights against the goods and the buyer. In this question we will the sections of the Sale of Goods Act, 1930 and look at the rights of an unpaid seller against goods namely rights of lien, rights of stoppage in transit etc.

Rights of Lien

Seller's Lien (Section 47)

According to subsection (1) of Section 47 of the Sale of Goods Act, 1930, an unpaid seller, who is in possession of the goods can retain their possession until payment. This is possible in the following cases:

vi.   He sells the goods without any stipulation for credit

vii.   The goods are sold on credit but the credit term has expired.

viii.   The buyer becomes insolvent.

Subsection (2) specifies that the unpaid seller can exercise his right of lien notwithstanding that he is in possession of the goods acting as an agent or bailee for the buyer.

Part-delivery (Section 48)

Further, Section 48 states that if an unpaid seller makes part-delivery of the goods, then he may exercise his right of lien on the remainder. This is valid unless there is an agreement between the buyer and the seller for waiving the lien under part-delivery.

Termination of Lien (Section 49)

According to subsection (1) of Section 49 of the Sale of Goods Act, 1930, an unpaid seller loses his lien:

8. If he delivers the goods to a carrier or other bailee for transmission to the buyer without reserving the right of disposal of the goods.

9. When the buyer or his agent obtain possession of the goods lawfully.

10. By waiver.

Further, subsection (2) states that an unpaid seller, who has a lien, does not lose his lien by reason only that he has obtained a decree for the price of the goods.

Right of Stoppage in Transit

This right is an extension to the right of lien. The right of stoppage in transit means that an unpaid seller has the right to stop the goods while they are in transit, regain possession, and retain them till he receives the full price.

If an unpaid seller has parted with the possession of the goods and the buyer becomes insolvent, then the seller can ask the carrier to return the goods back. This is subject to the provisions of the Act.

Duration of Transit (Section 51)

Goods are in the course of transit from the time the seller delivers them to a carrier or a bailee for transmission to the buyer until the buyer or his agent takes delivery of the said goods.

Some scenarios of the transit ending:

1. The buyer or his agent obtain delivery before the goods reach the destination. In such cases, the transit ends once the delivery is obtained.

2. Once the goods reach the destination and the carrier of bailee informs the buyer or his agent that he holds the goods, then the transit ends.

3. If the buyer refuses the goods and even the seller refuses to take them back the transit is not at an end.

4. In some cases, goods are delivered to a ship chartered by the buyer. Depending on the case, it is determined that if the master is functioning as an agent or carrier of the goods.

5. If the carrier or other bailee wrongfully refuses to deliver the goods to the buyer or his agent, the transit ends.

6. If a part-delivery of the goods has been made and the unpaid seller stops the remaining goods in transit, then the transit ends for those goods. This is provided that there is no agreement to give up the possession of all the goods.

Q.4 (a) What is E-Governance? How does IT act, 2000 facilitate e-governance?

(b) What is meant by Digital Signature? State the procedure of creation and verification

© Define : (i) Hash function (ii) Computer network and computer virus.

(d) What are the duties of a Subscriber under IT Act?

A.

Electronic governance or **e-governance** is the application of IT for delivering government services, exchange of information, communication transactions, integration of various stand-alone systems between government to citizen (G2C), government-to-business (G2B), government-to-government (G2G), government-to-employees (G2E) as well as back-office processes and interactions within the entire government framework.Through e-governance, government services are made available to citizens in a convenient, efficient, and transparent manner. The three main target groups that can be distinguished in governance concepts are government, citizens, and businesses/interest groups. In e-governance, there are no distinct boundaries.

E-GOVERNANCE UNDER IT ACT, 2000

- Chapter 3 of the IT Act, 2000 (Sections 4-10A) deals with e-governance.
- Section 4 of the Indian IT Act, 2000 confers legal recognition to electronic records .Paper based documents are equated with electronic records so long as they are made available in electronic form.
- Section 5 confers legal recognition to digital signatures and equates it with handwritten signatures. The authentication of such digital signatures will be ensured by means of digital signatures affixed in such manner as the Central Government prescribes.

E-GOVERNANCE UNDER IT ACT, 2000

- Section 6- aims to promote use of electronic records and digital signatures in Government and its agencies. It provides for filing documents online with governmental authorities, grant of licenses /approvals and receipt/payment of money.
- Section 7- allows retention of electronic records akin to paper based records to fulfill legal requirement of retention of records.
- Section 8 -In case of the electronic as well as the traditionally printed gazette, it is stipulated that publication of rules, regulations and notifications in the Electronic Gazette shall also be legally recognized.

E-GOVERNANCE UNDER IT ACT, 2000

- Section 9 At the same time , no person can insist on electronic filing of returns or records, as the Government needs sufficient time to set up infrastructure facilities that will enable them to conduct electronic transactions in the future.
- Section 10 The Central Government has been conferred with the power to make rules in respect of Digital Signature, interalia, the type, manner, format in which digital signature is to be affixed and procedure of the way in which the digital signature is to be processed.
- Section 10 A- Validity of contracts formed through electronic means. such contract shall not be deemed to be unenforceable solely on the ground that such electronic form or means was used for that purpose.

B.

Digital signature is a mathematical scheme to verify the authenticity of digital documents or messages. Also, a valid digital signature allows the recipient to trust the fact that a known sender sent the message and it was not altered in transit. In this article, we will look at the sections of the Information Act, 2000 which deal with digital certificates.

