LAW MOCK
by De Facto IAS

www.lawmock.com

Weekly Legal Current Affairs

22–28 June 2026

This week at a glance

- Bank FDRs created years after the suit prove nothing: a buyer who sat on his rights for nearly three years loses specific performance.
- An above-knee amputation ends a mason's livelihood, so the Court reads functional disability at 100% even though the certificate said 70%.
- A young CA student dies on the road at 3 a.m.; the Court weighs future prospects, refuses to cut the award, and adds filial consortium.
- A 1957 sale deed survives a Section 154 ceiling challenge: the Court parses void versus voidable and shields rights from a 1981 amendment.

In this issue

Judgments of the week

1. Mohammed Khaleel (D) Thr LRs v. Jayamma Property / TPA

2026 INSC 651 · Justice Prashant Kumar Mishra, Justice N.V. Anjaria · 23 June 2026

Facts. Under an agreement to sell dated 20.12.1990 for Rs. 3,00,000, the plaintiff paid Rs. 25,000 earnest money and was to register the deed within four months. Disputes arose over an approach road and ULCRA permission; the defendant rescinded by notice dated 26.04.1991. The plaintiff filed suit for specific performance only on 20.12.1993; the trial court decreed it but the High Court reversed.

Issue. Whether the plaintiff established continuous readiness and willingness to perform under Section 16(c) of the Specific Relief Act 1963 (pre-2018), and whether a delay of two years and nine months in filing the suit, though within limitation, disentitles him from the discretionary relief.

Held. The appeal is dismissed. The plaintiff failed to prove the twin statutory mandate of readiness and willingness: the FDRs post-dated the suit by years and could not establish financial capacity at the agreement date, the four-month period, or even at filing in 1993, and his inaction on ULCRA clearance betrayed unwillingness. Specific performance is a discretionary equitable relief, and a plaintiff who filed two years and nine months after the defendant's refusal, without explanation, approached the court without the promptitude equity demands. This is not a fit case to grant the relief.

> ***Why it matters.*** *Prove funds at the contract-relevant time, not with later evidence; filing within limitation does not excuse unexplained delay in seeking specific performance.*

Provisions: Specific Relief Act 1963, s.16(c); Specific Relief Act 1963, s.20; Urban Land (Ceiling and Regulation) Act 1976

2. M. Paramesh v. VRL Logistics Ltd. Civil / CPC

2026 INSC 655 · Prashant Kumar Mishra, J. and N.V. Anjaria, J. · 23 June 2026

Facts. A 30-year-old mason was knocked off his bicycle by a lorry on NH-7 and suffered injuries that led to amputation of his right leg above the knee, with permanent disability certified at 70%. The Tribunal awarded Rs. 10,84,330 on a monthly income of Rs. 6,000; the High Court enhanced income to Rs. 12,000, added 40% future prospects and raised the award to Rs. 23,86,320. The claimant sought further enhancement before the Supreme Court.

Issue. Whether loss of earning capacity should be pegged to the 70% physical disability certificate or assessed as functional disability based on the claimant's avocation. Also whether the High Court's compensation calculations contained errors needing correction.

Held. Held: Loss of earning capacity must be measured by the impact of the disability on the injured person's actual avocation, not mechanically equated with the physical-disability percentage. For a mason rendered unable to do manual work by an above-knee amputation, functional disability is 100%. Compensation recomputed on income of Rs. 12,000 plus 40% future prospects and multiplier 17, with future medical expenses raised to Rs. 2,00,000. Total enhanced to Rs. 40,29,730; appeal partly allowed.

> ***Why it matters.*** *In injury claims, courts assess what the disability does to the victim's actual job, not just the certificate number.*

Provisions: Motor Vehicles Act, 1988 (Section 166); Indian Penal Code, 1860 (Sections 279, 338)

---

3. Oriental Insurance Company Ltd v. Kalu Ram Civil / CPC

2026 INSC 653 · Prashant Kumar Mishra, N.V. Anjaria · 23 June 2026

Facts. Akash Kumar, a 20-year-old pursuing CA (Final) and on articleship, died when the car he was travelling in hit a truck parked on the BRT Corridor at 3 a.m. without lights, reflectors or warning signs. The Tribunal found the truck driver negligent and assessed income at Rs.55,500 per month against a proved stipend of roughly Rs.3,595 to Rs.14,410, awarding Rs.81,21,900. The High Court affirmed; both insurer and claimants cross-appealed.

