

# Comparative Analysis of Risk and Liabilities in Contract of Bailment Vs. Sale of Goods Act

Anupriyaa Gupta<sup>1</sup>, Aditya Malhotra<sup>2</sup>

<sup>1</sup>Author, Law

<sup>2</sup>Co-Author, Law

## Abstract:

Intending to offer a comprehensive comparative analysis of risk and liabilities in contracts of bailment and contracts governed by the Sales of Goods Act and the Indian Contract Act 1872, this research paper aims to analyse the topic mentioned above. This study delves into two analytical issues by examining relevant legal concepts, case laws, and practical implications. Firstly, this paper aims to explore practical steps that parties involved in business transactions can take to strategically manage and limit risks and liabilities associated with different types of contracts. In addition, this paper delves into how contracts of bailment and contracts regulated by the Sales of items Act determine the responsibility for loss or damage to transferred items, considering the factors that impact this distribution.

**Keywords:** Bailment, Sales of Goods Act, Risk Management, Liabilities, Commercial Transactions, Contract Law.

## Introduction:

Contracts are a crucial component of commercial transactions because they offer the parties involved a legal framework within which they can conduct their company. When it comes to the control of the transfer of commodities, there are two significant types of contracts. Contracts that are controlled by the Sales of Goods Act 1930 and contracts that are governed by the Indian Contract Act of 1872 under Bailment are examples of these types of agreements. Even though both entail the transfer of ownership of goods, there are distinctions between the two in terms of the legal repercussions, particularly with regard to risk and responsibility and even the transfer of the ownership itself. These differences can be distinguished from one another. The objective of this study is to carry out a comparative analysis of these features, with a particular emphasis on the practical techniques for risk management and the division of obligations in each type of contract.

Contracts are the rock upon which business transactions are built. They define the rights, responsibilities, and liabilities of all parties engaged in the transaction. Two key frameworks stand out among the millions of different kinds of contracts that control the exchange of products. These frameworks are known as contracts of bailment and contracts that are governed by the Sales of Goods Act. These contractual agreements control the transfer of possession and ownership of assets, even though they have significant legal consequences for the management of risk and responsibility.

A bailor is someone who entrusts goods to a bailee for safekeeping, while a bailee is someone who takes responsibility for the obligation of caring for the objects. The link between a bailor and a bailee is detailed in contracts of bailment, which are a legal concept that stretches back hundreds of years and are governed

by the Indian Contract Act. Contracts that govern the sale of items, on the other hand, are required to incorporate the transfer of ownership from a seller to a buyer in accordance with the Sales of Goods Act. Goods are sold according to the terms of these contracts. Despite the fact that both entail the transfer of goods, there are substantial distinctions between them in terms of the legal nature of the implications and the consequences that are associated with them.

The significant influence that various contractual arrangements have on risk management and responsibility distribution is the reason why it is important to have a thorough awareness of the differences between them. Because of the abundance of risks that are present in business transactions, which might range from a disagreement over a contract to damage to products, it is necessary to use proactive risk mitigation techniques. Furthermore, determining who is responsible for the loss or destruction of products is of the utmost importance to guarantee that all parties concerned are treated in a fair and transparent manner.<sup>1</sup>

The objective of this study is to conduct a complete comparative examination of the risks and liabilities that are associated with contracts of bailment as opposed to contracts that are governed by the Sales of Goods Act. The purpose of this study is to provide answers to two analytical issues by investigating of existing legal concepts, case law, and practical ramifications. In the first place, it goes into certain practical actions that the parties involved might put into action to proactively manage and limit the risks and liabilities that are connected with these contracts. Secondly, it investigates the way these contracts define and assign responsibility for the loss or damage of items that have been transferred among the parties concerned, taking into consideration the elements that influence this decision-making process.

