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WHATSAPP DEALS: VALID OR VOID?

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Abstract

Contracts are easily made via chats, clicks, emojis and direct messages. This article is about the legal enforceability of agreements made through WhatsApp in the context of Indian contract and evidence law. Instant messaging applications are becoming more and more installed in professional and commercial interactions. As a result, it is necessary to look at whether the digital exchanges are capable of constituting valid and enforceable contracts. The research is based on the Information Technology Act, 2000, the Indian Contract Act, 1872, and the newly introduced Bharatiya Sakshya Adhiniyam, 2023, which deals with electronic records' evidentiary standards. In the article also, the author makes reference to the UK as well as to the court case of *Jaevee Homes Ltd v Fincham*, where a High Court considered a WhatsApp conversation to be binding. The discussion goes on to highlight the interpretative problems presented by the use of emojis in communications of this kind. Through a doctrinal and analytical approach, the article reveals the connection between digital communication methods and the gradual adoption of legal standards.

Keywords: WhatsApp, online deal, emoji, digital message, Indian law, online agreement, IT Act, Contract Act

Introduction

In our increasingly digitized world, platforms like WhatsApp have undergone a significant transformation, evolving from simple tools for casual messaging into indispensable instruments for professional and commercial communication across a wide spectrum of industries. Whether facilitating discussions in the real estate sector, coordinating service provisions³, or enabling small-scale commercial transactions, WhatsApp is now frequently utilized to conduct negotiations, finalize terms, and even conclude binding agreements. This pervasive adoption of instant messaging for business purposes brings forth a set of compelling

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³ Service providers, such as freelancers and consultants, often use WhatsApp to communicate with clients regarding project details, timelines, and payment terms.

legal questions that demand careful consideration under the Indian legal framework. At the forefront of these inquiries is the fundamental question of whether a contract concluded through the medium of WhatsApp can be considered legally valid and enforceable within the jurisdiction of Indian law⁴.

The inherently casual and transient nature of conversations on messaging platforms like WhatsApp raises pressing questions regarding their legitimacy as instruments of binding contractual agreements. One of the major concerns is whether such real-time, informally structured exchanges can satisfy the rigorous evidentiary standards mandated by Indian courts to establish enforceable contractual liability.⁵ Given that Indian contract law emphasizes tangible and verifiable proof to confirm the existence and terms of an agreement, digital communications which are susceptible to deletion, modification, and misinterpretation pose unique evidentiary challenges.⁶ Moreover, the increasingly common use of emojis in digital interactions adds another dimension of complexity. These pictorial symbols, often used to convey tone, sentiment, or affirmation, challenge conventional legal methods of interpreting intent. Courts are now faced with the task of determining whether such non-verbal cues can accurately reflect mutual assent or genuine agreement on contractual terms.

In order to understand and address these questions, it is essential to evaluate the applicable legal and evidentiary framework in India. In particular, the recently enacted Bharatiya Sakshya Adhiniyam, 2023 (BSA), which has been enacted to replace the old law i.e. the Indian Evidence Act of 1872, introduces significant reforms regarding the admissibility and treatment of electronic evidence. This statute plays a pivotal role in shaping the judicial approach to digital communications, including those transmitted via WhatsApp. The provisions under BSA concerning electronic records such as authentication, presumptions of genuineness, and standards for admissibility must be thoroughly examined to ascertain the extent to which WhatsApp messages may be considered reliable evidence in contractual disputes. For instance, Sections 63 and 85 of the Act impose specific procedural thresholds for the validation and acceptance of electronic evidence, requiring proper certification and metadata to substantiate the integrity and origin of digital content.⁷

⁴ The Indian Contract Act, 1872.

⁵ Section 3 of the Indian Evidence Act, 1872 (replaced with the Bharatiya Sakshya Adhiniyam, 2023)

⁶ The digital messages can be edited or deleted so easily that is very difficult and unpredictable to rely on their evidentiary value, also such actions make the determination process more and more complex.

