SUBJECT: LEGAL AND ETHICAL ISSUES IN BUSINESS

UNIT 2: SALE AND CONSUMER PROTECTION

CLASS: SY BBA

COURSE CONTENT:

- The sale of Goods Act: -Formation of Contract Sale (contract of sale of goods, sale and agreement to sell) -Subject matter of contract of sale (Effect of destruction of goods, document of title to goods)
- Conditions and warranties (meaning, distinction between condition and warranty, condition to be treated as warranty)
- Consumer protection: (meaning, types of product defect, product liability, consumer rights)

THE SALE OF GOODS ACT, 1930

Formation of Contract of Sale & Subject Matter of Contract of Sale

❖ **FORMATION OF CONTRACT OF SALE**

1. Introduction

The Sale of Goods Act, 1930 is a special law in India (based on the earlier English Sale of Goods Act, 1893) that governs contracts relating to the buying and selling of movable goods. Before 1930, sale of goods was covered under the Indian Contract Act, 1872 (Sections 76 to 123), but because trade and commerce needed a more specific law, a separate Act was created.

Simple meaning: Whenever you buy or sell any movable item — a mobile phone, a book, wheat, furniture, a car — the rules of this Act apply, not general contract law alone (though general contract principles like offer, acceptance, free consent, and capacity still apply in the background).

Example: A shopkeeper offers to sell 10kg of rice at ₹50/kg. The customer agrees and pays. Offer + acceptance + price + goods = a valid contract of sale, formed instantly, even without any paperwork.

Formation of Contract of Sale Under the Sale of Goods Act, 1930

- Contract of sale of goods is a contract whereby the seller transfers or agrees to transfer the property in goods to the buyer for a price

How a contract of sale of goods can be made

- There must be an offer to buy or sell goods
- There must be an acceptance to the offer
- May provide the types of payment agreed between the seller and the buyer
- May be made in writing or by word of mouth or implied from the conduct of the parties
- Capacity to buy & sell (af the age of majority, sound mind, not bankrupt)

❖ MEANING OF CONTRACT OF SALE

Section 4(1) of the Sale of Goods Act defines a Contract of Sale of Goods as:

"A contract whereby the seller transfers or agrees to transfer the property in goods to the buyer for a price."

In simple words: A contract of sale is an agreement between two parties — a seller and a buyer — where the seller hands over (or promises to hand over) ownership of goods to the buyer, and in return, the buyer pays (or promises to pay) a price in money.

Example: Ramesh sells his laptop to Suresh for ₹30,000. This is a contract of sale — ownership of the laptop moves from Ramesh to Suresh in exchange for money.

A contract of sale is an agreement between a buyer and a seller in which the seller agrees to transfer or transfers the ownership of goods to the buyer for a price.

The main law governing the sale of goods in India is the Sale of Goods Act, 1930.

Simple Definition

A contract of sale is an agreement between a buyer and a seller for the transfer of ownership of goods from the seller to the buyer for money.

Simple Example

Rahul owns a laptop and agrees to sell it to Priya for ₹40,000.

- Rahul = Seller
- Priya = Buyer
- Laptop = Goods
- ₹40,000 = Price
- Transfer of ownership = Sale

Therefore, the arrangement can constitute a contract of sale, provided the legal requirements are satisfied.

❖ How is a Contract of Sale Formed?

Section 5 of the Sale of Goods Act, 1930 states that a contract of sale is made by an offer to buy or sell goods for a price and acceptance of that offer. The contract can provide for immediate or future delivery/payment and may be made in writing, orally, partly in writing and partly orally, or implied from the conduct of the parties.

