

Paper 3 – Fundamentals of Laws and Ethics

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Full Marks: 100

Time allowed: 3 hours

Section – A

1. Answer all questions.

(a) Choose the correct answer out of the given four alternatives:

[1×25 = 25]

1. Mercantile Law
 - (a) Is applicable to businessmen only
 - (b) **Is applicable to everybody**
 - (c) Is applicable to non-businessman only
 - (d) Is applicable to Indians only

2. An agreement in restraint of marriage is:
 - (a) Voidable
 - (b) **Void**
 - (c) Valid
 - (d) Illegal

3. A agrees to sell to B a 'hundred tons of oil'. There is nothing whatever to show what kind of oil was intended. The agreement is
 - (a) Valid
 - (b) **Void for uncertainty**
 - (c) Voidable
 - (d) Illegal

4. An insurance contract is
 - (a) **Contingent contract**
 - (b) Wagering agreement
 - (c) Unenforceable contract
 - (d) Void contract

5. Which of the following statements regarding Quasi-contracts is incorrect
 - (a) It resembles a contract
 - (b) It is imposed by law
 - (c) It is based on the doctrine of unjust enrichment
 - (d) **It is voluntarily created**

6. Advertisement for tender is merely an invitation to offer.
 - (a) **True**
 - (b) False
 - (c) Cannot say
 - (d) Insufficient information

7. A change of nature of obligation of a contract is known as:
- (a) Novation
 - (b) Rescission
 - (c) **Alteration**
 - (d) Repudiation
8. 'A' promises to paint a picture for 'B' by a certain day at a certain price. 'A' dies before that day. In this situation, the contract
- (a) **Cannot be enforced as it becomes void due to personal incapacity**
 - (b) Will be performed by the legal representative of 'A', who is bound by law to perform it
 - (c) Can be performed by an agent of 'A'
 - (d) Can be performed by a third person on behalf 'A'
9. A party who does not suffer any loss in case of breach of contract, is entitled to
- (a) Statutory damages
 - (b) Liquidated damages
 - (c) Exemplary damages
 - (d) **Nominal damages**
10. The Sale of Goods Act, 1930 governs the transfer of property in
- (a) **movable property**
 - (b) immovable property
 - (c) both movable and immovable property
 - (d) all type of properties
11. An essential element of a contract of sale is
- (a) **transfer of ownership in goods**
 - (b) delivery of goods
 - (c) both 'a' and 'b'
 - (d) either 'a' or 'b'
12. The subject matter of a valid sale are such goods which are
- (a) **transferred by seller to the buyer for a price**
 - (b) transferred by succession
 - (c) transferred by a will
 - (d) transferred by a buyer to the seller
13. The Sale of Goods Act, 1930 extends to the whole of India, except the state of _____
- (a) Maharashtra
 - (b) **Jammu and Kashmir**
 - (c) Tamilnadu
 - (d) Uttar Pradesh
14. "If you contract to sell peas, you cannot oblige a party to have beans": this statement

applies to

- (a) **a implied condition as to be description of goods**
 - (b) the implied condition as to fitness of goods for a particular purpose
 - (c) implied condition as to sample
 - (d) implied condition as to title
15. For passing of property in goods, the goods must be in
- (a) **deliverable state**
 - (b) manufacturing stage
 - (c) consumable state
 - (d) marketing state
16. "Nemo dat quad non habet", means:
- (a) no one is greater than god
 - (b) **none can give what he does not possess**
 - (c) everyone can give everything he has
 - (d) everyone is bound by is habit
17. Transfer of documents of title to the goods sold to the buyer, amounts to
- (a) actual delivery
 - (b) **symbolic delivery**
 - (c) constructive delivery
 - (d) none of these
18. A Bill of Lading is a _____.
- (a) Bill of Exchange
 - (b) Promissory Note
 - (c) Cheque
 - (d) **Document of Title to Goods**
19. Performance of conditions of a proposal is an acceptance to the proposal
- (a) **True**
 - (b) False
 - (c) Depends on the facts of the case
 - (d) Partially true and partially false
20. If a minor draws, endorses, delivers or negotiates an instrument, such instrument binds
- (a) all parties to the instrument including the minor
 - (b) only the minor and not other parties to the instrument
 - (c) **all parties to the instrument except the minor**
 - (d) none of the above
21. The undertaking contained in a promissory note, to pay a certain sum of money is
- (a) Conditional
 - (b) **Unconditional**
 - (c) may be conditional or unconditional depending upon the circumstances

