63. Promisee may dispense with or remit performance of promise.—Every promisee may dispense with or remit, wholly or in part, the performance of the promise made to him, or may extend the time for such performance, or may accept instead of it any satisfaction which he thinks fit.

Illustrations

(a) A promises to paint a picture for B. B afterwards forbids him to do so. A is no longer bound to perform the promise."

(b) A owes B 5,000 rupees. A pays to B, and B accepts, in satisfaction of the whole debt, 2,000 rupees paid at the time and place at which the 5,000 rupees were payable. The whole debt is discharged.

(c) A owes B 5,000 rupees. C pays to B 1,000 rupees, and B accepts them, in satisfaction of his claim on A. This payment is a discharge of the whole claim.

(d) A owes B, under a contract, a sum of money, the amount of which has not been ascertained. A, without ascertaining the amount, gives to B, and B, in satisfaction thereof, accepts, the sum of 2,000 rupees. This is a discharge of the whole debt, whatever may be its amount.

(e) A owes B 2,000 rupees, and is also indebted to another creditors. A makes an arrangement with his creditors, including B, to pay them a composition of eight annas in the rupee upon their respective demands. Payment to B of 1,000 rupees is a discharge of B’s demand.

This section makes a wide departure from the Common law. In England, to quote an authoritative exposition, “it is competent for both parties to an executory contract by mutual
agreement without any satisfaction to discharge the obligation of that contract; in other words, as reciprocal promises are a sufficient consideration for each other, so are reciprocal damages. But an executed contract cannot be discharged except by release under seal or by performance of the obligation. The intention of the present section to alter the rule of common law is clear and has been recognised in several Indian cases.

The present section and Section 62 must be construed so as not to overlap each other. This would be done by holding that agreement referred to in section 62 are agreements which more or less affect the rights of both parties under the contract discharged by such agreements; whilst those referred to in section 63 are such as to affect the right of only one of the parties. The former case necessarily implies consideration, which may be either the mutual renunciation of right or in addition to this, the mutual undertaking of fresh obligations or the renunciations of some right on the one side and the undertaking of some obligation on the other. It is only when the agreement to discharge affect the right of only one party that consideration might be found wanting and there alone the Indian law departs from the English law by making provision for every such possible case in section 63. No consideration is required for remission under this section [M/s Hari Chand Madan Gopal & Co. v. State of Punjab, AIR 1973 SC 381].

**Remission of Performance:** Where a promisee remits a part of the debt, and gives a discharge for the whole debt on receiving the reduced amount such discharge is valid. The section is intended not only to enable a promisee to release a debt at the instance of a third party but also to enable the promisor, whose debt has been released at the instance of a third party to take advantage of that release. Thus where a lessor, to whom rent is due under a registered lease, accepts a smaller amount of rent from the lessee in pursuance of a subsequent oral agreement to reduce the rent, and passes a receipt in full discharge of the rent due, the discharge will take effect independently of the prior oral agreement. Similarly, where money is accepted in full satisfaction of the claim, it is a discharge of the whole debt [Ishaq v. Madanlal, AIR 1965 All 34].

Agreement to extend time: An agreement simply extending the time for performance of a contract is exempted by this section for any requirement of consideration to support it. This section does not entitle a promisee to extend the time for performance of his own accord for his own purposes. Thus, where a date is fixed for delivery of goods under a contract and the seller fails to deliver the goods, the buyer may not of his own accord give further time to the
seller for giving delivery, so as to claim damages on the footing of the rate on the later date fixed by him; he is entitled to damages on the basis only of the rate prevailing on the date fixed for the performance in the contract.

Accept any satisfaction: The last part of this section relates to what is known as the principle of accord and satisfaction in English Law. Instead of insisting upon performance, a promisee must accept any other form of satisfaction. Illustration (d) and (e) to the section illustrate this principle. The essential element of satisfaction is that the promisee must accept it unequivocally. If a promisor tenders something in full satisfaction but the promisee does not accept it or accepts in part-performance, such a satisfaction will fall outside this part.

