

Judiciary Digest

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Supreme Court Affirms Full Compensation for Road Accident Victims' Heirs

The Supreme Court recently ruled that the legal heirs of individuals who died in a road accident are entitled to full compensation, regardless of any contributory negligence attributed to the driver of the vehicle involved. This decision underscores the principle that passengers should not bear the consequences of a driver's negligence when seeking compensation.

In the case at hand, the Court examined an incident where a four-wheeler, carrying five passengers including the appellant, collided with a truck that was improperly parked in the middle of the road. The truck lacked parking lights and any markers to alert oncoming traffic, creating a hazardous situation. Tragically, all passengers except for the appellant lost their lives in this accident, prompting claims for compensation under the Motor Vehicle Act of 1988.

Initially, the Motor Accident Claims Tribunal (MACT) directed both the owner of the offending truck and its insurer to compensate the claimants. However, it controversially reduced the compensation by 50%, citing contributory negligence on the part of the car's driver for failing to take preventive measures to avoid colliding with the stationary truck.

Dissatisfied with this ruling, the appellants appealed to the Supreme Court. The bench, comprising Justices PS Narasimha and Sandeep Mehta, found that it was unjust to reduce compensation based solely on the driver's alleged contribution to the accident. Citing a precedent from *Union of India v. United India Insurance Co. Ltd.*, the Court reiterated that contributory negligence by a driver cannot be vicariously attributed to passengers or their heirs.

The Supreme Court further pointed out that attributing fault to the driver was inappropriate because the truck was parked without caution in a manner that made it virtually invisible at

night. The Court emphasized that it is unreasonable to expect a driver traveling at high speeds on a dark highway to detect an unmarked stationary vehicle in time to avoid a collision.

Ultimately, the Supreme Court concluded that there was no basis for reducing compensation due to contributory negligence. It reversed the lower courts' findings regarding this issue and ordered that there should be no deductions from the compensation payable to the appellant-claimants. They are entitled to receive full compensation as initially assessed by MACT, thereby affirming their rights under prevailing laws and principles of justice.

Case Name: SUSHMA VERSUS NITIN GANAPATI RANGOLE & ORS

Supreme Court Acquits Parents-in-Law in Dowry

The Supreme Court recently acquitted the parents-in-law of a deceased wife who had been charged with dowry death, emphasizing that the prosecution failed to establish the necessary evidence of a dowry demand. The Court highlighted that, under Section 304-B of the Indian Penal Code, it is essential to demonstrate that the deceased was subjected to cruelty or harassment related to a dowry demand shortly before her death.

Case Background

In this case, the parents of the deceased alleged that their daughter's death was unnatural and resulted from burn injuries sustained shortly after her marriage. They claimed that she had been subjected to cruelty and harassment concerning a demand for a motorcycle and ₹50,000 in cash following the birth of a male child. Initially, the trial court convicted the husband and parents-in-law under Sections 304-B and 498-A of the IPC, sentencing them to ten years in prison. This conviction was upheld by the High Court, although the sentence was reduced to seven years.

Supreme Court's Findings

Upon reviewing the case, the Supreme Court found significant flaws in the evidence presented. The appellants argued that there was no substantiated demand for dowry linked to marriage; instead, they contended that the request for a motorcycle and cash was made as a celebration for the birth of a son. The Court noted that testimonies from key witnesses did not indicate any dowry demand made by the accused either before or during the marriage.

The justices expressed skepticism about the credibility of the deceased's parents, who dismissed their daughter's concerns as a joke when asked if they addressed her worries about financial demands with the accused. This dismissal raised doubts about their allegations and suggested that they were reacting emotionally to their daughter's tragic death rather than presenting factual claims.

Conclusion

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Ultimately, the Supreme Court concluded that one of the essential elements required to establish a case of dowry death—proof of a dowry demand—was not demonstrated beyond reasonable doubt. As such, without this critical evidence, invoking the presumption under Section 113-B of the Evidence Act was unjustifiable. Consequently, the Court allowed the appeal and acquitted the appellants of all charges under Sections 304-B and 498-A IPC, underscoring the necessity for robust evidence in such serious allegations.

