

Weekly Legal Current Affairs

8–14 June 2026

This week at a glance

- A homemaker's unpaid work is not worth nothing. The Court priced it, added a separate head for the family's lost domestic care, and called her a nation builder.
- A rejected Rajya Sabha nominee ran to the Supreme Court mid-election. The Court sent her away with one word from Ponnuswami: wait for the election petition.
- Two judges agreed two brothers were guilty and split only on the third. The referee judge then acquitted all three — and the Supreme Court asked how a tie-breaker grew that big.
- A rule freezing 'financial assistance' during a criminal case was used to block a son's compassionate job. The Court said the two reliefs are different streams — and read the text as written.

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Judgments of the week

1. Shishupal @ Shish Ram vs Surjeet Civil / CPC

2026 INSC 634 · Sanjay Karol, J. and Nongmeikapam Kotiswar Singh, J. (judgment authored by Sanjay Karol, J.) · 11 June 2026

Facts. A homemaker was killed in November 2001 in a road accident caused by rash and negligent driving. The Motor Accidents Claims Tribunal awarded a modest sum, which the High Court raised to about Rs. 8.43 lakh; the claim then crawled through nearly 25 years of litigation, aggravated by a 2011 fire that destroyed the case file and forced a reconstruction. The legal heirs pressed for fuller compensation, asking the Court to value the unpaid labour of a homemaker and to recognise the loss of her domestic care.

Issue. How is the economic contribution of a deceased homemaker to be quantified for compensation, whether 'loss of domestic care' is a distinct and separately compensable head over and above loss of consortium, and what directions are needed to curb chronic delay in motor accident claims.

Held. The Court held that a homemaker's labour is genuine economic activity and must be valued realistically, not treated as notional or nil; homemakers, it said, are nation builders. Loss of domestic care was recognised as a head distinct from loss of consortium, and Rs. 30,000 per month was attributed under it, taking the total award to about Rs. 62.77 lakh once the Pranay Sethi conventional heads and the 10% triennial enhancement were applied. Following *Rajesh v. Rajbir Singh* and *Magma General Insurance v. Nanu Ram* on notional income, the Court also issued systemic directions — documentary proof upfront, the Motor Vehicles Act summary procedure, and High Court monitoring of claims pending beyond four years.

Why it matters. Two moves to remember: 'loss of domestic care' is its own head, separate from consortium, and a homemaker's notional income is assessed as real economic value. Pair it with *Pranay Sethi* for the conventional heads.

Provisions: Motor Vehicles Act, 1988 (ss. 166, 168 and the summary-procedure provisions); Code of Civil Procedure, 1908, s.151; Article 21, Constitution of India (dignity)

2. Meenakshi Natarajan vs Election Commission of India Constitution

2026 INSC 643 · Prashant Kumar Mishra, J. and Atul S. Chandurkar, J. (judgment authored by Prashant Kumar Mishra, J.) · 12 June 2026

Facts. The petitioner, a Congress candidate for a Rajya Sabha seat from Madhya Pradesh, had her nomination rejected by the Returning Officer on the ground that she had not disclosed a pending criminal case in her Form 26 affidavit, said to offend Section 33A of the Representation of the People Act, 1951. In that case cognizance had been taken and summons issued, but no charge had yet been framed. Her representation to the Election Commission having failed, she moved the Supreme Court directly under Article 32.

Issue. Whether Article 329(b) of the Constitution bars the Court from entertaining, under Article 32, a challenge to the rejection of a nomination paper while the election is in progress, and whether Section 33A requires disclosure of a case in which charges have actually been framed.

Held. It could not. Applying N.P. Ponnuswami, the Court held Article 329(b) to be a blanket bar that excludes writ jurisdiction over any step in an ongoing election, including the rejection of a nomination; the only remedy is an election petition after the result, here under Section 100 of the 1951 Act for improper rejection. The petition was dismissed as not maintainable. Only to appreciate the facts, the Court noted that Section 33A in terms requires disclosure of a case 'in which a charge has been framed', a stage the petitioner's case had not reached — but it expressly left that point open so as not to prejudice any election petition.