Issue. Whether the concurrent finding of negligence against the truck driver should be disturbed, and whether the compensation should be reduced for a methodological overlap in future prospects or enhanced for inadequate assessment.

Held. Held: The insurer's appeal is dismissed and the concurrent finding of negligence affirmed. Despite a technical overlap in computing future prospects, the Court declined to reduce the award given the beneficial character of the MV Act and the long passage of time since the 2013 accident. The claimants' appeal is partly allowed by adding Rs.80,000 towards filial consortium, taking the total to Rs.82,01,900.

> ***Why it matters.*** *Just compensation favours the bereaved: courts will overlook a methodological overlap rather than shrink a decade-old award, and parents of an unmarried deceased can claim filial consortium.*

Provisions: Motor Vehicles Act 1988, s.166; Motor Vehicles Act 1988, s.140; Motor Vehicles Act 1988, s.173; Constitution of India, Article 136

---

4. Sarafat Ali (Dec) Thr LRs v. Deputy Director of Consolidation, Haridwar Property / TPA

2026 INSC 652 · Justice Prashant Kumar Mishra, Justice N.V. Anjaria · 23 June 2026

Facts. The appellants' predecessors bought agricultural land in Haridwar by a registered sale deed dated 04.06.1957 and claimed possession since. Consolidation authorities and the High Court rejected their claim, holding the deed void under Section 154 of the U.P. Zamindari Abolition and Land Reforms Act 1950 and disbelieving its execution over a discrepancy in the attesting witness Baru's particulars.

Issue. Whether a transfer hit by Section 154 of the Abolition Act is void or only voidable; whether the 1981 amendment rendering such transfers void operates retrospectively; and whether consolidation authorities could disregard a registered deed and doubt its execution over a minor attesting-witness discrepancy.

Held. The appeal is allowed. The sale deed dated 04.06.1957 could not be treated as void: under the law in force at execution, a transfer breaching Section 154 was voidable at the Gaon Sabha's instance, not void, and the substantive 1981 amendment rendering such transfers void cannot reach back to defeat accrued rights. Since the deed was at most voidable, the consolidation authorities had no power to ignore it absent cancellation by a civil court, and the inconsequential discrepancy in attesting witness Baru's village could not displace the presumption of due execution carried by a registered instrument. The names of the appellants are directed to be recorded in the revenue records.

> ***Why it matters.*** *Test a transfer's validity by the law on the date of execution; a voidable registered deed binds consolidation authorities until a civil court cancels it.*

Provisions: U.P. Zamindari Abolition and Land Reforms Act 1950, s.154; U.P. Zamindari Abolition and Land Reforms Act 1950, s.163; U.P. Zamindari Abolition and Land Reforms Act 1950, s.166; U.P. Zamindari Abolition and Land Reforms Act 1950, s.167; U.P. Consolidation of Holdings Act 1953, s.49; Indian Evidence Act 1872, s.79

In brief — also on the docket this week

5 Shankar Dutt v. United India Insurance Co. Ltd. Civil / CPC

2026 INSC 656 · Justice Ujjal Bhuyan, Justice N.V. Anjaria · 24 June 2026

Issue. Whether the notional income, the disability percentage, and the heads of compensation fixed by the High Court were just, and in particular whether medically certified disability or functional disability should govern loss of earning capacity for a skilled carpenter.

Held. The appeal is allowed and total compensation enhanced to Rs. 35,95,923 with 6% interest. The carpenter is a skilled artisan, so his notional income is fixed at Rs. 9,000 per month with 40% future prospects, and because amputation of his leg above the knee leaves him unable to sit and do carpentry his functional disability is 100%, not the 70% the doctor certified. Applying the multiplier of 15, loss of future earnings comes to Rs. 22,68,000, to which the Court adds Rs. 10,00,000 for lifetime prosthetic cost and maintenance plus heads for pain and suffering, loss of amenities, attendant charges, nutrition, laid-up income, medical and transport. United India Insurance is directed to deposit the additional Rs. 24,44,500 within six weeks.

6 Israfil @ Pappu @ Naimuddin Khan v. State of Madhya Pradesh Criminal Law

2026 INSC 654 · Prashant Kumar Mishra, N.V. Anjaria · 23 June 2026

Issue. Whether the five-year substantive sentence warrants interference on the touchstone of proportionality, given the facts and the appellant's circumstances.

Held. Held: Conviction under Sections 420, 467, 468 and 471 IPC is maintained, but the substantive sentence is reduced to the period already undergone, with the fine left unaltered.

