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## MISREPRESENTATION: TYPES AND LEGAL CONSEQUENCES

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### Definition of Misrepresentation-

Misrepresentation includes stating a fact wrong, which is induced by one party to another party inducing the latter to enter into a contract. It can be innocently or negligently stated without any intent to deceive. Misrepresentation involves any false statement of fact made before the completion of a contract that leads to an error and is considered as deception under Section 18 of the Indian Contract Act. Significantly, misrepresentation does not operate to void a contract automatically, but leaves it at the injured party's option voidable. The key elements of misrepresentation

include-

1. **False statement-** The declaration should either be false or misleading in nature. It may pertain to a law or a fact but cannot simply be put into opinion. For example, if a seller claims that a car can run 3 kms in a gallon of petrol; and if it is not done according to the mentioned statement, then it is claimed to be a false statement. So hence misrepresentation.
2. **Inducement-** For a false statement to become a cause for the agreement, it should have caused the other party to agree to the contract. This means the other party had relied on the false statement when agreeing to the contract.
3. **Resulting Loss-** The party that suffered a loss (victim) faces a loss with direct consequence as they have relied upon the misrepresentation of the other party.

Types of Misrepresentation-

1. **Innocent Misrepresentation-** Innocent misrepresentation is that kind of misconception under the law of contract, in which a party falsely represents some material fact without any consideration to mislead the other

party. Here, the party believes the statement to be true, though it is not. Innocent misrepresentation has been specified as one of the three types of misrepresentation amongst negligent and fraudulent misrepresentation under Section 17 of the Indian Contract Act, 1872.

- ***Below are the characteristics of Innocent Misrepresentation-***

1. **False statement-** The representation made must be a false statement of fact
2. **Lack of Intent to Deceive-** The party making the statement must not have any kind of intention to mislead or deceive the other party.
3. **Genuine Belief-** The party must have reasonable grounds to believe the truth of the statement at the time it was made.
4. **Inducement-** The false statement must induce the other party to enter into a contract.

- ***Legal Consequences-***

When innocent misrepresentation is established, the party affected by it may cancel the contract. He may also claim damages if, with righteousness, he has



suffered losses on account of reliance on the false representation.

- **Practical Example-**

Mr. A sells his old car to Mr. B. Mr. A declares confidently that the car has never been in an accident or faced any problems because it is functioning smoothly, owing to his firm belief in this matter—that he believes, indeed—this, due to his knowledge and history of maintenance. Unaware of this, the car had once met with a minor accident wherein he was not aware.

When Mr. B buys the car and later comes to know about the history, he can plead innocent misrepresentation against Mr. A. In the given case, Mr. A had no intention of misleading Mr. B; his mistake was just an honest belief but happened to be wrong. In this way, Mr. B is free to rescind and return the car because he was misled into entering into the agreement on the basis of Mr. A's false representation.

2. **Negligent Misrepresentation-** Negligent misrepresentation is a doctrine of contract law made in such a way that it would not reasonably have been believed to be true. Of course, misrepresentation of this kind occurs when an individual makes a false statement which he ought to have known was wrong and brought about another to rely on it to his detriment. It's less culpable than fraudulent and innocent misrepresentation because there is no intent to deceive.

- **Below are characteristics of Negligent Misrepresentation-**

1. False statement- when a party makes a statement that concerns a fact that is wrong.
2. Negligence- The defendant failed to act with reasonable care or competence in obtaining or communicating the information.

That is, they should have known the statement was false.

3. Intent to Induce Reliance: The statement was made with the intention that the plaintiff would rely on it.
4. Actual Reliance: The plaintiff actually relied on the false statement when entering into the contract.
5. Resulting Harm: The reliance on the false statement caused financial harm or damages to the plaintiff.

- **Legal Consequences-**

Generally, an action for negligent misrepresentation results in remedies in the form of rescission or damages for loss suffered as a result of reliance on the wrong statement. In such matters, courts normally consider whether reasonable diligence might have uncovered the truth concealed by the misrepresentation and whether the aggrieved party exercised such diligence.