Why it matters. *The trigger phrase is 'called in question'. Mid-poll grievances, however strong, are barred under Article 329(b) — the door is the post-result election petition, never Article 32 or 226.*

Provisions: Article 329(b), Constitution of India; Article 32, Constitution of India; Sections 33A, 36 and 100, Representation of the People Act, 1951; Rule 4A and Form 26, Conduct of Election Rules, 1961

3. Rakesh Kumar Gupta vs The State of Uttar Pradesh Criminal Law

2026 INSC 632 · Dipankar Datta, J. and Satish Chandra Sharma, J. (judgment authored by Dipankar Datta, J.) · 9 June 2026

Facts. Three brothers were convicted of murder by the Sessions Court. On appeal, the two judges of the Division Bench of the High Court disagreed: one acquitted one brother while affirming the other two, the other affirmed all three. The split was referred under Section 392 CrPC to a third (referee) judge, who went on to acquit all three — including the two whose conviction both judges of the Division Bench had affirmed.

Issue. Whether, on a difference of opinion under Section 392 CrPC, the reference to the third judge is confined to the appeal (or appellant) on which the judges actually differed, or extends to the entire composite matter, including appellants on whose case the Division Bench was unanimous.

Held. Only the slice. Reading Section 392 closely — note how it moves from 'an appeal' to 'the appeal' — the Court held the reference is confined to the appeal on which the judges differed, so a referee cannot reverse a conviction the Division Bench had unanimously affirmed. Here that meant only the third brother's appeal should have travelled to the referee. The Court respectfully doubted the wider reading in Sajjan Singh v. State of Madhya Pradesh, which had let the third judge examine the entire matter, flagged the anomalies that follow, and referred the question to a larger Bench.

Why it matters. *On a split verdict, the referee judge inherits only the point of difference, not the whole appeal — and watch this space, because Sajjan Singh's contrary view is now before a larger Bench.*

Provisions: Section 392, Code of Criminal Procedure, 1973 (now Section 433, BNSS, 2023); Sections 374 and 378, Code of Criminal Procedure, 1973; Sections 148, 149 and 302, Indian Penal Code, 1860

4. Atul Chauhan vs State of Haryana Service / Admin

2026 INSC 640 · Sanjay Karol, J. and Nongmeikapam Kotiswar Singh, J. (judgment authored by Nongmeikapam Kotiswar Singh, J.) · 11 June 2026

Facts. The appellant's father, a teacher, died in a road accident, and the appellant's mother was prosecuted for his murder but acquitted on benefit of doubt, with the State's appeal pending. The appellant sought compassionate appointment under the Haryana compassionate-assistance rules of 2019. The authorities first kept the claim in abeyance under Rule 23(1) — which suspends relief during the pendency of criminal proceedings — and then rejected it, also invoking the widow's prior claim. The High Court upheld Rule 23(1) and held that the widow's claim had to be decided first.

Issue. Whether Rule 23(1), which suspends 'compassionate financial assistance' during criminal proceedings, also governs a claim for 'compassionate appointment', and whether the rules impose a strict sequential bar requiring the widow's claim to be exhausted before a child's claim can be considered.

Held. On the plain text, no. The Court held Rule 23(1) speaks only of 'compassionate financial assistance' and cannot be stretched to 'compassionate appointment'; the 2019 Rules keep the two reliefs in separate streams with their own definitions, procedures and authorities. Nor was there an absolute sequential bar: the financial-assistance scheme uses a 'failing which' cascade among dependants, but the appointment provision does not, and the widow had anyway renounced her claim. Noting the oddity that the smaller relief carries a safeguard the larger one lacks, the Court asked the State to amend the Rules and, under Article 142, directed that the son's claim be decided on merits within three months.

Why it matters. Read a welfare scheme by its own words: a 'failing which' cascade signals a sequential bar; its absence does not. And a rule worded for one relief does not silently swallow another.

Provisions: Haryana Civil Services (Compassionate Financial Assistance or Appointment) Rules, 2019 (Rules 5, 7, 8, 9, 23); Article 309 and Article 14, Constitution of India; Article 142, Constitution of India

In brief — also on the docket this week

5 M.R. Vasumathi vs The Authorized Officer Civil / CPC

2026 INSC 633 · Dipankar Datta, J. and Augustine George Masih, J. (judgment authored by Dipankar Datta, J.) · 9 June 2026

Issue. Whether the requirement under the Security Interest (Enforcement) Rules, 2002 that the balance 75% of the purchase price be paid within fifteen days of confirmation of sale (or within a written, agreed extended period) is mandatory, such that its breach vitiates the auction sale.

