

5. Mistake

Mistake may be defined as an erroneous belief about something. It may be a mistake of law or a mistake of fact.

Mistake

Mistake of Law

Mistake of fact

Mistake of Fact

Mistake of fact may be :

1. A Bilateral Mistake
2. A Unilateral Mistake

1. Bilateral Mistake

Where both the parties do an agreement are under a mistake as to a matter of fact essential to the agreement, there is a bilateral mistake. In such a case, the agreement is void.

The following two conditions have to be fulfilled for the application of Sec. 20:

- (a) The mistake must be mutual i.e., both the parties should misunderstand each other and should be at cross-purposes.
- (b) The mistake must relate to a matter of fact essential to the agreement: As to what facts are essential in an agreement will depend upon the nature of the promise in each case.

Example :- A agreed to purchase B's motor-car which was lying in B's garage. unknown to either party, the car and garage were completely destroyed by fire a day earlier. The agreement is void.

2. Unilateral Mistake

When in a Contract only one of the parties is mistaken regarding the Subject-matter or in expressing or understanding the terms or the legal effect of the agreement, the mistake is a unilateral mistake. According to Sec. 22, a contract is not voidable merely because it was caused by one of the parties to it being under a mistake as to a matter of fact.

* Mistake of Law

A Contract is not voidable because it was caused by a mistake as to any law in force in India but a mistake as to a law not in force in India has the same effect as mistake of Fact.

Mistake of Law

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Indian Law

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Foreign Law

* Mistake of law of the Country :-

Ignorance of law is no excuse, is a well-settled rule of law. A mistake of law is therefore, no excuse, and the contract cannot

be avoided.

* Mistake of Law of foreign Country :-
Such a mistake is treated as mistake of fact and the agreement in such a case is void.