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# Weekly Legal Current Affairs

29 June – 5 July 2026

## This week at a glance

- A tribunal decision resting on AI-hallucinated, non-existent precedents is no decision in law; both NCLT and NCLAT orders set aside.
- Chargesheet filed in time but extra copies for the accused missing under s.193(8) BNSS. Does default bail arise? No.
- For just compensation under the Motor Vehicles Act, salaried victims' income rests on the last ITR; the self-employed on the average of up to three prior ITRs.
- Haryana's 2002 remission policy: constitutional under Article 161 or statutory under s.432 CrPC? And is a contrary precedent per incuriam?

## In this issue



## Judgments of the week

### 1. Pooja Ramesh Singh v. J&K Bank Ltd Company / IBC

2026 INSC 668 · Justice Pamidighantam Sri Narasimha, Justice Alok Aradhe · 02 July 2026

**Facts.** J&K Bank filed a Section 7 IBC application against Essel Infraprojects Ltd, the corporate guarantor for Pan India Utilities Distribution Company Ltd, and the NCLT admitted it into CIRP on 28.08.2024, appointing an IRP and declaring a moratorium under Section 14. The suspended director's appeal was dismissed by the NCLAT on 11.09.2025. On appeal, senior counsel showed that six judgments the NCLT had relied on were fake, non-existent, or wrongly attributed, probably AI-generated.

**Issue.** Whether an adjudicatory decision that relies on fake, non-existent or AI-hallucinated material presented as precedent can stand, and what accountability follows for the Bar and the Bench.

**Held.** The Court set aside the NCLT order dated 28.08.2024 and the NCLAT order dated 11.09.2025 and restored the Section 7 application, RCP (IB) 6/MB/2023, to its original number for fresh disposal on merits, preferably within two weeks, without any opinion on merits. Parties were directed to maintain status quo pending disposal.

> ***Why it matters.*** *The first Supreme Court line on AI-hallucinated citations: 'human in the loop at every stage' and verify every authority before relying on it.*

Provisions: Insolvency and Bankruptcy Code 2016, s.7; Insolvency and Bankruptcy Code 2016, s.14

### 2. Shaurya Sunil Kumar Singh v. CBI Criminal Procedure

2026 INSC 666 · Justice Sanjay Karol, Justice Nongmeikapam Kotiswar Singh · 01 July 2026

**Facts.** The appellant was accused of aiding a cyber-fraud mule-account operation, arrested on 13.07.2025, and the chargesheet against him was filed on 02.09.2025 within the statutory period. His copy of the chargesheet reached him only on 23.09.2025. He claimed default bail on the ground that copies were not supplied within time.

**Issue.** Whether filing a chargesheet without the additional copies for supply to the accused required by Section 193(8) of the BNSS entitles the accused to default bail.

**Held.** The chargesheet was filed on 02.09.2025 within time and in compliance with Section 193(3) BNSS, so the right to default bail was extinguished that day and cognizance had already been taken. The appeal was dismissed and the Bombay High Court order affirmed. The Court clarified that his regular bail plea must be decided on its own merits, independent of this ruling.

> ***Why it matters.*** *Default bail is about the chargesheet not being filed, not about defects in it or delayed service of copies. Keep Section 193(8) (extra copies) separate from Section 187(3) (the trigger for statutory bail).*

Provisions: Bharatiya Nagarik Suraksha Sanhita 2023, s.187(3) (old s.167(2) CrPC); Bharatiya Nagarik Suraksha Sanhita 2023, s.193(3) and s.193(8) (old s.173 CrPC); Bharatiya Nagarik Suraksha Sanhita 2023, s.230 (old s.207 CrPC)

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### 3. Rashmirekha Tripathy v. Branch Manager, Sriram General Insurance `Civil / CPC`

2026 INSC 661 · Justice Sanjay Karol, Justice Nongmeikapam Kotiswar Singh · 01 July 2026

**Facts.** A 39-year-old running his own construction business died in a 2018 road accident; his legal representatives claimed compensation under Section 166 of the Motor Vehicles Act, 1988. The Tribunal fixed annual income at Rs.15,00,000 on the last ITR, while the Orissa High Court averaged the two prior ITRs to reach Rs.13,33,226. The claimants challenged the income assessment before the Supreme Court.

**Issue.** Whether, in assessing the annual income of a deceased or claimant under the Motor Vehicles Act, 1988, the ITR of the previous year alone or the average of the past two or three years should be taken.

**Held.** Treating the deceased as self-employed and considering the two ITRs on record (Rs.11,59,882 and Rs.15,06,571) with the nature of his construction business, the Court fixed annual income at Rs.14,00,000. Applying 40% future prospects, a 1/3 deduction and a multiplier of 15, total compensation was recomputed at Rs.1,97,81,505, partly restoring the amount the High Court had cut.