- **Easy Formation Diagram**

Seller / Buyer

↓

Offer to Buy or Sell Goods

↓

Acceptance of Offer

↓

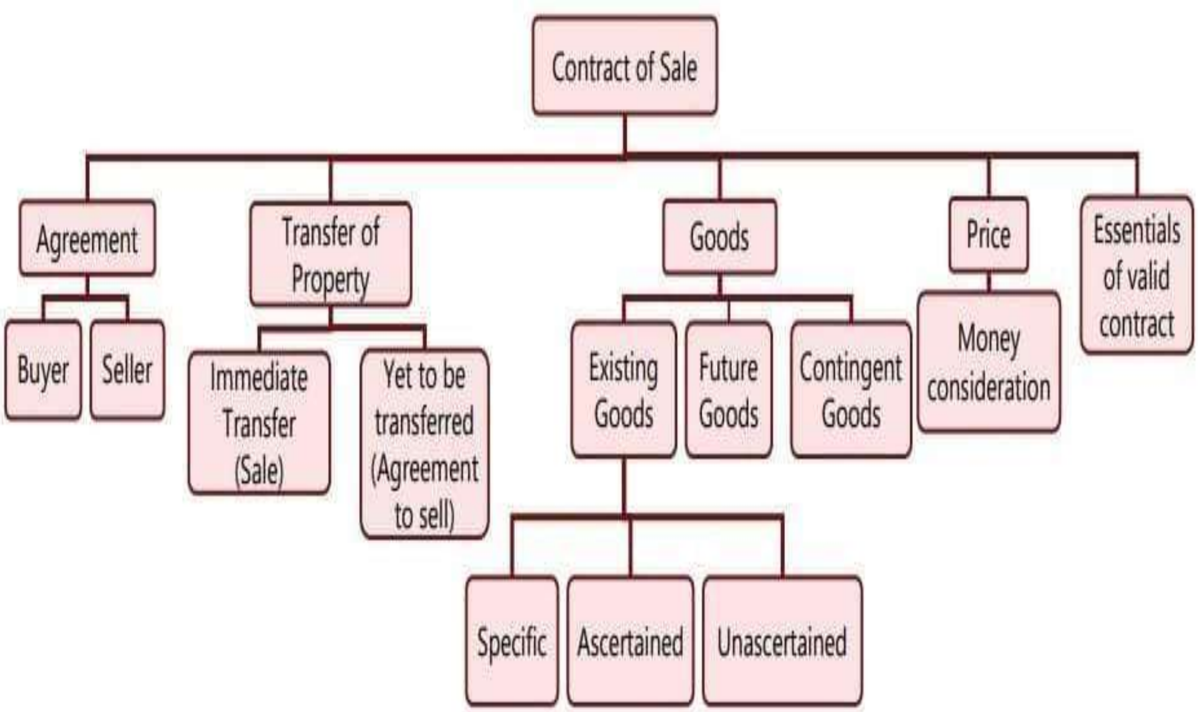
Agreement

↓

Goods + Price + Legal Requirements

↓

❖ **CONTRACT OF SALE**



❖ SALE VS. AGREEMENT TO SELL

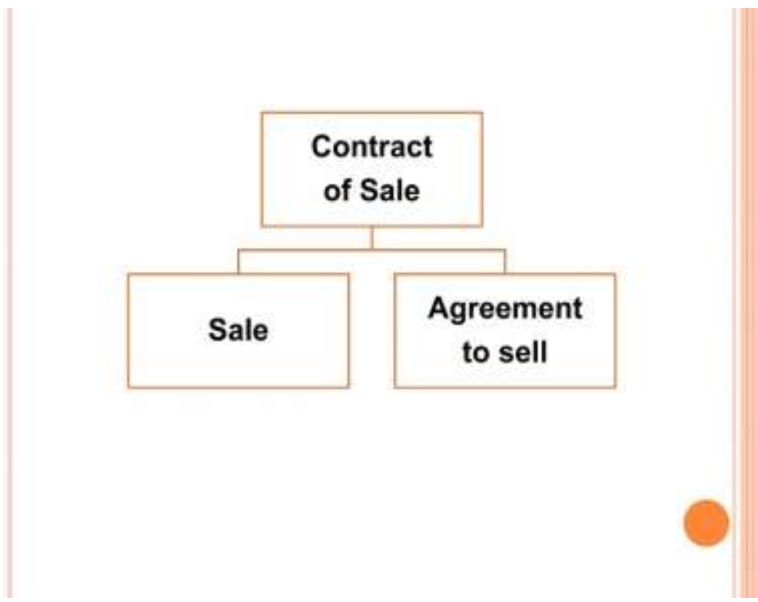
Difference Between Sale and Agreement to Sell

Under the Sale of Goods Act, 1930, a contract of sale may be either a sale or an agreement to sell.

Simple Meaning

Sale: Ownership of goods is transferred from the seller to the buyer immediately.

Agreement to Sell: Ownership of goods will be transferred in the future or after a specified condition is fulfilled.



❖ DIFFERENCE AT A GLANCE

Basis	Sale	Agreement to Sell
1. Meaning	Ownership of goods is transferred immediately to the buyer.	Ownership will be transferred in the future or after a condition is fulfilled.
2. Transfer of ownership	Ownership passes from seller to buyer immediately.	Ownership does not pass immediately.

Basis	Sale	Agreement to Sell
3. Nature	It is an executed contract to the extent of the transfer of ownership.	It is an executory contract because something remains to be done.
4. Rights over goods	Buyer gets the legal rights associated with ownership, subject to the contract and law.	Seller remains the owner until the ownership is transferred.
5. Risk	Generally, risk follows ownership, so risk normally passes to the buyer when ownership passes, subject to the Act and the parties' agreement.	Generally, risk remains with the seller until ownership passes, subject to the Act and the parties' agreement.
6. Breach by buyer	Seller may have rights against the buyer as an owner/seller under the applicable law.	Seller may generally sue for damages for breach of the agreement.
7. Breach by seller	Buyer has remedies available under the law, including appropriate remedies relating to the goods.	Buyer may generally sue for damages for breach of the agreement.
8. Insolvency of buyer	If ownership has already passed, the goods generally belong to the buyer and may be dealt with according to insolvency law.	Since ownership has not passed, the seller generally retains ownership of the goods.
9. Insolvency of seller	If ownership has already passed, the buyer can generally claim the goods as owner, subject to insolvency law.	Since ownership has not passed, the buyer generally has a claim for damages rather than ownership of the goods.
10. Example	A buys a mobile phone from a shop and ownership passes immediately.	A orders a custom-made table to be delivered and ownership to pass after completion next month.

- **Difference in Transfer of Ownership**

This is the most important difference.

Sale: Ownership is transferred immediately.

Example: Rahul purchases a laptop from a shop for ₹50,000 and the ownership passes immediately.

Rahul = Owner

Agreement to Sell: Ownership will pass later.

Example: Rahul agrees to purchase a car that will be delivered and ownership transferred after the car is manufactured next month.

Seller = Current Owner

Rahul = Future Owner

- **Difference in Risk**

A common principle under the Sale of Goods Act is:

Risk generally follows ownership.

Therefore, when ownership has passed in a sale, the risk generally passes to the buyer, subject to the Act or any agreement between the parties.

Example

A sells a refrigerator to B and ownership has passed to B. If the refrigerator is accidentally damaged afterward, the risk may generally be B's.

In an agreement to sell, ownership has not yet passed, so risk generally remains with the seller.

- **Difference in Nature**

Sale → Executed

The transfer of ownership has taken place.

Agreement to Sell → Executory

The transfer of ownership is still to take place.

Easy Trick

Sale = Done

Agreement to Sell = To be done

- **Sale Becomes Agreement to Sell in Certain Situations**

An agreement to sell can become a sale when the time passes or the condition is fulfilled according to the terms of the contract.

Example: Suppose a shop has a refrigerator worth ₹40,000.

Case 1 – Sale

Priya purchases the refrigerator, pays the agreed price, and ownership passes to her immediately.

