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FROM THE DESK OF CHIEF EDITOR

We have just celebrated the 69th birthday of Indian Republic. Think of Constitutional Jurisprudence sans Judicial Review. The Constitution of 1950 and of 2018. Within a span of less than seven decades, what a difference it has made. Judicial Review has contributed to rich Constitutional heritage.

Constitution is like a plant. It grows with the passage of time. Its roots remain the same (essential-cum-basic). The roots over a period of time get stronger and firmer. In fact, the foundation gets cemented. Its branches multiply and grow. In this process, it is the Judicial Review Manuring which makes the difference. Judicial Review Manuring is required for the roots as also for the branches. At the same time, pruning is also required. If it overgrows, pruning through the medium of Judicial Review keeps the Constitution in shape. Judicial Review does not let the plant get 'aged'. The US Constitution is 230 years old. It has governed and served the nation so well. It continues to do so. How has this become possible? Judicial Review is the answer. The journey of the Indian Constitution is even more fascinating. It took 2 years 11 months and 17 days to be drafted and crafted. Jennings was critical of the Indian Constitution. He described it as : "Too long, too rigid and too prolix." On the one hand, 99 Constitutional Amendments have been made in a period of 68 years. In comparison, there have been only 27 amendments to the US Constitution. The role of Judicial Review in India is far richer and deeper in keeping the Constitution in tune with the changing of times. The decades have helped the Constitution to mature. I hasten to add that the Indian Constitution has survived only because of Judicial Review. The story is different of other written Constitutions where Judicial Review has not played an effective role. Sir Ivor Jennings took so long to draft the Sri Lankan Constitution. It did not survive even for 7 years. It may not be wrong to say that Judicial Review is the only potent remedy to let the Constitutions grow with the change of times. In the absence of Judicial Review, a Constitution can turn into a fossil. The Parliament in turn can convert the Constitution from Constitutional Discipline to Indiscipline. In the absence of Judicial Review, the Constitution could become a playful toy in the hands of the Parliament. The Parliament, whenever found that the Constitution is an obstruction in its functioning, the Parliament could remove the same. The very objective of having a written Constitution would stand defeated. Therefore, the Basic Structure Theory, was evolved.

I wish to remind the District Judicial Fraternity that the Constitution continues to be relevant. Constitutional values need to be nurtured. The onus of preserving the Constitution is on one and all. Follow the Constitution. Be you ever so high, the Constitution is above you.

Balram K. Gupta

CASE COMMENT

SUNITA SINGH VS. STATE OF UTTAR PRADESH (2018 SCC ONLINE SC 28)

The Summit Court of India has dealt with a very pertinent question of law in this judgement that, when a high caste woman marries in a scheduled caste family, whether she is entitled to the reservation meant for scheduled caste category or not ?

This of course is one of the several questions which arise when a woman belonging to one caste marries in different caste. If she is from reserve category, whether she is entitled to reservation if she marries in higher caste or vice-versa. What is the status of the children of such a woman ?

As per Hindu Law, husband and wife are one and so long as wife survives, she is stated to be the half of the husband (*Ardh-angni*) and becomes integral part of the husband's marital home. She adopts the surname of the family of the caste of the husband. She is considered to have been transplanted in the family of the husband and is thereafter treated as belonging to that caste and her ties with the family of birth are stated to be snapped.

Though this is as per Hindu Law but the very next important question is whether if a high caste woman marries a scheduled caste man, will she be entitle to reservation?

While answering this question, apex Court in the case of **Sunita Singh vs. State of Uttar Pradesh, 2018 SCC OnLine SC 28** decided on 19.01.2018 and bench comprising of Justices Arun Mishra and Mohan M. Shantanagoudar, JJ. Held that – No – this benefit cannot be extended to such a woman. It has been observed : " There cannot be any dispute that the caste is determined by birth and the caste cannot be changed by marriage with a person of scheduled caste. Undoubtedly, the Appellant was born in 'Agarwal' family, which falls in general category and not in scheduled caste. Merely because her husband is belonging to a scheduled caste category, the appellant should not have been issued with a caste certificate showing her caste as scheduled caste."