> ***Why it matters.*** *Salaried claimant equals last ITR; self-employed equals average of up to three ITRs plus business factors — pair this rule with Pranay Sethi on future prospects.*

Provisions: Motor Vehicles Act 1988, s.166; Motor Vehicles Act 1988, s.168

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### 4. Parveen Kumar v. State of Haryana `Constitution`

2026 INSC 667 · Justice Sanjay Karol, Justice Nongmeikapam Kotiswar Singh · 01 July 2026

**Facts.** The appellant, a life convict for murder under Section 302 IPC, sought premature release under Haryana's 2002 remission policy after roughly fourteen years. The State applied the later 2008 policy, under which he had not served the longer required period, and rejected his claim. The dispute turned on whether the 2002 policy was framed under Article 161 or under the CrPC.

**Issue.** Whether the 2002 Haryana remission policy is an exercise of the Governor's power under Article 161 or a statutory policy under Sections 432-433 CrPC, and whether State of Haryana v. Raj Kumar, holding it statutory, is per incuriam.

**Held.** The 2002 policy stands under Article 161 and the 2008 statutory policy cannot supersede it, so its benefit of the lesser qualifying period applies to the appellant, making him eligible for remission. No larger-Bench reference was needed since Jagdish already controlled. The Court directed the State to decide his application within four weeks, clarified the ruling applies prospectively, and allowed the appeal.

> ***Why it matters.*** *Article 161 remission is a distinct constitutional power that a statutory policy under s.432 CrPC cannot displace; where a liberal policy exists on the date of consideration, the lifer gets its benefit. Good vehicle for the per incuriam doctrine.*

Provisions: Constitution of India, Article 161; Code of Criminal Procedure 1973, s.432 and s.433; Code of Criminal Procedure 1973, s.433-A; Indian Penal Code 1860, s.302

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## In brief — also on the docket this week

### 5 Shobha Vasant Bhoir v. Soni @ Vandana Jagiasi `Limitation`

2026 INSC 664 · Justice Sanjay Karol, Justice Nongmeikapam Kotiswar Singh · 01 July 2026

**Issue.** Whether a plaint seeking specific performance of a 1984 agreement, filed in 2022, appears from its own averments to be barred by limitation under Article 54 of the Limitation Act, 1963, warranting rejection under Order 7 Rule 11(d) CPC.

**Held.** The Court held the suit an abuse of process and barred by law, rejecting the argument that limitation ran afresh from the High Court's 17.11.2021 order noting the absence of any substantive civil suit. A litigant silent for decades cannot revive the claim as an afterthought. The appeal was allowed and the impugned Bombay High Court order dated 30.06.2025 in Civil Revision Application No. 242 of 2024 was set aside.

### 6 Krishna Kumar Ojha v. Jitendra Chaudhary Civil / CPC

2026 INSC 662 · Justice Sanjay Karol, Justice Nongmeikapam Kotiswar Singh · 01 July 2026

**Issue.** Whether the compromise accepted on 22 February 1994 satisfied Order XXIII Rule 3 CPC when counsel signed without express authorisation, and whether a delay of about 25 years barred the challenge.

**Held.** The Court affirmed the setting aside of the compromise decree and held the exceptional delay could be given a go-by given the disputed foundational facts and the illegality of the decree. It clarified such indulgence is fact-specific and not available in every case of long delay. The partition suit was directed to be adjudicated on a full trial, and the appeal was dismissed with no costs.

### 7 Neeraj Gupta v. Pardeep Kumar Bansal Criminal Procedure

2026 INSC 660 · Justice Sanjay Karol, Justice Nongmeikapam Kotiswar Singh · 01 July 2026

**Issue.** Whether a Magistrate must record prosecution evidence under Section 244 CrPC when the offence, here alleged under Section 302 IPC, is exclusively triable by the Court of Session.

**Held.** The High Court proceeded on an erroneous reading of the law; its order requiring evidence under Section 244 was set aside. The Court declined to decide charge-framing on merits and instead directed the High Court to hear the complainant's petition and respondent no.2's petition afresh, deciding both within nine months. Appeal allowed.

### 8 Chandrikaben Kishor Dafda v. State of Gujarat Criminal Procedure

2026 INSC 665 · Justice Sanjay Karol, Justice Nongmeikapam Kotiswar Singh · 01 July 2026

**Issue.** Whether cognizance taken under Section 125A of the Representation of the People Act, 1951 — a provision inapplicable to a municipal election — vitiates the proceedings, and whether the affidavit had to disclose property owned solely by the spouse.

**Held.** The Court declined to quash the proceedings and held the misdescription under Section 125A RPA did not go to the root of the matter. Filing a false affidavit in the electoral process is an offence against society at large requiring investigation. The matter was remanded to the Magistrate to take cognizance afresh and proceed in accordance with law, without any opinion on merits.

### 9 Malkit Singh v. State of U.T. Chandigarh Constitution

2026 INSC 663 · Justice Sanjay Karol, Justice Nongmeikapam Kotiswar Singh · 01 July 2026

**Issue.** What supervisory directions should ensure lawful relocation of licensed vendors with minimum livelihood disruption, and whether the COVID-era 17.07.2020 notification enlarging the ESP definition should survive.

