

CONTRACT OF INDEMNITY

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Contract of Indemnity

Meaning [S.124]- It is a special kind of contract. It's literally means – "Security or protection against a loss or compensation.

According to S.124 – A contract by which one party promises to save the other from loss caused to him by the conduct of the promisor himself, or by the conduct of any other person, is called a "contract of indemnity".

Thus, contract of indemnity is a contract by which one party promises to save the other from loss caused to him-

- (i) by the conduct of the promisor himself; or
- (ii) by the conduct of any other person.

Parties:

There are two parties in contract of Indemnity:

1. **Indemnifier**-The party who promise to give indemnity or compensate for the loss.
2. **Indemnity holder:** The party who is protected against loss or whose protection the indemnity is given is called indemnity holder

Example:

A contracts to indemnify B against the consequences of any proceedings which C may take against B in respect of a certain sum of 200 rupees. This is a contract of indemnity.

In above illustration B is indemnity holder A is indefinite-

Essentials:

Since contract of Indemnity is a special kind of contract. Therefore, all essentials mentioned in Se. 10 must be present in contract of indemnity like

other contract. Indemnity may be express or implied the essentials inspite of this contract of indemnity are as follows: -

1. There must be two parties (i) Indemnifier and (ii) Indemnity holder:
2. One party has promised to save the other party from some loss;
3. The loss must be due to conduct of promisor himself are by any other person.

Rights of Indemnity holder

In respect of rights of Indemnity holder, S.125 provides the following entitles: -
The promisee in a contract of indemnity, acting within the scope of his authority, is entitled to recover from the promisor-

- (1) all damages which he may be compelled to pay in any suit in respect of any matter to which the promise to indemnify applies;
- (2) all costs which he may be compelled to pay in any such suit if, in bringing or defending it, he did not contravene the orders of the promisor, and acted as it would have been prudent for him to act in the absence of any contract of indemnity, or if the promisor authorized him to bring or defend the suit;
- (3) all sums which he may have paid under the terms of any compromise of any such suit, if the compromise was not contrary to the orders of the promisor, and was one which it would have been prudent for the promise to make in the absence of any contract of indemnity, or if the promisor authorized him to compromise the suit.

As soon as indemnity holder is held liable, he is entitled from indemnifier.

- (1) **All damages S. 125(1)**-The amount which Indemnity holder has paid as a damages in a suit of indemnity he can recover from the indemnifier.
- (2) **All Costs (S.125(2))**- The amount which indemnity holder has paid a costs in bringing or defending the suit of indemnity, he can recover from the indemnifier.

- (3) **All sums (S. 125(3))**- The amount which indemnity holder has paid in compromising the suit of indemnity. He can recover from the indemnifier.