In this case, the appellant Sunita Singh was born in Agarwal family and she married Dr. Veer Singh, who happens to belong to '*Jatav'* community (a scheduled caste community). Caste certificate was issued by District Magistrate – Collector, Bullandsahar certifying the appellant as scheduled caste (Jatav). It was held that merely because her husband belongs to the scheduled caste category, she should not have been issued such a certificate.

The reference can also be made to the earlier judgment of the Hon'ble Apex Court on the same issue titled as **Meera Kanwaria vs. Sunita and Ors., (2006) 1 SCC 344** decided by Bench consisting of Judges S.B. Sinha and P. Balasubramanyan, JJ., wherein it was held that a person who is a high caste Hindu and not subjected to any social, educational backwardness in life; by reason of marriage alone cannot ipso facto become a member of scheduled caste or scheduled tribe.

In **Sandhya Thakur vs. Vimal Devi Kushwah and Ors, AIR 2005 SC 909,** the Apex Court also held that, "In the light of the decision in **Valsamma Paul v. Cochin University and Ors.** (supra) and our decision rendered today in Sobha Symavathi Devi v. Setti Gangadhara Swamy, which were heard along with this appeal, it must be held that the appellant, who by birth did not belong to a backward class or community, would not be entitled to contest a seat reserved for a backward class or community, merely on the basis of her marriage to a male of that community." (Mrs. Valsamma Paul v. Cochin University and Ors., MANU/SC/0275/1996).

To sum up, it is based on the widely accepted analogy, that it is one thing to say that lady belonging to forward class has been accepted by the community to which her husband belongs; it is quite another to say that her marriage has been accepted by her husband family. The question as regards the change of caste in view of her marriage may be relevant in relations of Hindus, but when the question of change of caste is preferable to the category belonging to special caste of people which requires protective discrimination and affirmative action a different rule will apply. To conclude, the caste is determined by birth and not by marriage.

Pradeep Mehta
Faculty Member

LATEST CASES: CIVIL

"Social solidarity is a human reality, not mere Constitutional piety and a non exploitative economic order outlined in Ar. 38, is the bedrock of a contented and united society."

V.R Krishna Iyer, J. in Fateh Chand Himmat Lal v. State of Maharashtra, (1977) 2 SCC 670

Nagaiah & Ors. vs. Smt. Chowdamma: 2018 (1) SCALE 210 : The next friend and the guardian ad litem can be removed by the Court, if the best interest of the minor so requires–On the question of procedure of filing suits on behalf of minors, the Apex Court, has held that there is neither any provision for appointment of next friend by the Court nor the permission of the Court is necessary for such appointment. After setting aside High Court judgment that had dismissed a suit filed by a minor through his elder brother on the ground that the elder brother could not act as the guardian of the minor during the lifetime of the father of the minor, as the elder brother was not appointed as a guardian of the minor during the lifetime of the father of the minor, as the elder brother was not appointed as a guardian of the minor by any competent court. The court, referring to various provisions of the Civil Procedure Code, has observed that the next friend need not necessarily be a duly appointed guardian as specified under the Hindu Guardianship Act. The court also observed that where the suit is filed on behalf of the minor, no permission or leave of the court is necessary for the next friend to institute the suit, whereas if the suit is filed against a minor, it is obligatory for the plaintiff to get the appropriate guardian ad litem appointed by the court for such minor. Instituting a suit on behalf of minor by a next friend or to represent a minor defendant in the suit by a guardian ad litem is a time-tested procedure which is in place to protect the interests of the minor in civil litigation. The only practical difference between a "next friend" and a "guardian ad litem" is that the next friend is a person who represents a minor who commences a lawsuit; guardian ad litem is a person appointed by the Court to represent a minor who has been a defendant in the suit. Before a minor commences suit, a conscious decision is made concerning the deserving adult (next friend) through whom the suit will be instituted. The guardian ad litem is appointed by Court and whereas the next friend is not.

