Weekly Judiciary Digest

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Current & Conceptual Weekly

15th to 21st July, 2025

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1. Optional Arbitration Clause Not Binding: Supreme Court Clarifies Scope Under Section 11 of Arbitration Act

Case Name: BGM and M-RPL-JMCT (JV) v. Eastern Coalfields Limited

Citation: 2025 LiveLaw (SC) 731

Court: Supreme Court of India

Bench: Justices PS Narasimha and Manoj Misra

In a significant judgment impacting the interpretation of arbitration clauses under the **Arbitration and Conciliation Act, 1996**, the **Supreme Court** has clarified that an **optional or permissive arbitration clause**, which merely states that disputes *"may be referred to arbitration"*, does **not constitute a binding arbitration agreement** under Section 7 of the Act. This judgment reinforces the principle that the existence of a clear and enforceable arbitration agreement is a **precondition for referral to arbitration under Section 11**.

The case arose from a dispute concerning Clause 13 of a contract, which stated that parties *"may seek arbitration"* in case of disputes. The **High Court rejected a referral petition under Section 11**, holding that the clause did not constitute a valid arbitration agreement. Aggrieved, the Appellant approached the **Supreme Court**, arguing that under **Section 11(6-A)**, the referral court's role is limited to a prima facie examination of the existence of an arbitration agreement, not a detailed inquiry.

The Supreme Court **dismissed the appeal**, upholding the High Court's view. It ruled that the High Court had **not overstepped its jurisdiction under Section 11(6-A)** and had merely conducted a **plain reading** of the clause, which is **permissible** under the Act.

Crucially, the Court emphasized that the phrase *"may be sought"* in Clause 13 **does not reflect a binding intention** to refer disputes to arbitration. Such language merely **enables** the possibility of arbitration if both parties agree at a later stage. Hence, there is **no existing or enforceable arbitration agreement** unless the parties reach a further consensus.

The Court relied on prior decisions, including:

- **Jagdish Chander v. Ramesh Chander (2007) 5 SCC 719**, where it was held that a clause indicating a mere possibility of arbitration in future **does not amount to a valid arbitration agreement**.
- **Mahanadi Coalfields Ltd. v. IVRCL AMR JV (2022)**, where it was clarified that use of the term "arbitration" in a clause does not itself constitute a binding arbitration agreement if it requires further consent.

Reiterating the **principles laid down in In Re: Interplay Between Arbitration Agreements under Arbitration Act & Stamp Act (2023)**, the Court held:

- The referral court under Section 11 can **examine the existence** of an arbitration agreement.
- Such an examination is **limited to a prima facie view**, not a mini-trial.
- **Optional clauses**, without mandatory language, **fail the Section 7 test** for a valid arbitration agreement.

The Court also clarified that **this preliminary examination by referral courts does not undermine the jurisdiction of the arbitral tribunal under Section 16** to rule on its own jurisdiction, as the referral court only forms a **prima facie, non-binding opinion**.

2. Predicate Offence is Prerequisite for ED Action under PMLA, Reiterates Madras High Court

Case Name: R.K.M Powergen Private Limited v. The Assistant Director and others

Citation: 2025 LiveLaw (Mad) 244

Court: Madras High Court

Bench: Justices M.S. Ramesh and V. Lakshminarayanan

In a landmark judgment reaffirming the statutory boundaries of the **Enforcement Directorate (ED)** under the **Prevention of Money Laundering Act, 2002 (PMLA)**, the **Madras High Court** held that the ED cannot initiate proceedings under PMLA without the **existence of a predicate (scheduled) offence**. The Court categorically stated that the ED is **not a super cop** and cannot conduct roving inquiries based on mere suspicion or information.

The central issue in this case was whether the ED could freeze the fixed deposits of R.K.M Powergen Private Limited in the absence of proceeds of crime derived from a predicate offence. The petitioner company argued that no coal mining activity ever commenced due to the allocation of coal blocks in a reserved forest, and thus, **no proceeds of crime** could have arisen. It also emphasized that the coal allocation had been nullified and that foreign investments were made with **RBI approval**, which cannot be construed as laundering.

The ED, in its defense, asserted that it had jurisdiction due to the subsequent **CBI chargesheet** and claimed that the company **puffed up its net worth** to avail loans, which would attract Sections 420 and 471 of the IPC. However, the Court rejected this line of reasoning.

The Court underlined that **the ED's power under PMLA is contingent upon the existence of a scheduled offence**, and without it, any investigation or coercive action is **without jurisdiction**. The bench observed:

"The ED is not a loitering munition or drone to attack at will on any criminal activity. The essential ingredient for the ED to seize jurisdiction is the presence of a predicate offence."

