




REPORTABLE JUDGMENTS OF THE SUPREME COURT OF INDIA
IN FEBRUARY 2022

REPORTABLE JUDGMENTS AUTHORED BY:	CASE DETAILS	AREA OF LAW / RATIO / HELD
 <p>Hon'ble Mr. Justice N. V. Ramana, The Chief Justice Of India.</p>	<p>Future Coupons Private Limited & Ors. v. Amazon.com NV Investment Holdings LLC & Ors.</p> <p>Date: 01.02.2022 Bench Strength: 3 Judges</p>	<p><u>Arbitration Law - Amazon-Future Group Disputes:</u></p> <p>The Supreme Court set aside Orders of the Delhi High Court which (i) directed the parties to maintain <i>status quo</i> and (ii) attached the assets of the Future Group, on the ground of non-compliance of the principles of natural justice. It was held that natural justice is an important facet of judicial review. Providing effective natural justice to affected parties, before a decision is taken, is necessary to maintain the Rule of law.</p> <p>It was held that it is expected of the Courts to be cautious and afford a reasonable opportunity to parties, especially in commercial matters having serious impact on the economy and employment of thousands of people. It was concluded that, in this case, the opportunity provided to the Future Group was insufficient, and cannot be upheld in the eyes of law.</p> <p>Further, it was held that it is expected of Courts to be cautious while making observations on the merits of the case, which would inevitably influence the Arbitral Tribunals hearing the matters on merit.</p>
	<p>Future Coupons Private Limited & Ors. v. Amazon.com NV Investment Holdings LLC</p> <p>Date: 15.02.2022 Bench Strength: 3 Judges</p>	<p><u>Insolvency & Bankruptcy Code, 2016- Amazon-Future Group disputes:</u></p> <p>The Supreme Court granted liberty to the Future Group to approach the High Court by filing an application seeking continuation of the proceedings before the NCLT.</p> <p>Accordingly, the Single Judge of the High Court was requested to consider all contentions raised by the respective parties, and pass appropriate orders with respect to continuation of the NCLT proceedings.</p>

 <p>Hon'ble Mr. Justice Uday Umesh Lalit</p>	<p><u>Suryavir v. State of Haryana</u></p> <p>Date: 03.02.2022 Bench Strength: 2 Judges</p>	<p><u>Criminal law - Reversal of Conviction:</u></p> <p>The Supreme Court allowed the Appeal filed by the Appellant-Accused against his conviction u/S. 302 I.P.C., and S.25 of Arms Act, and consequently, acquitted him.</p> <p>It was held that the source of information of the assertions made in the F.I.R. with respect to the identity of the Accused was never disclosed at any juncture, nor any witness was examined by the prosecution to prove the same. In such a case, the assertions would not be adequate and trustworthy.</p> <p>Further, the Court noted that on an earlier occasion, a Special Leave Petition filed by a Co-Accused was dismissed at the admission stage without a reasoned order. In view of the acquittal of the Appellant in this case, the Court re-called its earlier order of dismissal of the SLP of the Co-Accused, and extended the benefit of the acquittal to him.</p>
 <p>Hon'ble Mr. Justice A. M. Khanwilkar</p>	<p><u>NKGSB Co-operative Bank Ltd. v. Subir Chakravarty & Ors.</u></p> <p>Date: 25.02.2022 Bench Strength: 2 Judges</p>	<p><u>Civil Law - Appointment of Advocate Commissioner under the SARFAESI Act:</u></p> <p>The Supreme Court held that the District Magistrate or the Chief Metropolitan Magistrate can appoint an Advocate Commissioner to assist in the execution of an Order passed u/S. 14(1) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002.</p> <p>While discussing the role and duties of lawyers, the Court opined that it is well established that an advocate is a guardian of constitutional morality and justice, equally with the Judge. He has an important duty as that of a Judge. He bears responsibility towards the society and is expected to act with utmost sincerity and commitment to the cause of justice. He has a duty to the Court first. As an officer of the Court, he owes allegiance to a higher cause, and cannot indulge in consciously misstating the facts, or conceal any material fact within his knowledge.</p>



**Hon'ble Dr. Justice
D. Y. Chandrachud**

[The State of Sikkim v. Jasbir Singh & Anr.](#)

Date: 01.02.2022
Bench Strength: 2 Judges

[Criminal Law - Jurisdiction of Criminal Courts:](#)

The Supreme Court, while allowing an Appeal filed by the State of Sikkim, held that a case involving charges of murder falls in the category where there is a concurrent jurisdiction between the Court-martial and the ordinary criminal Court, and that the Sessions Court was competent to exercise its jurisdiction under the Cr.P.C. The Court while reversing the Judgment of the High Court held that the consequence of the decision of the High Court was to foist an obligation on the Army Authorities to hold a Court-martial, despite a clear and unequivocal submission to the jurisdiction of the Sessions Court. Accordingly, the Court directed that the Trial be proceeded before the Sessions Court, and also directed transfer of the Accused / Respondent from military custody to civil custody to face trial.

[Subhash v. State of U.P.](#)

Date: 01.02.2022
Bench Strength: 3 Judges

[Criminal Law - Reversal of Conviction:](#)

The Supreme Court reversed the conviction of the Appellant u/S. 302 I.P.C. on the ground that there were material contradictions in the depositions of the two eye witnesses. The contradictions were of fundamental nature which go to the root of the case of the prosecution. Further, the Court also observed that the post-mortem report was not consistent with the case of the prosecution that all the Accused persons had fired at the deceased. Accordingly, the Court directed that the Accused persons be released forthwith, unless they are wanted in connection with any other case.

[The Surat Parsi Panchayat Board and Another v. Union of India and Others](#)

Date: 04.02.2022
Bench Strength: 2 Judges

[Civil Law - Disposal of dead bodies:](#)

The Supreme Court gave judicial recognition to a revised protocol for disposal of dead bodies of persons of Zoroastrian faith, who died due to COVID-19. The Court acknowledged that on the one hand, it had to protect the rights under Article 25 of the CoI, and on the other hand, was the concern of public health during the time of the pandemic. The Court, therefore, gave its *imprimatur* to the modified protocol agreed between the Appellant and the Union, which comports with the tenets of the Zoroastrian faith, while maintaining safety and hygiene in the context of the COVID-19 pandemic.

<p><i>Hon'ble Dr. Justice D. Y. Chandrachud</i></p>	<p><u>M/s Consolidated Construction Consortium Limited v. M/s Hitro Energy Solutions Private Limited.</u></p> <p>Date: 04.02.2022 Bench Strength: 3 Judges</p>	<p><u>Insolvency and Bankruptcy Code, 2016 - Limitation for an Application u/S.9 IBC:</u></p> <p>The Supreme Court reiterated its Judgment in <i>B.K. Educational Services (P) Ltd. v. Parag Gupta & Associates</i> (2019) 11 SCC 633, and held that limitation for filing an Application u/S. 9 IBC does not commence when the debt becomes due, but only when a default occurs. It was also held that a “purchaser” is an operational creditor, since an ‘operational debt’ will include a debt arising from a contract in relation to the supply of goods or services from the corporate debtor. Accordingly, the Court set aside the Order of the NCLAT, which dismissed the Application u/S. 9 filed by the Appellant.</p>
	<p><u>Sharafat Ali v. State of U.P. & Anr.</u></p> <p>Date: 10.02.2022 Bench Strength: 3 Judges</p>	<p><u>Criminal Law - Application for Premature Release:</u></p> <p>The Supreme Court was considering a writ petition against an Order of the State Government rejecting an application for premature release filed by the Petitioner, who had undergone 17 years, 9 months and 26 days in custody. The Court observed that the order rejecting the application for premature release contained general observations to the effect that the release may result in resentment on the side of the victim. However, the Court held that this is a general consideration which would govern virtually all criminal offences where a person stands convicted of a serious offence, as in the present case u/S. 302 r.w. S.34 I.P.C. The Court held that the order suffered from non-application of mind, and accordingly directed the State Govt. to consider the application for premature release afresh.</p>
	<p><u>Vodafone Idea Cellular Ltd. v. Ajay Kumar Agarwal</u></p> <p>Date: 16.02.2022 Bench Strength: 3 Judges</p>	<p><u>Consumer Protection - Jurisdiction of the Consumer Forum:</u></p> <p>The Supreme Court was considering whether the existence of a remedy u/S. 7B of Telegraph Act 1885 (which provides for reference of disputes to arbitration) ousts the jurisdiction of the consumer forum under the Consumer Protection Act, 1986. It was held that the remedy of arbitration under the Telegraph Act would not oust the jurisdiction of the consumer forum. An ouster of jurisdiction cannot be lightly assumed, unless express words are used, or such a consequence follows by necessary implication.</p>

<p><i>Hon'ble Dr. Justice D. Y. Chandrachud</i></p>		<p>It was held that it would be open to a consumer to opt for the remedy of arbitration, but there is no compulsion in law to do so, and it would be open to a consumer to seek recourse to the remedies provided under the Consumer Protection Act. The Court, accordingly, affirmed the judgment of the NCDRC, which held that the District Forum had jurisdiction to entertain a complaint against a telecom company.</p>
	<p>T. Takano v. Securities and Exchange Board of India & Anr.</p> <p>Date: 18.02.2022 Bench Strength: 2 Judges</p>	<p><u>Commercial Law - Disclosure of Material:</u></p> <p>The Supreme Court was considering a challenge to a show cause notice issued to the Appellant alleging a violation of the provisions of the SEBI (Prohibition of Fraudulent and Unfair Trade Practices) Regulations 2003. The Court held that the Investigation Report under Regulation 9 of the 2003 Regulations must be disclosed to the person to whom a notice to show cause is issued for alleged violations of the SEBI Act. It was held that the investigating authority is duty-bound to disclose such part of the Report which has a bearing on the action proposed to be taken against the person to whom the notice to show cause is issued, and disclose the same. It can redact information that impinges on the privacy of third parties. If the investigating authority attempts to circumvent its duty by revealing minimal information, to the prejudice of the person receiving the notice, it will be violation of principles of natural justice.</p>
	<p>Adiraj Manpower Services Pvt. Ltd. v. Commissioner of Central Excise Pune II</p> <p>Date: 18.02.2022 Bench Strength: 2 Judges</p>	<p><u>Service Tax - Exemption:</u></p> <p>The Supreme Court dismissed a challenge to a Judgment of the CESTAT, which held that the service provided by the Appellant to one Sigma was only a contract labour agreement, and not in the nature of job work services, as provided in an exemption notification. The Court held that the agreement between the parties was to be read as a composite whole. On reading the agreement as a whole, the Court concluded that it was apparent that the contract is pure and simple a contract for the provision of contract labour. An attempt was made to camouflage the contract as a contract for job work to avail of the exemption from the payment of service tax.</p>