7 Mathu @ Jagdish v. State of Uttarakhand Criminal Law

2026 INSC 658 · Ujjal Bhuyan, J. and Arun Palli, J. · 25 June 2026

Issue. Which part of Section 304 IPC applies on these facts, and whether the five-year sentence should stand given the lapse of nearly three decades and the appellant's age.

Held. Held: Conviction maintained but recast under Section 304 Part II IPC, as the death resulted from the deceased's fall into a rock-bedded canal during a scuffle, indicating knowledge rather than intention. Sentence reduced to the period already undergone.

Statutes, appointments & policy

APPOINTMENTS & INSTITUTIONS

- **Supreme Court of India (judge):** Justice J.K. Maheshwari (retired) — Justice J.K. Maheshwari demitted office on superannuation, reducing the Supreme Court's working strength to 35 against a sanctioned 38 and leaving three vacancies. His retirement also moved Justice P.S. Narasimha into the Supreme Court Collegium. **— 28 Jun 2026 · scobserver.in**

Clear Concepts — textbook revision of two core concepts

Readiness and willingness in specific performance

Contract / Specific Relief

Specific Relief Act 1963, s.16(c) (as amended 2018)

A plaintiff suing for specific performance must prove continuous readiness and willingness to perform the essential terms of the contract from the date of contract till the decree (s.16(c)). "Readiness" = financial capacity to pay; "willingness" = conduct/intent to perform. He who seeks equity must do equity: failure to show this is fatal and bars relief, even after the 2018 amendment made specific performance the rule.

Essentials of s.16(c).

- Plaintiff must prove (not merely assert) he performed, or was always ready and willing to perform, the essential terms to be performed by him.
- Readiness = financial capacity to pay the price; willingness = conduct and intent to perform; readiness must be backed by willingness (JP Builders).
- Must be continuous - from execution of contract till final decree; court infers it from conduct before and after the suit (NP Thirugnanam).
- Terms whose performance the defendant prevented or waived are excused; adding a fresh condition for one's own performance destroys willingness (Rahat Jan).

Effect of 2018 Amendment.

- Amended s.10 makes specific performance the RULE and damages the exception (earlier discretionary under old ss.10, 20).
- S.20 now provides for substituted performance, removing the court's discretion to refuse the relief.
- S.16(c): "who fails to aver and prove" replaced by "who fails to prove" - the express averment requirement is dispensed with, but the burden to PROVE readiness and willingness remains.
- Literal compliance with Forms 47/48 (Appendix A, CPC) no longer essential if readiness and willingness is gathered from a holistic reading of the plaint (C. Haridasan, 2023).

When relief is refused.

- No proof of funds/means to pay consideration; plaintiff need not jingle money but must show capacity to generate it (Sughar Singh).
- Mere oral statement of capacity without documentary proof (bank statements, ITR) is insufficient (Ritu Saxena).
- Conduct must be without blemish throughout - s.16 is a personal bar based on plaintiff's conduct (Aniglase Yohannan).
- Delay/laches indicating absence of readiness and willingness can still defeat the suit despite specific performance being the rule.

Leading cases.

- NP Thirugnanam v R Jagan Mohan Rao, (1995) 5 SCC 115 - readiness/willingness must be continuous from contract to decree and proved by conduct; want of funds defeats the suit.
- Syed Dastagir v TR Gopalakrishna Setty, (1999) 6 SCC 337 - no specific phraseology needed; compliance is in spirit and substance, not letter and form.
- JP Builders v A Ramadas Rao, (2011) 1 SCC 429 - readiness = financial capacity, willingness = conduct; readiness must be backed by willingness; it is a statutory mandate.
- Ardeshir H Mama v Flora Sassoon, (1928) 55 IA 360 (PC) - lack of readiness and willingness is fatal; suer for specific performance treats contract as subsisting.
- C. Haridasan v Anapath Parakkattu Vasudeva Kurup, 2023 SCC OnLine SC 36 - post-2018, absence of exact words is not fatal if readiness/willingness emerges on a holistic reading of the plaint.

Exam tip. Distinguish readiness (financial capacity) from willingness (conduct/intent) and stress it must be CONTINUOUS till decree; note that after 2018 only "prove", not "aver and prove", is required - but the burden never shifts off the plaintiff.

Just compensation in motor-accident claims

Law of Torts

Motor Vehicles Act 1988, ss.166 & 168

S.166 lets victims (or, on death, legal representatives) move the Claims Tribunal for a fault-based claim; s.168 directs the Tribunal to fix "just compensation" - fair, reasonable and not a windfall. The settled scheme is the multiplier method (Sarla Verma), standardised future prospects (Pranay Sethi), functional disability for injury cases (Raj Kumar) and fixed conventional heads including consortium.

