Consideration and motive

Consideration is not the same thing as motive or a mere desire. The requirement of consideration is vital and the contract could not be satisfied with just a moral obligation. Consideration for a promise is always a motive for the promise, unless it is nominal or invented, while a motive for a promise may not always be a consideration for it. Motive induces a promise to be given. Similar holding was given in the case of [Dwarampudi Nagarathnamma vs. Kuruku Ramayya](https://indiankanoon.org/doc/398242/%22%20%5Ct%20%22_blank), where the Karta of a Hindu Undivided Family gifted his concubine a portion of the property beyond the cohabitation was a motive and not a consideration, and it should be considered as invalid because it was motivated by the desire to compensate for his past services.

Absence of consideration

If the promissory note is neither genuine nor fraud then it is recoverable under the provision of this code, with interest. The court said that mere denial of the passing of consideration does not make any defence. Something which is probable has to be brought on record.

Exceptions under Section 25, Indian Contract Act

In English law, a contract which is under the seal is enforceable without consideration. In Indian law, there are no such provisions but still, The general rule is the ex nudo pacto non-oritur action, which means that no right of action arises from the contract which is entered into without any consideration. Still, under Section 25 of the Indian Contract Act,1872.it provides certain exceptions under Section 25 of the Indian Contract Act.

Fiduciary relation

In case of a contract entered into between the relatives or on account of natural love and affection is enforceable without consideration. The meaning of love and affection is not judicially construed but parties who are nearly related would have instinctive love and affection. However, this could be overruled with regards to some external circumstances, like between the wife and husband who are compelled to live separately because of quarrelling. But a settlement to be given to a man by the wife by way of maintenance could be enforced without any consideration because it will result in peace and family harmony.

The term “family” (in this context) should be understood as a group of people living together and possessing a right of succession, inheritance etc., but the family could be construed as a people who are bonded by natural love and affection.

Past voluntary services

A promise to compensate the person who has done something voluntary in the past for the promisor is enforceable. This exception is attracted in the cases when the services are rendered voluntarily. Thus where a service is rendered on behalf of a company which is not in existence, a subsequent promise to pay would not attract this provision. Even where the promisee has done something for the promisor, which he had to do legally, then it will also be covered under this exception.

In case of a Minor

In Karam Chand vs Basant Kaur, the court held that even where the promisor after attaining majority, promises to pay for the goods attained in minority will also fall under this provision. The court said that although the promise made by a minority is void but if the promise is made by a person of full age to the promisee who has done something for him voluntarily when the promisor was a minor, then it will also attract this exception.

Time barred debt

A promise to pay a time-barred debt is enforceable and it should be signed by the person or his agent. It could be to pay for the whole debt or in part. The debt to be enforced could be paid except for the law of limitation. However, the person who is under no obligation to pay to another person is under no obligation under this clause.

The promise to pay the debt must be expressed, it is not sufficient if the intention to pay could not be gathered from the circumstances.

Acknowledgement of the debt is different from the promise to pay the debt. The acknowledgement of the person should be done before the period of limitation. Promise to pay a time-barred debt is a new contract. It is not just merely an acknowledgement of the existing liability.

Gift actually made

The provisions of “Consideration” do not affect the gift actually made. Under this Section, gift is defined as:

* The gift is of movables then it should be accompanied by its delivery.
* The gift is of immovables then should be along with registration.

If the above conditions of gifts are fulfilled then lack of consideration would not affect the validity of these gifts. However, apart from the consideration, they could be questioned otherwise.

Where the gift of the property was made by a registered deed and is attested by two witnesses, it was not allowed to be questioned on the ground that she was the victim of fraud, moreover, she was not able to establish it.

Inadequacy of consideration

Adequacy of the consideration means that the consideration which is paid is equal in value to the value for which it is paid. Consideration can be terms of money, property etc. inadequate consideration is not void but it renders the contract unenforceable because of the improper bargaining or by itself.

Inadequate consideration must be distinguished from nominal consideration. Nominal consideration is deliberately given to make the contract effective but inadequate consideration is less than the amount promised. Although the act does not make any distinction between the nominal and inadequate consideration but it was made in the case of Midland Bank trust vs Green.

Valid contract (Section 10)

A contract has been defined as “an agreement enforceable by law.” For an agreement to be enforceable by law, it must contain the essential elements which are important for a valid contract.

Section 10 in The Indian Contract Act, 1872 tells about what agreements can constitute a contract. “All agreements are contracts if they are made by the free consent of parties competent to contract, for a lawful consideration and with a lawful object, and are not hereby expressly declared to be void. Nothing herein contained shall affect any law in force in India, and not hereby expressly repealed, by which any contract is required to be made in writing or in the presence of witnesses, or any law relating to the registration of documents.”

For a contract to be valid both the parties should have given their consent and that consent must be free. Both parties should behave in such a way that they can make an impression on the other party that the other party is ready to make a contract and a legal relation, not a social relation. Thus a person who is casually saying that he/she is accepting an offer usually cannot be considered as a contract. On the other hand, a person who has no intention of making and completing a contract but acts that it makes people believe that he/she really wants to enter into a contract can be termed as a contract. Legally, it is the external appearance which is important in determining whether one is considered to a contract or not. Agreements which are of religious, social nature and moral e.g. a friend’s promise to others to go on a walk or picnic with him does not amount to a contract as both the parties didn’t intend on forming a legal relation and were neither intended to face legal consequences.

A contract comes into existence only when all the terms and conditions are satisfied and fulfilled by the parties to the contract. If any of the conditions is not fulfilled by any of the parties that agreement will be void. We can also say that contracts are self-regulated and no one else other than yourself is forcing you to enter into a contract. It’s upon your discretion that you want to enter into a contract or not and no one in any condition can force you to enter into any contract and if does so that agreement will be void. Later, the duties after entering into an agreement are defined by the state and if not followed be punished but entering into a contract is not forced by anyone else other than yourself. According to the Section 10 of the Indian Contract Act, 1872 there are mainly four conditions which have to be satisfied to form a valid contract, i.e. free consent of parties to the contracts, competent to contract, for a lawful consideration and with a lawful object.