Where the defendant company sent the bill for work done by the plaintiff in full and final settlement of all his claims under the contract but the plaintiff signed the bill and advance receipt with the words “under protest” and the defendant company sent the cheque nine months thereafter, it was held that there was no accord and satisfaction in the sense of bilateral consensus of intentions. If however, the creditor voluntarily and unequivocally accepts the offer to accept a lesser sum in satisfaction of the claim, then the creditor cannot subsequently insist on the balance. Whether the offer is accepted voluntarily and unequivocally is a question of fact.

Introduction

There are several ways in which parties can discharge their contractual obligations. For example, the doctrine of accord and satisfaction allows parties to discharge their contractual obligations by performing certain modified obligations or by novating or rescinding the existing contract [National Insurance Company Limited v Boghara Polyfab Private Limited [(2009) 1 SCC 267]. In other words, a liability arising out of a breach of contract can be discharged by a new agreement (an 'accord'), wherein the parties mutually agree a new consideration, forfeiting their right of action against their previous contractual obligations. Payan Reena Saminathan v Puna Lana Palaniappa [(1913-14) 41 IA 142] The 'satisfaction' is the discharge of the substituted obligations. Central to this is the consent and mutual agreement of all parties involved.

The doctrine and its use in India have been derived from the common law [Payan Reena Saminathan v Puna Lana Palaniappa [(1913-14) 41 IA 142] Section 63 of the Contract Act 1872 embodies the principle of discharge of contract by accord and satisfaction. Snow View
Properties Limited and v Punjab and Sind Bank [AIR 2010 Cal 94]. The jurisprudence encompasses contract law, tort law and, more recently, arbitration law, bringing to the fore the issue of whether:

- an arbitration clause in an original contract survives in the substituted settlement; and
- an arbitrable dispute exists for the purposes of the appointment of an arbitrator by the courts.

As a defence against this doctrine, and to escape fulfilling their contractual obligations or have the substituted consideration or agreement rendered void, parties often argue that the consent given was not freely obtained but was the result of:

- coercion;
- financial duress;
- undue influence; or
- fraud.

This is seen in contractual disputes but more often in cases involving insurance claims, wherein the claimant often settles for an amount less than the claimed amount and gives up all claims and rights via the execution of a discharge certificate or voucher due to an unequal bargaining position. The Supreme Court has held that this defence is acceptable only in insurance disputes wherein a prima facie case has been made by the party and not in commercial contract cases wherein it is assumed that both parties have equal bargaining power. [RL Kalathia and Company v State of Gujarat [(2011) 2 SCC 400].

What factors should be considered to establish whether the doctrine of accord and satisfaction applies in the context of obtaining consent via fraud, coercion or undue influence? The courts have stated that there is no standard or rule of thumb to establish a prima facie case, which leaves room for speculation and varies greatly across the courts. With varying standards in certain jurisdictions, it is easy for frivolous suits to be accepted in some courts and genuine suits be rejected in others, rendering this mechanism futile. A semblance of criteria or a threshold should be introduced to ensure consistency and greater effectiveness. Some points of consideration for establishing a prima facie case could be:
• establishing the existence of unequal bargaining power, with one party having distinctly more power, and that the discharge voucher or settlement agreement was executed in favour of this party;

• the circumstances and stand taken by the party executing the discharge voucher or settlement agreement around the time of its execution – for instance, whether:
  o the party showed any reluctance or provided any counteroffer;
  o the party reached out after the document had been executed; or
  o time elapsed between execution and the institution of the suit;

• in cases of insurance claims, examining the difference between the settlement amount and the amount claimed, alongside the amount mentioned in the final surveyor's report, can serve as a material factor in addition to the surrounding facts; and

• determining whether the applicant has suffered financial duress and, if so, to what extent and whether it was of such a nature that it could affect its decision-making ability and force it to succumb to the pressure.

