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Making sense of Judgements: The Supreme Court intervention



Arun Sugavaneshvar
Founder

A lawyer is a person who writes a 10000-word document and calls it a brief -Franz Kafka

As a lawyer, I could not help but agree with an embarrassing grin, the truth behind that statement, and the undesirable complexity that we dole out to our clients and the world.

There is a popular perception that the legal competence of a lawyer is directly determinable by the standard of the legal draft, be it a petition, notice, or opinion. Language as a tool to command respect has been seriously employed in the legal field more than any other, and any lawyer who tries to simplify the word of the law is frowned upon or labelled as a lawyer who is not necessarily the best in trade.

Talk about doing away with stereotypes, and we have this big communication challenge to take up. Ignorance of the law is inexcusable, but employing language loops to complicate understanding is more inexcusable.

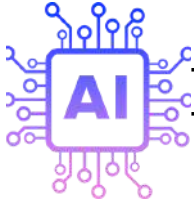
The Supreme Court recently went on record to inform of its intention to simplify judgements to make them more understandable to the common man. Lawyers mature into judges, and they take along with them the language dilemma. The Supreme Court in the case of ***State Bank of India and others vs. Ajay Kumar Sood Civil Appeal No. 5305 of 2022 (arising out of SLP (C) No. 4038 of 2021)*** conveyed its unhappiness at the incomprehensible nature of the judgement of the Division Bench of the High Court of Himachal Pradesh.

The Supreme Court listed out the elements of a judgement to include a caption, case number and citation, facts, issues, summary of arguments by both parties, application of law, and final conclusive verdict. It further stated that “it is desirable that the judgement should have clarity, both on facts and law and on submissions, findings, reasonings, and the ultimate relief granted.”

The Supreme Court observed that the well-renowned “IRAC” method generally followed for analyzing cases and structuring submissions can also benefit judgements when it is complemented by recording the facts and submissions.

Though this write-up may suffer from the language loop habits of an evolving lawyer, the basic essence is this: It is best to keep the language of law simple, so the common man understands it.

LEGAL CRISPS



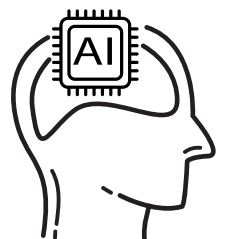
Is AI safe? If yes, then in whose hands?

-Anoushka Samyuktha. A

Recently, a former Chinese employee of Google, Linwei Ding, has been accused of allegedly misappropriating trade secrets from Google for Chinese tech companies. If found guilty, the accused could receive imprisonment of up to 10 years and a fine up to \$250,000. The Department of Justice (DoJ) alleges that he has transferred various secrets and information to his personal cloud account. Ding has been linked with a Chinese tech start-up where he had taken up the role of chief technology officer. Further, he started his own start-up as well. The major concern of the DoJ was that, with the amount of confidential information and secrets that Ding has transferred to himself, he could develop a computational power platform for China per China's rules and regulations.

This puts the major question in the minds of the billions of users who trust their personal data to the AI software. There is always a threat of a security breach, no matter how protected their software claims to be. National security, trade relations, and so many other domains from an international perspective will be affected. The growth of AI has impacted the world in almost every other aspect of growth.

The legal implications of this are getting complicated, as there needs to be more nuanced detailing of laws than existing intellectual property laws. Even in India, the Competition Act, 2002 and common law principles govern the protection of trade secrets and models developed by companies. To be considered as trade secrets the information must be valuable, not generally known, and subject to reasonable efforts to maintain secrecy. Unauthorised acquisition, use, or disclosure of AI-related trade secrets may constitute trade secret misappropriation under Indian law.



Netflix: Unlimited entertainment -but with limitations

-Sri Sai Kamalini M.S



Case: CBI Vs Netflix India and Ors, Criminal Writ Petition No: 571 of 2024

The recent Netflix documentary on Indrani Mukerja has sparked a debate on IT rules and freedom of speech. Indrani Mukerja, who was accused of the murder of her daughter Sheena Bora, is under trial. The CBI requested a ban on the new documentary on Indrani Mukerja as it might influence the decision on the ongoing trial. There are other instances, like the documentaries on the Prime Minister by the BBC and 'India's Daughter', a documentary on the Nirbhaya case being banned. Section 69A of the IT Act empowers this procedure in certain circumstances, like protecting integrity, sovereignty, public order, defence, security, and friendly relations with the foreign state. According to Rule 4(1)(d) of the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, intermediaries have to cooperate with the government and other law enforcement agencies to ban those contents prohibited by law. However, this plea was rejected by the Mumbai HC after viewing the documentary, as they did not find anything incriminatory or influencing in the documentary.