The multiplier method.

- Loss of dependency = multiplicand x multiplier. Multiplicand = annual income (plus future prospects) minus personal expenses of the deceased.
- Personal-expense deduction (Sarla Verma): married deceased - 1/3 (2-3 dependants), 1/4 (4-6), 1/5 (over 6); bachelor - 1/2; for a bachelor the deceased's age governs the multiplier.
- Sarla Verma multiplier table by age: 18 for 15-25 & 26-30, then 17 (26-30 group reduced), 16, 15, 14, 13 down to 46-50, then -2 units per 5-yr slab: 11 (51-55), 9 (56-60), 7 (61-65), 5 (66-70).
- Conventional fourfold loss: pre-trial & future pecuniary loss plus non-pecuniary loss (pain, loss of amenities, expectation of life).

Future prospects (Pranay Sethi).

- Permanent/salaried job: add 50% (below 40 yrs), 30% (40-50 yrs), 15% (50-60 yrs) to actual income.
- Self-employed or fixed wages: add 40% (below 40), 25% (40-50), 10% (50-60); income taken net of tax.
- No documentary income proof: notional income on minimum wages for an unskilled worker; even non-earning homemakers get a notional income.
- Conventional heads fixed: loss of estate Rs.15,000, funeral expenses Rs.15,000, loss of consortium Rs.40,000 - enhanced by 10% every 3 years.

Disability & consortium.

- Injury cases (Raj Kumar): compensate functional, not merely physical/medical, disability - whole-body disability % is not automatically loss of earning capacity; assess effect on the victim's actual avocation.
- Same medical disability yields different earning loss for different persons (leg injury - fatal to a driver/player, marginal to a desk officer); 'permanent disability' and 'loss of earning power' are distinct heads.
- Consortium (Magma General Insurance v. Nanu Ram) is now an umbrella: spousal (company, care, sexual relations of spouse), parental (child's loss on a parent's premature death) and filial (parents' loss on a child's death).
- Consortium and loss of love/affection are awarded under the conventional heads over and above multiplier-based dependency; they are not subsumed in it.

Leading cases.

- Sarla Verma v. Delhi Transport Corporation, (2009) 6 SCC 121 - standardised the multiplier table, age slabs and personal-expense deductions for loss of dependency.
- National Insurance Co. Ltd. v. Pranay Sethi, (2017) 16 SCC 680 - fixed future-prospects slabs (50/30/15% salaried; 40/25/10% self-employed) and conventional sums for estate, funeral and consortium.
- Raj Kumar v. Ajay Kumar, (2011) 1 SCC 343 - in injury cases compensate functional disability/actual loss of earning capacity, not the bare medical disability percentage.
- Magma General Insurance Co. Ltd. v. Nanu Ram, (2018) 18 SCC 130 - consortium covers spousal, parental and filial consortium as a separate compensable head.
- Smt. Manju Devi v. Oriental Insurance Co. Ltd., AIR 2007 SC 1474 - any legal representative may claim under s.166(1)(c); dependency is only the measure of quantum, not a condition of standing.

Exam tip. Order of computation: income -> add future prospects (Pranay Sethi slab) -> deduct personal expenses (Sarla Verma fraction) -> x12 -> x multiplier -> add fixed conventional heads (estate, funeral, consortium). State the s.166/168 'just compensation' anchor first.

Revision capsule — one-line recap of every ruling

- **Mohammed Khaleel (D) Thr LRs:** Continuous readiness and willingness under Section 16(c) of the Specific Relief Act 1963 is a condition precedent to specific performance, and financial capacity must be proved with reference to the relevant time, not by documents generated long afterwards.
- **M. Paramesh:** Functional disability, not the bare physical-disability percentage, governs loss of earning capacity.

- **Oriental Insurance Company Ltd:** Concurrent findings of negligence are not disturbed, and just compensation under the MV Act tolerates a young victim's professional promise without arithmetical exactitude.
- **Sarafat Ali (Dec) Thr LRs:** A transfer by a bhumidhar in contravention of Section 154 of the Abolition Act, as the law stood in 1957, was not void but voidable at the instance of the Gaon Sabha, exposing the transferee only to ejectment under Section 163.
- **Shankar Dutt:** For a skilled worker, functional disability rather than the medically certified percentage governs the assessment of loss of earning capacity, and where amputation makes the injured unable to perform his trade the functional disability may be taken at 100%.
- **Israfil @ Pappu @ Naimuddin Khan:** Sentencing must remain proportionate to the factual matrix and is not a purely retributive exercise.
- **Mathu @ Jagdish:** On these facts the offence falls under Section 304 Part II IPC, not Part I.