By providing a better understanding of these factors, the purpose of this study is to provide useful insights to stakeholders who are involved in commercial transactions. These insights will enable stakeholders to successfully negotiate the intricacies of contractual agreements while protecting their own interests. When it comes to establishing confidence, enabling trade, and limiting possible legal and financial risks in the ever-changing world of business interactions, having a thorough understanding of the complexities of risk management and responsibility distribution is very necessary.

### **Bailment vs. Sales of Goods Act: Diverging Perspectives**

The act of transferring custody of items from one party (the bailor) to another party (the bailee) for a particular purpose is known as bailment.<sup>2</sup> This transfer does not entail the transfer of ownership of the assets. The Sales of Goods Act 1930, on the other hand, is the law that controls the sale of goods (only moveable property), which is the process by which title and custody of the items are passed from the seller to the buyer.<sup>3</sup> Although they both entail the exchange of things, the primary difference resides in the ownership, that is transferred from one party to another.

Prior to moving further, it is essential to have a thorough understanding of the distinctions that exist between the two types of contracts that are governed by the Sales of Goods Act and the Bailment that is governed by the Indian Contract Act in terms of its fundamental purpose and foundation. The purpose of bailment primarily is to provide advantageous outcomes for all of the parties involved. The bailor is provided with a means that allows them to store or transport items in a secure way, delegate duties that need specialist expertise or resources, or permit the temporary use of assets while still preserving

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<sup>1</sup> Section 73, Indian Contract Act, 1872

<sup>2</sup> Section 148, Indian Contract Act, 1872

<sup>3</sup> Section 4, Sales of Goods Act, 1930

ownership of such assets.<sup>4</sup> During this interim period, the bailee may be eligible to get compensation for their services, access to items for the purposes of upkeep or conveyance, or opportunities to use assets for certain endeavours or initiatives. Bailment agreements are drafted with the intention of outlining the scope of the bailee's responsibilities, the duration of the bailment period, and the terms and circumstances that govern the return of the products to the bailor of the goods. However, in accordance with the Indian Contract Act, the bailee is bound to compensate the bailor for any loss or destruction of goods if the bailor uses the bailed goods in any manner that is not in line with the terms and conditions of the bailment. This obligation applies even if the bailor is not responsible for the loss or destruction of the goods. Furthermore, the Indian Contract Act<sup>5</sup> provides that the contract may be voidable at the discretion of the bailor if the bailee fails to use the items for the purpose that was intended for them, as described in the terms and circumstances of the bailment.

On the other hand, the laws that were created by the Sales of goods Act relate to transactions in which a vendor transfers permanent ownership of items to a buyer in exchange for a consideration, which is often a monetary payment to the buyer. The primary purpose of the Sales of Goods Act is to provide a legally enforceable framework that ensures clarity, equity, and implement ability in business transactions that include the purchase, sale, or exchange of items. This is the core aim of the act. Through the establishment of laws and processes that control the formation, performance, and enforcement of sales contracts, the act works toward the goal of promoting transactions that are dependable and secure between customers and sellers. The Sales of Goods Act has two basic purposes: the first is to protect the rights and interests of both customers and sellers, and the second is to encourage openness and uniformity in commercial transactions. In addition to providing customers with redress if the vendor breaks the contract, the legislation provides purchasers with guarantees regarding the quality, appropriateness, and ownership of the items that they have bought.

The purpose of transactions that are controlled by the sales of goods statute goes beyond the straightforward exchange of various commodities and monetary compensation. The development of consumer confidence, the convenience of market transactions, and the efficient promotion of commerce are some of the broadest economic aims that are incorporated into this plan. Through the establishment of a complete legal framework for sales transactions, the act contributes to the growth and stability of the economy. This, in turn, makes it easier for consumers and vendors to engage in a seamless exchange of goods and services.