Held. It is. The Court held Rules 9(3) and 9(4) of the 2002 Rules mandatory and going to the root of the sale: the balance must be paid within fifteen days of confirmation, and any extension needs a written agreement between the parties. Following *Sri Siddeshwara Cooperative Bank v. Ikbāl*, it found the late payment fatal and quashed the sale, while using Article 142 to give the heir one chance to redeem the mortgage with interest in eight weeks, failing which the asset could be resold.

6 Makardhwaj Ram vs Jagdish Rai (Dead) Th. LRs Property / TPA

2026 INSC 636 · Sanjay Karol, J. and Nongmeikapam Kotiswar Singh, J. (judgment authored by Sanjay Karol, J.) · 11 June 2026

Issue. Whether a suit for declaration of title and possession over property already vested in the plaintiff is barred by constructive res judicata under Section 11, Explanation IV of the CPC, merely because earlier suits challenging alienations of portions of the property had been dismissed.

Held. It need not have been. The Court held constructive res judicata under Section 11, Explanation IV bars only what reasonable diligence required to be raised within the legitimate purview of the former suit. The earlier suits attacked particular sale deeds; the later suit asserted vested title and possession — a distinct cause of action with a distinct subject-matter. Stressing that the doctrine cannot strip a party of property rightfully his, especially in an intra-family dispute, the Court set aside the High Court and decreed the claim.

7 Baksish Ahmad vs Union of India Service / Admin

2026 INSC 630 · Dipankar Datta, J. and Satish Chandra Sharma, J. (judgment authored by Dipankar Datta, J.) · 9 June 2026

Issue. Whether the Delhi High Court was justified in declining to entertain the writ petition under Article 226 on forum non conveniens grounds, where the Director General, BSF and the Union of India — necessary parties — were located within its territorial jurisdiction.

Held. It was not. The Court held the Delhi High Court competent under Article 226 because the office of the principal, necessary respondents lay within its jurisdiction, and that forum non conveniens had been misapplied to a constitutional remedy: where the seat of the respondent is within jurisdiction and the disciplinary records can be summoned, a High Court should rarely decline. The dismissal of the petition was set aside and the writ restored for decision on merits.

8 Sheetal Vasant Thakur vs Chirag Arora Family Law

2026 INSC 638 · Sanjay Karol, J. and Nongmeikapam Kotiswar Singh, J. (judgment authored by Nongmeikapam Kotiswar Singh, J.) · 11 June 2026

Issue. Whether and how a court may direct psychological evaluation of a child victim in proceedings touching the POCSO Act while a custody dispute is pending, and what safeguards govern the choice of expert and the manner of evaluation.

Held. The Court held such evaluations must follow minimum intrusion, child-centric and trauma-informed principles drawn from the POCSO Act, 2012 (including Sections 24, 33(5), 36 and 39), and found the move to a four-member panel inadequately justified. It laid down safeguards — ordinarily a single, neutral, court-appointed child psychologist; panels only exceptionally; experts not suggested by the accused; a welfare-oriented, confidential, supervised process — and remitted the matter to the Family Court to pass fresh orders, treating the directions as flexible guidance rather than rigid rules.

Clear Concepts — textbook revision of two core concepts**Constructive Res Judicata (Section 11, Explanation IV, CPC)**

CPC

Section 11, Explanation IV, Code of Civil Procedure, 1908 (unchanged)

Res judicata (Section 11) bars re-litigation of a matter already heard and finally decided between the same parties. Explanation IV extends this to matters never actually raised: any plea which 'might and ought' to have been taken as a ground of attack or defence in the former suit is deemed to have been directly and substantially in issue, and is treated as decided. This is 'constructive' res judicata, resting on *nemo debet bis vexari pro una et eadem causa* — no one should be vexed twice for the same cause.

Core principle.

