

Contract

English term "Contract" has been derived from Latin term "Contractus" which means mutual consent. Therefore it can be said that when two or more persons agree to work together on mutually agreed terms for profit sharing or against remuneration, then such an agreement becomes a contract. Contract may be verbal or in writing.

It is not only the merchant or trader but everybody consciously or unconsciously enters into contracts at one stage or the other. When a person enters into a bus, he makes a contract or when he buys bread and butter, he enters into a contract of sale. Contract is a legal term, which means an agreement to do or not to do an act. Every agreement which creates legal obligations and rights between parties is known as contract.

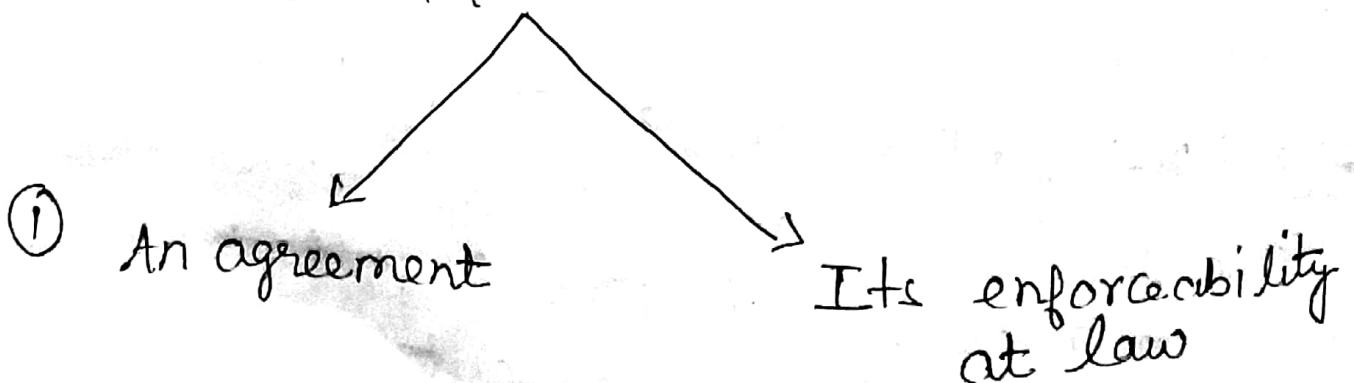
Definitions given by Indian Contract Act —

The Indian Contract Act has adopted the definition given by Sir Frederic Pollock. Section 2(h) defines an agreement as —

# "An agreement enforceable at law"

- ① A contract includes an agreement. Agreement is the first requirement of a contract.
- ② Every agreement can not become contract. Agreement enforceable at law is contract.
- ③ Two or more parties are essential for a contract.
- ④ Contract creates legal obligations between parties.
- ⑤ Contract may be in respect of doing or abstaining from doing definite acts.

Thus on the basis of above ~~discussion~~ definition given under section 2(h) of Indian contract Act, 1872 it can be concluded that following are the two essential elements of a contract:



→ Agreement - U/s 2(e) Every Promise and every set of promises, forming consideration for each other, is an agreement

→ Promise U/s 2(b) "When the person to whom the proposal is made signifies his assent thereto, the proposal is said to be accepted. A proposal when accepted, becomes a promise"

An agreement involves proposal or offer by one party and acceptance of the same by the other party; It requires two parties - one making the proposal and another accepting it. one person alone cannot make the offer (proposal) and accept the same himself. The parties have a common intention about the subject matter of their agreement. Parties should be thinking of the same thing at the same time. An agreement comes into existence when an offer made by one party is accepted by the other.

Agreement = offer + acceptance

An agreement to become a contract must give rise to a legal relation or obligation, The common acceptance between the two parties must create legal relations.

Then Contract = Agreement + Enforceability at law