

Legal Language Sem 1

Q1) Answer in one or two sentences.

1. Define Law Reports

Law Reports are systematic publications of judicial decisions from various courts, primarily used to record precedents for future reference.

- **Purpose:** They ensure consistency in the application of law and serve as a reliable source of legal authority.
 - **Examples:**
 - All India Reporter (AIR)
 - Supreme Court Cases (SCC)
 - English Law Reports
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2. Explain the term "Ex-parte"

Ex-parte is a Latin term meaning "from one side." It refers to proceedings conducted in the absence of one of the parties involved in the case.

- **When Applied:**
 - If a party fails to appear in court despite being notified.
 - For urgent relief where immediate action is required.
 - **Example:** A restraining order issued without hearing the respondent.
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3. What is meant by *Nemo est haeres viventis*?

The Latin maxim *Nemo est haeres viventis* means "No one can be the heir of a living person."

- **Legal Principle:** A person's heirs are determined only after their death. While alive, no one can claim inheritance rights over their property.
 - **Application:**
 - Relevant in succession law.
 - Prevents premature claims on inheritance.
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4. Full Forms of Legal Abbreviations

1. **AIR:** All India Reporter
2. **SCC:** Supreme Court Cases
3. **IPC:** Indian Penal Code
4. **CrPC:** Criminal Procedure Code
5. **NCLT:** National Company Law Tribunal
6. **ADR:** Alternative Dispute Resolution

7. CPC: Civil Procedure Code

5. Differentiate between Appeal and Review

Aspect	Appeal	Review
Definition	An application to a higher court to re-examine the decision of a lower court.	A request to the same court to re-examine its judgment for an error.
Purpose	Corrects errors of law or fact made by the lower court.	Rectifies apparent errors on the face of the record.
Authority	Handled by a higher court or appellate tribunal.	Handled by the same court that passed the judgment.
Scope	Broader scope; entire case can be re-examined.	Limited scope; focuses on specific errors.
Examples	Appealing a conviction in a High Court after a lower court's decision.	Filing a review in the Supreme Court under Article 137 of the Constitution.

6) What are the two kinds of writs which may be issued by High Courts and Supreme Court?

The High Courts and the Supreme Court of India have the authority to issue the following two types of writs under Articles 32 and 226 of the Indian Constitution:

- Writs for Enforcement of Fundamental Rights:**
 - **Issued by:** Supreme Court (Article 32) and High Courts (Article 226).
 - **Purpose:** To protect and enforce the fundamental rights guaranteed by the Constitution.
 - **Examples:** Habeas Corpus, Mandamus, Prohibition, Certiorari, and Quo Warranto.
- Writs for Other Purposes:**
 - **Issued by:** High Courts under Article 226.
 - **Purpose:** To address violations of legal rights (not limited to fundamental rights).
 - **Scope:** Broader than Supreme Court, as it includes statutory and common law rights.

7) State any two features of the legal magazine 'One Judiciary, One People'

- Content Focus:**
 - The magazine emphasizes judicial reforms, legal education, and the need for a unified judiciary system in India to promote fairness and accessibility.
- Objective:**

Aims to create awareness about legal systems, highlight issues like access to justice, and bridge the gap between the judiciary and the public.

List of Important Abbreviations

1. D. M. C.: Divorce and Matrimonial Cases
2. Cr. L. J.: Criminal Law Journal
3. I. T. R.: Income Tax Reports
4. I. L. R.: Indian Law Reports
5. S. C. W. R.: Supreme Court Weekly Reporter
6. All Cri. L. R.: All India Criminal Law Reporter
7. Bom. L. R.: Bombay Law Reporter
8. C. W. N.: Calcutta Weekly Notes
9. All E. R.: All England Law Reports
10. J. T.: Judgments Today
11. Mah. L. J.: Maharashtra Law Journal
12. C. C. C.: Current Civil Cases
13. A. C. J.: Accident Claims Journal
- S. C. C.: Supreme Court Cases

Q2) Write Short Notes.

