

Weekly Update for Law optional UPSC

A mix of Conceptual, Current/Contemporary Topics

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1. ICJ Advances Ukraine's Case

In a significant development, the International Court of Justice (ICJ) has granted partial progress to Ukraine's case against Russia, which alleges that Moscow falsely accused Kyiv of genocide as a pretext for the 2022 invasion. However, the ICJ ruled that it would not address whether Russia violated the 1948 Genocide Convention by employing alleged trumped-up genocide charges as a justification for the war, despite the possibility of the invasion breaching broader international law. Instead, the case will move forward to assess whether Ukraine committed genocide in eastern parts of the country, as claimed by Russia. Judges determined they have jurisdiction over this matter.

Russian President Vladimir Putin's rationale for ordering the invasion on February 24, 2022, included the assertion that pro-Russian individuals in eastern Ukraine had endured "bullying and genocide by the Kyiv regime."

Ukraine subsequently filed a lawsuit with the ICJ, vehemently denying these allegations and arguing that Russia's use of "genocide" as a pretext for invasion contravened the Genocide Convention.

The ICJ's ruling, delivered by its president, Joan Donoghue, stated, "In the present case, even if the Russian Federation had, in bad faith, alleged that Ukraine committed genocide and taken certain measures against it under such a pretext, which the respondent [Ukraine] contends, this would not in itself constitute a violation of obligations" under the genocide convention.

The ICJ, often referred to as the World Court, clarified that it lacked jurisdiction to determine whether Russia's invasion violated the Genocide Convention or whether Moscow's recognition of Donetsk and Luhansk, two breakaway republics in eastern Ukraine, amounted to a breach of the convention.

Nevertheless, the judges conceded Ukraine's request for the court to establish that there was no "credible evidence that Ukraine is committing genocide in violation of the Genocide Convention" in eastern Ukraine.

2. Supreme Court Grants Rs. 2 Lakh Compensation to 84-Year-Old

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P.C. JAIN VERSUS DR. R.P. SINGH

In a momentous ruling, the Supreme Court has restored faith in justice by granting an 84-year-old man, P.C. Jain, the compensation he rightfully deserves. The court directed Dr. R.P. Singh, the responsible doctor, to pay Rs. 2 lakhs to Mr. Jain for a severe loss of vision resulting from medical negligence during a surgical procedure.

The Battle for Justice: P.C. Jain vs. Dr. R.P. Singh

P.C. Jain's relentless pursuit of justice began with a consumer complaint against Dr. R.P. Singh, seeking reparation for the tragic loss of his left eye's vision. Years of legal battles across various consumer forums culminated in a significant decision by the National Consumer Dispute Redressal Commission (NCDRC), granting compensation to the aggrieved patient.

Supreme Court's Compassionate Verdict

Mr. Jain appealed to the Supreme Court after the NCDRC's ex-parte order left him without the compensation he was entitled to. Justices B.R. Gavai and Sandeep Mehta, presiding over the case, took swift action. They noted the absence of compensation and ordered Dr. R.P. Singh to pay Rs. 2 lakhs with a 12% annual interest rate within two months. Failure to meet this deadline would escalate the interest rate to 15% per annum.

Furthermore, the Supreme Court rebuked the NCDRC for its cavalier handling of Dr. R.P. Singh's review petition, filed without notifying the complainant. As a consequence, a penalty of Rs. 50,000 was imposed on Dr. R.P. Singh, aimed at rectifying his false representation that the compensation had been disbursed. This penalty amount is to be paid directly to the complainant, sealing the victory for P.C. Jain in his pursuit of justice.

3. Consent in Rape Cases Involving False Marriage Promises

In the **case of SHEIKH ARIF VERSUS THE STATE OF MAHARASHTRA & ANR**, the Supreme Court has issued a significant ruling, emphasizing the pivotal role of genuine consent in rape cases where false promises of marriage are involved. Drawing from the precedent set in the case of Anurag Soni v State of Chhattisgarh (2019) 13 SCC 1, the court unequivocally asserted that if a woman's consent is founded upon a deceitful promise of marriage right from the beginning, such consent is invalid, thereby establishing the offense of rape.

The Case's Genesis: A Battle Against the Bombay High Court Decision

This case emerged as an appeal lodged by a man challenging the decision of the Bombay High Court, which refused to dismiss the rape charges against him. The prosecution contended that a physical relationship had spanned four years (2013-2017) between the man and a woman under the belief that they would marry. However, in 2018, the woman discovered the man's engagement to another woman, prompting her to file an FIR, asserting that her consent had been secured through a false promise of marriage.