- Section 11 codifies res judicata but is not exhaustive; its underlying principles apply beyond suits, including to writ and execution proceedings.
- Explanation IV engrafts constructive res judicata: a matter that could and should have been litigated is deemed to have been in issue.
- Purpose: avoid multiplicity of litigation and secure finality — a party cannot reserve pleas for a fresh round.

The 'might and ought' test.

- 'Might' = possibility: the party had the opportunity to raise that ground of attack or defence in the earlier suit.
- 'Ought' = obligation: the law mandates raising it then; it is used in a mandatory sense expressing duty.
- 'And' is conjunctive, not disjunctive — both limbs must be satisfied for the bar to apply.
- The bar covers every point properly belonging to the subject of the litigation that reasonable diligence could have brought forward.

Limits of the doctrine.

- No bar where the cause of action or relief did not exist or was unavailable at the time of the earlier suit.
- No bar on a genuine change of circumstances, or for a right acquired during the pendency of the earlier suit.
- The court must be satisfied the party had the opportunity and the duty to raise the point now said to be constructively decided.

Leading cases.

- *Devilal Modi v Sales Tax Officer*, AIR 1965 SC 1150 — a plea available against an opponent in earlier proceedings cannot be raised against him in a later one.
- *State of U.P. v Nawab Hussain*, (1977) 2 SCC 806 — challenge to dismissal on 'no opportunity' barred a later suit pleading the authority's incompetence; both grounds had to be taken together.
- *Forward Construction Co. v Prabhat Mandal*, (1986) 1 SCC 100 — constructive res judicata applies even to public interest litigation; matters that ought to have been raised cannot be reargued.
- *Makardhwaj Ram v Jagdish Rai*, 2026 INSC 636 — the bar reaches only matters within the legitimate purview of the earlier suit; a distinct cause of action asserting vested title is not barred.

Exam tip. Remember the conjunctive 'might AND ought' — opportunity alone is not enough; there must also be a duty to have raised the plea, and only within the legitimate scope of the earlier suit.

The Election Bar — Article 329(b) and the Ponnuswami Doctrine

Constitution

Article 329(b), Constitution of India (read with Sections 80, 80A and 100, Representation of the People Act, 1951)

Article 329(b) is a non-obstante 'blanket ban': no election to Parliament or a State Legislature may be 'called in question' except by an election petition before the authority prescribed by law. Courts — including the High Court under Article 226 and the Supreme Court under Article 32 — cannot intervene at any intermediate stage of the electoral process; the only remedy is post-election. The election machinery must run without judicial interruption until completion.

Scope and the meaning of 'election'.

- Clause (b) ousts the courts over matters arising once the electoral process is on; it is complementary to clause (a), which bars review of delimitation/seat-allotment laws.
- 'Election' means the entire process — from the President's/Commission's notification to the declaration of the result — not merely the final count.
- Acceptance or rejection of a nomination, and any step while elections are in progress, can be challenged only by election petition, not by writ.
- Being a non-obstante clause, it overrides Article 226/32 where the dispute amounts to calling an election into question.

The election-petition remedy.

- The remedy lies only after the election, by an election petition; no remedy exists at any intermediate stage (Ponnuswami).
- Since the 1966 amendment (s.80A RPA), the election petition is heard by the High Court as a statutory tribunal, with appeal to the Supreme Court.
- Grounds for declaring an election void must conform to Section 100 of the Representation of the People Act, 1951.
- Improper acceptance or rejection of a nomination is a recognised ground under Section 100.

Narrow qualification.

- Where an erroneous order does not actually hinder the progress of the election, courts under Art. 226 may, exceptionally, decline to abstain (Manda Jaganath).
- Article 329(b) and Section 100 RPA must be read together — no statute can curtail the constitutional bar (Ashok Kumar).
- Even after the poll, an election cannot be set aside under Art. 226 on grounds such as a defective electoral roll; the petition is the route.

Leading cases.