**Doctrine of Accord and Satisfaction**

Accord and satisfaction is the purchase of the release from an obligation, whether arising under contract or tort by means of any valuable consideration not being the actual performance of the obligation itself. The accord is the agreement by which the obligation is discharged. The satisfaction is the consideration which makes the agreement operative. The consideration may be executory.

Under English law, an accord without satisfaction is of no effect. In Indian law, an accord is an agreement, there must be consensus ad idem; its validity liable to be judged by the general law of contract quite apart from the provisions of sections 62 and 63 of the Indian Contract Act, 1872.

A liability arising out of breach of contract may be discharged by the doctrine of accord and satisfaction. An accord is an agreement made after breach whereby some consideration other
than the legal remedy is to be accepted by the party not in fault, followed by the performance of the substituted consideration.

The question is, whether an arbitration clause in a contract survived despite the purported satisfaction of the terms of the contract. Normally, an accord and satisfaction by itself would not affect the arbitration clause for even rights and obligations of the parties are worked out, the contract does not come to an end. If the dispute is that the contract itself does not subsist, the question of invoking the arbitration clause may not arise. But in the event it be held that the contract survives, recourse to the arbitration clause may be taken.

The doctrine of accord and satisfaction has many underlying principles, including the acceptance of a lesser sum and acceptance of any satisfaction. The Privy Council gave its views on the doctrine in Payan Reena Saminathan v. Puna Lana Palaniappa [41 IA 142]. The doctrine and its usage in India have been derived from the American Common Law.

BACKGROUND OF THE DOCTRINE

Section 63 of the Indian Contract Act allows a party to a contract to dispense with the performance of the contract by the other party, or to extend the time of performance or to accept any other satisfaction instead of the performance.

According to Section 63 of the Indian Contract Act, on the other hand, every person who accepts a proposal may dispense with or remit wholly or in part, the performance of the proposal made to him which he has accepted, or may extend the time for such performance or may accept instead of it any satisfaction which he thinks fit.

In accordance with section 62 and section 63 of the Indian Contract Act, 1872, the party who has the right to demand the performance may:

This section permits a party who is entitled to the performance of a contract to

1. Dispense with or remit, either wholly or in part, the performance of the contract, or

2. Extend the time of performance, or

3. Accept any other satisfaction instead of performance.

The sections 63 and 62 must be construed so as to not overlap with each other. This can be done by holding that agreements referred to in section 62 are agreements which more or less
affect the rights of both the parties to the contract discharged by such agreements. Those referred to in section 63 are such as to affect the right of only one of the parties.

The former case necessarily implies consideration, which may be either the mutual renunciation of right, or, in addition to this, the mutual undertaking of fresh obligations, or the renunciation of some right on the one side and the undertaking of some obligation on the other. It is only when the agreement to discharge affects the right of only one party that consideration might be found wanting. There alone the Indian law departs from the English law by making provisions for every such possible case in section 63. The result is that the agreement set up by the defendant which falls under section 63 is binding, though without consideration.

**Difference between Section 62 and Section 63 [Most Important]**

This section enables the defendant in a suit filed by the promise, dispensing or remitting performance or accepting satisfaction and subsequently trying to enforce, the promise made to him, to plead that he was relieved from performance that which the plaintiff told he need not do. It has been held, in the case of New Standard Bank Ltd. v. Probodh Chandra Chakravarty [AIR 1942 Cal 87], that an agreement made between the parties after the breach of contract may be enforced under this section whereas under Section 62 the very basis of this section is the performance of the original contract should be affected and hence novation must be prior to the breach of contract. Calcutta High Court held that the novation should be previous to the contrary.

Difference from the English Contract Law:

Under the English law, it is competent for both parties to an executor contract by mutual agreement, without any satisfaction, to discharge the obligation of that contract; in other words, reciprocal promises are a sufficient consideration for each other, so are reciprocal discharges. A contract rescinded by an agreement, stands completely discharged and cannot be revived.

