

Weekly Update for Law optional UPSC

A mix of Conceptual, Current/Contemporary Topics

Date: 5th - 11th Feb 2024

1. Supreme Court Reserves Judgment on AMU Minority Status Case.....	1
2. Air India Held Liable for Deficient Services.....	2
3. Supreme Court Clarifies Contempt of Court.....	3
4. Delhi High Court Upholds Decision on Arbitration Application.....	3
5. Supreme Court Criticises National Green Tribunal.....	4
6. Case of the Week.....	4
7. Repeated PYQ.....	5

1. Supreme Court Reserves Judgment on AMU Minority Status Case

A Constitution Bench of the Supreme Court has recently reserved judgement on the case concerning the minority status of the Aligarh Muslim University (AMU). The AMU, established in 1920 through the AMU Act, has been recognized constitutionally as an "Institution of National Importance" under Entry 63 of List I. The minority status of AMU has been a contentious issue, sparking legal battles and nuanced arguments surrounding its establishment and administration.

Background:

The legal saga surrounding the minority status of AMU can be traced back to various legal antecedents and amendments to the AMU Act. Notably, the 1981 Amendment Act redefined the university's identity, stirring debates about its historical foundation and the intent behind the legislative changes.

Legal Antecedents:

- **Azeez Basha v. Union of India:** The 1967 Supreme Court ruling initially deemed AMU as a non-minority institution, emphasising its establishment under a Pre-Constitutional Statute.
- **1981 Amendment Act:** This amendment redefined the university's identity, incorporating elements to recognize its historical antecedents and the role of the Muslim community in its establishment.
- **AMU v. Malay Shukla:** The 2006 Allahabad High Court judgement challenged the reservation policies of AMU, reigniting debates about its minority status.

Arguments Before the Constitution Bench:

During the recent hearings, a series of arguments were presented by both petitioners and the Centre:

- **Correctness of Azeez Basha Case:** Petitioners questioned the applicability of the Basha ruling in the current context, highlighting the distinctive Muslim identity of AMU.
- **Twin Test of Establish and Administer Under Article 30:** Arguments centred on the interpretation of Article 30, particularly regarding the establishment and administration of minority institutions.
- **Concept of 'Minority' Before and After the Constitution:** Debates arose concerning the historical context and sociopolitical dynamics surrounding the concept of minority status.

- Political Inclination of AMU Founders: Arguments were made regarding the relevance of the founders' political allegiance in determining minority status.
- **Conferment of Minority Status to Institutions of National Importance:** Concerns were raised about the compatibility of minority status with institutions recognized as "Institutions of National Importance."

Observations from the Bench:

Throughout the hearings, the bench made several key observations:

- **Interpretation of Article 30:** The bench delved into the nuances of Article 30, particularly regarding the establishment and administration of minority institutions.
- **Constitutional Rights vs. Statutory Rights:** Cautionary remarks were made regarding the primacy of constitutional rights over statutory provisions.
- **Parliament's Law-Making Power:** The bench emphasised the unfettered law-making powers of Parliament, cautioning against arguments that could undermine legislative authority.
- **Establishment Under Imperial Statute:** The historical context of the AMU Act's establishment was considered, challenging interpretations that equated it with the surrender of minority status.

2. Air India Held Liable for Deficient Services

Air India, the national carrier, faced legal repercussions as the District Consumer Disputes Redressal Commission-I, U.T. Chandigarh ("District Commission") found them liable for deficient services. Mr. Rajesh Chopra and Mrs. Gamini Chopra filed a complaint against Air India after enduring discomfort during their business class flight from New York to New Delhi.

Case Details:

The Complainants paid a substantial sum for business class tickets, expecting a comfortable journey. However, broken seats in the aircraft forced them to use stools for support during the 14-hour flight. This resulted in Mr. Chopra experiencing excessive swelling and pain in his feet, exacerbating his medical condition.

Despite attempts to address their concerns directly with Air India and through legal notices, the airline's response was unsatisfactory. Air India did not appear before the District Commission, leading to proceedings being held ex-parte.

Observations by the District Commission:

The District Commission examined evidence provided by the Complainants, including ticket receipts, boarding passes, photographs, medical records, and correspondence with Air India. These documents established that the Complainants had purchased business class tickets but were provided with defective seats, leading to physical discomfort and medical issues.

Decision:

The District Commission held Air India liable for deficiency in services for failing to provide the services for which the Complainants had paid. As a result, Air India was directed to pay compensation of ₹50,000/- to the Complainants for the mental agony and harassment endured during the flight, along with ₹10,000/- to cover litigation costs.