- N.P. Ponnuswami v Returning Officer, Namakkal, AIR 1952 SC 64 — Art. 329(b) bars any challenge (even to nomination rejection) at an intermediate stage; sole remedy is a post-election petition.
- Mohinder Singh Gill v Chief Election Commissioner, (1978) 1 SCC 405 — 'election' spans notification to declaration of result; Art. 329(b) is a blanket ban during that span.
- Election Commission of India v Ashok Kumar, (2000) 8 SCC 216 — s.100 RPA, being the product of Art. 329(b), helps fix its span; the bar applies sparingly where the election's progress is not impeded.
- Manda Jaganath v K.S. Rathnam, (2004) 7 SCC 492 — if an order does not hinder the conduct of the election, courts should not interfere; remedy lies in an election petition.
- Meenakshi Natarajan v Election Commission of India, 2026 INSC 643 — a direct Art. 32 challenge to a nomination rejection mid-election is not maintainable; the remedy is an election petition.

Exam tip. The trigger phrase is 'called in question' — mid-poll grievances die in court; the only door is a post-result election petition under ss.80/100 RPA before the High Court.

Revision capsule — one-line recap of every ruling

- **Shishupal @ Shish Ram:** The Court held that a homemaker's work is an economic activity that must be valued in money terms, recognising homemakers as 'nation builders' whose contribution cannot be treated as zero or notional.
- **Meenakshi Natarajan:** The Court held that Article 329(b) is a blanket bar: once the electoral process has commenced, an election — including a step such as the acceptance or rejection of a nomination — can be 'called in question' only by an election petition after the result, and not by writ.
- **Rakesh Kumar Gupta:** Reading the language of Section 392 CrPC closely — the article shifting from 'an appeal' to 'the appeal' — the Court held that the reference to the third judge is limited to the particular appeal on which the two judges differed, and does not throw open appeals or appellants on whose conviction the Division Bench was agreed.

- **Atul Chauhan:** The Court held that Rule 23(1) applies only to 'compassionate financial assistance' and has no application to 'compassionate appointment'; the plain language and marginal heading of the rule make no reference to appointment, and the 2019 Rules treat the two reliefs as separate streams with distinct definitions, procedures and competent authorities.
- **M.R. Vasumathi:** The Court held that Rules 9(3) and 9(4) of the Security Interest (Enforcement) Rules, 2002 are mandatory and go to the root of the validity of an auction sale.
- **Makardhwaj Ram:** The Court held that the bar of constructive res judicata under Section 11, Explanation IV applies only to matters that 'might and ought' to have been made a ground of attack or defence in the former suit, tested against reasonable diligence and the legitimate purview of those proceedings.
- **Baksish Ahmad:** The Court held that the Delhi High Court was competent to entertain the writ petition under Article 226 because the situs of the office of the principal respondents (the Director General, BSF, and the Union of India), who were necessary and properly impleaded parties, lay within its territorial jurisdiction.
- **Sheetal Vasant Thakur:** The Court held that any court-ordered evaluation of a child in such matters must follow principles of minimum intrusion, child-centric adjudication and trauma-informed procedure, drawing on the protective scheme of the POCSO Act, 2012 (including Sections 24, 33(5), 36 and 39).

Prelims Q&A — real past questions, with old→new code mapping

Q1. Which Article of the Constitution of India, relates to Uniform Civil Code?

1. 42
2. 41
3. 43
4. None of the above.

Ans: D. The Uniform Civil Code is dealt with in Article 44 (Directive Principles), not 41, 42 or 43 — so the correct option here is 'None of the above'. Article 41 = right to work/education; 42 = just and humane conditions of work; 43 = living wage. Constitution unchanged, so no old/new code mapping applies. **[Karnataka 2019]**

Q2. When one person signifies to another his willingness to do or to abstain from doing anything, with a view to obtain the assent of that other to such act or abstinence, he is said to make

1. a proposal
2. a promise
3. an offer
4. a consent

Ans: A. This is the verbatim definition of 'proposal' under Section 2(a) of the Indian Contract Act, 1872. A promise (s.2(b)) arises only when the proposal is accepted. The Indian Contract Act, 1872 is unchanged, so no old-to-new code mapping is required. **[Kerala 2019]**

Q3. An agreement which is enforceable by law at the option of one or more of the parties thereto, but not at the option of the other or others, is a

1. void contract
2. voidable contract
3. unilateral contract
4. rescinded contract

Ans: B. This is the definition of a 'voidable contract' under Section 2(i) of the Indian Contract Act, 1872. A void contract (s.2(j)) is not enforceable by law at all. The Indian Contract Act, 1872 is unchanged, so no old-to-new code mapping is required. **[Kerala 2019]**

Q4. A man is presumed to be dead if he is not heard of as alive for

1. Five years
2. Seven years
3. Nine years
4. Ten years

Ans: B. Under the law of evidence, a person not heard of for seven years by those who would naturally have heard of him is presumed dead. Old: s.108 Indian Evidence Act, 1872 → New: s.107 BSA, 2023 (Bharatiya Sakshya Adhiniyam). The seven-year period is retained unchanged. **[Maharashtra 2019]**

Q5. The Statute of Limitation regarding debt.

