



# INDIAN JOURNAL OF LEGAL REVIEW

VOLUME 5 AND ISSUE 4 OF 2025

INSTITUTE OF LEGAL EDUCATION



## INDIAN JOURNAL OF LEGAL REVIEW

APIS – 3920 – 0001 | ISSN – 2583-2344

(Open Access Journal)

Journal's Home Page – <https://ijlr.iledu.in/>

Journal's Editorial Page – <https://ijlr.iledu.in/editorial-board/>

Volume 5 and Issue 4 of 2025 (Access Full Issue on – <https://ijlr.iledu.in/volume-5-and-issue-4-of-2025/>)

### Publisher

Prasanna S,

Chairman of Institute of Legal Education

No. 08, Arul Nagar, Seera Thoppu,

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Tiruchirappalli – 620102

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## AGENT AND PRINCIPAL: RIGHTS, DUTIES AND LIABILITIES OF PRINCIPAL AND AGENT: SCOPE AND LIMITATION, RATIFICATION AND REVOCATION OF AUTHORITY

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**BEST CITATION** – AARYAN RAJ KAUSHIK, AGENT AND PRINCIPAL: RIGHTS, DUTIES AND LIABILITIES OF PRINCIPAL AND AGENT: SCOPE AND LIMITATION, RATIFICATION AND REVOCATION OF AUTHORITY, *INDIAN JOURNAL OF LEGAL REVIEW (IJLR)*, 5 (4) OF 2025, PG. 289-295, APIS – 3920 – 0001 & ISSN – 2583-2344.

### ABSTRACT

This paper examines the legal framework governing agency under the Indian Contract Act, 1872 is investigated to find out its relevance in modern commerce. It discusses the creation of the principal agent relationship, the jurisdiction in which it occurs, the powers and duties of the parties and the responsibilities of the parties. The sections 182 to 238 of the Act constitute a sound base for appreciating the principal and agents' relationship, taking into consideration the details of key case laws.

The discussion also brings out the obligations and rights of both parties, the principal's right to indemnity as held in *Lloyd v Grace, Smith & Co*. Retrospective validation of unauthorized acts through ratification is investigated as a means to enable trade based on transactional efficiency. *Panorama Developments v Fidelis Furnishing Fabrics Ltd* goes on to set out the scope of an agent's authority is, i.e., express, implied, apparent.

There is also analysis of the limitations of authority and revocation in particular in irrevocable agencies. Globalization and Digital Commerce present a critical challenge in agency law, where traditional principles of agency law are increasingly limited.

The paper finally calls for several and much needed reforms in the Indian Agency Law. The Law should be adequately updated to address digital age complications and to step up safeguard against abuse of the power. The paper finishes with a call for striking this balance of rights, duties and liabilities so as to preserve the efficiency and adaptability of agency relationships in a haphazardly evolving commercial landscape.

### INTRODUCTION

The principal-agent relationship can be treated as a cornerstone for modern commerce works as it allows tasks to be delegated and complex transactions to be carried out. The relationship is legally defined and governed by the Indian Contract Act, 1872 and it enables any person or organization to act through others to deal with third persons for carrying out of dealings.

According to the Act, an agent is someone who is hired to carry out transactions on behalf of the principal with third parties under Section 182 of the Indian Contract Act, 1872<sup>411</sup>. This suits operations, adds efficiency, and facilitate businesses growth globally.

Many modern commercial activities revolve around agency law, whether it's the real estate

<sup>411</sup> Indian Contract Act, No. 9 of 1872, § 182 (India).

transaction or the complex financial deal. This enables principals to do their tasks through agents who are very specialist in a discipline, or located more geographically or chronologically. On the other hand, this delegated authority has an expectation that the power it is being used with would abide by the governed legal principles and is accountable enough to avoid the misuse of power and active breach of trust. The principal agent relationship becomes examined in this project as rights, duties, and liabilities of parties are extensively explored while boundaries, ratification and revocation of authority for it are discussed. An analysis supported by case laws and scholarly insights is the main intent of this study to understand the topic comprehensively.

