

CONTRACT OF AGENCY

Introduction

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AGENCY

- Chapter 10 [Sections 182-238] of the Indian Contract Act, 1872, contains the provisions regarding Agency. Section 182 defines 'agent' and 'principal'.
- It states that an 'agent' is a person employed to do any act for another, or to represent another in dealings with third persons.



- The person for whom such act is done, or who is so represented, is called the '*principal*'.
- Agency, in law, connotes an authority or capacity in one person to create legal relations between a person occupying the position of principal, and third parties.



- Thus, in an agency (contract of employment), one person (principal) employs another person (agent) to represent him or to act on his behalf, in dealing with third person.
- The function of an agent is essentially to bring about contractual relationship between the principal and third parties.



- Thus, an agent is merely a connecting link between the principal and third parties.
- The concept of agency is based on the latin maxim *qui facit per alium facit per se*, meaning, he who acts through another does the act himself.



- Thus, the authorized acts of the agent are, in law, the acts of the principal himself.



Essentials of relationship of Agency

Competency of Principal and Agent

– The principal should be competent to contract, but an agent may not be competent to contract.

Thus, a minor cannot be a principal, but he can be an agent [*Sections 183-184*].



Consideration, not necessary

- Consideration for appointment of an agent is not necessary under Section 185.
- The fact that principal agrees to be bound by the act of the agent, and he has a duty to indemnify the agent is sufficient consideration.



- Generally, an agent is remunerated by way of commission for services rendered, but no consideration is immediately necessary at the time of appointment.



Intention to act on behalf of the principal

- The aim of the employment of the agent must be to establish a legal relationship between the principal and the agent. Thus, if a person intends to act on behalf of another, agency may arise.



Who may employ agent?

- Section 183 of the Act states that any person who is of the age of majority according to the law to which he is subject, and who is of sound mind, may employ an agent.



Who may be an agent?

- Section 184 of the Act states that as between the principal and third persons, any person may become an agent, but no person who is not of the age of majority and of sound mind can become an agent, so as to be responsible to his principal according to the provisions in that behalf herein contained.



Authority of an Agent

- Section 186 of the Act provides that the authority of an agent may be expressed or implied. Section 187 of the Act defines express and implied authority as-



An authority is said to be express -

- when it is given by words spoken or written.



An authority is said to be implied

- when it is to be inferred from the circumstances of the case; and things spoken or written, or the ordinary course of dealing, may be accounted circumstances of the case.





THANK
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