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- (d) none of the above
22. Cheque is a
- (a) promissory note
 - (b) **bill of exchange**
 - (c) both (a) and (b) above
 - (d) None of the above
23. The Negotiable Instruments Act, 1881 came into force on
- (a) 9th December, 1881
 - (b) 19th December, 1881
 - (c) **1st March, 1882**
 - (d) none of the above
24. A contract is formed when the acceptor
- (a) **has done something to signify his intention**
 - (b) makes his mind to do so
 - (c) reads the offer
 - (d) all the above
25. An offer stands revoked
- (a) If the fact of the death or insanity is known to offeree
 - (b) By counter offer
 - (c) By rejection of offer
 - (d) **All the above**

(b) Match the following:

[1×5 = 5]

	Column 'A'		Column 'B'
1.	Grace days	A	Express Offer
2.	Condition	B	Three days
3.	Legal Rules Regarding Offer	C	a person to whom an offer to enter into a contract has been made
4.	Offeree	D	The person who makes the proposal
5.	Offeror	E	Essential to the main purpose of the contract

Answer:

	Column 'A'		Column 'B'
1.	Grace days	B	Three days
2.	Condition	E	Essential to the main purpose of the contract
3.	Legal Rules Regarding Offer	A	Express Offer
4.	Offeree	C	a person to whom an offer to enter into a contract has been made
5.	Offeror	D	The person who makes the proposal

(c) State whether the following statement is True (or) False.

[12×1 = 12]

1. A contract is said to be executed when it has been performed wholly on two sides.
True
2. Performance of conditions of a proposal is an acceptance to the proposal.
True
3. Silence is fraud when silence is, in itself equivalent to speech.
True
4. A person is competent to contract if he is a graduate.
False
5. If consent is not free due to coercion, undue influence, fraud, and misrepresentation then the agreement is void.
True
6. Quiet possession, freedom from encumbrance, disclosing dangerous nature of goods etc are implied conditions.
False
7. Right of stoppage of goods in transit can be exercised subject to fulfillment of some conditions.
True
8. Negotiable Instruments can be transferred ad infinitum.
True
9. An instrument incomplete in some respect is known as inchoate instrument.
True
10. When goods are physically handed over by the seller to the buyer it is called symbolic delivery.
False
11. A master asks his servant to sell his cycle to him at less than the market price. This contract can be avoided by the servant.
False
12. For an acceptance to be valid, it must be absolute and unqualified.
True

2. Answer any four of the following questions:

[7×4 = 28]

- (i) "No Consideration No Contract" – State the exceptions to it.
- (ii) Write a note on 'discharge of contract by agreement'.
- (iii) State the legal rules regarding consideration.
- (iv) Explain the classification of goods under the Sale of Goods Act, 1930.
- (v) Discuss about the Doctrine of 'Caveat Emptor'.
- (vi) Explain the different types of Negotiable Instruments.

Answer:

(i) "No Consideration No Contract" – The following are the exceptions to it.

The general rule is *ex-nudopacto non oritur action* i.e. an agreement made without consideration is void. The following are the exceptions to it.

(a) Promise made out of natural love and affection:

An agreement made without consideration is valid if it is in writing and registered and is made on account of natural love and affection between parties standing in a near relation to each other. Thus, an agreement without consideration will be valid provided.

- (a) It is expressed in writing.
- (b) It is registered under the law.
- (c) It is made on account of natural love and affection.
- (d) It is between parties standing in near relation to each other.

(b) Promise to compensate for voluntary services:

Voluntary service means service done without any request. An agreement made without consideration is valid if it is a promise to compensate a person who has already voluntarily done something for the promisor. To apply this rule the following essentials must exist.

- (a) The service should have been done voluntarily.
- (b) The service should have been done for the promisor.
- (c) The promisor must have been in existence at the time when the service was done.
- (d) The intention of promisor must have been to compensate the promisee.
- (e) The service rendered must also be legal.

Example:

A finds B's purse and gives it to him. B promises to give A Rs. 50. This is a contract.

(c) Promise to pay time-barred debt:

A promise by a debtor to pay a time-barred debt is also enforceable. But the promise must be in writing. It must be signed by the promisor or his authorised agent. The promise may be to pay the whole or part of the debt.

Example:

A owes B ₹1,000 but the debt is barred by the Limitation Act. A signs a written promise to pay ₹ 500 on account of the debt. The promise will be valid and binding without any fresh consideration.