<p><i>Hon'ble Dr. Justice D. Y. Chandrachud</i></p>	<p>Luckose Zachariah @ Zak Nedumchira Luke & Ors. v. Joseph Joseph and Ors.</p> <p>Date: 18.02.2022 Bench Strength: 2 Judges</p>	<p><u>Criminal Law - Charge-sheet / Cr.P.C.:</u></p> <p>The Supreme Court, while reiterating the decisions in <i>Vinay Tyagi Vinay Tyagi v. Irshad Alia alias Deepak</i> (2013) 5 SCC 762 and <i>Vinubhai Haribhai Malaviya v. State of Gujarat</i> (2019) 17 SCC 1, held that, it is necessary for the Magistrate, to have due regard to both the reports i.e. the initial report / Charge-sheet submitted under Section 173(2) Cr.P.C. as well as the supplementary report which was submitted after further investigation in terms of Section 173(8) Cr.P.C., to determine whether there is ground for presuming that the persons named as accused have committed an offence.</p>
	<p>Anju Kalsi v. HDFC Ergo General Insurance Company Limited and Another</p> <p>Date: 21.02.2022 Bench Strength: 2 Judges</p>	<p><u>Consumer Law - Insurance Claims:</u></p> <p>The Supreme Court, while considering a claim made by the mother of the deceased under an insurance policy (availed through a Bank) held that the terms of the insurance cover had to be specifically communicated to the account holder.</p> <p>In this case, upon the death of the Policy Holder, his mother filed a claim before the Insurance Company, which was rejected on the ground that certain conditions in the policy relating to non-swipe transactions were not fulfilled.</p> <p>The Supreme Court held that the account holder had to be put on notice that the insurance cover would become available only after a transaction of the nature spelt out in the special conditions of the insurance policy took place.</p> <p>Insistence on communication to the account holder is necessary, because the policy was issued to the bank by the Insurance Company.</p> <p>The account holders are beneficiaries of the policy. Unless the Bank or the Insurance Company was able to establish that the special conditions of the policy were drawn to the notice of the account holder for whose benefit the insurance cover extended, the claim ought not to be rejected.</p>



**Hon'ble Mr. Justice
L. Nageswara Rao**

[The State of Manipur & Ors. v. Surjakumar Okram & Ors.](#)

Date: 01.02.2022
Bench Strength: 3 Judges

[Constitutional Law - Validity of Manipur Parliamentary Secretary Act, 2012 and Repealing Act, 2018:](#)

The Supreme Court was considering a challenge to a Judgment of the Manipur High Court declaring the Manipur Parliamentary Secretary (Appointment, Salary and Allowances and Miscellaneous Provisions) Act, 2012 and the Manipur Parliamentary Secretary (Appointment, Salary and Allowances and Miscellaneous Provisions) Repealing Act, 2018 as unconstitutional. The Supreme Court held that after the Repealing Act of 2018 was enacted, the 2012 Act did not survive, and the High Court ought not to have considered the constitutional validity of the same. To that extent, the High Court committed an error in declaring a non-existing law as unconstitutional. The High Court committed an error in holding that the Manipur Legislature did not have the competence to enact the 2012 Act as a result of which, the Repealing Act, 2018 could not have been made. It was held that there is no question of repeal of a statute which has been declared as unconstitutional by a Court. The very declaration by a Court that a statute is unconstitutional obliterates the statute entirely as though it had never been passed. The Court held that by means of the saving clause in the Repealing Act, 2018, the Manipur Legislature could not have infused life into a legislation, which was recognised by the Legislature itself as unconstitutional. The Manipur Legislature cannot be said to have the competence to enact the saving clause in the Repealing Act, 2018. Accordingly, the Court exercised its powers under Article 142 of the Constitution of India, and saved only those acts, deeds and decisions duly undertaken by the Parliamentary Secretaries under the 2012 Act during their tenure.

[Ajanta LLP v. Casio Keisanki Kabushiki Kaisha d/b/a Casio Computer Co. Ltd. & Anr.](#)

Date: 04.02.2022
Bench Strength: 2 Judges

[Civil Law - Consent Decree:](#)

The Supreme Court upheld an Order of the High Court dismissing an application for modification of a consent decree. It was held that a Court can entertain an Application u/S. 151 CPC for alterations / modification of the consent decree if the same is vitiated by fraud, misrepresentation, or misunderstanding. Even assuming there is a mistake, a consent decree cannot be modified / altered unless the mistake is a patent or obvious mistake.

<p><i>Hon'ble Mr. Justice L. Nageswara Rao</i></p>		<p>It was held that a consent decree would not serve as an estoppel, where the compromise was vitiated by fraud, misrepresentation, or mistake. The Court, in exercise of its inherent power, may rectify the consent decree to ensure that it is free from clerical or arithmetical errors, so as to bring it in conformity with the terms of the compromise.</p>
	<p><u>Serious Fraud Investigation Office v. Rahul Modi & Ors.</u></p> <p>Date: 07.02.2022 Bench Strength: 2 Judges</p>	<p><u>Criminal Law - Default Bail:</u></p> <p>The Supreme Court was considering whether an accused is entitled to statutory bail u/S.167(2) Cr.P.C. on the ground that cognizance has not been taken before the expiry of 60 days or 90 days, as the case may be, from the date of remand.</p> <p>It was held that the indefeasible right of an accused to seek statutory bail u/S. 167(2) Cr.P.C. arises only if the charge-sheet has not been filed before the expiry of the statutory period. It was further held that filing of a charge-sheet is sufficient compliance with the provisions of S.167 Cr.P.C. An accused cannot demand release on default bail u/S. 167(2) on the ground that cognizance has not been taken before the expiry of 60 days.</p> <p>Accordingly, the Court set aside the Order of the High Court releasing the Accused persons on statutory bail on the ground that cognizance was not taken before the expiry of 60 days.</p>
 <p>Hon'ble Mr. Justice Sanjay Kishan Kaul</p>	<p><u>Jogi Ram v. Suresh Kumar & Ors.</u></p> <p>Date: 01.02.2022 Bench Strength: 2 Judges</p>	<p><u>Civil Law - Hindu Succession Act:</u></p> <p>The Supreme Court held that Section 14(1) of the Hindu Succession Act, 1956, does not prohibit the bequeathing of a limited estate by a Hindu female by way of a will. However, if the limited estate is given to the wife for her maintenance, then it would mature into an absolute estate, in terms of Section 14(1) of the Act. The Court also held that the objective of Section 14(1) is to create an absolute interest in case of a limited interest of the wife where such limited estate owes its origin to law as it stood then. The objective cannot be that a Hindu male who owned self-acquired property is unable to execute a Will giving a limited estate to a wife if all other aspects including maintenance are taken care of.</p>

<p><i>Hon'ble Mr. Justice Sanjay Kishan Kaul</i></p>	<p><u>Sardar Meena v. State of Rajasthan & Ors.</u></p> <p>Date: 22.02.2022 Bench Strength: 2 Judges</p>	<p><u>Civil Law - Suspension under Rajasthan Panchayati Raj Act, 1994:</u></p> <p>The Court was considering a challenge to an Order of suspension passed against a Sarpanch on the ground of him being accused in a robbery and murder case. The Court held that S.38(4) of the Rajasthan Panchayati Raj Act 1994, which empowers the State Government to suspend a person : a) against whom an inquiry had been initiated under Sub-Section (1) and; b) or against whom criminal proceedings in regard to an offence involving moral turpitude is pending trial in the Court of law.</p> <p>The Court held that suspension can not continue in an <i>ad infinitum</i> manner, more so, when it has not to await any criminal proceedings. Thus, the Court directed the State to conclude the suspension proceedings on or before 30.04.2022, till which time the suspension order would remain in force.</p>
	<p><u>Waheed-Ur-Rehman Parra v. Union Territory of Jammu & Kashmir</u></p> <p>Date: 25.02.2022 Bench Strength: 2 Judges</p>	<p><u>Criminal Law - Right to Accused to obtain witness statements:</u></p> <p>The Supreme Court set aside a Judgment of the Jammu & Kashmir High Court, and affirmed the Order of the Trial Court which held that Accused persons were entitled to be provided with redacted statements of the protected witnesses.</p> <p>It was held that the redacted statements of protected witnesses declared so, u/S. 173(6) of Cr.P.C. r.w. S. 44 of UAPA, can be obtained by the accused by exercising their right u/S. 207 and 161 of Cr.P.C.</p>
 <p>Hon'ble Ms. Justice Indira Banerjee</p>	<p><u>Indian Oil Corporation Ltd. v. M/s Shree Ganesh Petroleum Rajgurunagar</u></p> <p>Date: 01.02.2022 Bench Strength: 2 Judges</p>	<p><u>Arbitration Law - Setting aside of arbitral award:</u></p> <p>The Supreme Court held that an Arbitral Award is liable to be set aside u/S. 34(2)(iv) in so far as the same deals with disputes, which do not fall within the terms of the submission to Arbitration. An Arbitral Tribunal being a creature of contract, is bound to act in terms of the contract under which it is constituted.</p> <p>An award can be said to be patently illegal where the Arbitral Tribunal has failed to act in terms of the contract, or has ignored the specific terms of a contract.</p>



Hon'ble Mr. Justice Vineet Saran

[Punjab National Bank v. Union of India & Ors.](#)

Date: 24.02.2022
Bench Strength: 2 Judges

Civil Law - SARFAESI:

The Supreme Court, while quashing the confiscation orders passed by the Commissioner Customs and Central Excise, Ghaziabad for evasion of excise duty, held that the dues to secured creditors (Appellant / Bank) will have priority over the “Crown Debts” i.e. Central or State dues like excise and tax dues. In support of above, the Court also held that Section 35 of the SARFAESI Act, 2002, provides that its provisions will have an overriding effect on all other laws.

