

# Presentation on Claims on basis of Quantum Meruit

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## Meaning of Quantum Meruit

*Quantum meruit* is a Latin phrase means “as much as is merited” or “as much as he has earned”. Quantum meruit means a demand for a justifiable sum in relation to services or commodities provided. Thus, the law of quantum meruit means an undeclared or equitable promise to pay a reasonable compensation for the labour or services provided in proportion to the amount of work done, even if there is no explicit contract.

## **Nature, Concept and Application**

It is a quasi contract which may even be implied in nature. The claim for quantum meruit is one of the remedies available for breach of contract and in terms of Indian Legislation is related to Indian Contract Act, 1872. The action of Quantum Meruit is allowed in Indian Courts mainly under Section 70 of the Indian Contract Act 1872, which states,

*"Obligation of person enjoying the benefit of the non-gratuitous act—where a person lawfully does anything 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."*

- Usually, one must fully discharge his/her commitment before claiming performance from another. However, theory of quantum meruit means anyone who has performed some work under a contract can claim remuneration for the work which he has already done.
- Unlike suit for damages, the right to claim on '*quantum meruit*' does not arise out of a contract. In fact, it is a claim on the quasi-contractual obligations which is implied by the circumstances. The claim for *quantum meruit* arises only when the original contract is discharged.
- For a layman's understanding, quantum meruit means nothing but equitable remuneration. It is a different type of remedy from a lawsuit that can be filed for a breach of contract.

• *For example,*

- A engages B, a contractor, to build a three storied house. After a part is constructed A prevents B from working any more. B, the contractor, is entitled to get reasonable compensation for work done under the doctrine of quantum meruit in addition to damages for breach of contract.

Or

- Medical assistance given in an emergency, Legal services rendered without a contract or determining the total amount due when the task ended unexpectedly are all examples of quantum meruit.

## **Claim remedy under quantum meruit**

The aggrieved party may file a suit upon quantum meruit and may claim payment in proportion to work done or goods supplied in the following cases:

### **a) In case of void agreement or contract that becomes void [Section 65]**

When an agreement is discovered to be void or when a contract subsequently becomes void, any person who has received any advantage under such agreement or contract is bound to restore it, or to make compensation for it, to the person from whom he received it. In simple words, this is a case in which an agreement is either void-ab-initio or the contract becomes void at a later time. Hence, the benefit received by either party shall have to be returned to the other party.

**For example,** A pays ₹10,000 to B, in consideration of B's promise to sell his horse to A. But unknown to both the parties, the horse is dead at the time of promise. The agreement is void and B must repay ₹10,000 to A.

## **b) In case of non-gratuitous act [Section 70]**

The obligation to pay arises if the following three conditions are satisfied:

- i) The thing must have been or delivered lawfully
- ii) The person who had done or delivered the thing must have not intended to do so gratuitously;  
and
- iii) The person for whom the act is done must have enjoyed the benefit of the Act.

For example, A, a trader, leaves certain goods at B's house by mistake. B treats the goods as his own.

He is bound to pay A for them.

### **c) In case of act preventing the completion of contract**

If a party does not complete the contract or prevents the other party to complete the contract, the aggrieved party can sue on quantum meruit.

**For example,** P agreed to write a volume on ancient armour to be published in a magazine owned by C. For this, he was to receive \$100 on completion. When he had completed part of the work, C abandoned the magazine. P was held entitled to claim damages for breach of contract and payment under quantum meruit for the part already completed. (*Planche vs Colbum*)

## **d) In case of divisible contract**

The party at default may sue on *quantum meruit* if the following conditions are satisfied:

- (i) If the contract is divisible; and
- (ii) If the party not at default has enjoyed benefits of the part performance.

**For example,** X agreed to repair Y's house for ₹1 lakh. But he abandoned the contract after having done 3/4<sup>th</sup> of the work. Afterwards, Y got the work completed. X cannot recover anything for the work done because the contract was **indivisible**, and he was entitled to the payment only on the completion of the work.



### **e) In case of an indivisible contract performed completely but badly**

The party at default may claim lumpsum *less* deduction for bad work if the contract is indivisible but is performed completely though badly.

For example, X agreed to decorate Y's flat for a lumpsum of ₹20,000. X completed the work, but Y complained of faulty workmanship. Y spent another ₹5,000 to correct the defect. It was held that X could recover only ₹15,000 from Y.

# QUANTUM MERUIT AND UNJUST ENRICHMENT

- Quantum Meruit and Unjust Enrichment, both theories talk about the goal of keeping one party from carrying out the agreement, and the party that is preventing the other from doing so benefits from the services obtained without even having to pay for their values.
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- The difference between these two ideas is that unjust enrichment deals with situations where there is a failure to pay for the services, whereas quantum meruit deals with situations where the reasonable or fair sum should be paid.

# Case Laws

## 1. **Craven-Ellis v Canons Ltd (1936) 2 KB 403**

In the case of *Craven-Ellis v Canons Ltd* (1936) 2 KB 403, the plaintiff and the defendant company allegedly reached an agreement in which the plaintiff would serve as the managing director for the defendant company under certain conditions. However, the plaintiff who claimed to serve as the defendant company's directors actually owned the necessary qualification shares. Moreover, the appointment was made by the directors who were disqualified by the reason of not having their qualification shares. According to that contract, the plaintiff provided services that benefited the business and then filed a claim for payment. Because the agreement was made by directors without the necessary capacity, the trial Court ruled that neither party was bound to honour the contract. But the Court of Appeal decided that the plaintiff had a right to compensation based on quantum meruit meaning and its principles.