➡ Sale

Case 2 – Agreement to Sell

Priya agrees today to purchase a refrigerator that will be delivered and transferred to her next month after a specified condition is fulfilled.

➡ Agreement to Sell

- **EASY DIAGRAM**

SALE

Seller
⬇
Goods + Price
⬇
Ownership transferred now
⬇
Buyer becomes owner

SALE = PRESENT TRANSFER

AGREEMENT TO SELL

Seller
⬇
Agreement

↓

Goods + Price

↓

Ownership transferred later / on condition

↓

Buyer becomes owner in future

AGREEMENT TO SELL = FUTURE TRANSFER

- **HOW OWNERSHIP (PROPERTY) ACTUALLY PASSES — FORMATION PROCESS**

The formation of a contract of sale generally happens through these stages:

1. Negotiation – Buyer and seller discuss terms (price, quantity, delivery, quality).
2. Offer and Acceptance – One party makes an offer (usually the buyer, called "offer to buy," or the seller, "offer to sell"), and the other accepts it.
3. Consensus ad idem – Both parties agree on the same thing in the same sense (identity of goods, price, terms).
4. Contract formed – As soon as offer and acceptance are complete and consideration (price) is settled, a valid contract of sale comes into existence — this may immediately be a Sale, or it may be an Agreement to Sell depending on whether conditions are attached.
5. Performance – Delivery of goods and payment of price take place (may be simultaneous or at different times based on the agreement).

❖ **GOODS MUST BE THE SUBJECT MATTER**

The subject matter of the contract must be goods.

Under Section 2(7), goods generally mean movable property, excluding money and actionable claims, and including certain specified things such as stocks and shares, growing crops and things attached to land agreed to be severed before sale.

Examples of Goods

- Mobile phone
- Furniture
- Laptop

- Car
- Clothes
- Machinery
- Books
- Stock and shares
- Growing crops, subject to the statutory definition

Example
A agrees to sell 100 bags of rice to B.
Here:
Rice = Goods
Therefore, it can be the subject matter of a contract of sale.

- **There Must Be a Price**

A contract of sale involves money consideration, called the price.
Example
A sells a laptop to B for ₹50,000.
Here:
₹50,000 = Price

The price may be:

- Fixed by the parties
- Determined in an agreed manner
- Determined according to applicable statutory rules where the parties have not fixed it

Important Point

A simple exchange of one commodity for another is generally barter, not a sale, because a sale requires a money price.

One important feature of Section 5 is that, subject to other applicable laws, a contract of sale may be made:

- In writing
- By word of mouth
- Partly in writing and partly orally
- By conduct of the parties

Example 1 – Written
- A company sends a written purchase order to a supplier and the supplier accepts it.

Example 2 – Oral

- A customer buys vegetables from a shop and agrees on the price orally.

Example 3 – Conduct

- A customer selects goods, takes them to the billing counter and pays for them.
- The conduct of the parties can indicate the transaction.

❖ CLASSIFICATION OF GOODS (SECTION 6)

- **What is "Goods"? (Section 2(7))**

Goods means every kind of movable property other than actionable claims and money, and includes:

- Stock and shares
- Growing crops, grass
- Things attached to or forming part of the land which are agreed to be severed (separated) before sale or under the contract of sale (e.g., standing trees to be cut and sold as timber)

Simple examples of goods: furniture, clothes, food grains, vehicles, machinery, livestock, electronic gadgets.

Not goods: land and buildings (immovable property), money used as currency, actionable claims (e.g., a debt owed to you, which can only be recovered by legal action, not by physical possession).

- **Classification of Goods**

Under the Sale of Goods Act, 1930, goods can be classified into different categories based mainly on whether the goods already exist, will exist in the future, and whether they are identified or separated for the contract.

According to Section 2(7) of the Sale of Goods Act, 1930, "goods" generally means every kind of movable property, other than money and actionable claims. It also includes certain things such as stocks and shares, growing crops, grass, and things attached to or forming part of land which are agreed to be severed before sale.

Simple Meaning: Goods are movable things that can be bought and sold for money.

Examples

- Mobile phone
- Laptop
- Furniture
- Car
- Clothes
- Machinery
- Books
- Wheat
- Rice
- Shares and stocks

Main Classification of Goods

Goods can broadly be divided into:

```
GOODS

├── Existing Goods
│ ├── Specific Goods
│ ├── Ascertained Go
│ └── Unascertained Goods
│
├── Future Goods
│
└── Contingent Goods
```

Let's understand each one in simple language.

1. Existing Goods

Existing goods are goods that are already owned or possessed by the seller at the time when the contract is made.

Example: A shopkeeper has 50 televisions in his shop. Rahul agrees to buy one of those televisions.

The televisions already exist.

Therefore, they are existing goods.

Existing Goods are further divided into:

1. Specific Goods
2. Ascertained Goods
3. Unascertained Goods

2. Specific Goods

According to Section 2(14), specific goods are goods that are identified and agreed upon at the time the contract is made.

Simple Meaning: The buyer and seller know exactly which goods are being sold.

Example: A says to B: "I will sell you my red Honda motorcycle bearing registration number XX-XX-1234 for ₹80,000."

The particular motorcycle is clearly identified.

Therefore, it is specific goods.

More Examples

- A particular laptop with a specific serial number
- A particular car
- A specific painting
- A particular machine

Easy Trick

Specific = Clearly identified goods

3. Ascertained Goods

Ascertained goods are goods that have been identified and set apart for a particular contract after the contract is made.

Simple Example: A rice dealer has 1,000 bags of rice in his warehouse.

B purchases 100 bags.

Initially, the 100 bags may not have been separated.

Later, the dealer selects and separates 100 particular bags for B.

Those 100 bags become ascertained goods.

Easy Meaning: Ascertained goods = Goods identified and separated for a particular buyer/contract.