Case Name: SHOOR SINGH & ANR. VERSUS STATE OF UTTARAKHAND

Madras High Court Sets Aside Order Allowing Prosecution to Submit Confession Letter

The Madras High Court has recently overturned a decision made by the XV Metropolitan Magistrate, which permitted the prosecution to submit two documents as additional evidence, including a letter in which guilt was admitted to the police.

Justice Nirmal Kumar emphasized that any confession made to a police officer is prohibited under Section 25 of the Indian Evidence Act. The court remarked that, although the prosecution claimed these letters were previously available, they seemed to be introduced solely to address gaps in the prosecution's case, which is not permissible.

“In any case, any letter given to a police officer admitting guilt is barred by Section 25 of the Indian Evidence Act. Although it is asserted that these two letters were available earlier, they were neither included in the charge sheet nor referenced by any witnesses. Furthermore, it is noted that the case is nearing its conclusion. The rationale provided for introducing these letters—stemming from disclosures during cross-examination by PW14—appears to be an attempt to fill a gap, which is not allowed. Consequently, this Court has decided to annul the order issued by the Trial Court,” stated the court.

Additionally, Section 25 of the Indian Evidence Act (or Section 23 of the Bharatiya Sakshya Adhiniyam 2023) stipulates that confessions made to a police officer cannot be used as evidence of guilt regarding the offense.

The court was reviewing a revision petition filed by R. Lalithsharma, who contended that he was wrongfully implicated by the complainant. He explained that the complainant operated an Indigenous chit and acted as a money lender. Lalithsharma claimed he sought financial assistance from the complainant, who lent him Rs. 1.85 Crore with the understanding that he would be made a partner in his company. He also mentioned transferring custody of 550 MT of steel angles and iron scrap to the complainant.

After filing the chargesheet and examining witnesses, it was revealed during testimony that the Investigating Officer had received a handwritten letter from Lalithsharma admitting guilt. The

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prosecution subsequently filed a petition under Section 242(2) of the Criminal Procedure Code (CrPC) to accept this letter as additional evidence, which was approved by the magistrate.

As a result, the court decided to set aside the magistrate's order and granted approval for the criminal revision petition.

Case Name: R Lalithsharma v State

Past Exam Highlights

Prelims

1. If a witness, who is unable to speak, gives his evidence in writing in the open court, evidence so given shall be deemed to be:

- a. Oral evidence.
- b. Primary evidence.
- c. Documentary evidence.
- d. Secondary evidence.

Answer: Oral evidence.

Explanation: If a witness who cannot speak provides evidence in writing in court, it is considered oral evidence under the Indian Evidence Act.

2. Where numerous persons having the same interest in one suit, a representative suit can be filed under the following provision of the Code of the Civil Procedure, 1908

- a. Order I Rule 2 of the Code of the Civil Procedure, 1908
- b. Order I Rule 8 of the Code of the Civil Procedure, 1908
- c. Order I Rule 10 of the Code of the Civil Procedure, 1908
- d. Order I Rule 12 of the Code of the Civil Procedure, 1908

Answer: Order I Rule 8 of the Code of the Civil Procedure, 1908

Explanation: Order I Rule 8 of the CPC allows for representative suits when multiple persons have a common interest.

3. If the requisite court fee is not paid on the plaint, in spite of an order by the court, the plaint shall be

- a. Rejected
- b. Returned to the plaintiff
- c. The suit shall be dismissed
- d. The plaintiff shall be permitted to withdraw the suit

Answer: Rejected

Explanation: Under Order VII Rule 11 of the CPC, if the requisite court fee is not paid, the plaint shall be rejected.

4. The period of Limitation to file an application to enforce a decree for mandatory injunction is

- a. 1 year
- b. 3 years
- c. 6 years
- d. 12 years

Answer: 3 years

Explanation: To enforce a decree for mandatory injunction, the limitation period is 3 years as per the Limitation Act, 1963.

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5. Minimum number of persons required to commit the offence of dacoity is_____

- a. Ten
- b. Seven.
- c. Five.
- d. Two

Answer: Five.

Explanation: As per Section 391 of IPC, dacoity requires a minimum of five persons.

