

# CAPACITY TO CONTRACT

Indian Contract Act, 1872



PRESENTED BY

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# **CAPACITY TO CONTRACT**

## **Section 11:**

**“Every person is competent to contract who is of the age of majority according to the law to which he is subject, and who is of sound mind and is not disqualified from contracting by any law to which he is subject.”**

# **CAPACITY TO CONTRACT**

## **Three main aspects of Contractual Capacity:**

- **Attaining the age of majority**
- **Being of sound mind**
- **Not disqualified from entering into a contract by any law that he is subject to**

## **Exceptions:**

- **Minor**
- **Persons of Unsound mind**
- **Persons disqualified by law**

# **CAPACITY TO CONTRACT MINOR**

**- A PERSON WHO HAS NOT ATTAINED THE AGE OF MAJORITY**

**According to Sec. 3 of the Indian Majority Act, 1875:**

**The age of majority in India is defined as 18 years.**

**For the purpose of entering into a contract, even a day less than this age disqualifies the person from being a party to the contract.**

**Exceptions:** Age of Majority – 21 yrs

**Where a Guardian has been appointed for the Minor or his property**

**Where the management of Minor's property is assumed by a Court of Wards**

**(Guardian and Wards Act, 1890)**

# **CAPACITY TO CONTRACT**

## **Laws Relating To Minor's Agreement**

***A CONTRACT MADE WITH A MINOR IS VOID AB-INITIO:***

Since any person less than 18 years of age does not have the capacity to contract, any agreement made with a minor is void ab-initio (from the beginning).

Minor's agreement does not create any legal rights and obligations between the concerned parties.

# **CAPACITY TO CONTRACT**

## **Laws Relating To Minor's Agreement**

### ***A MINOR CAN BE A BENEFICIARY OF PARTNERSHIP***

**Sec. 30 of the Indian Partnership Act, 1932 specifies that while a minor cannot become a Partner in the Partnership Firm, he can be admitted to the benefits of Partnership, with the consent of all the Partners.**

# **CAPACITY TO CONTRACT**

## **Laws Relating To Minor's Agreement**

### ***THE RULE OF ESTOPPEL DOES NOT APPLY TO A MINOR***

A Minor can always plead minority and is not estopped from doing so even where he had produced a loan or entered into some other contract by falsely representing that he was of full age, when in reality he was a Minor.

According to Section 33 of the Specific Relief Act, 1963 the Court may, if the Minor has received any benefit under the agreement from the other party require him to restore, so far as may be such benefit to the other party, to the extent to which he or his estate has been benefited thereby.

# Estoppel

- ▶ The term estoppel is said to have been derived from the French term 'estoup' which means 'shut the mouth'.
- ▶ The doctrine of estoppel is a rule of evidence contained in Section 115 of the Evidence Act. When one person by his declaration, act or omission intentionally caused or permitted another to believe a thing to be true and act upon such belief, neither he nor his representative shall be allowed in any suit or proceeding between himself and such person or his representative to deny the truth of that thing

# **CAPACITY TO CONTRACT**

## **Laws Relating To Minor's Agreement**

### ***A MINOR CANNOT RATIFY A CONTRACT ON ATTAINING MAJORITY***

As a minor's agreement is void, he could not validate it through ratification on attaining majority. For example, a minor borrows cash and executes a promissory note. On attaining majority, he furnishes a new promissory record in substitution of the one implemented as a minor. The second promissory note is also void being without consideration.

# **CAPACITY TO CONTRACT**

## **Laws Relating To Minor's Agreement**

### ***A MINOR CAN BE A BENEFICIARY OF A CONTRACT***

**While a minor cannot enter a contract, he can be the beneficiary of one. Section 30 of the Indian Partnership Act, 1932, also specifies that while a minor cannot become a partner in the partnership firm, the benefits of the firm can be extended to him.**

# **CAPACITY TO CONTRACT**

## **Laws Relating To Minor's Agreement**

### ***A MINOR IS LIABLE FOR NECESSITIES***

A claim for necessities supplied to a minor is enforceable by law. But there is no personal liability of the minor, but only his property is liable. But if the minor has no property of his own, then he cannot be bound to reimburse the other person.

To render minor's estate liable for necessities two conditions must be satisfied.

- The contract must be for the goods reasonably necessary for his support in the station in life.
- The minor must not have already a sufficient supply of these necessities.

# CAPACITY TO CONTRACT

## Laws Relating To Minor's Agreement

***A MINOR IS LIABLE IN TORT:*** A tort is a civil wrong. A minor is liable in tort unless the tort in reality is a breach of contract.

***NO RESTITUTION:*** According to Section 64 of the Indian Contract Act, when a person at whose option a contract is voidable rescinds it, the other party need not perform it. This applies to contracts that are voidable, but a minor's contract is void, and therefore, he cannot be asked to refund the amount money to the moneylender.

***NO SPECIFIC PERFORMANCE:*** A minor's agreement being absolutely void, there can be no question of the specific performance of such an agreement.

***NO INSOLVENCY:*** A minor cannot be declared insolvent as he is incapable of contracting debts and dues are payable from the personal properties of minor and he is not personally liable.

***A MINOR CAN BE AN AGENT:*** A minor can act as an agent. But he will not be liable to his principal for his acts. A minor can draw, deliver and endorse negotiable instruments without himself being liable.

***A MINOR CAN BE A SHAREHOLDER:*** According to the Indian Contract

# **CAPACITY TO CONTRACT**

## **Laws Relating To Minor's Agreement**

### ***CONTRACT BY THE GUARDIAN OF A MINOR***

Under some circumstances, a guardian of a minor could enter into a valid contract on behalf of the minor. Such an agreement, which the guardian enters into for the advantage of the minor, could also be enforced by the minor.

However, guardians must not bind a minor by a contract for buying immovable property. However, a contract entered into through a certified guardian of a minor, appointed by the Court, with authorization from the Court for the sale of a minor's property could be enforced.

**AGREEMENT BETWEEN A MINOR AND A MAJOR**

# **CAPACITY TO CONTRACT**

## **Laws Relating To Minor's Agreement**

**THANK YOU**