The Court used the powerful metaphor of a **limpet mine** to explain the interdependence of ED's jurisdiction and predicate offences — **"The ship is the predicate offence and proceeds of crime; the ED is the mine. Without the ship, the mine cannot function."**

Additionally, the judgment clarified that under **Section 66(2) of PMLA**, the ED, upon discovering other legal violations, must inform the appropriate investigative agency and **cannot assume the role of a general law enforcement body**.

The Court held that the **freezing of bank accounts** by the ED was **per se without jurisdiction**, as the freezing order **did not disclose any nexus between the fixed deposits and the alleged proceeds of crime**. Moreover, the ED could not rely solely on the CBI's supplementary chargesheet to assume jurisdiction, especially when the alleged financial misconduct was not part of the CBI's core findings.

In conclusion, the Court set aside the ED's freezing order and allowed the petitioner's plea, affirming that **due process and statutory limitations** must be adhered to when invoking coercive powers under the PMLA.

3. Presidential Reference on Grant of Assent to Bills: Supreme Court to Examine Constitutional Boundaries under Article 143

Case Title: In re: Reference by the President under Article 143 of the Constitution

Citation: Pending (to be heard on July 22, 2025)

Court: Supreme Court of India

Bench: Chief Justice BR Gavai, Justices Surya Kant, Vikram Nath, PS Narasimha, and AS Chandurkar

In a highly significant constitutional development, the **Supreme Court of India** will hear a **Presidential Reference under Article 143** concerning the **scope of the President's and Governor's powers in granting assent to Bills** under Articles **200 and 201 of the Constitution**. This follows the Supreme Court's ruling in the **Tamil Nadu Governor's case**, where the Court had set timelines for constitutional authorities to act on Bills passed by State Legislatures, holding that delays beyond a reasonable time amounted to constitutional impropriety.

The present reference arises from concerns over whether the judiciary can impose timelines and issue directions to constitutional functionaries such as the **President and Governors**. The **Vice President of India had publicly questioned** the propriety of such judicial directives, describing the Court's invocation of **Article 142** as a "nuclear missile" and expressing apprehension about potential judicial overreach.

In the Tamil Nadu judgment, the Supreme Court held that the **Governor cannot indefinitely withhold assent** (commonly known as "pocket veto") and prescribed a **three-month time frame** for action. The Court also ruled that **if no decision is taken within this period**, the **State Government may seek a writ of mandamus**. This judgment prompted a **Presidential Reference**, which raises **14 key constitutional questions**, many of which will have **far-reaching implications on Centre-State relations**, separation of powers, and the doctrine of judicial review.

Among the key issues to be decided are:

- **Whether the Governor is bound by the aid and advice of the Council of Ministers** under Article 200.
- **Whether the President and Governor's discretion in granting assent is justiciable**, and whether **Article 361** bars such judicial review.
- **Whether the Supreme Court can prescribe timelines** in the absence of constitutional limits for actions under Articles 200 and 201.
- **Whether the powers under Article 142** permit the judiciary to issue directions contrary to the Constitution or existing laws.
- **Whether a law passed by the legislature becomes enforceable without the Governor's assent**.
- **Whether the Court can intervene at a pre-enactment stage**, i.e., before a Bill becomes law.
- **Whether Article 131 is the exclusive route** for resolving Union-State disputes or whether Article 143 can also be invoked.

The outcome of this Reference will shape **constitutional jurisprudence on the interplay between legislative, executive, and judicial organs**, particularly in the context of **federal structure and constitutional conventions**.

This hearing will also test the **limits of judicial activism and the contours of constitutional morality**, especially in interpreting **Article 143**, which empowers the President to seek the

advisory opinion of the Supreme Court on matters of public importance involving substantial questions of law.

4. Order XLI Rule 4 CPC Inapplicable to Joint Appeals if One Appellant Dies Without Substitution: Supreme Court Clarifies

Case Title: Suresh Chandra (Deceased) through LRs & Ors. v. Parasram & Ors.

Citation: 2025 LiveLaw (SC) 740

Court: Supreme Court of India

Bench: Justices PS Narasimha and Manoj Misra

In a significant clarification on procedural law, the **Supreme Court of India** has held that **Order XLI Rule 4 of the Code of Civil Procedure, 1908 (CPC)** does **not apply** where **all defendants file a joint appeal and one of them dies during its pendency** without substitution of legal heirs. The judgment reaffirms the **mandatory application of Order XXII CPC** concerning abatement due to non-substitution.