#### **LEGAL FRAMEWORK GOVERNING AGENCY**

Sections 182 to 238 of Indian Contract Act, 1872<sup>412</sup> provide for agency and frame out a legal framework for agency. The provisions deal with formation, operation and termination of agency relationships in a comprehensive manner. According to the law, agency is a voluntary arrangement whereby the agent acts on behalf of and under the principal's direction. The third-party agreement is legally obligatory in order to encompass the agent's agency authority.

Agency can be created as express agreement, implied conduct or operation of law. The specific terms of the agency are clearly agreed upon, sometimes in writing and sometimes by word, with the express agreement. Behavior on behalf of the parties or circumstance creates the behavior which creates the implied agencies. This can be done for example in emergency times when immediate action is needed, and an implied agency may be established.

According to the scope of competences and responsibilities, agents can be subdivided into general agent, special agent, sub agent and co agent. While general agents take the

responsibility of managing multiple operations of a principal, special agents work limited operations. Authority of sub-agents comes from a primary agent and co-agents work together as agency. This system of classifications makes certain that agency law is flexible in a variety of business conditions.

Liabilities, rights and duties arising out of Principal and Agent relationship are defined by the Indian Contract Act. It also sets forth what authority is granted to agents, express, implied and apparent authority. The aim of this legal framework is to create a relationship that is transparent and efficient between the principal and the agent while imposing responsibility on the parties.

These provisions of the Act cover various situations in commercial and personal dealing so as to bring clarity and enforceability in agency relationships. The main principle of trust, the representation of third parties, and of accountability, established, allows the operation of a robust mechanism for governing the relationship between principals, agents, and third parties. This is a comprehensive legal framework for agency law in India and its framework should be of the context of evolution of agency law and society.

#### **RIGHTS OF THE PRINCIPAL AND AGENT**

The agency relationship necessitates that the principal be furnished with the necessary rights regarding the setting up of the relationship and its proper functioning. All transactions performed by the agent for the accounts of the principal, give rise to an obligation of the agent to oblige the principal with accounts of them. The basis of the right is essential for transparency and accountability in agency relationships. The right to indemnify for losses the agent causes by his misconduct or negligence is one of the most important. In the case of *Lloyd v. Grace, Smith & Co.*<sup>413</sup>, the court

<sup>412</sup> Indian Contract Act, No. 9 of 1872, § 238 (India).

<sup>413</sup> *Lloyd v. Grace, Smith & Co.*, [1912] A.C. 716 (H.L.) (U.K.).



upheld this principal and the principal was entitled to recover damages for the unscrupulous actions of the agent.

In addition, the principal also may require performance of the agent by accord of the contract. As long as you give the task that the agent is able to perform (within the scope of his authority), the agent is legally bound to perform that task. This prevents the principal's objectives to be frustrated.

The agents also have the right to guarantee fair treatment and compensation. First among them is the right to remuneration for their services. In the case of *Sheikh Farid Bakhsh v. Hargul Singh*<sup>414</sup>, the court emphasized that agents are entitled to get payment as per the terms of their agreement. The agents have the right to hold the goods or money deposited with them till their dues are paid. This right, called a lien, is especially important so that agents will not be cheated by principals who do not pay the agents for the work.

The right of both parties to the principal agent relationship to operate on the principle of trust, accountability, and mutual benefit, make both the relationship operate on strong terms. It is the rights of the principal to protect their interests and safeguard the agent from acting without the contract. The provisions in this regard are related to what the Indian Contract Act has kept in agency law emphasizing equity and efficiency.

#### DUTIES OF PRINCIPAL AND AGENT

Duties in viximus, that is to say that principals and agents are bound to keep efficacious the agency relationship. Indemnity of agents for lawful acts and cooperation in good operations are hence necessary for principals. As in the case of agents, they must be careful and skilful, seek to seek out the interests of the principal and act limited to the limits of the authority conferred upon them. The court in *Keighley*,

*Maxsted & Co v Durant*<sup>415</sup> drew attention to the duty of care and skill incumbent on the agent and made the agent liable for negligence.

