**MODULE I**

**----------------------------------**

**ESSENTIALS OF A VALID CONTRACT**

**Section 10 of the Indian Contract Act, 1872**

Section 10 states ***“What agreements are contracts? —All agreements are contracts if they are made by the free consent of parties, competent to contract, for a lawful consideration and with a lawful object, and are not hereby expressly declared to be void.***

Hence the essentials of a valid contract are therefore as under:

1. **An Agreement between the two parties**– There must be a presence of at least two parties such that one party acts as an offeror (the person who makes an offer) and other party acts as an offeree (the one to whom the offer is made).
2. **Agreement should be between the parties competent to contract**.
3. **There should be a Lawful Consideration and a Lawful Object** in respect of that agreement. Consideration means something in return, which has some value in the eyes of the law. It is based on the principal ***Quid Pro Quo***.
4. **There should be free Consent of the parties, when they enter into an agreement.**
5. **The agreement must not be the one, which has been expressly declared to be void.**

**CONSENSUS AD IDEM**

The parties to the agreement must have agreed about the subject matter of the agreement in the same sense and at the same time. Unless there is consensus ad idem, there can be no contract. Basically, the principle of consent is governed by the legal maxim, ‘consensus-ad-idem’ which means, the parties to the contract must mean the same thing in the same sense in regard to the subject matter of the contract and this view is represented under Section 13 of Indian Contract Act, 1872, which states- ‘Two or more person are said to consent when they agree upon the same thing in the same sense.’

Keeping the statutory provisions in mind, the Hon’ble Supreme Court in ***Steel Authority of India Ltd. v. Salem Stainless Steel Suppliers[[1]](#footnote-1)***, held, in order to constitute a contract, both the parties must consent to the agreement. The consent should be free and voluntary.

**Enforceable by law**

An agreement, to become a contract, must give rise to a legal obligation or duty.

An agreement may be social agreement or legal agreement.

But only those agreements which are enforceable in a court of law are contracts.

 *“All contracts are agreements, but all agreements are not necessarily contract”*

**Offers and Acceptance**:

It is one of the essentials of valid contract. There must an offer and acceptance of the same.

**Legal Relationship**:

The parties to an agreement must create legal relationship. Agreements of a social or domestic nature do not create legal relations and as such cannot give rise to a contract

**Example**: X invited Y to a dinner Y accepted the invitation. It is a social agreement. If X fails to serve dinner to Y, Y cannot go to the courts of law for enforcing the agreement.

**Lawful Consideration and Lawful Object:**

Consideration is “something in return.” Consideration has been defined as the price paid by one party for the promise of the other.

It is also necessary that agreement should be made for a lawful object. Every agreement of which the object or consideration is unlawful is illegal and therefore void.

**Example:** X agrees to sell his motor bike to Y for Rs. 1,00,000. Here Y’s promise to pay Rs. 1, 00,000 is the consideration for X’s promise to sell the motor bike and X’s promise to sell the motor bike is the consideration for Y’s promise to pay 1, 00,000.

**4. Capacity of Parties**:

It means that the parities to an agreement must be competent to contract. A contract by a person of unsound mind is void ab-initio. Thus, a contract entered into by a minor or by a lunatic is void.

Example: X a minor borrowed Rs 8,000 from Y and executed mortgage of his property in favour of the lender. This was not a valid contract because X is not competent to contract.

**Free Consent For a valid contract**:

It is necessary that the consent of parties to the contract must be free. The elements of Free Consent are given under Section 14 of the Indian Contract Act, 1872. The section clearly said that the consent will be said to be free when it is not caused by—

* **Coercion**
* **Undue influence**
* **Fraud**
* **Misrepresentation**
* **Mistake**

Free consent of the parties is absolutely necessary to make an agreement with a valid contract. For this purpose, the consent should be free and voluntarily made, which means void of any pressure, influence, mistake, or misrepresentation. If the consent is taken by any of these contracts is voidable at the option of the aggrieved party and would render the contract null and void. All the facts to the contract should be known to the consenting parties or persons.

Wallis, C.J, and Seshhagiri Ayyar J. observed and held, that, the threat of commit suicide also amounts to coercion within section 15 of the Indian Contract Act, 1872 (***Chikam Amiraju v. Chickam Seshamma,[[2]](#footnote-2)***.

**Not Expressly Declared Void**:

An agreement must not be one of those, which have been expressly declared to be void by the Act.

1. AIR 1994 SC 1415. [↑](#footnote-ref-1)
2. (1912) 16 IC 344. [↑](#footnote-ref-2)