

Weekly Update for Law Optional UPSC

A mix of Conceptual, Current/Contemporary Topics

26th August - 1st September 2024

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**FOUNDATION BATCH
LAW OPTIONAL**

**Starts: 13th Sept 2024
For UPSC 2025**

1 . Determining Consumer Status Hinges on Transaction's Primary Intent

[Relevant Topics: - Consumer Protection act]

In the case of Omkar Realtors and Developers Pvt. Ltd. v. Kushalraj Land Developers Pvt. Ltd., the Supreme Court was called upon to determine the consumer status of Kushalraj, who had booked a flat in Omkar's project "Omkar 1973 Worli" in 2015. Kushalraj had paid a significant sum of Rs. 6,79,97,071 as part consideration, and an allotment letter for Flat No. 5001, valued at Rs. 34,50,00,000, was issued in 2016.

Issues Involved

The case presented two critical issues for the court's consideration:

1. **Consumer Status of Kushalraj:** Whether Kushalraj qualified as a 'consumer' under the Consumer Protection Act, 2019.

2. **Deficiency in Service by Omkar:** Whether Omkar Realtors had failed in their duty by providing deficient service.

Determining Consumer Status

The Supreme Court upheld the National Consumer Disputes Redressal Commission's (NCDRC) decision that Kushalraj qualified as a 'consumer.' The court observed that the flat was purchased for the personal use of a director of the company, not for commercial purposes.

The judgment clarified that the determination of whether goods or services are purchased for commercial purposes depends on the specific facts of each case.

Typically, "commercial purpose" encompasses activities related to manufacturing, industrial operations, or transactions between commercial entities with a direct connection to profit-generating activities.

The court emphasized that when a company purchases goods or services for the personal use of its directors or employees, it falls outside the realm of "commercial purpose," thereby bringing such transactions under the purview of consumer protection laws.

Deficiency in Service

Regarding the deficiency in service, the Supreme Court found Omkar Realtors guilty due to a significant error in the allotment process. The flat initially allocated to Kushalraj had been previously allotted to another buyer, creating a situation of double allotment.

This confusion was only clarified in March 2018. Despite this, Omkar canceled Kushalraj's allotment in August 2017, before resolving the double allotment issue, which the court deemed unjustified and an example of unfair trade practice.

Court's Decision

The Supreme Court concurred with the NCDRC's findings, holding Omkar Realtors accountable for adopting unfair trade practices and providing deficient service due to the double allotment. The court dismissed Omkar's appeal and upheld the NCDRC's order, directing Omkar to refund Rs. 7,16,41,493 to Kushalraj, with 6% interest per annum from the date of deposit until the refund is completed.

2. Dowry Death Case: Husband's Failure to Explain Wife's Fatal Burns Proves Crucial

[Relevant Topics: - Offense Against Women, Dowry Death]

The Supreme Court of India recently upheld the conviction of the appellants in *Damodar & Anr. v. The State of Uttar Pradesh* under Sections 304B (dowry death) and 498A (cruelty) of the IPC. The case involved the tragic death of Smt. Sunita, who suffered fatal burn injuries at her matrimonial home in Azamgarh in 1994, within six years of her marriage. The prosecution

alleged that Sunita had been subjected to sustained dowry-related harassment and cruelty, leading to her untimely death.

Initially, the trial court acquitted the appellants, a decision upheld by the Allahabad High Court. However, the Supreme Court remanded the case for reconsideration, leading to a conviction by the High Court, which was then challenged before the Supreme Court.

The appellants argued that the delay in lodging the FIR and the lack of concrete evidence on dowry demands should have cast doubt on their guilt.

However, the State emphasized that Sunita's death within seven years of marriage, combined with the circumstances of her death at her matrimonial home, invoked a presumption of dowry death under Section 304B IPC. The burden of proof then shifted to the appellants under Section 113B of the Indian Evidence Act, which they failed to discharge.

The Supreme Court noted that the foundational facts of dowry death were established, shifting the burden to the appellants, who failed to explain the suspicious circumstances surrounding Sunita's death. The Court also criticized the trial court's superficial evaluation of evidence and commended the High Court's thorough reassessment, which led to the conviction.