[Union of India v. Krishna Modi & Anr.](#)

Date: 03.02.2022
Bench Strength: 2 Judges

Civil Law - Pension under the Swatantrata Sainik Samman Pension Scheme / Freedom Fighters Pension:

The Supreme Court was considering a challenge by the Union of India against an Order of the M.P. High Court directing the Union to pay pension alongwith interest @ 6% p.a. to Respondent No.1, who claimed to be underground during the freedom movement in 1942. The Court held that merely because the Respondent No.1 did not attend school for some months, it would not amount to him having remained underground because of his participation in the freedom struggle. Accordingly, the Court set aside the Order of the High Court.



Hon'ble Mr. Justice K.M. Joseph

[State of Rajasthan & Anr. v. Anju Rini Saini](#)

Date: 02.02.2022
Bench Strength: 2 Judges

Service Law – Recruitment:

The Supreme Court reversed the decisions of the Division Bench as well as the Single Judge of the High Court which had allowed the appointment of the Respondent to the post of Lower Division Clerk (Vidyalay Sahayak). The Court observed that the Respondent did not possess an essential qualification i.e. Rajasthan State Certificate in Information Technology (RSCIT) on the last date of application, or till the extended date. Hence, was not eligible to be considered when the Recruitment Notification was issued in the year 2017, which was not a fresh notification but a notification in continuation of the earlier notification. The Court also observed that it is undoubtedly true that Article 136 is a special and extraordinary jurisdiction, but that is a far cry from holding that when a clear case of the Respondent not holding the required qualification is made out, the Court can still direct appointment.

<p><i>Hon'ble Mr. Justice K.M. Joseph</i></p>	<p><u>N. Rajendran v. S. Valli</u></p> <p>Date: 03.02.2022 Bench Strength: 2 Judges</p>	<p><u>Matrimonial Law - Dissolution of Marriage:</u></p> <p>The Supreme Court reiterated its Judgment in <i>R. Srinivas Kumar v. R. Shametha</i> (2019) 9 SCC 409, and held that consent of parties is not required for dissolution of marriage on the ground of irretrievable breakdown of marriage. It was further held that in order to invoke the bar u/S. 15 of the Hindu Marriage Act, the Appeal against the Order of the Family Court must be filed. The contention that the Appellant must ensure that the Appeal comes on the judicial side of the High Court is without any basis. The intention of the Legislature was to give effect to the decree for dissolution, if the unsuccessful party does not move the Appellate court within time. Accordingly, the Court exercised Art. 142 powers, and dissolved the marriage between the parties who had been living separately for 22 years, on payment of Rs.20 Lacs to the Respondent.</p>
	<p><u>New Okhla Industrial Development Authority (Noida) v. Yunus & Ors.</u></p> <p>Date: 03.02.2022 Bench Strength: 2 Judges</p>	<p><u>Civil Law - Awards in Lok Adalat:</u></p> <p>The Supreme Court held that an Award passed by a Lok Adalat u/S. 20 of the Legal Services Authorities Act, 1987 cannot be the basis for redetermination of compensation as contemplated under Section 28A of the Land Acquisition Act, 1894. The Court also held that an Award passed by the Lok Adalat in itself without anything more is to be treated by the deeming fiction to be a decree. However, it was clarified that an Award passed by the Lok Adalat is not a compromise decree.</p>
	<p><u>B.R. Patil v. Tulsa Y. Sawkar & Ors.</u></p> <p>Date: 09.02.2022 Bench Strength: 2 Judges</p>	<p><u>Civil Law - Code of Civil Procedure:</u></p> <p>The Supreme Court while dismissing the Appeal filed by the Defendant, which was filed <i>inter-alia</i> on the grounds that the suit was liable to be dismissed on non-joinder of necessary parties, held that the cause of action which is projected in the plaint and the schedule of properties which has been made by the plaintiffs, the question of non-joinder of a party would not imperil the suit filed by the plaintiffs. The Court further observed that Order II Rule 3 CPC does not compel a plaintiff to join two or more causes of action in a single suit. The failure to join together all claims arising from a cause of action will be visited with consequences proclaimed in Order II Rule 2.</p>

<p><i>Hon'ble Mr. Justice K.M. Joseph</i></p>	<p><u>Sunil Kumar Rai & Ors. v. State of Bihar & Ors.</u></p> <p>Date: 21.02.2022 Bench Strength: 2 Judges</p>	<p><u>Constitutional Law - Issuance of Scheduled Tribe Caste Certificates:</u></p> <p>The Supreme Court quashed Notification issued by the Govt. of Bihar which granted approval for issuance of Scheduled Tribe Caste Certificates to members of the Lohar Community. The Court relied upon its Judgment in <i>Vinay Prakash and Others v. State of Bihar and Others</i> (1997) 3 SCC 406, wherein it was held that Lohars are blacksmiths, a backward community in the State of Bihar, whereas Loharas are Scheduled Tribes in the State of Bihar. Therefore, the Court allowed the writ petition, and quashed the impugned notification.</p>
	<p><u>Heera Traders v. Kamla Jain</u></p> <p>Date: 22.02.2022 Bench Strength: 2 Judges</p>	<p><u>Eviction of Tenant-Payment of Mesne Profit:</u></p> <p>The Supreme Court held that Section 13 of the M.P. Accommodation Control Act, 1961 (which provides for protection of tenants against eviction) would apply even if the ground of eviction is not u/S. 12(1)(a) (i.e. arrears of rent). It was held that throughout the proceedings by the landlord on any of the grounds u/S.12 (for eviction of tenants), the tenant is obliged to deposit the amount of rent. The failure to do so, would attract Section 13(6) (i.e. the Court may direct that his defences be struck down).</p> <p>Section 13 obliges a tenant / erstwhile tenant to deposit the amounts which can be treated as rent being paid throughout the proceedings. This does not, by itself, alter the effect of the Decree / Order of Eviction passed by the Court, by which he stood deprived of the status of a tenant. The filing of an appeal or other proceeding by the tenant, does not make the Decree inexecutable. The preferring of an appeal or other proceeding, would not bring about a stay of the proceedings. It is then that the Appellate Court can exercise its powers under Order XLI Rule 5 of CPC.</p> <p>It was held that once the Decree of Eviction is passed, the erstwhile tenant becomes an unauthorised occupant and he makes himself liable to pay mesne profits for his continued occupation. Accordingly, the Court disposed of the Appeal by directing the Appellant to deposit the arrears of rent within 5 weeks.</p>



Hon'ble Mr. Justice Hemant Gupta

[Central Industrial Security Force v. HC \(GD\) Om Prakash](#)

Date: 04.02.2022
Bench Strength: 2 Judges

[Service Law - Premature Retirement:](#)

The Supreme Court allowed the Appeal filed by the CISF against the Order of the High Court, which set aside the Order of premature retirement of the Respondent. It was held that the entire service record is to be taken into consideration, which would include the ACRs of the period prior to the promotion. The order of premature retirement is required to be passed on the basis of entire service records, though the recent reports would carry their own weight. It was observed that the High Court had misread the Judgment in *Baikuntha Nath Das and Another v. Chief District Medical Officer, Baripada and Another*, (1992) 2 SCC 299, wherein it was held that the order of compulsory retirement is in public interest and is passed on the subjective satisfaction of the Government, and is not liable to be quashed by the Court merely for the reason that uncommunicated adverse remarks were taken into consideration.

[State of Andhra Pradesh \(Now State of Telangana\) v. A. P. State Wakf Board & Ors.](#)

Date: 07.02.2022
Bench Strength: 2 Judges

[Civil Law - Wakf Property:](#)

The Supreme Court while quashing a Notification issued by the Waqf Board declaring certain land as “waqf property” held that Land dedicated for pious and religious purposes is not immune from its vesting with the State. The Court declared that the said land vests with the State and / or Telangana Infrastructure Development Corporation, free from encumbrances.

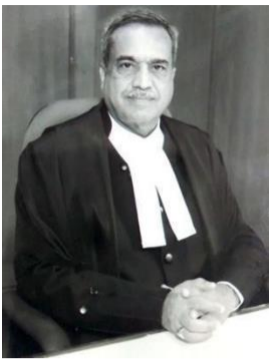
[R. Valli & Ors. v. Tamil Nadu State Transport Corporation Ltd.](#)

Date: 10.02.2022
Bench Strength: 2 Judges

[Motor Accident Claims - Applying Multiplier:](#)

The Supreme Court set aside the Order of the High Court awarding compensation to the Appellants (Dependants of the deceased), and held that the method of determination of compensation by applying two multipliers is clearly erroneous, and runs counter to the judgment of the Constitution Bench in *National Insurance Company Limited v. Pranay Sethi & Ors.* (2017) 16 SCC 680, which affirmed the Judgment in *Sarla Verma (Smt.) & Ors. v. Delhi Transport Corporation & Anr.* (2009) 6 SCC 121. The Court therefore re-calculated the compensation awarded to the dependants on the basis of the age of the deceased at the time of the accident, and accordingly enhanced the same.