One of the most basic differences between the two is that the contract of Bailment comprises of a Bailor who owns or possesses the goods and transfers them to the Bailee. On the other hand, in a contract governed under the Sales of Goods Act, contracts happen between a seller and a buyer whereby the seller transfer the ownership or possession to the buyer. Bailment agreements are characterized by the fact that the bailor maintains ownership of the items, while the bailee merely acquires custody of the assets for a certain reason. The distribution of risk and liability is considerably impacted because of this disparity. In the context of bailment, the bailee is accountable for the safekeeping and appropriate use of the items during the length of time that has been agreed upon. On the other hand, unless the loss or damage was due to the bailee's negligence or breach of duty, the bailor retains ultimate ownership and is liable for any damage or loss that may occur. In this case, the bailor would be liable for any damage or loss resulting from the bailee's actions. The bailor could potentially take legal action against the bailee to recover any

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<sup>4</sup> Section 154, Indian Contract At, 1872

<sup>5</sup> Section 153, Indian Contract Act, 1872

losses incurred. The bailor may also be entitled to terminate the bailment agreement if the bailee fails to fulfill their obligations.<sup>6</sup> On the other hand, according to the Sales of Goods Act, the buyer is responsible for both possession and ownership of the item once the transaction is finalized. As a result of the circumstances, the buyer is accountable for any possible loss or harm to the items, unless the agreement clearly indicates otherwise or the seller neglects their responsibilities, such as supplying faulty goods or not completing the ownership transfer. Additionally, the bailee holds a right of lien. A lien is an individual's right to retain the property of another until his claim is satisfied or a debt owed to him is repaid.<sup>7</sup> On the other hand, the Sales of Goods Act provides a comprehensive structure for the transfer of ownership, including responsibilities and entitlements for both the purchaser and the vendor. After the transaction is finalized, the purchaser acquires complete proprietorship of the merchandise, including all liabilities and risks associated with it. This includes the right to possess, use, and dispute the products in their discretion, subject to any restrictions imposed by contract or law.

An additional notable distinction between the two is that the precise conditions for the transfer of products are dictated by the intention of bailment. Arrangements for safekeeping, hiring, transportation, or any other uses may be governed by these terms, per the agreement of the parties.<sup>8</sup> As an illustration, the bailee of a bailment for safekeeping would be obligated to safeguard the products entrusted to them with a reasonable degree of care. Conversely, within the framework of a contract regulated by the Sales of Goods Act, the transactions are contingent upon implied warranties and conditions pertaining to the quality<sup>9</sup>, suitability for the intended use, and adherence of the merchandise to the provided description or sample. This implies that the vendor provides an implicit guarantee to the buyer that the products are suitable for their intended purpose, of satisfactory quality, and in accordance with any descriptions or samples provided.

The distinction between the focus of duration specified in a contract of bailment and a contract governed by the Sales of Goods Act is highlighted below. Contracts of bailment primarily centre around the precise time-period of possession, which may be for a predetermined period, until a particular event transpires, or until the bailor requests return. In contrast, contracts governed by the Sales of Goods Act are more concerned with the transfer of ownership as opposed to the precise time-period. In the event that a contract of bailment is in place, the bailee has the legal right to return the goods to the bailor after the amount of time that is stipulated in the contract of bailment.<sup>10</sup> On the other hand, unless there is a breach of contract, a transaction that is regulated by the Sales of items Act does not require the buyer to return the items to the seller.

By examining the distinctions between sales of goods contracts and bailment contracts, one may examine the different approaches to risk and obligations that are involved. The major issue in bailment is the temporary custody and safeguarding of items, with the bailor preserving ownership and carrying the ultimate risk. This is because the bailor is legally responsible for the commodities. The Sales of Goods Act, on the other hand, places an emphasis on the transfer of both possession and ownership with the intention of moving the risk onto the buyer after the transaction has been finalized. When a bailment is established, the bailee is obligated to maintain the bailed goods with the same degree of care that an ordinary prudent man would, given comparable circumstances, exercise over his own goods of equivalent

