

# LEGALFOXES LAW TIMES

## LEGAL VALIDITY OF MINOR AGREEMENT IN INDIA

By Keerti Tawar

First, one needs to understand that who can be called a minor? A minor is a person who has not attained the age of 18 years, he will be called a minor in the eyes of law. This definition is as per section 3 of the Indian Majority Act, 1875. There is an exception to it that is a person continues to be a minor until he completes the age of 21 years. In cases like where a guardian of a minor's person or property has been appointed under the Guardians and Wards Act, 1890 or where the superintendence of a minor's property is assumed by a Court of Wards. A minor cannot enter into an agreement. Even if he enters that agreement will be void-ab-initio. It means there will be no legal remedy available to the person who entered an agreement with a minor. For instance, Rohan, a 17-year-old boy went to a shop to sell his bicycle for 5000/- rupees. When the owner of the shop asked for his identity Rohan showed him his forged Aadhaar card. As per this Aadhaar card Rohan's age is 22. The owner of the shop was convinced and bought that bicycle for 5000/-. Rohan then took that money and spent it in partying with his friends. Next morning when Rohan's elder brother got to know that his brother sold his bicycle. He went straight to the shop owner to claim it. In this case, what we have seen is that even if a minor is at fault or cheating, he will not be liable. The owner of the shop has to give that bicycle back. Reason being, the agreement with a minor is void-ab-initio. No matter how many times he says that it was a quid pro quo means it was for consideration and he was not aware that Rohan has forged his identity or it was a contract. As per section 11, it never becomes a contract but a mere agreement with no legal effect or cannot be enforceable in the eyes of law. Simply, a minor cannot enter into a contract as he deems to be incompetent as per the above-mentioned section. But there is an exception to this, if a contract is made for the benefit of the minor it can have legal effects. But as long as it is advantageous to the minor not beyond it.

More precisely, if one sees the essential elements of a valid contract capacity of the parties to contract is one of them. This has been mentioned under section 11 of the Indian Contract Act, everyone

is competent to contract except Minor, person of unsound mind and person disqualified by law. Is it really unfair for the minor? No. we need understand the position of minor in the Law of Contract. the reason being law actually protecting minor by doing this. Law considers minor, who has not enough mature capacity to understand the consequences of his act. He cannot differentiate between right or wrong. The law must protect the minor against his own immaturity and inexperience. That the law should not cause unnecessary hardship to adults who deal fairly with minors.

Landmark case **Mohribibi vs. Dharmodas Ghosh 1903**: A minor borrowed Rs. 20,000 from B and as security executed a mortgage in his favour. He became major a few months later and filed a suit for the declaration that the mortgage executed by him during his minority was void and should be cancelled. It was held that a mortgage by a minor was void and B was not entitled for recovery of money.<sup>1</sup> **The contracts with minors are absolutely void.**

**In Shyamlal vs. Pyarelal 1910**: In this case, it was held that the contracts with minors are void-ab-initio means void from the beginning. That we have seen initially in Rohan's case.

Different positions of minor: Minor can be added as a beneficiary like in Partnership a minor can be a partner as long as he is not liable for anything happen in company. Also, minor is liable for supply of necessities (section 68 of the Indian Contract Act), that too will be directly on minor. Example like providing books, tuition to the minor it is necessity for his development. But this can only be recovered from minor's property. The very reason we have this section is to not deprive the supplier who supplied for the benefits of a minor. Necessity will differ case by case but it cannot be luxuries or costly or unnecessary items. A contract made by the parent or guardian on behalf of the minor and for his benefits is a valid contract. But it must be lawfully made and for the benefit of the minor. Also, the guardian has a right to make such contract on behalf of the minor.

But again in this also just to protect the minor, we have a clause which says that on becoming major, if founds that the contract which was being made when he was minor was actually not in

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<sup>1</sup> India. (1972). Pollock & Mulla on Indian contract and Specific relief acts: with a commentary, critical and explanatory. Bombay:N.M. Tripathi.

his profit in any way. In this case, he has a right to make it void and prove that such contract was actually not made for the minor's benefit or gain.

Moreover, Minor's contracts cannot be ratified on his becoming a major as the contract made with a minor is void an initio and cannot be ratified because no void contract can be ratified. For instance, 'R' a minor makes a contract with 'B' that he will pay him 1 lakh rupees when he becomes major, so this Contract between 'R' and 'B' will be void and there will be no legal obligation on part of 'R' on his becoming major. Also, if a minor has received a benefit or profit, he is not bound by law to pay for such benefit or compensate or retribute its provider. More precisely, the word Restitution means that putting the person in the same position which he was before that agreement took place. If the minor took any profit or gain through that agreement from any person who was adult, at the time of agreement. The court will never compel him to repay the amount. As he was a minor at the time of that agreement. And as we know it was never recognized as a contract as the essential ingredients of the contract was never met. Therefore, it remained a mere agreement. So, the classic instance for this legal position point is the land mark case of Mohri Bibi vs. Dharmodas Ghosh<sup>2</sup> which holds much relevancy towards minor's getting benefits but not bounded by law in any way to pay back the same to the initial owner. In addition to the legal position of minor, the doctrine of estoppel does not apply against a minor. Doesn't matter, that the minor falsely represented himself as a major by way of forging the documents or any sort of identity. The law exclusively protects the minor. In cases where the minor sold anything valuable to other party in consideration the court always directs the other party to return those valuables to the minor or his guardians. The other part cannot sue the minor. But at the same time the law does not give liberty to cheat. And on the equitable basis the court can direct to restore the money or property to other party. A minor can be appointed as an agent. So, in this case if minor does any sort of carelessness or willfully neglecting his duties. The principal who appointed the minor as an agent for his work will be directly liable for the minor's carelessness or negligence. The main here is that the minor can be an agent for a principal, who is a major. But, the minor cannot be in any condition become a principal. Therefore, Minor cannot appoint any agent under him.

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<sup>2</sup> (1903) ILR cal 539 (PC)

As earlier mentioned that a minor can a partner in partnership only if all partners agrees, but again a minor maybe admitted to benefits and can claim share of profit. But can never be of losses which accrue from his nonperformance of his duties. If the minor attains the age of majority the minor, who is a major has a span of six months to declare whether or not he wants to continue his partnership or not.

To conclude, we have seen so far that the court in different position or status is exclusively aiming to protect the minor and even giving an opportunity to decide his status in various legal positions once he attains the age of majority. It is quite understandable that why the court favors the minor. The mind of minor is innocent and is not capable enough to understand the consequences of his act. It is very easy to manipulate minors to enter into any agreement or contract for that matter. The other person can easily take due advantages of his innocence through such contract. That why it's an essential ingredient to be competent that to be major to enter into a valid contract. The law is focusing in protecting the minor and his interests.