Om Parkash vs. Reliance General Insurance & Ors.:2018 (1) RCR (Civil) 42 (SC): The delay in intimation of theft to insurance company is not a ground to reject claim–It has been observed by the Apex Court that it is a common knowledge that a person who lost his vehicle may not straightway go to the insurance company to claim compensation. At first, he will make efforts to trace the vehicle. No doubt, the owner has to intimate the insurance immediately after the theft of the vehicle. However, this condition should not bar settlement of genuine claims particularly when the delay in the meeting or submission of documents is due to unavoidable circumstances. The decision of the insurer to reject the claim has to be based on valid grounds. Rejection of claims on purely technical grounds in a mechanical manner will result in loss of confidence of the policy holder in the insurance industry. If the reason for delay in making a claim is satisfactorily explained, such a claim cannot be rejected on the ground of delay. It is also necessary to state here that it would not be fair and reasonable to reject general claims which had already been verified and found to be genuine by the investigator.

Suresh Kumar Wadhwa vs. State of MP: 2018 (1) RCR (Civil) 36 (SC): Forfeiture of security/earnest money only if provided in the contract – The plaintiff /appellant had filed suit for declaration and refund of security amount deposited with the respondent which was dismissed by the trial court and the appeal was also dismissed by the High Court. The Apex Court while interpreting S. 74 of Contract Act has observed that in order to forfeit the sum deposited by the contracting party as an earnest money or security for the due performance of the contract, it is necessary that the contract must contain a stipulation of forfeiture. It is further observed that a right to forfeit being a contractual right and penal in nature, the parties to a contract must agree to stipulated term in the contract in that behalf. A fortiori, if there is no stipulation in the contract of forfeiture, there is no such right available to the party to forfeit the sum.

State of Bihar vs. Modern Tent House : 2018 (1) RCR (Civil) 58 (SC):Amendment of written statement–The trial court in a recovery suit had dismissed the application for the amendment of the written statement filed by the appellant / defendant and revision was also dismissed by the Hon'ble High Court. The three judges of Hon'ble Supreme Court have allowed amendment and observed that firstly, the proposed amendment is on facts and the appellant in substance seeks to elaborate the

facts originally pleaded in the written statement. Secondly, it is in the nature of amplification of the defence already taken. Thirdly, it does not introduce any new defence compared to what has originally been pleaded in the written statement. Fourthly, if allowed, it would neither result in changing the defence already taken nor will result in withdrawing any kind of admission, if made in the written statement. Fifthly, there is no prejudice to the plaintiffs, if such amendment is allowed because notwithstanding the defence or/and the proposed amendment, the additional burden to prove the case continues to remain on the plaintiffs. Lastly, since the trial is not yet completed, it is in the interest of Justice that the proposed amendment of the defendants should have been allowed by the courts below rather than allow the defendants to raise such plea at the appellate stage, if occasion so arises.

Haryana Wakf Board vs. State of Haryana : 2018 (1) RCR (Civil) 151 (SC) : Deviation of apportionment in landlord and tenant in acquisition cases : The Apex Court has discussed the scope of granting compensation on the basis of apportionment in the land acquisition cases, to the landlord and tenant. The reference court awarded 3/4th share to the lessee's whereas 1/4th share was awarded to Landowner Wakf Board. The appeal filed by the Board was dismissed by the High Court and in the Apex Court it has been observed that the tenants under void arrangement could not be given 3/4th compensation. The tenants in the present case were treated as trespassers as they were in illegal possession as law applicable to them only permits three year lease period but due to the long possession and for displacement they could only be granted the compensation to the tune of 10% of the amount in exceptional circumstances.

C.Venkata Swamy vs. H.N. Shivanna by LRs & Ors. : 2018 (1) RCR (Civil) 158 (SC) – While remanding back the case to the 1st appellate court by the Apex Court, it has been observed that the appeal should be disposed of in conformity with the requirements of Section 96 read with order 41 rule 31 of Civil Procedure Code 1908. It is further observed that it is the duty of the 1st appellate court to appreciate the entire evidence and to arrive at its own independent conclusion, reasons should be assigned either of affirmance or difference.

Anil Kumar Singh vs. Vijay Pal Singh: 2018 (1) RCR (Civil) 200 (SC) : The Civil Court has to draw distinction under the Provisions of Order-23 CPC – It has been observed by the Apex Court that mere withdrawal of the suit without seeking for anything more can always be permitted. The defendant has no right to compel the plaintiff to prosecute the suit by opposing the withdrawal of the suit sought by the plaintiff except to claim the cost for filing a suit against him. If a plaintiff moves an application to withdraw his suit as provided under sub rule 3 of rule 1 of order 23 of Civil Procedure Code 1908 and in such event, the defendant can object to such prayer made by the plaintiff and the court is to decide it in terms of the provisions of sub rule 3 of rule 1.