3. Reserved Category Candidate Can Claim General Category Seat Of Horizontal Reservation Based On Merit

[Relevant Topics: - Fundamental Right, Reservation]

In a significant ruling, the Supreme Court addressed the allocation of MBBS seats under the Unreserved (UR) Category Government School (GS) quota in the case of Ramnaresh @ Rinku Kushwah and Others v. State of Madhya Pradesh. The case arose from the denial of admission to meritorious reserved category candidates who had studied in government schools and scored higher marks in NEET-UG 2023 than some UR-GS candidates. These candidates, belonging to OBC, SC, and EWS categories, argued that the state's method of sub-classifying candidates unjustly excluded them from the UR-GS seats.

Court's Key Observations

The Supreme Court relied on the principles set forth in the landmark Indra Sawhney and Saurav Yadav cases. These rulings established that reserved category candidates who qualify on merit should not be denied general category seats. The Court criticized Madhya Pradesh's approach of compartmentalizing horizontal reservation categories, which effectively prevented meritorious reserved category candidates from claiming unreserved seats.

Verdict: Merit Must Be Recognized

The Court found that the cut-off marks for UR candidates were lower than those for SC/ST/OBC/EWS candidates, demonstrating the flaws in the state's reservation methodology. The Supreme Court ruled that the appellants were wrongly denied their rightful place in the UR-GS category for the 2023-24 academic session. Since the academic year had already

concluded, the Court ordered that the appellants be granted admission in the next academic year (2024-25) as a form of relief.

Implications of the Decision

This ruling underscores the importance of merit in the allocation of educational opportunities, even within the framework of reservations. By affirming that meritorious candidates from reserved categories should not be excluded from general category seats, the Supreme Court has reinforced the principles of fairness and equality in education. This decision is expected to influence future cases involving horizontal reservations across India.

4. Supreme Court Cracks Down on States for Delayed Judicial Pay Reforms

[Relevant Topics: - Judicial reform, PIL]

In a decisive move, the Supreme Court of India has taken stringent measures against states and union territories that have failed to implement the recommendations of the Second National Judicial Pay Commission (SNJPC). This action stems from a long-standing issue regarding the payment of arrears to judicial officers, aimed at improving their pay and allowances as directed by the court.

Amicus Curiae's Submissions

Senior Advocate K Parameswar, appointed as amicus curiae, highlighted the severity of the situation. He reported that 18 states and union territories, including Tamil Nadu, Madhya Pradesh, Andhra Pradesh, and West Bengal, had yet to comply with the court's directions from January 4. This non-compliance was significant enough to prompt the Supreme Court to take stronger measures.

Court's Directives

In response to the continued defiance, the Supreme Court has ordered the Chief Secretaries and Finance Secretaries of the 18 non-compliant states and union territories to appear in person on August 27, 2024. The court rejected requests for virtual appearances, emphasizing the need for physical presence to address the issue comprehensively.

Importance of SNJPC Recommendations

The Supreme Court's actions underscore the critical nature of implementing the SNJPC recommendations. Established by the court in 2017, the SNJPC, chaired by former Supreme Court Judge Justice PV Reddy, with R Basant as a member, was tasked with reviewing and recommending improvements to the pay scales and working conditions of district judiciary officers across India. These recommendations were intended to enhance the financial status and working environment of judicial officers, thereby bolstering the overall efficiency of the judiciary.

Welfare of Judicial Officers

The court's insistence on compliance reflects a deep concern for the welfare of judicial officers. Adequate remuneration and improved conditions are seen as vital for maintaining the integrity

and effectiveness of the judiciary at the grassroots level. The Court's actions emphasize that fair compensation is crucial for the smooth functioning of the justice system.

Challenges and Implications

The Supreme Court's intervention highlights the complexities involved in implementing nationwide judicial reforms, particularly those requiring financial commitments from various states. The persistent non-compliance may indicate budgetary constraints or administrative challenges that need addressing.

The personal appearance of high-ranking officials before the Supreme Court is a rare occurrence, underscoring the gravity with which the court views this issue. This situation also brings into focus ongoing discussions about judicial independence and the need for adequate support for the lower judiciary.

5. Supreme Court Modifies Sentence in Fatal Stabbing Case

The Supreme Court recently reviewed the case of **Hussainbhai Asgarali Lokhandwala v. State of Gujarat**, which centers on a fatal stabbing that occurred on November 7, 2000, in Godhra, Gujarat. The incident arose from a matrimonial dispute involving Hussainbhai, who was then 18 years old. During an altercation at his father Asgarali Onali Lokhandwala's residence, Hussainbhai stabbed Idrishbhai Fidaali Mithiborewala and his son Husseni @ Gopi. The conflict was rooted in tensions between Hussainbhai's sister, Oneja, and her husband, Abbasbhai, who was the son of the deceased Idrishbhai.