**Held.** The Court accepted the consensus with the amicus that the pandemic-era ESP expansion had lost its object and quashed the 17.07.2020 notification, restoring the status quo ante. It issued eight compliance directions to the Municipal Corporation. A compliance affidavit was directed by 22.07.2026, with the matter listed for 24.07.2026.

## Clear Concepts — textbook revision of two core concepts

### Default (Statutory) Bail — the Indefeasible Right on Failure to Charge-Sheet in Time

Criminal Procedure (BNSS)

BNSS 2023, s.187(3) (CrPC 1973, s.167(2))

When a person is arrested and the investigation cannot be finished within 24 hours (s.57 BNSS / s.57 CrPC), the Magistrate may authorise detention pending investigation — but only up to an outer ceiling. If the investigating agency fails to file the charge-sheet within 60 or 90 days, the accused acquires an 'indefeasible' statutory right to be released on bail. This is not bail on merits: gravity of the offence is irrelevant and the Magistrate has no discretion (s.437/s.483 do not control it).

**The Ceiling and How the Right Accrues.**

- First 15 days of custody (police or judicial) is the base; thereafter detention pending investigation may run to a maximum of 90 days (offence punishable with death, life, or imprisonment not less than 10 years) or 60 days (any other offence) — s.187(3) BNSS / proviso (a) to s.167(2) CrPC.
- The 60/90-day period is computed from the date of the FIRST remand order, not from arrest or from any anterior date (Chaganti Satyanarayana); the date of arrest is excluded, but a fraction of a day and public holidays count as full days.
- On expiry of the period WITHOUT a charge-sheet, the accused 'shall be released on bail if he is prepared to and does furnish bail' — release is deemed to be under the bail Chapter (Ch. XXXV BNSS / Ch. XXXIII CrPC), so it can later be cancelled only under s.483(3)/s.439(2) or s.480(5)/s.437(5).
- It is the maximum sentence, not the minimum, that decides which limit applies: where the max is 10 years or more, the 90-day clause governs and default bail arises only after 90 days (Rajeev Chaudhary; Bhupinder Singh v. Jarnail Singh).

**How the Right Is Availed.**

- The right is enforceable ONLY before the charge-sheet is filed and only if the accused 'avails' it — i.e. files (even orally) an application expressing readiness to furnish bail; the Magistrate has a duty to inform an unrepresented accused of the right and provide legal aid (Hussainara Khatoon).
- Once the accused has applied while no charge-sheet is on record, subsequent filing of the charge-sheet during pendency of that application does NOT defeat the indefeasible right (Uday Mohanlal Acharya; Syed Mohd. Ahmad Kazmi).
- Merits of the case are immaterial — however serious the offence, the Magistrate has no discretion to refuse; it is a purely statutory, technical right triggered by the agency's default.
- BNSS novelty: s.187(3) keeps the 60/90-day charge-sheet ceiling unchanged but now permits the 15 days of police custody to be sought 'in parts' within the initial 40 days (60-day cases) or 60 days (90-day cases) — a change from CrPC's first-15-days rule.

**How the Right Is Extinguished / Special Laws.**

- If the accused fails to apply before the charge-sheet is filed, or having got an order does not furnish bail, and the charge-sheet is filed meanwhile, the right stands extinguished; he must then seek regular bail (s.309(2)/s.346 BNSS) (Bipin Shantilal Panchal; Gyan Chandra Agarwal; State v. Mohd. Asrafi Bhat).
- A completed charge-sheet (s.173(2) CrPC / s.193 BNSS) filed within the period defeats the right, even if cognizance is taken later or copies are furnished to the accused belatedly; an incomplete or 'preliminary' charge-sheet filed only to defeat the right does not.
- Special-law extensions displace 60/90 days: NDPS Act s.36A(4) allows up to 180 days extendable to one year; UAPA allows 90+90 (180) days on a Public Prosecutor's report; a valid extension order before expiry blocks default bail (Ateef Nasir Mulla).
- Notional/'deemed' surrender in another case does not start the clock — the period runs only from when the accused is actually remanded to custody in the case concerned (State of W.B. v. Dinesh Dalmia).

**Leading cases.**

- Uday Mohanlal Acharya v. State of Maharashtra, (2001) 5 SCC 453 : AIR 2001 SC 1910 — the indefeasible right is 'availed' the moment the accused applies before charge-sheet; later filing cannot defeat it.
- Chaganti Satyanarayana v. State of A.P., (1986) 3 SCC 141 : AIR 1986 SC 2130 — 60/90 days run from the date of first remand, not from arrest.
- Rajeev Chaudhary v. State (NCT of Delhi), (2001) 5 SCC 34 : AIR 2001 SC 2369 — 'not less than 10 years' means the maximum sentence decides the 60 v. 90-day limit.
- Hussainara Khatoon v. State of Bihar, AIR 1979 SC 1360/1377 — Magistrate's mandatory duty to inform the undertrial of the right and secure legal aid; oral application suffices.