<sup>6</sup> Section 153, Indian Contract Act, 1872

<sup>7</sup> Section 170, Indian Contract Act, 1872

<sup>8</sup> Section 151, Indian Contract Act, 1872

<sup>9</sup> Section 12, Sales of Goods Act, 1930

<sup>10</sup> Section 160, Indian Contract Act, 1872

mass, quality, and value as the bailed goods.<sup>11</sup> However, If the bailee has taken reasonable care in accordance with Section 151 of the Indian Contract Act, then the bailee is not liable for the loss, destruction, or degradation of the object that has been bailed, even if there is no particular agreement between the parties. Additionally, after the time period for which the goods were bailed has passed or the purpose for which they were bailed has been accomplished, it is the obligation of the bailee to return or deliver the goods that were bailed without making a demand in line with the instructions provided by the bailor.<sup>12</sup>

The different legal repercussions that would befall the parties engaged in the contract are another key difference between contracts of bailment and those controlled by the Sales of Goods Act of 1930. This disparity is among the most important distinctions between the two types of contracts. In contrast to the Sales of Goods Act, bailment has a wide range of legal implications, including several rights, obligations, and responsibilities that change depending on the circumstances of the transaction and the nature of the transaction itself. When parties participate in transactions that include the transfer of commodities, it is imperative that they have a comprehensive grasp of these implications. These ramifications determine the rights and duties of the parties involved, as well as provide remedies in the case of a disagreement or violation of contract.

In the context of the law, the term "bailment" refers to the temporary transfer of custody of goods from one party (the bailor) to another party (the bailee) for a particular purpose, without the transfer of ownership of the goods. Several legal consequences are brought about by the bailment arrangement, and these repercussions have an effect on the rights and duties of all parties involved. As part of the bailment agreement, the bailor anticipates that the bailee would exercise a reasonable level of care with regard to the items that have been bailed out and will limit their usage to the reasons that are specified in the agreement. Among the obligations is the protection of the product from being damaged, misplaced, or stolen, as well as the application of the caution and diligence that one would assume from a person who is sensible and prudent.

From a legal standpoint, the bailor maintains ownership of the items for the duration of the bailment term. The bailor also has the right to retrieve the goods after the bailment purposes have been completed or when the time frame that was agreed upon has come to an end. However, in situations like these, the bailee may be able to hold a possession art lien on the bonded commodities. This would allow them to keep ownership of the items until the payment of the consideration or the fulfillment of a portion of the promise linked with the contracts that are in dispute.

On the other hand, the Sales of Goods Act, which is the law that controls the transaction, is the one that is responsible for the exchange of consideration for the permanent transfer of ownership of the items. Through the establishment of rights, obligations, responsibilities, and remedies for both the buyer and the seller in a sales transaction, the act guarantees that commercial transactions are equitable, transparent, and enforceable. To add insult to injury, the statute imposes obligations on the merchant to ensure that the goods are of a quality that is adequate and fit for use or consumption. Sellers have the power to pursue legal remedies if the customer fails to make payment. These remedies include the opportunity to collect damages for breach of contract or non-payment.

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<sup>11</sup> Section 151, Indian Contract Act, 1872

<sup>12</sup> Section 160, Indian Contract Act, 1872



Furthermore, bailment agreements frequently include fiduciary obligations that are owed by the bailee to the bailor. These responsibilities extend to the bailor. Due to the nature of these responsibilities, the bailee is required to handle the commodities with caution and attention. However, sales contracts are typically centred on warranties, in which the seller guarantees that the things are of a particular quality and are appropriate for the purpose for which they were initially designed. This is the core of the sales contract.

### **Mitigation of Risk and Liabilities Under Contract of Bailment and Sales of Goods Act**

For the purpose of liability and risk management, proximity is an essential component in the realm of business transactions. This is done to ensure that the execution of corporate business deals is carried out in a smooth and beneficial manner. In the context of transactions that involve contracts of bailment or are controlled by the Indian Contract Act 1872 and the Sales of Goods Act 1930 in India, this assumption is particularly relevant. It is not applicable to any other type of transaction. In order for parties to successfully negotiate a variety of legal frameworks and reduce substantial risks, it is very necessary for them to utilize strategic methods that are supported by analytical prowess and legal provisions.