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

Q1. As per the Schedule for compensation for third-party fatal accidents under Section 163A of the Motor Vehicles Act, 1988, the amount of compensation arrived at, in consideration of the expenses which a victim would have incurred towards maintaining himself had he been alive, shall be reduced by:

1. 1/2
2. 1/3
3. 1/4
4. 1/8

> **Ans: B.** Under the Second Schedule to the MV Act, 1988 (Section 163A structured-formula basis), one-third of the income is deducted towards the personal/living expenses the deceased would have spent on himself, the balance being the dependency. So the figure is reduced by 1/3. This is a self-contained MV Act question; the Act is unamended for this purpose, so no old-to-new code mapping is needed. **[Rajasthan Judiciary Prelims 2017]**

Q2. A, being the owner of a plot of land, sells it to B through a registered sale deed in 2005. B however does not make full payment to A. A again sells the same land to C in 2010 without informing him of the earlier transaction of 2005. Who would be the person aggrieved in these circumstances?

1. B (the first purchaser)
2. A (the seller)
3. C (the subsequent purchaser)
4. None of the above

> **Ans: C.** Ownership having already passed to B on the registered 2005 sale, A had nothing left to convey in 2010. Under the seller's duty to disclose material defects/prior transactions (s.55(1)(a), Transfer of Property Act, 1882) and the doctrine of fraudulent concealment, the bona fide subsequent purchaser C, who paid without notice of the earlier sale, is the person aggrieved. TPA is unamended, so no code mapping required. **[Rajasthan Judiciary Prelims 2017]**

Q3. Where, without delivering possession of the mortgaged property, the mortgagor binds himself personally to pay the mortgage-money, and agrees that on his failing to pay according to his contract the mortgagee shall have a right to cause the mortgaged property to be sold and the proceeds applied in payment of the mortgage money, the transaction is called:

1. Simple mortgage
2. Usufructuary mortgage
3. Mortgage by conditional sale
4. English Mortgage

> **Ans: A.** This is the textbook definition of a simple mortgage under s.58(b) of the Transfer of Property Act, 1882: no delivery of possession, a personal covenant to pay, and a right in the mortgagee to have the property sold on default. (In an English mortgage under s.58(e) the property is transferred absolutely subject to a proviso for re-conveyance on payment.) TPA is unamended, so no code mapping required. **[Madhya Pradesh Judiciary Prelims 2021]**

Q4. "Subrogation" is related to which section of the Transfer of Property Act, 1882?

1. Section 54
2. Section 67
3. Section 100
4. Section 92

> **Ans: D.** The doctrine of subrogation in mortgage law is contained in Section 92 of the Transfer of Property Act, 1882 (a person who redeems a mortgage steps into the shoes of the mortgagee). Section 54 deals with sale, s.67 with foreclosure/suit for sale, and s.100 with charges. TPA is unamended, so no code mapping required. **[Madhya Pradesh Judiciary Prelims 2019]**

Q5. 'A', a Guru (spiritual advisor), induced his Chela (devotee) to gift him the whole of his property to secure benefit to his soul in the next world. The gift shall be:

1. Void
2. Voidable
3. Valid
4. Immoral

> **Ans: B.** The spiritual-preceptor relationship is a classic case of a fiduciary position where the Guru is presumed able to dominate the devotee's will. A gift so obtained is vitiated by undue influence and is therefore voidable at the option of the party whose consent was so caused (s.16 read with s.19A, Indian Contract Act, 1872). The Contract Act provision is unamended, so no code mapping required. **[Madhya Pradesh Judiciary Prelims 2021]**

Q6. A Patwari, while preparing a revenue record, intentionally enters incorrect facts in the document and signs and certifies the same with the intention of causing loss to the true owner of the land. The Patwari is guilty of:

1. Offence of creating false/forged documents punishable under Sections 467 and 468 IPC
2. Offence of using a forged document punishable under Section 471 IPC
3. Offence of criminal breach of trust punishable under Section 406 IPC
4. None of the above

