

# Communication under Indian Contract Act and its effects

## LEGAL PROVISIONS

### **Section 3, Indian contract Act, 1872**

**Communication, acceptance and revocation of proposals .-** The communication of proposals, the acceptance of proposals, and the revocation of proposals and acceptances, respectively, are deemed to be made by any act or omission of the party proposing, accepting or revoking, by which he intends to communicate such proposal, acceptance or revocation, or which has the effect of communicating it.

### **Section 4, Indian contract Act, 1872**

**Communication when complete .-** The communication of a proposal is complete when it comes to the knowledge of the person to whom it is made.

#### **The communication of an acceptance is complete, -**

as against the proposer, when it is put in a course of transmission to him so as to be out of the power of the acceptor;

as against the acceptor, when it comes to the knowledge of the proposer.

#### **The communication of a revocation is complete, -**

as against the person who makes it, when it is put into a course of transmission to the person to whom it is made, so as to be out of the power of the person who makes it;

as against the person to whom it is made, when it comes to his knowledge.

### **Illustrations**

(a) A proposes, by letter, to sell a house to B at a certain price.

The communication of the proposal is complete when B receives the letter.

(b) B accepts A's proposal by a letter sent by post.

The communication of the acceptance is complete,

as against A when the letter is posted;

as against B, when the letter is received by A.

(c) A revokes his proposal by telegram.

The revocation is complete as against A when the telegram is despatched.

It is complete as against B when B receives it.

B revokes his acceptance by telegram. B's revocation is complete as against B when the telegram is despatched, and as against A when it reaches him.

## **PRINCIPLES OF COMMUNICATION**

The Communication between parties is an important step for the formation of a contract between them. Among various factors, this one is important as it determines the time of coming in force of a contract and the place. The mode of communication is also important and Indian Courts have evolved a principle for the same, first in case of communication which takes place between parties in each other presence and second when the communication is through telephone.

## **WHAT I WILL DISCUSS**

In the following paragraphs,

**First**, I will discuss the following modes of communication, (a) a communication between the parties in presence of each other, (b) a communication by means of post, and (c) a communication by means of telephone.

**Second**, I will then discuss the recently evolved mode of communications which are based on new technological advancements, such as emails, chats, etc.

**Third**, I will also point out the effect of choosing a particular type of communication over the other its advantages and disadvantages.

**Fourth**, I will also point out in my later posts about the rules that are being followed internationally in different jurisdictions.

**Fifth**, most important of all, I will also touch upon the subject of reference to the mode of communication, its effects and how it is being included in international contracts.

## **FIRST DISCUSSION**

### **Under Indian law**

The law on communication of offer and acceptance was first discussed in detail by by the Indian Supreme Court in the case of [Bhagwandas Kedia versus Purshottum Das & Co.](#) Following principles on communication of offer and acceptance emerges from this case,

1. **Rule:** Communication by parties, either in presence of each other or by way of telephonic conversation between them is treated on same pedestal. Therefore, in both the above cases, the interpretation of Section 3 and 4 of Indian Contract Act of 1872 will result in following analogy: “The rule which applies to contracts by telephone is the ordinary rule which regards a contract as complete only when acceptance is intimated to the purchaser [read Offeror].”
2. **Exception:** Communication by parties by way of post or telegram is summarised as follows, which is based on long accepted judicial decisions, “When by agreement, course of contract or usage of trade, acceptance by post or telegram is authorised, the bargain is struck and the contract is complete when the acceptance is put into a course of transmission the offeree by posting a letter or dispatching a telegram.”

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