<p><i>Hon'ble Mr. Justice Hemant Gupta</i></p>	<p>ECGC Limited v. Mokul Shriram EPC JV</p> <p>Date: 15.02.2022 Bench Strength: 2 Judges</p>	<p><u>Consumer Protection - Pre-Deposit to Challenge Orders of NCDRC:</u></p> <p>The Supreme Court held that the condition of payment of 50% of the amount awarded u/S. 67 of the Consumer Protection Act, 2019, will not be applicable to Complaints filed prior to the commencement of the 2019 Act.</p>
	<p>New Okhla Industrial Development Authority v. Ravindra Kumar Singhvi (Dead) Thr. LRs.</p> <p>Date: 15.02.2022 Bench Strength: 2 Judges</p>	<p><u>Civil Law - False Statements on Affidavit:</u></p> <p>The Supreme Court, while setting aside Orders of the High Court and Trial Court in favour of the Respondent held that they were not entitled to any relief, since they misled NOIDA by submitting false affidavits while applying for allotment of plots. The Court held that affidavits were not mere sheets of paper but a solemn statement made before a person authorized to administer an oath or to accept affirmation. The Respondents had breached such solemn statements made on oath. It was held that cancellation of allotment of plot obtained after filing false affidavit is a legitimate ground of cancellation of lease. The Court also relied upon its Judgment in <i>S.P. Chengalvaraya Naidu (Dead) by LRs. v. Jagannath (Dead) by LRs. & Ors.</i> (1994) 1 SCC 1, and concluded that fraud vitiates all actions.</p>
	<p>Manoj @ Monu @ Vishal Chaudhary v. State of Haryana & Anr.</p> <p>Date: 15.02.2022 Bench Strength: 2 Judges</p>	<p><u>Criminal Law - Plea of Juvenility:</u></p> <p>The Supreme Court held that the plea of juvenility must be raised in a <i>bonafide</i> and truthful manner. If the document on which reliance is placed to seek juvenility is not reliable, or is dubious in nature, the Accused cannot be treated to be juvenile, keeping in view that the Act is a beneficial legislation. The Court upheld the Order of the High Court holding that the Appellant is not entitled to the benefit of juvenility. However, the Court observed that it was unable to approve the broad view taken by the High Court that a Family Register is not relevant to determine age of the family members. It was held that it is a question of fact as to how much evidentiary value is to be attached to the family register, but to say that it is entirely not relevant would not be the correct enunciation of law. The extent of reliance on such entries would be in view of the peculiar facts and circumstances of each case.</p>



Hon'ble Mr. Justice Mukeshkumar Rasikbhai Shah

[State of U.P. v. Veerpal & Anr.](#)

Date: 01.02.2022
Bench Strength: 2 Judges

[Criminal Law - Reversal of Acquittal:](#)

The Supreme Court, while restoring the Judgment of Conviction u/S.302 of IPC and Sentence of Life Imprisonment passed by the Learned Trial Court, and setting aside the order of Acquittal passed by the Division Bench of the Hon'ble High Court of Judicature at Allahabad, held that -

(i) Conviction can be based on dying declaration, alone, if the Court is satisfied that it is true and voluntary;

(ii) The credibility of the dying declaration recorded by the Magistrate / SDM cannot be doubted;

(iii) Statements made in the dying declaration were consistent with medical evidence;

(iv) The evidentiary value of the dying declaration is further enhanced by the fact that it was accompanied by a Certificate of Fitness from the physician/doctor.

[Smt. Rekha Jain and Anr. v. The State of Uttar Pradesh and Ors.](#)

Date: 03.02.2022
Bench Strength: 2 Judges

[Criminal Law - Quashing of Criminal Proceedings:](#)

The Supreme Court while quashing the Criminal Proceedings initiated under Sections 406, 420, 467, 468, 471, 120B Indian Penal Code, 1860 against the Appellants / Accused, on the ground that its continuance will lead to abuse of process of law and unnecessary harassment of the Appellants/Accused, held as under :

(i) There are no allegations against the Appellants, except the fact that they purchased the property (which was attached in 1998-99 due to some misappropriation carried out by the main accused).

(ii) No evidence that at the time of purchase of property by the Appellants in 2019, the attachment continued.

(iii) No Allegations that the Appellants are related to the main Accused.

<p><i>Hon'ble Mr. Justice Mukeshkumar Rasikbhai Shah</i></p>	<p><u>The State of Uttarakhand v. Sachendra Singh Rawat.</u></p> <p>Date: 04.02.2022 Bench Strength: 2 Judges</p>	<p><u>Criminal Law - Enhancement of Conviction and Sentence:</u></p> <p>The Supreme Court, while setting aside the decision of the High Court which converted the conviction from Murder to Culpable Homicide not amounting to murder, restored the conviction u/S. 302 and sentence of Life Imprisonment awarded by the Trial Court. The Supreme Court while arriving at the decision held that the High Court committed an error by applying the Fourth Exception to Section 300 IPC (sudden fight), since the second incident which actually led to the murder of the victim happened much later than the first incident, where the alleged fight took place between the victim and the Accused / Respondent. The Court also placed its reliance on the fact that the accused gave multiple blows on the vital part of the victim's body i.e. the head, which resulted in grievous injuries. Further, the Accused used the weapon with such a force which resulted in a skull fracture, falling under Clauses "thirdly" and "fourthly" to S. 300 IPC.</p>
	<p><u>M/s Bombay Chemical Industries v. Deputy Labour Commissioner & Anr.</u></p> <p>Date: 04.02.2022 Bench Strength: 2 Judges</p>	<p><u>Labour Law - Jurisdiction of Labour Court u/S. 33(C) (2) of Industrial Disputes Act, 1947:</u></p> <p>The Supreme Court held that in an application u/S. 33(C)(2) of the Industrial Disputes Act, the Labour Court has no jurisdiction, and cannot adjudicate disputes of entitlement, or the basis of the claim of workmen. It can only interpret the award or settlement on which the claim is based. The Court relied upon its Judgment in <i>Union of India and Anr. v. Kankuben (Dead) By Lrs. and Ors</i>, (2006) 9 SCC 292, wherein it was held that the benefit sought to be enforced u/S. 33(C) (2) of the I.D. Act is necessarily a pre-existing one. The difference between a pre-existing right or benefit on one hand, and a right or benefit, which is considered just and fair on the other hand is vital. The former falls within the jurisdiction of Labour Court exercising powers under Section 33(C) (2) of the I.D. Act, while the latter does not.</p> <p>It was concluded that since in this case, there was a serious dispute with respect to the employer-employee relationship between the parties, it was not open for the Labour Court to entertain disputed questions and adjudicate upon the same.</p>

<p><i>Hon'ble Mr. Justice Mukeshkumar Rasikbhai Shah</i></p>	<p>Nawabuddin v. State of Uttarakhand</p> <p>Date: 08.02.2022 Bench Strength: 2 Judges</p>	<p><u>Criminal Law - POCSO Act:</u></p> <p>The Supreme Court upheld the concurrent conviction u/S. 376(2)(i) of IPC and Section 5 of the POCSO Act of a man who was found to be guilty of committing rape and aggravated penetrative sexual assault on a minor girl aged 4 years. The Court observed that no leniency shall be shown in such cases. However, the Court proceeded to reduce the sentence imposed from life imprisonment to 15 years rigorous imprisonment, considering the age and health condition of the Convict / Appellant.</p> <p>The Supreme Court also discussed the object of the POCSO Act, in detail, and observed that the exploitation of children in such a manner is a crime against humanity and the society. The children, and more particularly the girl child deserve full protection, and need greater care and protection whether in the urban or rural areas.</p>
	<p>Omkar Singh v. Jaiprakash Narain Singh & Anr.</p> <p>Date: 09.02.2022 Bench Strength: 2 Judges</p>	<p><u>Criminal Law - Reversal of Acquittal:</u></p> <p>The Supreme Court (on an Appeal by the First Informant / Son of the deceased) reversed the Judgment of Acquittal passed by the Allahabad High Court, and restored the Judgment of the Sessions Court which convicted the Accused No. 2 / Respondent No. 1 u/S. 302 r/w 34 IPC, and sentenced him to life imprisonment for an incident which took place in 1982.</p> <p>The Court observed that the Respondent No.1's presence at the place of the crime, his specific role of exhortation and the motive behind the crime, was sufficiently established. The Court also found the statements of three PWs to be trustworthy, and with the aid of Section 34 IPC, held that the Respondent No. 1 /Accused No.2 was equally liable as Accused No. 1 /Son of Respondent No.1, (who fired at the deceased) to be convicted u/S. 304 r/w 34 of IPC.</p>

<p><i>Hon'ble Mr. Justice Mukeshkumar Rasikbhai Shah</i></p>	<p>M/s. Sree Surya Developers & Promoters v. N. Sailesh Prasad & Ors.</p> <p>Date: 09.02.2022 Bench Strength: 2 Judges</p>	<p><u>Civil Law - Rejection of Plaintiff:</u></p> <p>The Supreme Court, while considering a challenge arising out of an Order rejecting Plaintiff under Order VII Rule 11 CPC, held that a separate suit challenging a consent decree was not maintainable. It was held that mere clever drafting (in this case, the Prayers in the Suit sought a declaration that the Compromise Decree was not binding on the Plaintiff) would not permit the Plaintiff to make the suit maintainable, which otherwise would not be maintainable and / or barred by law. It was further held that the High Court had erred by setting aside the Order of the Trial Court, thereby entering into the merits of the validity of the Compromise Decree.</p>
	<p>M.P. Housing Board & Anr. v. Satish Kumar Batra and Ors.</p> <p>Date: 10.02.2022 Bench Strength: 2 Judges</p>	<p><u>Land Acquisition - Challenge to Notifications pending before H.C.:</u></p> <p>The Supreme Court allowed an Appeal filed by the Acquiring Authority, and remanded the matter for consideration to the Madhya Pradesh High Court. It was observed that the High Court failed to notice that the challenge to the Notifications u/S. 4 and 6 of the Land Acquisition Act, 1894 with respect to the same acquisition proceedings, were pending consideration before it. The Court therefore directed that all appeals with respect to the same acquisition, where the notifications were challenged are heard together. Accordingly, the Court directed the High Court to decide the matters within 6 months.</p>
	<p>Bank of Baroda v. M/s Karwa Trading Company & Anr.</p> <p>Date: 10.02.2022 Bench Strength: 2 Judges</p>	<p><u>Civil Law - SARFAESI proceedings:</u></p> <p>The Supreme Court held that a borrower cannot be said to be discharged from his entire liability, when the secured asset has been sold. The liability of the borrower with respect to the outstanding dues would continue.</p> <p>In this case, the High Court directed the Bank to release the mortgaged property, and handover the possession as well as the original title deeds to the Borrower, without the secured property being sold in an auction, or without the Borrower depositing the entire amount of dues with all costs, charges and expenses incurred by the secured creditor. The Supreme Court held that such a direction was contrary to Section 13(8) of the SARFAESI Act.</p>