3. Supreme Court Clarifies Contempt of Court

In ***SRI L.V. SUBRAHMANYAM, IAS, PRINCIPAL SECRETARY, MEDICAL AND HEALTH DEPARTMENT, GOVERNMENT OF ANDHRA PRADESH VERSUS THE REGISTRAR GENERAL, HIGH COURT OF JUDICATURE AT HYDERABAD***, the Supreme Court clarified the criteria for determining contempt of court, emphasising that mere delay in complying with court orders does not constitute contempt unless deliberate or willful defiance is proven. The case involved an IAS officer who was fined by the High Court for delayed compliance with a court order, a decision that was challenged in the Supreme Court.

The case pertained to an IAS officer who was fined by the High Court for a delayed compliance with a court order. The officer challenged this decision in the Supreme Court, arguing against being convicted for contempt of court due to a delay in compliance.

Supreme Court's Observations:

The bench of Justices B.R. Gavai, Sudhanshu Dhulia, and Sandeep Mehta observed that mere delay in complying with court orders does not automatically amount to contempt of court. They emphasised that unless deliberate or willful defiance is evident, the provisions of the Contempt of Courts Act would not apply.

The Supreme Court highlighted that contempt proceedings are quasi-judicial in nature, requiring careful consideration of intent and circumstances. They noted that in this case, as the delay in compliance was not deliberate or willful, the officer should not have been convicted for contempt.

In light of these observations, the Supreme Court allowed the officer's appeal and set aside the High Court's order imposing the fine for contempt of court.

This ruling provides clarity on the scope of contempt of court and highlights the importance of intent in determining such cases. It reaffirms the principle that contempt proceedings should be approached judiciously, with a focus on the presence of deliberate defiance rather than mere delay in compliance.

4. Delhi High Court Upholds Decision on Arbitration Application

The Delhi High Court recently upheld a decision regarding an application under Section 8(1) of the Arbitration and Conciliation Act, 1996 ("Arbitration Act"). The case, titled ***Ranjana Bhasin vs Surender Singh Sethi & Ors.***, involved a dispute over accounts reconciliation, debt recovery, and interest claims initiated by Surender Singh Sethi against Ranjana Bhasin before the Commercial Court.

Case Details:

Surender Singh Sethi filed a civil suit against Ranjana Bhasin in April 2022, which led to deemed service of summons after Bhasin refused to accept them. Bhasin then engaged legal representation and filed a memo of appearance before the Commercial Court but missed the deadline for submitting written submissions. Subsequently, Bhasin filed an application under Section 8(1) of the Arbitration Act, seeking referral to arbitration, which was rejected by the Commercial Court. Bhasin then appealed this decision before the Delhi High Court.

High Court's Observations:

The Delhi High Court rejected Bhasin's argument that the time limit for submitting written submissions and an application under Section 8 of the Arbitration Act should commence from a

point of meaningful service. It noted that Bhasin's refusal of summons resulted in deemed service, and her application under Section 8 was lodged more than three months after receiving the plaint and accompanying documents.

Precedent Cited:

The High Court referred to its decision in **SPML Infra Ltd Vs. M/s Trisquare Switchgears Pvt Ltd**, highlighting that applications under Section 8 should be made promptly. It emphasised that delaying arbitration proceedings until after legal proceedings have progressed beyond the initial stage would not be permissible. Thus, the Commercial Court's rejection of Bhasin's application under Section 8(1) of the Arbitration Act was upheld.

5. Supreme Court Criticises National Green Tribunal

In *Veena Gupta and another v. Central Pollution Control Board and others*, The Supreme Court recently criticised the National Green Tribunal (NGT) for its practice of passing ex parte orders and imposing damages without due process. The judgement, authored by Justice PS Narasimha, highlighted concerns regarding the NGT's unilateral decision-making, emphasising the need for procedural integrity to balance justice and due process.

Key Points:

- The Supreme Court expressed discontent with the NGT's recurrent engagement in unilateral decision-making, noting that ex parte orders and imposition of damages have become a prevailing norm.
- The Court underscored the importance of procedural integrity, stating that the NGT must tread carefully to avoid overlooking propriety in its zealous quest for justice.
- These observations emerged during the hearing of two appeals challenging the NGT's orders, where the Tribunal passed ex parte orders against the appellants without issuing notices or providing an opportunity to contest the matter.
- The Supreme Court noted that the appellants were not given a full opportunity to contest the case, and the NGT did not find it necessary to verify the facts before passing its orders.
- The Court set aside the impugned orders and remanded the matter back to the NGT, emphasising that the Tribunal should hear the case uninfluenced by its previous orders.