#### **Analytical examination of legal provisions**

The Sales of Goods Act of 1930 and the Indian Contract Act of 1872 give a robust legal framework for governing commercial transactions and addressing connected risks. The Sales of Goods Act postulates the rights and obligations of parties to contracts for the sale of goods, including warranties, conditions, and remedies for breach.<sup>13</sup> Sales contracts are subject to certain implicit guarantees and conditions under the Act of 1930. Section 14<sup>14</sup> discusses the implied condition as to the quality or fitness for a specific objective of products supplied during business, which throws light on the standard of goods expected in commercial transactions. Parties can strategically manage risks by enforcing these implicit conditions through stringent quality control techniques and contractual specifications.<sup>15</sup>

Similarly, the Indian Contract Act establishes principles guiding contract creation, performance, and remedies for contractual violations, providing a framework for managing the risks inherent in economic transactions.<sup>16</sup> Analysing the relevant section of the Indian Contract Act, which addresses the doctrine of frustration<sup>17</sup>, allows parties to examine the impact of unforeseen occurrences on contractual performance. Analytical examination of contract creation and performance clauses aids in detecting potential risks and implementing preventive actions to mitigate their negative consequences.<sup>18</sup>

#### **Practical Strategies for minimising risks in bailment contracts**

Initially, the individuals involved in a contract of Bailment must perform a comprehensive due diligence. Before entering a bailment contract, it is important to conduct a comprehensive investigation into the potential bailee's reputation, financial stability, and capacity to fulfill contractual duties. Reviewing previous projects and requesting specific examples can provide valuable insights into the bailee's level of responsibility.

<sup>13</sup> Soni P, "The Rights and Duties of the Transacting Parties Under FOB International Sales Contract" (*Social Science Research Network*, January 1, 2014) <<https://doi.org/10.2139/ssrn.2423707>>.

<sup>14</sup> Section 14, Sales of Goods Act, 1930

<sup>15</sup> Jain S, "Contracts of Sale: Terms, Conditions and Warranties with Special Reference to Sale of Goods Act, 1930" (*Social Science Research Network*, January 1, 2015) <<https://doi.org/10.2139/ssrn.2776977>>.

<sup>16</sup> Hepple BA, "Intention to Create Legal Relations", (*The Cambridge Law Journal*, April, 1970), <https://www.jstor.org/stable/4505359>.

<sup>17</sup> Section 56, Indian Contract Act, 1872

<sup>18</sup> Yadav G, "Impossibility of performance and frustration of contract", (*Indian Journal of Law and Legal Research*, 2021), <https://heinonline.org/HOL/LandingPage?handle=hein.journals/injlolw2&div=448&id=&page=>.

Secondly, it is crucial for the parties engaged in the bailment contract to clearly establish the terms of the agreement. Creating thorough bailment agreements is essential to clearly delineate the rights, responsibilities, and possible liabilities of all parties involved. It is important to clearly define the scope of bailment, terms of custody, and risk distribution to minimize disputes and potential liability.<sup>19</sup>

Additionally, the parties involved in a contract for bailment must meet the necessary insurance requirements. When entering a bailment arrangement, it is advisable to secure appropriate insurance coverage as a proactive risk management measure. Some examples are liability or cargo insurance. Having proper insurance safeguards individuals from potential losses caused by theft, damage, or loss of entrusted property.

Moreover, proactive measures can be taken by the involved parties to guarantee consistent monitoring and reporting. Risk can be mitigated through the implementation of stringent monitoring tools that trace the location and condition of bailed products. Ensuring transparency and accountability through regular inventory reviews, periodic audits, and timely reporting reduces the likelihood of neglect or misconduct.