The man's defence countered by asserting that he had indeed married the complainant-woman in 2017, presenting a 'nikahnama' (marriage certificate) as evidence.

Supreme Court's Verdict: A Thorough Examination of Evidence

The Supreme Court meticulously reviewed the evidence and found that the woman was of legal age (over 18) when she consented to the physical relationship. Furthermore, she did not raise any objections to the relationship throughout the four-year duration.

The court, however, was not convinced that the woman had solely maintained the physical relationship due to the man's promise to marry. The fact that she participated in an engagement ceremony without protest raised questions about the authenticity of her claim.

Crucially, the 'nikahnama' presented by the man was scrutinised, leading the court to conclude that there was substantial proof of the marriage between the two parties.

4. Criminal Defamation Case Against Newspaper Owner Quashed

SANJAY UPADHYA VERSUS ANAND DUBEY

In a landmark verdict, the Supreme Court has put its weight behind the fundamental right to freedom of speech and expression by quashing a criminal defamation case against the owner of 'Sunday Blast,' a prominent daily newspaper in Madhya Pradesh. The case centred around a 2013 article titled "Advocate ne pan masala vyavasayi par karaya jhuta mamla darj" (Advocate files false case against Pan Masala trader), which allegedly defamed an advocate. Despite initial rejection by the Judicial Magistrate, the complaint gained traction after being restored by the Sessions Court and subsequently upheld by the Madhya Pradesh High Court. The accused newspaper owner ultimately sought justice from the Supreme Court.

Unfolding of the Case:

The origins of this case trace back to the publication of an article in 2013, which led to a criminal defamation case against the newspaper owner.

Initially, the Judicial Magistrate had dismissed the complaint, recognizing the paramount importance of the fundamental right to freedom of speech and expression enshrined in Article 19(1)(a) of the Constitution.

However, the Sessions Court's decision to reinstate the complaint, followed by its endorsement by the Madhya Pradesh High Court, prompted the accused to escalate the matter to the Supreme Court.

Supreme Court's Verdict: A Resounding Defence of Freedom of Expression

The Supreme Court, comprising Justices BR Gavai and Sandeep Mehta, sided with the Magistrate's stance that the news article had been published in good faith and represented the exercise of the fundamental right to freedom of speech and expression.

The court underlined that the Magistrate's decision was both lawful and justified, leaving no room for interference by the Sessions Court or the High Court.

As a result of this pivotal ruling, all proceedings stemming from the complaint filed under Section 500 of the Indian Penal Code, 1860, were quashed, vindicating the accused appellant and reinforcing the significance of free speech in the Indian democracy.

5. Blueprint for Strengthening Environmental Rule of Law

IN RE: T.N. GODAVARMAN THIRUMULPAD VERSUS UNION OF INDIA

In a groundbreaking development, the Supreme Court of India has charted a comprehensive roadmap for environmental bodies, authorities, and regulators to effectively uphold the principles of environmental rule of law within the nation's environmental governance framework. These pivotal guidelines are designed to fortify the conservation of forests, wildlife, and the environment as a whole. Additionally, the Supreme Court endorsed a notification from the Ministry of Environment, Forest and Climate Change, issued on September 5, 2023, which formally established the Central Empowered Committee (CEC) as a permanent body entrusted with the monitoring and enforcement of orders related to environmental, forest, and wildlife matters. This landmark judgement underscores the vital importance of institutional transparency, efficiency, and accountability within the domain of environmental governance.

Key Tenets Envisioned by the Supreme Court:

- **1. Composition and Qualifications:** The Supreme Court underscores the need for precise specifications regarding the composition, qualifications, tenure, method of appointment, and removal of members within environmental bodies. It calls for the inclusion of staff possessing requisite knowledge and technical expertise to ensure the effective functioning of these entities.
- **2. Funding and Finances:** It is imperative that environmental authorities and bodies receive adequate funding, and their financial operations remain transparent and assured.
- **3. Mandate and Role:** Clearly defined roles and responsibilities for each authority and body are essential to prevent redundancy and overlapping duties. Coordinated efforts should be guided by established protocols.
- **4. Publication of Rules and Guidelines:** To enhance accessibility, rules, regulations, and guidelines should be made readily available, including in regional languages where feasible. In cases where authorities lack the power to frame rules, comprehensive guidelines must be issued.
- **5. Detailed Procedures:** Explicitly stated procedures for the submission of applications, consideration, and the granting of permissions, consents, and approvals are vital.
- **6. Public Participation:** Establishing norms for public hearings, the decision-making process, the right to appeal, and adherence to timelines will promote inclusivity and transparency.
- **7. Accountability:** Duties and responsibilities allocation should be lucidly outlined, with periodic systematic audits of the functioning of authorities becoming a norm.

