Weekly Judiciary Digest

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Current & Conceptual Weekly

10th to 16th June, 2025

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1. Constructive Res Judicata Applies Even at Different Stages of Same Proceedings: Supreme Court Clarifies Scope under CPC

Case Title: Sulthan Said Ibrahim v. Prakasan & Ors.

Citation: 2025 LiveLaw (SC) 622

Court: Supreme Court of India

Bench: Justices J.B. Pardiwala and R. Mahadevan

In a significant pronouncement on the procedural doctrine of **res judicata**, the Supreme Court has reaffirmed that the principle is applicable **not only across different legal proceedings but also**

at various stages within the same proceeding. The ruling in Sulthan Said Ibrahim v. Prakasan & Ors. reasserts the role of **constructive res judicata** in ensuring finality of decisions and preventing abuse of judicial process by re-agitating settled issues.

The controversy before the Court arose from an application filed under **Order I Rule 10 of the Code of Civil Procedure, 1908**, seeking deletion of a party who had already been impleaded earlier as a legal heir following a due enquiry under **Order XXII Rule 4 CPC**. The impleadment had been effected without any initial objection or challenge from the appellant, and no revision was filed against the earlier order. Much later, the appellant attempted to challenge the impleadment, alleging improper inclusion.

The Trial Court dismissed the Order I Rule 10 application, holding that the matter regarding impleadment had already attained finality. This order was upheld by the Kerala High Court, and subsequently by the Supreme Court.

The apex court emphasized that once a person is impleaded as a legal heir through proper enquiry under Order XXII Rule 4, and if such impleadment goes unchallenged at the appropriate stage, **the question cannot be reopened subsequently through an application under Order I Rule 10**. Doing so would violate the doctrine of constructive **res judicata**, as laid down under **Explanation IV to Section 11 CPC**.

Citing the landmark case of *Bhanu Kumar Jain v. Archana Kumar* [(2005) 1 SCC 787], the bench reiterated that **res judicata applies even within the same suit at different stages**, especially where the party had an opportunity to raise objections earlier but failed to do so. The Court noted:

“The principles of res judicata apply not only to two different proceedings but also to different stages of the same proceeding as well.”

The Court further reasoned that permitting a challenge at a later stage, after due impleadment under Order XXII, would defeat the very purpose of judicial discipline and finality. Once a party chooses not to object or seek revision of an impleadment order, they are barred from raising the same issue again.

This decision underscores the judiciary’s consistent approach in reinforcing procedural rigour and avoiding multiplicity of litigation. For judiciary aspirants, it is crucial to understand how **constructive res judicata prevents repetitive litigation** and emphasizes the importance of **timely objection and procedural vigilance** during trial stages. The judgment is a strong reaffirmation that **Section 11 CPC read with Explanation IV holds parties accountable for not raising available grounds at the right stage**, and ensures that the sanctity of previously adjudicated matters is preserved.

2. Plea Seeks Enhanced Compensation and High-Level Probe in Air Crash Case: Urges Application Beyond Montreal Convention Limits

Case Title: In Re: Air Crash Victims Compensation & Relief

Jurisdiction: Supreme Court of India (PIL in public interest)

Date: June 2025 (Pending proceedings)

In the wake of a tragic air crash that led to the death of multiple civilians, including resident doctors at BJ Medical College, a Public Interest Litigation (PIL) has been filed before the Supreme Court of India, urging immediate and enhanced intervention by the Central Government. The petitioners, invoking the doctrine of parens patriae and the state's duty to safeguard the lives and dignity of its citizens, have sought judicial directions for interim relief and long-term policy responses beyond the scope of the Montreal Convention, 1999.

The PIL highlights that the **standard compensation under the Montreal Convention—approximately USD 200,000 per passenger—is grossly inadequate** given the socio-economic realities of the victims' families, many of whom are dependent on the deceased for financial and emotional sustenance. While the Convention governs liabilities in international air carriage and provides a no-fault compensation regime, the petitioners argue that **in cases involving mass casualty and institutional negligence, a more humane and tailored approach is required**.

The petition seeks interim compensation of ₹50 lakhs to each victim's family, stressing that the magnitude of the disaster and the loss of young professionals, particularly medical personnel, warrants a **compassionate and immediate governmental response**.

Further, the PIL urges the formation of a **High-Level Expert Committee** comprising **retired judges, aviation safety experts, actuaries, and economists**. The Committee's mandate would include determining just and reasonable final compensation for each family, factoring in not just legal precedents like *Triveni Kodkany v. Air India Ltd*., but also future earning potential, emotional suffering, and public service loss. The petitioners emphasized the relevance of Triveni Kodkany, where the Court advocated for evolving standards of compensation reflecting actual societal impact.