## **2. M/s. Alopī Parshad & Sons Ltd vs The Union of India [1960 AIR 588, 1960 SCR (2) 793]**

In this case, The Hon'ble Supreme Court dealt with an arbitration award which awarded a certain amount on the ground of quantum meruit. But, the same was set aside and it was held that "Compensation under quantum meruit is awarded for work done or services rendered when the price thereof is not fixed by a contract. For work done or services rendered pursuant to the terms of a contract, compensation quantum meruit cannot be awarded where the contract provides for the consideration payable on that behalf. Quantum meruit is but reasonable compensation awarded on the implication of a contract to remunerate, and an express stipulation governing the relations between the parties under a contract, cannot be displaced by assuming that the stipulation is not reasonable."

### **3. Mahanagar Telephone Nigam Ltd. Vs Tata Communications Ltd Civil Appellate Jurisdiction Civil Appeal No.1766 Of 2019**

In the Supreme Court bench of Justices R F Nariman and Vineet Saran has explained that claim of *quantum meruit* under Section 70 of the Indian Contract Act cannot be raised when parties are otherwise governed by contract. This is because Section 70 occurs in Chapter V of the Contract Act which deals with "certain relations resembling those created by contract".

Section 70 deals with obligation of a person enjoying benefit of a non-gratuitous act to compensate the person giving the benefit. The case before the Supreme Court was an appeal by Mahanagar Telecom Nigam Ltd against Tata Communications against an order of the Telecom Disputes Settlement Appellate Tribunal. The dispute related to MTNL adjusting certain amounts to itself from its dues to Tata arising out of a purchase order

MTNL alleged that Tata had committed breach of contract. The amount deducted from the bills raised by Tata were characterised as rent rates of dark fibre. However, the Purchase Order between the parties had stipulated liquidated damages in case of default, which was fixed at 12% of the purchase value.

Based on this, the TDSAT directed MTNL to return to Tata the amount retained by it in excess of 12% liquidated damages. Challenging this, MTNL approached the Supreme Court. The bench referred to several precedents which held that for work done or services rendered pursuant to the terms of a contract, compensation quantum meruit cannot be awarded where the contract provides for the consideration payable in that behalf.

The judgment referred to the dictum in *Mulamchand v. State of M.P.*, (1968) 3 SCR 214, that : "The important point to notice is that in a case falling under Section 70 the person doing something for another or delivering something to another cannot sue for the specific performance of the contract, nor ask for damages for the breach of the contract, for the simple reason that there is no contract between him and the other person for whom he does something or to whom he delivers something. So where a claim for compensation is made by one person against another under Section 70, it is not on the basis of any subsisting contract between the parties but on a different kind of obligation. The juristic basis of the obligation in such a case is not *founded upon any contract or tort but upon a third category of law, namely, quasi-contract or restitution*"

The case at hand was governed by Section 74 of the Contract Act, since liquidated damages were stipulated in the contract. Hence, the Court affirmed the TDSAT order, which held that MTNL could not have imposed a unilateral sum taking recourse to Section 70, over and above the liquidated damages.

#### **4. The Sports Authority of Assam v. Larsen and Turbo, Case No. Arb. A. 7 of 2020**

The Hon'ble Guahati High Court held that when the agreement, containing the arbitration clause, did not contemplate any additional work and the contractor carries out the additional work without the prior consent of the employer then any dispute qua the additional work would fall outside the ambit of arbitration clause any award delivered thereupon would be against the fundamental policy of Indian Law.

The Court held that the arbitrator cannot invoke Section 70 of the Indian Contract Act to award damages on *quantum meruit* for the additional work carried out without the prior consent of the employer when the agreement did not contemplate any additional work. It held that a claim on *quantum meruit* could be raise before the Court but not before the tribunal as it fell squarely outside the scope of the agreement.

Accordingly, the Court allowed the appeal and set aside the award.

## **5. BSNL v. Vihaan Networks Limited, 2023 LiveLaw (Del) 953**

The Court observed that the arbitral tribunal holding that there was no contract concluded between the parties and the withdrawal of APO (Advance purchase order) by the petitioner was also valid, however, it held at the same time that after the issuance of APO, the respondent had carried out certain preparatory work at the instance of the petitioner for which it is liable to be compensated despite the lack of a concluded agreement between the parties.

The Court held that the finding of the arbitral tribunal is based on appreciation of evidence and the tribunal has taken a plausible view which does not call for any interference within the limited scope of the Section 34 of the Arbitration and Conciliation Act.

The Court remarked that the arbitral tribunal rightly held that a party which has incurred expenses pursuant to the instruction received from the other party is liable to be compensated by that other party notwithstanding lack of a concluded agreement between the parties.

The Court also held that an absence of a contract would not deprive the contractor from a reasonable remuneration for the work performed and that the principle of quantum meruit is enshrined under Section 70 of the Indian Contract Act which demands that a party which has done work and incurred expenses at the instance of another party must be reimbursed notwithstanding the lack of a contract between them.



# Conclusion

After a fair analysis of the concept of claims under *quantum meruit*, it is clear that the law requires it to be just and reasonable. The theory supports equality of the parties and helps to ensure that if a person provides a certain service or goods, then he must receive the benefits of the contract.

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• **Thank You..**