Initially, the trial court convicted Hussainbhai under Section 304 Part I of the Indian Penal Code (IPC), which pertains to culpable homicide not amounting to murder. This conviction was later modified to Section 304 Part II IPC by the High Court, reflecting a judgment of culpable homicide in the context of the circumstances surrounding the incident.

Heat of the Moment

The Supreme Court concurred with the High Court's assessment that the stabbing occurred in the heat of the moment. The court acknowledged that Hussainbhai, a young student in Class 12, was likely emotionally disturbed due to his sister's alleged mistreatment by her in-laws. The court observed:

"It is natural for a young man to be emotionally upset to see his sister allegedly ill-treated by her in-laws and when the deceased and Abbasbhai came to their residence leading to the ruckus, it is not difficult to visualize the state of mind of Hussainbhai as well of his father Asgarali."

This acknowledgment underscores the emotional turbulence that influenced Hussainbhai's actions during the altercation.

Absence of Premeditation

The Supreme Court also took into account that the stabbing was not a premeditated act. The incident occurred within the confines of Asgarali's residence and involved only one stab wound each on the deceased. This lack of premeditation supported the court's view that the stabbing was a spontaneous reaction rather than a deliberate act of murder.

Court's Directions

In its final decision, the Supreme Court upheld Hussainbhai's conviction under Section 304 Part II IPC but modified his sentence to the period he had already served. This adjustment reflects the court's consideration of the case's unique circumstances, including the emotional state of the accused and the nature of the incident. The court's ruling thus balanced the need for justice with a recognition of the contextual factors surrounding the stabbing.

6. Supreme Court to Consider Necessity of Prior Sanction in Public Servant Corruption Investigations under PC Act

[Relevant Topics: - Prevention of Corruption Act, Law of Crime]

In the ongoing case B.S. Yediyurappa v. Abraham TJ and Ors., the Supreme Court of India is examining a significant legal question: Is prior sanction required under the Prevention of Corruption Act (PCA) of 1988 before a Magistrate can direct an investigation into cognizable offenses committed by a public servant under Section 156(3) of the Criminal Procedure Code (CrPC)?

Background

The bench, led by Justices J.B. Pardiwala and Manoj Misra, is addressing a challenge brought by former Karnataka Chief Minister B.S. Yediyurappa. This challenge follows a Karnataka High Court order dated September 7, 2022, which reinstated corruption proceedings against Yediyurappa under the PCA. The core issue involves the interpretation of Section 17A of the PCA and its relationship with Section 156(3) of the CrPC.

Sections in Focus

Section 17A of the PCA

Section 17A of the PCA stipulates that no inquiry or investigation into offenses committed by a public servant under the PCA can be initiated without prior approval from the appropriate authority. This provision aims to provide safeguards against frivolous or politically motivated investigations.

Section 156(3) of the CrPC

In contrast, Section 156(3) of the CrPC grants Magistrates the authority to order investigations into any cognizable offense, which includes offenses under the PCA. This section is designed to empower the judiciary to ensure that crimes are investigated appropriately.

Legal Arguments

Senior advocates representing Yediyurappa argue that directing an investigation under Section 156(3) amounts to taking cognizance of the offense, which should trigger the requirement for prior sanction under Section 17A. They contend that even if a Section 156(3) direction is not seen as taking cognizance, it still must adhere to the principle established in the Anil Kumar v. Ayyappa case. In this case, the Supreme Court ruled that prior sanction is necessary for a Special Judge to forward a complaint under Section 156(3) CrPC.

The advocates warn that bypassing the need for prior sanction could lead to misuse of Section 156(3), allowing individuals to circumvent the protective measures of Section 17A by seeking a direction under Section 156(3) instead.

Court's Considerations

During the proceedings, Justice Pardiwala raised a crucial question: If a Special Court directs an investigation under Section 156(3), would subsequent approval under Section 17A still be necessary? He reflected on how the approving authority might approach such a request and noted that if an investigation is ordered by a Special Court, the authority might have limited discretion in granting or denying the sanction.

