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FROM THE HOUSE OF ORIGIN LAW LABS

LAWBY WRITES



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EDITORIAL



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Founder

Why Do Some Lawyers Make More Money Than The Rest?

One of the most pivotal questions I ask young law students who apply to my company is the expectation of their first salary and how they arrive at that number. I have always got a number, but never how they determine value. Some numbers may be outrageous, some guided by information from online portals on prevailing market rates and even some leaving it to me almost mimicking servitude at any price. I sense this is why most lawyers, even after years of practice, don't know how to ask for a competitive fee from a client.

Why do some lawyers quote outrageous fees and get it while most of us keep negotiating until we run out of breath? Is Rs.1000 good enough for a consultation? Is Rs.5000 good enough for a legal notice? or can we just get a flat fee or per hearing basis? Can we propose a retainer fee? There are a million questions every young lawyer and law firm grapples with when determining fees. **“I could have quoted higher, and the client would have given it. I felt like a fool. Even the client smiled in disbelief”** said a fellow lawyer on his fee negotiation debacle. **This happens even in interviews for legal jobs.**

In my limited experience, I know that most of the outrageous fees ever paid based on the perceived value of a lawyer are seldom what any lawyer or legal case would actually deserve, yet some lawyers pull off the trick. The usual reasons are expertise, seniority, and reputation at the Bar and the Bench. Legal services are not a fee-flexing exercise. For the most part, legal work is earning the respect of a distressed client who needs help. Lawyers get paid twice. Once in fees and the other in respect.

I suppose it is time to shed some light on what may help give us more clarity. I use this order, and it works most of the time. The parameters I personally use are the client's affordability (to decide if pro bono work is needed) and the value of the suit or the legal work at hand. Certain other scenarios, like the urgency of the matter or the complexity of the case requiring more legal minds on the job, may hike the proposed fee.

It is a usual practice as young lawyers we choose to quote lesser prices to ensure the work being handed to us and building a reputation takes precedence over making money. Legal fees differ from lawyer to lawyer with no clear pattern. Most of us listen to or witness seniors getting astronomical legal fees and arrive at a ceiling. **The legal fees math may be a never-ending debate with many variables. To save time, let us say it needs to be affordable to the client and honourable to the lawyer's work and stature. Always in that order.**





LEGAL CRISPS

Marital Ties Cannot Be Imposed Amid Irretrievable Breakdown *-Seethala B*

The Telangana High Court, in the case of ***D. Narsimha, iNarsimlu vs Smt D Anita Vaishnavi [CMA 68 of 2022]***, ruled on a husband's divorce appeal under the Hindu Marriage Act of 1955 that marriage cannot be imposed on individuals. The Court underscored its limited role, stating it should not act as an executioner or counsellor to force a couple to remain in a marriage where the involved persons are unwilling to work it out.

The case involved a couple married for over a decade who faced significant discord soon after their wedding. The wife left the marital home in 2011 and filed five criminal cases against her husband, including under Section 498A IPC for cruelty and dowry harassment. The husband's petition of seeking divorce on the grounds of cruelty and desertion was dismissed by the Trial Court, prompting his appeal to the High Court.

The husband's lawyer argued that the wife's continual filing of criminal cases caused severe mental and emotional strain. He noted the couple had lived apart for a long time with no hope of reconciliation. The wife's lawyer argued that the husband should take the responsibility of the wife's financial needs and opposed the divorce without ensuring her maintenance.

The High Court found that the wife's actions constituted mental cruelty and determined the marriage had irretrievably broken down. The Court reiterated the term cruelty under **Section 13 (1) (ia) of the Hindu Marriage Act, 1955**, in the context that “Any act of damage to reputation, social standing or work prospects by one spouse to the other would fall within the term “cruelty”. It may not be too far-fetched to say-hesitantly-that depriving a spouse of being on Facebook and Instagram may also amount to cruelty”. The Court recognised that repeatedly filing criminal cases could also be considered mental cruelty, justifying a divorce. Ultimately, the Court allowed the appeal, stating that marital ties cannot be imposed on unwilling individuals and must be irreversibly broken down to justify a divorce.





Delayed Reporting Of Seizure To Magistrate Does Not Vitate The Validity

-Sowmiya R K

In a significant ruling, the Supreme Court has held that delayed reporting of property seizure to a Magistrate does not automatically invalidate the seizure order. This decision, delivered in the case of ***Shento Varghese v. Julfikar Husen (2024 SCC OnLine SC 895)***, settles a long-standing debate among High Courts on the interpretation of **Section 102(3) of the Criminal Procedure Code, 1973(CrPC)**.

The Division Bench, comprising Justices Pamidighantam, Sri Narasimha and Aravind Kumar, emphasized that while police officers must report seizures "forthwith," non-compliance with this requirement is a procedural irregularity that does not affect the validity of the seizure itself.