The case arose when the **Second Appeal filed jointly by the defendants** was dismissed by the **Madhya Pradesh High Court** as abated under **Order XXII Rule 3 CPC**, owing to the failure to substitute the legal representatives (LRs) of one deceased appellant-defendant. The appellants contended before the Supreme Court that **Order XLI Rule 4 CPC** protected their appeal, allowing one party to continue the appeal on behalf of others, as the decree was passed on **common grounds**.

Rejecting this plea, the **Supreme Court clarified** that **Order XLI Rule 4 CPC** only applies in situations where **one of the plaintiffs or defendants** files an appeal and impleads others as **proforma respondents**. Since in the present case **both defendants had filed the appeal jointly**, the provision was not applicable. The **appeal by the surviving appellant could not be continued** against the interest of the deceased appellant without proper substitution.

The Court distinguished the present case from **Mahabir Prasad v. Jage Ram (1971) 1 SCC 265**, holding it was **factually inapplicable**. Instead, the Court relied on **Rameshwar Prasad v. Shambehari Lal Jagannath, AIR 1963 SC 1901**, where a **joint appeal abated entirely** due to failure to bring on record the LRs of one of the deceased appellants.

The Court further summarized the legal position as follows:

- **Order XLI Rule 4 CPC** applies at the **stage of filing** of an appeal. It empowers **one of the parties** to appeal against an entire decree if it is based on **common grounds**. Once a **joint appeal** is filed by all aggrieved parties, the **benefit of Rule 4 is lost**.
- The provision is intended to prevent multiplicity of appeals where **interests are common**, but **it does not override the procedural mandates of Order XXII**.
- **Order XXII applies to all pending proceedings**, including appeals. If an appellant **dies during pendency**, their LRs **must be substituted** within the limitation period, failing which **the appeal abates**.

- If a party is impleaded merely as a **proforma respondent**, their non-substitution does not affect the maintainability, and **Order XLI Rule 4 can be invoked** in such cases.

The Court affirmed the High Court's dismissal of the appeal as abated and cautioned against misapplying procedural rules in joint appeals.

5. Appeal Against Joint and Indivisible Decree Abates Entirely If Legal Heirs of Deceased Party Are Not Substituted: Supreme Court

Case Title: Suresh Chandra (Deceased) through LRs & Ors. v. Parasram & Ors.

Citation: 2025 LiveLaw (SC) 728

Court: Supreme Court of India

Bench: Justices PS Narasimha and Manoj Misra

In a pivotal ruling reinforcing procedural rigour in civil appeals, the **Supreme Court** held that where a **joint and indivisible decree** is passed against multiple parties, the **entire appeal will abate** if the **legal representatives of any deceased party are not substituted** within the prescribed time. The Court emphasized that failure to do so may result in **conflicting or inconsistent decrees**, which are impermissible in law.

The case stemmed from a **civil suit filed in 1983** seeking ownership, possession, and mesne profits over a house. While the **Trial Court dismissed the suit**, the **First Appellate Court reversed it**, granting relief in favour of the plaintiff. The defendants—**Suresh Chandra and Ram Babu**—jointly filed a **Second Appeal**. However, during its pendency, **Ram Babu died in 2015**, and his **legal heirs were not substituted**, resulting in the **Madhya Pradesh High Court declaring the appeal abated in 2022**. The surviving appellants challenged this order before the Supreme Court.

Dismissing the appeal, the **Supreme Court ruled that in cases involving a joint and inseverable decree**, such as the one at hand—where both defendants jointly denied tenancy and claimed title through inheritance—the **rights were interdependent**. As such, the **non-substitution of one co-defendant's heirs** made it **impossible to proceed without risking contradictory decrees**. The **decree against the deceased appellant had already attained finality**, and continuing the appeal only for the surviving appellant would have resulted in an **inconsistent and irreconcilable legal outcome**.

The Court referred to the **Constitution Bench ruling in *Sardar Amarjit Singh Kalra v. Pramod Gupta* (2003) 3 SCC 272**, which held that in a joint and inseverable decree, **abatement in respect of one party is fatal to the entire appeal**. Relying on this precedent, the Court reiterated that **procedural lapse in substitution is not a mere formality**, particularly when it affects the enforceability and coherence of decrees.

The Court laid down key principles regarding abatement and joint decrees:

- **Abatement may be total or partial depending on the nature of the decree**—joint and inseverable decrees demand full abatement.

- The risk of **mutually self-destructive decrees** justifies complete dismissal if substitution is not done.
- **Common interest and indivisibility of rights** among appellants is central to determining the effect of non-substitution.
- The question must be evaluated **case-by-case** based on whether decrees could be executed independently without contradiction.