I.C. Sharma vs. The Oriental Insurance Company Ltd. : 2018 (1) SCALE 233 : The Principle of 'Under Insurance' and 'Averaging Out' are explained – While calculating the compensation under insurance claim of movable properties, it is observed that there are two types of methods i.e. 'Under-insurance' basically means that the insured has taken out an insurance policy in which he has valued the insured items for a sum which is less than the actual value of the insured item. In a country like India, this is normally done to pay a lesser premium. This is, in fact, harmful to the policy holder and not to the Insurance Company because even if the entire insured property is lost, the policy holder will only get the maximum sum for which the property has been insured and not a paisa more than the sum insured. To give an example, in case a person takes out the householder policy covering fire insurance and gives the value of the structure of his house and goods stored therein at Rs.50 lacs even though the value of the same is Rs.1 crore then even if the entire house and goods are completely lost in a fire, he cannot get an amount above Rs.50 lacs even though the value may be more. Secondly, the Insurance Company can however apply the principle of 'averaging' out when all the goods are not destroyed. Supposing the entire house was insured for Rs.50 lacs, but on valuation it is found that the value of the structure and the goods was Rs.1 crore and if the policy holder claims that he has suffered loss of Rs.40 lacs then he will be entitled to only Rs.20 lacs, by applying the principle of averaging out. What this means is that if the value of the goods is more than the sum for which they are insured then it is presumed that the policy holder has not taken out insurance policy for the un-insured value of the goods and the claim is allowed by applying the principle of averaging out.

LATEST CASES: CRIMINAL

"Notions of social morality are inherently subjective and the criminal law cannot be used as a means to unduly interfere with the domain of personal autonomy. Morality and criminality are not coextensive."

Dr. B.S. Chauhan, J. in S. Khushboo v. Kannianmal, (2010) 5 SCC 600

Sanju Devi vs. State of Bihar : 2018 (1) RCR (Crl) 196 SC : Law Finder Id : 942883 : S.125 Cr.P.C. – In this case petitioner had applied for maintenance u/s 125 of Cr.P.C. The trial judge had awarded maintenance of Rs. 4000 per month. Feeling aggrieved, respondent- husband preferred revision petition in the High Court. High Court observed petitioner - wife is not entitled for maintenance as the trial court has not given the finding that she was unable to fend for herself. In a petition before Supreme Court, counsel for husband contended that there is already a decree of judicial separation and in view of S.125(4) Cr.P.C., the petitioner is not entitled to any maintenance. Held – If a divorced wife is entitled for maintenance, there is no reason why a wife who is judicially separated is not entitled for maintenance.

Jagdev Krishan vs. State of Punjab : 2018 (1) RCR (Crl) 49 P&H: Law Finder Id : 934202 – S.218 and 228 Cr.P.C. – In a petition before the High Court, petitioner assailed the order of framing charge against him u/s 306 IPC. An FIR was lodged against the petitioner and his mother with the allegations of harassment and dowry. It was alleged that the daughter of the complainant committed suicide by consuming poison due to harassment meted to her by the petitioner and his mother. Challan was presented against them. Additional Sessions Judge, Jalandhar framed charge against them u/s 306 IPC. Suicide note was recovered, which was sent to FSL, Chandigarh for matching configuration with the admitted writing of the deceased. It was established during the course of investigation that deceased was having illicit relations with co-accused Avtar Singh who started blackmailing her and the deceased committed suicide on that count. After collection of aforesaid material, petitioner was found innocent. An offence u/s 376/506 IPC was added against co-accused Avtar Singh. Petitioner and his mother were found innocent and separate application for discharge of petitioner was moved in the court of Additional Sessions Judge, Jalandhar.