In addition, the petition calls upon **Air India Limited to streamline and expedite the compensation settlement process**, urging that bereaved families not be subjected to "prolonged, adversarial litigation" while coping with trauma and financial crisis.

Importantly, the PIL also seeks **rehabilitation measures**, including **employment opportunities for eligible family members**, to ensure long-term support for those who have lost their breadwinners. This reflects the growing judicial tendency toward **restorative justice and social reintegration measures** for victims' families.

Lastly, the petitioners demand a **comprehensive, independent investigation** into the technical and regulatory causes of the crash, holding the concerned aviation and civil authorities accountable. They argue that lessons from past crashes must be institutionalized to prevent recurrence and promote public confidence in air safety standards.

3. Fear, Not Delivery, Constitutes Extortion Under Section 387 IPC: Supreme Court Clarifies Scope

Case Title: M/s. Balaji Traders v. State of U.P. & Anr.

Citation: 2025 LiveLaw (SC) 682

Court: Supreme Court of India

Bench: Justices Sanjay Karol and Manoj Misra

In a significant clarification of the law on extortion under the Indian Penal Code, the **Supreme Court has held that an offence under Section 387 IPC is complete once a person is put in fear of death or grievous hurt**, even if there is **no actual delivery of property**. This decision is of particular relevance for judiciary aspirants studying the distinction between various provisions relating to extortion under the IPC.

The case arose from a complaint filed by the proprietor of *M/s Balaji Traders*, who alleged that **the accused and his associates threatened him at gunpoint**, demanding ₹5 lakh per month or closure of his betel nut business. While the Trial Court had taken cognizance and issued summons, the **Allahabad High Court quashed the proceedings**, stating that no offence under Section 387 IPC was made out since **no money had actually changed hands**.

Reversing this finding, the **Supreme Court categorically held that the High Court had erred in conflating the requirements of Section 387 with those of Section 383 IPC**, which defines "extortion" and requires delivery of property. Section 387, in contrast, is more specific and pertains to **"putting a person in fear of death or grievous hurt in order to commit extortion."** The offence under Section 387 **does not require successful extortion or the actual handing over of any property**. It is sufficient if the accused, by threat of death or grievous hurt, **intended to extract property**.

The bench, speaking through Justice Sanjay Karol, emphasized:

"Putting a person in fear would make an accused guilty of an offence under Section 387 IPC; it need not satisfy all the ingredients of extortion provided under Section 383 IPC."

Accordingly, the Court held that **two ingredients are sufficient for prosecution under Section 387:**
(a) The accused puts or attempts to put any person in fear of death or grievous hurt, and
(b) The object of such act is to commit extortion.

Both these elements were **prima facie present in the complaint**, thus warranting the continuation of the trial.

The Court also relied on *Somasundaram v. State*, (2020) 7 SCC 722, where the accused was convicted under Section 387 IPC despite the victim being killed before complying with the threats. This precedent further cemented the principle that **fear, not outcome, is the operative test for Section 387 IPC**.

Concluding that the High Court had **misapplied legal standards**, the Supreme Court allowed the appeal, **restored the criminal proceedings**, and directed an expedited trial.

4. Supreme Court Acquits Student in Murder Case Due to Incomplete Chain of Circumstantial Evidence

Case Title: Vaibhav v. State of Maharashtra

Citation: 2025 LiveLaw (SC) 680

Court: Supreme Court of India

Bench: Justices B.V. Nagarathna and S.C. Sharma

In a significant ruling on the limits of circumstantial evidence in criminal trials, the **Supreme Court acquitted a medical student convicted of murdering his friend**, citing the prosecution's failure to establish a **complete and consistent chain of circumstantial evidence**. The judgment reinforces the foundational criminal law principle that **suspicion, however grave, cannot substitute for proof beyond reasonable doubt**.

The appellant, Vaibhav, a first-year student at Bagla Homeopathy Medical College, had been convicted for allegedly shooting his friend Mangesh with his father's service pistol. The prosecution's case relied solely on circumstantial evidence, including Vaibhav's post-incident conduct—removal of the body, cleaning of bloodstains, and deceptive visits to the deceased's family. The Trial Court and the Bombay High Court had convicted him under **Sections 302 and 201 IPC**, read with **Section 34 IPC** and **Section 5 read with 25(1)(a) of the Arms Act, 1959**, sentencing him to life imprisonment.

However, the Supreme Court set aside the conviction under Section 302 IPC, holding that **the prosecution failed to prove who pulled the trigger**, a fact central to establishing guilt. It held that **post-crime conduct under Section 8 of the Indian Evidence Act**, such as hiding the body or cleaning the floor, may arouse suspicion but cannot alone sustain a conviction for murder.