**Exam tip.** The right is 'indefeasible' but not automatic — it must be availed by an application BEFORE the charge-sheet is filed; sleep on it and a later charge-sheet kills it.

## Dying Declaration — a Hearsay Exception That Can Convict on Its Own

Law of Evidence (BSA)

BSA 2023, s.26(a) (Evidence Act 1872, s.32(1))

A dying declaration is a statement — written or verbal — by a person, since dead, as to the cause of his death or the circumstances of the transaction that resulted in it, admitted whenever the cause of that person's death is in question. It is a statutory exception to the rule against hearsay, admitted on the twin principles of necessity (the best witness is dead) and the presumption that a person on the verge of death will not lie ('nemo moriturus praesumitur mentiri'). Section 26(a) BSA reproduces s.32(1) of the Evidence Act almost verbatim, so the entire body of precedent survives.

**Ingredients and Scope.**

- The declarant must have died and the cause of that death must be in question; if the person survives, the statement is not a dying declaration but may be used to corroborate his testimony (State of U.P. v. Ramesh Prasad Misra).
- Indian law is WIDER than English law: expectation of imminent death is NOT required — a statement is admissible whether or not the maker was under expectation of death (Pakala Narayana Swamy v. Emperor) — though expectation of death adds weight.
- The statement must relate to the cause of death or the 'circumstances of the transaction' resulting in death; that phrase is narrower than 'res gestae' and requires proximate relation to the occurrence — remote statements are inadmissible (Sharad Birdhichand Sarda; Rattan Singh).
- It covers both homicide and suicide, and applies to civil as well as criminal proceedings; the declaration need not narrate the whole incident — even a brief statement naming the assailant suffices (Munnu Raja).

**Form and Recording.**

- No prescribed format — a dying declaration may be oral, written, or by signs/nods/gestures, and need not be recorded only by a Magistrate; it can be recorded by anyone, including a doctor or police officer (Laxman v. State of Maharashtra; Surender Kumar).
- Ideal practice: recorded by a competent Magistrate, in question-and-answer form, in the declarant's own words — such a declaration stands on a higher footing than one resting on oral testimony (Kushal Rao; Ravi Chandra).
- A certificate of the declarant's fit mental state is desirable but not an absolute requirement; where the doctor/witnesses depose to fitness, absence of a formal certificate does not vitiate it (Laxman; Damodaran) — but a serious doubt about mental soundness is fatal.
- A declaration recorded by the investigating officer himself is to be discouraged (he is interested in the case) and relied on only where no better method was available (Munnu Raja; Dalip Singh).

**Evidentiary Value and Cautions.**

- A true and reliable dying declaration may form the SOLE basis of conviction WITHOUT corroboration; corroboration is needed only where the declaration is not free from infirmity (Kushal Rao — the leading authority).
- Caution is required because the statement is untested by cross-examination; the court must be satisfied the declarant was in a fit state and the statement is voluntary, consistent and not tutored (Paniben; Atbir line of cases).
- Multiple dying declarations: where several exist and conflict (common in dowry-death cases), the court must examine each in its correct perspective and prefer the one corroborated by other evidence (Nallam Veera Satyanandam; Sudhakar).
- Minor infirmities do not defeat it — an irregularity by the IO, wrongful acquittal of a co-accused named in it, or recording in a different language do not by themselves make a reliable declaration untrustworthy (State of Rajasthan v. Kishore); but if part is inaccurate and inseverable, the whole is rejected (Godbu).

**Leading cases.**

- Kushal Rao v. State of Bombay, AIR 1958 SC 22 — a reliable dying declaration can be the sole basis of conviction; no rule of law or prudence mandates corroboration.
- Pakala Narayana Swamy v. Emperor, AIR 1939 PC 47 — expectation of death is not essential; 'circumstances of the transaction' interpreted authoritatively.
- Laxman v. State of Maharashtra, (2002) 6 SCC 710 : AIR 2002 SC 2973 — no set format; a fitness certificate is a rule of prudence, not an absolute requirement.
- Sharad Birdhichand Sarda v. State of Maharashtra, AIR 1984 SC 1622 — scope of s.32(1); statement must have proximate relation to death, narrower than res gestae.
- Munnu Raja v. State of M.P., AIR 1976 SC 2199 — declaration need not narrate the whole incident; caution against recording by the investigating officer.

**Exam tip.** Indian law needs NO expectation of death (Pakala Narayana Swamy) and a reliable declaration can convict on its own (Kushal Rao) — but if the maker's fit state is doubtful, it collapses.