<p><i>Hon'ble Mr. Justice Mukeshkumar Rasikbhai Shah</i></p>		<p>It was held that unless and until the borrower is ready to deposit / pay the entire amount payable together with all costs and expenses with the secured creditor, the borrower cannot be discharged from the entire liability outstanding.</p>
	<p><u>Umesh Kumar Pahwa v. The Board of Directors Uttarakhand Gramin Bank & Ors.</u></p> <p>Date: 11.02.2022 Bench Strength: 2 Judges</p>	<p><u>Service Law - Disciplinary proceedings:</u></p> <p>The Supreme Court allowed the Appeal filed by a Branch Manager of the Respondent-Bank against an Order of removal from service, and modified the punishment to that of compulsory retirement.</p> <p>It was held that the Uttarakhand High Court had rightly observed that in exercise of powers under Article 226 of the Constitution of India, the High Court is not required to re-appreciate evidence and / or interfere with the findings recorded by the inquiry officer accepted by the disciplinary authority. However, considering that in this case, there was no financial loss to the Bank, and that the Appellant had served for 28 years in the Bank, the Court held that the punishment of removal from service was disproportionate, and therefore modified the same.</p>
	<p><u>The Kolhapur Municipal Corporation & Ors. v. Vasant Mahadev Patil (Dead) Through L.R.s & Ors.</u></p> <p>Date: 14.02.2022 Bench Strength: 2 Judges</p>	<p><u>Land Acquisition - No compulsion for acquiring land:</u></p> <p>The Supreme Court held that once the reservation / designation of land under the Development Plan is deemed to have lapsed by operation of law, and the land is released from reservation, no writ of Mandamus can be issued by the High Court directing the Corporation to still acquire the land, and to issue a declaration u/S. 19 of the Right to Fair Compensation Act, 2013. It was held that no Corporation and / or the Planning Authority can be compelled to acquire the land, which according to the Corporation / Planning Authority is not suitable and / or usable for the purposes for which it is reserved. Any other interpretation would lead to colourable and fraudulent exercise of power and cause financial burden on the public exchequer. It was held that once it is found that the land is not usable and / or suitable for the purposes for which it has been reserved, the Corporation cannot still be compelled and directed to acquire the land and grant TDR in lieu of compensation.</p>



<p><i>Hon'ble Mr. Justice Mukeshkumar Rasikbhai Shah</i></p>	<p><u>Deenadayal Nagari Sahakari Bank Ltd. & Another v. Munjaji and others</u></p> <p>Date: 16.02.2022 Bench Strength: 2 Judges</p>	<p><u>Civil Law - Maharashtra Co-operative Societies Act:</u></p> <p>The Supreme Court held that once the borrower failed to apply to the Recovery Officer to set aside the auction sale on the grounds of material irregularity, mistake or fraud in publishing or conducting the auction sale within a period of 30 days from the date of sale of immovable property, thereafter it was not open for the borrower to challenge the sale on the ground of material irregularity.</p> <p>It was held that if a person challenging the auction sale under the Maharashtra Co-operative Societies Act, failed to deposit a sum equal to 5 % of the purchase money before the Recovery Officer (as required under Rule 107(13) of the Maharashtra Co-operative Societies Rules), such person would not be competent to file a Revision Petition before the Divisional Joint Registrar u/S. 154 of the MCS Act, 1960. Since the Revision Petition itself was not maintainable, the High Court ought not to have considered the writ petition on merits.</p> <p>The Court accordingly set aside the Order of the High Court, which cancelled the auction sale of property mortgaged with the Appellant.</p>
	<p><u>SRS Advertising & Marketing Pvt. Ltd. & Ors. v. Mr. Kamal Garg & Anr.</u></p> <p>Date: 16.02.2022 Bench Strength: 2 Judges</p>	<p><u>Civil Law - Proceedings before the DRAT:</u></p> <p>The Supreme Court, while considering a challenge to an Order of the High Court directing the highest bidder to deposit the balance of the bid amount, held that the High Court went beyond the ambit of the proceedings before it, since the challenge before the High Court was limited only to the non-grant of interim relief. It was held that the Order of the High Court made the proceedings before the DRAT infructuous, since after the impugned judgment, nothing further was required to be decided by the DRAT. Therefore, the High Court exceeded its jurisdiction by directing deposit of the balance amount. Accordingly, the Supreme Court set aside the Order of the High Court, and directed the DRAT to decide the matter within 4 months.</p>

<p><i>Hon'ble Mr. Justice Mukeshkumar Rasikbhai Shah</i></p>	<p><u>A. Dharmaraj v. The Chief Educational Officer, Pudukkottai & Ors.</u></p> <p>Date: 18.02.2022 Bench Strength: 2 Judges</p>	<p><u>Service Law - Promotion:</u></p> <p>The Supreme Court set aside the Order of the High Court, and confirmed the promotion of the Appellant to the post of B.T. (Assistant) English. In this case, the promotion of the Appellant was challenged by other persons on the ground that it was contrary to Rule 14, which provided that teachers who obtained B.A. / B.Sc and B.Ed., during the same academic year shall not be eligible for recommendations. The Court held that, in this case, it cannot be said that the Appellant obtained B.A. (English) and M.A. (Tamil) in the same academic year. Therefore, Rule 14 was not applicable to the facts of the case on hand <i>stricto sensu</i>. The degree of M.A. (Tamil) cannot be equated with B.A. / B.Sc. / B.Ed. It was held that the High Court erred in quashing the promotion of the Appellant. Accordingly, the Court restored the promotion of the Appellant.</p>
	<p><u>K. Kumara Gupta v. Sri Markandaya and Sri Omkareswara Swamy Temple & Ors.</u></p> <p>Date: 18.02.2022 Bench Strength: 2 Judges</p>	<p><u>Civil Law - Auction Sale:</u></p> <p>The Supreme Court held that the High Court ought not to have ordered re-auction of the land in question, unless it was found that there was any material irregularity and / or illegality in holding the public auction and / or auction / sale was vitiated by any fraud or collusion. It is not open to set aside the auction or sale in favour of a highest bidder on the basis of representations made by third parties, who did not even participate in the auction proceedings and did not make any offer. It was held that the sale pursuant to the public auction cannot be set aside at the instance of strangers to the auction proceeding. The sale pursuant to the public auction can be set aside in an eventuality where it is found on the basis of material on record that the property had been sold away at a throw away price and / or on a wholly inadequate consideration because of the fraud and / or collusion and / or after any material irregularity and / or illegality is found in conducting / holding the public auction. After the public auction is held and the highest bid is received and the property is sold in a public auction in favour of a highest bidder, such a sale cannot be set aside on the basis of some offer made by third parties subsequently, and that too when they did not participate in the auction proceedings. Accordingly, the Supreme Court set aside the Order of the High Court directing a re-auction of the land.</p>

<p><i>Hon'ble Mr. Justice Mukeshkumar Rasikbhai Shah</i></p>	<p><u>Mahindra and Mahindra Financial Services Ltd. v. State of U.P. and Ors.</u></p> <p>Date: 22.02.2022 Bench Strength: 2 Judges</p>	<p><u>Tax Law - U.P. Motor Vehicles Taxation Act, 1997:</u></p> <p>The Supreme Court held that a financier of a motor vehicle / transport vehicle in respect of which a hire-purchase or lease or hypothecation agreement has been entered, is liable to pay tax from the date of taking possession of the said vehicle under the said agreement. If, after the payment of tax, the vehicle is not used for a month or more, then such an owner may apply for refund u/S.12 of the U.P. Motor Vehicles Taxation Act, 1997 and has to comply with all the requirements for seeking the refund as mentioned in S. 12. On complying with all the conditions mentioned in S.12(1), he may get the refund to the extent provided in that Section. Only in a case which falls u/S.12(2), and subject to surrender of the necessary documents, the liability to pay the tax shall not arise, otherwise the liability to pay the tax by such owner / operator shall continue. It was held that the requirement under the law is to first pay the tax in advance as provided u/S.9, and thereafter to use the vehicle. In other words, it is 'pay the tax and use' and not 'use and pay the tax'. Therefore, the submission that tax has to be paid at the time of use / thereafter was not accepted.</p>
	<p><u>Krishi Upaj Mandi Samiti, New Mandi Yard, Alwar v. Commissioner of Central Excise and Service Tax, Alwar</u></p> <p>Date: 23.02.2022 Bench Strength: 2 Judges</p>	<p><u>Service Tax Law - Interpretation of Exemption Circular / Notification:</u></p> <p>The Supreme Court, while deciding the applicability of a Circular / Notification to establishments under the Rajasthan Agricultural Produce Markets Act, 1961 seeking exemption from payment of service tax, held that an exemption circular / notification should not be liberally construed. The beneficiary must fall within the ambit of the exemption and fulfil the conditions thereof. In case such conditions are not fulfilled, the issue of application of the notification by implication does not arise at all. It was held that the exemption notification should be strictly construed and given a meaning according to legislative intent. The statutory provisions providing for exemption have to be interpreted in light of the words employed in them, and there cannot be any addition or subtraction from the statutory provisions. In case of a taxing statute, strict interpretation of the provision is to be accorded to each case. Purposive interpretation can be given only when there is an ambiguity in the statutory provision, or it results in absurdity.</p>