Thereafter, report of further investigation in terms of section 173(8) Cr.P.C. was also submitted before the court. An application seeking discharge of petitioner remained under consideration of the trial court. Trial court without adhering to the pending application seeking discharge and the report u/s 173(8), finding the petitioner to be innocent, ordered framing of charge. Held – Trial court should have passed appropriate order on the application filed by prosecution seeking discharge of the petitioner and trial court should have applied its independent mind to the facts and evidence on record at the time of framing of charge. Even though at the time of framing of charge meticulous examination of allegations or defence is not to be undertaken by the trial court, but at the same time trial court should have considered fact of filing of application for discharge and submission of supplementary challan in terms of S. 173(8) Cr.P.C., finding the petitioner to be innocent. Accordingly, revision petition was allowed and impugned order passed by Additional Sessions Judge, Jalandhar was set aside, discharging the petitioner from the offences.

Urmila vs. Ramesh Chander: 2018 (1) RCR (Crl) 153 P&H : Law Finder Id : 946156 : Ss.12 and 19 of Protection of Women from Domestic Violence Act, 2005 – In this case, claim of the petitioner for providing residential accommodation in a double storeyed house was dismissed by JMIC, Sonepat and by Sessions Judge, Sonepat observing house in question cannot be said to be a shared household. Held – There is no material on record to prove house in question joint Hindu family coparcenary property of which the Husband is one of the members has a right by way of birth. House owned by grandfather of

Husband being his self acquired property, Husband cannot be said to have right in the property. Wife cannot claim right of residence in the house in question.

Sukhpal Singh Khaira vs. Joga Singh : 2018 (1) RCR (Crl) 56 P&H: Law Finder Id : 930690: S.319 Cr.P.C. – An FIR was lodged against 11 accused under NDPS Act and IT Act 2000 in Police Station Jalalabad. Challan against 9 accused was filed after investigation as 2 were declared proclaimed offenders. The trial was held against 10 persons as finally one of them was never apprehended. Thereafter, a supplementary charge sheet came to be filed against 2 proclaimed offenders. Prosecution evidence was closed on 21/09/2017. On the same day, prosecution filed an application u/s 319 Cr.P.C. for summoning additional 5 accused, including petitioners Sukhpal Singh Khaira, Joga Singh and Munish Kumar. Statements of 10 accused under section 313 Cr.P.C were recorded on 04/10/2017. Hon'ble High Court had directed the trial court to complete the trial within 3 months from 08/08/2017. Trial court directed registration of the application u/s 319 Cr.P.C. Thereafter, on 10/10/2017 and 16/10/2017, defence witnesses were examined by the accused persons. Trial court made its judgment on 31/10/2017 and convicted all the 10 accused and sentenced them. While recording the judgment of conviction, the trial court observed that the application u/s 319 Cr.P.C., would be dealt with separately. Accordingly, on the same date i.e. 31st of October 2017, on which the judgment was pronounced, simultaneously, the said application u/s 319 Cr.P.C., was decided by the impugned order summoning five additional accused persons, including the petitioners. Two revision petitions were filed against the said order. The main contention of the petitioners was that the provisions of S.319 Cr.P.C., continue to apply till the conclusion of the main trial and not at the time when the judgment is delivered against the original accused persons. The trial court has no jurisdiction to summon additional accused persons, having pronounced the judgment as the proposed additional accused could not be tried together with the original accused persons. According to them, Ld. judge became functus officio qua the application u/s 319 Cr.P.C, no sooner he recorded the judgment of conviction of the original accused persons on 31/10/17, and therefore, the impugned order is illegal. It was further contended that the trial court has issued non-bailable warrants for arrest of the additional accused persons, including the petitioners, when as a matter of fact, such a practice is condemned by the courts and that only summons could be issued to the accused persons in pursuance to the order made u/s 319 Cr.P.C. Held **–** Power u/s 319 Cr.P.C. is to be exercised if the trial court finds sufficient evidence to proceed against additional accused persons. Therefore, it is no gain saying that since the closure of trial at the first instance, their names did not crop up, therefore, the additional accused would not be summoned even if after recall of the witnesses there is evidence on record. Power to summon additional accused can be exercised even after judgment against original accused concluded. Further held **–** It is a well settled legal position that course of issuance of non-bailable warrant instead of summons, not to be pressed into service. The trial court was not at all justified in issuing non-bailable warrants straightaway instead of issuing summons. The said part of the order issuing non-bailable warrants for securing the presence of the petitioners is set aside.