4. Unascertained Goods

Unascertained goods are goods that are not specifically identified or separated at the time of the contract.

Example: A shopkeeper has 1,000 kg of sugar in his warehouse.

B agrees to purchase 100 kg of sugar.

At the time of the agreement, no particular 100 kg has been separated.

Therefore, the goods are unascertained goods.

Another Example: A seller agrees to sell:

"50 bags of wheat from my warehouse."

If the particular 50 bags have not been identified, the goods are unascertained.

5. Future Goods

According to Section 2(6), future goods are goods that are:

- To be manufactured
- To be produced
- To be acquired by the seller

after the contract is made.

Simple Meaning: Future goods are goods that do not exist with the seller at the time of the contract but are expected to exist or be acquired later.

Example 1: A furniture manufacturer agrees to sell B a table that he will manufacture next month.

The table is future goods.

Example 2: A farmer agrees to sell the wheat that he will grow in the next season.

The wheat is future goods.

Example 3: A factory agrees to sell 500 units of a product that it will manufacture next month.

These are future goods.

6. Contingent Goods

Contingent goods are a special type of future goods. Their acquisition by the seller depends upon the happening or non-happening of an uncertain event.

Simple Meaning: Contingent goods = Goods whose acquisition depends on an uncertain event.

Example: A agrees to sell B a particular horse if A wins the horse in an auction tomorrow.

Whether A will get the horse is uncertain.

Therefore, the goods are contingent goods.

Another Example: A agrees to sell B goods that A expects to receive from a particular supplier, but only if that supplier actually delivers them.

The availability depends on an uncertain event.

The classification of goods helps us understand whether the goods are already available, identified, separated, expected in the future, or dependent upon an uncertain event.

❖ DOCUMENT OF TITLE TO GOODS (SECTION 2(4))

A Document of Title to Goods is a document which is used in the ordinary course of business as proof of the possession or control of goods, and which authorizes (by endorsement or delivery) the possessor of the document to transfer or receive goods represented by it.

In simple words: It is a paper/certificate that acts as evidence of ownership or the right to possess certain goods. Whoever legally holds this document can deal with the goods (sell them, transfer them, or take delivery of them) even without physically touching the goods.

Why is it important? In trade, goods are often stored in warehouses or being transported by ships/trains while they are bought and sold multiple times. Instead of physically moving the goods each time, businessmen transfer the document of title, which is legally treated as if the goods themselves were being transferred.

Examples of Documents of Title to Goods:

Document	Meaning
Bill of Lading	A document issued by a shipping company/carrier acknowledging receipt of goods for transport by sea, and entitling the holder to receive the goods at the destination.
Railway Receipt (RR)	Issued by railways when goods are booked for transport, evidencing that goods have been handed over to the railway for delivery to the consignee.
Dock Warrant	Issued by dock authorities, entitling the holder to receive goods stored in a dock/warehouse.
Warehouse Keeper's Certificate	Issued by a warehouse keeper, certifying that certain goods are held in the warehouse on behalf of a named person, and can be transferred.
Bill of Entry / Delivery Order	A document/order addressed to a person in possession of goods, directing them to deliver the goods to the person named in the order or their assignee.

❖ Significance / Legal Effect

1. Symbolic delivery: Transfer of the document of title is treated in law as equivalent to symbolic delivery of the goods themselves (Section 33 read with related provisions).
2. Facilitates trade: Goods can be bought and sold multiple times while still in transit or storage, simply by transferring the document — this is especially useful in international trade (import/export).
3. Right to possession: The rightful holder of the document has the right to claim actual possession of the goods from the carrier/warehouse keeper.
4. Negotiability: Some documents of title (like a Bill of Lading made "to order") can be transferred by endorsement, similar to a negotiable instrument, allowing repeated resale of goods in transit.

❖ CONDITIONS AND WARRANTIES

1. INTRODUCTION

When two parties enter into a contract of sale, they naturally make certain promises, statements, and assurances to each other about the goods being sold. For example, a seller may say "this mobile phone has 8GB RAM," or "this milk is pure and fresh," or "these shoes are genuine leather." These statements become part of the contract, and if they turn out to be false, the buyer has a right to some kind of remedy.

However, not every statement made during a contract of sale carries the same legal weight. Some statements are so important that if they are broken, the whole contract can be cancelled. Other statements are less important — if broken, the buyer can only claim compensation but cannot cancel the contract. This difference in legal weight is what the law calls the distinction between "Conditions" and "Warranties."

This is one of the most important and most frequently tested topics of the Sale of Goods Act, 1930, because it decides what remedy a buyer gets when the seller fails to fulfill what he promised about the goods.

The relevant provisions are found in Sections 11 to 17 of the Sale of Goods Act, 1930, with the core definitions given in Section 12.

- **MEANING OF STIPULATION**

Before understanding conditions and warranties, we must understand the word "stipulation."

A stipulation is simply a term, promise, or statement made as part of a contract, relating to the goods being sold. Every contract of sale contains various stipulations — about price, quality, quantity, delivery time, description of goods, and so on.

Section 12(1) states:

"A stipulation in a contract of sale with reference to goods which are the subject thereof may be a condition or a warranty."

This means every stipulation (term) in a contract of sale is classified by law into one of two categories:

1. Condition, or
2. Warranty

This classification is crucial because it determines the buyer's rights if the seller breaks that particular stipulation.

- **MEANING AND DEFINITION OF "CONDITION"**

Section 12(2) of the Sale of Goods Act, 1930 defines a Condition as:

"A condition is a stipulation essential to the main purpose of the contract, the breach of which gives rise to a right to treat the contract as repudiated."

Simple Explanation

A condition is a term of the contract that is so important, so fundamental, that it forms the very foundation or the "backbone" of the agreement. It is directly connected to the main purpose for which the buyer is entering into the contract.