1) Vishakha v. State of Rajasthan AIR 1997 SC 3011

- **Background:**

The Vishaka vs. State of Rajasthan (1997) case is a landmark judgment in Indian law, as it established guidelines to prevent the sexual harassment of women in the workplace. This case arose when Bhanwari Devi, a social worker in Rajasthan, was gang-raped while working to prevent child marriage in her community. The failure of the legal system to bring the accused to justice led to a public outcry, highlighting the need for legal protection against sexual harassment for women at work.
- **Judgment:**
 - The Supreme Court issued the **Vishakha Guidelines**, which were interim measures to address workplace harassment until legislation was enacted.
 - Employers were mandated to establish committees to address complaints of sexual harassment, with a majority of women on the panel and inclusion of a third-party representative.
- **Principles Established:**
 - Right to equality under Articles 14 and 15.
 - Right to life and dignity under Article 21.
 - Right to a safe working environment.
- **Impact:**
 - This case set a precedent for interpreting the Constitution to uphold fundamental rights.
 - It culminated in the **Sexual Harassment of Women at Workplace Act, 2013**, formalizing these guidelines into statutory law.

Conclusion: This case is a cornerstone of gender justice in India and highlights the judiciary's role in bridging legislative gaps.

2) Describe the Search of Case Law on Whether Contract by Minor is Void Ab Initio

- **Meaning of Void Ab Initio:** A contract that is invalid from the very beginning due to the lack of essential legal requirements, such as the capacity to contract.
- **Key Case Law:** *Mohiri Bibi v. Dharmodas Ghose (1903)*
 - **Facts:** Dharmodas Ghose, a minor, mortgaged his property to secure a loan. Upon defaulting, the lender sought to enforce the mortgage.
 - **Judgment:**
 - The Privy Council ruled that the contract was void because a minor lacks legal capacity under Section 11 of the Indian Contract Act, 1872.
 - The court emphasized protecting minors from exploitation and invalidated the agreement entirely.
- **Exceptions:**
 - Minors may benefit from contracts made for their welfare, such as those for education, medical care, or necessities under Section 68 of the Act.
- **Significance:**
 - Contracts involving minors are treated with caution to prevent exploitation.
 - This principle prevents enforceability of agreements that minors may not fully comprehend.

Conclusion: This case ensures minors are safeguarded from liabilities, reflecting the law's intent to protect vulnerable individuals.

3) Salus Populi Est Suprema Lex

- **Meaning:** "The welfare of the people is the supreme law."
- **Principle:** This maxim reflects the prioritization of public welfare, safety, and security above individual interests.
- **Applications:**
 1. **Pandemics and Public Health:** Government-imposed lockdowns, curfews, and vaccination mandates align with this maxim, ensuring community well-being.
 2. **Disaster Management:** Emergency evacuations or resource allocation during natural calamities prioritize public safety.
 3. **Environmental Laws:** Restrictions on industrial activities harming the environment uphold the welfare of future generations.
- **Example:**
 - Supreme Court rulings that restrict pollution-causing industries near rivers or heritage sites.
 - Legal provisions like Section 144 of CrPC are invoked for public safety during riots or unrest.

Conclusion: This maxim underscores the responsibility of the state to prioritize societal welfare over individual freedoms.

4) Rex Non Potest Peccare

- **Meaning:** "The King can do no wrong."
- **Historical Context:**
 - Originated from English law, reflecting the idea that the King, as a divine ruler, was immune to prosecution or claims.
 - It established the principle of **sovereign immunity**, protecting state actions from judicial scrutiny.
- **Modern Interpretation:**
 - In India, sovereign immunity is limited. Article 300 of the Constitution allows the government to be sued for tortious acts performed during non-sovereign functions.
- **Examples in India:**
 - Compensation claims against negligence in public healthcare.
 - Cases like *State of Rajasthan v. Vidyawati* clarified the liability of the state for wrongful acts committed during non-sovereign functions.

Conclusion: Sovereign immunity remains a debated principle, evolving to balance state authority and individual rights.

5) Explain Amicus Curiae, Acquittal, and Revision

Amicus Curiae:

- A Latin term meaning "friend of the court."
- Refers to experts or organizations invited by the court to provide impartial opinions on complex legal issues.
- Example: Amicus curiae appointed in environmental cases like the Ganga pollution case.

Acquittal:

- A legal declaration that the accused is not guilty of the charged offense.
- Based on lack of evidence or reasonable doubt.
- Example: Acquittal in a murder trial when the prosecution fails to prove intent or action beyond doubt.

Revision:

- A procedure where a higher court reviews a lower court's judgment for legal or procedural errors.
- Example: Revisional jurisdiction exercised under Sections 397-401 of the CrPC for criminal cases.

Conclusion: Each concept reflects distinct judicial mechanisms aimed at fairness, expertise, and rectification in legal proceedings.