> **Ans: A.** Making a false document (here, a valuable security / public record) with intent to cause loss is forgery, aggravated because it is forgery of a valuable security and forgery for the purpose of cheating. Old: s.467 & s.468 IPC -> New: s.338 & s.336(3) BNS, 2023 (forgery of valuable security/will, and forgery for purpose of cheating). 'Using' a forged document (s.471 IPC -> s.340 BNS) would arise only if he later used it. Definition of forgery: Old: s.463 IPC -> New: s.336(1) BNS, 2023. **[Rajasthan Judiciary Prelims 2017]**

Q7. 'X' beat his wife. She fell down and became unconscious. Believing her to be dead, and to save himself from being arrested for murder, 'X' hanged her from the fan with a rope. The post-mortem report disclosed her death by hanging. 'X' is liable for:

1. Murder
2. Culpable homicide
3. Hurt
4. Grievous hurt

> **Ans: B.** The two acts cannot be split: the whole transaction (beating, then hanging) led to death, and the accused cannot escape liability merely because the fatal act was done believing the victim already dead (Emperor v. Mt. Dhirajia / Palani Goundan line, as settled in Thabo Meli reasoning). Since the second act lacked the intention to cause death (he believed she was already dead), the offence is culpable homicide not amounting to murder, not murder. Old: culpable homicide s.299 IPC, murder s.300 IPC -> New: s.100 and s.101 BNS, 2023 respectively. **[Haryana Judiciary Prelims 2021]**

Q8. Making a false document or part of a document with any one of the intents specified in Section 463 IPC constitutes:

1. Mischief
2. Fabrication of false documents
3. Forgery
4. Both fabrication and forgery only

> **Ans: C.** Whoever makes a false document or part of a document with intent to cause damage or injury, to support a claim, to cause a person to part with property, or to commit fraud, commits forgery. Old: s.463 IPC -> New: s.336(1) BNS, 2023 (definition of forgery); 'making a false document' Old: s.464 IPC -> New: s.335 BNS, 2023. **[Haryana Judiciary Prelims 2021]**

Q9. The Court of a Chief Judicial Magistrate may pass:

1. Any sentence except imprisonment for life
2. Sentence of imprisonment not exceeding three years
3. Sentence of imprisonment for a term up to seven years
4. Sentence of imprisonment for a term not exceeding ten years

> **Ans: C.** A Chief Judicial Magistrate may pass any sentence authorised by law except death, imprisonment for life, or imprisonment exceeding seven years. Old: s.29(1) CrPC, 1973 -> New: s.23(1) BNSS, 2023 (sentencing powers of a CJM remain capped at seven years). **[Uttar Pradesh Judiciary Prelims 2018]**

Q10. Consider the following statements regarding the transferee court under Section 42 CPC and choose the correct option: I. It can entertain an objection that the decree was obtained by fraud. II. It can refuse to execute the decree if it finds the decree was passed against a dead person. III. It can stay execution under O.21 R.29 CPC.

1. Only II is correct
2. I and II are correct
3. II and III are correct
4. I, II and III are correct

> **Ans: A.** Only statement II is correct. The transferee court cannot entertain fraud objections (Pexata v. Digambar) and cannot stay execution under O.21 R.29 (Shankar Hussain v. Bhuvaneshwari Devi). It can, however, refuse execution where the decree is against a dead person (Radha Kishen v. Behari Lal). The Code of Civil Procedure, 1908 is unamended, so no code mapping required. **[Andhra Pradesh Judiciary Prelims (generated bank, S.42 CPC / Execution)]**

Mains Q&A — real state mains questions, with model answers

Mains Q1. — **Rajasthan Judicial Service Mains, 2017 · Specific Relief Act — recovery of possession of immovable property (Sections 5 and 6)**

Under the provisions of Specific Relief Act, 1963, what remedies are available to a person dispossessed from the immovable property? Explain.

A person dispossessed of immovable property is not left to self-help; the Specific Relief Act, 1963 channels every grievance about possession into the courts, and the remedy turns on what he can prove and how quickly he sues. For immovable property the two doors are Section 5 and Section 6. Section 5 declares that a person entitled to possession of specific immovable property may recover it in the manner provided by the Code of Civil Procedure, 1908. This is the ordinary title suit: the plaintiff may sue on his ownership or on a possessory title, the limitation being twelve years from dispossession under Article 64 or 65 of the Limitation Act. Possession itself is prima facie proof of title, so one who proves older possession is presumed to have the better right on the maxim qui prior est tempore potior est jure, and a defendant cannot defeat him by setting up jus tertii — the title of a third person — as held in Nair Service Society Ltd. v. K.C. Alexander, AIR 1968 SC 1165.