If a condition is broken (breached) by the seller, the buyer gets the right to:

1. Reject the goods, and
2. Repudiate (cancel/terminate) the whole contract, and
3. Claim damages (compensation) for any loss suffered.

In simple words — a condition is a "deal-breaker" term. If it is not fulfilled, the entire purpose of the contract collapses, so the law allows the buyer to walk away from the contract entirely, in addition to claiming damages.

Example of a Condition

Amit tells a car dealer, "I want to buy a car, but it must be a diesel car because I drive very long distances daily and diesel gives better mileage for my use." The dealer sells him a petrol car instead. Since the fuel type was the very basis on which Amit agreed to buy the car, this is a condition. Amit can reject the car, cancel the contract, and claim damages if any.

Another classic example (based on real case law – Bannerman v. White): A buyer wanted hops (used in beer-making) for brewing purposes and specifically told the seller that the hops must not have been treated with sulphur, because he would not buy them otherwise. The seller sold hops treated with sulphur. Since this was directly linked to the very purpose of the purchase, the court treated it as a condition, and the buyer was allowed to reject the goods.

- **MEANING AND DEFINITION OF "WARRANTY"**

Section 12(3) of the Sale of Goods Act, 1930 defines Warranty as:

"A warranty is a stipulation collateral to the main purpose of the contract, the breach of which gives rise to a claim for damages but not to a right to reject the goods and treat the contract as repudiated."

Simple Explanation

A warranty is a term of the contract that is secondary or additional in nature — it supports the main contract but is not the foundation of it. It is described as "collateral", meaning it is attached to the contract but not central to its main purpose.

If a warranty is broken by the seller, the buyer:

1. Cannot reject the goods
2. Cannot cancel/repudiate the contract
3. Can only claim damages (compensation) for the loss suffered

In simple words — a warranty is a "nice-to-have" term. Breaking it causes some inconvenience or loss to the buyer, but it does not defeat the entire purpose of buying the goods, so the buyer must accept the goods and can only ask for monetary compensation.

Example of a Warranty

Priya buys a washing machine, and the shopkeeper assures her, "This machine comes with a free 2-year home service warranty." Later, the shopkeeper fails to provide the free home service as promised. Priya cannot return the washing machine or cancel the purchase because the main purpose of the contract — buying a functioning washing machine — has already been fulfilled. She can only claim damages/compensation for the loss of the free service benefit that was promised.

Case law example (Baldry v. Marshall): In this case, a buyer wanted a car suitable for touring purposes and told the seller so. The seller recommended a particular car, assuring it was suitable for touring. The car turned out to be unsuitable for touring purposes. Since suitability for touring was central to the very reason for buying the car, the court treated this stipulation as a condition, not merely a warranty, allowing the buyer to reject the car — showing how courts look at the real intention and purpose of the buyer, not just the label used by the parties.

❖ DISTINCTION BETWEEN CONDITION AND WARRANTY

Difference Between Condition and Warranty

Under the Sale of Goods Act, 1930, a contract of sale may contain different terms relating to the goods. These terms are commonly classified as conditions and warranties.

1. Condition

A condition is a term that is essential to the main purpose of the contract.

In simple words:

A condition is an important promise or requirement on which the buyer's main purpose of purchasing the goods depends.

If a condition is broken, the buyer generally has the right to reject the goods and treat the contract as repudiated, subject to the provisions of the Act.

Example

A tells B: "I want a new laptop with 16 GB RAM and 512 GB SSD."

B agrees to supply it but delivers a laptop with 8 GB RAM.

The requirement regarding 16 GB RAM may be a condition because it is important to the buyer's main purpose.

2. Warranty

A warranty is a term that is collateral or secondary to the main purpose of the contract.

In simple words:

A warranty is a less important promise. Its breach generally gives the buyer a right to claim damages, but not a right to reject the goods merely because of that breach.

Example: A buys a washing machine from B. B promises to provide free installation within 3 days.

If B fails to provide free installation, the buyer may have a claim for damages or other appropriate remedy, but the buyer generally cannot reject the washing machine merely because of that breach.

❖ **Main Difference Between Condition and Warranty**

Basis	Condition	Warranty
1. Meaning	A condition is an essential term of the contract.	A warranty is a collateral/secondary term.
2. Importance	It is essential to the main purpose of the contract.	It is secondary to the main purpose.
3. Effect of breach	Breach generally gives the buyer the right to reject the goods and treat the contract as repudiated, subject to the Act.	Breach generally gives the buyer a right to claim damages but not to reject the goods merely for that breach.

Basis	Condition	Warranty
4. Nature	Major/essential term.	Minor/secondary term.
5. Example	Buyer orders a red car but receives a blue car where colour is essential to the contract.	Seller promises free servicing for one year but fails to provide it.
6. Importance to buyer	Directly affects the buyer's main purpose.	Does not usually affect the main purpose.
7. Remedy	Usually rejection + damages, where legally available.	Usually damages.
8. Legal consequence	More serious.	Less serious compared with breach of condition.

Situation 1 – Condition is Broken

The seller delivers a used car.

The requirement that the car should be new is fundamental to the contract.

➡️ Condition is broken

Priya may generally reject the car, subject to the applicable provisions of the Sale of Goods Act.

Situation 2 – Warranty is Broken

The seller provides the new red car but promises:

"We will provide free servicing for one year."

The seller later fails to provide the promised free servicing.

This may be a warranty depending on the terms and circumstances.

➡️ Priya may claim appropriate damages/remedy, but cannot ordinarily reject the car merely because of breach of warranty.

- **DIFFERENCE IN REMEDY**

This is the most important point for examinations.

Breach of Condition

Breach of Condition → Buyer can generally:

- Reject the goods
- Treat the contract as repudiated
- Claim damages, where appropriate

Subject to the provisions and exceptions under the Act.

Breach of Warranty

Breach of Warranty → Buyer can generally:

- Claim damages

But the buyer cannot ordinarily reject the goods merely because of breach of warranty.