6. Supreme Court Emphasizes Reformative Justice for Women Offenders Under Social Duress

Case Title: Kum. Shubha @ Shubhashankar v. State of Karnataka & Anr

Citation: Criminal Appeal No. 1029 of 2024

Court: Supreme Court of India

Bench: Justices MM Sundresh and Aravind Kumar

In a powerful ruling reinforcing the need for a **reformative approach in criminal justice**, especially for women offenders trapped in **oppressive social circumstances**, the **Supreme Court** granted liberty to a woman convicted under **Section 302 read with 120B IPC** to seek a pardon under **Article 161 of the Constitution**. The case involved **Shubha**, a young college-going woman, who conspired with three others to murder her fiancé, allegedly under the **duress of a forced marriage** imposed by her family.

The Court underlined that social inequalities, gender-based discrimination, and systemic constraints can distort a woman's sense of autonomy and freedom, sometimes driving her to commit desperate or even unlawful acts. Stressing that the criminal act in question was born out of **frustration, psychological oppression, and lack of choice**, the Court emphasized that punishment alone cannot remedy such deep-rooted socio-emotional triggers.

The judgment explained that **forced marriages can act as a severe form of alienation**, stifling a woman's aspirations, education, and independence. The Court observed that **"a woman is pushed into a dark corner"** by external elements such as family pressure, societal expectations, and stigma. In Shubha's case, her inability to assert her freedom led her to take a tragic path. The Court reasoned that although her action cannot be condoned, **her culpability must be evaluated within the psychosocial framework that led her to commit the crime**.

The bench reiterated the need to adopt a **reformative rather than purely retributive approach**, stating that mere punishment does not heal the root cause of deviant behavior. Instead, the goal of justice should be to **rehabilitate the individual**, especially when **the offender is herself a product of systemic social injustices**. The Court remarked:

"Society, through its own systemic failures, inequalities, or neglect often plays a role in shaping criminal behavior. In that scenario, the offender becomes a victim, requiring compassionate correction, structural support, and opportunities for transformation."

Recognizing that **22 years had passed since the incident (2003)**, the Court permitted the appellants to approach the **Governor of Karnataka under Article 161**, seeking clemency. The Court expressed hope that the constitutional authority would consider the matter **in light of the social and emotional context** of the case. In the interim, **the sentences of the appellants were suspended for eight weeks**, within which they must file appropriate petitions.

7. Supreme Court Recommends Mandatory Disclosure of Previous Bail Applications and Criminal Antecedents in Bail Pleas

Case Title: Kaushal Singh v. State of Rajasthan

Citation: 2025 LiveLaw (SC) 724

Court: Supreme Court of India

Bench: Justices Vikram Nath, Sanjay Karol, and Sandeep Mehta

In a significant procedural recommendation, the **Supreme Court of India** suggested that **all High Courts** should consider incorporating a rule mandating that **accused persons disclose details of previous bail applications and criminal antecedents** in all bail petitions. The Court opined that this would promote **transparency, prevent abuse of process**, and assist courts in taking informed decisions while adjudicating bail pleas.

The bench cited **Rule 5 of Chapter 1-A(b) Volume-V of the Punjab and Haryana High Court Rules** as a model provision. According to this rule, bail applicants must:

- State whether a **similar application has been made to the Supreme Court**, and disclose the result of such application;
- Declare involvement in any **other criminal case(s)**, providing **particulars and outcomes**;
- Ensure that any application lacking such information shall be placed before the court **only after necessary disclosure is made**.

The Supreme Court, while **expunging remarks made by the Rajasthan High Court against a Judicial Officer** in a bail matter, issued a **direction to circulate this suggestion to the Registrar Generals of all High Courts**. The bench noted that **similar rules, if adopted uniformly**, would impose a **duty on the accused** to make full and honest disclosures, thereby streamlining the bail adjudication process.

In its observation, the Court stated:

"We feel that every High Court in the country should consider incorporating a similar provision... as it would impose an obligation on the accused to make disclosures regarding his/her involvement in any other criminal case(s) previously registered."

This suggestion is not just procedural but reflects the Court's ongoing effort to strike a balance between **individual liberty and judicial efficiency**. Such a requirement would also help prevent **forum shopping** and reduce the chances of **misleading the judiciary** through selective presentation of facts.

At the same time, the Court took the opportunity to reiterate judicial discipline and decorum, **cautioning High Courts against making adverse remarks on lower judicial officers**, especially

in the context of bail orders. The Court emphasized that judicial officers must be **protected from unwarranted strictures**, and **criticism should be measured**, unless backed by gross procedural irregularity or mala fide conduct.