6. As per Order XIV Rule 5 of the Code of Civil Procedure, 1908, the Court may strike out a wrongly framed issue_____

- a. at any time
- b. at any time before passing a decree
- c. at any time before pronouncing the judgment
- d. at any time before commencement of trial

Answer: At any time before pronouncing the judgment

Explanation: Order XIV Rule 5 allows the court to strike out wrongly framed issues at any time before judgment is pronounced.

7. The period of limitation to file a suit for compensation for malicious prosecution is:

- a. 1 year
- b. 3 years
- c. 6 years
- d. 12 years

Answer: 1 year

Explanation: The period of limitation for compensation for malicious prosecution is 1 year as per the Limitation Act.

8. Which is the National Sport of our country?

- a. Cricket.
- b. Kabaddi
- c. Hockey.
- d. Football.

Answer: Hockey.

Explanation: Hockey is the national sport of India.

9. As per Article 24 of the Constitution of India, No child below the age of_____ years shall be employed to work in any factory or mine or engaged in any other hazardous employment.

- a. Fourteen.
- b. Sixteen.
- c. Eighteen
- d. Twenty One

Answer: Fourteen.

Explanation: Article 24 of the Constitution prohibits the employment of children below 14 years in hazardous occupations.

10. Which section of the Indian Evidence Act, 1872 provides for drawing the presumption as to thirty year old documents?

- a. Sec.90
- b. Sec.91
- c. Sec.75
- d. Sec.74

Answer: Sec.90

Explanation: Section 90 of the Indian Evidence Act provides for drawing presumption for documents that are 30 years old.

MAINS

What are the factors to be considered by the Courts for allowing or refusing the request for amendment of pleadings? What are the guiding principles to be considered by the Courts under following circumstances?

- i. When the proposed amendment is to seek a new relief in the plaint, which is objected as barred by limitation.**
- ii. When the, proposed amendment to the plaint, if allowed, would oust the jurisdiction of the Court to try the said suit.**
- iii. When the application seeking amendment is filed after commencement of trial.**

Ans. Factors for Allowing or Refusing Amendment of Pleadings as per the Code of Civil Procedure, 1908

Relevant Provision: Order VI, Rule 17

Explanation: Order VI, Rule 17 of the Code of Civil Procedure, 1908, empowers the court to allow either party to alter or amend their pleadings at any stage of the proceedings. However, the court must be satisfied that the amendment is necessary for determining the real questions in controversy between the parties. The following factors are generally considered by courts while deciding on an application for amendment of pleadings:

1. **Bona fide Requirement:** Whether the amendment is necessary for determining the real question in controversy.
2. **No Prejudice to Opponent:** Whether the amendment would cause any injustice or prejudice to the other party which cannot be compensated by costs.
3. **Delay in Filing:** The stage at which the amendment is sought and the reason for any delay in seeking the amendment.
4. **Bar of Limitation:** Whether the proposed amendment introduces a claim or relief that is barred by limitation.

Guiding Principles under Specific Circumstances

i. When the Proposed Amendment is to Seek a New Relief in the Plaint, Which is Objected as Barred by Limitation

Principles:

1. **Bar of Limitation:** Amendments that introduce a new cause of action or new relief that is barred by limitation should not be allowed. This is to prevent the abuse of the process of law by resurrecting time-barred claims.
2. **Real Controversy Test:** The court will examine if the amendment is necessary to determine the real questions in controversy. If the new relief sought is merely a clarification or elaboration of the original relief and not a completely new claim, it may be allowed.

Case Law: In *Vidyabai v. Padmalatha*, the Supreme Court held that amendments that change the nature of the suit or are barred by limitation should not be allowed.

ii. When the Proposed Amendment to the Plaint, if Allowed, Would Oust the Jurisdiction of the Court to Try the Said Suit

Principles:

1. Jurisdictional Issues: The court must consider if the proposed amendment will result in the suit being beyond its jurisdiction. Amendments that oust the jurisdiction of the court should generally not be allowed.
2. Effect on Suit: If allowing the amendment would mean that the suit cannot be tried by the current court, the amendment is likely to be refused as it would render the proceedings before the court futile.