The Court clarified that **the burden lies squarely on the prosecution to prove guilt beyond reasonable doubt**, and only if this burden is discharged does the accused's version become relevant. In the present case, the prosecution narrative was riddled with **inconsistencies and unexplained gaps**, particularly with regard to motive, trajectory of the bullet, and lack of direct evidence.

Significantly, the **Court accepted the appellant's defence that the deceased accidentally shot himself** while handling the firearm. This version, the Court noted, was **medically supported by forensic evidence** regarding the bullet's entry and trajectory. It also emphasized the appellant's **youth, lack of criminal background, and absence of motive**, stating that such factors make his post-incident panic reaction plausible rather than indicative of guilt.

The judgment reiterated that circumstantial evidence must form an unbroken chain pointing only to the guilt of the accused, and must be consistent with no hypothesis other than guilt. The Court remarked:

"Suspicion ought to have been substantiated by undeniable, reliable, unequivocal, consistent and credible circumstantial evidence... The theory put across by the appellant is fairly probable and is supported by medical evidence."

However, the Court upheld Vaibhav's conviction under **Section 201 IPC** for causing disappearance of evidence, while noting that this by itself could not justify a conviction for murder. His sentence was accordingly **reduced to the period already undergone**.

5. Unregistered Sale Agreement Cannot Confer Valid Title or Protection from Dispossession: Supreme Court Reiterates Importance of Registration

Case Title: Mahnoor Fatima Imran & Ors. v. M/s Visweswara Infrastructure Pvt. Ltd. & Ors.

Citation: 2025 LiveLaw (SC) 679

Court: Supreme Court of India

Bench: Justices Sudhanshu Dhulia and K. Vinod Chandran

In a crucial ruling on the legal effect of unregistered sale agreements, the **Supreme Court held that an unregistered agreement to sell cannot confer ownership or valid title**, nor can it serve as the basis for protection against dispossession. The Court emphasized that **registration of a document is not a mere formality but a legal requirement under the Registration Act, 1908**, and failure to comply with it renders the agreement unenforceable in terms of transferring title.

The dispute arose when the Respondent claimed ownership of the property and sought protection from dispossession based on a **sale agreement executed in 1982**, which had never been registered. Years later, in 2006, the Assistant Registrar allegedly validated the same agreement, and based on that, the Respondent asserted title.

The **High Court granted relief**, recognising the Respondent's claim and restraining the appellants from interfering with the possession. However, the **Supreme Court set aside this decision**, holding that **the non-registration of the original 1982 agreement was a fatal defect**, which could not be cured retroactively by mere validation in 2006.

The Court examined **Section 23 of the Registration Act**, which provides a four-month window for registering documents from the date of execution, and **Section 34**, which allows condonation of

delay only if presented within a further four months with a penalty. The original 1982 document had **not been presented within this legally permitted timeframe**, nor was there a fresh transaction to initiate a new right.

Authoring the judgment, **Justice K. Vinod Chandran clarified that an unregistered document does not acquire legal sanctity merely because a subsequent instrument based on it was registered**. The registration of a later document **cannot validate or revive the legal effect of an earlier unregistered agreement**. The Court stated:

"The agreement of 1982, the original one and the revalidated one, cannot result in a valid title, merely for reason that the subsequent instrument had been registered."

This ruling serves as a categorical reminder that **title to immovable property cannot pass through an unregistered agreement to sell**, and such documents do not offer protection against dispossession or third-party claims. The Court reaffirmed that **registration is the legal cornerstone of real estate transactions**, and parties cannot bypass or dilute this requirement by relying on informal or retrospective administrative validations.

For judiciary aspirants, this judgment reiterates the **statutory mandate under Sections 17, 23, and 49 of the Registration Act, 1908**, and aligns with earlier rulings such as *Suraj Lamp & Industries Pvt. Ltd. v. State of Haryana* [(2012) 1 SCC 656], which underscored that **agreements to sell do not create title unless duly registered**.

6. Supreme Court Refuses to Quash POCSO Case Against Suspended Judicial Officer, Labels Allegations "Shocking"

Case Title: Sandeep v. State of Maharashtra

Citation: SLP (Crl) No. 8753/2025

Court: Supreme Court of India

Bench: Justice Prashant Kumar Mishra and Justice Manmohan

In a case underscoring the judiciary's firm approach towards allegations under the **Protection of Children from Sexual Offences (POCSO) Act**, the **Supreme Court refused to quash proceedings against a suspended judicial officer accused of sexually abusing his own daughter**. The bench, comprising **Justices Prashant Kumar Mishra and Manmohan**, expressed grave concern over **the nature of the accusations and held that the matter was not fit for quashing "by any standard."**

The special leave petition had challenged the **Bombay High Court's order dated April 15, 2025**, which had similarly **refused to quash the criminal case** under the POCSO Act. During the hearing, the counsel for the petitioner urged the Court to consider the alleged personal and emotional distress of the accused, highlighting the **father's suicide and an ongoing matrimonial dispute**.