8. Supreme Court Issues Directions to Strengthen National Task Force on Student Suicides in Higher Education

Case Title: Amit Kumar & Ors. v. Union of India & Ors.

Citation: Criminal Appeal No. 1425/2025

Court: Supreme Court of India

Bench: Justices JB Pardiwala and R. Mahadevan

In a landmark step to address the **alarming rise in student suicides** across higher educational institutions in India, the **Supreme Court** on July 14 issued a series of directions to facilitate the effective functioning of the **National Task Force (NTF)**, constituted earlier through an order dated March 24. The NTF, chaired by **former Supreme Court judge Justice S. Ravindra Bhat**, was established in response to a plea filed by the **parents of two IIT Delhi students** who allegedly died by suicide due to **caste-based discrimination and academic pressure**.

The NTF's core mandate is to **investigate causes of suicides in educational settings**, review institutional responses, and recommend structural reforms to promote **mental health and well-being** of students. The Court had earlier directed that in any instance of a suicide on campus, the concerned institution must **promptly register an FIR** to enable thorough investigation.

During the July 14 hearing, the Court considered the **status report filed by Senior Advocate Aparna Bhat**, who was appointed Amicus Curiae. The report noted that **pilot surveys**, including questionnaires approved by the **National Institute of Mental Health and Neurosciences (NIMHANS)**, were conducted during field visits to institutions like **Jamia Millia Islamia, Ramjas College, Bangalore Medical College**, and others.

However, the NTF flagged several **operational challenges**:

- **Lack of a functional Secretariat**, absence of physical infrastructure, and **non-availability of an official website**.
- **Court directed the Union Government to provide a physical space** for the NTF within **four weeks**, ensuring accessibility.

Furthermore, several States and Union Territories — including **Arunachal Pradesh, Bihar, Gujarat, Haryana, Karnataka, Kerala, Maharashtra, Tamil Nadu, J&K, and Ladakh** — had **failed to appoint Nodal Officers** to support the NTF's functioning. The Court **granted a two-week deadline** to make these appointments, warning that failure to comply may lead to **appropriate action against the Chief Secretaries** of defaulting States.

The Court also took note of **inadequate and fragmented data** regarding student suicides. The **National Crime Records Bureau (NCRB)** was criticized for **not providing unit-level data**, while

institutions such as the **UGC, AICTE, National Medical Council**, and others showed inconsistencies in data collection.

To resolve this, the Court approved a plea seeking **inclusion of the Secretary, Ministry of Home Affairs, as an ex-officio member** of the NTF to facilitate better access to nationwide suicide data. The Court also **impleaded the Ministry of Education, Department of Higher Education**, to coordinate on mental health and educational policy reforms.

The Court also sought **updates on investigations into recent student suicide cases**, including those at **IIT Delhi (2 students), IIT Kharagpur (1 student)**, and a student in **Kota, Rajasthan**, known for its coaching institutes.

9. Justice Yashwant Varma Challenges In-House Inquiry into Cash Recovery at Official Residence

Case Title: XXX v. Union of India

Citation: Diary No. 38664/2025

Court: Supreme Court of India

In a high-profile constitutional controversy, **Justice Yashwant Varma**, a puisne judge of the **Allahabad High Court**, has approached the **Supreme Court** challenging the findings and procedure adopted by a three-member **in-house inquiry committee**, constituted following the discovery of a **large quantity of cash** at an **outhouse of his official residence** during a fire-fighting operation on **March 14, 2025**.

Justice Varma's **writ petition** contends that the **mere recovery of cash**, without conclusive determination of **ownership, quantity, or the circumstances under which it was placed**, cannot justify an inference of misconduct or wrongdoing. He emphasized that the **inquiry committee's report**, dated **May 3, 2025**, failed to answer key factual questions, including:

- Who placed the cash in the outhouse?
- How much cash was present?
- Was the currency genuine?
- What caused the fire?
- Did Justice Varma remove remnants of the currency on March 15, 2025?

He alleged that the **committee relied on speculative inferences** rather than concrete evidence, thereby **violating the principles of natural justice**. Asserting procedural irregularities, Justice Varma claimed that he was:

- **Not informed of the inquiry procedure**;
- **Denied participation** in evidence collection and examination of witnesses;
- **Provided only paraphrased statements**, not full recordings;
- **Denied personal hearing** and access to **exculpatory materials** like CCTV footage;

- **Subjected to a reversed burden of proof** without prior intimation.

