

- B.A.LL.B FIVE YEARS COURSE (second semesyer) (27-3-2020)

Right of Indemnity holder

Rights of indemnity holder

- **The promisee in a contract of indemnity is entitled to recover from the promisor**
- **All damages within the scope of the terms of the indemnity**
- **All costs which he may be compelled to pay in any such suit if, in bringing or defending it**
- **All sums to be paid under the terms of any compromise of any such suit**

Right and Duties of Indemnity Holder

- ✓ **All the costs spend on the case filed or defended by him in connection with the contract relating to indemnity**
- ✓ **All the costs of a legal action, if it becomes necessary to initiate such an action for a failure to pay the amount mentioned in all the above clauses.**

But except otherwise is mentioned in the contract, in the contract, the indemnifier will not be liable for the loss in the following circumstances. They are called duties of indemnity holder too. (sec. 22 (2) of CA, 2056)

- ❖ **All Damages – Sec.125 (1)**
- ❖ **All Costs – Sec.125 (2)**
- ❖ **All Sums – Sec.125 (3)**

**Note - Limitation Act – 3 years time limit
for recovery**

Case: Adamson vs. Jarvis (1827)

इस वाद में वादी एक नीलामकर्ता था। जिसने प्रतिवादी के कहने पर कुछ जानवर नीलाम किए, बाद में पता चला कि जानवर प्रतिवादी के नहीं थे। जिस व्यक्ति के जानवर थे उस व्यक्ति ने वादी पर मुकदमा करके हर्जाना वसूल लिया। फिर वादी ने प्रतिवादी पर मुकदमा करके उस क्षति की पूर्ति की जो उसे जुर्माना देने से हुई थी।

इस प्रकार से इस तथ्य से निष्कर्ष निकलता है कि एक व्यक्ति, दूसरे व्यक्ति को किसी कार्य से होने वाली क्षति की पूर्ति के लिए अभिव्यक्त किया विवक्षित वचन देता है।

Right and Duties of Indemnifier

- 1. Happening of loss:** There must be a loss in accordance with the contract to make the indemnifier liable.
- 2. Occurrence of event:** There must be an occurrence of the anticipated event. Without any occurrence of the prescribed contingent event, there is no indemnity by the indemnifier.
- 3. Prudent act of indemnity holder:** Where the right of indemnity is used by the indemnity holder prudently and the instruction of the indemnifier is not contravened or when there is no breach of contract.