Doctrine of Unjust Enrichment

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Think about this!

• If, while riding on a train, a shoe shiner comes, and without us saying anything, starts to polish our shoes and when they’re done, they ask for some money. Are we obliged to pay them that amount? Or can we tell them “I did not ask you to polish my shoe anyway!”.

• Imagine another situation, where someone else’s Amazon package, with its payment already done, is left at your door. Do you become all excited and say “YAY! Free Gifts!” or do you make an effort to find the owner or return the package?
• There are certain obligations, specified in the Indian Contract Act, that are not actually contracts because they miss one or the other elements of a contract, but are still enforceable in a court of law.

• Such obligations are called Quasi-contractual obligations.

• Each of them has been talked about separately in Sections 68 to 72 (Chapter V) of the Indian Contract Act, 1872.

• Let us first look where these obligations arise from, and then discuss each of them separately.
Background

• It is first important to note that a contract before it becomes so, is an agreement.
• Therefore, where there is no agreement, there is no contract.
• Yet, there are some obligations that do not have their origin in an agreement.
• The obligation not to harm another person or his property (Torts), for instance, the judgments or orders of courts, quasi-contractual obligations, etc.
• These obligations are not ‘contracts’ by definition, but they are enforceable in a court of law.
The Principle of Unjust Enrichment

• Quasi-contracts are based on the principle of “Nemo debet locupletari ex aliena jactura”, which means ‘No man should grow rich out of another person’s loss’.

• Therefore, liability in the case of quasi-contractual obligations is based on the principle of ‘unjust enrichment’.

• It essentially means that no man should get unjustly enriched at the cost of another person’s loss.

• That means no person should gain anything unjustly, when his gaining such a thing may mean a loss for another person.
Chapter V of the Indian Contract Act deals with certain relations resembling those created by contract. This chapter creates 5 heads of quasi contracts.

It incorporates those obligations which are known as quasi contract under English law in various situations mentioned in that chapter, a person is obliged to compensate another although the basis of this obligation is neither a contract between the parties nor any tort on the part of the person who is bound to compensate.

The basis of this obligation is that no one should have unjust benefit at the cost of the other. If A gets unjust enrichment at the cost of B, A has an obligation to compensate B for the same.
An action for a quasi contract resembles a contractual action in so far as such action is against a certain person or certain persons who have got the unjust benefit.

Such an action, it may be further noted, is for a liquidated sum of money.
The Indian Contract Act deals with the following quasi-contractual obligations:

1. Claims for necessaries supplied to a person incompetent to contract [Section 68]
2. Reimbursement of money paid, due by another [section 69]
3. Obligation of person enjoying benefit of non-gratuitous act [Section 70]
4. Responsibility of finder of goods [Section 71]
5. Liability of a person getting benefit under mistake or coercion [Section 72]

- The basis of obligation: In these sections a person is obliged to compensate another although the basis of obligation is neither contractual nor tortuous. Then what is the basic? It is unjust enrichment, i.e. enrichment of one at the cost of another.
Historical Background

• **Theory of Unjust Enrichment:** Lord Mansfield is credited as the originator of the doctrine of unjust enrichment. He asserted in the famous case of Moses v. Macferlan that law should always avoid unjust enrichment. Mansfield explain that quasi contract can be revoked under the following circumstances:

1. Money paid by mistake.
2. In cases where consideration failed totally.
3. Money paid under imposition/ extortion/ oppression

• In all these situations, the defendant should return the money on the basis of principle of natural justice and equity.
Theory of implied in fact

• Now, this viewpoint narrowed the scope of quasi contract.

• Lord Haldane in *Sinclair v. Broughan* argued for implied contract. He asserted common law knows personal action of only two classes, namely those founded on contract and those founded on tort. According to this, the basis of quasi contract is implied contract, so where, there is no contract possible, there can be no remedy under quasi-contract.

• The net impact is that Lord Haldane nullify the Mansfield’s proposition
Re-entry of Quasi-Contract

- In order to revive quasi-contract, Lord Wright accepting Mansfield’s proposition and said in *Fibrosa v. Fairbairn*, 1942 ALL ER [122] HL, that any civilised system of law is bound to provide remedies for cases of unjust enrichment/benefit i.e. to prevent a person from retaining money or on some benefit derived from another, keeping of which is against the conscience.
• Such remedies in English law are different from remedies in contract or tort and are now recognised to fall within 3rd category of common law which is called as quasi-contract or restitution.

• Our Indian Statute avoids the term quasi-contract and instead has given the name of “certain relations resembling those created by contract”.

