

### **Contingent Contract (Section 31)**

“A contract to do or not to do something, if some event, collateral to such contract, does or does not happen”. Contracts of Insurance, indemnity and guarantee fall under this category.

#### **Essentials of a contingent contract:**

- (a) The performance of a contingent contract would depend upon the happening or non-happening of some event or condition. The condition may be precedent or subsequent.
- (b) The event referred to is collateral to the contract. The event is not part of the contract. The event should be neither performance promised nor a consideration for a promise.
- (c) The contingent event should not be a mere ‘will’ of the promisor. The event should be contingent in addition to being the will of the promisor.
- (d) The event must be uncertain. Where the event is certain or bound to happen, the contract is due to be performed, then it is a not contingent contract.

#### **Rules relating to Enforcement The rules relating to enforcement of a contingent contract are as follows:**

- (a) Enforcement of contracts contingent on an event happening: Where a contract identifies happening of a future contingent event, the contract cannot be enforced until and unless the event ‘happens’. If the happening of the event becomes impossible, then the contingent contract is void.

(b) Enforcement of contracts contingent on an event not happening: Where a contingent contract is made contingent on a non-happening of an event, it can be enforced only when its happening becomes impossible.

(c) A contract would cease to be enforceable if it is contingent upon the conduct of a living person when that living person does some thing to make the 'event' or 'conduct' as impossible of happening.

Page | 2

Section 34 says that "if a contract is contingent upon as to how a person will act at an unspecified time, the event shall be considered to have become impossible when such person does anything which renders it impossible that he should so act within any definite time or otherwise than under further contingencies".

(d) Contingent on happening of specified event within the fixed time: Section 35 says that Contingent contracts to do or not to do anything, if a specified uncertain event happens within a fixed time, becomes void if, at the expiration of time fixed, such event has not happened, or if, before the time fixed, such event becomes impossible.

(e) Contingent on specified event not happening within fixed time: Section 35 also says that - "Contingent contracts to do or not to do anything, if a specified uncertain event does not happen within a fixed time, may be enforced by law when the time fixed has expired, and such event has not happened or before the time fixed has expired, if it becomes certain that such event will not happen".

(f) Contingent on an impossible event: Contingent agreements to do or not to do anything, if an impossible event happens are void, whether the impossibility of the event is known or not to the parties to the agreement at the time when it is made.