But an executed contract cannot be discharged except by release under seal, or by performance of the obligation, as by payment where the obligation is to be performed by payment. Subject to that exception, 'the new agreement in rescission or alteration of the prior contract must in general satisfy all the requirements of an independent contract', and so must
an agreement to accept satisfaction for a right of action which has arisen by breach of contract.

This section makes a wide departure from the English law, and the principles of that law cannot be relied upon to interpret the section. The intention of the present section to alter the rule of the common law is clear; and this has been recognised in several Indian cases.

Necessity of satisfaction in a contract:

In 1903, the High Court of Bombay had held (Abaji Sitaram Modak v. Trimbak Municipality) that a dispensation or remission under this section involved a promise as defined by section 2(b) or an agreement within section 2(e), so that 'there must be a proposal of the dispensation or remission which is accepted': in technical terms, that the effect of the section is only to allow an accord to be good without satisfaction. Many jurists have continuously protested against this ruling and suggested that the words of the section ought to be construed according to their natural meaning and a promise could discharge the promise not only without consideration but without a new agreement.

Views of the Privy Council:

The principle of accord and satisfaction has been stated by the Privy Council as a principle of substituted agreement thus in the cases of Reena Saminathan v. Puna Lana Palaniappa [41 IA 142] and UOI v. Kishorilal Gupta & Bros [AIR 1959 SC 1362].:

"The 'receipt' given by the appellants and accepted by the respondent, and acted upon by both parties proves conclusively that all the parties agreed to a settlement of all their existing disputes by the arrangement formulated in the 'receipt'. It is a clear example of what used to be well-known in common law pleading as 'accord and satisfaction by a substituted agreement'. No matter what were their respective rights of the parties inter se they are abandoned in consideration of acceptance by all of a new agreement. The consequence is that when such an accord or satisfaction takes place, the prior rights of the parties are extinguished. They have, in fact, been extinguished by the new rights; and the new agreement becomes a new departure and the rights of all the parties are fully represented by it."

There have been two interpretations of this doctrine till date, the situation in which the party not at fault accepts any satisfaction in place of the original consideration and most
importantly, when he or she accepts a lesser sum as satisfaction until the previous contract is discharged.

ESSENTIAL ELEMENTS OF THE DOCTRINE

The doctrine of accord and satisfaction is merely a method of discharging a claim whereby the parties agree to give and accept something in settlement of the claim and perform the agreement, the accord being the agreement and the satisfaction its execution or performance, and it is a new contract substituted for an old contract which is thereby discharged, or for an obligation or cause of action which is settled, and must have all of the elements of a valid contract.

To constitute an accord and satisfaction, there must have been a genuine dispute that is settled by a meeting of the minds with an intention to compromise. Where there is an actual controversy, an accord and satisfaction may be used to settle it. The controversy may be founded on contract or tort. It can arise from a collision of motor vehicles, a failure to deliver oranges ordered and paid for, or a refusal to finish constructing an office building, etc.

An accord and satisfaction can be made only by persons who have the legal capacity to enter into a contract. A settlement is not binding on an insane person, for example; and an infant may have the right to disaffirm the contract. Therefore, a person, such as a guardian, acting on behalf of a person incapable of contracting for himself or herself may make an accord and satisfaction for the person committed to his or her charge, but the law may require that the guardian's actions be supervised by a court.

An executor or administrator may bind an estate; a trustee can accept an accord and satisfaction for a trust; and an officer can negotiate a settlement for a corporation. A third person may give something in satisfaction of a party's debt. In such a case, an accord and satisfaction is effected if the creditor accepts the offer and the debtor authorizes, participates in, or later agrees to, the transaction.