<p><i>Hon'ble Mr. Justice Mukeshkumar Rasikbhai Shah</i></p>	<p><u>State of Odisha & Ors. v. M/s Panda Infraproject Limited</u></p> <p>Date: 24.02.2022 Bench Strength: 2 Judges</p>	<p><u>Civil Law - Blacklisting of Contractors:</u></p> <p>The Supreme Court was considering a case where the State Govn. had blacklisted the Respondent from participating or bidding in any work undertaken by the Govt. of Orissa, since a portion of a flyover constructed by it collapsed, which led to the death of one person. After the incident, a High-Level Inquiry was conducted by a Committee, which submitted a report concluding that the Respondent failed to adopt adequate safety measures during the construction. Pursuant to the Report, the State Govt. blacklisted the Respondent. The High Court set aside the blacklisting Order on the ground that it violated the principles of natural justice. The Supreme Court held the blacklisting order was passed after issuing a show cause notice to which the Respondent was called upon to reply and show cause as to why he should not be blacklisted. The Respondent submitted a Reply, which was considered before passing the Blacklisting Order. Thus, the Order was not in breach of the principles of natural justice. The High Court erred in exercising its jurisdiction u/A. 226 by quashing the Blacklisting Order. The Court also observed that it did not approve of the Blacklisting Guidelines framed by the State Govt., which provided that the blacklisting period per offence shall be limited to 3 yrs. subject to an overall maximum cumulative period of 10 years for multiple offences. However, the Court left it to the State Govt. to modify the said Guidelines.</p>
	<p><u>Sri. Benson George v. Reliance General Insurance Co.Ltd.& Anr.</u></p> <p>Date: 25.02.2022 Bench Strength: 2 Judges</p>	<p><u>Civil Law - Motor Accident Claims:</u></p> <p>The Supreme Court, while setting out various factors to be considered while awarding compensation under the heads of pain and suffering and loss of amenities in the case of a motor accident, enhanced the compensation awarded to the claimant. (who was a victim in a motor accident, and sustained grievous brain injuries). It was held that for compensation to be awarded under the heads of pain and suffering and loss of amenities and happiness, there cannot be a straitjacket formula. It depends upon the facts and circumstances of each case and it varies from person to person. So far as awarding compensation under the head of pain, shock and suffering is concerned, multiple factors are required to be considered viz, prolonged hospitalization; grievous injuries</p>

<p><i>Hon'ble Mr. Justice Mukeshkumar Rasikbhai Shah</i></p>		<p>sustained; operations underwent and consequent pain, discomfort and suffering. In this case, the Supreme Court held that considering the prolonged hospitalization, medical treatment, multiple brain injuries / injuries sustained by the claimant, and that he is still in coma and is bedridden, the High Court erred in awarding only Rs.2 Lacs under the head of pain and suffering to him. Accordingly, the Court enhanced the compensation awarded to the claimant under the head of “pain and suffering” from Rs.2 Lacs to Rs.10 Lacs. The Court also enhanced the compensation awarded to the claimant under the head of “loss of amenities and happiness” from Rs.1 Lac to Rs.10 Lacs.</p>
	<p>Municipal Council Gondia v. Divi Works & Suppliers, HUF & Ors</p> <p>Date: 28.02.2022 Bench Strength: 2 Judges</p>	<p><u>Civil Law - Jurisdiction of High Court:</u></p> <p>The Supreme Court set aside the Judgment of the High Court which quashed the action on the part of the Municipal Corporation in cancelling the work order granted to the Respondent for supply of items to educational institutions run it. While doing so, the Supreme Court held that no writ of mandamus could be issued by the H.C. which virtually granted the relief for specific performance of the work order in a writ petition under Art. 226 of the CoI. The Supreme Court, however clarified that the decision shall not preclude the Respondent from initiating appropriate proceedings before the civil court for the damages, if any suffered by them, which may be considered in accordance with law.</p>
	<p>Surjeet Singh Sahni v. State of U.P. & Ors.</p> <p>Date: 28.02.2022 Bench Strength: 2 Judges</p>	<p><u>Civil Law-No extension of limitation by representations:</u></p> <p>The Supreme Court held that mere representations do not extend the period of limitation, and an aggrieved person has to approach the Court within reasonable time. If it is found that the petitioner is guilty of delay and latches, the H.C. should dismiss such petition at the threshold and ought not to dispose of the same by relegating the petitioner to file a representation and/or directing the authority to decide the same. Such order shall not give an opportunity to the Petitioner to thereafter contend that rejection of the representation has given a fresh cause of action. Accordingly, the Supreme Court rejected the challenge raised by the Petitioner against an Order of the H.C. dismissing his writ petition, which was filed after a delay of 10 years.</p>

 <p>Hon'ble Mr. Justice Ajay Rastogi</p>	<p><u>Horticulture Experiment Station Gonikoppal, Coorg v. The Regional Provident Fund Organization</u></p> <p>Date: 23.02.2022 Bench Strength: 2 Judges</p>	<p><u>Civil Law - Employees Provident Fund:</u></p> <p>The Supreme Court was considering whether a breach of civil obligations by the Employer is a <i>sine qua non</i> for imposition of damages/penalty u/S. 14B of the Employees Provident Fund and Miscellaneous Provisions Act, 1952, or the elements of <i>mens rea</i> or <i>actus reus</i> is essential. The Court relied upon ‘<i>Union of India v. Dharmendra Textile Processors</i> (2008) 13 SCC 369’, and concluded that any default or delay in the payment of EPF contribution by the employer under the 1952 Act is a <i>sine qua non</i> for imposition of levy of damages under Section 14B of the 1952 Act, and <i>mens rea</i> or <i>actus reus</i> is not an essential element for imposing penalty / damages for breach of civil obligations.</p>
 <p>Hon'ble Mr. Justice Dinesh Maheshwari</p>	<p><u>M/s Wizaman Impex Pvt. Ltd. v. Kedrion Biopharma Inc.</u></p> <p>Date: 07.02.2022 Bench Strength: 2 Judges</p>	<p><u>Insolvency & Bankruptcy Code, 2016- Documents not before the NCLT:</u></p> <p>The Supreme Court was considering a challenge to a Judgment of the NCLAT, which allowed the S.9 Application filed by the Operational Creditor by relying upon documents which were not on record before the NCLT. The Court held that the order admitting S.9 Application cannot be sustained on the short point that the additional documents were taken on record by the NCLAT only while finally deciding the Appeal, and without adequate opportunity of response to the CD. Accordingly, the Court relegated the parties to the NCLT, and directed that the additional documents produced before the NCLAT be taken on record by the NCLT.</p>
	<p><u>Pappu v. State of Uttar Pradesh</u></p> <p>Date: 09.02.2022 Bench Strength: 3 Judges</p>	<p><u>Criminal Law - Commutation of Death Penalty:</u></p> <p>The Supreme Court commuted the death penalty awarded to the Appellant in the case of murder and rape of a 7 year old girl, to Life Imprisonment without remission till he undergoes 30 years of actual Imprisonment. While commuting the death penalty, the Court observed that the Appellant had no criminal antecedents, came from a very poor socio-economic background, had a family comprising of wife, children and aged father, and had unblemished jail conduct. It was held that this case did not fall in the ‘rarest of rare’ category. It was held that when the Appellant was not a hardened criminal, it cannot be said that there is no probability of him being reformed.</p>

<p><i>Hon'ble Mr. Justice Dinesh Maheshwari</i></p>	<p>Prakash Corporates v. Dee Vee Projects Ltd.</p> <p>Date: 14.02.2022 Bench Strength: 2 Judges</p>	<p><u>Civil Law - Extension of Limitation:</u></p> <p>The Supreme Court held that its Order dated 23.09.2021 passed in SMWP No. 3 / 2020 (Extension of Limitation) which held that while computing the period of limitation for any suit, appeal, application or proceeding, the period from 15.03.2020 till 02.10.2021 shall stand excluded, would be applicable while computing the period of limitation for filing written statements, and even in cases where the delay is otherwise not condonable.</p> <p>It was held that it would be unrealistic and illogical to assume that while a suit otherwise filed beyond limitation (if the limitation had expired between 15.03.2020 to 02.10.2021) could still be filed within 90 days from 03.10.2021, the period for filing written statement, if expired during that period, has to operate against the defendant. The Court directed the Trial Court to take the written statement of the Appellant on record, and proceed with the trial.</p>
	<p>Ajay Gupta v. Pramod Kumar Sharma</p> <p>Date: 25.02.2022 Bench Strength: 2 Judges</p>	<p><u>Insolvency & Bankruptcy Code, 2016- Modification of Resolution Plan:</u></p> <p>The Supreme Court dismissed an Appeal filed by the unsuccessful resolution applicant against an Order of the NCLT (as affirmed by the NCLAT) allowing the Appellant and another resolution applicant to place any modifications in their resolution plans before the CoC.</p> <p>The Court held that it cannot find fault with the Order of the NCLT directing all resolution applicants to submit modifications in their resolution plan, so to balance the position of the respective parties, and to provide level playing field.</p> <p>The contention of the Appellant that its resolution plan was known to everyone, and hence the others ought not to be provided with an opportunity to modify the resolution plan, was not accepted, since the Court concluded that the divulging of the contents of the plan was the making of the Appellant himself.</p>



Hon'ble Mr. Justice Sanjiv Khanna

[Pradeep Kumar and Anr. v. Post Master General and Others](#)

Date: 07.02.2022
Bench Strength: 3 Judges

[Consumer Protection - Liability of Post Office / Bank for wrongs of employees:](#)

The Supreme Court held that acts of fraud or wrongs done by employees of Post Office / Banks during their course of employment are binding on the Bank / Post Office. Such acts of bank / post office employees being within their course of employment will give a right to the person defrauded to legally proceed for injury, as this is their only remedy against the post office. Thus, the post office, like a bank, can and is entitled to proceed against the officers for the loss caused due to the fraud etc., but this would not absolve them from their liability if the employee involved was acting in the course of his employment and duties.

It was held that the Post Master and other Officers of the Post Office would be liable to pay the maturity value of the Kisan Vikas Patras (KVPs) as on the date the KVPs were presented to the post office for encashment, along with 7% simple interest p.a. from the said date till the date of payment.

[Krishnamurthy @ Gunodu & Ors. v. State of Karnataka](#)

Date: 16.02.2022
Bench Strength: 2 Judges

[Criminal Law - Applicability of Section 34 of IPC:](#)

While considering a challenge against an Order of conviction of the Accused persons u/S. 302 I.P.C., the Supreme Court held that if the criminal offence is distinctly remote and unconnected with the common intention, Section 34 I.P.C. would not be applicable. However, if the criminal offence done or performed was attributable or was primarily connected or was a known or reasonably possible outcome of the pre-concert / contemporaneous engagement or a manifestation of the mutual consent for carrying out common purpose, it will fall within the scope and ambit of the act done in furtherance of common intention. For proving common intention u/S. 34 I.P.C., the prosecution can rely upon direct proof of prior concert or circumstances which necessarily lead to that inference. If the final outcome or offence committed is distinctly remote and unconnected with the common intention, the accused would not be liable. This test is fact and circumstance specific, and no straitjacket universal formula can be applied.