Jasvir Singh vs. State of Punjab : 2018 (1) RCR (Crl) 360 P&H (DB) : Law Finder Id : 946998 : S.52 NDPS Act – There was a delay of 4 days in sending the samples for chemical examination. Recovery was effected on 09/03/2009, however, the sample was deposited with assistant chemical examiner on 13/03/2009. PWs admitted that seals on the parcels of opium produced in the court from Malkhana were somewhat damaged. Held **–** The seals which are affixed on the parcels of recovered contraband are affixed with the help of 'lak' which is a brittle material and there are chances that during handling, the said seals crack down a bit. However, as per the report of chemical examination seals on the sample parcels were intact and tallied with the sample seals. As such, even if some of the seals affixed on the parcels lying in the malkhana were found to be somewhat broken, the same would lose significance. The delay in sending the same cannot ipso facto cause any doubt in the case of the prosecution, especially when the evidence on record establishes that the sample parcel has not been tampered with and the seal had remained intact.

LATEST CASES: FAMILY LAW

"Wife burning is an unfortunate trend and growing menace to the society which does not warrant any sympathy but this not mean non adherence to the basics of the law."

Umesh C. Banerjee, J. in Arvind Singh vs. State of Bihar, (2001) 6 SCC 407

Prashant vs. State of Maharashtra: Criminal Appeal No.76 of 2018 (Arising out of S.L.P. (Crl.) No.9568 of 2017): DoD 11.01.2018: Don't put each other's photos anywhere, including on social media: SC tells couple after dissolving marriage – Held **–** The Supreme Court, while dissolving a marriage, issued this interesting direction: "***Neither the husband nor the wife shall put the photographs of each other in any mode at any place, which would also include social media or online.***" The bench further held – **"*All allegations in any petition, including the divorce petition, made against each other by the parties stand expunged from the records. The expunging of remarks would mean no one shall be entitled to get the certified copy of the said pleadings.***" The court disposed of the appeal dissolving their marriage. The husband was directed to pay a sum of Rs. 37 lakhs to the wife towards permanent alimony and also quashed all the criminal proceedings against him.

Prakash Babulal Dangi vs. The State of Maharashtra & Anr.: Special Leave to Appeal (Crl.) Nos.10280-10281/2017: DoD 10.01.2018: should husband follow both maintenance orders under Cr.P.C. and Domestic Violence Act? – Held **–** In the present case, wife obtained an order of maintenance passed in the proceedings filed u/s 125 of Cr.P.C and another order passed in the proceedings filed under the Domestic Violence Act. The husband filed an SLP in the Supreme Court as to which of the two orders is to be followed. The Bombay High Court, while it was approached by the husband, said both the proceedings being independent, both the orders will stand independently and, hence, husband will have to pay not only the maintenance awarded under the Domestic Violence Act, which was of an interim nature and taking into consideration maintenance only, the wife was awarded the maintenance u/s 125 of Cr.P.C. only from the date of the order. It has to be held that this order u/s 125 of Cr.P.C stands independently and in addition to the maintenance awarded under the Domestic Violence Act, the court had held. The court had further observed: "***There remains absolutely no scope as to the confusion between the parties as to which order is to be obeyed. It follows that, as both the orders are passed by two different Forums in two different proceedings, both the orders are binding on the Petitioner-husband and Respondent – wife and they have to comply with both the orders, unless they are varied or set aside.***" The Supreme Court has stayed operation of the High court order. However, it asked the husband to continue to pay maintenance under the Domestic Violence Act till any further orders.

Nipun Saxena & Anr. vs. Union of India & Ors.: MANU/SCOR/01012/2018 : SC directs all States and UTs to disclose details of utilization of Nirbhaya Fund – Held – The Summit Court directed all the States and Union Territories, to file an affidavit within a period of four weeks, indicating the amount received by each State Government and Union Territory under the Nirbhaya Fund towards victim compensation. The bench also directed them to disclose how much of that amount has been disbursed to the victims of sexual assault. Further Held **–** ***"This is an unhappy state of affairs and the victims of apathy are only those who had already suffered sexual assault and nobody else. Under the circumstances, we would like to hear submissions from the learned Amicus as well as learned counsel for the Union of India on how best to evolve an integrated and cohesive system of payment of compensation to victims of sexual assault and also steps to rehabilitate these victims or at least reduce or eliminate the trauma they have undergone."***

NOTIFICATION

Service Bye-Laws for Contractual Employees working under the National Health Mission (NHM), Haryana

State Health Society, Haryana (S.H.S. Hry.) has framed the service bye-laws for regulating the recruitment and other conditions of service of its employees by the name Contractual Employees Service Bye-laws, 2018 enforceable from 1st January, 2018 and applicable to all the contractual employees of the Mission.