1. bars the remedy
2. extinguishes the right
3. bars the remedy and extinguishes the right
4. bars neither remedy nor right

Ans: A. The Limitation Act, 1963 bars only the remedy and not the right in the case of a debt — a time-barred debt is still a valid debt, only the suit to recover it is barred (s.3). Extinguishment of the right itself is the exception, confined to adverse possession under s.27. The Limitation Act, 1963 is unchanged, so no code mapping is required. **[Maharashtra 2019]**

Q6. How many minimum number of persons are required to constitute the offence of rioting under Section 146 of Indian Penal Code, 1860?

1. 2
2. 5
3. 7
4. 11

Ans: B. Rioting requires force or violence by an unlawful assembly, and an unlawful assembly needs a minimum of five persons. Old: s.146 (rioting) / s.141 (unlawful assembly) IPC → New: s.191 / s.189 BNS, 2023. The minimum of five persons is retained. [\[Haryana 2017\]](#)

Q7. Section 73 of Indian Penal Code, 1860 prescribes the maximum limit of solitary confinement to be:

1. One year
2. Two years
3. Three months
4. Six months

Ans: C. The total maximum of solitary confinement is three months (scaled by the term of imprisonment). Old: s.73 IPC → New: s.11 BNS, 2023, which retains the three-month outer limit. [\[Haryana 2017\]](#)

Q8. What will be limitation period for instituting a suit for which no specific period of limitation is provided under Limitation Act,

1. 1 year
2. 2 years
3. 3 years
4. No limitation

Ans: C. Article 113 of the Schedule to the Limitation Act, 1963 is the residuary article and prescribes three years (running from when the right to sue accrues) for any suit for which no period is provided elsewhere. The Limitation Act, 1963 is unchanged, so no code mapping is required. [\[Haryana 2017\]](#)

Q9. Attorney General for India is appointed by as provided under Article 76 of the Constitution of India

1. Chief Justice of India
2. Prime Minister of India
3. Vice-president of India
4. President of India

Ans: D. Article 76(1) provides that the President of India appoints the Attorney General for India. Constitution unchanged, so no code mapping is needed. [\[Karnataka 2018\]](#)

Q10. Nothing is an offence which is done by a child under the age of ____

1. Seven years.
2. Eight years.
3. Ten years.
4. Twelve years.

Ans: A. Nothing is an offence done by a child under seven years of age (absolute immunity, *doli incapax*). Old: s.82 IPC → New: s.20 BNS, 2023, which retains the under-seven rule. [\[Karnataka 2018\]](#)

Mains Q&A — real state mains questions, with model answers**Mains Q1. — Karnataka Civil Judge (Jr Div) Mains, 2019 · Constitution**

Describe the procedure for carrying out amendments to the Constitution of India. Can fundamental rights be amended?

The Constitution is neither flexible like an ordinary statute nor rigid to the point of paralysis; Article 368 charts a middle course by graduating the difficulty of amendment to the importance of the provision touched. Although Article 368 is the principal amending provision, a large body of provisions, such as those contemplated by Articles 2 to 4 (admission and reorganisation of States) and Article 169, may be altered by Parliament by a simple majority, and these are expressly not treated as 'amendments' at all. The core amending power lies in Article 368(2): a Bill must be introduced in either House, passed in each House by a majority of the total membership of that House and by a majority of not less than two-thirds of the members present and voting, and then presented to the President, who, after the Twenty-fourth Amendment, is bound to give assent.

A further, federal, safeguard operates through the proviso to Article 368(2). Where the amendment seeks to change entrenched matters — the election of the President, the executive power of the Union and States, the Union and State judiciary, the distribution of legislative powers, or Article 368 itself — the special majority must additionally be ratified by the legislatures of not less than one-half of the States before the Bill goes for assent.