⁷ Section 61 to 65B of the Indian Evidence Act, 1872

In tandem with Indian statutory developments, comparative insights from international jurisprudence offer valuable reference points. These cross-jurisdictional perspectives can guide Indian courts in interpreting the legal weight of informal digital communications in contract formation. Among these, the ruling by the UK High Court in *Jaevee Homes Ltd v Fincham* [2025] EWHC 942 (TCC) stands out as a striking example of a court explicitly upholding a WhatsApp exchange as forming a legally binding agreement. In this case, the court meticulously analyzed the sequence of messages, the language used, and the overall context of the communication to conclude that the parties had indeed reached a consensus on the essential terms of a contract through their WhatsApp interaction⁸. The implications of this precedent-setting case, particularly the principles articulated by the UK High Court in assessing contractual intent and the sufficiency of digital communication for contract formation, are highly relevant to understanding the emerging legal position on digital contracts within the Indian legal landscape.

Therefore, a comprehensive analysis is required in order to examine the evolving domestic legal framework with relevant foreign precedents to explore the enforceability of WhatsApp-based agreements. This includes a doctrinal assessment of fundamental contractual elements of offer, acceptance, consideration, and intent to create legal relations as applicable to informal digital exchanges. The analysis must also consider how courts may interpret the use of emojis within such communications. Are these icons merely decorative, or can they serve as indicators of consent or rejection? Can a "thumbs up" emoji equate to a legally binding acceptance? Courts will increasingly face these questions as digital communication continues to reshape the landscape of contract law. This paper thus aims to develop a nuanced and context-sensitive understanding of how Indian law can accommodate the realities of modern communication, balancing the demands of legal certainty with the fluidity of digital interaction.

Legal Framework Governing Electronic Contracts in India

India's legislative framework has progressively evolved to embrace the digital transformation of contractual relationships. The Information Technology Act, 2000, read with the Indian Contract Act, 1872, provides legal validity to contracts formed via electronic means. Within this overarching framework, the Bharatiya Sakshya Adhiniyam, 2023 has introduced a more modern and detailed regime for the evidentiary treatment of electronic records. Section 10A of

⁸ *Jaevee Homes Ltd v Fincham* [2025] EWHC 942 (TCC)

the Information Technology Act, 2000 (IT Act), which unequivocally states that "where a contract is formed through electronic means, such contract shall not be deemed unenforceable solely on the ground that such electronic means was used for that purpose."⁹ This crucial provision serves as a foundational pillar, explicitly removing any doubt regarding the legal validity of agreements merely because they were concluded electronically. Its enactment was a significant step towards fostering e-commerce and digital transactions by providing legal certainty to online agreements, ensuring that the medium of communication does not undermine the legality of the agreement itself¹⁰.

However, the IT Act, 2000, does not operate in isolation. While it validates the electronic form of a contract, it simultaneously mandates that such agreements must still satisfy all the fundamental elements required for a valid contract under the venerable Indian Contract Act, 1872¹¹. These foundational elements include a clear offer, unequivocal acceptance, the presence of lawful consideration, the free consent of all parties involved, and a demonstrable intention to create legal relations. This means that even if an agreement is reached through a WhatsApp exchange, it must still exhibit a clear proposal from one party, an affirmative response from the other, an exchange of value, and a mutual understanding that the agreement is legally binding, free from coercion or undue influence. The challenge often lies in discerning these traditional elements within the informal and often colloquial nature of instant messaging conversations.

Where WhatsApp conversations clearly reflect essential contractual elements of an agreed price, a defined timeline for performance, and an unequivocal consensus on the terms, the courts have shown a willingness to recognize these exchanges as enforceable agreements. This evolving judicial approach aligns with a pragmatic understanding of contemporary business practices, where formal documentation is often replaced by instantaneous digital communication. Nevertheless, enforceability is most likely to be questioned on whether such communications can satisfy the evidentiary standards required in legal proceedings. Under the BSA, the admissibility of WhatsApp chats and similar digital records is determined through Sec. 63. It stipulates that electronic evidence must be authenticated with a certificate issued by the person responsible for managing the computer resource (e.g., the mobile device or cloud

⁹ Section 10A, Information Technology Act, 2000

¹⁰ Dr. J.N. Barowalia: *Commentary on the Information Technology Act, 2000*, Eastern Book Company. Also see, Yash Pandey, *Mandatory Arbitration Clause in E-Consumer Contracts*, 8 Bharati L. Rev. 59 (2019).