There are several key responsibilities on the part of the principal toward the agent. Indemnifying the agent for all lawful acts performed within the scope of the agency is one of the principal most important duties of the principal. What this means is that the principal needs to reimburse the agent for any number of losses, expenses or liabilities suffered under diligent and good faith in doing the principal's bidding. This duty ensures that the agent is not left to financial vulnerability when conducting the authorized transactions. In addition, the principal must not interfere in the agent's work. A breach of the agency contract occurs whenever the principal obstructs or hinders the agent from doing his duties effectively. Additionally, the principal has to inform the agent of the information and instructions required in order to perform their duties. This is necessary to avoid misunderstandings or unauthorized actions.

The duty of the agent is founded on this fiduciary obligation to act on behalf of the principal for the best interests. The primary responsibility of the agent is the duty of care, which calls for the agent to carry out their responsibilities with a reasonable level of competence, ability, and effort. The agent must also act with loyalty where he must put the principal's interests first above his own and avoid any conflict of interest or self-dealing. It involves being responsible for giving truthful accounting of every transaction carried out on the principal's behalf. Being loyal to instructions of the principal is also another important task. The agent must follow the instructions precisely unless they are impractical or illegal. The agent is bound to disclose any material information which is relevant to the business of the principal and the agent must avoid making profits.

These duties are complementary and aim to uphold the integrity and efficiency of the

<sup>414</sup> Sheikh Farid Bakhsh v. Hargul Singh, 1936 SCC OnLine All 285 (India).

<sup>415</sup> Keighley, Maxsted & Co. v. Durant, [1901] A.C. 240 (H.L.) (U.K.).

principal – agent relationship. The agent gives his loyalty in that he acts with diligence and the principal reciprocates by treating the agent fairly and when necessary, with support. Taken together, they form a strong set of obligations for the administration of the agency relationship diligently.

### LIABILITIES OF PRINCIPAL AND AGENT

The principal and agent come under the liabilities arising out of the mutual obligations between them. These liabilities are provided for by the Indian Contract Act, 1872, so as to hold the parties liable for their actions and the terms of the agency contract.

In most situations, the agent has joint liability for the principal's actions carried out while acting under the agent's direction. It encompasses both implied and explicit power. If the agent operated within the bounds of their authority, the principal will be held accountable under the doctrine of vicarious liability for the legal actions and statements they made to a third party. To take an example, the agreement that the agent signed on the principal's behalf binds the principal directly. The principal may still be liable if the act was authorized or if the agent committed wrong acts such as fraud or misrepresentation or if he appeared to have apparent authority even though the acts committed by the agent were not authorized by the principal. However, the principal cannot be held liable for the acts which are committed by the agent outside the scope of authority unless they ratify such acts. This principle helps in protecting the third parties that rely on the representation by the agent.

In certain situations, the agent acting on behalf of the principal may also be held liable. If the agent goes beyond the authority that the principle has given him and harms the principal or third parties, he is held personally accountable. Equally, if the agent transgresses by committing fraud or acts in bad faith, he will personally suffer the consequences. For example, where an agent knowingly enters into

unauthorized contracts or misrepresent facts to third parties, he may not shift his liability to the principal. Moreover, the agents owe diligence and duty of care and if they fail to adhere to this standard then they can be held liable for negligence.

Such liability principles provide a satisfactory balance in the accountability. The agent is responsible for unauthorized act or unnecessary act without authority or in breach of duty, whereas the principal is liable for such acts of the agent, which are within the scope of his authority. It is a framework to protect the interests of principals, agents and third parties in the relationship of agency.

### SCOPE AND LIMITATION OF AUTHORITY

The authority of an agent can be classified into 3 categories i.e. express, implied or apparent. Express authority is explicitly stated, and implied authority is from the fact of a role or setting. The principal's representations give rise to apparent authority directed towards third parties believed by them to be bound by the agent's acts as if done with the principal's authority. Similarly, the authority of an agent is restricted in the sense that the actions not within the scope granted to the principal does not bind the principal. In the case of *Panorama Developments v Fidelis Furnishing Fabrics Ltd*<sup>416</sup>, the unauthorised acts by the agent were deemed unenforceable against the principal.