## Revision capsule — one-line recap of every ruling

- **Pooja Ramesh Singh:** The Court held that a decision based on fake or hallucinated material is no decision in the eyes of law and must be set aside even if an iota of such material entered the reasoning, as it subverts the rule of law.
- **Shaurya Sunil Kumar Singh:** Default bail under Section 187(3) BNSS (formerly Section 167(2) CrPC) arises only when the chargesheet itself is not filed within sixty or ninety days; once a report in the form prescribed by Section 193(3) BNSS is filed in time, the right ceases.
- **Shobha Vasant Bhoir:** Under Article 54 of the Limitation Act, 1963 the limitation for specific performance is three years, and no explanation justified the delay of over three decades.
- **Rashmirekha Tripathy:** There is no hard and fast formula, but a bifurcation must be drawn between salaried and self-employed persons, the governing object being 'just and fair compensation' under Section 168 of the Act.
- **Parveen Kumar:** The 2002 policy places release cases before the Governor for orders 'under Article 161 of the Constitution', making it materially identical to the 1993 policy that the three-Judge Bench in State of Haryana v.
- **Krishna Kumar Ojha:** Under Order XXIII Rule 3 CPC a compromise must be in writing and signed by the parties, and counsel may sign only on express authorisation or under exigent circumstances, per Byram Pestonji Gariwala v.
- **Neeraj Gupta:** Section 244 CrPC sits in Part B of Chapter XIX and applies only to warrant cases triable by a Magistrate; it does not govern offences exclusively triable by Sessions.
- **Chandrikaben Kishor Dafda:** The comma after 'myself' in Rule 7A of the Gujarat Municipalities (Conduct of Elections) Rules, 1994 (as amended 2005) is a listing comma, so the candidate had to disclose assets of herself, her spouse and dependents, including property held solely by the spouse.
- **Malkit Singh:** Invoking the Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014 and the 2018 Bye-Laws, the Court directed that identified vending zones be made operational with amenities, smart cards, signage, CCTV within six months, and that pending appeals be decided within 60 days and fresh ones within 30 days.

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

**Q1. An accused is entitled to statutory (default) bail if the police fail to file the charge-sheet within how many days of his arrest for an offence punishable with 'imprisonment up to 10 years'?**

1. 30 days
2. 60 days
3. 90 days
4. 180 days

> **Ans: B.** The 90-day period applies only where the offence is punishable with death, imprisonment for life, or imprisonment for a term of NOT LESS THAN 10 years. An offence punishable 'up to 10 years' has no 10-year minimum, so it falls in the residuary 60-day bucket, and default bail accrues after 60 days (Rakesh Kumar Paul v. State of Assam, 2017). Old: s.167(2)(a) CrPC, 1973 -> New: s.187(3) BNSS, 2023 (which retains the 90/60-day scheme). **[Delhi Judiciary Prelims 2019]**

**Q2. Under the Limitation Act, 1963, delay in filing a suit beyond the prescribed period of limitation:**

1. Cannot be condoned
2. Can be condoned under Section 3 of the Limitation Act, 1963
3. Can be condoned under Section 3 read with Order VIII Rule 6, Civil Procedure Code
4. Can be condoned under Section 5 of the Limitation Act, 1963

> **Ans: A.** Delay in filing a suit CANNOT be condoned. Section 5 of the Limitation Act, 1963 is the only condonation-of-delay provision, and by its express words it permits extension of the prescribed period only for 'any appeal or any application' (other than an Order XXI CPC application) on proof of 'sufficient cause' - it does NOT extend to suits. A suit filed after the period prescribed by the Schedule is therefore hit by the mandatory bar in Section 3, which directs that every such suit 'shall be dismissed' even though limitation has not been set up as a defence, and the court has no discretion to admit a time-barred suit however sufficient the cause for delay. (Options b and c are wrong because Section 3 is a bar, not a condonation power, and no CPC provision revives a time-barred suit; option d is wrong because Section 5 does not apply to suits at all.) **[Himachal Pradesh Judiciary Prelims 2018 (HPPSC); verified against Limitation Act 1963, ss. 3 & 5]**

**Q3. Under Section 167 CrPC, a Magistrate can authorise detention for a total period of 90 days during investigation where the offence is punishable:**

1. With death
2. With imprisonment for life
3. With imprisonment for a term not less than 10 years
4. All of these

> **Ans: D.** The 90-day maximum applies to offences punishable with death, imprisonment for life, OR imprisonment for a term not less than ten years; for any other offence the limit is 60 days, after which default bail arises. Old: s.167(2)(a)(i) CrPC, 1973 -> New: s.187(3)(a) BNSS, 2023. **[Odisha Judiciary Prelims 2021]**

**Q4. Under Section 173 of the Motor Vehicles Act, 1988, no appeal shall lie against an award of a Motor Accident Claims Tribunal if the amount in dispute is less than:**

1. Rupees five thousand
2. Rupees ten thousand
3. Rupees twenty-five thousand
4. Rupees fifty thousand

> **Ans: B.** The proviso to s.173(2) of the Motor Vehicles Act, 1988 bars an appeal where the amount in dispute is less than Rs. 10,000. The Act is unchanged, so no old-to-new mapping is needed. **[Assam Judiciary Prelims 2017]**

**Q5. While assessing 'just and fair compensation' for a deceased SELF-EMPLOYED businessman under the Motor Vehicles Act, 1988, the Supreme Court in Rashmirekha Tripathy v. Branch Manager, Shriram General Insurance (2026) held that the annual income should ordinarily be computed on the basis of:**