On whether fundamental rights can be amended, the law travelled a long arc. In *Shankari Prasad* (1951) and *Sajjan Singh* (1965) the Court held that an amendment under Article 368 was not 'law' within Article 13(2), so Part III could be abridged. *Golak Nath* (1967) reversed this, holding fundamental rights immune from amendment. Parliament answered with the Twenty-fourth Amendment, inserting Article 13(4) and Article

368(1) to confirm that a constitutional amendment is not ordinary law. The decisive synthesis came in *Kesavananda Bharati* (1973): the Court overruled *Golak Nath* and accepted that fundamental rights, like any provision, are amendable, but subjected the amending power to the implied limitation that the 'basic structure' of the Constitution cannot be destroyed.

Thus fundamental rights can be amended through Article 368, yet an amendment that abrogates the essence of a right or any other basic feature — judicial review, the rule of law, the balance between Parts III and IV — remains vulnerable. *Minerva Mills* (1980) struck down clauses (4) and (5) of Article 368, themselves inserted by the Forty-second Amendment, precisely because they purported to make the limited amending power unlimited and to oust judicial review. *I.R. Coelho* (2007) reaffirmed that even Ninth Schedule laws are testable on the basic-structure touchstone. The settled position, therefore, is that fundamental rights are amendable but not at the cost of the constitutional identity itself.

Mains Q2. — Haryana Civil Judge (Jr Div) Mains, 2019 · Criminal Law

The scope of common object as contemplated by Section 149 of IPC is much broader than the concept of common intention enshrined under Section 34 of IPC. Substantiate this statement.

The statement captures a genuine doctrinal divide between two distinct theories of constructive criminal liability. Section 34 IPC, now Section 3(5) of the *Bharatiya Nyaya Sanhita, 2023*, fastens liability where a criminal act is done by several persons in furtherance of the common intention of all, each being liable as if he had done it alone. Section 149 IPC, now Section 190 BNS, makes every member of an unlawful assembly (as defined in Section 141 IPC, now Section 189 BNS) guilty of an offence committed by any member in prosecution of the common object, or such as the members knew to be likely. The breadth of the latter flows from the difference between 'intention' and 'object'.

Under Section 34, the gist is a pre-arranged plan, a meeting of minds, that may form long beforehand or develop on the spur of the moment, as the Privy Council laid down in *Mahbub Shah v. Emperor* and as reiterated in *Pandurang v. State of Hyderabad*. Crucially, there must also be participation: in *Suresh v. State of U.P.* the Supreme Court held that the accused sought to be convicted must have done some act, overt or even covert, with nexus to the offence — mere presence sharing a common intention is insufficient unless coupled with participation, which may be passive, such as standing guard. The clause requires 'common' and not merely 'similar' intention, a distinction the Court was careful to preserve.

Section 149 casts a far wider net. It dispenses with the need to prove any pre-concert or overt act by the particular accused; bare membership of the unlawful assembly knowing the common object suffices. The second limb extends liability even to offences not intended but which members 'knew to be likely' to be committed in prosecution of the object, a vicarious reach with no parallel in Section 34. The object, unlike intention, may itself develop in the course of the incident and may be inferred from the conduct of the assembly, the weapons carried and the surrounding circumstances.

A further structural difference is that Section 149 presupposes five or more persons; where acquittals reduce the proven number below five and no unidentified members are found, the section collapses, as *Maina Singh v. State of Rajasthan* illustrates, though the same facts may still attract Section 34 if a shared intention and participation are made out. Hence Section 149's wider membership-based and 'knew to be likely' liability makes its scope distinctly broader than that of Section 34.

Mains Q3. — Maharashtra Civil Judge (Jr Div) Mains, 2019 · Property

Write a short note on the Doctrine of Lis Pendens.

The doctrine of *lis pendens*, codified in Section 52 of the *Transfer of Property Act, 1882*, rests on the maxim *pendente lite nihil innovetur* — nothing new should be introduced during the pendency of litigation. Its object, as the Supreme Court explained in *Amit Kumar Shah v. Farida Khatoon*, is to prevent the very subject-matter of a suit from being spirited away and to avoid the multiplicity and endlessness of proceedings that would result if parties could defeat a decree by transferring the disputed property to strangers. The animating principle, traceable to *Bellamy v. Sabine*, is one of equity and good conscience: it would be impossible to bring any suit to a successful conclusion if alienations during its pendency were permitted to prevail.

