

CONTRACT OF BAILMENT

Duties of Bailee

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Duties of Bailee

- *Duty to take Reasonable Care* – Section 151 of the Act provides that in all cases of bailment the bailee is bound to take as much care of the goods bailed to him as a man of ordinary prudence would, under similar circumstances, take of his own goods of the same bulk, quality and value as the goods bailed.



- For example, Silver was entrusted to a goldsmith for making ornaments. He kept it locked in an almirah and employed watchman for the night.



- Despite all these precautions the silver was stolen. Here, goldsmith had taken reasonable care of the goods and therefore he was not liable for the loss.



- *Duty not to make unauthorized use* – Section 154 of the Act provides that if the bailee makes any use of the goods bailed which is not according to the conditions of the bailment, he is liable to make compensation to the bailor for any damage arising to the goods from or during such use of them.



- *For examples,*
- 'A' lends a horse to 'B' for his own riding only. 'B' allows 'C', a member of his family, to ride the horse. 'C' rides with care, but the horse accidentally falls and is injured. 'B' is liable to make compensation to 'A' for the injury done to the horse.



- 'A' hires a horse in Calcutta from 'B' expressly to march to Benares. 'A' rides with due care, but marches to Cuttack instead. The horse accidentally falls and is injured. 'A' is liable to make compensation to 'B' for the injury to the horse.



- *Duty not to mix* – Section 155 of the Act provides for the effect of mixture, with bailor's consent, of his goods with bailee's. It states that if the bailee, with the consent of the bailor, mixes the goods of the bailor with his own goods, the bailor and the bailee shall have an interest, in proportion to their respective shares, in the mixture thus produced.



- Section 156 of the Act provides for the effect of mixture, without bailor's consent, when the goods can be separated. It states that if the bailee, without the consent of the bailor, mixes the goods of the bailor with his own goods,



- and the goods can be separated or divided, the property in the goods remains in the parties respectively; but the bailee is bound to bear the expense of separation or division, and any damage arising from the mixture.



- *For example, 'A' bails 100 bales of cotton marked with a particular mark to 'B'. 'B', without A's consent, mixes the 100 bales with other bales of his own, bearing a different mark.*



- 'A' is entitled to have his 100 bales returned, and 'B' is bound to bear all the expense incurred in the separation of the bales, and any other incidental damage.



- Section 157 of the Act provides for effect of mixture, without bailor's consent, when the goods cannot be separated. It states that if the bailee, without the consent of the bailor, mixes the goods of the bailor with his own goods,



- in such a manner that it is impossible to separate the goods bailed from the other goods, and deliver them back, the bailor is entitled to be compensated by the bailee for the loss of the goods.



- *For example, 'A' bails a barrel of Cape flour worth Rs. 45 to 'B'. 'B', without A's consent, mixes the flour with country flour of his own, worth only Rs. 25 a barrel. 'B' must compensate 'A' for the loss of his flour.*



- *Duty to Return* – Section 160 of the Act provides for return of goods bailed, on expiration of time or accomplishment of purpose. It states that it is the duty of the bailee to return, or deliver according to the bailor's directions,



- the goods bailed, without demand, as soon as the time for which they were bailed has expired, or the purpose for which they were bailed has been accomplished.



- Section 161 of the Act provides for bailee's responsibility when goods are not duly returned. It states that if, by the default of the bailee, the goods are not returned, delivered or tendered at the proper time, he is responsible to the bailor for any loss, destruction or deterioration of the goods from that time.



- *Duty to return the increase or profit* – Section 163 of the Act provides that in the absence of any contract to the contrary, the bailee is bound to deliver to the bailor, or according to his directions, any increase or profit which may have accrued from the goods bailed.



- *For example, 'A' leaves a cow in the custody of 'B' to be taken care of. The cow has a calf. 'B' is bound to deliver the calf as well as the cow to 'A'.*



- *Duty not to set up a title* - Section 166 of the Act provides that if the bailor has no title to the goods, and the bailee, in good faith, delivers them back to, or according to the directions of, the bailor, the bailee is not responsible to the owner in respect of such delivery.



- Section 167 of the Act provides that if a person, other than the bailor, claims goods bailed, he may apply to the court to stop the delivery of the goods to the bailor, and to decide the title to the goods.