¹¹ R.K. Bangia: *Law of Contracts*. Publisher: Allahabad Law Agency.

server). The certificate must detail the method of record creation and the devices used and demonstrate that the record remains unaltered. Also, Metadata like the timestamps, sender-receiver credentials, and message identifiers serve as vital corroborative evidence that can affirm the authenticity and context of the messages in question. Screenshots, though commonly presented, are not always sufficient without supporting technical documentation to ensure their credibility.

Further strengthening the position of digital agreements, Section 85 of the BSA allows for a presumption in favor of the authenticity of certified digital agreements¹². This provision significantly eases the burden of proof for the party seeking to rely on an electronic contract, as once a digital agreement is properly certified, the court may presume its authenticity unless proven otherwise. Together, these statutory provisions, including Section 10A of the IT Act validating the electronic form, and Sections 63 and 85 of the BSA governing the admissibility and presumption of authenticity of electronic evidence, enable WhatsApp messages, if properly preserved, authenticated, and verified, to serve as compelling evidence in support of claims of contract formation in a court of law. The onus, therefore, lies on the parties to ensure that their digital communications, intended to form a contract, are clear, complete, and capable of being rigorously authenticated should a dispute arise.

Interpretation of Emojis as Contractual Consent

Emojis have become embedded in modern communication, often used to signal tone, affirmation, refusal, or sarcasm. This raises complex interpretative challenges when such symbols appear in negotiations. The use of emojis in contractual exchanges introduces an unconventional, yet increasingly significant, element into legal discourse. These symbols ranging from a smiling face to a thumbs-up or handshake can convey various intent of a message.¹³

The integration of emojis into professional and transactional dialogue especially via platforms like WhatsApp raises complex interpretative issues. While Indian courts have not yet definitively ruled on the evidentiary value of emojis, their presence in digital communications related to contract formation cannot be disregarded. Legal scrutiny is warranted to determine

¹² Section 85, the Bharatiya Sakshya Adhinyam, 2023.

¹³ Marcel Danesi: *The Semiotics of Emoji: The Rise of Visual Language in the Age of the Internet*; Bloomsbury Academic.

whether and how these symbols contribute to or obscure mutual assent.

Under Sec. 4 of the Bharatiya Sakshya Adhiniyam, 2023 (BSA), the term "electronic record" is expansively defined to include any information generated or stored in digital form, including images and symbols. By this definition, emojis may be categorized as electronic records, rendering them potentially admissible in legal proceedings subject to proper contextualization and authentication.¹⁴

However, interpreting an emoji in isolation as evidence of contractual consent is inherently precarious. Given their subjective and culturally fluid meanings, emojis may lack the clarity and definitiveness required for establishing legal obligations. Indian courts are therefore likely to adopt a more comprehensive approach in interpreting them through the context of the conversation or chat, examining the emoji within the broader framework of the background information, the conduct of the parties, and the history of their communications.

However, while the BSA acknowledges the admissibility of such digital symbols, the interpretation of their legal weight, particularly in establishing contractual consent, remains a complex issue. Emojis inherently lack the linguistic precision and clarity of written words, making their interpretation susceptible to subjectivity and varying cultural understandings¹⁵. A thumbs-up emoji, for instance, might generally be perceived as an affirmation or agreement, but its connotation can differ across cultures and individual communication styles, sometimes conveying mere acknowledgement or even passive agreement rather than a firm contractual acceptance¹⁶. Similarly, other emojis intended to signal agreement or acceptance might carry ambiguous meanings that could lead to disputes regarding the actual intent of the communicating parties.

Nevertheless, the interpretative weight of emojis in contractual WhatsApp exchanges is likely to be enhanced when they are used in conjunction with clear and unambiguous contractual terms expressed in text. For example, if a message explicitly confirms the scope of a service and the agreed-upon price, followed immediately by a thumbs-up emoji from the receiving party, a court might be more inclined to infer that the emoji signifies acceptance of the stated

¹⁴ Section 4, the Bharatiya Sakshya Adhiniyam, 2023.

¹⁵ Jennifer Lee: *The Emotional Lexicon: Understanding Emoji Semantics*; PLoS ONE

¹⁶ Gretchen McCulloch: *Because Internet: Understanding the New Rules of Language*; Riverhead Books

terms. In such instances, the emoji serves as a visual reinforcement of the textual agreement, providing additional contextual cues to the intent of the parties. The surrounding textual content becomes crucial in anchoring the interpretation of the emoji within a contractual framework.

