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# **VIRTUAL COACHING CLASSES ORGANISED BY BOS, ICAI**

## **FOUNDATION LEVEL PAPER 2A: BUSINESS LAWS**

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# DISCHARGE OF CONTRACT

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When obligations created by a contract comes to an end, contract said to be discharged or terminated.

A contract may be discharged in any of the following ways...

- By Performance
- By Mutual Agreement
- By Impossibility of Performance
- **By Breach Of Contract**
- By Operation of Law
- By lapse of time



# Breach of Contract and Its Remedies





# BREACH OF CONTRACT- MEANING

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Breach of contract means failure or refusal by the parties to perform their respective promises.





# BREACH OF CONTRACT- TYPES

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- 1. Anticipatory Breach of Contract** - A party declares his intention of not performing the contract **before** the performance is due
  
- 2. Actual Breach of Contract** – may occur (i) on **Due Date** of Performance or (ii) **During** the Course of Performance



# Anticipatory Breach of Contract

“An anticipatory breach occurs when a party demonstrates his intention to break a contract”. It can be done:-

- Expressly by words spoken or written , or
- Impliedly by conduct of one of the parties.

**Example** - R agrees To marry S, Before the date of Marriage R heard that S going to Marry N, the anticipatory breach occurred by conduct of the party.



# Effect of An Anticipatory Breach

**Section 39** – When a party to a contract has refused to perform, or disabled himself from performing, the promisee may put an end to the contract or may continue the contract.

Hence the promisee can either:-

- (i) **rescind the contract** immediately and claim damages or
- (ii) may elect not to rescind the contract and **continue the contract** till the due date of performance



# Actual Breach of Contract

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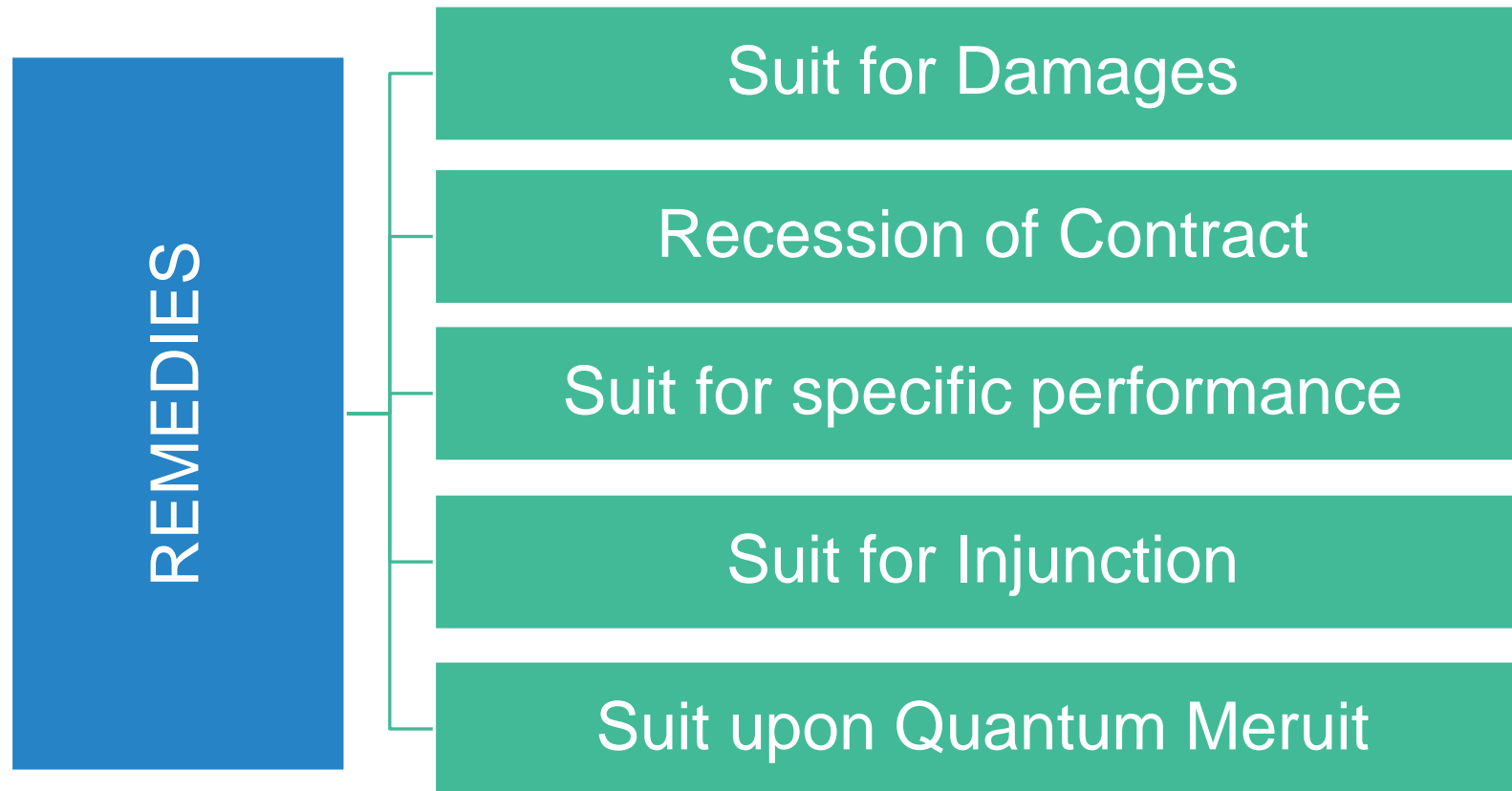
“Actual breach of contract occurs when during the performance of the contract or at the time of performance, one party fails or refuses to perform his promise under the contract”