Justice Varma also **challenged the constitutional validity of the in-house procedure**, arguing that it lacks **statutory basis** and infringes upon the **separation of powers**. According to him, disciplinary control over High Court judges lies solely with **Parliament under Article 124(4) read with the Judges (Inquiry) Act**, and the **Chief Justice of India has no constitutional authority** to initiate such inquiries.

Importantly, Justice Varma raised concern over **leaks of confidential materials** from the inquiry report and the **public dissemination of photos and videos** by the Supreme Court before the inquiry even commenced. He submitted that such actions caused **irreparable reputational harm** and violated the **confidentiality inherent in the in-house mechanism**.

The in-house committee, chaired by **Justice Sheel Nagu**, and comprising **Justices GS Sandhawalia and Anu Sivaraman**, found Justice Varma's conduct post-fire to be **"unnatural"**, justifying **adverse inferences**. The report concluded that the **storeroom was within his or his family's control**, placing the **burden of explanation on him**, which he allegedly failed to discharge convincingly. Justice Varma's response was termed a **"flat denial or a bald plea of conspiracy."**

Following the report, **CJI Sanjiv Khanna forwarded the findings to the President and Prime Minister** for further action under the Constitution, after Varma refused to resign as advised. He was subsequently **repatriated to the Allahabad High Court** and **judicial work was withdrawn**.

10. Supreme Court Reiterates Scrutiny Required When Natural Heirs Are Excluded from a Will

Case Title: Gurdial Singh v. Jagir Kaur

Citation: 2025 LiveLaw (SC) 718

Court: Supreme Court of India

Bench: Justices Sanjay Karol and Joymalya Bagchi

Date of Judgment: July 2025

In a notable judgment concerning the validity of Wills and the exclusion of natural heirs, the **Supreme Court** held that while **disinheritance of a natural heir does not automatically invalidate a Will**, it constitutes a **suspicious circumstance** that **necessitates closer judicial scrutiny**. The Court emphasized that **the absence of mention or reasoning for exclusion of close relatives—especially a spouse—must be evaluated against the backdrop of all surrounding facts and circumstances**.

The case involved the alleged Will of **Maya Singh**, which bequeathed all his property to his **nephew (appellant)**, Gurdial Singh, completely excluding his wife, **Jagir Kaur (respondent)**. The Will did not even acknowledge Jagir Kaur's status as the testator's wife. The appellant further denied her marital relationship with Maya Singh. The Trial Court upheld the Will, but the **High Court reversed**, doubting its authenticity.

The Supreme Court upheld the High Court's view and reiterated that when **unnatural or unusual features appear in a Will**, including the **erasure of a spouse's existence or exclusion without reason**, it **raises serious suspicion**. Referring to **Ram Piari v. Bhagwant (1993) 3 SCC 364** and **Leela Rajagopal v. Kamala Menon Cocharan**, the Court affirmed that **disinheritance without plausible justification—particularly in a context lacking estrangement—raises the inference of undue influence or manipulation**.

The Court noted that Maya Singh and Jagir Kaur **lived together till his death**, and there was **no evidence of marital discord**. Moreover, Maya Singh had **nominated her for his pension**, suggesting a continuing spousal relationship. Yet, the Will remained **silent on her existence or reasons for disinheritance**, which the Court found **highly unnatural**.

"Such erasure of marital status is the tell-tale insignia of the propounder and not the testator himself... It gives rise to serious doubt that the Will was executed as per the dictates of the appellant and is not the 'free will' of the testator," the Court held.

The Court also rejected the Trial Court's inference that Jagir Kaur's **absence from her husband's last rites** reflected estrangement. Citing **customary Sikh practice**, the Court clarified that **last rites are traditionally performed by male relatives**, and thus her absence did not bear negatively on the relationship.

The Court concluded that the **omission of the spouse**, along with other inconsistencies, **cast grave doubt on the voluntariness of the Will**, especially when the **appellant stood to benefit entirely** and was **in a position to exert influence** over the deceased.

11. Prelims Q&A

1. Tort is a special branch of Law which originated in-
   a. America
   b. France
   c. India
   d. England

Correct Answer: (d) [BJS 2009]
Explanation: Tort law is a special branch of law that originated in England. It developed through the common law system, which is based on judicial decisions and precedents rather than statutory codes. Tort law addresses civil wrongs, providing remedies for individuals who have suffered harm due to the actions or negligence of others. The principles established in English tort law have significantly influenced tort law in many other jurisdictions, including India.