**Hon'ble Mr. Justice
Bhushan
Ramkrishna Gavai**

[Southern Power Distribution Power Company Limited of Andhra Pradesh \(APSPDCL\) & Anr v. M/s. Hinduja National Power Corporation Limited & Anr.](#)

Date: 02.02.2022
Bench Strength: 2 Judges

[Civil Law - State Actions to be guided by Public Good:](#)

The Supreme Court was considering a challenge made by Electricity Distributors against an Order of the APTEL directing the State Commission to decide applications filed by the Respondents for determination of capital costs and approval of Continuation Agreement. The Court held that the Appellants / State Authorities could not be permitted to change the decision at their whims and fancies and, particularly, when it is adversarial to the public interest and public good. It was held that the Distribution Companies / Appellants are instrumentalities of the State and as such, a State within the meaning of Article 12 of the Constitution of India. Every action of a State is required to be guided by the touch-stone of non- arbitrariness, reasonableness and rationality. Every action of a State is equally required to be guided by public interest. Every holder of a public office is a trustee, whose highest duty is to the people of the country. The Public Authority is therefore required to exercise the powers only for the public good.



[Ms. X v. Registrar General, High Court of Madhya Pradesh and Anr.](#)

Date: 10.02.2022
Bench Strength: 2 Judges

[Writ Jurisdiction - Validity of Transfer Order:](#)

The Supreme Court while examining the validity of a transfer order passed with respect to a District Judge in Madhya Pradesh, and determining whether her resignation was voluntary or not, held that under the circumstances, the resignation could not be said to be voluntary. The District Judge levelled allegations of sexual harassment against a sitting Judge of the M.P. High Court. Subsequently, she was transferred from Gwalior to Sindhi. The District Judge tendered her resignation, since her prayer for extension in Gwalior, to enable her daughter to finish the academic session, was rejected. The Court held that though, it may not be possible to observe that the Petitioner was forced to resign. However, the circumstances clearly reveal that they were such, that out of frustration, the Petitioner was left with no other alternative. The Court accordingly directed that the Petitioner be reinstated as a District Judge without backwages, but with continuity in service with all consequential benefits from the date on which she tendered her resignation.

<p><i>Hon'ble Mr. Justice Bhushan Ramkrishna Gavai</i></p>	<p><u>Azgar Barid (D) by LRs & Ors. v. Mazambi @ Pyarembabi & Ors.</u></p> <p>Date: 21.02.2022 Bench Strength: 2 Judges</p>	<p><u>Civil Law - Partition:</u></p> <p>The Supreme Court relied upon its Judgment in <i>Chandramohan Ramchandra Patil and Others v. Babu Koyappa Patil (Dead) Through LRs and Others</i> (2003) 3 SCC 552, and held that the contention that the Plaintiffs are not entitled to relief in the Second Appeal on the ground that they did not challenge the Judgment of the Trial Court before the First Appellate Court is not sustainable. The Court also relied upon its Judgments in <i>Bhagwan Swaroop & Ors v. Mool Chand & Ors.</i> (1983) 2 SCC 132, and <i>Dr. P. Nalla Thampy Thera v. B.L. Shanker & Ors.</i> 1984 (Supp) SCC 631, and held that in a suit for partition, the position of the plaintiff and the defendant can be interchangeable. Each party adopts the same position with the other parties. So long as the suit is pending, a defendant can ask the Court to transpose him as a plaintiff and a plaintiff can ask for being transposed as a defendant.</p>
	<p><u>Shrikant G. Mantri v. Punjab National Bank</u></p> <p>Date: 22.02.2022 Bench Strength: 2 Judges</p>	<p><u>Consumer Protection - Scope of "Consumer" :</u></p> <p>The Supreme Court was considering whether the services availed by the Appellant (stock broker) from the Respondent-Bank would fall within the term 'commercial purpose', and whether such services were exclusively availed by the Appellant for the purposes of earning his livelihood by means of self-employment. The Court examined the object of the Consumer Protection Act, and concluded that the idea of enacting the said Act was to help consumers get justice and fair treatment in matters of goods and services purchased and availed by them in a market dominated by large trading and manufacturing bodies. The Act revolves around the consumer, and is designed to protect his interest. It provides for "business-to-consumer" disputes and not for "business to business" disputes. The Court concluded that the Appellant took the overdraft facility from the Bank and sought enhancement of the same from time-to-time in furtherance of his business as a stock-broker. The relations between the Appellant and the Bank is purely "business to business", and would come within the ambit of "commercial purpose". If 'business to business' disputes would be construed as consumer disputes, it would defeat the purpose of providing speedy and simple redressal to consumer disputes.</p>

 <p>Hon'ble Mr. Justice Aniruddha Bose</p>	<p><u>M/s. Oil and Natural Gas Corporation Ltd. v. The President, Oil Field Employees Association & Ors.</u></p> <p>Date: 04.02.2022 Bench Strength: 2 Judges</p>	<p><u>Industrial Disputes - Binding force of Settlement on minority Union:</u></p> <p>The Supreme Court interpreted S.18(3) of the Industrial Disputes Act, 1947 and concluded that a settlement arrived between the majority union and the employer would not be binding on the minority union. In this case, the minority union was merely a consenting party to the settlement.</p>
 <p>Hon'ble Mr. Justice Ajjikuttira Somaiah Bopanna</p>	<p><u>M/s TRL Krosaki Refractories Ltd. v. M/s SMS Asia Private Limited & Anr.</u></p> <p>Date: 22.02.2022 Bench Strength: 3 Judges</p>	<p><u>Criminal Law - Negotiable Instruments Act, 1881:</u></p> <p>The Supreme Court was considering a challenge to a Judgment of the High Court quashing proceedings u/S. 138 of the N.I. Act on the ground that the Complaint did not mention that the General Manager (Accounting), through whom the Complaint was filed, was authorized to file the same, or that he had knowledge about the transaction. The Supreme Court set aside the Judgment of the High Court, and held that there was an authorization letter issued by the Managing Director in favour of the General Manager authorizing him to institute proceedings under the N.I. Act. This would indicate that the General Manager was authorized to file the Complaint. With respect to the contention that the Complaint did not contain an averment that the General Manager had knowledge about the transaction, the Court held that when a company is the payee of the cheque based on which a complaint is filed u/S. 138 of N.I. Act, the Complainant necessarily should be the Company which would be represented by an employee who is authorized. <i>Prima facie</i>, in such a situation the indication in the Complaint and the sworn statement (either orally or by affidavit) to the effect that the Complainant (Company) is represented by an authorized person who has knowledge, would be sufficient. When the complainant / payee is a company, an authorized employee can represent the company. Such averment and <i>prima facie</i> material is sufficient for the learned Magistrate to take cognizance and issue process.</p>



Hon'ble Mr. Justice Krishna Murari

[Kahkashan Kausar @ Sonam & Ors. v. State Of Bihar & Ors.](#)

Date: 08.02.2022
Bench Strength: 2 Judges

Criminal Law - Quashing of F.I.R.:

The Supreme Court quashed an F.I.R. registered by a woman against her in-laws and other relatives u/S. 498A, 341, 323, 379 and 354 r.w. S. 34 I.P.C. on the ground that the F.I.R., did not reveal any specific and distinct allegations against the Appellants.

The allegations were general and *omnibus*, and can at best be said to have been made out on account of small skirmishes. The Court held that allowing prosecution in the absence of clear allegations against the in-laws (Appellants) would simply result in an abuse of the process of law.

A criminal trial leading to an eventual acquittal also inflicts severe scars upon the accused, and such an exercise must therefore be discouraged.

The Court also observed that though S.498A was aimed to protect a woman against cruelty being committed by her husband and in-laws, due to the increase in matrimonial litigation, there is an increasing tendency to employ this as a tool to settle scores. Accordingly, the Court quashed the F.I.R. against the Appellants.



Hon'ble Mr. Justice S. Ravindra Bhat

[R. Muthukumar & Ors. v. The Chairman and Managing Director Tangedco & Ors.](#)


Date: 07.02.2022
Bench Strength: 3 Judges

Service Law - No Negative Equality:

The Supreme Court was considering the claim of certain candidates who sought parity with other candidates with whom a compromise was arrived at in an earlier round of litigation. Based on such parity, the candidates sought appointment to the post of ITI Helpers.

The Court held that there is no negative equality. If there has been a benefit or advantage conferred on one or a set of people, without legal basis or justification, that benefit cannot multiply, or be relied upon as a principle of parity or equality.

Thus, the Court concluded that the aggrieved candidates could not claim the benefit of parity based on a compromise order.

<p>Hon'ble Mr. Justice S. Ravindra Bhat</p>	<p><u>Hotel Priya, a Proprietorship v. State of Maharashtra & Ors.</u></p> <p>Date: 18.02.2022 Bench Strength: 2 Judges</p>	<p><u>Civil Law - Challenge to Restriction on Number of Performers in Orchestra Bars:</u></p> <p>While examining a challenge to an Order passed by the Commissioner of Police restricting the number of performers in Orchestra Bars to 4 female and 4 male, the Supreme Court held that the impugned gender-cap (i.e. 4 females and 4 males, in any performance) appears to be the product of a stereotypical view that women who perform in bars and establishments, like the appellants, belong to a certain class of society. It was held that such measures, which claim protection, in reality are destructive of Article 15 (3) as they masquerade as special provisions and operate to limit or exclude altogether women's choice of their avocation. It was concluded that this restriction directly transgressed Article 15 (1) and Article 19 (1) (g).</p>
	<p><u>M/s Apex Laboratories Pvt. Ltd. v. Deputy Commissioner of Income Tax, Large Tax Payer Unit - II</u></p> <p>Date: 22.02.2022 Bench Strength: 2 Judges</p>	<p><u>Income Tax Law - Deductions u/S.37(1) of the Income Tax Act,1961:</u></p> <p>The Supreme Court held that gifting freebies to doctors by pharmaceutical companies is "<i>prohibited by law</i>", and therefore, cannot be claimed as a deduction u/S. 37(1) of the I.T. Act. It was held that doing so would wholly undermine public policy. It was held that it is but logical that when acceptance of freebies is punishable by the MCI, pharmaceutical companies cannot be granted the tax benefit for providing such freebies.</p>
 <p>Hon'ble Mr. Justice V. Ramasubramanian</p>	<p><u>Walchandnagar Industries Ltd. v. The State of Maharashtra & Anr.</u></p> <p>Date: 04.02.2022 Bench Strength: 2 Judges</p>	<p><u>Land Acquisition - Quantum of Compensation:</u></p> <p>The Supreme Court was considering a challenge to an Order passed by the High Court determining the quantum of compensation payable in land acquisition proceedings. It was held that u/S. 23 of the Land Acquisition Act, 1894, injurious affection to property, in any other manner, may stand on a different footing from injurious affection to earnings. The Court held that the refusal of the High Court to grant compensation for the injurious affection sustained by the Appellant to one set of movable property (rails and sleepers) is clearly unsustainable. The Court restored the findings of the Reference Court with respect to compensation awarded for rails and sleepers.</p>

