

Welcome you all.

Today we will try and understand second year Commerce semester III. Business law, unit -I The Indian Contract Act 1872 Module Name contract of agency modul number 13 myself Mrs Devata Umarye Assistant Professor. . Outline of the module. Definition of Agent and principle, essentials of valid contract of agency, modes of creation of contract of agency. Learning outcome students will be able to define who is the agent, who is principal and what is the contract of the agency. Students can demonstrate the relationship between principle and agent. Students will learn essentials of valid contract of agency. Students will be able to evaluate different modes of creating agency. Now coming to the topic contract of agency under Indian Contract Act 1872, Section 182 to section 238 deals with contract of agency. It is a special type of a contract. It can be either express or implied agreement. Between principal and agent now we will see who is a principal. Principal is a person who is represented by the agent. And who is the agent? Agent is a person who is represented by the principal. So there is a contract between agent then principal and the contractual relation between agent and the principle is known as contract of agency.

What is the performance of a contract agency? As we have understood, there are basically two parties. One is a principle and second one is an agent and there is a contract of agency between these two. But then in the performance of the contract of the agency there is also a third party.

Now basically under contract of agency duties and rights are between principle and agent. But since there is a contract between principle and 3rd party after signing of contract of agency, this obligations of principle towards this third party are transferred to agent and on behalf of the principle it is now agent who will have to perform the obligations towards the third party and that is how performance of contract of agency takes place. Just take an example A appoints B. To collect the rent on his behalf. Here is a principle. B is the agent of the principle. And from whom rent has to be collected is the third party. And that is how the contract of agency works. The simple meaning of contract of agency is that the principal appoints the agent to do the act for him. Agent represents principle in dealing with third person and principal binds himself for the act of Agent. Now there are two basic principles on which contract of agency depends. You can call it rules also. The first rule is *qui facit alium facit seipsum*. It's a Latin maxim. The meaning of this maxim is he who does act through another does it himself. So if I'm doing it through another and that other person is acting for me, it is as good as done by me. The vicarious liability is created on the principal for the Act of the agent. Act done by an agent will have the same legal effect as if it is done by the principle. The second rule is whatever a person can do personally can do it through an agent. Now, whatever I can do, I can do it through my agent, but this rule doesn't apply in all types of contracts. There are exceptions to this rule. Number one exception is where you need skill. So suppose we appoint Sonu Nigam to sing a song for a film. Can he delegate his? Work with some agents is not possible. So those contracts where we need expert knowledge. A skill like a painter, singer. There is no possibility of appointing an agent. There is one more example contract of marriage. Can we appoint somebody on our behalf to get married? Not possible. So these are two exceptions to this basic rule. Now coming to essentials of valid contract of agency. The first very important essential is two parties to agreement and they are principal and agent. The second essential is the agent should be acting in a

representative capacity. He is representing a principle. The third essential principle. Must be competent to contract, means he should be a major of age. He should be sound mind and should not be disqualified by law. The fourth essential is that an agent may not be a minor, so even a minor can be an agent. In case of minor

contract as an agent, it is always a principal who will be responsible. For the Active agent. The 5th Essential is. There is absolutely no need of consideration at the time of creation of agency initially, but as per section 185, agent gets Commission or remuneration from the principle.

There is a test which you can apply to in order to find out whether an agency contract exists and how to find out the first step which you need to follow is in a contract. You need to see if there are parties and they are agent and principal. So the agent is acting in a representative capacity towards the principle.

If you have this, yes, he is called an agent of the principle. The second one is to create a contractual relationship between principal and agent. So if there is contractual relation between principal and Agent, Yes, that contract can be called a contract of agency. There are different modes of creating agency. The first mode is by agreement, so you have express agreement which can be orally or it can be in document form. In a return it can be implied which derives from conduct, situation, circumstances and relationships of the parties. Second mode can be by necessity, so it is the circumstances which force the person to act as an agent. So there can be emergency circumstances where consent of the principle is not possible, and that's how Agent Eppes, beyond his power, and he ends up to be an agent of the principle. Just take an example. A is a head of the family who have entered into a contract of agency. And he's not keeping well that his son in his absence, his next legal heir steps into the shoes of the agent. Now he has signed a contract of agency, but he becomes an agent for his family, and that's all agency contract is created by necessity. The third mode is agency by estoppel or holding out now what is the meaning of the term estoppel? The simple meaning of the term estoppel is stopped from denying. Any person who represents to be an agent of the principle and do to him if third parties induced to believe that such person is a real has a real authority, then in that case agency is created by estoppel. And later on principle cannot deny agency. Even though the agent is acting ultra virus. Example A allows his son to manage his properties and to mortgage it. A is bound by the act of the son and cannot deny. The 4th mode is by operation of Law in a partnership firm. All the agents are agents of a partnership firm. The 5th mode is by ratification. And ratify the Act of another without authority example. An ex principal of a college promises third person on something for the benefit of the Institute. An Institute ratifies the act of ex- Principle means sanctions. The act of the X principle that is, by ratification. For your references, you all can use this books and website. Thank you.