(d) Creation of Agency:

According to Section 185 of the Contract Act, no consideration is necessary to create an agency. Thus when a person is appointed as an agent, his appointment is valid even if there is no consideration.

(e) Completed Gifts:

Gifts once made cannot be recovered on the ground of absence of consideration. Absence of consideration will not affect the validity of any gift already made. Thus if a person gives certain properties as gift to another according to the provisions of the Transfer of Property Act, he cannot subsequently demand the property back on the ground there was no consideration.

Example:

A gave a watch as a gift to B on his birthday. Later on A cannot demand the watch back on the ground there was no consideration.

(f) Contract of guarantee:

Under section 127, no consideration is needed for a contract of guarantee. In other words, contract of guarantee needs no consideration.

(g) Remission:

Remission means lesser performance of the contract than what is actually to be performed.

(ii) Discharge of a contract by agreement:

The parties may agree to terminate the existence of the contract by any of the following ways:

(i) Novation:

Substitution of a new contract in place of the existing contract is known as "Novation of Contract". It discharges the original contract. The new contract may be between the same parties or between different parties. Novation can take place only with the consent of all the parties.

Example:

A owes money to B under a contract. It is agreed between A, B and C that B should accept C as his debtor, instead of A. The old debt of A and B is at an end and a new debt from C to B has been contracted. There is novation involving change of parties.

(ii) Alteration:

Alteration means change in one or more of the terms of the contract. In case of novation there may be a change of the parties, while in the case of alteration, the parties remain the same. But there is a change in the terms of the contract.

(iii) Rescission:

Rescission means "cancellation". All or some of the terms of a contract may be cancelled. Rescission results in the discharge of the contract.

(iv) Remission:

Remission means acceptance of a lesser performance than what is actually due under the contract. There is no need of any consideration for remission.

Example:

A has borrowed ₹ 500 from B. A agrees to accept ₹ 250 from B in satisfaction of the whole debt. The whole debt is discharged.

(v) Waiver:

Waiver means giving up or foregoing certain rights. When a party agrees to give up its rights, the contract is discharged.

Example:

A promises to paint a picture of B. B afterwards forbids him to do so. A is no longer bound to perform the promise.

(iii) Legal Rules Regarding Consideration:

(i) Consideration must move at the desire of the promisor:

It must move at the desire of the promisor. Any act or abstinence at the desire of third party is not consideration.

Example:

X agrees to sell his horse to Y for ₹ 50,000. Here consideration for X selling horse to Y is consideration of ₹ 50,000 from Y and consideration for Y paying ₹ 50,000 to X, is X selling his horse. Here considerations had come at the desire of Promisor. X is a promisor for Y and similarly Y is a promisor for X.

(ii) Consideration may move from the promisee or any other person:

Consideration may be furnished even by a stranger under Indian Law. Consideration can be from any direction, even a stranger to contract can offer consideration. Under English law consideration must move from promisee and no one else.

(iii) Consideration must be something of value:

One of the important things to note about consideration is that consideration need not be adequate. So long as the consent of the parties is free, inadequacy of consideration is immaterial. However, inadequacy of consideration may be taken into account by the courts in determining the question whether the consent of the parties is free or not.

(iv) It may be an act, abstinence or forbearance or a return promise:

Promise to not to smoke is a negative act (abstinence),

Promise to not to refer the matter to court (abstinence).

Promise to perform at the wedding anniversary or birthday party (promise to do).

(v) It may be past, present or future which the promisor is already not bound to do:

According to Indian Law Consideration may be past, present or future. But under English Law Consideration may be present or future. Past consideration is no consideration according to English Law.

(vi) It must not be unlawful:

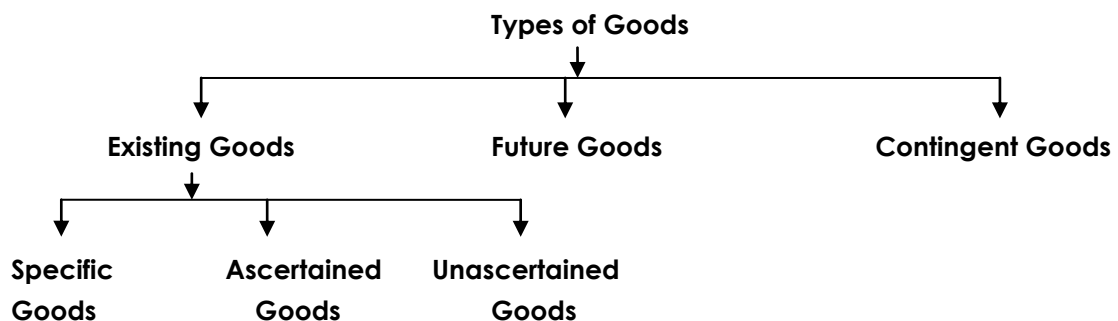
The consideration or object of an agreement is lawful, unless —