Section 6 provides a distinct, summary remedy aimed squarely at forcible dispossession. If any person is dispossessed without his consent otherwise than in due course of law, he, or any person through whom or claiming through whom he has been in possession, may by suit recover possession notwithstanding any other title set up in the suit. The court tries only two questions: whether the plaintiff was in possession, and whether he was dispossessed without consent otherwise than in due course of law within the six months preceding the suit (Lallu Yeshwant Singh v. Rao Jagdish Singh, AIR 1968 SC 620). No question of title is gone into, so even an owner with a perfect title cannot resist the suit if he took the law into his own hands.

The remedies are not mutually exclusive but are hedged by conditions. A Section 6 suit must be brought within six months and not against the Government; by Section 6(3) no appeal or review lies, the only recourse being revision. Its strength — that title is irrelevant — is balanced by the fact that the decree settles nothing finally; the unsuccessful party, indeed even the defeated plaintiff, may afterwards sue on title under Section 5 within twelve years (Somnath Berman v. S.P. Raju, AIR 1970 SC 846). Settled possession is itself protected, so even a trespasser in settled possession cannot be evicted except through process of law (Krishna Ram Mahale v. Shobha Venkat Rao, AIR 1989 SC 2097). The settled position, therefore, is that the dispossessed person has a swift possessory remedy under Section 6 if he acts within six months and a fuller title-based remedy under Section 5 — the object throughout being to discourage seizing possession by foul means however good the title.

Mains Q2. — **Delhi Judicial Service Mains, 2018 · Law of Torts — professional / medical negligence (standard of care)**

What are the principles applicable to determine negligence, if any, on the part of a professional (Doctor, Lawyer, Chartered Accountant) towards his client?

Professional negligence is a species of the general tort of negligence, and so it begins with the same three ingredients approved in Jacob Mathew v. State of Punjab, (2005) 6 SCC 1: a legal duty to take care, a breach of that duty by falling below the prescribed standard, and consequential damage causally connected to the breach. What distinguishes the professional — doctor, lawyer, chartered accountant — is the content of the standard of care. One who professes a special skill impliedly assures his client not that the result will succeed, but that he possesses the requisite skill of his calling and will exercise it with a reasonable degree of care. A lawyer does not promise victory, nor a surgeon a cure; he warrants only ordinary professional skill exercised with reasonable diligence.

The touchstone is the test in Bolam v. Friern Hospital Management Committee, accepted as the law in India: where the matter involves a special skill, the standard is not that of the ordinary man on the Clapham omnibus but that of the ordinary skilled man professing to have that special skill. A professional need not possess the highest expertise; it is enough that he exercises the ordinary skill of an ordinarily competent member of his profession. It follows, as Maynard v. West Midlands RHA and Hunter v. Hanley establish, that where a body of competent professional opinion would have approved the course taken, the professional is not negligent merely because another equally competent body, or a more skilled practitioner, would have acted differently. A mere error of judgment is therefore not negligence per se — it is negligence only if it is one a reasonably competent professional acting with ordinary care would not have made (Spring Meadows Hospital v. Harjol Ahluwalia, (1998) 4 SCC 39).

Jacob Mathew crystallises the two findings on which liability rests: either the professional did not possess the requisite skill he professed, or he possessed it but failed to exercise it with reasonable competence. Indian decisions illustrate both poles. In Dr. Laxman Balkrishna Joshi v. Dr. Trimbak Bapu Godbole, AIR 1969 SC 128, the doctor was liable for reducing a fracture without the elementary caution of anaesthesia — a breach of the duty of care in treatment. In Poonam Verma v. Ashwin Patel, (1996) 4 SCC 332, a homoeopath who prescribed allopathic medicine was negligent per se for trespassing into a system he was not qualified to practise, while Indian Medical Association v. V.P. Shantha, (1995) 6 SCC 651, confirmed that professionals enjoy no immunity and owe a duty in both contract and tort. The standard of care is judged by the knowledge available at the time, not with hindsight; res ipsa loquitur applies only with caution; and the settled position is that liability must be confined to a real failure to behave as a reasonably competent practitioner would have behaved, for an inappropriate raising of the standard is itself unjust.

Mains Q3. — **MP Judicial Service Mains, 2019 · Transfer of Property**

Explain the necessary conditions for the application of the doctrine of part performance. Who can avail this doctrine?

