

# **FHT OU LLB**

## **All In One Books**

### **3YDC -2nd Sem**

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**For each subject we will cover following things for easy exam preparation in this all in one book**

- 1. Unit Syllabus Wise- Short Notes**
- 2. Model Answers to Case Law Questions**
- 3. Last Minute Revision Notes**

# Notes- Contract 2 Unit-1

## *By Few Helping Turtles*

### **Unit-I Syllabus**

**Indemnity and Guarantee - Contract of Indemnity, definition - Rights of Indemnity holder - Liability of the indemnified - Contract of Guarantee - Definition of Guarantee - Essential characteristics of Contract of Guarantee - Distinction between Indemnity and Guarantee - Kinds of Guarantee - Rights and liabilities of Surety - Discharge of surety. Contract of Bailment - Definition of bailment - Essential requisites of bailment - Kinds of bailment - Rights and duties of bailor and bailee - Termination of bailment - Pledge - Definition of pledge – Rights and duties of Pawnor and Pawnee - Pledge by non-owner.**

.....Question End.....

### **Q. Contract of Indemnity (Both Short & Long Questions) VIMP**

Indemnity means protection against loss. It is a contract where one party (the indemnifier) promises to compensate the other party (the indemnified) for any loss caused by the actions of the promisor himself or a third party.

#### **Example of Indemnity Contract:**

Ravi agrees to indemnify Vijaya for any legal action taken by Sekhar if she cannot repay the money she borrowed. Here:

- Ravi (Indemnifier) promises to protect Vijaya from loss.
- Vijaya (Indemnified) is assured compensation if she suffers a loss due to Sekhar's actions.

Legal Definition of Indemnity (Section 124, Indian Contract Act, 1872)

A contract of indemnity is a contract where one party promises to save the other from loss caused by:

1. The conduct of the promisor himself, or
2. The conduct of any other person.

Indemnity does not cover losses caused by natural disasters or unforeseen events—such contracts fall under contingent contracts (Section 31).

#### **Key Parties in a Contract of Indemnity**

1. Indemnifier – The promisor who agrees to compensate for losses.
2. Indemnified – The person who receives protection from loss.

#### **Types of Indemnity**

1. Express Indemnity (Written Indemnity)

The terms and conditions are clearly stated in a written contract.

It defines the rights, responsibilities, and limitations of both parties.

Common in insurance contracts, business agreements, and financial transactions.

2. Implied Indemnity (Unwritten Indemnity)

No formal contract, but the obligation arises from the conduct or relationship of the parties.

# Case Law Model Answer- Contract Law 2

**\*\* These are model answers, so read these to get an idea on how can we attempt these case law questions, then write your answers by including what we read from short notes and revision notes comrade.**

**Q. 'A' stands as a surety for the good conduct of 'B' who is employed in a bank. B misappropriates some money but the bank excuses him without informing A about the misconduct of B. B again misappropriates. Is A liable to the Bank?**

## **Liability of A as a Surety Under the Indian Contract Act, 1872**

In this case, A stands as a **surety** for the good conduct of **B**, who is employed in a bank. **B misappropriates money**, but the bank, instead of taking action, **excuses him without informing A**. Later, **B misappropriates again**. The question is whether **A is liable to the bank for B's second misappropriation**.

To determine A's liability, we must examine the **Indian Contract Act, 1872**, particularly the provisions related to the **discharge of a surety**.

## **1. Surety's Liability and Discharge**

A contract of guarantee involves three parties:

- **Principal debtor (B)** – The person whose obligation is being guaranteed.
- **Creditor (The bank)** – The entity to whom the guarantee is given.
- **Surety (A)** – The person who provides the guarantee, agreeing to be responsible for the principal debtor's good conduct.

A surety is generally **liable for the acts of the principal debtor** unless discharged under specific provisions of the Act. The **two key sections** applicable here are **Section 133** and **Section 139**, which deal with the discharge of a surety.

## **2. Section 133 – Discharge of Surety by Variance in Terms of Contract**

**Section 133 states that if there is any variance (change) in the terms of the contract between the principal debtor and the creditor without the surety's consent, the surety is discharged from liability.**

- In this case, **A guaranteed B's good conduct** when he was first employed in the bank.
- When **B misappropriated money**, the bank had the right to take action but instead **excused him without informing A**.
- This act of leniency **altered the contract of guarantee**, because when A agreed to be a surety, it was based on the assumption that B would be held accountable for any misconduct.
- By **allowing B to continue working despite knowing about the misconduct**, the bank changed the fundamental risk involved, which was **done without A's knowledge or consent**.
- As a result, under **Section 133**, A is **discharged from his liability**.

# Revision Notes- Contract Law 2

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### I. Contract of Indemnity (Sections 124-125)

Section	Topic	Detailed Explanation & Extra Points
124	Contract of Indemnity	A contract where one party promises to compensate the other for losses suffered due to the promisor's or a third party's actions. <b>Example:</b> A agrees to indemnify B for losses suffered in a business deal.
125	Rights of Indemnity Holder	The indemnity holder can recover: 1) <b>Damages</b> incurred, 2) <b>Costs of legal defense</b> , 3) <b>Reasonable settlement amounts</b> .
<b>Key Case Law</b>	<b>Adamson v. Jarvis (1827)</b>	An auctioneer was indemnified for losses incurred due to a wrongful sale.

### II. Contract of Guarantee (Sections 126-147)

Section	Topic	Detailed Explanation & Extra Points
126	Definition of Guarantee	A contract where a third party (surety) promises to be responsible if the principal debtor fails to fulfill an obligation.
127	Consideration for Guarantee	Consideration can be past, present, or future; no separate consideration is needed for the surety.
128	Surety's Liability	Surety's liability is <b>co-extensive</b> with that of the principal debtor.
130	Revocation of Guarantee	A <b>continuing guarantee can be revoked</b> before liability arises for future transactions.
<b>Key Case Law</b>	<b>State Bank of India v. Premco Saw Mill (1983)</b>	Surety was held liable as the guarantee contract was still active.

### III. Contract of Bailment (Sections 148-171)

Section	Topic	Detailed Explanation & Extra Points
148	Definition of Bailment	Delivery of goods from one person (bailor) to another (bailee) for a specific purpose.
151	Bailee's Duty of Care	The bailee must take <b>reasonable care</b> of the goods.
152	No Liability Beyond Negligence	If bailee takes reasonable care, they are <b>not liable</b> for loss or damage.
<b>Key Case Law</b>	<b>Coggs v. Bernard (1703)</b>	Bailee was found liable for negligence.