Section 52 provides that during the pendency of any suit or proceeding, which is not collusive and in which any right to immovable property is directly and specifically in question, the property cannot be transferred or otherwise dealt with by any party so as to affect the rights of any other party under the decree that may be made, except under the authority of the court and on such terms as it may impose. The Explanation fixes pendency as commencing from the presentation of the plaint and continuing until the suit is disposed of by a final decree or order and that decree is fully satisfied or has become unexecutable by limitation.

The essential conditions are therefore: a pending suit or proceeding; in a court of competent jurisdiction; that is not collusive; in which a right to immovable property is directly and specifically in question; and a transfer of that property by a party during pendency affecting another party's rights. The effect is not that the transfer is void or illegal; the Supreme Court has held that a transfer *pendente lite* is valid *inter se* but remains subservient to and bound by the eventual decree. The transferee *pendente lite* stands in the shoes of his transferor, takes subject to the result, and is treated as if a party to the suit even without being impleaded.

A point of practical importance for Maharashtra is the Bombay amendment of 1939, by which Section 52, in the notified areas, applies only where a notice of pendency of the suit is registered under the *Registration Act*; in those areas an unregistered *lis* will not bind a transferee. Section 52 also overrides the protection of an ostensible owner under Section 41, so a purchaser during pendency cannot claim *bona fide*

protection.

Mains Q4. — Kerala Judicial Service (Civil Judge Jr Div) Mains, 2020 · Contract

A entered into a contract with B for supply of specified quantity of certain article on or before a specified date at a fixed price. Subsequently, availability of the article in the market became scarce and the price of the article soared high. A contends that the contract has become frustrated. Is the contention liable to be accepted? Discuss with reference to the doctrine of frustration.

A's contention cannot be accepted. Mere scarcity in the market and a steep rise in price, however onerous they make performance, do not frustrate a contract under the doctrine codified in Section 56 of the Indian Contract Act, 1872. The supplier has undertaken an unconditional obligation to deliver a fixed quantity by a fixed date at a fixed price, and the law does not relieve him simply because the bargain has turned commercially unattractive.

Section 56 declares that an agreement to do an act impossible in itself is void, and that a contract to do an act which, after the contract is made, becomes impossible or unlawful by reason of an event the promisor could not prevent, becomes void when the act becomes impossible or unlawful. The Indian doctrine, as the Supreme Court emphasised in *Satyabrata Ghose v. Mugneeram Bangur and Co.*, is a rule of positive law embodied in the statute and does not depend, as English law once did through the device of an implied term, on the supposed intention of the parties. 'Impossible' in the section is not confined to physical or literal impossibility; it embraces impracticability where an untoward event or change of circumstances totally upsets the very foundation on which the parties rested their bargain and strikes at the root of the contract. The court must compare the situation at the time of contracting with the situation produced by the supervening event and ask whether the change is so fundamental that performance has become a thing radically different from what was undertaken.

Price escalation and market scarcity squarely fail this test. In *Alopi Parshad and Sons v. Union of India* the Supreme Court refused relief to suppliers who claimed extra remuneration for an abnormal wartime rise in prices, holding that a party cannot ignore the express terms of its contract on a vague plea of equity, and that an unexpected rise or fall in prices, depreciation of currency, or an unforeseen obstacle does not by itself dissolve the bargain. The same principle underlies *Naihati Jute Mills Ltd. v. Khyaliram Jagannath*, where a personal failure to obtain a licence was held not to frustrate the contract. There is no general liberty in the courts to absolve a party merely because performance has become more expensive or burdensome.

Accordingly, since the article continues to be available — only at a higher price — and there is neither supervening illegality nor a change destroying the foundation of the contract, A remains bound to supply at the agreed price and is liable in damages for non-delivery. His plea of frustration must fail.

Prelims answer key: 1-D 2-A 3-B 4-B 5-A 6-B 7-C 8-C 9-D 10-A

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