#### **Practical Strategies for minimising risks in contracts governed by the Sale of Goods Act**

The parties must initially perform a thorough contractual analysis. Before entering into agreements regulated by the Sales of Goods Act, involved parties ought to thoroughly examine the pertinent provisions, including but not limited to implied warranties, terms of delivery, and redress for breaches. The comprehension of contractual obligations and rights facilitates the proactive evaluation and mitigation of risks.

Additionally, in a contract regulated by the sale of goods, the involved parties may include safeguarding provisions to mitigate potential liabilities and risks. By including protective clauses in sales contracts, such as provisions for limitation of liability or *force majeure*, the risks associated with unforeseen circumstances or violations beyond the parties' control can be mitigated. The purpose of these provisions is to mitigate potential losses and assure a fair distribution of risks.<sup>20</sup> The absence of the force majeure clause in contracts had devastating impacts especially during the COVID 19 pandemic. It was the pandemic which also brought to light the importance of this clause which parties can include to mitigate risks and liabilities.

A system for quality assurance may be implemented by the parties. Conflicts arising from defective products or failure to meet specifications can be averted through the implementation of robust quality assurance procedures, including testing protocols, product inspections, and regulatory compliance. Customer satisfaction and product dependability are enhanced when quality control is prioritized.

In addition, prior to entering into a contract that is covered by the Sales of Goods Act, the parties may decide to establish a system for the resolution of disputes. In addition to lowering the costs of legal representation and minimizing disruptions to business operations, the establishment of efficient dispute resolution procedures, such as arbitration or mediation provisions, enables the settlement of contractual disputes in a more expedient manner. The proactive handling of disputes promotes peaceful outcomes and safeguards the relationships between corporations.

<sup>19</sup> Schwartz and Scott RE, "Contract Theory and the Limits of Contract Law", (*The Yale Law Journal*, December 2003), <https://www.jstor.org/stable/3657531>.

<sup>20</sup> Palmer VV, "Excused Performances: Force Majeure, Impracticability and Frustration of Contracts", (*The Americal Journal of Comparative Law*, October 2022), [https://academic.oup.com/ajcl/article/70/Supplement\\_1/i70/6696364?login=false](https://academic.oup.com/ajcl/article/70/Supplement_1/i70/6696364?login=false).

Each of these tactics is described in this paper in an analytical manner. The use of these pragmatic techniques may minimize the likelihood of putting the rights of the parties in jeopardy and will enhance the smooth and fluid operation of an agreement of bailment in accordance with the restrictions that are established therein. The requirements of the Act of 1872 are always applicable to any arrangement that is considered to be governed by the Act of 1930. Because of this, the final practical remedy can also be accomplished with the assistance of the Act by itself.

### Implications For Loss or Damage to Transferred Goods Under Bailment And Sales Of Goods

The provisions relating to “Bailment” under the Indian Contract Act, 1872 provides that in all cases of bailment, the transferred goods must be taken care of by the bailee. The bailee is obligated to take care of the goods that have been transferred to him in the same manner that a man of ordinary prudence would take care of his own goods that are of the same “bulk, quality, and value” as the items that have been bailed.<sup>21</sup> As per Section 152 of the Act, 1872 the bailee “in the absence of the special contract” is not responsible for the loss or deterioration or destruction of the goods bailed if he has taken due amount of care. Hence, a special contract can fix a higher responsibility on the bailee, as held in the case of **KVS Sheik Mahamad Ravuther v. The BISN Co.**<sup>22</sup> The burden of proof is on the bailee to show that the loss that has occurred to the transferred goods is not due to his fault. Section 106 of the Indian Evidence Act, 1872 can be read in light of the burden of proof here. The section deals with the burden of proof as to particular facts. Therefore, here, the defendant is required to provide an explanation for the accident, which only they are aware of, in a manner that demonstrates they were not negligent. The bailee is obligated to demonstrate that he exercised reasonable and appropriate care to ensure the secure and proper delivery of the bailment. In the case of **KG Ponnappa Nadar v. Thenazhi Parakkalati**,<sup>23</sup> the Madras High Court held that if the person entrusted with goods acknowledges that they were damaged while in their care, and it is discovered that their absence was improper and negligent, making it hard to determine the cause of the damage, the owner can propose a likely cause that the presence of the custodian could have prevented. In this situation, the responsibility lies with the bailee to prove that the damage was not caused by their negligent absence. Hence, it is not for the plaintiff to prove how the loss, destruction or deterioration occurred.