Despite its broad extent of influence, the authority of an agent faces several restrictions. When working for a principal, the agent needs to remain within authority boundaries specifically or implicitly authorized by the principal. Unauthorized actions performed by an agent do not legally bind the principal unless they receive subsequent approval through ratification. The second is that the agent has to obey legal constraints and must not do any illegal and unethical activities on behalf of the

<sup>416</sup> *Panorama Developments (Guildford) Ltd. v. Fidelis Furnishing Fabrics Ltd.*, [1971] 2 Q.B. 711 (C.A.) (U.K.).

principal. Third, specific authority may be restricted by the agency agreement on such things as geographic, financial, or operational boundaries.

Through setting the boundaries of acceptable authority, the law makes sure the agent's actions are what the principal wanted them to be without harming the third party that trusts in the agent's statements. It creates for the principal agent relationship a framework of clarity and accountability between the parties that are involved.

### RATIFICATION

Ratification in agency law refers to the act of going on to approve, or even confirm, what a person has done on another's behalf without consent<sup>417</sup>. Ratification under the Indian Contract Act, 1872, is that which lends the principal to retrospectively adopt the thing which the agent has already done, as if it were from the beginning authorized. This is the key rule that ensures a transaction remains valid when it was handled beyond the scope of the agent's authority or without one, respectively. ratification must not be partial and should cover the entire act.

Certain conditions must be met for a ratification to be valid. Firstly, the act which is being performed by the agent must be explicitly done on behalf of the principal. Secondly, ratification must not be partial and should cover the entire act. Thirdly, the principal must be competent to the contract and alive at the time of the act of the agent. Moreover, the act done must be lawful and within the capacity of the principal to authorize.

In the landmark case of *Bolton partners v. Lambert*<sup>418</sup>, it was established If the act is ratified after an unauthorized act, then the date of the original act binds the principal as if the agent had initial authority. Also, in the case of *Watson*

*v. Swann*<sup>419</sup>, the court clarifies that the ratification done by the principal must be intentional and informed. It is also highlighted that ratification also promotes efficiency by allowing the principals to safeguard the third-party interests while salvaging beneficial transactions.

In other words, the act of ratification enables principals to authorize otherwise unauthorized acts of their agents under the agreed conditions. The principle behind that is that agency relationships need to be based on trust and accountability.

### REVOCATION OF AUTHORITY

Revocation of authority is the termination of an agent as principal's right to act for the principal. The Indian Contract Act 1872 states that there is a power of revocation of the authority either by the principal or by operation of law. Revocation removes the circumstances whereby the agent can legally bind the principal in any transaction.

Authority can be revoked explicitly or implicitly.

### 1. METHODS OF REVOCATION

Express revocation refers to the occurrence when the principal expressly abrogates the agent's authority, while implicit revocation arises from the circumstance that carries it to be inadvisable or inconvenient to proceed with the agency. For example, when the purpose of the agency is completed, the authority is automatically terminated. Revocation may also occur by operation of law i.e. insanity, death or insolvency of the agent or the principal.

### 2. IRREVOCABLE AUTHORITY

Section 204 of the Indian Contract Act, 1872<sup>420</sup> highlights an important limitation of revocation that if the agent has partially exercised the

<sup>417</sup> Doctrine of Ratification in Light of the Indian Contract Act, *iPleaders* (Mar. 21, 2023, 12:00 PM), <https://blog.ipleaders.in/doctrine-of-ratification-in-light-of-the-indian-contract-act/>.

<sup>418</sup> *Bolton Partners v. Lambert*, (1889) 41 Ch. D. 295 (C.A.) (U.K.).

<sup>419</sup> *Watson v. Swann*, (1862) 11 C.B. (N.S.) 756; 142 Eng. Rep. 850 (C.P.) (U.K.).

<sup>420</sup> Indian Contract Act, No. 9 of 1872, § 204 (India).



authority, it cannot be revoked by the principal, making it irrevocable to that degree. Moreover, it was highlighted in the case of *Pannalal Jankidas v. Mohanlal*<sup>421</sup> that “the agencies coupled with an interest cannot be revoked unilaterally without the consent of the agent.”

Certain authorities are irrevocable, for example, those connected with an interest or that have been created under estoppel. For example, if the principal creates an agency in favor of an agent for the personal interest of the former, the latter cannot revoke it at will.