However, **Justice Manmohan responded sharply**, stating that the circumstances mentioned cannot overshadow the core issue — the **serious nature of the allegations involving incestuous abuse**. He observed:

"This is a shocking case. This is a judicial officer, serious allegations of incest! This is not a case to be entertained for quashing by any standard."

The judge further remarked on the psychological trauma likely inflicted upon the daughter, who is the victim and complainant in the case. He noted that a daughter alleging such abuse is itself a compelling reason to let the matter proceed to trial:

"Your daughter is making the allegations, no? She must have been scarred for life."

Justice Mishra concurred, stating unequivocally that this is **not a case for quashing**, thereby reaffirming the Court's consistent position that **serious offences under special statutes like POCSO should proceed to trial** unless the case is manifestly absurd or malicious.

Notably, the Court also declined to entertain speculative arguments around the father's suicide, with Justice Manmohan stating that **"this would have been due to the son's action rather than anyone else's action."** These observations further emphasized the gravity of the case and the bench's disapproval of any attempt to seek leniency based on external personal factors.

Although the Court refused to quash the proceedings, it accepted the counsel's **request for an expedited trial**, acknowledging the need for timely resolution in such sensitive matters involving child abuse.

7. Supreme Court Reiterates Consumer Relief Principles in Housing Delays, Clarifies Developer Liability Scope

Case Title: Greater Mohali Area Development Authority (GMADA) v. Anupam Garg & Ors.

Citation: 2025 LiveLaw (SC) 677

Court: Supreme Court of India

In a pivotal ruling concerning real estate consumer rights, the **Supreme Court reaffirmed the settled legal position that development authorities and housing boards are liable to refund the principal amount along with interest in cases of delay or non-delivery of possession**, but **cannot be held liable for the interest on loans taken by buyers from banks or financial institutions**. This distinction aims to prevent shifting the burden of private credit arrangements onto developers.

The case involved **Greater Mohali Area Development Authority (GMADA)**, where the respondent-homebuyer sought not just refund with interest, but also interest on the bank loan taken for the purchase of a flat that was never delivered. The Supreme Court rejected the claim for such additional interest, clarifying that **developers are only bound to refund the amount**

received with reasonable interest and, in appropriate cases, compensation — **but not bank interest which stems from a personal contractual relationship between buyer and lender**.

The Court drew from and reaffirmed legal standards laid down in key precedents such as **Lucknow Development Authority v. M.K. Gupta (1994), Ghaziabad Development Authority v. Balbir Singh (2004)**, and **Bangalore Development Authority v. Syndicate Bank (2007)**. It reiterated comprehensive guidelines applicable to disputes arising out of delays or failures in delivery of plots, flats, or houses.

Among the **key principles reiterated** by the Court:

- **Refund with Interest**: When a development authority fails to deliver possession without valid justification, the buyer is entitled to a **refund of the paid amount with reasonable interest**, plus compensation if facts warrant.
- **Acceptance of Delay**: If **time is not the essence of the contract**, and the buyer accepts delayed performance without objection, **no damages** may be claimed unless statutory obligations are breached.
- **Alternative Allotment**: If an **alternate property is offered at the same price**, or delay is justified, compensation is not ordinarily granted due to the **appreciation in market value**.
- **Mental Agony Compensation**: While contract law does not provide for **damages for mental agony**, compensation may be awarded **under administrative law** where public authorities act arbitrarily or negligently.
- **Higher Price for Alternative Property**: If a substitute property is given at a **higher price**, the buyer is entitled to **interest on earlier payments and compensation**, unless justified.
- **Unjustified Price Revision**: If a property was allotted at a **fixed price**, unjustified **extra charges must be refunded with interest**.
- **Delay in Title Deed Execution**: Delayed execution of the **title deed post-possession warrants compensation** for harassment.
- **Defective Construction**: Allottees of **incomplete or defective houses** are entitled to **compensation equal to repair or completion costs.**
- **Quantum of Relief**: Compensation is to be determined based on **facts, period of harassment, and conduct of the authority**.
- **Judicial Discretion Factors**: Relief depends on factors like **profit motive, assurance of delivery, justifiable delay, negligence, and actual harassment**.