This landmark judgement emanated from the long-standing TN Godavarman Thirumulpad case, a legal saga commencing in 1995, where the Supreme Court has issued numerous orders aimed at safeguarding the environment. In this particular verdict, the court addressed two primary aspects: the institutionalisation and reconstitution of the CEC, along with the functionality of authorities responsible for environmental preservation.

With regard to the CEC, the court welcomed the Central government's notification that conferred permanent status, thus resolving concerns about its ad-hoc nature. Nonetheless, the court concurrently mandated that the CEC takes measures to enhance transparency and efficiency in its operations.

On the second aspect, the court placed significant emphasis on instilling the rule of law into environmental governance. It underscored the pivotal role of constitutional courts in ensuring that environmental bodies and regulators adhere to institutional norms encompassing efficiency, integrity, and predictability.

6. Case of the Week

Yakub Abdul Razak Memon vs State Of Maharashtra

Facts:

Yakub Abdul Razak Memon was convicted for his involvement in the 1993 Bombay bombings, a series of 13 bomb explosions that took place in Mumbai, resulting in over 250 fatalities and hundreds injured. Memon was charged with criminal conspiracy, aiding and abetting and facilitating a terrorist act, illegal possession and transportation of arms and explosives, and disruptive activities under the Terrorist and Disruptive Activities (Prevention) Act (TADA), the Indian Penal Code, the Explosive Substances Act, and the Prevention of Terrorism Act.

Issue:

The primary issue revolved around the legality of Memon's conviction and death sentence. Key points of contention included the admissibility of confessional statements under TADA, the extent of Memon's involvement in the conspiracy, and the application of the death penalty.

Judgement:

The Supreme Court, in its detailed judgement, upheld the conviction and death sentence of Yakub Memon. The Court observed that Memon played a vital role in the execution of the bomb blasts, considering his direct involvement in the planning, procurement of explosives, and arrangement of vehicles for the bombings. The Court found the confessional statements admissible and reliable, emphasising that they were voluntary and corroborated by other evidence.

The Court also delved into the appropriateness of the death penalty in this case, noting that Memon's actions fell within the 'rarest of rare' category, warranting the capital punishment. It was observed that the magnitude of his actions caused substantial national harm, not just in terms of human loss but also in the terror it instilled, thereby justifying the death sentence.

7. Repeated PYQ

Q.: The principle of passing off in an action has been extended to the use of false trade description. Explain the conditions for a successful passing off action and the defence available to the opposite part.

The principle of passing off, originating as an action in tort, is pivotal in safeguarding commercial goodwill and ensuring that a business's reputation is not unjustly exploited or encroached upon. This principle has evolved to encompass not only direct misrepresentation of goods but also extends to the use of false trade descriptions, including slogans, visual images, and trademarks.

Conditions for a Successful Passing Off Action**Misrepresentation**

A core element in a passing-off action is the presence of misrepresentation. This involves a situation where one party misrepresents their goods or services as those of another, leading to confusion among consumers. The misrepresentation must be made in the course of trade and aimed at prospective customers.

Damage to Goodwill

The plaintiff must demonstrate that such misrepresentation has caused, or is likely to cause, actual damage to their business or goodwill. Goodwill refers to the positive reputation that adds value to a business.

Distinctiveness and Recognition

For a successful claim, the plaintiff must prove that their trademark or trade dress has acquired a distinctive character recognized by the market. This was highlighted in cases like **Bollinger and John Walker v. Henry Ost & Co Ltd**, where the distinctiveness of the product's presentation was crucial.

Prior Use and Reputation

The plaintiff needs to establish prior use of the trademark or trade dress in question. They must demonstrate that their goods are identified by the trademark, and its use by the defendant could cause significant damage and confusion.

Defences in Passing Off Actions**Truthful Description**

A possible defence for the defendant is proving that their description or use of the mark is truthful and not intended to deceive or confuse the public. However, this defence is narrow and does not hold if the truth is mixed with misleading elements.

Dissimilarity and Lack of Confusion

The defendant may argue that there is a clear distinction between their product and the plaintiff's, such that an average consumer would not be confused. This was evident in cases like the '**Bata Shoe Company**' case, where the distinction between the products played a role in the court's decision.

Independent Creation

If the defendant can demonstrate that their trademark or trade dress was independently created without the intention to copy or exploit the plaintiff's goodwill, this could serve as a valid defence.