- **Practical Example-**

Mr. Singh is an agent for real estate, selling this property and promising interested buyers that the house "never had any plumbing issues." He never lived in the home; thus he does not know its history regarding plumbing. He is repeating what the previous owner informed him but is unaware of the fact that, unbeknownst to him, there have indeed been important plumbing issues that were not disclosed. A buyer, Mr. Sharma, believes Mr. Singh buys the house without inspection of the same. Later, after moving in, Mr. Sharma finds grave plumbing problems that will cost a lot to fix. In the fact situation, Mr. Singh can be held liable for negligent misrepresentation for the reasons that:



1. He made a false statement about a material fact—that is, the condition of the piping.
2. He did not take reasonable steps to verify the truth of his statement (negligence).
3. He had planned that Mr. Sharma would rely upon his representation at the time of its acquisition.
4. Mr. Sharma relied on it and suffered an economic loss as a result of that.

**3. Fraudulent Misrepresentation-** Fraudulent misrepresentation refers to that part of the legal concept whereby there is a false statement made by one party with an intention to deceive another party so that the latter party would be led into entering into a contract or agreement. Such misrepresentation is characterized by the knowledge or reckless disregard for the truth of the party making the false statement. As a tort, it gives grounds for civil liability.

• **Below are the characteristics of Fraudulent Misrepresentation-**

1. False representation- A statement has been given that is false. This may be in the form of verbal words, written documentation, or even acts that have an implication that are wrong.
2. Knowledge of falsity- The speaker knew that what he said was false or did not believe in its truth. Alternatively, he may have spoken recklessly without caring whether it was true or false.
3. Intent to Induce Reliance- The false statement was given with the expectation that such a representation would be relied upon in making a choice by the other party.

4. Actual Reliance- The aggrieved party actually relied on the false statement in entering into the contract.
5. Resulting harm- There is harm or injury to the injured party, be it financial loss, because of reliance on the false statement.

• **Legal consequences-**

1. Cancellation of Contract- The court can cancel the contract restoring the parties to the pre-contractual position.
2. Damages- In addition to rescission or cancellation, the aggrieved party may recover damages for actual loss or consequential loss resulting from reliance on the fraudulent representation. Damages may be direct losses or consequential losses not required to be foreseen at the time of the formation of the contract.

• **Practical example-**

ABC CORP., a company, offers its software division to GHY Ltd. The CEO of ABC Corp. was aware of certain major bugs and problems in the software that might have implications for its performance. The CEO of ABC Corp. misrepresented to ABC Ltd. that the "software is fully operational and has no known issues." GHY Ltd., based on this statement, decides to buy the division for a significant amount. After buying it, GHY Ltd. learns that the software has many bugs left untouched requiring extensive expensive repair work.

In the given situation, the CEO of ABC Corp might be liable for fraudulent misrepresentation for,





1. A false representation about the condition of the software was made.
2. The CEO knew that the statement was false or acted with reckless disregard of its truth.
3. The CEO had intended for GHY Ltd. to rely on such a representation when deciding whether or not to buy.
4. GHY Ltd relied on the false information and was financially injured because of such.

#### Case Laws-

1. Derry vs Peek (1880)-

This landmark case established these principles of fraudulent misrepresentation. Defendant owning a tramways company stated that permission for steam trams had already been received when in fact, it had not. The plaintiff sold his shares based on this statement given by the defendant, which proved to be false. The courts ruled for the plaintiff that because the defendant believed his statement to be true, the cause did not amount to fraudulent misrepresentation. This case strongly pinpointed that intent and knowledge are indispensable to prove the liability for misrepresentation

2. Kishan Lal vs Gajraj Singh-

This case involved misrepresentation in negotiations. In the case of one party inducing another into a contract by falsely making certain statements concerning material facts, the court ruled that it was inequitable to permit one party to gain an advantage at the expense of misleading the other. This would reinforce the fact that misrepresentation might qualify for the rescission of contracts when proven

In summary, misrepresentation falls among the more significant devices of protection within contract law. This is primarily in a bid to deter parties from making unfair and dishonest deals. Differentiating the various forms of misrepresentations and their corresponding legal effects allows one or a firm to respond more effectively to its contractual relations and, accordingly, secure better protection of the respective interests. Rescission or award of damages in case of misrepresentation reinforces demands for fairness and truthfulness in negotiations while making any communication.

Understanding misrepresentation goes a lot beyond risk reduction vis-a-vis contract agreements. Instead, understanding misrepresentation builds trust between parties engaging in transactions. As this remains the universal phenomenon in the contemporary sectors where contractual disputes keep on emerging, awareness of and obligation toward principles concerning misrepresentation will remain as significant to maintaining integrity in business practice and safeguarding the rights of the respective parties.

#### Conclusion-