Case Law: In *M. Revanna v. Anjanamma*, the Supreme Court emphasized that amendments leading to ousting the court's jurisdiction should not be permitted.

iii. When the Application Seeking Amendment is Filed After Commencement of Trial

Principles:

1. Stage of Proceedings: Amendments sought after the commencement of trial are scrutinized more strictly. The court needs to be convinced of the necessity and bonafides of such late amendments.
2. No Prejudice to Opponent: The court will consider whether the amendment would cause prejudice to the other party which cannot be compensated in terms of money.
3. Real Controversy: The amendment should be essential for resolving the real issues between the parties.

Case Law: In *Revajeetu Builders and Developers v. Narayanaswamy & Sons*, the Supreme Court laid down that amendments should not be allowed if it causes prejudice to the other side or if it introduces a new case that is inconsistent with the case set up by the other party.

Conclusion

The court's decision to allow or refuse an amendment to pleadings is guided by the need to ensure that justice is done by allowing parties to present their complete case, while also ensuring that the other party is not prejudiced by the amendment, and that procedural rules, including limitation periods, are respected.

CLEAR CONCEPT

Amendment of pleadings under CPC

Amendment of pleadings under the Code of Civil Procedure (CPC) is governed primarily by Order VI, Rule 17, which allows parties to alter their pleadings at any stage of the proceedings. This provision aims to ensure that the real questions in controversy are determined, promoting justice rather than procedural rigidity.

Legal Framework

Order VI, Rule 17 states that the court may permit amendments that are necessary for resolving the actual disputes between the parties. However, it also includes a critical proviso: amendments cannot be allowed after the trial has commenced unless the party demonstrates that they could not have raised the matter earlier despite due diligence. This rule underscores the balance between flexibility in legal proceedings and the need for finality once a trial begins.

Conditions for Amendment

Several key conditions must be met for an amendment to be granted:

- **No Prejudice to Opposing Party:** The amendment should not cause unfair harm or prejudice to the other party.
- **Necessary for Justice:** The amendment must be essential for determining the real issues in dispute.
- **Change in Nature of Case:** If an amendment fundamentally alters the nature of the case or introduces a new cause of action, it may be scrutinized more closely.

The Supreme Court has further clarified that amendments should not violate limitations set by law, and any application must clearly state the purpose of the amendment.

Procedure for Filing an Amendment Application

The process for seeking an amendment involves several steps:

1. **Drafting an Application:** The party wishing to amend their pleadings must prepare a formal application detailing the changes sought.
2. **Submitting to Court:** This application is then presented before the relevant civil judge.
3. **Payment of Fees:** A court fee as per the Court Fees Act, 1870, must be paid.
4. **Stating Purpose:** The applicant must articulate why the amendment is necessary.
5. **Court's Decision:** The judge will review and grant permission if deemed necessary for resolving the disputes.

Judicial Discretion

The courts possess broad discretionary powers when it comes to allowing amendments. However, this discretion is guided by principles aimed at ensuring justice and preventing any

unjust advantage or disadvantage to either party. Courts tend to favor amendments that clarify issues rather than complicate them or introduce new causes of action.

In conclusion, amendments to pleadings under CPC are a vital tool for ensuring that legal proceedings address the core issues effectively. By allowing necessary changes while maintaining procedural integrity, courts strive to achieve fair outcomes in civil litigation.

Then vs Now

Terrorism Under Bhartiya Nyaya Sanhita

The Bhartiya Nyaya Sanhita (BNS), introduced in 2023, defines terrorism as an act that intends to:

1. Threaten the unity, integrity, and security of the country
2. Intimidate the general public or disturb public order
3. Strike terror in the people or any section of people in India

Terrorist acts include:

- Using firearms, bombs, or hazardous substances to cause death, danger to life, or spread fear
- Destroying property or disrupting essential services
- Causing floods

By including the intention to disturb public order as a terrorist act, a wide range of offences may be classified as terrorism, ranging from armed insurrection and war against the state to rioting and mob-violence.

The punishment for attempting or committing terrorism includes:

- Death or life imprisonment and a fine of Rs 10 lakh, if it results in the death of a person
- Imprisonment between five years and life, and a fine of at least five lakh rupees

However, the BNS does not provide for a separate criminal procedure for terrorism offenses. Cases of terrorism will be tried in Sessions Courts under the Bharatiya Nagarik Suraksha Sanhita (BNSS), resulting in varying investigation and trial procedures compared to special laws like the Unlawful Activities (Prevention) Act (UAPA).