This decision reinforces the **consumer protection framework under the Consumer Protection Act, 1986**, and serves as a guiding light for judiciary aspirants in understanding the **balance between contractual law, administrative accountability, and statutory consumer rights** in the housing sector.

8. Limitation Under Section 468 CrPC Begins from Date of Complaint Filing, Not Cognizance: Supreme Court Reiterates

Case Title: Ghanshyam Soni v. State (NCT of Delhi) & Anr

Citation: 2025 LiveLaw (SC) 676

Court: Supreme Court of India

Bench: Justices B.V. Nagarathna and Satish Chandra Sharma

In a significant reaffirmation of the procedural law governing limitation in criminal cases, the **Supreme Court held that the relevant date for computing the period of limitation under Section 468 of the Code of Criminal Procedure, 1973 (CrPC), is the date of filing of the complaint or institution of prosecution, not the date on which the Magistrate takes cognizance**. This ruling safeguards complainants from procedural delays in the judicial system that are beyond their control.

The case arose from a complaint under **Section 498A of the Indian Penal Code, 1860 (IPC)**, involving allegations of cruelty by a wife against her husband and in-laws. The alleged incidents occurred in 1999, and the complaint was filed on **3 July 2002**. However, the Magistrate took cognizance only on **27 July 2004**, beyond the **three-year limitation period** prescribed under **Section 468(2)(c) CrPC** for offences punishable with imprisonment up to three years.

The appellant argued that since cognizance was taken after the expiry of the limitation period, the prosecution was barred. However, the **Supreme Court rejected this contention**, reiterating the legal principle laid down in ***Bharat Damodar Kale v. State of Andhra Pradesh*** **[(2003) 8 SCC 559]** and further affirmed in ***Sarah Mathew v. Institute of Cardio Vascular Diseases*** **[(2014) 2 SCC 62]**.

The Court emphasized that **it would be unjust to penalize a complainant for delays attributable to the court**, such as administrative backlog or scheduling. The law places an obligation on the aggrieved person only **to initiate proceedings within the prescribed limitation**, and once that is done, the delay in judicial processing cannot be used to defeat the complainant's rights.

Quoting from Bharat Damodar Kale, the bench observed:

"Once the complainant has initiated proceedings within the period of limitation, it would be wholly unreasonable and inequitable to hold that the grievance cannot be redressed because the court has not acted within that period."

The Court further noted that such an interpretation, if contrary, would fail the test of **Article 14 of the Constitution**, as it would arbitrarily penalize litigants for the court's own delay. The judgment also referred to ***Kamatchi v. Lakshmi Narayanan*** **[(2022) 15 SCC 50]**, reiterating that **a complaint filed within limitation remains valid even if cognizance is taken later**.

While upholding the legal position on limitation, the Court also quashed the prosecution under **Section 498A IPC**, citing **abuse of the process and lack of credible evidence**, cautioning against **misuse of protective laws** intended for genuine victims of domestic cruelty.

9. Narco-Analysis Test Not an Indefeasible Right of the Accused, Must Be Voluntary and Court-Approved: Supreme Court

Case Title: Amlesh Kumar v. State of Bihar

Citation: 2025 LiveLaw (SC) 674

Court: Supreme Court of India

Bench: Justices Sanjay Karol and P.B. Varale

In a significant judgment addressing the constitutional and evidentiary implications of narco-analysis tests, the **Supreme Court held that an accused may voluntarily undergo narco-analysis, but only at an appropriate stage of trial**—namely, **when leading evidence in defence** under the CrPC. However, this is **not an indefeasible right**, and the **concerned court must exercise discretion** in allowing such a test, taking into account **free consent, safeguards, and surrounding circumstances**.

The Court was hearing an appeal against a Patna High Court decision that had **refused bail to the husband in a dowry death case**, partly based on a police statement that **all accused would be subjected to narco-analysis during investigation**. The High Court's acceptance of this submission prompted the Supreme Court to frame three legal questions, with **Senior Advocate Gaurav Agarwal appointed as amicus curiae**.

Answering the **first question**, the Court held that **the High Court erred in accepting the submission of proposed narco-analysis during a bail hearing**. The bench reiterated that **involuntary administration of narco-analysis violates Articles 20(3) and 21 of the Constitution**, as established in *Selvi v. State of Karnataka* (2010). **Bail adjudication under Section 439 CrPC** must be based on **custody, nature of offence, evidence, and likelihood of witness tampering**, not investigative techniques. The Court criticized the High Court for venturing into matters irrelevant at the bail stage.

On the **second issue**, the Court ruled that **even if narco-analysis is conducted voluntarily, its report cannot form the sole basis of conviction**. The evidentiary value of any discovery resulting from the test must be corroborated and admissible only via Section 27 of the Indian Evidence Act. Referring to Vinobhai v. State of Kerala (2025), the Court emphasized that **supporting evidence is essential** to rely on such disclosures, and conviction cannot rest solely on the outcome of a narco-analysis test.