CREATION

To create a digital signature, signing software -- such as an email program -- creates a one-way hash of the electronic data to be signed. The private key is then used to encrypt the hash. The encrypted hash -- along with other information, such as the hashing algorithm -- is the digital signature.

The reason for encrypting the hash instead of the entire message or document is that a hash function can convert an arbitrary input into a fixed length value, which is usually much shorter. This saves time as hashing is much faster than signing.

The value of a hash is unique to the hashed data. Any change in the data, even a change in a single character, will result in a different value. This attribute enables others to validate the integrity of the data by using the signer's public key to decrypt the hash.

If the decrypted hash matches a second computed hash of the same data, it proves that the data hasn't changed since it was signed. If the two hashes don't match, the data has either been tampered with in some way -- a compromise to its integrity -- or the signature was created with a private key that doesn't correspond to the public key presented by the signer --an issue with authentication.

A digital signature can be used with any kind of message -- whether it is encrypted or not -- simply so the receiver can be sure of the sender's identity and that the message arrived intact. Digital signatures make it difficult for the signer to deny having signed something -- assuming their private key has not been compromised -- as the digital signature is unique to both the document and the signer and it binds them together. This property is called nonrepudiation.

Digital signatures are not to be confused with digital certificates. A digital certificate, an electronic document that contains the digital signature of the issuing certificate authority, binds together a public key with an identity and can be used to verify that a public key belongs to a particular person or entity.

Most modern email programs support the use of digital signatures and digital certificates, making it easy to sign any outgoing emails and validate digitally signed incoming messages. Digital signatures are also used extensively to provide proof of authenticity, data integrity and nonrepudiation of communications and transactions conducted over the internet.

VERIFICATION

To be considered valid, electronic signature schemes must include three things:

- a way to verify the identity of the entity signing it;
- a way to verify that the signing entity intended to affirm the document being signed; and
- a way to verify that the electronic signature is indeed associated with the signed document.

A digital signature can, on its own, fulfill these requirements to serve as an electronic signature:

- the public key of the digital signature is linked to the signing entity's identification;
- the digital signature can only be affixed by the holder of the public key's associated private key, which implies the entity intends to use it for the signature; and
- the digital signature will only authenticate if the signed data -- document or representation of a document -- is unchanged. If a document is altered after being signed, the digital signature will fail to authenticate.

While authenticated digital signatures provide cryptographic proof that a document was signed by the stated entity and that the document has not been altered, not all electronic signatures can provide the same guarantees.

C.

#A)

Hashing is one of the core elements of a digital signature system. The process of hashing involves transforming data of any size into a fixed-size output. This is done by a special kind of algorithms known as hash functions. The output generated by a hash function is known as a hash value or message digest.

When combined with cryptography, the so-called cryptographic hash functions can be used to generate a hash value (digest) that acts as a unique digital fingerprint. This means that any change in the input data (message) would result in a completely different output (hash value). And that's the reason cryptographic hash functions are widely used for verifying the authenticity of digital data

#B)

A computer virus is malicious code that replicates by copying itself to another program, computer boot sector or document and changes how a computer works. The virus requires someone to knowingly or unknowingly spread the infection without the knowledge or permission of a user or system administrator. In contrast, a computer worm is stand-alone programming that does not need to copy itself to a host program or require human interaction to spread. Viruses and worms may also be referred to as malware.

A virus can be spread by opening an email attachment, clicking on an executable file, visiting an infected website or viewing an infected website advertisement. It can also be spread through infected removable storage devices, such USB drives. Once a virus has infected the host, it can infect other system software or resources, modify or disable core functions or applications, as well as copy, delete or encrypt data. Some viruses begin replicating as soon as they infect the host, while other viruses will lie dormant until a specific trigger causes malicious code to be executed by the device or system.

Many viruses also include evasion or obfuscation capabilities that are designed to bypass modern antivirus and antimalware software and other security defenses. The rise of polymorphic malware development, which can dynamically change its code as it spreads, has also made viruses more difficult to detect and identify.

D.

Section : 40. Generating key pair.

Where any Digital Signature Certificate, the public key of which corresponds to the private key of that subscriber which is to be listed in the Digital Signature Certificate has been accepted by a subscriber, then, the subscriber shall generate the key pair by applying the security procedure.

Section : 41. Acceptance of Digital Signature Certificate.

(1) A subscriber shall be deemed to have accepted a Digital Signature Certificate if he publishes or authorizes the publication of a Digital Signature Certificate—

    (a) to one or more persons;

    (b) in a repository, or otherwise demonstrates his approval of the Digital Signature Certificate in any manner.

(2) By accepting a Digital Signature Certificate the subscriber certifies to all who reasonably rely on the information contained in the Digital Signature Certificate that—

    (a) the subscriber holds the private key corresponding to the public key listed in the Digital Signature Certificate and is entitled to hold the same;

    (b) all representations made by the subscriber to the Certifying Authority and all material relevant to the information contained in the Digital Signature Certificate are true;

    (c) all information in the Digital Signature Certificate that is within the knowledge of the subscriber is true.

Section : 42. Control of private key.

(1) Every subscriber shall exercise reasonable care to retain control of the private key

corresponding to the public key listed in his Digital Signature Certificate and take all steps to prevent its disclosure to a person not authorized to affix the digital signature of the subscriber.

(2) If the private key corresponding to the public key listed in the Digital Signature Certificate has been compromised, then, the subscriber shall communicate the same without any delay to the Certifying Authority in such manner as may be specified by the regulations.

Explanation.— For the removal of doubts, it is hereby declared that the subscriber shall be liable till he has informed the Certifying Authority that the private key has been compromised.