For example, a widower has an automobile accident but is mentally unable to cope with a lawsuit because his wife has just died. He gratefully accepts the offer of a close family friend to talk to the other driver, who has been threatening a lawsuit. The friend convinces the other driver that both drivers are at fault to some extent. The friend offers to pay the other driver $500 in damages in exchange for a written statement that she will not make any claim against the widower for damages resulting from the accident. The family friend and the other driver
each sign a copy of the statement for the other, and when the payment is made, the accord and satisfaction is complete. If the other driver then sues the widower for more money on account of the accident, the widower could show that he agreed to let his friend negotiate an accord and satisfaction, and the court would deny relief.

Most commonly, this is seen in situations where people lack the capacity to consent and negotiate legal agreements, and the person negotiating the contract may be supervised to confirm that the agreement is in the best interests of the person being represented. People can also reach accord and satisfaction on behalf of someone else more informally; for example, a parent may help an adult child settle a debt to a landlord, acting on behalf of the child to resolve the matter. However, the law may require that the guardian’s actions be supervised by a court. An executor or administrator may bind an estate; a trustee can accept an accord and satisfaction for a trust; and an officer can negotiate a settlement for a corporation.

An accord and satisfaction is a contract, and all the essential elements of a contract must be present. The agreement must include a definite offer of settlement and an unconditional acceptance of the offer according to its terms. It must be final and definite, closing the matter it covers and leaving nothing unsettled or open to question. The agreement may call for full payment or some compromise and it need not be based on an earlier agreement of the parties. It does not necessarily have to be in writing unless it comes within the statute of frauds.

Unless there are matters intentionally left outside the accord and satisfaction, it settles the entire controversy between the parties. It extinguishes all the obligations arising out of the underlying contract or tort. Where only one of two or more parties on one side settles, this ordinarily operates to discharge all of them. The reason for this is the rule that there should be only one satisfaction for a single injury or wrong. This rule does not apply where the satisfaction is neither given nor accepted with the intention that it settle the entire matter.

An accord without satisfaction generally means nothing. With a full satisfaction, the accord can be used to defeat any further claims by either party unless it was reached by fraud, duress, or mutual mistake.

A valid accord does not discharge the prior contract, it suspends the right to enforce it in accordance with the terms of the accord contract, in which satisfaction, or performance of the contract will discharge both contracts (the original and the accord). If the creditor breaches
the accord, then the debtor will be able to bring up the existence of the accord in order to enjoin any action against him.

The accord agreement must be transacted on a new agreement. It must therefore have the essential terms of a contract, (parties, subject matter, time for performance, and consideration). If there is a breach of the accord there will be no "satisfaction" which will give rise to a breach of accord. In this instance the non-offending party has the right to sue under either the original contract or the accord agreement.

A mere retaining of the money sent by the promisor does not imply satisfaction. Whether or not the money is taken in satisfaction is a question of fact to be determined keeping in view all the circumstances of the case. An award of damages for breach of a contract is not the same thing as a party to the contract accepting satisfaction of the contract other than in accordance with the original terms thereof.

ACCEPTANCE OF ANY SATISFACTION

According to the doctrine of accord and satisfaction, the promise may accept, instead of performance of the promise, such satisfaction as he thinks fit. But until the satisfaction agreed upon remains executory, the original cause of action is not discharged. But where the promise accepts the promise itself in satisfaction, the original cause of action is discharged.

In the case of Manohur Koyal v. Thakur Das Naskar [(1888) ILR 15 Cal 319], the defendant executed a bond of a certain sum of money in favour of the plaintiff, to be repaid on a certain date at eighteen percent per annum. If not paid on that date, the rate would be increased to twenty-four per cent per annum. The defendant came to the plaintiff on the day of repayment and expressed his inability to pay the said amount. Instead, he offered to pay Rs.400 cash and agreed to issue another bond in favour of the plaintiff to be paid at a much later date. The plaintiff accepted theses terms, but the defendant failed to carry them out. The plaintiff filed a suit for recovery of the original balance and the later promised amount from the defendant. The Court applied the principle of accord and satisfaction from section 63 of the Indian Contract Act and entitled the plaintiff to the entire sum demanded by him, stating that the reason was that the plaintiff had accepted the promise to carry out a different set of terms and conditions as the satisfaction for the later contract.