Addressing the **third question**, the Court clarified that **undergoing a narco-analysis test is not a statutory or constitutional right**. While the **accused may apply for it voluntarily, there is no automatic entitlement**. The Court specifically rejected the contrary view of the **Rajasthan High Court in *Sunil Bhatt v. State***, which had held that seeking a narco-analysis test is part of the right to lead defence evidence under Section 233 CrPC. The Supreme Court held this to be contrary to the binding precedent of Selvi.

In conclusion, the Court ruled that **a voluntary narco-analysis test may be permitted at the stage of leading defence evidence**, provided it is court-authorised and procedurally safeguarded. However, the test **cannot substitute for due process or form the sole ground for conviction**.

10. Right to Shut Down Business Falls Within Article 19(1)(g) But Subject to Reasonable Restrictions: Supreme Court Clarifies

Case Title: Harinagar Sugar Mills Ltd. (Biscuit Division) & Anr. v. State of Maharashtra & Ors.

Citation: 2025 LiveLaw (SC) 673

Court: Supreme Court of India

Bench: Justices Sanjay Karol and Prashant Kumar Mishra

Date: June 9, 2025

In a significant decision concerning the constitutional and statutory rights of industrial undertakings, the **Supreme Court held that the right to carry on any trade or business under Article 19(1)(g) of the Constitution also includes the right to shut down a business**, though it is **not absolute** and is **subject to reasonable restrictions** under statutes such as the **Industrial Disputes Act, 1947**.

The case arose from appeals filed by **Harinagar Sugar Mills Ltd. (HSML)** challenging the **Bombay High Court's orders** that had restrained the closure of its biscuit division. The company had operated exclusively for **Britannia Industries Limited (BIL)** for over 30 years. Upon BIL terminating its Job Work Agreement in 2019, HSML filed for closure under **Section 25-O of the Industrial Disputes Act on August 28, 2019**. However, the **Deputy Secretary of the Maharashtra Government rejected the application**, citing it as incomplete, and demanded resubmission. This led to prolonged litigation initiated by workers' unions and later upheld by the High Court.

HSML argued that its application was **complete and valid as of August 28, 2019**, and that the **statutory 60-day period** for deemed approval of closure had lapsed in **October 2019**, making closure automatic. It also challenged the authority of the Deputy Secretary, asserting that only the Minister-in-Charge could consider the application under **Section 25-O**, and that such delegation was invalid.

The Supreme Court agreed with HSML. It held that the **Deputy Secretary was not the "appropriate Government" under the Act**, and that **the Minister failed to apply independent judicial mind**, thereby rendering the entire process legally flawed. The **closure application was declared valid from August 28, 2019**, and the Court acknowledged that the **60-day deemed approval period had indeed expired**, thereby authorizing closure.

The Court emphasized that the **right to close a business is part of the broader constitutional right to trade**, but must be exercised in compliance with statutory requirements designed to **protect the interests of employees**. It revisited precedents including *Excel Wear v. Union of India and Orissa Textile and Steel*, confirming that **Section 25-O, in its amended form, imposes valid and reasonable restrictions**.

Importantly, the Court also appreciated HSML's conduct and **enhanced the compensation offered to workers by ₹5 crores**, ordering disbursal within **eight weeks**, and directed that **amounts already paid during litigation would not be recoverable**

11. Prelims Q&A

1. An act, to be called on 'act of a firm', within the meaning of Section 2(a) of the Indian Partnership Act, 1932 is—
   a. Every act of the partners
   b. Only such acts which give rise to a right enforceable by or against the firm
   c. Such acts which do not give rise to a right enforceable by or against the firm
   d. Either (a) or (b) or (c)

Correct Answer: B. [U.P. HJS 2009]

Explanation: The correct answer is option (b): "Only such acts which give rise to a right enforceable by or against the firm". This interpretation aligns with Section 2(a) of the Indian Partnership Act, 1932, which defines an act of the firm as those actions undertaken by partners that bind the firm legally. This means any act that can create legal obligations or rights for the firm qualifies as an act of the firm.

2. Under Section 2(b) of the Indian Partnership Act, 'business' includes
   a. Every trade and occupation
   b. Every occupation and profession
   c. Every trade, occupation and profession
   d. Every trade and profession

Correct Answer: C. [BJS 2013]

Explanation: The correct answer is option (c): "Every trade, occupation and profession". According to Section 2(b) of the Indian Partnership Act, 1932, 'business' is broadly defined to include any trade, occupation, or profession. This inclusive definition ensures that partnerships can be formed across various economic activities without limitation to specific types.