- It is forbidden by law;
- or is of such a nature that, if permitted, it would defeat the provisions of any law;
- or is fraudulent;
- or involves or implies injury to the person or property of another;
- or the Court regards it as immoral, or opposed to public policy

(iv) Classification of Goods:

Goods which form the subject-matter of a contract of sale may be divided into three types namely:

1. Existing goods.
2. Future goods.
3. Contingent goods.



1. Existing goods:

Goods owned and possessed by the seller at the time of the making of the contract of sale are called existing goods. Sometimes the seller may be in possession but may not be the owner of the goods. **Example:** Mercantile Agent.

The existing goods can be further classified as under:

- (a) Specific goods.
- (b) Ascertained goods.
- (c) Unascertained goods.

(a) Specific goods:

“Specific goods” are those goods which are identified and agreed upon at the time of contract of sale is made. It is essential that the goods are identified and separated from the other goods.

Example: In the case of sale of one table out of 25 tables, goods shall be specific if the table is selected before the contract of sale is made.

(b) Ascertained goods:

Ascertained goods are identified after the contract of sale as per the terms decided.

(c) Unascertained goods:

When the goods are not separately identified or ascertained at the time of making a contract of sale, are known as unascertained goods. When the buyer does not select the goods for him from a lot of goods, but are defined or indicated only by description, we call them unascertained goods.

Example: Sale of 25 chairs for an office out of a lot of 200 such chairs of the same design and quality, the goods are unascertained till 25 particular chairs are selected. When the required 25 chairs are selected out of the lot, the goods are said to be ascertained goods for the contract of sale.

2. Future Goods:

It means goods to be manufactured or produced or acquired by the seller after making of the contract of sale. A contract to sell oil not yet pressed from seeds in his possession is a contract for the sale of future goods.

Example: X agrees to sell to Y all the apples which will be produced in his garden next year. This is an agreement for the sale of future goods.

3. Contingent Goods:

These are a type of future goods, the acquisition of which by the seller depends upon a contingency which may or may not happen. Goods which might be expected to come into existence, as

(a) goods to arrive (b) future crops (c) the eggs.

Such contracts give no right of action if the contingency does not happen.

(v) Doctrine of Caveat Emptor

The term Caveat Emptor is a Latin word which means 'let buyer be aware'. This principle underlines the concept that it is for the buyer to satisfy himself that the goods which he is purchasing are of the quality required by him. It is a fundamental principle of law of sale of goods and implies that the seller is under no obligation to point out the defects in his own goods. The buyer must take care while purchasing the goods and if he makes a wrong selection he cannot blame the seller if the goods turn out to be defective or do not serve his purpose. This principle was applied in the case of Ward v Hobbs. However the doctrine of Caveat Emptor does not mean that the buyer must take a chance, it only means he must take care. However this rule is not without any exception. With the passage of time this doctrine has been considered to be too unreasonable to the buyers. Hence the law in section 16 recognized certain exception to the rule. The doctrine is however subject to following exceptions as provided in section 16 of the Act.

- (i) Where the buyer expressly or by implication makes known to the seller the particular purpose for which the goods are required and relied upon the skill and judgment of the seller and the goods are of description which it is the course of the sellers business to supply, there is an implied condition that the goods shall be reasonably fit for such

purpose. Accordingly the seller cannot get any immunity on the grab of Caveat Emptor.

- (ii) Implied condition as to Merchantability where the goods are bought by description from the seller in goods of that description.
- (iii) Condition as to Wholesomeness in case of foodstuffs and other goods meant for human consumption.
- (iv) When the seller commits fraud.
- (v) When there is a usage of trade.

(vi) Different types of Negotiable Instruments.

(i) Bearer and order instruments

A negotiable instrument is said to be payable to bearer when

- (a) It is expressed to be so payable
- (b) Only or last endorsement is a blank endorsement.

