B. Com. Sem. III

Subject - Business Law

Topic - Capacity of Parties to Contract

Parties to the contract must be competent to contract. According to section 10 of the Contract Act, only those parties can enter into a contract who have the capacity to contract.

For a valid contract it is essential that parties i.e. promisor and promisee must be capable to enter into a contract because a contract creates legal obligations and to meet it, contractual capacity of parties is essential. Therefore, the parties should be able to understanding the subject matter and effects of the contract.

According to section 11 of the Indian Contract Act, "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." This section tells who are considered incompetent to contract.

We can easily indicate the persons incapable of entering into a contract as under –

I. Minor (Immature mind)

II. Persons of sound mind (Deficiency of mind) –

1. Idiot,
2. Lunatic or insane persons,
3. Drunkard or delirous persons,
4. Mental decay, and
5. Hypnotism.

III. Disqualified by Law –

1. Alien enemy or friend,
2. Ambassadors and foreign sovereigns,
3. Insolvent,
4. Married women,
5. Convict,
6. High professionals,
7. Corporations or companies or incorporated bodies,
8. President of India.

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