<p><i>Hon'ble Mr. Justice V. Ramasubramanian</i></p>	<p><u>Council of Architecture v. The Academic Society of Architects (TASA) & Ors.</u></p> <p>Date: 14.02.2022 Bench Strength: 2 Judges</p>	<p><u>Civil Law - Challenge to Architectural Education Regulations:</u></p> <p>The Supreme Court was considering a challenge to a Judgment of the High Court quashing the Minimum Standards of Architectural Education Regulations, 2017 circulated by the Appellant. The High Court quashed the regulations on the ground that prior approval of the Central Govt. u/S. 45(1) of the Architects Act, 1972 was not obtained.</p> <p>The Supreme Court held that on a reading of S.21 and S.45 of the Architects Act, it is clear that : (i) that the Council is empowered to prescribe minimum standards of architectural education, not necessarily by taking recourse to Section 45(2); and (ii) that if at all, such minimum standards are issued otherwise than through Regulations, they should not be in conflict with those found in the Regulations.</p> <p>It is only in cases where the Council chooses to prescribe standards in the form of regulations that the requirement of approval of the Central Government u/S. 45(1) would become necessary. The Court accordingly set aside the Order of the High Court.</p>
	<p><u>Union of India & Ors. v. Probir Ghosh & Anr.</u></p> <p>Date: 17.02.2022 Bench Strength: 2 Judges</p>	<p><u>Service Law - Notifying vacancies:</u></p> <p>The Supreme Court held that once vacancies are earmarked separately for different categories of border districts, even in the Recruitment Notification, it is not possible to hold that all border districts are to be treated alike. Different considerations may weigh with the recruiting authorities for categorizing the border districts into two types.</p> <p>It was concluded that the High Court was not justified in granting relief to the Respondent on the ground that he must be considered as a person domiciled in the border district where vacancies were available, though he belonged to another border district, to which no vacancy was notified.</p> <p>It was held that the High Court had erred in diluting the significance of preference given by the candidates. The Court set aside the Order of the High Court quashing the Select List.</p>



**Hon'ble Mr. Justice
J. K. Maheshwari**

[Vasudev v. State of M.P.](#)

Date: 01.02.2022
Bench Strength: 2 Judges

Criminal Law - Appeal against Conviction:

The Supreme Court partly allowed the Appeal filed by the Accused, and set aside the conviction u/S.307 I.P.C., while maintaining conviction u/S.25(1B)(a) of the Arms Act.

It was held that the prosecution is required to prove its case beyond a reasonable doubt, and conviction cannot be based merely on the basis of presumption to rule out the presence of the accused. On examining the evidence of the prosecution witnesses, the Court concluded that none of the prosecution witnesses saw the Appellant firing at the police party, with the intention or knowledge to commit an offence, proving his guilt. Thus, the intention and knowledge to commit an act was not proved beyond a reasonable doubt. Since the Accused persons had already undergone the sentence for the charge under the Arms Act, the Court directed that they be released from jail forthwith.

[State of Kerala v. Anie Lukose](#)

Date: 01.02.2022
Bench Strength: 2 Judges

Service Law - Calculation of Pension:

The Supreme Court upheld the Order of the High Court refusing to interfere with the fixation of basic pension of the Respondent. In this case, the Respondent voluntarily retired from the post of selection grade Lecturer, and was awarded pension of Rs. 19,333 in the revised scale. This Order was challenged by the Appellant-State of Kerala on the ground that the Respondent had retired one month after re-joining from a leave of 2 years.

It was held that on a reading of the relevant Circulars and Kerala Service Rules, it was clear that if during the period of 10 months (for calculation of emoluments), an employee had been absent from duty, on leave with or without allowances, which qualified for pension, but re-instated in service, without forfeiture of service, his emoluments for the purpose of ascertaining the average would be taken, at what they would have been, had he not been absent from duty, provided that the benefit of pay in any officiating post would be admissible only if it is certified that he would have continued to hold that officiating post but for leave or suspension.



**Hon'ble Mr. Justice
M. M. Sundresh**

[Rajesh Yadav & Anr. Etc. v. State of U.P.](#)

Date: 04.02.2022
Bench Strength: 2 Judges

[Criminal law - Appeal against Conviction:](#)

The Supreme Court held that a Final Report u/S. 173(2) Cr.P.C. forms a mere opinion of the Investigating Officer on the materials collected by him. The evidence of the Final Report is required for corroboration and contradiction of the other material witnesses. The I.O. not turning up for further cross-examination *per se* would not make the entire case of the prosecution bad in law particularly when the final report itself cannot be termed as a substantive piece of evidence being nothing but a collective opinion of the investigating officer. The Court also elucidated the law relating to various kinds of witnesses in a criminal trial, such as hostile witness, chance witness, related and interested witness. Further, the Court also held that mere non-examination of the witness *per se* will not vitiate the case of the prosecution. Accordingly, the Court upheld the conviction of the Accused persons.



**Hon'ble Ms. Justice
Bela M. Trivedi**


[Jaina Construction Company v. The Oriental Insurance Company Limited & Anr.](#)

Date: 11.02.2022
Bench Strength: 2 Judges

[Consumer Law - Insurance Claim:](#)

The Supreme Court while setting aside the order of the National Consumer Dispute Redressal Commission, held that the repudiation of the insurance claim by the insurance company on the ground of delay in intimating the theft of vehicle by the insured to the insurance company, cannot be a ground to deny the claim, when the insured has filed an F.I.R. immediately and when the claim of the insured was not found to be not genuine.

The Supreme Court reiterated the law laid down in *Gurshinder Singh v. Shriram General Insurance Company Ltd. & Anr.* (2020) 11 SCC 612, which held that when an insured has lodged the FIR immediately after the theft of a vehicle occurred and when the police, after investigation has lodged a final report after the vehicle was not traced, and when the surveyors / investigators appointed by the insurance company have found the claim of the theft to be genuine, then mere delay in intimating the insurance company about the occurrence of the theft cannot be a ground to deny the claim of the insured.

	<p><u>Satye Singh & Anr. v. State of Uttarakhand</u></p> <p>Date: 15.02.2022 Bench Strength: 2 Judges</p>	<p><u>Criminal Law - Reversal of Conviction:</u></p> <p>The Supreme Court, while reversing the conviction of the Appellants u/S.302 and 201 I.P.C. held that the prosecution having failed to prove the basic facts as alleged against the accused, the burden could not be shifted on the accused by pressing into service the provisions contained in S. 106 of the Evidence Act. In this case, the prosecution examined 11 witnesses. However, none of the witnesses had any knowledge about the alleged incident. It was held that circumstances, howsoever strong, cannot take the place of proof, and the guilt of the accused has to be proved by the prosecution beyond reasonable doubt. Section 106 is not intended to relieve the prosecution from discharging its duty to prove the guilt of the accused. Accordingly, the Court acquitted the Accused person, and directed that they be released forthwith.</p>
 <p>Hon'ble Mr. Justice Pamidighantam Sri Narasimha</p>	<p><u>Regional Transport Authority & Anr. v. Shaju etc.</u></p> <p>Date: 17.02.2022 Bench Strength: 2 Judges</p>	<p><u>Motor Vehicles Act - Replacement of Vehicle:</u></p> <p>The Supreme Court held that Rule 174 (2) (c) of the Kerala Motor Vehicles Rules, which enables replacement of a vehicle under a Transport permit, does not impinge upon the powers of the Central Government with respect to fixation of the age of the vehicle, or fitness of the vehicle conferred upon it u/S.56 and 59 of the Motor Vehicles Act, 1988. The Rule will have no bearing on the power of the Central Government and as such it would not be <i>ultra vires</i> the provisions of the Motor Vehicles Act. It was held that Rule 174(2) is a provision where the Government has expressly enabled the Authority / RTO to apply discretion, wherever necessary, while exercising the power to grant replacement of a vehicle under a permit. This discretion will have to be exercised reasonably, fairly as the facts and circumstances would clearly demonstrate. If the exercise of the discretion is not based on just reasonable and non-arbitrary principles, such a decision would be vulnerable and subject to correction in appeal and a further review. Accordingly, the Court set aside the Order of the High Court, and concluded that Rule 174(2)(c) is <i>intra vires</i> the provisions of the Act and also Sec. 83 of the Motor Vehicles Act.</p>

<p><i>Hon'ble Mr. Justice Pamidighantam Sri Narasimha</i></p>	<p><u>Mukesh Kumar & Anr. v. Union of India & Ors.</u></p> <p>Date: 24.02.2022 Bench Strength: 3 Judges</p>	<p><u>Service Law - Compassionate Appointment:</u></p> <p>The Supreme Court held that a policy of compassionate appointment must not discriminate on any of the grounds mentioned in Article 16(2), including that of <i>descent</i>, by classifying children of the deceased employee as legitimate and illegitimate and recognizing only the right of legitimate descendant. The Court relied upon its Judgment in <i>Union of India v. V.R. Tripathi</i>, (2019) 14 SCC 646, and held that once Section 16 of the Hindu Marriage Act regards a child born from a marriage entered into while the earlier marriage is subsisting to be legitimate, it would violate Article 14, if the policy or rule excludes such a child from seeking the benefit of compassionate appointment. Exclusion of one class of legitimate children would fail to meet the test of nexus with the object, and it would defeat the purpose of ensuring the dignity of the family of the deceased employee.</p>
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