❖ CONDITION CAN BECOME WARRANTY

An important rule under Section 13 of the Sale of Goods Act, 1930 is that in certain situations, a breach of condition may be treated as a breach of warranty.

Example

Suppose A buys a machine from B. A discovers that an important condition has been breached but decides to accept the goods instead of rejecting them.

In such a situation, the buyer may lose the right to reject the goods for that breach and may have to treat the breach as one of warranty, subject to the Act.

Simple Rule

Condition → Can sometimes be treated as Warranty

But:

Warranty → Cannot simply be treated as Condition.

Example 1 – Mobile Phone

A customer orders a mobile phone with 256 GB storage because storage is essential for their work.

Seller delivers a phone with 64 GB storage.

➡️ It may amount to breach of a condition, depending on the contract.

Example 2 – Furniture

A customer purchases a sofa and the seller promises free delivery.

Seller fails to provide the promised free delivery.

➡️ Depending on the contract, this may be a warranty/secondary term, and the buyer may claim an appropriate remedy.

Example 3 – Car

A customer specifically requires a diesel car for business purposes.

The seller delivers a petrol car.

➡️ The requirement may be a condition because it affects the main purpose of the purchase.

❖ **BREACH OF STIPULATION**

BREACH OF CONDITION

Buyer's available remedies:
1. Reject the goods
2. Treat contract as repudiated (cancel the contract)
3. Claim damages for loss suffered

OR, in certain cases, buyer may choose to WAIVE the condition and treat it as a warranty instead (see Section 13 below)

BREACH OF WARRANTY

Buyer's available remedy:
1. Claim damages ONLY (cannot reject goods, cannot cancel contract)

❖ WHEN A CONDITION IS TO BE TREATED AS A WARRANTY (SECTION 13)

This is a very important and slightly tricky part of the topic — sometimes, even though a term is legally a "condition," the law says the buyer must treat it only as a warranty, meaning he loses the right to reject the goods and can only claim damages. Section 13 of the Sale of Goods Act lays down these situations.

(a) Voluntary Waiver by the Buyer (Section 13(1))

Where a contract of sale is subject to a condition to be fulfilled by the seller, the buyer may waive the condition, or may elect (choose) to treat the breach of the condition as a breach of warranty, and not as grounds for rejecting the goods and treating the contract as repudiated.

Simple meaning: Even though a condition has been broken, the buyer has a choice. He is not forced to reject the goods and cancel the contract. If he prefers, he can voluntarily give up (waive) his right to reject and instead simply accept the goods while claiming damages/compensation for the loss caused by the breach.

Example: A buyer orders a machine expecting it to have Feature X, which is a condition essential to his purpose. On delivery, he finds Feature X is missing, but decides the machine is still good enough for his work and doesn't want the hassle of returning it. He can choose to keep the machine and simply claim damages for the missing feature — effectively treating the breach of condition as if it were a breach of warranty.

(b) Acceptance of Goods by the Buyer (Section 13(2))

Where a contract of sale is not severable (i.e., it is a single, indivisible contract, not one that is to be performed in separate parts/installments) and the buyer has accepted the goods, or part of them, then the breach of any condition to be fulfilled by the seller can only be treated as a breach of warranty, and not as grounds to reject the goods or repudiate the contract, unless there is a term of the contract, express or implied, allowing him to do so.

Simple meaning: If the buyer has already accepted the goods (taken delivery and started treating them as his own, for example, by using them, reselling them, or doing something inconsistent with the seller's ownership), he loses the right to reject the goods later, even if a condition was broken. He can only claim damages at that stage, as if it were merely a warranty.

What is "Acceptance" of Goods? (Section 24, for related context): A buyer is deemed to have accepted the goods when he:

1. Communicates to the seller that he has accepted the goods, or
2. Does something with the goods that is inconsistent with the seller's ownership (e.g., resells them, alters them, uses them extensively), or
3. Retains the goods beyond a reasonable time without informing the seller that he has rejected them.

Example: A buyer purchases a batch of furniture and, upon delivery, uses the furniture in his office for two months without raising any complaints, even though there was a defect that technically breached a condition. Since he has effectively "accepted" the goods by using them for a long period, he can no longer reject them — he can only sue for damages, treating the broken condition as a warranty.

(c) Where the Contract is Severable, and Buyer Accepts Part (Related Principle under Section 13, read with Section 11)

Where the contract is severable (divisible into separate parts, such as delivery in different installments), and the buyer accepts one or more installments of the goods, this does not necessarily mean he loses his right to treat a later breach of condition (regarding a different installment) as a ground for rejection — this depends on the facts, the terms of the contract, and whether the breach is treated as a breach of the whole contract or only of that particular installment.

Diagram: When Condition Sinks to Warranty

(d) Impossibility of Restoring Goods

If it becomes impossible to restore the goods to their original condition (for example, the goods have been consumed, destroyed, significantly altered, or mixed with other goods so that they cannot be separated and returned), the buyer effectively loses the practical ability to reject the goods, and his remedy is reduced to a claim for damages — similar in effect to how a condition sinks into a warranty.

Important Note: A Warranty Can NEVER Become a Condition

While a condition can be reduced/treated as a warranty in the situations discussed above (waiver, acceptance of goods), the reverse is never possible — a warranty can never be elevated into a condition, because the law has already classified it as a term that is merely collateral/secondary to the main purpose of the contract. Its legal character remains fixed as a warranty, regardless of the buyer's wishes.

❖ **CONSUMER PROTECTION ACT, 2019 –**

Consumer Protection Act, 2019 and Types of Product Defects

❖ **WHAT IS CONSUMER PROTECTION ACT?**

The Consumer Protection Act, 2019 is an important Indian law made to protect consumers from unfair and harmful business practices and to provide a system for resolving consumer complaints.