1. The income shown in the last (previous year's) Income Tax Return alone
2. The highest income figure among all the ITRs on record
3. The average of the incomes in the ITRs of up to the previous three years, read with the surrounding business factors
4. A flat notional minimum wage, ignoring the ITRs altogether

> **Ans: C.** The Court drew a bifurcation: for SALARIED persons the previous year's ITR alone suffices (to capture recent promotions), whereas for the SELF-EMPLOYED / those in business the average of ITRs of up to the previous three years is the reference point, read with factors such as nature, growth pattern and potential of the business. Decided under s.166/168 of the (unchanged) Motor Vehicles Act, 1988. **[SC Judgment: Rashmirekha Tripathy v. Branch Manager, Shriram General Insurance (2026 INSC 661)]**

**Q6. A compromise decree was passed under Order XXIII Rule 3 CPC. Years later a party alleges it was obtained by fraud and seeks to undo it. As reiterated by the Supreme Court in Krishna Kumar Ojha v. Jitendra Chaudhary (2026), what is the ONLY remedy available against such a compromise (consent) decree?**

1. An independent fresh suit challenging the compromise
2. A first appeal against the compromise decree
3. A recall application before the very court that recorded the compromise
4. A revision to the High Court under Section 115 CPC

> **Ans: C.** Following Order XXIII Rule 3-A CPC and Navratan Lal Sharma v. Radha Mohan Sharma, the Court held that no fresh suit and no appeal lie against a consent/compromise decree; the only remedy is a recall application before the court that recorded it. The Court also reaffirmed that a valid compromise must be in writing and signed by the parties, and counsel cannot compromise on implied authority absent express authorisation. CPC is unchanged, so no mapping is needed. **[SC Judgment: Krishna Kumar Ojha v. Jitendra Chaudhary (2026 INSC 662)]**

**Q7. In a warrant case instituted otherwise than on a police report, the complainant and all cited witnesses were examined and the documents considered before summons issued. On the accused's appearance, which is the proper procedure?**

1. The Magistrate may straightaway discharge or frame charge on the basis of the pre-summoning statements and documents
2. The Magistrate may straightaway convict or acquit on the basis of those statements and documents
3. The pre-summoning statements recorded under Section 202 CrPC can be used as trial evidence after cross-examination
4. The Magistrate shall record evidence for the prosecution before deciding to discharge or frame charge

> **Ans: D.** In a warrant case instituted otherwise than on a police report, once the accused appears the Magistrate MUST take fresh prosecution evidence before deciding on discharge or charge; pre-summoning material under s.202 cannot substitute for it. Old: s.244 CrPC, 1973 -> New: s.274 BNSS, 2023. **[Kerala Judiciary Prelims 2019]**

**Q8. A suit for recovery of possession of immovable property under Section 6 of the Specific Relief Act, 1963 (dispossession without consent and otherwise than in due course of law) cannot be filed after:**

1. 15 days from the date of dispossession
2. 6 months from the date of dispossession
3. 3 months from the date of dispossession
4. 4 months from the date of dispossession

> **Ans: B.** Section 6(2) of the Specific Relief Act, 1963 bars a suit under s.6 after 6 months from the date of dispossession (and no such suit lies against the Government). The Act is unchanged, so no mapping is needed. **[Andhra Pradesh Judiciary Prelims 2019]**

**Q9. The prosecution proves that, on the accused's statement while in police custody, the weapon of offence was recovered. For the recovery to be relevant under Section 27 of the Evidence Act, which of the following facts NEED NOT necessarily be proved?**

1. The accused was in police custody when the information was given
2. The police officer deposes in court about the statement of the accused
3. At least one independent witness states in court about the recovery
4. The information given by the accused distinctly led to the discovery of the fact

> **Ans: C.** Section 27 requires (i) the accused to be in custody of a police officer, (ii) proof of the information, and (iii) that so much of it as distinctly relates to the fact discovered led to that discovery. Presence of an independent witness to the recovery, though desirable, is not a statutory precondition for admissibility under s.27. Old: s.27 Indian Evidence Act, 1872 -> New: s.23 proviso, Bharatiya Sakshya Adhiniyam, 2023. **[Kerala Judiciary Prelims 2019]**

**Q10. 'A' and 'B' together decided to kill 'X'. In pursuance of that plan, 'B' along with 'C' actually committed the murder of 'X'. 'A' was not present at the scene. Which statement is correct?**

1. 'A' committed an offence punishable under Section 302 read with Section 34 IPC
2. 'A' committed an offence punishable under Section 302 read with Section 149 IPC
3. 'A' did not commit any offence as he was absent from the scene
4. 'A' is liable only for criminal conspiracy under Section 120B IPC