From Coins to Compliance: Managing Hundials

-Seethala.B

Ever wondered who authorizes the offerings in temples and the provisions behind it? The Installation, Safeguarding and Accounting of Hundials Rules, 1975 manages the installation, security, and accounting of hundials, or donation boxes, in Tamil Nadu. These rules apply to both permanent hundials embedded in religious institutions and temporary ones used during festivals. Permanent hundials must be securely embedded in the floor and kept under double lock, with keys held by the Chairman of the board of trustees and the Executive officers of the temples. They must be opened once in a month where the monthly collections are more than Rs. 5000 it must be counted in the presence of an authorized officer. Temporary hundials for festivals must also be sealed and opened under supervision. The Tamil Nadu government instructed the Hindu Religious and Charitable Endowments (HR&CE) Department to live-stream the opening of donation boxes in 48 'Senior Grade' temples, following complaints of theft. The rules ensure transparency and accountability in the management of temple donations, addressing concerns raised by the public.



CASE CHRONICLE

Delivery charges and warranty expenses not included under AMP

-Kamali A.N

Do you think delivery costs and warranty expenses constitute part of AMP Expenditures? To clarify this, the ITAT delivered a crucial verdict through Amazon Seller Services Private Limited v. CIT, that these expenses won't be a part of AMP expenditures. The Transfer Pricing Officer (TPO) thoroughly reviewed the expenditures during transfer pricing proceedings and determined the expenses incurred after sales are categorized as sales expenses, rather than efforts to develop the brand. Despite thorough investigations, the decision to classify these expenditures was not due to a lack of investigation. The backcloth involves Amazon Seller Services Private Limited, a subsidiary of Amazon Corporate Holdings Private Limited, which provides marketing support, marketplace services, and e-book reader and accessory trading. The case underwent scrutiny through CASS and subsequent notices, then was referred to the TPO, leading to the final assessment order by the Assessing Officer.

The Commissioner of Income Tax deemed the TPO's exclusion of costs like share-based compensation and depreciation from operating costs as erroneous and potentially harmful to revenue interests. The TPO contested the exclusion of delivery and warranty expenses from AMP expenses, leading to a directive for a fresh order. The ITAT ruled that delivery and warranty expenses should not be included in AMP expenditures, indicating that the revision u/s 263 of the Income Tax Act, 1961, by the CIT was unjustified. Amazon's ruling clarifies post-sales expenses like delivery and warranty costs within the context of AMP expenditures, affecting businesses with similar operational models.



BEYOND THE OBVIOUS

Pawsitively Protected-

The Exclusions and limitations of Pet Insurance

-Nithyaparvathy R.G



A pet insurance policy is a contract between an insurance company and a pet owner that provides the latter with the maximum coverage for veterinary expenses related to their pet's medical treatment, ensuring their cat or dog remains in the best of health. The insured cat or dog must be registered with the Municipal Corporation, deemed local government authority, certified Kennel Club of India, or micro-chipped by the policyholder. In addition to filling out the insurance proposal form, the insured must submit a photograph of the insured pet from both the right and left sides, clearly showing the birthmark.



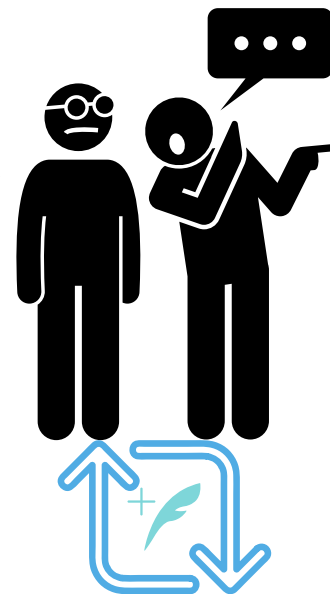
Exclusions & Limitations

Insurers typically require a waiting period of 15-30 days before coverage begins, and the pet's age range is 8 weeks to 8 years. All insurers impose a copay or deductible, which is 10% for surgery and hospitalization. If the pet is under eight years old, insurers will deduct Rs 1,000 or 5% of the payable amount (whichever is greater). If the pet is over the age of eight, 75% of the admissible amount will be paid, and 50% if it is over the age of ten. Insurers do not cover pre-existing diseases or specific illnesses that cause the pet's death, such as distemper and rabies.

Retweeting defamatory content can also be an offence under IPC

-Sowmiya R.K

In *Arvind Kejriwal vs. State Cri MC 6347/2019*, the Delhi High Court ruled that retweeting defamatory content can constitute an offence under Section 499 of the IPC (defamation). Kejriwal had retweeted a complainant's remarks about a public figure, which were deemed defamatory. The court held that by republishing and endorsing the defamatory tweets through retweets, Kejriwal made them his own statements, attracting criminal defamation charges. This judgement sets a precedent that merely retweeting defamatory content, without original authorship, can make one criminally liable for defamation. It underscores the need for due diligence before amplifying potentially defamatory material on social media.



MEET THE TEAM



Anoushka
Samyuktha A

Junior Legal
Consultant



Nithyaparvathy R. G

Junior Legal
Consultant



Seethala B

Junior Legal
Consultant



Kamali A.N

Junior Legal
Consultant



Sowmiya R.K

Junior Legal
Consultant



Sri Sai Kamalini M.S

Junior Legal
Consultant