The doctrine of part performance is a statutory engraftment upon the general rule that where the Transfer of Property Act, 1882 prescribes a particular mode of transfer, the transfer may be effected in no other way. Ordinarily an unregistered agreement to sell immovable property conveys no title. Section 53A, introduced by the Amendment Act of 1929, carves out a narrow exception by importing into India, in modified form, the English equity of part performance developed in Maddison v Alderson. Its object is to prevent a transferor from taking the benefit of a contract and then evicting the transferee by pleading want of a registered conveyance. As the Supreme Court explained in Sardar Govindrao Mahadik v Devi Sabai, the acts relied upon must be unequivocally referable to the contract and disclose a real nexus between it and the conduct said to be in furtherance of it.

The conditions precedent are sine qua non and must all be satisfied. First, there must be a contract to transfer for consideration any immovable property, which excludes gifts and partitions, the latter being no transfer at all. Secondly, the contract must be in writing and signed by the transferor or on his behalf, for a vendee cannot protect possession on an oral agreement. Thirdly, the terms necessary to constitute the transfer must be ascertainable from the writing with reasonable certainty. Fourthly, the transferee must, in part performance, have taken possession, or being already in possession must continue therein. Fifthly, he must have done some act in furtherance of the contract. Sixthly, he must have performed or be willing to perform his part. After the 2001 Amendment Act, documents executed on or after 24 September 2001 must additionally be registered, failing which they have no effect for the purposes of Section 53A.

As to who may avail the doctrine, it operates only as a shield and not as a sword. It furnishes a statutory defence to the transferee in possession to resist dispossession by the transferor; it confers no active right to sue for possession or to restrain a sale. The benefit is available to a transferee under an agreement of sale, lease or usufructuary mortgage, but only against the transferor and those claiming under him, never against a bona fide transferee for consideration without notice. As held in Shrimant Shamrao Suryavanshi v Pralhad Bhairoba Suryavanshi, the defence survives even where a suit for specific performance has become time-barred, since limitation bars a suit but not a plea in defence. This is the settled position.

Mains Q4. — **UP Judicial Service (Civil Judge) Mains, 2023 · Criminal Law (Culpable Homicide vs Murder)**

"It is often said that there is a very thin but fine distinction between culpable homicide not amounting to murder and culpable homicide amounting to murder because the difference is merely a question of different degree of probability of death ensuing." Examine the correctness of the aforementioned statement with the help of statutory provisions and judicial pronouncements.

The statement captures a distinction that has vexed the courts for over a century. Culpable homicide is the genus and murder its species; all murder is culpable homicide, but not the converse. Culpable homicide is defined in Section 100 of the Bharatiya Nyaya Sanhita, 2023 (corresponding to Section 299 of the Indian Penal Code, 1860) and murder in Section 101 BNS (Section 300 IPC), the gravity being reflected in the punishments under Section 103 BNS for murder (Section 302 IPC) and Section 105 BNS for culpable homicide not amounting to murder (Section 304 IPC). As the Supreme Court observed in State of Andhra Pradesh v Rayavarapu Punnayya, the Code practically recognises three degrees of culpable homicide: the gravest, which is murder; the second, punishable under the first part of Section 304 IPC; and the lowest, under the second part.

The distinction turns largely, though not wholly, on the degree of probability of death. Clause (b) of Section 299 IPC, speaking of bodily injury "likely to cause death", corresponds to clauses (2) and (3) of Section 300 IPC. The pivotal contrast is between an injury "likely" to cause death and one "sufficient in the ordinary course of nature to cause death". As Rayavarapu Punnayya explains, "likely" connotes the probable as distinguished from the merely possible, whereas clause thirdly means death is the "most probable" result of the injury. The distinction is fine but real, and if overlooked may occasion a miscarriage of justice. To that extent the statement is correct: the line between clause (b) of Section 299 and clause thirdly of Section 300 is indeed one of degree of probability.

Yet the statement is only partly accurate, for the distinction is not merely quantitative. In Virsa Singh v State of Punjab, Vivian Bose J laid down that to bring a case within clause thirdly the prosecution must prove the presence and nature of the injury, that the particular injury was intended and not accidental, and, objectively, that it was sufficient in the ordinary course of nature to cause death; this last enquiry has nothing to do with the offender's intention. Knowledge too plays its part, clause (4) of Section 300 requiring knowledge that the act is so imminently dangerous that it must in all probability cause death, approximating to a practical certainty. Hence, while degree of probability is the chief touchstone, intention, knowledge and the objective sufficiency of the injury together draw the line. The settled position is that the statement is a correct broad description, but an over-simplification if read as the whole law.

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

Briefed from primary judgments on Indian Kanoon (indiankanoon.org). Court judgments are public domain. Briefs are original summaries written for exam preparation, not reproductions of any third-party editorial.