

B. Com. Sem. III (177C-3)

Subject - Business Law

Topic - Free Consent (Part-

Misrepresentation

Misrepresentation is a false or incorrect statement made innocently without any intention or desire to deceive the other party. A party makes a statement which is not correct but the party making the statement believes it to be true and correct. Misrepresentation can be in the following two forms -

1. Fraudulent misrepresentation, and
2. Innocent

According to Section 18 of the Act, "Misrepresentation" means and includes the following -

1. The positive assertion of a fact that is not true in reality but the person making the statement believes in its truth,
2. Breach of duty done without the intention to deceive which benefits the party committing the breach and causes loss to the other party.

3. Causing however innocently, a party to the contract, to make a mistake as to the substance of the thing which is the subject of the agreement.

Following are the main characteristics of misrepresentation.

1. There must be a misrepresentation of material fact of the contract.
2. The purpose of misrepresentation should be to induce the other party to enter in the contract.
3. The person making the misrepresentation should have full faith in its ~~fact~~ truth.
4. On the basis of the false representation, the other party should have believed and entered in the contract.

Modes of Misrepresentation

1. By positive statement [Sec. 18(1)]
2. By breach of duty or constructive fraud [Sec. 18(2)]
3. Causing mistake by innocent misrepresentation [Sec. 18(3)]