6. Case of the Week

Jarvis v Swan Tours

Jarvis v Swan Tours Ltd [1973] EWCA Civ 8 is a leading case in English contract law that focuses on the assessment of damages for disappointment and distress in breach of contract cases, particularly in the context of holiday contracts. The case was heard by the Court of Appeal of England and Wales.

The plaintiff, Mr. Jarvis, was a solicitor who booked a two-week holiday in Switzerland through Swan Tours, a tour operator. The brochure promised a "house party" atmosphere with various activities and amenities, including a welcome from a representative, skiing with other guests, and some evening entertainment. However, the holiday experience significantly fell short of these promises. The second week of the holiday was particularly disappointing, as Mr. Jarvis found himself to be the only guest at the hotel, and many of the promised activities and amenities were either not provided or were substandard.

Feeling that the holiday did not match the descriptions and promises made in the brochure, Mr. Jarvis brought a claim against Swan Tours for breach of contract, seeking damages not only for the financial loss but also for the disappointment and distress he experienced.

The court had to consider whether damages for disappointment and distress could be awarded in a breach of contract case; traditionally, damages in contract law were limited to financial loss and did not cover non-pecuniary losses such as distress and disappointment.

Lord Denning MR, delivering the leading judgement, held that in certain contracts, especially those related to leisure, holidays, or entertainment, which are meant to provide enjoyment, relaxation, or pleasure, the courts can award damages for non-pecuniary losses such as disappointment and distress when the purpose of the contract is frustrated. This case was significant because it recognized that some contracts have a personal or social value beyond the financial, and breach of such contracts can cause real suffering that deserves compensation.

Mr. Jarvis was awarded damages that included an amount for the disappointment and distress he suffered, in addition to the financial loss. This case has been influential in the development of English contract law, particularly in the treatment of damages for non-pecuniary loss. It established a precedent that, under certain circumstances, individuals could recover damages for the emotional impact of a breach of contract, expanding the scope of compensable losses in contract law.

7. Repeated PYQ

Explain the concept of Plea Bargaining under the CrPC. In what cases is plea bargaining not available?

Plea bargaining, introduced into the Indian Criminal Justice System through the Criminal Law (Amendment) Act, 2005, which amended the Code of Criminal Procedure, 1973 (CrPC), represents a significant legal reform aimed at expediting the disposal of criminal cases and reducing the burden on courts. Plea bargaining in India is encapsulated under Sections 265A to 265L of the CrPC, offering an alternative method for resolving criminal cases by allowing the accused to negotiate for a lesser sentence in exchange for a guilty plea.

Evolution of Plea Bargaining in India

The concept of plea bargaining in India has undergone a significant transformation, particularly with its formal introduction into the legal system through amendments to the Code of Criminal Procedure, 1973 (CrPC). Before its legislative endorsement, the Supreme Court of India had expressed reservations regarding plea bargaining, considering it contrary to public policy and detrimental to the administration of justice.

Murlidhar Meghraj Loya v. State of Maharashtra

In the landmark case of Murlidhar Meghraj Loya v. State of Maharashtra, the Supreme Court critically viewed the concept of plea bargaining. The Court underscored the incompatibility of negotiated settlements in criminal justice within the Indian jurisdiction, especially concerning grave economic and food-related offences. The judgement highlighted the potential for plea bargaining to undermine legislative mandates, particularly those specifying minimum sentences, thus adversely affecting societal interests.

Kasambhai Abdul Rehman Bhai Sheikh v. State of Gujarat

The scepticism towards plea bargaining extended further in *Kasambhai Abdul Rehman Bhai Sheikh v. State of Gujarat*, where the Supreme Court explicitly deemed the practice unconstitutional and illegal. The Court warned that plea bargaining could foster corruption, collusion, and contaminate the justice system, emphasising the principle of delivering untainted justice.

Uttar Pradesh v. Chandrika

In *Uttar Pradesh v. Chandrika*, the Supreme Court reaffirmed its position against plea bargaining. It clarified that the acceptance of guilt by the accused should not lead to a reduction in sentence, nor should it allow the accused to negotiate terms with the judiciary. This ruling underscored the Court's commitment to ensuring that sentences reflect the gravity of the offence without compromise.

Despite the Supreme Court's initial resistance, the growing backlog of criminal cases and the prolonged delays in their disposal necessitated a reevaluation of the judicial process. The recommendations of the Malimath Committee played a pivotal role in this shift, leading to the introduction of Chapter XXI-A in the CrPC, which formalised the process of plea bargaining.