The Sale of goods Act of 1930 states that, unless otherwise agreed upon, the commodities remain at the seller's responsibility until the buyer takes possession of them. However, following transfer of ownership, the products become the buyer's duty, regardless of whether delivery occurred or not. In the event that delivery is delayed, the commodities shall be held at the risk of the culpable party for any potential loss. The Section provides that, “*Provided also that nothing in this section shall affect the duties or liabilities of either seller or buyer as bailee of the goods of the other party.*”<sup>24</sup> However, despite the fact that the seller is in possession of the goods as the bailee of the buyer, he is still able to exercise his right to lien if he is an unpaid seller, as stated in section 47, which is the provision that includes the seller's lien. By examining the two statutes, it is evident that the bailee's obligations to take appropriate care of the products will be incorporated into the requirements of the sale of goods as well. This is the case without any doubt.

<sup>21</sup> Section 151, Indian Contract Act, 1872

<sup>22</sup> (1908) 18 MLJ 497.

<sup>23</sup> AIR 1937 Madras 411.

<sup>24</sup> Section 126 Sale of Goods Act, 1930.



## Conclusion

Therefore, upon closer inspection of the legislation, it becomes clear that in the case of a bailment contract, the bailee is often the one who is responsible for the care of the items.

Under specific conditions, the act of a car owner transporting their vehicle to a service centre could potentially be considered an oral contract of bailment. With this kind of agreement, the owner of the automobile provides the vehicle solely for the purpose of servicing it, in exchange for a significant premium over the standard rate. Following the completion of the repairs, a reasonable and sensible person would anticipate that the vehicle would be returned to the owner, also known as the bailor, in the exact same condition that it was in when it was first given to the service centre. The bailee is expected to return the vehicle to the owner with the same level of care and precautions that they used when they were in possession of the vehicle. It is not possible to ascertain who is responsible for the damage that occurs because of an accident that occurs during the process of maintaining an automobile, assuming that the bailee is not involved in the accident in any way. In accordance with the conditions that are described in the bailment agreement, the bailee is required to take all risks that are linked with the products during the whole of this endeavour. On the other hand, according to Section 26 of the Sales of Goods Act, the proprietor is solely responsible for facing any risks that may be related with the commodities. In situations when the parties concerned are unable to come to an agreement, it becomes an impossible obstacle to determine which party is liable for the risks, obligations, and damages that are linked with the conditions in question.

The critical transfer of risk of harm must inevitably and unambiguously move from the bailor to the bailee, according to our detailed legal analysis, particularly within the complicated framework of contractual agreements. This is the stance that our professional organization takes, and it is steadfast. In the context of bailment arrangements, this fundamental principle serves as a cornerstone for ensuring that obligations and liabilities are distributed in an equal manner throughout the arrangement.

As we continue to build on the premise, let us have a look at the example that was provided as an illustration. When this occurs, it is normal for the bailee to transport the items that have been entrusted to approved premises. These premises are often limited access facilities that are operated primarily by authorized people. Examples of such facilities include warehouses and specialized service centres. An important barrier that must be overcome in this complex setting is the lack of a standardized metric that can be used to evaluate whether the requisite duty of care is being followed.

The bailor is invariably responsible for any and all damages that are incurred as a consequence of the bailee's actions, since established legal precedents dictate that the bailee may only be considered negligent if it can be demonstrated that the bailor has clearly violated their responsibility. The fact that this inherent imbalance exists draws attention to the vital requirement of a specific description of risk distribution within the bailment contract.