6) Audi Alteram Partem

- **Meaning:** "Hear the other side."
- **Principle:** This rule of natural justice ensures that no decision is made against a person without providing them a fair opportunity to present their case.
- **Applications:**
 1. **Employment Law:** Employers must give employees a chance to explain before termination.
 2. **Judicial Proceedings:** Courts must hear both parties before delivering judgments.
- **Case Example:** *Maneka Gandhi v. Union of India* – The principle was applied to ensure procedural fairness in impounding her passport.

Limitations:

- Ex-parte orders are exceptions in emergencies but must be justified.

Conclusion: This principle ensures fairness and upholds the fundamental right to be heard.

7) Explain the Maxim Res Ipsa Loquitur

- **Meaning:** "The thing speaks for itself."
This principle implies that the occurrence of an accident or injury itself suggests negligence without requiring direct evidence.
- **Essentials:**
 1. The accident must be of a kind that does not occur in the ordinary course without negligence.
 2. The defendant must have exclusive control over the situation or instrumentality causing the harm.
 3. There must be no contributory negligence from the plaintiff.
- **Examples:**
 - A surgical instrument left inside a patient's body after surgery.
 - A falling brick from a construction site injuring a passerby.
- **Case Law:**
 - *Scott v. London and St. Katherine Docks Co.* (1865): A sack of flour fell from a warehouse injuring the plaintiff. The court held the defendant liable, applying this doctrine.

Conclusion: Res Ipsa Loquitur simplifies proving negligence in situations where the incident itself provides sufficient evidence of fault.

8) Explain the Maxim Ubi Jus Ibi Remedium

- **Meaning:** "Where there is a right, there is a remedy."
This maxim emphasizes that if a legal right is violated, the aggrieved party has a remedy available through legal action.
- **Applications:**
 1. **Torts:** Remedies for defamation, trespass, or negligence.
 2. **Contracts:** Damages for breach of contract.
 3. **Constitutional Law:** Fundamental rights enforcement under Article 32 or 226.
- **Case Law:**
 - *Ashby v. White*: The plaintiff was wrongfully denied the right to vote, and the court held that a remedy must be provided even if no direct damage occurred.

Conclusion: This maxim ensures that the justice system remains effective in addressing grievances and upholding legal rights.

9) Explain the Difference between Cognizable and Non-Cognizable Offenses

Cognizable Offense	Non-Cognizable Offense
Police can register an FIR and investigate without prior approval from a magistrate.	Police need prior permission from a magistrate to investigate or register an FIR.
Generally, these are serious crimes such as murder, theft, or rape.	These are less serious crimes such as defamation, public nuisance, or simple assault.
Punishment is severe and often includes imprisonment for three years or more.	Punishment is mild, usually fines or imprisonment for less than three years.
Governed under Section 154 of CrPC.	Governed under Section 155 of CrPC.
Example: Robbery, kidnapping, or terrorism.	Example: Forgery, slander, or public nuisance.

Conclusion: This distinction ensures appropriate allocation of legal resources and expedites the investigation of serious crimes.

10) Actus Dei Nemini Facit Injuria

- **Meaning:** "An act of God causes harm to no one."
This principle absolves a party from liability for damages caused by natural forces beyond human control.
- **Essentials:**
 1. The event must be extraordinary and unforeseen.
 2. It must be impossible to prevent the harm despite reasonable care.

- **Examples:**
 - Damage caused by an earthquake, flood, or lightning.
 - Trees uprooted during a hurricane damaging property.
- **Case Law:**
 - *Nichols v. Marsland*: Floods caused by heavy rainfall destroyed bridges. The court ruled it as an act of God, absolving liability.

Conclusion: This principle acknowledges the unpredictability of nature and ensures fairness in imposing liability.

11) Respondent Superior

- **Meaning:** "Let the master answer."
This doctrine holds an employer vicariously liable for the wrongful acts of their employees, provided the acts are committed within the scope of employment.
- **Essentials:**
 1. There must be a relationship of master-servant (employer-employee).
 2. The wrongful act must occur during the course of employment.
- **Examples:**
 - A delivery driver causes an accident while delivering goods. The employer may be held liable.
 - Negligence of hospital staff leading to harm to a patient.
- **Case Law:**
 - *State Bank of India v. Shyama Devi*: Bank held liable for wrongful dishonor of a cheque by its employee.

Conclusion: This principle ensures accountability of employers and promotes the diligent hiring and supervision of employees.

