

CONDITIONS AND WARRANTIES

- ⦿ Before a Contract of Sale is entered into, a Seller frequently makes representations or statements with reference to the goods which influence the buyer.
- ⦿ Whether any statement or representation made by the seller with reference to the goods is a stipulation forming part of the contract or is a mere expression of an opinion forming no part of the contract, depends on the construction of the contract.
- ⦿ If there is no such representation, the ordinary rule of law – Caveat emptor, i.e. let the buyer beware applies.

Condition[Sec12(2)]

- A Condition is a stipulation which is essential to the main purpose of the contract.
- It's non fulfillment upsets the very basis of the contract.

- ⦿ The breach of the conditions gives the right to the aggrieved party to treat the contract as repudiated.
- ⦿ In other words, if the seller fails to fulfil a condition, the buyer has the option to repudiate the contract or refuse to accept the goods.
- ⦿ If the buyer has already paid, he can recover the prices and also claim the damages for the breach of the contract.

- ⦿ For example, Sohan wants to purchase a bike from Ravi, which can run at a speed of 100 km per hour.
- ⦿ Ravi shows a bike and says that this is well suited for you.
- ⦿ Sohan buys the bike.
- ⦿ Later on, he finds that the bike can run only at a speed of 80 km/hour.
- ⦿ This is the breach of condition as the requirement of the buyer is not fulfilled.

Warranty [Sec.12(3)]

- A Warranty is a stipulation which is collateral to the main purpose of the contract.
- It is not of such vital importance as a condition is.

BASIS FOR COMPARISON	CONDITION	WARRANTY
Meaning	It is a stipulation which forms the very basis of the contract.	It is additional stipulation complementary to the main purpose of the contract.
Provision	Section 12(2) of the Sale of Goods Act, 1930 defines Condition.	Section 12(3) of the Sale of Goods Act, 1930 defines Warranty.
Purpose	Condition is basic for the formulation of the contract.	It is a written guarantee for assuring the party.
Result of Breach of Contract	The whole contract may be treated as repudiated.	Only damages can be claimed in case of a breach.
Remedies available to the aggrieved party	Repudiation, as well as damages, can be claimed.	Only damages can be claimed

Express and Implied Conditions and Warranties

- In a Contract of Sale of Goods Conditions and Warranties may be express or implied.
- Express Conditions and Warranties are those which are expressly provided in the Contract.
- Implied Conditions and Warranties are those which the Law implies into the Contract unless the Parties stipulates to the Contrary.(Sec.14 to 17.)

Implied Conditions

- ① 1. Condition as to Title
- ② 2. Sale by Description
- ③ 3. Condition as to Quality or Fitness
- ④ 4. Condition as to merchantability
- ⑤ 5. Condition implied by Custom
- ⑥ 6. Sale by Sample
- ⑦ 7. Condition as to wholesomeness

Implied Warranties

- ① 1. Warranty of Quiet Possession
- ② 2. Warranty of Freedom from encumbrances
- ③ 3. Warranty as to Quality or Fitness by usage of trade
- ④ 4. Warranty to disclose dangerous nature of Goods

Caveat Emptor

This means “ Let the buyer Beware.”

Exceptions

1. Fitness for Buyer’s Purpose
2. Sale under a Patent or Tradename
3. Merchantable Quality
4. Usage of Trade
5. Consent by Fraud