A negotiable instrument is said to be payable to order when

- (a) It is expressed to be so payable
- (b) Expressed to be payable to a particular person with restricting its transferability.

(ii) Inland and foreign instruments

A bill, promissory note or cheque if both drawn and payable in India or drawn on a person resident in India is said to be an inland bill.

A bill which is not an inland bill is deemed to be a foreign bill. Foreign bill must be protested for dishonor if such protest is required by the law of the place where it was drawn, this is not case with Inland bills where protest for nonpayment is optional as per section 104 of the Act.

(iii) Demand and time instruments

An instrument is payable on demand when it is expressed to be so payable or when no time is specified on it. A cheque is always payable on demand.

A note or bill if payable after a specified period or happening of a specified event which is certain, it is a time instrument. If a promissory note or bill of exchange bears the expression "at sight" and "on presentation" means on demand (section 21). The words "on demand" are usually found in a promissory note, where the words "at sight" are found in a bill of exchange.

(iv) Genuine, accommodation and fictitious bill

When a bill is drawn, accepted, or endorsed for consideration it is a genuine bill. When it is drawn, accepted, or endorsed without consideration it is accommodation bill. When drawer or payee or both are fictitious the bill is called fictitious bill. If both drawer and payee of a bill are fictitious person, the acceptor is liable to a holder in due course, if the holder in due course can show that the signature of the supposed drawer and that of first payee are in the same handwriting.

(v) Clean and documentary bill

When no documents relating to goods are annexed to the bill, it is clean bill. When documents of title or other documents relating to goods are attached, it is documentary bill.

(vi) Ambiguous instrument

When an instrument due to faulty drafting may be interpreted either as bill or note, it is an ambiguous instrument. It is for holder to decide how he wants the bill to be treated. Ambiguity may also arise when the amount is stated differently in words and figures. In such case the amount stated in words will be taken into account.

(vii) Inchoate instrument

An instrument incomplete in some respect is known as inchoate instrument. When a person signs and delivers to another a blank or incomplete stamped paper, he authorizes the other person to make or complete upon it a negotiable instrument for any amount not exceeding the amount covered by the stamp. The effect of such signing is that the person signing the instrument is liable upon such instrument in the capacity in which he signed it to holder in due course of the instrument.

(viii) Escrow Instrument

When an instrument is drawn conditionally or for a special purpose as a collateral security and not for the purpose of transferring property therein, it is called Escrow instrument. The liability to pay in case of an Escrow instrument does not arise if the conditions agreed upon are not fulfilled or the purpose for which the instrument was delivered is not achieved.

Section B

1. Answer all questions.

(a) Choose the correct answer out of the given four alternatives:

[1×12 = 12]

1. If something is to be improved they have to be improved at
 - (a) Organizational level
 - (b) Government level
 - (c) Society level
 - (d) **All of the above**

2. The issue of fraudulent asset valuation is included in
 - (a) Ethics in compliance
 - (b) **Ethics in finance**
 - (c) Ethics in marketing
 - (d) Ethics in production

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3. Business Ethics is _____ in nature
 - (a) Absolute
 - (b) **Not absolute**
 - (c) Permanent
 - (d) None of the above

4. Ethics has become important because of
 - (a) Globalization
 - (b) Communication explosion
 - (c) **Both a & b**
 - (d) None of the above

5. In setting ethical standards, perhaps the most effective step that a company can take is to
 - (a) Adopt a code of ethics
 - (b) **Demonstrate top management support of ethical standards**
 - (c) Engage employees in ethics training
 - (d) Take an accommodative stance

6. _____ are beliefs about what is right and wrong or good or bad.
 - (a) Mental strength
 - (b) Motivators
 - (c) Cultures
 - (d) **Ethics**

7. Effective ethics management within an organization can:
 - (a) **Minimize errors, losses and fraud**
 - (b) Eliminate general e-mail abuses
 - (c) Eliminate all errors, fraud and losses
 - (d) None of the choices are correct

8. Corporate codes of ethics:
 - (a) Are always externally audited
 - (b) **Create guidelines for employees to work by**
 - (c) Are always compliance based
 - (d) Are always integrity based

9. It is not UNCOMMON for a business to behave ethically because
 - (a) It has to protect its own interest
 - (b) It has to keep its commitment
 - (c) It has to protect the interest of employees
 - (d) **All of the above**

10. If a company has ethics than it gets back from the employees
 - (a) Time
 - (b) Skill & energy

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- (c) Return out of money
- (d) **Both (a) & (b)**

11. Feature that is NOT present in business ethics are

- (a) It has universal application
- (b) **It is Absolute in nature**
- (c) It Depends from business to business
- (d) It Cannot be enforced by law

12. Which of the following is NOT necessary to assess ethical behavior?

- (a) Gather Facts
- (b) Make a judgment based on the rightness or wrongness of the activity or policy
- (c) Consider appropriate moral values
- (d) **Listen to what is the being said in the rumor**

(b) State whether the following statement is True or False:

[1×6 = 6]

- (i) Business Ethics has no universal applications.