> **Ans: A.** Section 34 fastens vicarious liability for a criminal act done in furtherance of a pre-arranged common intention; physical presence at the scene is not always essential where the plan is shared. A and B shared the common intention to kill X, so A is liable u/s 302 r/w 34. Section 149 (unlawful assembly of five or more) does not apply here. Old: s.302 r/w s.34 IPC, 1860 -> New: s.103 r/w s.3(5) BNS, 2023. **[Kerala Judiciary Prelims 2019]**

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

### Mains Q1. — Bihar Judicial Service (Civil Judge, Junior Division) Mains, 2011 · Criminal Procedure — bail (discretion in non-bailable offences)

*"Bail can only be a matter of discretion if the offence is non-bailable and the scope of discretion depends upon various considerations." Discuss.*

The statement captures the central architecture of the law of bail: liberty is the rule, but the manner in which that liberty is secured turns entirely on how the legislature has classified the offence. Where the offence is bailable, there is no room for discretion at all. Under s.436 CrPC (now s.478 BNSS 2023) an accused charged with a bailable offence has an absolute and indefeasible right to be released once he is willing to furnish bail, and the Supreme Court in Rasiklal v. Kishore reiterated that the words of the section are imperative — neither the police officer nor the court may refuse. The picture changes wholly the moment the offence is non-bailable, for it is only there, under s.437 CrPC (now s.480 BNSS), and in the wider jurisdiction of the High Court and Court of Session under s.439 CrPC (now s.483 BNSS), that a genuine judicial discretion arises.

That discretion, however, is neither uniform nor unbounded. Section 437 itself carves non-bailable offences into two classes. For offences punishable with death or imprisonment for life, the court may not release the accused if there appear reasonable grounds for believing him guilty of such an offence, subject to the statutory exceptions for a woman, a child, the sick or infirm. For all other non-bailable offences the court exercises a free but judicially structured discretion, as the Supreme Court explained in Gurcharan Singh v. State (Delhi Administration) and again in Ram Govind Upadhyay v. Sudarshan Singh, where it stressed that bail is not to be granted as a matter of course.

The considerations that guide this discretion have been settled over a long line of authority. The court weighs the nature and gravity of the accusation and the severity of the likely punishment; the character, antecedents and social standing of the accused, as in State of Rajasthan v. Balchand where a young man of good antecedents was favoured; the reasonable apprehension that the accused may abscond or jump bail; the danger of witnesses being tampered with or evidence being interfered with; and the larger interest of a fair investigation and trial, balanced against the protracted incarceration of an undertrial, a concern that animated Hussainara Khatoon v. State of Bihar.

The true position, therefore, is that discretion in bail is a creature of classification: absent in bailable offences where release is a right, and, in non-bailable offences, a discretion to be exercised judicially rather than arbitrarily, always striking a balance between individual liberty and the collective interest in the due course of justice.

### Mains Q2. — Haryana Civil Service (Judicial Branch) Mains, 2010 · Substantive Criminal Law — right of private defence (limitations and duty to retreat)

*The Right to Private Defence is said to be a limited right. Explain the limitations of the Right to private defence. 'A' was under attack from 'B'. 'A' had ample opportunity to save himself by fleeing away but instead 'A' defended himself and thereby caused harm to 'B'. Is it a valid exercise of the right of private defence?*

The right of private defence is a natural and salutary right, codified in ss.96 to 106 of the Indian Penal Code (now ss.34 to 44 of the Bharatiya Nyaya Sanhita, 2023), resting on the premise that when danger is imminent and the aid of the State cannot be had in time, a man may protect his own person and property and that of others. Yet it is called a limited right precisely because the Code hedges it about with restrictions, and an act that exceeds these bounds forfeits the protection and itself becomes an offence.

The governing limitations flow chiefly from s.99 IPC (now s.37 BNS). The right does not extend to inflicting more harm than is necessary for defence; the force used must be proportionate to the threat, so that, as the courts put it, one cannot fire a gun to ward off a slap. It is unavailable against a public servant, or one acting under his direction, in good faith under colour of office, unless the act reasonably causes apprehension of death or grievous hurt. Above all, there is no right where there is time to have recourse to the public authorities. The right is confined in time as well: under s.102 IPC (now s.40 BNS) it commences only when a reasonable apprehension of danger arises and lasts only while that apprehension continues, which is why in State of U.P. v. Ram Swarup a man shot down while fleeing could claim no defence. It extends to voluntarily causing death only in the situations enumerated in s.100 IPC (now s.38 BNS) — assaults reasonably causing apprehension of death or grievous hurt, or with intent to commit rape, kidnapping, abduction, wrongful confinement or the throwing of acid — and against property only within s.103 IPC (now s.41 BNS). And in a free fight, where both sides come armed to settle a quarrel by force, neither party can claim the right, both being aggressors.

On the facts posed, A's conduct is a valid exercise of the right. Indian law, unlike the old common-law doctrine of retreat, imposes no duty to flee before defending oneself. As Gajendragadkar J. held in Jai Dev v. State of Punjab, and as the Supreme Court affirmed in Darshan Singh v. State of Punjab, a citizen faced with imminent unlawful aggression is not expected to behave like a coward or run away. Provided A entertained a reasonable apprehension, had no time to seek official help, and did not inflict harm disproportionate to the threat, the mere fact that he could have fled does not defeat his plea — he was entitled to stand his ground.