Under these rules, the employees have been divided into three categories. In **category-I**, apart from experts, maximum honorarium of the present or the entry level would be given to employees who have completed satisfactory service till five years. Secondly, the employees would also be entitled to get medical allowance of Rs. 500 per month or Employees' State Insurance (ESI) scheme with annual salary hike of five per cent.

1) **13. Fixation of Remuneration/Basic Pay and Compensatory allowances:** 13.1 Remuneration of Specialists - All specialists shall be entitled to consolidated remuneration as prescribed in appendix "A" during the period of contractual appointment. 13.2 Remuneration of contractual employees other than specialists up to First 5 years: (i) Contractual employees other than specialists shall be entitled to existing remuneration or entry level remuneration, whichever is higher as prescribed in Appendix A up to first five years" satisfactory service, (ii) Plus medical allowance of Rs.500/- per month or coverage under ESI Scheme, as the case may be (iii) An enhancement shall be admissible @ 5% of basic pay on - a) 1st July subject to completion of minimum 6 months" or more qualifying service up to 30th June of the current calendar year; or b) 1st January subject to completion of minimum 6 months" or more qualifying service up to 31st December of the preceding calendar year.

Further, those who have completed five to ten years of service would be included in **category-II** and they would be given basic pay and dearness allowance. Similarly, basic pay, dearness allowance and house rent allowance would be admissible to those who would have completed ten years or more continuous satisfactory service under **category-III**. These employees would get maximum pay of present or entry level and medical allowance of Rs 500 per month or ESI benefit, besides, an increment of three per cent in basic pay.

2) 13.3 Fixation of Basic Pay who have completed 5 years" or more continuous satisfactory service but less than 10 years service. - (i) On completion of minimum five years" continuous satisfactory service, on or after 1st January 2018 remuneration shall be converted into emoluments i.e. basic pay and dearness allowance. The total of basic pay 9 and dearness allowance shall not be less than the amount of remuneration as on 01.01.2018 or on the date of completion of 5 years" satisfactory service, whichever is later. The existing remuneration shall be divided by 2.39 and rounded to next ten. Paise will be ignored and rupee one or more shall be converted to next ten. Thereafter, the resultant figure shall be divided into two parts i.e. Pay in the Pay Band and Grade Pay. Where the resultant figure is less than the entry level pay of the post the Basic Pay shall be fixed equal to entry level pay, where the said figure is more than the entry level pay of the post, the total of Pay Band and Grade Pay shall be equal to the resultant figure. (ii) Plus medical allowance of Rs.500/- per month or coverage under ESI Scheme, as the case may be (iii) An increment shall be admissible @ 3% of basic pay on-a) 1st July subject to completion of minimum 6 months" or more qualifying service up to 30th June of the current calendar year; or b) 1st January subject to completion of minimum 6 months" or more qualifying service up to 31st December of the preceding calendar year.

3) 13.4 Compensatory allowance on completion of 10 years" or more continuous satisfactory service. - (i) On completion of ten years" or more satisfactory service dearness allowance and house rent allowance on the basic pay shall be admissible at the rate prescribed by Government from time to time for their employees who are drawing pay in pre-revised pay scales as on 01.01.2006. (ii) Medical allowance of Rs.500/- per month or coverage under ESI Scheme, as the case may be. (iii) An increment shall be admissible @ 3% of basic pay on - 10 a) 1st July subject to completion of minimum 6 months" or more qualifying service up to 30th June of the current calendar year; or b) 1st January subject to completion of minimum 6 months" or more qualifying service upto 31st December of the preceding calendar year.

Lastly, the employees would be entitled to travel allowance in accordance to Appendix "E" specified in the Bye-laws.

