

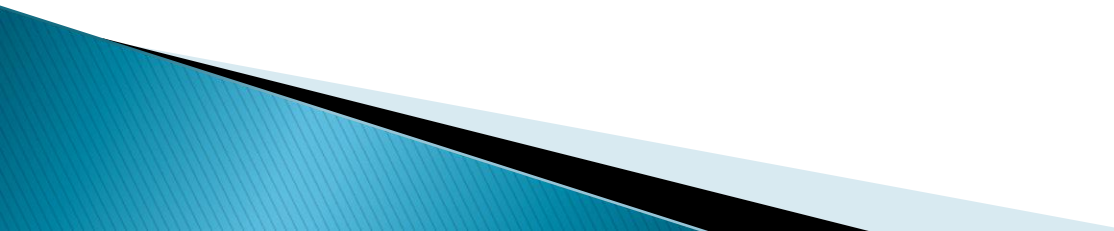
Bba 2nd Sem Business Law

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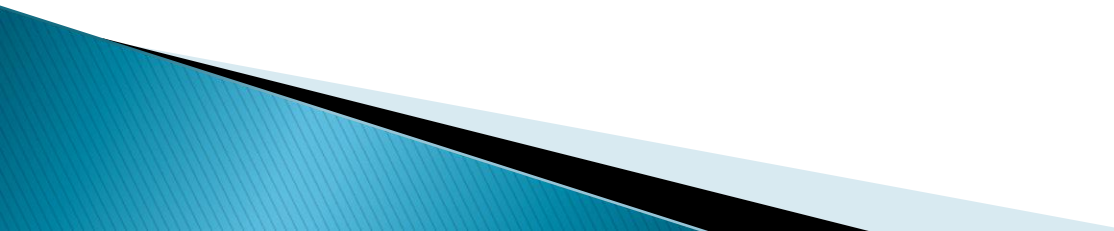
CONDITIONS AND WARRANTIES

[SEC 11-17]



MEANING OF CONDITION

A condition is a stipulation –

- ▶ (a) which is essential to the main purpose of the contract
 - ▶ (b) the breach of which gives the aggrieved party a right to terminate the contract.
 - ▶ **□ It goes to the root of the contract.**
 - ▶ **□ Its non-fulfillment upsets the very basis of the contract.**
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CONDITIONS AND WARRANTIES

[SECTIONS 11-17]

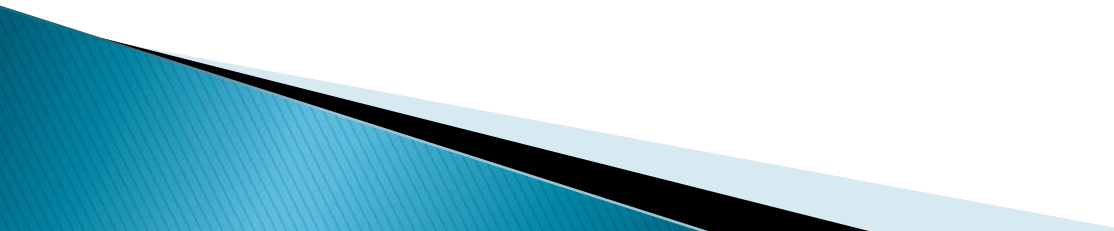
Sec 12(2) of Sales Of Goods Act, 1930 has defined **Condition** as:

“A condition is a stipulation essential to the main purpose of the contract, the breach of which gives rise to a right to treat the contract as repudiated”.

▶ **Example :- [Behn v. Burness, 1863]**

By charter party(a contract by which a ship is hired for the carriage of goods), it was agreed that ship of 420 tons “now in port of Amsterdam” should proceed direct to new port to load a cargo. In fact at the time of the contract the ship was not in the port of Amsterdam and when the ship reached Newport, the charterer refused to load. Held, the words “now in the port of Amsterdam” amounted to a condition, the breach of which entitled the charterer to repudiate the contract

WARRANTY

- ▶ It is a stipulation collateral to the main purpose of the contract
 - ▶ It is of secondary importance
 - ▶ If there is a breach of a warranty, the aggrieved party can only claim damages and it has no right to treat the contract as repudiated
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- ▶ Sec 12(3) of Sale Of Goods Act, 1930 has defined **Warranty** as :

“A warranty is a stipulation collateral to the main purpose of the contract, the breach of which gives rise to only claim for damages but not to a right to reject the goods and treat the contract as repudiated”.

DISTINCTION BETWEEN 'CONDITION' AND 'WARRANTY'

Condition

- ▶ 1. A condition is a stipulation (in a contract), which is essential to the main purpose of the contract.
- ▶ 2. A breach of condition gives the aggrieved party a right to sue for damages as well as the right to repudiate the contract.

Warranty

- ▶ 1. A warranty is a stipulation, which is only collateral or subsidiary to the main purpose of the contract.
- ▶ 2. A breach of warranty gives only the right to sue for damages. *The contract cannot be repudiated.*

- ▶ 3. A breach of condition may be treated as a breach of warranty in certain circumstances.

- ▶ 3. A breach of warranty cannot be treated as a breach of condition.



EXPRESS AND IMPLIED CONDITIONS AND WARRANTIES (TYPES)

- ▶ □ Conditions and Warranties may be either *express* or *implied*.
- ▶ □ They are said to be "**express**" when they are expressly provided by the parties.
- ▶ □ They are said to be '**implied**' when the law deems their existence in the contract even without their actually having been put in the contract. Sec(14 to17)