In simple language:

The Consumer Protection Act is a law that protects people when they buy goods or services and helps them get a remedy when they face problems such as defective goods, poor services, misleading advertisements or unfair trade practices.

The Act replaced the earlier Consumer Protection Act, 1986.

- **WHO IS A CONSUMER?**

A consumer is a person who buys goods or hires/avails services for consideration (payment), subject to the exclusions provided in the Act.

Simple Example

Riya purchases a mobile phone from a shop for ₹20,000.

Here:

- Riya = Consumer
- Shopkeeper/company = Seller/service provider
- Mobile phone = Product
- ₹20,000 = Consideration

If the phone is defective, Riya may have consumer rights and remedies under the applicable law.

Important Point

A person who obtains goods or services free of charge is generally not treated as a consumer under the Act.

Also, goods or services obtained for a commercial purpose are generally excluded, subject to the statutory exception for use by a person exclusively for earning livelihood by means of self-employment.

Main Objectives of Consumer Protection Act

The Consumer Protection Act, 2019 aims to:

1. Protect Consumers

It protects consumers against defective goods, deficient services and certain unfair practices.

2. Provide Quick Redressal

It creates consumer commissions where consumers can seek remedies.

3. Protect Consumer Rights

The Act recognizes important consumer rights such as:

- Right to safety
- Right to information
- Right to choose
- Right to be heard
- Right to seek redressal
- Right to consumer awareness

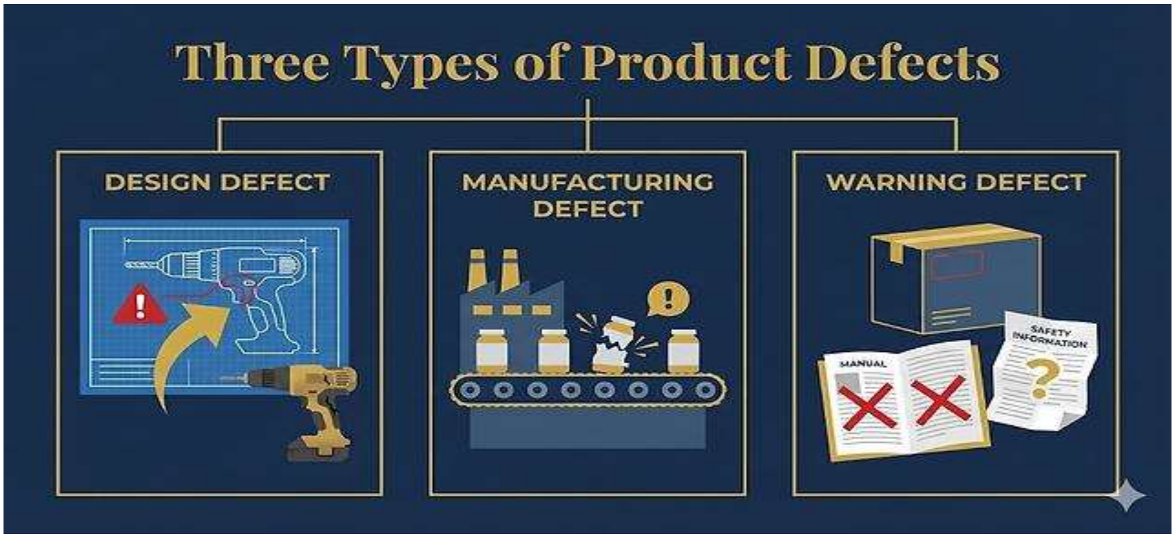
Control Unfair Trade Practices

Businesses should not use unfair methods to deceive or exploit consumers.

Control Misleading Advertisements

The Act provides mechanisms to address misleading advertisements.

❖ WHAT IS A PRODUCT DEFECT?



Under the Consumer Protection Act, 2019, defect generally refers to a fault, imperfection or shortcoming in the quality, quantity, purity or standard of goods or products that is required by law or claimed by the seller/manufacturer according to the applicable terms.

Simple Meaning

A product defect means that a product does not meet the required or promised standard in some important way.

Example

You buy a new mixer grinder.

The company promises:

- 750-watt motor
- Stainless-steel jar
- Proper safety mechanism

But the product has a defective motor and stops working after one day.

➡️ This may be a product defect.

❖ VARIOUS TYPES OF PRODUCT DEFECTS

In practical product-liability discussions, defects are commonly explained as:

1. Manufacturing Defect
2. Design Defect
3. Marketing/Warning Defect

Let's understand them in very simple language.

❖ MANUFACTURING DEFECT

A manufacturing defect occurs when a product is made incorrectly during the manufacturing process.

The product's design may be correct, but something goes wrong while making a particular product or batch.

Simple Example

A company manufactures 10,000 electric irons.

The design is safe, but due to an error in the manufacturing process, 100 irons have faulty wiring.

These 100 irons may have a manufacturing defect.

Another Example

A company manufactures 1,000 bottles.

The correct quantity should be 1 litre, but because of a machine error, some bottles contain only 700 ml.

➡ Manufacturing defect.

Easy Formula

Correct Design + Wrong Manufacturing = Manufacturing Defect

❖ DESIGN DEFECT

A design defect exists when the problem is in the basic design of the product itself.

In this case, the product may have been manufactured exactly according to its design, but the design itself may create an unreasonable safety problem.

Example

Suppose a company designs a chair with extremely weak legs.

The factory manufactures every chair exactly according to the approved design.

However, the chair breaks easily when used normally.

➡ The problem may be a design defect.

Another Example

A pressure cooker is designed without an adequate safety mechanism required for safe normal use.

If the design itself creates the safety problem, it may be considered a design defect.

Easy Formula

Wrong Design + Correct Manufacturing = Design Defect

❖ MARKETING OR WARNING DEFECT

A product may be properly designed and properly manufactured but still be unsafe because the manufacturer or seller fails to provide adequate instructions, warnings or necessary information.