In the case of *Watson v. Davies*<sup>422</sup>, the court highlighted that any revocation without sufficient cause could lead to liability for breach of contract. The authority of the agent is generally considered terminable unless it secures an interest of the agent<sup>423</sup>.

Revocation of authority is a way to balance the right of the principal and the agent and, at the same time, to protect the interests of third parties, which brings about the fairness and predictability of agency relationships.

### CRITICAL ANALYSIS

Under the Indian Contract Act, 1872 the laws governing agency are a comprehensive form of defining rights, duties and liabilities of principals and agents. However, the issue of whether or not the provisions are fundamentally appropriate in order to provide clarity and accountability is further complicated by a number of developments, namely a progressive erosion away from the foundations of tradition and adherence to modern commercial and technological refining.

A significant strength of the law lies in its flexibility which allows for the creation of implied, express or apparent authority. This

adaptability ensures that the agency relationships are able to operate seamlessly in diverse scenarios. The case of *Bolton Partners v. Lambert* reinforced the importance of ratification in validating the acts that are not authorized which promotes practicality and efficiency in transactions. Nevertheless, critics contend that the ratification is retrospective in nature, which may be disadvantageous to third parties in particular when the principal is running late to ratify.

Another challenge pertains to the liability framework. Vicarious liability protects third parties dealing with agents but may make principals bear responsibility for acts of which they were not aware. It was highlighted in the case of *Panorama Developments v Fidelis Furnishing Fabrics Ltd* that the principle of “apparent authority” extends protection to the third parties but it also poses a risk of exposing the principals to fraudulent activities by their agents. In modern business environment characterized by increasing delegation and digital transactions it is necessary for stronger ways of preventing misuse of authority.

In the context of irrevocability, the law maintains a balance of principal's and agent's rights through restricting revocation for interest in a coupled agency. There is an urgent need for reforms in agency laws which are capable enough to address e-commerce and artificial intelligence. The rise of automated agents threatens to upset the conventional notion of authority, liability and revocation; and improper provision and amendment of statutory provisions.

In conclusion, the agency framework that is a part of the Indian Contract Act stands true, but needs updates to address the need of the time, which is globalised trade, globalised technology, globalised business models. Clearer digital transactions guidelines and better safeguards against schemes of abuse of authority can greatly increase the value of agency laws.

<sup>421</sup> *Pannalal Jankidas v. Mohanlal*, A.I.R. 1951 S.C. 144 (India).

<sup>422</sup> *Watson v. Davies*, [1931] 1 Ch. 455 (C.A.) (U.K.).

<sup>423</sup> **Norton Rose Fulbright**, *Supreme Court Considers the Irrevocability of an Agent's Authority*, Norton Rose Fulbright (Sept. 3, 2014), <https://www.nortonrosefulbright.com/en-in/knowledge/publications/90e39057/supreme-court-considers-the-irrevocability-of-an-agents-authority>.



## CONCLUSION

The law of agency under the Indian Contract Act, 1872 goes on to be a concrete setting to define and govern the relationship between the principal and the agent. By outlining the rights, duties and liabilities of both the parties, the law keeps it clear and responsible, to create trust and efficiency in the commercial business. The creation, scope, revocation and principles of ratification and vicarious liability relating to the complexities of modern agency relationships are critical in addressing the intricacies of agency relationships.

However, as commerce moves in terms of globalization and technological developments, some gaps in the law occur. The current framework cannot adequately address the challenges introduced due to the rise of artificial intelligence, digital platforms and automated agents. There is an urgent need to reinterpret concepts like irrevocable agency or implied authority to accommodate the involvement of non-human entities and the degree of virtual transactions.

There have been efforts by the judiciary to balance the interests of the agents and the principals and the third parties. Nevertheless, there is an urgent need to update the existing laws so that the agency law remains robust and relevant.

In conclusion, the current legal instrument is comprehensive but the standards of modernization of agency law must be considered. Statutory clarity should be enhanced, digital specific provisions should also be added, and such agency relationships will be more efficient and agile in a fast-moving commercial environment by lending itself to harmonization with international standards.

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