EVENTS OF THE MONTH

1. **Refresher-cum-Orientation Course** to sensitize Civil Judges-cum-Judicial Magistrates from the States of Punjab and Haryana with regard to Important Civil Matters was organized on January 06, 2018. The Programme covered – Law and Child Adoption under various Legislations, Examination of witnesses during hearing of Suit, Suits for Foreclosure – Sale and Redemption – Substantial Issues, Dragon Dictation Software and Visit to Paperless Court. 48 participants attended the programme.

2. **Meeting regarding e-Awareness of Law Students** was held on 10.01.2018 at Chandigarh Judicial Academy under the Chairmanship of Hon'ble Mr. Justice Rajesh Bindal, Judge, Punjab and Haryana High Court and was also attended by Mr. Justice Surinder Gupta and Mr. Justice Amit Rawal, Judges of Punjab and Haryana High Court. Dr. Balram K. Gupta, Director (Academics), Sh. Inderjeet Mehta, Director (Administration), Chandigarh Judicial Academy, Dr. Amit Rana, Co-Chairman, Bar Council of India and Dr. Vijender Singh Ahlawat, Chairman, Bar Council of Punjab and Haryana, Sh. Karamjeet Singh, Vice Chairman, Bar Council of Punjab and Haryana, Sh. Tejinderbir Singh, Dr. Gopal Arora, Prof. Shashi K. Sharma, Faculty Members and Ms. Anupamish Modi Virk, Registrar, Chandigarh Judicial Academy were present alongwith others, which included Vice Chancellors, Professors, Registrars, of Law Universities and Colleges of Punjab and Haryana.

Hon'ble Mr. Justice Rajesh Bindal informed about various steps taken by Punjab and Haryana High Court for creating e-Awareness among litigants, lawyers and general public. His Lordship emphasized educating the law students regarding e-Court facilities available on National Judicial Data Grid as well as High Court and District Court websites. His Lordship informed that ours is the only High Court where interim orders of the District Courts are uploaded on daily basis on the website which are available to the public and is the only website of the High Courts in the whole of India which is given five star rating on National Portal of India. All the representatives of the universities and colleges were asked for giving a link of the High Court and NADG portal on the website of their respective universities and colleges and all sort of help for imparting training to the teachers of law colleges in this regard was assured by His Lordship. Sh. Rajneesh Bansal, Registrar (Computerization) gave presentation by showing the live website of Punjab and Haryana and provided information about the steps to be taken for searching case status by using different parameters. He further informed that one can get current status of a case by sending SMS on mobile no. 97668-99899. Major General P.K. Sharma retired Director, Amity Law School, Gurugram, suggested for sending someone from the Court in the Moot Courts / Model United Nations organized by various Institutions for creating eAwarness among the participants of the services available on eCourts portal. The representatives of Law Colleges/ Universities suggested for including eCourts Services in the curriculum of the Law Students unequivocally. Dr. Bindu Jindal, Head & Dean of Maharishi Markandeshwar University, Mullana informed that people would be made aware regarding the eCourts services through their TV Channel Khabare Abhi Tak and link on their official website will also be given. Sh. Amit Rana, Co-Chairman, Bar Council India appreciated the steps taken by the High Court Computer Committee in creating eAwareness and inviting the Law Colleges for this cause. The efforts made by the High Court Computer Committee were appreciated by all the participants.

3. **Refresher-cum-Orientation Course** to sensitize Civil Judges-cum-Judicial Magistrates from the States of Punjab and Haryana with regard to various Rights of Women under Different Legislations was organized on January 20, 2018. The Programme covered – Women's Right to Property under Hindu Succession Act, Right to Maintenance of Women - Legal Aspects, Woman's Right to be free from Violence – Legal Scenario, Dragon Dictation Software, Visit to Paperless Court. 62 participants attended the programme.

FORTHCOMING EVENTS

1. **Refresher-cum-Orientation Course** to sensitize Civil Judges-cum-Judicial Magistrates from the States of Punjab, Haryana and UT Chandigarh with regard to Civil and Criminal matters will be organized on February 03, 2018.

2. **Refresher-cum-Orientation Course** to sensitize ADJs from the States of Punjab and Haryana and UT Chandigarh will be organized on February 17, 2018.

3. **Training Programme for Officers of Labour Department, Haryana** to sensitize them with regard to their duties in court as Assistant Public Prosecutors will be organized in February 2018.