**Example:** Ashitha Agrees to deliver 10 kg of Rice to Mansoor on 1st November, Ashitha fails to deliver the rice to Mansoor on November 1<sup>st</sup>. This is actual breach of contract by Ashitha.





# Remedies for the breach of Contract





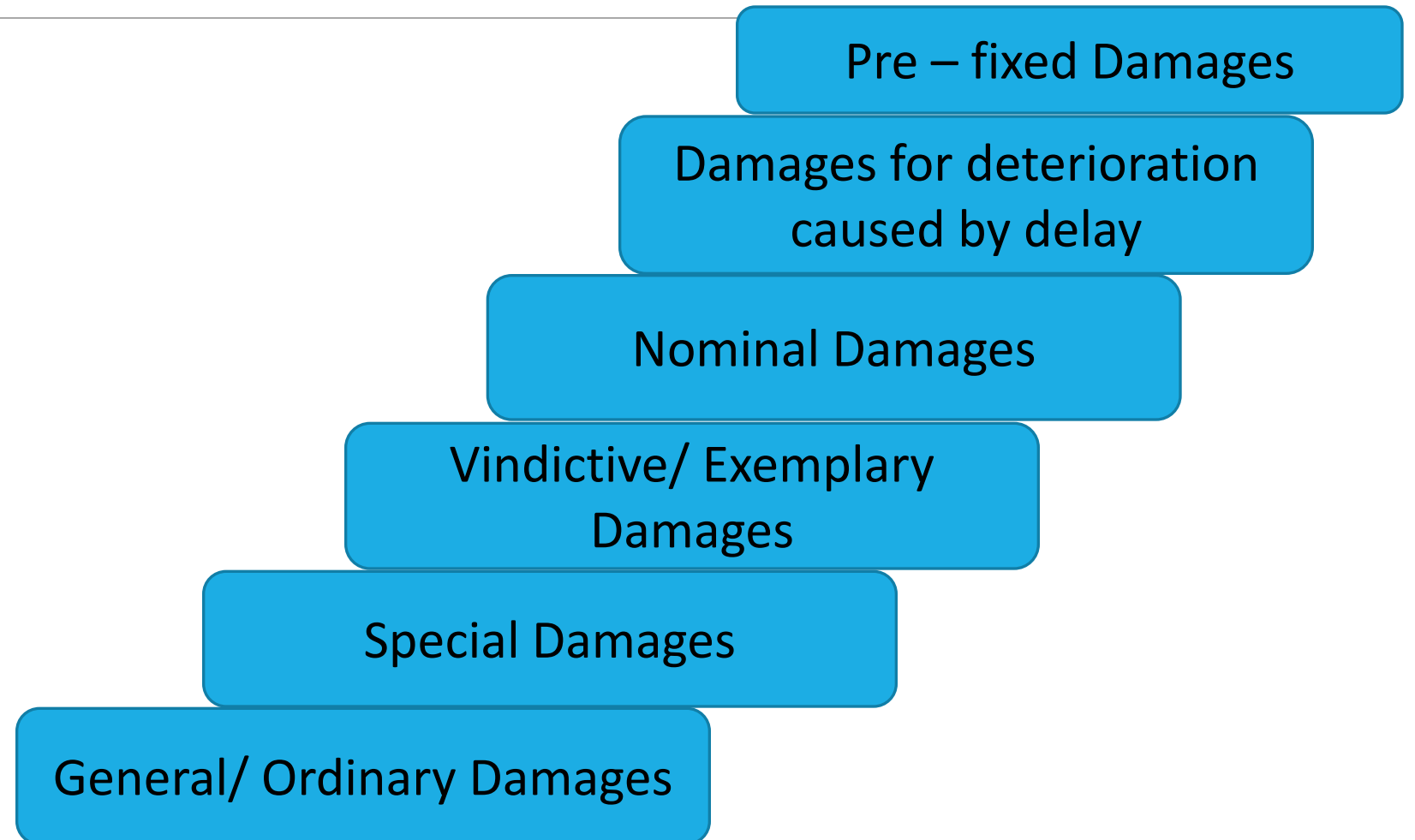
# Rules regarding Damages

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- ❑ The damages must naturally arise in the usual course of things from such breach i.e. the damages must be the proximate or direct consequence of the breach of contract.
- ❑ The aggrieved party must have suffered damages by breach of contract.
- ❑ Damages are awarded to compensate the loss caused by a party but not to punish the party at default for the breach of contract.
- ❑ Amount of damages can be decided at the time of agreement by the mutual consent of both the parties.

# TYPES OF DAMAGES

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# Ordinary Damages

## Case - Hadley Vs Baxendale





# Court's Decision on Hadley Vs Baxendale





# Recession of the Contract

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When there is a breach of contract by one party the other party can rescind the contract and he is free from all his obligations under the contract.

**Example:** A agrees to deliver 10kg rice to B on 1st Oct. B promises to pay the price on the same day. A does not deliver the rice. B need not pay the price.



# Suit for Specific Performance

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Specific performance means an order of the **court directing** the party who commits breach of contract to do what he has promised to do.

Such a suit may be filed either instead of or in addition to a suit for damages.



# Suit for Injunction

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Injunction is an order of the court directing the party who commits breach of contract either to do or not to do something. It is usually given in cases of anticipatory breach of contract.

**Example** : Mr. M agreed to act only for Shashi for one year. During the year he contracted to act for Vihaan. In a suit filed by Shashi, Mr. M was prohibited by an injunction from acting for Vihaan.





# Suit for Quantum meruit

Quantum meruit means as much as earned. It is only an obligation created by law. It is not a contractual remedy. The phrase “**Quantum Meruit**” literally means :-

*When a person has begun the work and before he could complete it, the other party terminates the contract or does something which make it impossible for the other party to complete the contract, he can claim for the work done under the contract so far partly.*

**Example:** C was appointed as MD of a company. The contract was void because the directors who appointed C were not qualified. C sued for Remuneration. Held that C is entitled to remuneration.



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**THANK YOU**