This is commonly called a marketing defect or failure-to-warn defect.

Example

A cleaning chemical is dangerous if it comes into contact with skin.

The manufacturer knows this but does not provide an adequate warning or safety instructions on the packaging.

A consumer uses the product without knowing the danger.

➡️ This may be a warning/marketing defect.

Another Example

A product requires a specific safety precaution during use, but the manufacturer provides no adequate instructions about that precaution.

➡️ Possible marketing/warning defect.

Easy Formula

Safe Design + Safe Manufacturing + Inadequate Warning = Marketing/Warning Defect

❖ **CONSUMER'S RIGHTS IN SIMPLE LANGUAGE**

1. Right to Safety

Meaning

The **Right to Safety** means that a consumer has the right to be protected from products and services that may be **dangerous to their life, health or property**.

Products sold in the market should be reasonably safe when used properly. A business should not sell products that can cause unnecessary harm to consumers.

Simple Example

Suppose a person purchases a **pressure cooker**. If the pressure cooker has a manufacturing defect and the lid suddenly opens while cooking, it can cause serious burns.

The consumer has the right to expect that the pressure cooker is **safe to use** and manufactured according to proper safety standards.

Another example: A consumer purchases an electrical iron. If the iron has defective wiring and gives an electric shock during normal use, the consumer's **Right to Safety** has been affected.

What does this right protect consumers from?

- Dangerous electrical appliances
- Unsafe food products
- Defective vehicles
- Harmful medicines
- Unsafe toys

- Faulty household appliances
- Products with serious manufacturing defects

2. Right to Information

Meaning

The **Right to Information** means that a consumer has the right to receive **complete and correct information about a product or service before purchasing it**.

A consumer should not be forced to buy something without knowing important details.

The information may include:

- Price
- Quantity
- Quality
- Ingredients
- Manufacturing date
- Expiry date
- MRP
- Usage instructions
- Risks or side effects
- Warranty or guarantee
- Terms and conditions

Simple Example

Suppose you want to purchase a packet of biscuits.

The packet should provide information such as:

MRP: ₹50
Net Weight: 200 grams
Manufacturing Date: July 2026
Expiry/Best Before: January 2027
Ingredients: Flour, sugar, etc.

This information helps the consumer decide whether to purchase the product.

Another Example

Suppose a company advertises a mobile phone saying:
"Battery lasts for 3 days."
But the company knows that under normal usage the battery lasts only one day.
The consumer has been given **misleading information**.

Why is this right important?

Without proper information, consumers may:

- Buy an expired product
- Pay more than the actual price
- Purchase unsuitable products
- Consume something they are allergic to
- Buy a product with hidden conditions

3. Right to Choose

Meaning

The **Right to Choose** means that a consumer has the freedom to select **the product or service they want from different available alternatives at a reasonable price**.

A seller should not unfairly force a consumer to buy one particular product.

Consumers should have the opportunity to compare:

- Price
- Quality
- Features
- Brand
- Quantity
- Service

and then make their own choice.

Simple Example

Suppose you go to a mobile shop to purchase a smartphone.

You want to compare:

- Samsung
- Apple
- OnePlus
- Motorola

The shopkeeper should allow you to consider different options according to your requirements and budget.

The consumer can decide which phone to purchase.

4. Right to Be Heard

Meaning

The **Right to Be Heard** means that consumers have the right to **express their complaints, opinions and problems**, and their complaints should receive proper consideration.

A consumer should not be ignored after purchasing a product or service.

Businesses should provide a suitable system for handling customer complaints.

Simple Example

Suppose you purchase a washing machine.

After one week, the washing machine stops working.

You contact the company's customer service and explain the problem.

The company should:

1. Listen to your complaint.
2. Register the complaint.
3. Investigate the problem.
4. Take appropriate action.

The consumer has the right to have their complaint **heard and considered**.

5. Right to Seek Redressal

Meaning

The **Right to Seek Redressal** means that consumers have the right to ask for a **solution, replacement, refund, repair or compensation** when they suffer because of defective goods, deficient services or unfair trade practices.

Simply allowing a consumer to complain is not enough. There should also be a way to **solve the problem**.

Simple Example

Suppose you purchase a new refrigerator for ₹40,000.
After a few days, you discover that the refrigerator has a serious manufacturing defect.
You contact the seller, but the seller refuses to help.
You may seek an appropriate remedy such as:

- Repair
- Replacement
- Refund
- Compensation, where applicable

Another Example

Suppose you purchase an expensive online course, but the company promises 100 video lectures and provides only 40 lectures.

If the company refuses to resolve the issue, the consumer can seek appropriate **redressal** through the available consumer grievance mechanism.

What can redressal include?

Depending on the case, the consumer may seek:

Replacement → Get a new product.

Repair → Defective product is repaired.

Refund → Money is returned.

Compensation → Payment for loss or harm, where legally justified.

Correction of deficiency → Service provider corrects the poor service.

6. Right to Consumer Education

Meaning

The **Right to Consumer Education** means that consumers have the right to obtain **knowledge and awareness about consumer rights, laws, products, services and safe purchasing practices**.

An informed consumer is better able to protect themselves.

Simple Example

Suppose a student knows:

- How to check MRP
- How to check expiry date
- Why a bill should be collected
- How to identify misleading advertisements
- Where to complain about defective products

That student is a **more aware consumer**.

Another Example

Before purchasing an expensive laptop, a student learns about:

- Warranty
- Specifications
- Price comparison
- Return policy
- Customer reviews
- Service centres

This knowledge helps the student make a better purchasing decision.

Why is consumer education important?

An educated consumer can:

- Avoid fraud
- Identify misleading advertisements
- Compare products
- Check product labels
- Understand warranties
- Keep bills and receipts
- Make informed decisions
- Raise complaints when necessary