3. "Partnership" means
   a. Joint venture
   b. Agreement between the persons to share the profit of a business carried on between them
   c. Agreement between the persons to do some work
   d. None of the above

Correct Answer: B. [M.P. CJ 2012]

Explanation: The correct answer is option (b): "Agreement between the persons to share the profit of a business carried on between them". This encapsulates the essence of a partnership, where two or more people agree to share the profits (and possibly losses) of a business venture. It highlights the collaborative and financial-sharing aspects fundamental to partnerships.

4. The true test of partnership is based on
   a. Sharing of profit only
   b. Sharing of profit and loss
   c. Mutual agency
   d. Intention of the parties

Correct Answer: C. [PJS 2019]

Explanation: The correct answer is option (c): "Mutual agency". The true test of partnership under the Act is mutual agency, where each partner acts as both an agent and a principal, binding the firm while carrying out business activities in the firm's name. This mutual agency concept is central to understanding partnerships' operational dynamics.

5. Which of the following is a strong but not sufficient test of partnership
   a. Sharing of profits
   b. Sharing of losses
   c. Either of the two
   d. None of the above

Correct Answer: A. [DJS 2007]

Explanation: The correct answer is option (a): "Sharing of profits". Sharing profits is a strong indicator of a partnership but not conclusive on its own, as it must be accompanied by other factors such as mutual agency and shared control of the business to establish a legal partnership.

6. Upon the coming into force of the Limited Liability Partnership Act, 2008:

a. The Indian Partnership Act, 1932 stands repealed
b. The provisions of the Indian Partnership Act, 1932 ipso facto apply to Limited Liability Partnership (LLPs) also
c. Both the Acts co-exist but the provisions of the Indian Partnership Act, 1932 are not applicable to LLPs save as otherwise provided
d. The Limited Liability Partnership Act, 2008 is applicable to only metropolitan cities as defined therein and the Indian Partnership Act, 1932 continues to apply to the rest of the country.

Correct Answer: C. [DJS 2011]

Explanation: The correct answer is option (c): "Both the Acts co-exist but the provisions of the Indian Partnership Act, 1932 are not applicable to LLPs save as otherwise provided". The introduction of the Limited Liability Partnership Act, 2008 did not repeal the Indian Partnership Act, 1932; instead, it provided a new structure where LLPs operate under different regulations, with the traditional partnership act continuing alongside but not governing LLPs.

7. The historic case laying down the test for determining the existence of partnership is

a. Grave v. Smith
b. Waugh v. Carver
c. Bloream v. Pell
d. Cox v. Hickman

Correct Answer: D. [Bihar APO 2013]

Explanation: The correct answer is option (d): "Cox v. Hickman". This case laid down significant principles regarding the test for the existence of a partnership, focusing on mutual agency and the parties' intention, thereby influencing the legal framework and understanding of partnerships extensively.

8. In which of the following cases, a partnership exist:

a. Several persons jointly purchase goods for resale with a view to divide the profits arising from the transaction.
b. Persons (co-owners) who join in the purchase of goods for the purpose of dividing the goods themselves.
c. A, B and C agreed that each should furnish Rs. 3000 worth of goods to be shipped on a joint venture, the profits to be divided between them according to the amount of their several shipments.
d. Two tenants in common of a house let it and divide the rent equally.

Correct Answer: A. [DJS 2010]

Explanation: The correct answer is option (a): "Several persons jointly purchase goods for resale with a view to divide the profits arising from the transaction". This scenario indicates a partnership as it involves the joint operation of a business with the intent to share profits, a core element of a partnership.

9. A partnership firm is

a. A distinct legal entity from its partners
b. Not a distinct legal entity from its partners
c. A juristic person
d. None of the above

Correct Answer: B. [HJS 2010, 2014]

Explanation: The correct answer is option (b): "Not a distinct legal entity from its partners". Unlike corporations, partnerships in Indian law are not considered separate legal entities from the partners themselves, meaning the partners are personally liable for the firm's obligations.

10. Which of the following is not an essential feature of partnership ?

a. Result of an agreement
b. Organised to carry on business

c. Carried on by all or any of them acting for all
d. Separate legal entity

Correct Answer: D. [BJS 2009]

Explanation: The correct answer is option (d): "Separate legal entity". A partnership, unlike a corporation, does not form a separate legal entity from its partners. This characteristic distinguishes it from other business structures where the entity is legally distinct from its founders or shareholders.