False

- (ii) Ethics is about obeying and adhering to Rules and Authority.

True

- (iii) Ethics refers to the study of one's ethical standard.

True

- (iv) Holder of Public Office is not accountable to the Public.

False

- (v) Compliance is about obeying and adhering to Rules and Authority.

True

- (vi) The relevance of Ethics is in its application.

True

2. Answer any two of the following questions:

[6×2 = 12]

(i) What is the relationship between Ethics and Law?

(ii) What is Professional Ethics?

(iii) How Business Ethics can prevent 'business malpractices' and improve customers' confidence?

Answer:

- (i) Law is essentially an institutionalization or codification of ethics into specific social rules, regulations and prescriptions. Business ethics is primarily concerned with those issues not completely covered by law, or where there is no definite consensus on whether something is right or wrong. Law represents the minimum standards of behaviour expected from people. Merely following the law, does not make one ethical. In one sense, business ethics can be said to begin where law ends.

Ethics is a set of standards, or a value system, worked out from human reason and experience, by which free human actions are determined as ultimately right or wrong, good or evil. If acting agrees with these standards, it is ethical, otherwise unethical. Law is a code of mandatory conduct which the authority in power prescribes for society.

There are many situations in life, where just following the law does not make one ethical. For example, if a wealthy man intends to spend thousands of rupees on the anniversary of his dog while his neighbor has no money to buy food, there is no law to prohibit the wealthy man from doing so. If he decides not to, it is because of the dictates of his conscience, his ethical value system and principles not because of the dictates of the law. Moreover, not all laws have moral choice. There are many laws which do not involve any ethicality questions. For example, the law tells us not to steal, not to kill, but ethics tells us to do good, speak the truth, help others in distress.

One important aspect of the law is that ethics precedes the action, the law follows it. An action can be illegal, but morally right or vice versa. For example: A public officer, who is under the oath of secrecy revealing sensitive information for the good of society - it is illegal, but ethical. If he withholds the secret, it is legal, but unethical. All legal provisions may not be ethical, but debatable. Ethics has a positive aspect, whereas the law is more concerned about negative behaviour.

- (ii) Just as a society functions on the social codes of conduct and a country is governed by its constitution, a business is run on corporate codes. In other words, there is a professional code of conduct for any business. These codes keep evolving as other things around evolve and develop. Therefore, not only should business be defined within the confines of ethics, but it should be practiced strictly under its own professional code of conduct. This distinction helps to orient the general principles of ethics and business to a particular activity.

Professional ethics is defined as the personal and corporate rules, standards that govern behavior within the context of a particular profession. Professional Ethics is the conduct, aims or qualities that characterize or mark a profession or professional person; it implies quality of workmanship or service. One of the earliest examples of professional ethics is the 'Hippocratic Oath' to which medical doctors still adhere to this day.

- (iii) The term 'Business Ethics' refers to the system of moral principles and rules of the conduct applied to business. Business being a social organ shall not be conducted in a way detrimental to the interests of the society and the business sector itself. Its good understanding and adherence can solve two main social issues which are mentioned below:

Stop business malpractices: Some unscrupulous businessmen do business malpractices by indulging in unfair trade practices like black-marketing, artificial high pricing, adulteration, cheating in weights and measures, selling of duplicate and harmful products, hoarding, false claims or representations about their products etc. These business malpractices are harmful to the consumers. Business ethics help to stop these business malpractices.

Improve customers' confidence: Business ethics are needed to improve the customers' confidence about the quality, quantity, price, etc. of the products. The customers have more trust and confidence in the businessmen who follow ethical rules. They feel that such businessmen will not cheat them. Building customer loyalty is hard, but it is one of the most important things for every business. A customer's ability to trust you is dependent upon showing the customer that your behavior is consistent and persistent over time. They tend to trust individuals who are serious about what they do.