2. The definition of 'tort' is contained in-
   a. The General Clauses Act, 1897
   b. The Limitation Act, 1963
   c. The Indian Contract Act, 1872
   d. The Indian Penal Code, 1860

Correct Answer: (b) [AJS 2015]
Explanation: Tort' is defined in Section 2(m) Limitation Act, 1963 as: "Tort is a civil wrong which is not exclusively breach of contract or breach of trust".

3. "Tort" is defined in the Limitation Act, 1963 under section-
   a. 2(k)
   b. 2(l)
   c. 2(m)
   d. 2(n)

Correct Answer: (c) [AJS 2015]
Explanation: Tort' is defined in Section 2(m) Limitation Act, 1963 as: "Tort is a civil wrong which is not exclusively breach of contract or breach of trust".

4. The word 'Tort' is derived from the _____ word Tortum meaning 'Twist'.
   a. English

b. French
c. Latin
d. Greek

Correct Answer: (c) [ACS (Pre) 2016]

Explanation: The word 'tort' is derived from the Latin word 'tortum', which means 'twist' or 'wrong'. This reflects the concept of a wrongful act that twists or deviates from the standard of conduct expected in society. Tort law addresses civil wrongs that cause harm or loss, providing remedies to the injured parties. The term was later adopted into French and then into English legal terminology.

5. Tort implies a twisted-
a. Deterrence
b. Volition
c. Conduct
d. Consent

Correct Answer: (c) [ACS (Pre) 2014]

Explanation: Tort implies a twisted conduct. The term 'tort' originates from the Latin word 'tortum', meaning twisted or crooked. It refers to a wrongful act or an infringement of a right leading to civil legal liability. In tort law, twisted conduct signifies behaviour that deviates from accepted legal standards, causing harm or loss to another person.

6. Law of tort has developed mainly through-
a. Customs and precedents
b. Judicial decisions
c. Enacuments
d. All the above

Correct Answer: (b) [U.P. HJS 2016, ACS (Pre) 2014, WBJS 2015, Tripura JS 2015, AJS 2011]

Explanation: The law of torts has primarily developed through judicial decisions. Courts have played a crucial role in shaping tort law by interpreting and applying principles to individual cases, creating precedents that guide future decisions. While customs and statutes (enactments) also influence tort law, the foundational development has been through the case law established by judicial rulings.

7. The law of tort in India is based on-
a. Common Law of England
b. Droit Administratif of France
c. the Constitution of India
d. the Bill of Rights of USA

Correct Answer: (a) [ACS (Pre) 2013, 2016]

Explanation: The law of tort in India is based on the Common Law of England. Indian tort law has its roots in the English common law system, introduced during British colonial rule. This body of law has been developed through judicial decisions and precedents. Indian courts continue to refer to English common law principles while also considering the local context and statutory modifications.

8. Basically, tort is a species of
a. Criminal injury or wrong
b. Substantial injury or wrong
c. Civil injury or wrong
d. None of the above

Correct Answer: (c) [A.P. CS 2013, Tripura JS 2015, 2017, WBJS 2015, AJS 2011]

Explanation: Tort is a species of civil injury or wrong. It involves a breach of a duty that the law imposes on individuals, which results in harm or loss to another individual. Unlike criminal law, which addresses offences against the state, tort law provides remedies to individuals who have suffered harm due to the actions or negligence of others.

9. Who divided wrongs as private wrongs and public wrongs?
a. Fraser
b. Sir F. Pollock
c. Justice Blackburn
d. Blackstone

Correct Answer: (d) [BJS 2020]

Explanation: The division of wrongs into private wrongs and public wrongs was made by Blackstone. Blackstone, an influential English jurist, categorised wrongs to distinguish between offences against individuals (private wrongs) and offences against the state or public (public wrongs). This classification is fundamental in understanding the difference between civil

law, which addresses disputes between private parties, and criminal law, which deals with offences against society as a whole.

10. Whether for a wrong both tortious and criminal liability may arise?

a. Only tortious liability may arise
b. Only criminal liability may arise
c. Both the liabilities may arise
d. None of the above

Correct Answer: (c) [BJS 2018]

Explanation: For a wrong, both tortious and criminal liability may arise. Tortious liability involves a civil wrong causing harm or loss, leading to legal liability and compensation claims. Criminal liability pertains to offences against the state or public, punishable by law. Certain acts, like assault or defamation, can simultaneously constitute a tort (private wrong) and a crime (public wrong), making the wrongdoer liable under both legal domains.

12. Mains Q&A

Question:

Interested witness and Related witness. [DJS 2019]

Answer:

"Interested witness" and "related witness" are used to describe the nature of a witness's relationship to the case or the parties involved, which can potentially influence their testimony. These concepts are particularly relevant in Indian law, where the credibility and reliability of witness testimony are crucial in both criminal and civil litigation. Understanding these terms helps in assessing the evidentiary value of a witness's statement.