• For actions under unjust enrichment, there are certain essentials to be proved:

1. Defendant’s enrichment by receipt of a benefit.
2. Enrichment at expense of plaintiff.
3. Retention of enrichment is unjust.
Section 68: Claim for necessaries supplied to person incapable of contracting, or on his account

- If the “necessaries” for a person, who is incapable of contracting (for example, a minor or a mentally disabled person) or of the dependants of such a person are taken care of by someone, he has the right to be reimbursed from the property of such incapable person.
- Although the word “necessaries” has not specifically been defined in the Act, it is impliedly clear that it means the necessaries to sustain life, basic things like food, clothing, education, etc.
- These are things without which a person cannot reasonably exist.
- In simple terms, if a person A supplies another person B (who is incapable of entering into a contract) or his family or anybody else who is dependant on him, with necessaries for life, he is entitled to take his due return from the property of person B.
- He is entitled only to such a reasonable amount as the value of the goods or services he may have supplied hold.
Essentials of section 68:

1. Supply of necessaries.

2. Incompetent person or children.
   • An agreement by a minor, or any person incompetent to contract is void ab initio.
   • No action under a contract can be brought against a person for a claim for necessaries supplied to such incompetent persons or his dependants.
   • The claim cannot be enforced against such incompetent person, but reimbursement can be claimed only from the property of such persons.
Reimbursement of Money: Section 69

• Essentials of Section 69:

1. Dependent is under legal obligation to pay. It should not be moral obligation. Plaintiff is interested in payment.

2. Plaintiff pays the money.

3. Defendant should be under entitlement as to payment but plaintiff should not be bound to pay as defendant should be under obligation to pay.
In *Govindram Govardhandas v. State of Gondal, AIR 1950 PC 99*, it was said that the general purpose of the section is to afford to a person who pays money in furtherance of some existing interest an indemnity in respect of the payment against any other person who rather than he could have been made liable at law to make the payment.
Liability of Non-Gratituous Act

• When a person lawfully does something for another person (for example, delivers a good or a service) without intending to do so ‘gratuitously’, and the other person enjoys the benefit of the delivery of that good or service, the latter is bound to pay back to the former. This compensation can be in money or the other person can, if possible, restore the thing done or delivered.

• Essentials:
  1. Defendant enjoy the benefits of something.
  2. Plaintiff does or deliver something.
  3. He did so non-gratituouslly.
The plaintiff on the request of an officer of state of West Bengal constructed a kutcha road, guardroom, office, kitchen, room for clerks, etc for the use of Civil supplies department of the Government. The state accepted the works but tried to escape liability under the pretence that no contract had been concluded in accordance with the Government of India Act as per section 175(3). The contractor was forced to try his luck with the state under section 70 of ICA.

The state is liable because instead of rejecting the services it had enjoyed the benefit of them.
Section 71: Finder of Goods

• If a person finds goods that belong to someone else and takes them into his custody, then he has to adhere to the following responsibilities:
   1. Take care of the goods as a person of regular prudence
   2. No right to appropriate the goods
   3. Restore the goods to the owner (if found)

• Peter owns a flower shop. Olivia visits him to buy a bouquet but forgets her purse in the shop. Unfortunately, there are no documents in the purse to help ascertain her identity. Peter leaves the purse on the checkout counter assuming that she would return to take it.

• John, an assistant at Peter’s shop finds the purse lying on the counter and puts it in a drawer without informing Peter. He finished his shift and goes home. When Olivia returns looking for her purse, Peter can’t find it. He is liable for compensation since he did not take care of the purse which any prudent man would have done.
• As per section 71, it simply says that a person who finds the goods belonging to another, and takes them into custody, is subject to the same responsibility as a bailee.

• Thus, in respect of duties and liabilities, a finder is treated at par with bailee.

• Leading case is Union of India v. Amar Singh (1960) 2 SCR 75.
Mistake or Coercion: Section 72

• As the heading suggests, if something is delivered to a person by ‘mistake’ or under ‘coercion’, he is liable to pay it back. For instance, A and B share a flat and contribute in half for the rent to be paid. A, without knowing that B has already paid the due rent to the landlord in whole, pays again to the landlord. The landlord, in this case, is liable to give back the money delivered to him by mistake. The term mistake here can mean both mistake of fact or mistake of law.

• The section also uses the term ‘coercion’. Here is an example of something delivered under coercion- A railway company refuses to deliver goods to a certain consignee except upon the payment of a certain illegal sum of money. The consignee pays the sum to obtain his goods. The company is liable to return the sum of money illegally charged.

- A certain amount of sales tax was paid by a firm under the UP Sales Tax law on its forward transactions and subsequent to the payment, the Allahabad High Court ruled the levy of sales tax on such transactions to be ultra vires. The firm was allowed to recover back the tax.