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# DOCTRINE OF UNJUST ENRICHMENT



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## **Evolution:**

The doctrine of unjust enrichment can be traced back to the 18th century. During the medieval period, the jurist and lawyers have no knowledge about this doctrine. It is originally based on the English Law upon the “principle of assumpsit or had and received.”

Subsequently, the Court also takes this doctrine into consideration in the breach of the law no one should be allowed to unjustly enrich himself in the expense of another.

## **Meaning:**

The term unjust means something which is not standard of fairness or against justice therefore leads to unfair.

A person is said to enriched when he obtains property, services, money or gift etc, from others.

A person who has obtained a benefit at the expenses of another, the other person is liable to retribute to another from which he has gained.

The maxim “Nemo Debet Locupletari Ex Aliena Jactura” which means no person should grow out of some one's loss.

## **Essentials:**

- The defendant was enriched at the claimant expense.
- There was no legal basis for the defendant receipt of the benefit as the same was not a gift.
- There exists no defense to the claim.



## Provisions:

Section 68 to 72 of the Indian Contract Act deals with Indian Contract Act, 1872.

### **Section 68**

If a person incapable of entering into a contract or anyone, whom he is legally bound to support, is supplied by another person with necessaries suited to his conditions in life, the person who has furnished such supplies is entitled to be reimbursed from the property of such incapable person.

### **Section 69**

A person who is interested in the payment of money which another is bound by law to pay, and who therefore pays it is entitled to be reimbursed by the other.

### **Section 70**

Where a person lawfully does something for another person, or delivers anything to him, not intending to do so gratuitously, and such other person enjoys the benefit thereof, the latter is bound to make compensation to the former in respect of, or to restore, the thing so done or delivered.

### **Section 71**

A person who finds goods belonging to another and takes them into his custody is subject to the same responsibilities as that of a bailee.

### **Section 72**

A person to whom money has been paid, or anything delivered by mistake or under coercion, must repay or return it.



# CASE LAWS

## Case 1

***State of West Bengal V.B.K.Mondal and Sons, AIR 1962 SC 779.***

The three conditions must be satisfied before this section 70 can be invoked.

- The first condition is that a person should lawfully do something for another person or deliver something to him.
- The second condition is that in doing the said thing or delivering the said thing he must not intend to act gratuitously; and
- The third is that the other person for whom something is done or to whom something is delivered must enjoy the benefit thereof.
- When these conditions are satisfied Section 70 imposes upon the latter person the liability to make compensation to the former in respect of, or to restore, the thing so done or delivered.

## Case 2

***Noor Mohammad V. Mohammad Jihaddin, AIR 1992 MP 244.***

Held - Section 70 does not exclude cases of joint liability of joint beneficiaries who are jointly "enriched" in any way in an "unjust" manner at another's cost. Both defendants acted unjustly in concert in exploiting plaintiff's hospitality to his detriment.

## Case 3

***Mafatlal Industries V. Union of India, 1997 5 SCC 536.***

Held - The basis in an action for restitution under Section 72 of the Contract Act, rests upon the equitable doctrine of unjust enrichment. The Court observed on p. 1364 that the recovery of the money paid under mistake of law or fact can be recovered "subject however to questions of estoppel, waiver, limitation or the like".



If an assessee has passed on the tax to the consumer or a third party and sustained no loss or injury, grant of refund to him will result in a windfall to him. Such a person will be unjustly enriched. This will result in the assessee or the claimant obtaining a benefit, which is neither legally nor equitably due to him. In other words, such a person is enabled to obtain “an unjust benefit” at the cost of innumerable persons to whom the liability (tax) has been passed on and to whom really the refund or restitution is due. The above factors certainly disentitle such a person from claiming restitution.

#### **Case 4**

#### ***Indian Council for Enviro-Legal Action V. Union of India Ors., (2011) 8 SCC 161.***

- The other aspect which has been dealt with in great detail is to neutralise any unjust enrichment and undeserved gain made by the litigants. While adjudicating, the courts must keep the following principles in view:
- It is the bounden duty and obligation of the court to neutralise any unjust enrichment and undeserved gain made by any party by invoking the jurisdiction of the court.
- When a party applies and gets a stay or injunction from the court, it is always at the risk and responsibility of the party applying. An order of stay cannot be presumed to be conferment of additional right upon the litigating party.
- Unscrupulous litigants be prevented from taking undue advantage by invoking jurisdiction of the court.
- A person in wrongful possession should not only be removed from that place as early as possible but be compelled to pay for wrongful use of that premises fine, penalty and costs. Any leniency would seriously affect the credibility of the judicial system.
- No litigant can derive benefit from the mere pendency of a case in a court of law.
- A party cannot be allowed to take any benefit of his own wrongs.
- Litigation should not be permitted to turn into a fruitful industry so that the



unscrupulous litigants are encouraged to invoke the jurisdiction of the court.

- The institution of litigation cannot be permitted to confer any advantage on a party by delayed action of courts.

#### **Case 5**

***Sahakari Khand Udyog Mandal Ltd. v. Commissioner Of Central Excise & Customs, 2005 AIR SC 1897.***

Held - It is clear that the doctrine of "unjust enrichment" is based on equity and has been accepted and applied in several cases. In our opinion, therefore, irrespective of applicability of Section 11-B of the Act, the doctrine can be invoked to deny the benefit to which a person is not otherwise entitled. Section 11-B of the Act or similar provision merely gives legislative recognition to this doctrine. That, however, does not mean that in the absence of statutory provision, a person can claim or retain undue benefit. Before claiming a relief of refund, it is necessary for the petitioner-appellant to show that he has paid the amount for which relief is sought, he has not passed on the burden on consumers and if such relief is not granted, he would suffer loss.

#### **Case 6**

***Union Of India And Others v. Solar Pesticides Pvt. Ltd. And Another, 2000 AIR SC 862.***

Held - In a claim for refund of duty, the respondent raised two contentions. Firstly that the duty had not been passed on to the consumer and the principle of unjust enrichment did not apply. The second contention was that in any event, in view of the decision of the Bombay High Court in the case of Solar Pesticides (P) Ltd. v. Union of India the principle of unjust enrichment was not applicable in cases of captive consumption. Neither the Assistant Commissioner nor the Commissioner (Appeals) accepted any of the two contentions. It was held that the respondent had failed to prove that the incidence of duty in respect of the imported goods had not been passed on.



## Case 7

**M/S. Dcw Ltd. & Anr. v. Union Of India & Ors., 2013 SCC ONLINE SC 1256.**

Held - It cannot be disputed that the doctrine of unjust enrichment as incorporated by Section 27 of the Customs Act applies in all such cases. The only exception to the applicability of the aforesaid doctrine is that such amount is not paid as duty but has been paid by some interim orders in some proceedings by the Court as pre-deposit then it is not treated as duty. The endeavour of the appellant is to submit that the aforesaid amount of Rs. 23,98,178/- was also a pre-deposit and, therefore, the High Court has committed error in not directing the refund thereof. It had to be decided in the light of the doctrine of unjust enrichment which was clearly applicable.

### DISCLAIMER

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