**Mains Q3.** — **Karnataka Civil Judge (Junior Division) Main/Written Examination, 2021 · Evidence — burden of proof (ss.101–103, 106 Evidence Act / ss.104–106, 109 BSA 2023)**

*Explain briefly the Burden of Proof with reference to the following, with illustrations: (i) On whom burden of proof lies. (ii) Burden of proof as to particular fact. (iii) Burden of proving fact especially within knowledge.*

The law of evidence begins from a simple intuition: a court will not act on bare assertion. Whoever wants a judgment on a legal right or liability that depends on certain facts must prove those facts, and until he does the court presumes nothing in his favour. That is what s.101 of the Evidence Act 1872 (now s.104 of the Bharatiya Sakshya Adhiniyam 2023) captures when it says the person who asserts must prove. The phrase 'burden of proof', however, hides two ideas. There is the legal burden proper — the fixed obligation to establish one's case on the issue raised — which is constant throughout the trial and never moves. And there is the evidential burden or onus of proof, which shifts back and forth as evidence comes in, and shifts too the moment a presumption of law or fact is raised. Misplacing the burden, the Supreme Court warned in Rangammal v Kuppuswamy, vitiates the judgment, so the distinction is not academic.

On the first limb — who bears the burden — s.102 (now s.105 BSA) supplies the working test: the burden lies on the party who would fail if no evidence at all were led on either side. In a suit on a promissory note where the maker pleads want of consideration, the plaintiff would ordinarily succeed on the note itself; it is the defendant who would fail if the record stayed silent, so the burden of proving want of consideration rests on him. This is why, in practice, the plaintiff has the right to begin, unless the defendant admits the plaintiff's facts and rests his defence on some further plea.

The second limb narrows the enquiry to a single disputed fact. Under s.103 (now s.106 BSA), the burden as to any particular fact lies on the person who wishes the court to believe in its existence, unless some law casts it elsewhere. A litigant setting up estoppel, pleading limitation as a bar, or alleging that a registered sale deed is really benami must himself prove that particular fact.

The third limb is a narrow but powerful exception. Section 106 (now s.109 BSA) provides that when a fact is especially within the knowledge of a person, the burden of proving it is on him — the ticketless-traveller illustration being the classic example. As Shambhu Nath Mehra v State of Ajmer explains, 'especially' means pre-eminently within one party's knowledge; the rule does not relieve the prosecution of proving its case beyond reasonable doubt, but meets the difficulty where a fact lies uniquely with the accused.

**Mains Q4.** — **Odisha Civil Judge (Junior Division) Main/Written Examination, 2019 · Civil Procedure — pronouncement of judgment (Order XX) and definition of decree (s.2(2) CPC)**

*(a) When and how a judgment is pronounced and signed? (b) Define 'Decree' and state its essential elements.*

A judgment is the statement given by a judge of the grounds of a decree or order, and the Code is careful about both when it is delivered and how it is authenticated, because a suit fairly tried can still be undone by a slipshod pronouncement. Under Order XX, Rule 1 the court, after the case has been heard, must pronounce judgment in open court — either at once, or, if reserved, on a future day of which due notice is given to the parties or their pleaders. The proviso added in 2002 directs that every endeavour be made to pronounce within thirty days of the close of hearing, and, in exceptional and extraordinary circumstances, not ordinarily beyond sixty days. Where the judgment is written, it is enough to read out the findings on each issue and the final order.

Pronouncement is itself a judicial act. In Surendra Singh v State of U.P. the Supreme Court held that what constitutes a judgment is the final and formal declaration in open court of the operative decision; until that moment the judge may still change his mind, and a judgment merely written but not delivered operates only as the judge's private minutes, even if signed. Rule 3 then requires that the judgment be dated and signed by the judge in open court at the time of pronouncing it, and once signed it cannot be altered or added to save under s.152 (clerical or arithmetical mistakes) or on review. A judgment delivered but not yet signed may be modified, but only sparingly and for adequate reasons; a defect in authentication does not by itself destroy a validly pronounced judgment.

The judgment is the reasoning; the decree is its operative crystallisation. Section 2(2) defines a 'decree' as the formal expression of an adjudication which, so far as regards the court expressing it, conclusively determines the rights of the parties with regard to all or any of the matters in controversy in the suit, and which may be preliminary or final. It is deemed to include the rejection of a plaint and a determination under s.144, but excludes any adjudication appealable as an order and any order of dismissal for default.

From this flow the essential elements: there must be an adjudication, given in a suit commenced by a plaint; it must determine the rights of the parties on the matters in controversy; that determination must be conclusive so far as that court is concerned; and it must be given formal expression. If these are satisfied the decision is a decree — and, as the courts insist, it matters not that it is captioned an 'order', for substance governs form.

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

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