12) Explain the Meaning of Decree, Judgment, Law, Justice, and State

Decree:

- A formal and authoritative order of a court concluding a civil dispute.
- Example: A decree of divorce or partition of property.

Judgment:

- The reasoning and decision delivered by a judge or a court.
- It includes the findings, reasoning, and conclusion of the case.

Law:

- A system of rules created and enforced by society to regulate conduct.
- It includes statutes, precedents, and customary laws.

Justice:

- The principle of fairness, equity, and moral righteousness in the legal system.
- It ensures the protection of rights and punishment of wrongs.

State:

- A political entity with sovereignty over a defined territory, population, and government.
- The state enforces laws and administers justice.

Q3) Answer the questions.**1) The Maternity Benefit Act, 1961****Short Title:**

The Maternity Benefit Act, 1961

Long Title:

An Act to regulate the employment of women in certain establishments for certain periods before and after childbirth and to provide for maternity benefits and certain other benefits.

Enacting Formula:

Be it enacted by Parliament in the Twelfth Year of the Republic of India as follows:

Date of Assent:

12th December 1961

Preamble:

An Act to regulate the employment of women in certain establishments for certain periods before and after childbirth and to provide for maternity benefits and certain other benefits.

Official Citation:

No. 53 of 1961

Extent:

This Act extends to the whole of India except the State of Jammu and Kashmir.

Date of Commencement:

1st April 1962

Marginal Notes:

- Maternity benefit
 - Notice of claim
 - Right to leave
 - Power to make rules
-

2) The Medical Termination of Pregnancy Act, 1971

Short Title:

The Medical Termination of Pregnancy Act, 1971

Long Title:

An Act to provide for the termination of certain pregnancies by registered medical practitioners and for matters connected therewith.

Enacting Formula:

Be it enacted by Parliament in the Twenty-second Year of the Republic of India as follows:

Date of Assent:

10th August 1971

Preamble:

An Act to provide for the termination of certain pregnancies by registered medical practitioners and for matters connected therewith.

Official Citation:

No. 34 of 1971

Extent:

This Act extends to the whole of India except the State of Jammu and Kashmir.

Date of Commencement:

1st April 1972

Marginal Notes:

- Medical termination of pregnancy
 - Conditions for termination
 - Powers of the Central Government
-

3) The Protection of Human Rights Act, 1998

Short Title:

The Protection of Human Rights Act, 1998

Long Title:

An Act to provide for the constitution of a National Human Rights Commission, State Human Rights Commissions, and to define their powers and functions.

Enacting Formula:

Be it enacted by Parliament in the Forty-ninth Year of the Republic of India as follows:

Date of Assent:

12th October 1993

Preamble:

An Act to provide for the constitution of a National Human Rights Commission, State Human Rights Commissions, and to define their powers and functions.

Official Citation:

No. 10 of 1998

Extent:

This Act extends to the whole of India.

Date of Commencement:

12th October 1993

Marginal Notes:

- Human Rights Commission
- Functions of the National Commission
- Powers of the Commission

Q4) Answer in details.**1) D.K. Basu v/s State of West Bengal (AIR 1997 SC 610)****Issue:**

The case dealt with the issue of custodial violence and torture during police custody and the lack of procedural safeguards in India to protect individuals from such abuse.

Facts:

D.K. Basu, a social worker, filed a petition in the Supreme Court after reports of the brutal custodial death of his brother-in-law in police custody. It was alleged that the police had failed to follow the procedures laid out under the law, which led to the death. The Supreme Court took suo motu notice of custodial deaths and filed the case to examine the conditions and protect the rights of individuals in police custody.

Arguments:

- The petitioners argued that there was a growing pattern of custodial deaths and police brutality in India.
- The State of West Bengal claimed that the police were conducting their duty according to legal procedures and that there was no intention to harm the detainee.

Guidelines:

In this landmark judgment, the Supreme Court issued detailed guidelines on the treatment of persons in police custody. Some of the major guidelines include:

- Every police station must maintain a "station diary" with full details of the arrest.
- The arrested person must be informed of their right to consult a lawyer.
- The person arrested must be examined by a medical professional within 48 hours of arrest.

- The arrest and detention must be documented in writing, and the concerned magistrate must be informed.
- The State government was ordered to take preventive measures to reduce the incidence of custodial violence.
- The court also directed compensation for victims of custodial violence.