After conducting an in-depth analysis, we have arrived at the conclusion that a reasonable incentive structure may be constructed by transferring risk with the signature of the bailment agreement and continuing to sustain that transfer until the products are returned to the bailor in the same condition in which they were originally found. To put it another way, this framework offers the bailee an incentive to maintain a higher degree of prudence and to adopt reasonable steps in order to prevent any potential losses that may be experienced as a result of irresponsible conduct.

Furthermore, the probability of unfavourable consequences resulting from neglect significantly decreases when a culture of responsibility and thoroughness is promoted, based on the fair distribution of risk. The

interdependent nature of risk allocation and conscientious behaviour not only protects the interests of all parties concerned but also creates a setting that is favourable for cultivating trust and collaboration. In conclusion, the intense dedication to preserving the appropriate duty of care and the exact demarcation of risk allocation under bailment contracts demonstrate the core principles of equitable law that regulate economic transactions. It is possible to improve contractual connections by following to legal norms in a stringent manner, which in turn makes it possible to build long-lasting partnerships that are built on trust and mutual benefit. Regarding this particular feature, it may be concluded that the bailee will be the one who is responsible for absorbing the risk in a contract of this nature.

Nevertheless, the bailee could restrict their obligation in accordance with a number of different criteria, including insurance coverage, carelessness, breach of contract, force majeure, and any restriction of liability terms that may be stated in the contract. On the other hand, liabilities are delegated in accordance with the principles of implicit conditions, guarantees, and the transfer of ownership, implied conditions,<sup>25</sup> and warranties<sup>26</sup> which are described in contracts that are controlled by the Sales of Goods Act 1934. Typically, it is the responsibility of the vendor to ensure that the products correctly follow the description presented in the advertisement. In the realm of determining contractual obligation, the most important factors to take into account when establishing accountability for losses or damages are clarity, impartiality, and respect to legal norms.

In a nutshell, contracts of bailment and contracts that are governed by the Sales of Goods Act provide one-of-a-kind frameworks for the management of risks and the distribution of liabilities in commercial transactions that involve the transfer of items. The parties involved are able to handle these contracts with ease while limiting the potential for legal and financial risks if they have a thorough understanding of the factors that influence responsibility for harm or loss and if they incorporate realistic measures for risk management. Nevertheless, it is of the utmost importance that all parties carry out comprehensive due diligence, seek the advice of legal counsel where necessary, and write contracts that are clear and enforceable.

Practical approaches to risk mitigation emphasize the criticality of contractual transparency, due diligence, insurance protection, and monitoring systems. Comprehensive due diligence exercises and unambiguous contractual terms establish the foundation for effective risk management in bailment contracts. In the same way, contracts that are subject to the Sale of Goods Act derive advantages from thorough contractual examination, incorporation of protective provisions, and execution of quality assurance protocols. By implementing these strategies, prospective liabilities can be reduced, and product dependability and customer satisfaction can be improved, thereby nurturing business ecosystem trust and resilience.

It is important to be transparent and responsible since the consequences of misplacing or damaging the item that has been conveyed highlight the value of these two qualities. Additionally, in line with the Indian Contract Act, bailees are required to use reasonable care, which highlights the significance of putting in place stringent monitoring and reporting mechanisms. In sales contracts, the division of obligations between the client and the seller highlights the significance of clear and unambiguous contractual clauses as well as the observance of legal requirements.

It is vital to have a complete plan to guarantee the effectiveness of risk mitigation in bailment contracts and those that are subject to the Sale of Goods Act. For the purpose of effectively negotiating the complexities of contracts and defending their interests, the parties concerned are able to make use of legal

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<sup>25</sup> Section 16 Sale of Goods Act, 1930.

<sup>26</sup> Section 59, Sale of Goods Act, 1930.

provisions, pragmatic methods, and proactive actions throughout the negotiation process. When it comes to business interactions, adopting a proactive approach not only helps to reduce the likelihood of potential dangers, but it also fosters confidence, flexibility, and positive outcomes.