A contract between a debtor and a creditor that the debtor should sell and the creditor should accept any property in satisfaction for the debt, may operate in one of three ways, namely:
(i) the contract by itself may operate as an absolute discharge of the debt, giving the creditor thereafter only the remedy by way of the specific performance of the contract; or (ii) it may operate only as a conditional discharge of the debt, giving the creditor in case of the debtor's default, a right to claim either a performance of the contract or if he elects to put an end to it, the payment of the debt; or (iii) the contract may be an independent transaction, in the sense that it does not affect the rights of the creditors or the obligations of the debtor till the sale is actually completed.

In which of these ways the contract is to have operation will depend upon the intention of the parties to be gathered in the absence of any express stipulation, from their conduct and the surrounding circumstances in the particular case.

It was held in the case of Sakarchand Shamji v. Ismail Hoosein [AIR 1931 Rang 189], that where on the breach of contract for sale, the buyer accepted a promissory note to reimburse loss on breach, and the receipt for one of the payments stated that the whole amount was not paid within a particular time, there was no agreement to revive the original cause of action.

In the case of Ram Swaroop Mam Chand v. Chhaju Ram & Sons. [(1937) 1 Cal 757], the Court held that before a party can be said to accept something other than the performance stipulated for in satisfaction of the contract, it should be open to him to refuse such satisfaction and to insist on the performance of the contract in accordance with its terms.

Thus, if any party instead of original satisfaction of a claim accepted another satisfaction, deemed fit by it, such unilateral acts were covered under section 63 of the Indian Contract Act.

ACCEPTANCE OF A LESSER SUM

Although the rule that the court does not enquire into the adequacy of the consideration is applicable in general, and therefore anything different in kind from what is due may be good satisfaction without regard to its apparent value, yet the court cannot help knowing that nineteen pounds is not equal to twenty pounds. Accordingly, a less sum of money cannot be good for a greater sum already due. This last rule was confirmed with great reluctance by the House of Lords in the case of Foakes v. Beer [[1881 - 85] All ER Rep 106].
However, in Indian law, neither consideration nor an agreement is necessary for enabling a promise to dispense with or remit the performance of the promise or accept any other satisfaction in place of the original satisfaction.

This is one of the most common manifestations of the doctrine of accord and satisfaction. Where there has been a true accord under which the creditor voluntarily agrees to accept a lesser sum in satisfaction and the debtor acts upon that accord by paying the lesser sum and the creditor accepts it, then it is inequitable for the creditor afterwards to insist on the balance. The real emphasis is not on the acceptance of a smaller sum, but on the debtor's condition that if the tendered money be at all accepted, it must be in discharge of the entire debt. A creditor accepting payment on a condition cannot accept the payment and repudiate the condition. Such accord and satisfaction are a question of fact, implying an agreement to take the money in satisfaction of the claim in respect of which it is sent; and preclude the creditor promise from claiming the amount under the original contract.

This was seen in the case of State of Maharashtra v. Nav Bharat Builders [(1994) SC 3 SCC 83], where in a mutual agreement pending a suit, a contractor agreed to receive on account of his claim, labour escalation charges, an amount calculated according to specified principles and in order to withdraw the suit, there was accord and satisfaction after he had accepted the amount and withdrawn the suit.

The same principle was applied in the case of PK Ramaiah v. CMD, National Thermal Power Corpn. [(1994) Supp 3 SCC 126], in which when the creditor accepted the final measurements of the work completed and issued a receipt stating that the amount had been received in full and final settlement, there was accord and satisfaction and the creditor was not entitled to claim the balance.