Importance:

This case established a comprehensive framework for the protection of human rights of individuals in police custody, focusing on preventing custodial torture and ensuring judicial oversight.

2) Vishakha v/s State of Rajasthan (AIR 1997 SC 3011)

Issue:

The issue in this case was whether there were sufficient laws in India to protect women from sexual harassment at the workplace and whether the Constitution of India guaranteed protection from such harassment.

Facts:

Bhanwari Devi, a social worker employed with the Rajasthan Government, was gang-raped for attempting to stop a child marriage. The case led to the need for a law specifically addressing sexual harassment at the workplace. Despite the severe nature of the assault, the legal system lacked provisions to address such matters adequately.

Arguments:

- The petitioner argued that the absence of legal provisions to protect women from sexual harassment at the workplace violated their fundamental rights under Articles 14 (equality before the law), 19(1)(g) (right to practice any profession), and 21 (right to life and liberty) of the Constitution.
- The government argued that there were no explicit laws at the time that addressed the issue of sexual harassment at workplaces.

Guidelines:

The Supreme Court in this case laid down the following guidelines:

- Sexual harassment at the workplace is a violation of fundamental rights under Articles 14, 19, and 21.
- The Court recommended that employers should create a safe working environment by formulating a policy to prevent sexual harassment.
- The Court laid down a framework for the creation of a complaints committee in organizations to investigate allegations of sexual harassment.
- The employer was responsible for taking preventive steps and ensuring a safe working environment.

Importance:

This judgment led to the introduction of the Sexual Harassment of Women at Workplace

(Prevention, Prohibition, and Redressal) Act, 2013, providing legal recourse for women and ensuring safe workplaces.

3) MC Mehta v/s Union of India (Oleum Gas Leak Case)

Issue:

The issue in this case was the liability of industries for hazardous substances, specifically regarding the leakage of oleum gas from the Shriram Food and Fertilizer Factory in Delhi.

Facts:

In December 1996, an oleum gas leak from the Shriram Food and Fertilizer Factory led to the deaths of several people and caused injury to many others. MC Mehta, an environmentalist, filed a petition in the Supreme Court under Article 32 of the Constitution, highlighting the risks associated with hazardous industries in populated areas.

Arguments:

- The petitioner argued that the factory's operations were hazardous to public safety and that there was a need to establish clear regulations regarding the operation of industries involved with hazardous chemicals.
- The government and the industrial unit contended that the incident was an accident, and that the necessary safety measures were in place.

Judgment and Principles:

- The Court held that the doctrine of "absolute liability" should be applied, meaning that industries engaged in hazardous activities are strictly liable for any harm caused by such activities, regardless of fault.
- The Court directed that the factory must pay compensation to the victims and their families and must improve safety measures.
- The judgment further emphasized that industrial operations involving hazardous substances must be carried out with extreme care, and even slight negligence cannot be excused.

Importance:

The case reinforced the principle of "absolute liability" for industries engaged in hazardous activities. It marked an important development in environmental law and liability standards, aiming to protect citizens from industrial hazards.

4) Explain the Importance of Law Reports and Mention the Features of Two Law Reports

Law Reports: Law reports are published collections of judicial decisions that are used as a source of case law in legal practice. They are essential for legal professionals to understand how courts interpret and apply the law.

Importance:

1. **Precedent:** Law reports serve as authoritative records of judicial decisions. Courts follow the principle of stare decisis (to stand by decisions), and case law from law reports often guides the judgments in future cases.
2. **Legal Research:** They are indispensable for legal research as they provide insights into the reasoning behind judicial decisions.
3. **Reference for Lawyers and Judges:** Law reports are used by lawyers to argue cases, judges to deliver judgments, and legal scholars to analyze the evolution of legal principles.
4. **Transparency and Accountability:** Law reports ensure transparency in the legal system by making judicial decisions publicly available.

Two Law Reports:

1. **Indian Law Reports (ILR):**
 - The Indian Law Reports (ILR) is one of the oldest and most authoritative law reports in India.
 - It publishes judgments from the Supreme Court, High Courts, and other significant judicial decisions.
 - It is a highly reliable source for legal professionals and is often cited in legal proceedings.
2. **Supreme Court Cases (SCC):**
 - The SCC is a law report dedicated to publishing only Supreme Court decisions.
 - It is known for its comprehensive analysis and detailed headnotes of cases.
 - SCC reports are widely regarded as one of the most accurate and reliable collections of Supreme Court decisions in India.

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