In determining the contractual significance of an emoji, courts may consider following major points:

- a. The placement and sequence of the emoji in the message stream,
- b. The accompanying text, if any,
- c. Prior use patterns between the parties,
- d. Industry-specific norms regarding emoji use,
- e. And whether the emoji was used in a setting involving negotiation or confirmation of terms.

The burden of proof shall rest on the party asserting that the emoji signified legal acceptance. They must demonstrate that the emoji, when viewed in context, constituted a clear and unambiguous assent to a contractual proposal.

Practical Implications and Evidentiary Considerations

Given the evolving legal recognition of digital communication, parties using WhatsApp for commercial purposes must adopt best practices to avoid ambiguity and legal uncertainty. Clarity in language is essential, vague or non-committal phrases can weaken enforceability. Conversations should ideally document key contractual terms, including scope of work, payment structure, deadlines, and conditions.

Equally important is the preservation of electronic records. Parties must ensure that complete chat histories are backed up, and that metadata, sender-recipient details, and timestamps are intact. In legal proceedings, such records must be authenticated as per Section 63 of the Bharatiya Sakshya Adhinyam, which requires certification from the device custodian or server source. Informal indicators like emojis or read receipts may support a claim of intention or acknowledgment but should not replace clear, written consent. Where possible, it is prudent to formalize agreements discussed on WhatsApp with follow-up emails or formal contract documentation.

Judicial Approach

Jaevee Homes Ltd. v Fincham (UK, 2025): The UK High Court held a £248,000 demolition contract formed via WhatsApp was legally binding. The exchange included price, scope, and a thumbs-up emoji confirming acceptance. The court prioritized the clarity of terms and intent, affirming the enforceability of informal digital communication.¹⁷

Trimex International FZE Ltd. v Vedanta Aluminium Ltd. (India, 2010): The Indian Supreme Court upheld that email correspondence reflecting offer and acceptance can constitute a binding contract, even without a signed agreement. This rationale supports extending legal recognition to similar exchanges on platforms like WhatsApp.¹⁸

In Re: Suo Motu Writ Petition (Civil) No. 5 of 2020 (India, SC): The Supreme Court allowed service of legal notices via WhatsApp and considered read receipts (blue ticks) as proof of receipt. This decision marked a shift in judicial recognition of WhatsApp as a valid mode of legal communication.¹⁹

Conclusion

WhatsApp-mediated agreements are not inherently void under Indian law. If the core elements of a valid contract i.e. offer, acceptance, and consideration are present, and the communication satisfies evidentiary requirements under the Bharatiya Sakshya Adhinyam, 2023, such agreements can be enforceable. Judicial decisions such as *Thirumalai Murugan Arunachal v. K. Rajaraman*²⁰ affirm that electronic communications may establish contractual obligations, while *Ambalal Sarabhai v. KS Infraspace*²¹ and *Arjun Panditrao Khotkar v. Kailash Kushanrao Gorantyal*²² underscore the importance of authentication and compliance with digital evidence protocols. Although platforms like WhatsApp facilitate swift communication, the use of emojis and informal language requires careful contextual interpretation. Courts will likely consider the entire exchange to determine intent. As digital communication continues to blur the lines between informal conversation and contractual commitment, legal certainty hinges on both clarity in expression and adherence to statutory evidentiary standards. While

¹⁷ 2025 HC Case, not available neutral citation. *Jaevee Homes Ltd. v. Fincham*, [2025] EWHC (Eng.).

¹⁸ *Trimex Int'l FZE Ltd. v. Vedanta Aluminium Ltd.*, (2010) 3 SCC 1.

¹⁹ *In re Suo Motu Writ Petition (Civ.) No. 5 of 2020*, (2020) 19 SCC 236.

²⁰ *Thirumalai Murugan Arunachalam v. K. Rajaraman*, (2019) 4 SCC 95.

²¹ *Ambalal Sarabhai Enters. Ltd. v. K.S. Infraspace LLP*, (2020) 15 SCC 585.

²² *Arjun Panditrao Khotkar v. Kailash Kushanrao Gorantyal*, (2020) 7 SCC 1.

emojis and informal messages pose interpretative challenges, courts are likely to adopt a contextual and fact-sensitive approach. As digital transactions grow, legal clarity in this domain becomes increasingly vital for both commercial certainty and judicial consistency.