Once any dispute is settled in this manner, no arbitral dispute remains, and the arbitration clause cannot be invoked.

If a cheque for a smaller amount than the debt due is sent to the creditor in full satisfaction, it does not discharge the debt if the latter does not accept it as such. It depends upon the intention of the parties as expressed in the correspondence and the character of the transaction.

For instance, in the case of Union of India v. Gangaram Bhagwandas [AIR 1977 MP 215], the railway sent a cheque for a smaller sum than the claim of the plaintiff in court in full and
final satisfaction as settlement of the claim. The plaintiff encashed the cheque but continued his suit for the balance. The court held that the plaintiff had not accepted the cheque in full and final settlement as he continued the suit.

Similarly, in the case of Tata Locomotive & Eng. Co. Ltd. v. Sardar Kartar Singh [AIR 1961 Pat 37], a cheque for a smaller sum was sent to the creditor with the request that it be accepted in full payment, accompanied by a receipt to be signed by the creditor in full satisfaction. The cheque was cashed but no receipt was sent. On the contrary, before cashing the cheque a demand for the rest was made. The payment was held not to be in discharge of the entire debt.

Further, in respect of a works contract, if a contractor accepts the final bill, it would not mean that he was not entitled to make any claim. He was not precluded in law from raising the rest of his claim. The judgement is clearly right since under section 63 of the Indian Contract Act, there have to be accord as well as satisfaction to discharge the liability of the debtor.

The acceptance of a lesser sum of money where more is due, is a good discharge of the whole liability. The Supreme Court decision in Kapur Chand Godha v. Mir Nawab Himayatali Khan [(1963) 2 SCR 168] illustrates this. In this case, the liability was above twenty-seven lakhs of rupees. A Committee was formed to clear up the matter, which offered the creditor twenty lakhs in full satisfaction of the debt. The plaintiff after some initial protest expressed his readiness to accept the sum sent in full satisfaction of his claim and discharge the promissory note making endorsement of full satisfaction and received the payment. After the settlement, the creditor sued the debtor for the balance amount.

Justice S.K.Das held that "the facts of the case are completely covered by section 63 and illustration (c) thereof. The appellant having accepted the payment in full satisfaction of his claim was not entitled to sue".

For this principle to lies, there must be proof that a lesser sum has been accepted by the party not at fault.

FULL SATISFACTION AS THE ACCORD

It is the general rule that full satisfaction equals the accord. That is, after a party not at fault has accepted the satisfaction for an extension in the performance of the previous contract, the
accord is complete and the other party cannot back out of the performance of his part of the contract so formed.

This rule has certain exceptions. If the party was made to enter into the contract despite protesting against it, the accord does not hold good. For instance, in the case of Union of India v. Gangaram Bhagwandas [AIR 1977 MP 215], the railway sent a cheque for a smaller sum than the claim of the plaintiff in court in full and final satisfaction as settlement of the claim. The plaintiff encashed the cheque but continued his suit for the balance. The court held that the plaintiff had not accepted the cheque in full and final settlement as he continued the suit and this was clearly a protest against the acceptance of the satisfaction.

Similarly, if the second party gave his assent to the accord under undue influence, mistaken belief or coercion, this rule is not applicable. Also, if the second party entered into the agreement for accord and satisfaction under the pressing circumstances, the doctrine does not apply, as in the case of Usman v. Union of India.

POSITION IN THE AMERICAN COMMON LAW

In the American common law, the term "accord and satisfaction" is used to express "the legal consequence of a creditor's acceptance of a substitute performance for a previously existing claim or prior original duty." As the conjunctive name implies, accord and satisfaction consists of two distinct parts. The "accord" of an accord and satisfaction is an agreement in which the creditor promises to accept the substitute performance for the pre-existing claim or duty. The "satisfaction" is the actual acceptance by the creditor of that substitute performance. Used together, these terms represent the legal consequence of accepting performance of the accord as satisfaction, the legal consequence being the discharge of the prior claim or duty.