The Court traced Section 102's legislative history, noting that the reporting requirement was reintroduced in 1978 to address a perceived lacuna in the law.

"Forthwith" in Section 102(3) is interpreted as "as soon as possible," considering the context and urgency of the situation. The validity of a seizure under Section 102(1) depends on jurisdictional grounds and merits, not on compliance with the reporting duty under Section 102(3). Delayed reporting may affect the credibility of the prosecution's case regarding the date and time of seizure, but only if the accused can demonstrate prejudice. The Court overruled previous High Court decisions that held seizure orders to be vitiated solely due to delayed reporting.

Notably, the Court highlighted that the provision under scrutiny (Section 102 of CrPC 1973) has been retained in its current form in the Bharatiya Nagarik Suraksha Sanhita, 2023. This new code replaced the CrPC 1973 on July 1, 2024. Retaining this provision in the upcoming law underscores its continued importance in criminal procedure.

This ruling clarifies law enforcement and the lower judiciary, emphasizing that procedural delays should not automatically negate lawful seizures. However, it also underscores the importance of prompt reporting, as delays may still impact the overall strength of the prosecution's case if prejudice to the accused is established.





CASE CHRONICLE

Unmasking The Fake Protein Powder

-Nithyaparvathy R G

Case: Jamal Haider v. Flipkart Internet Pvt. Ltd. (CC No. 3/2021)

The Complainant had purchased 'MuscleTech Performance Series NitroTech Whey Protein Milk Chocolate' from Flipkart for personal use as a nutritional supplement. When the complainant received the product, he searched for the scratch code, which was not discovered, so he filed a complaint with Flipkart. The complainant e-mailed a picture of the product to Balaji Overseas and asked for clarification on the genuineness of the product that was delivered, who responded, stating that the product was discovered to be counterfeit and requested that the complainant contact the seller. The consumer followed the directions but was not reimbursed for the counterfeit product.

Flipkart denied the claim, claiming it is just an online marketplace and e-commerce firm as defined by the Consumer Protection Act of 2019 and the Consumer Protection (E-Commerce) Rules, 2020. It was argued that Flipkart's duty was just to enable the sale of the commodity between the complainant and the seller; thus, Flipkart acted solely as an 'intermediary'.

The State Consumer Disputes Redressal Commission (SCDRC) discharged Flipkart of all liability because it merely facilitated the sale through its portal. The Commission noted no evidence that Flipkart breached the terms of the Consumer Protection (E-commerce) Rules, 2020. However, it also stated that Flipkart should have demonstrated a strong stance towards breaking restrictions surrounding the distribution of counterfeit products on its website.

No evidence was supplied by Flipkart indicating that they had taken any action against the seller. The seller did not appear to challenge the accusation, and the complainant's undisputed testimony plainly indicates that the seller not only sold the protein powder but also discovered it to be counterfeit. Under the circumstances, the Commission determined that the seller was obligated to not only refund the product's price but also compensate the complainant for such mental and physical trauma.

The Bench determined that N.H. Traders (sellers) are responsible for selling counterfeit protein powder on Flipkart and ordered them to pay Rs. 6524, the amount paid for the counterfeit protein, Rs. 20000 in compensation for mental and physical suffering, and Rs. 10000 as litigation costs.





BEYOND THE OBVIOUS

Who is a Research Analyst According to SEBI?

-Sri Sai Kamalini M S

SEBI-registered research analysts play a vital role in the financial sector. They are professionals who conduct in-depth analysis of stocks, bonds, mutual funds, and other investment instruments. **Section 2(u) of the SEBI (Research Analysts) Regulations, 2014** defines the term research analysts. These are the individuals who create reports, give price targets, make 'buy/sell/hold' recommendations, and provide opinions concerning public offers. This definition also includes those who report directly and indirectly to research analysts.

Section 3 of the regulation mandates that research analysts undergo a thorough process to obtain a certificate of registration from SEBI. This process ensures that only the most qualified individuals can function as research analysts. An application for this registration must be filed with Form A as specified in the First Schedule of the Regulations.

To become a SEBI registered research analyst, you must meet the following key requirements:

1. Qualifications:

- Postgraduate degree in finance-related subjects such as accountancy, business management, commerce, economics, capital market, financial services or markets, or
- Graduate degree in any discipline with 5 years of experience in the financial sector.

The degree has to be provided by a properly affiliated university and universities which are recognised by the government.

2. Certification: Successfully completed the NISM-Series-XV: Research Analyst Certification Examination conducted by NISM. The exam tests knowledge of Indian securities markets, fundamental research, economic and industry analysis, company analysis, valuation, and research report writing.



MEET THE TEAM



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