Broader Implications

The case touches on several related legal issues that are pending before larger benches of the Supreme Court. One key issue is whether Section 17A applies retrospectively to offenses committed before the 2018 amendment that introduced this section. This question, highlighted in the Chandrababu Naidu case, is still awaiting resolution.

Case of the Week: Grant v Australian Knitting Mills

Court: High Court of Australia

Citation: [1933] HCA 35

Facts of the case:

- Dr. Grant purchased woolen underwear manufactured by Australian Knitting Mills from a retailer.
- After wearing the underwear, Grant developed severe dermatitis due to excess sulphites present in the garments.
- Grant sued both the retailer and the manufacturer for negligence and breach of implied warranty.

Held:

With Respect to Sales of Goods Act

1. Implied conditions: The case reinforced the concept of implied conditions under the Sale of Goods Act, specifically regarding fitness for purpose and merchantable quality. The court held that the retailer was liable for breach of the implied condition that the goods would be reasonably fit for their purpose under Section 14 of the Sale of Goods Act.
2. Liability of retailers: It established that retailers can be held liable for breaches of implied warranties or conditions under the Sale of Goods Act, even if they are not the manufacturers of the product.
3. Goods bought by description: The case clarified that goods can be considered "bought by description" under the Act even when specific items are shown to the buyer, as long as they are described in a certain way (e.g., as woolen underclothing).
4. Consumer protection: While primarily a negligence case, it strengthened consumer protection principles that are reflected in modern sale of goods legislation.
5. Manufacturer liability: Although not directly related to the Sale of Goods Act, the case extended manufacturer liability in a way that influenced later consumer protection laws and regulations related to product sales.
6. Latent defects: The case dealt with latent defects in goods, which is an important concept in sale of goods law regarding the quality and fitness of products sold.
7. Duty of care: While primarily a tort law concept, the duty of care established in this case has implications for how sellers and manufacturers are expected to ensure the safety and quality of goods sold under sale of goods legislation.

With Respect to Negligence (Torts)

1. Manufacturers can be held liable for negligence if latent defects in their products cause injury to consumers.
2. Manufacturers owe a duty of care to consumers to take reasonable care in producing goods that may cause injury if defective.
3. The mere possibility of third-party tampering does not absolve manufacturers of liability for latent defects.

Repeated PYQ

Q. How is the rule of 'absolute liability' different from 'strict liability'? Cite the relevant judgements.(15 Marks, 2022)

The rules of 'absolute liability' and 'strict liability' are two important principles in tort law that deal with liability for hazardous activities, but they differ in key aspects:

Strict Liability (Rule in Rylands v. Fletcher):

The rule of strict liability was established in the landmark case of Rylands v. Fletcher (1868). Under this rule, a person who keeps hazardous substances on their land is liable for any damage caused if those substances escape, even without proof of negligence. However, there are certain recognized defenses available:

1. Act of God
2. Act of a third party
3. Plaintiff's own fault
4. Consent of the plaintiff
5. Statutory authority

The defendant can escape liability if they can prove any of these defenses.

Absolute Liability:

The principle of absolute liability was laid down by the Supreme Court of India in M.C. Mehta v. Union of India (1987), also known as the Oleum Gas Leak case. This rule imposes a more stringent form of liability than strict liability. The key features are:

1. It applies to enterprises engaged in hazardous or inherently dangerous activities.
2. The enterprise is absolutely liable to compensate for harm caused by its activities.
3. The liability is not subject to any of the exceptions under the strict liability rule.
4. The enterprise cannot claim any defense to escape liability.

The court held that this rule is more appropriate for hazardous industries in a developing economy like India.

Key Differences:

1. Defenses: Strict liability allows certain defenses, while absolute liability does not permit any exceptions.
2. Scope: Absolute liability applies specifically to hazardous industries, while strict liability has a broader application.
3. Quantum of Damages: Under absolute liability, the compensation amount must be correlated to the magnitude and capacity of the enterprise.
4. Social Benefit: The absolute liability rule considers the ability of such enterprises to absorb the cost of accidents as part of their overhead expenses.

Both rules impose liability without the need to prove negligence, absolute liability is a more stringent principle that offers no escape routes for hazardous enterprises. This evolution in tort law reflects the need for stronger deterrence and victim compensation in cases involving dangerous industrial activities.