There are three requirements for a valid discharge of an existing claim or duty by accord and satisfaction:

1. Existence of a claim or duty
2. Offer and acceptance of a substitute performance in full settlement, and
3. Proper consideration
The first requirement—existence of a prior claim or duty—is clearly met in the hypothetical. An existing claim or duty is required, because, without it, there is nothing for which to offer a substitute performance.

For the second requirement to be met, the offer and acceptance must be for a substitute performance. In the common law, a substitute performance must be distinguished from a substitute contract. Though the two are very similar, the distinction between them for the purposes of accord and satisfaction is the timeline by which each discharges the prior existing claim or duty. A substitute contract discharges the prior duty at the moment the parties reach an agreement. A substitute performance does not discharge the existing duty until the performance is executed.

The last requirement for a valid accord and satisfaction to exist is that "new, valuable, and legal consideration" be present. Consideration is a bargained for performance or return promise. Therefore, for a promise to give, do, or not do, there must be a quid pro quo, something given, done, or not done in return. In the context of accord and satisfaction, courts have held that "the consideration is the resolution of the disputed claim".

A COMPARATIVE STUDY

Although the principle of accord and satisfaction has been said to be similar to other forms of dispute settlement and often confused for being synonymous with compromise and settlement and some forms of arbitration, it can clearly be distinguished from them.

Accord and satisfaction is the purchase of the release from an obligation, whether arising under contract or tort by means of any valuable consideration not being the actual performance of the obligation itself. The accord is the agreement by which the obligation is discharged. The satisfaction is the consideration which makes the agreement operative.

An accord and satisfaction can be distinguished from other forms of resolving legal disputes. A payment or performance means that the original obligations were met.

A release is a formal relinquishment of the right to enforce the original obligations and not necessarily a compromise, as in accord and satisfaction.

An arbitration is a settlement of the dispute by some outside person whose determination of an award is voluntarily accepted by the parties.
A composition with creditors is very much like an accord but has elements not required for an accord and satisfaction. It is used only for disputes between a debtor and a certain number of his or her creditors, while an accord and satisfaction can be used to settle any kind of controversy—whether arising from contract or tort—and ordinarily involves only two parties.

Although distinctions have occasionally been drawn between an accord and satisfaction and a compromise and settlement, the two terms are often used interchangeably.

A novation is a kind of accord in which the promise alone, rather than full performance, is satisfaction, and is accepted as a binding resolution of the dispute.

CONCLUSION

The principle of accord and satisfaction implies that after a breach of contract has been made, the parties may enter into a subsequent contract by which the party not at fault may accept some other consideration other than the legal remedy.

This principle has also been described as only a method of discharge of a contract, as not annihilating the contract itself, but only making the obligation arising out of it unenforceable. The principle of accord and satisfaction is seen as a defense to legal action.

As per Chitty on Contracts,

'It is a good defense to an action for the breach of any contract that the cause of action has been discharged by accord and satisfaction, that is to say, by an agreement after breach whereby some consideration other than his legal remedy is to be accepted by the party not in fault'.

An accord and satisfaction which secures a release from such an obligation is really based on the existence of the contract instead of treating it as non-existent. When an action is brought for non-performance an accord and satisfaction furnishes good defense. The defense is not that the contract has come to an end, but that its breach has been satisfied by accord and satisfaction, and therefore the plaintiff in the action is not entitled to the usual remedy for the breach.

Through accord and satisfaction, a lessee can agree to acceptance of a lesser amount by way of full satisfaction of all claims. But when the debtor paid still lesser amount, his liability
could not come to an end. In such a case, there would be no accord even though the creditor had accepted the said amount.

Dispensing with or remitting performance:

The promisee has been authorized by Section 63 to remit or dispense with the performance of the contract without any consideration. He may fully forego his claim, or may agree to a smaller amount in full satisfaction of the whole amount.