Interested Witness

An "interested witness" is someone who has a direct or indirect stake in the outcome of the case. This interest could be personal, financial, emotional, or any other kind that might give the witness a reason to be biased or have a motive to lie. The law is wary of the testimony given by interested witnesses because their interest in the case's outcome might lead them to exaggerate, fabricate, or omit facts.

However, the testimony of an interested witness is not automatically discounted or disregarded. The Indian judiciary evaluates such testimony with caution, scrutinising it for consistency, reliability, and corroboration with other independent evidence. The principle is that while interest may put the court on guard, it does not invalidate the testimony, which could still be entirely truthful and honest.

Related Witness

A "related witness" is someone who has a familial, business, or close personal relationship with a party involved in the case. While a related witness might not have a direct material interest in the outcome, their close relationship to one of the parties might influence their testimony, consciously or subconsciously, due to loyalty, affection, or animosity.

Like interested witnesses, the testimony of related witnesses is approached with caution. The Indian legal system emphasises the importance of examining such testimony to ensure it is not tainted by bias or partiality. Nevertheless, relatedness alone does not disqualify a witness's testimony, and it can be accepted if found to be credible, corroborated, and consistent with the facts.

13. CLEAR CONCEPTS

Key Concept in Consumer Protection Law: "Deficiency in Service"

One of the most pivotal and frequently litigated concepts under the **Consumer Protection Act, 1986 (now updated as CPA, 2019)** is **"deficiency in service."** This concept is central to protecting consumer rights and ensuring accountability of service providers across sectors like banking, insurance, education, healthcare, and transport.

Definition:

As per **Section 2(1)(g)** of the Consumer Protection Act, 1986:

"Deficiency" means any fault, imperfection, shortcoming or inadequacy in the quality, nature and manner of performance which is required to be maintained by or under any law or has been undertaken to be performed by a person in pursuance of a contract or otherwise in relation to any service.

This definition was retained and slightly expanded under the **Consumer Protection Act, 2019 (Section 2(11))** to include acts of negligence and deliberate withholding of information.

Importance:

Understanding "deficiency in service" is crucial for judiciary aspirants because:

- It is a core element to determine the **liability of service providers.**
- Most consumer complaints revolve around allegations of deficiency.
- It helps in balancing the rights of consumers with contractual obligations of service providers.

Judicial Interpretation and Landmark Cases:

1. **Indian Medical Association v. V.P. Shantha (1995) 6 SCC 651**
   Held that medical services fall within the definition of "service" and thus can be tested for deficiency.
   Impact: Opened doors for litigation against hospitals and doctors for medical negligence.
2. **Lucknow Development Authority v. M.K. Gupta (1994) 1 SCC 243**
   The SC ruled that even statutory and public authorities are accountable for deficiency in service.
   It emphasized **consumer sovereignty** and expanded the definition of "service" to include housing authorities.

3. **Spring Meadows Hospital v. Harjot Ahluwalia (1998) 4 SCC 39**
   Hospital negligence resulting in a child's coma led the Court to award **compensation both to the child and parents**.
   Recognized the **composite liability** of medical institutions and treating professionals.
4. **Punjab National Bank v. K.B. Shetty (1991) CPJ 194**
   Bank delayed payment of fixed deposit on maturity; held as deficiency in banking service.
5. **Air India v. Ganesh Narain Saboo (2011) 13 SCC 331**
   SC held that international airlines are also covered under CPA for deficiency in service in international carriage.
6. **Haryana Urban Development Authority v. Veena (1996) 2 SCC 672**
   Delay in handing over possession of flat, despite full payment, was held as a deficiency.

Contemporary Relevance:

With the advent of **e-commerce, online education, and digital financial services,** deficiency in service claims have evolved. Courts today are dealing with:

- Inadequate delivery of online courses.
- Online frauds due to banking negligence.
- Non-disclosure in insurance contracts.

The **CPA 2019** further strengthened this concept by empowering the **Central Consumer Protection Authority (CCPA)** and introducing **e-filing and mediation** for faster redressal.

Conclusion:

“Deficiency in service” remains a cornerstone of consumer jurisprudence. Judiciary aspirants must be adept at identifying what constitutes a deficiency, appreciate the evolution of its interpretation, and analyze it in light of changing service landscapes. Familiarity with relevant case laws not only aids in understanding statutory interpretation but also reflects judicial creativity in balancing consumer rights with service sector responsibilities.