Introduction to Plea Bargaining in India

Plea bargaining, introduced into the Indian Criminal Justice System through the Criminal Law (Amendment) Act, 2005, which amended the Code of Criminal Procedure, 1973 (CrPC), represents a significant legal reform aimed at expediting the disposal of criminal cases and reducing the burden on courts. Plea bargaining in India is encapsulated under Sections 265A to 265L of the CrPC, offering an alternative method for resolving criminal cases by allowing the accused to negotiate for a lesser sentence in exchange for a guilty plea, thus foregoing the right to a trial.

Legal Provisions and Conditions

Sections 265A to 265L of the CrPC lay down the legal framework and procedural guidelines for plea bargaining. This includes eligibility criteria for the accused, types of offences for which plea bargaining can be applied, the procedure to be followed, and the final disposal of the case. The law specifies that the court must ensure the plea is voluntarily made and should follow the prescribed procedure to determine the quantum of punishment or the terms of the agreement.

Procedure for Plea Bargaining**A. Application Phase**

Initiation by the Accused: An accused willing to enter into plea bargaining must file an application in the court handling their case. This application should include case details and be accompanied by an affidavit. The affidavit must affirm that:

- ❖ The application is made voluntarily,
- ❖ The accused comprehends the nature and implications of the sentence, and
- ❖ The applicant has not been previously convicted for the same offence.

Court's Preliminary Actions: Upon receiving the application and affidavit, the trial court issues notices to the public prosecutor (or complainant) and the accused, scheduling a date for appearance.

In-camera Examination: The court conducts an in-camera (private) examination of the accused to verify the voluntariness of the application and the eligibility for plea bargaining.

Application Rejection: If the court finds the application to be involuntary or discovers prior convictions for the same offence, it rejects the application. Consequently, the case reverts to regular trial proceedings.

B. Process for Reaching a Mutually Satisfactory Disposition

Section 265(C) of the CrPC outlines steps to achieve a mutually satisfactory case resolution, which includes:

For Police-Reported Cases: Notification is sent to the Public Prosecutor, investigating officer, accused, and victim to engage in a meeting aimed at resolving the case satisfactorily. The accused's legal representative may also participate.

For Other Cases: Notices are dispatched to the accused and the victim, encouraging their involvement in a meeting to discuss case resolution. Legal representatives of either party can join upon request.

In both instances, the court ensures the voluntary nature of the discussions and agreements reached.

C. Bargaining/Negotiation Phase

- ❖ This stage is initiated once the court confirms that:
- ❖ The accused has no prior convictions for the same crime,
- ❖ Is of legal adult age (above 18 years),
- ❖ Understands the charges and the potential sentence.
- ❖ The court then allocates time for the public prosecutor (or complainant/victim) and the accused to negotiate a satisfactory case disposition. This might include compensation to the victim and other agreements. A future hearing date is set to review the negotiation outcomes.

D. Examination and Reporting

Following negotiations, the court compiles a report documenting the agreement, endorsed by all negotiation participants. If no agreement is reached, the court notes this and resumes the case from the point of application filing.

E. Final Judgment

- ❖ When a satisfactory case resolution is achieved, the court:
- ❖ Awards compensation to the victim as per the agreement,
- ❖ Considers the parties' views on sentencing, possibly releasing the accused on probation or under the Probation of Offenders Act, 1958,
- ❖ May impose a sentence reduced to half of the minimum prescribed by law, or
- ❖ For offences without a stipulated minimum sentence, may reduce the sentence to one-fourth of the maximum penalty.

Exclusion of Certain Cases from Plea Bargaining

Plea bargaining is not universally applicable to all criminal cases. The CrPC explicitly excludes certain categories of cases from the ambit of plea bargaining:

- ❖ **Offences Affecting Socio-Economic Conditions:** Cases where the offence affects the socio-economic condition of the country are not eligible for plea bargaining. This exclusion is aimed at deterring crimes that have a wide-ranging impact on society and the nation's economy.
- ❖ **Offences Committed Against Women and Children:** Crimes against women and children, including rape, sexual assault, molestation, and abuse, are excluded from plea

bargaining to ensure stringent punishment for offenders and to uphold the rights and dignity of vulnerable groups.

- ❖ **Offences Punishable with Death, Life Imprisonment, or Imprisonment Exceeding Seven Years:** Serious offences that entail severe punishments such as death, life imprisonment, or a term exceeding seven years are not eligible for plea bargaining. This exclusion underscores the legal system's intent to treat heinous crimes with the utmost severity.

Plea bargaining in India represents a pragmatic approach to addressing the challenges of judicial delays and case backlogs. By excluding serious offences from its scope, the legal framework ensures that the mechanism is used judiciously, balancing the need for speedy justice with the imperative of delivering appropriate punishment for grave crimes.