12. MAINS Q&A

Question:

How was the process of applying Muslim Law in a consolidated way developed in India? What is the significance of the Shariat Act, 1937? (BJS 1984)

Answer:

The development of the process of applying Muslim Law in a consolidated manner in India is a fascinating journey, marked by a blend of traditional Islamic jurisprudence and British colonial influences. The Shariat Act of 1937 plays a central role in this evolution.

Historical Context and Development
Prior to British rule, Islamic law (Sharia) was applied in India primarily in its traditional form, governed by various schools of Islamic jurisprudence like Hanafi, Shafi'i, Maliki, and Hanbali, with the Hanafi school being predominant in the Indian subcontinent. This application was more community-driven, with local ulema (Islamic scholars) and qazis (judges) interpreting and administering the law.

With the advent of British colonial rule, the legal system underwent significant changes. The British were initially reluctant to interfere in religious or personal laws of the communities. However, they gradually started codifying laws to ensure uniformity and ease of governance. This led to a dual system of justice where Islamic law was applied to Muslims, particularly in personal matters like marriage, divorce, inheritance, while the British law applied to criminal and other civil matters.

The Shariat Act, 1937
The Shariat Act, 1937, holds monumental significance in this legal evolution. It was an outcome of the Muslim community's efforts to have Islamic law apply uniformly to them, particularly in personal matters.

Consolidation of Muslim Law: Prior to the Act, there were discrepancies in the application of Muslim personal law across different regions in India, often influenced by local customs and traditions. The Shariat Act brought uniformity by mandating the application of Muslim personal law (Sharia) to Muslims across India, superseding any custom or tradition that was contrary to Islamic law.

Scope of the Act: The Act applied to a range of personal law matters including marriage, divorce, maintenance, guardianship, inheritance, and succession. It marked a significant move from custom-based practices to a more scripture-based application of Muslim law.

Judicial Interpretation and Application: Post the enactment of the Shariat Act, the Indian courts started interpreting and applying Muslim personal law based on the principles of Islamic jurisprudence, with an emphasis on the Quran and Hadith. This led to a more structured and uniform application of Muslim law across the country.

The Shariat Act, 1937, laid the foundation for the application of Muslim personal law in India and has been a subject of various judicial interpretations and amendments. Its relevance continues in contemporary times, particularly in the ongoing discourse around uniform civil code and the rights of Muslim women.

This Act not only streamlined the legal process but also played a crucial role in shaping the personal law landscape for Indian Muslims, balancing traditional religious tenets with the demands of a modern legal system.

13. CLEAR CONCEPTS

Key Concept in Constitutional Law: Doctrine of Separation of Powers
The **Doctrine of Separation of Powers** is a foundational principle in constitutional governance, aimed at maintaining institutional integrity by ensuring that the three organs of the state—**Legislature, Executive, and Judiciary**—remain distinct in function and authority. This doctrine prevents concentration of power, ensures checks and balances, and upholds the rule of law.

Constitutional Basis in India:
Although not explicitly stated in the Constitution, the doctrine is implicit in its scheme. Articles such as:

- **Article 50** (separation of judiciary from executive),
- **Article 121 and 211** (restrictions on judicial discussions in legislature),
- **Article 122 and 212** (legislative proceedings not to be questioned in courts), reflect the intent of separation.

Key Judicial Pronouncements:

1. **Kesavananda Bharati v. State of Kerala (1973) 4 SCC 225**
    - The Supreme Court held that the doctrine of separation of powers is a part of the **basic structure** of the Constitution.
    - It emphasized that no organ can usurp the functions of another.
2. **Indira Nehru Gandhi v. Raj Narain (1975) Supp SCC 1**
    - The Court struck down Clause (4) of Article 329A (inserted by the 39th Amendment), which sought to immunize the Prime Minister's election from judicial review, as violating the principle of separation of powers.
3. **I.R. Coelho v. State of Tamil Nadu (2007) 2 SCC 1**
    - Reaffirmed that the basic structure of the Constitution, including the separation of powers, cannot be abrogated even by constitutional amendments.
4. **State of Rajasthan v. Union of India (1977) 3 SCC 592**
    - Emphasized that while the three organs have separate functions, **interdependence and cooperation** are essential in a parliamentary democracy like India.

5. **Asif Hameed v. State of J&K (1989) 2 SCC 364**
    - Reiterated that **judicial review cannot mean judicial governance**, and courts must not encroach upon policy-making powers of the executive or legislative domain.

Contemporary Relevance:

- The doctrine is increasingly invoked in debates over **judicial activism, ordinance-making power (Art. 123 & 213)**, and **delegated legislation**.
- In the context of **delegated legislation**, as covered in your uploaded document, the principle reinforces that legislature must lay down essential legislative policy, and **executive cannot be given blanket law-making authority**, preserving constitutional accountability.