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JUDGEMENTOPEDIA

(Learning Judgements For A Living)

- 1 Does lock-in period in employment contract violate fundamental rights enshrined in the Constitution?
- 2 Claimant's right to sue only one joint tortfeasor in motor accident cases
- 3 How did the Supreme Court address the prolonged case involving a defective BMW vehicle?
- 4 Procedure for determination of age of minor same for a child who is in conflict with law and a child who is the victim of a crime
- 5 What are the steps that need to be taken while investigating white-collar crimes?



July, 2024

Vol 3



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- 1 Lily Packers Private Limited vs
Vaishnavi Vijay Umak & Others
- 2 G.Chandrashekharan
Shivam And Ors. V/s. Mr. Rajkumar
Agarwal & Ors.
- 3 State of Andhra Pradesh v. BMW India
PVT Ltd and Ors
- 4 Jarnail Singh vs State Of Haryana
- 5 Noor Mohammed JamalBhai Latiwala
vs State of Gujarat



Does lock-in period in employment contract violate fundamental rights enshrined in the Constitution?

CONTEXT: The Service Employment Contract between the Petitioner and the Defendant in this case had a lock-in period of 3 years. The Defendants went on leave and never came back to work after initially working for a period of one year and two months as opposed to the agreed lock-in period. The Defendants argue that lock-in period is a violation of fundamental rights provided under Article 19 and 21 of the Indian Constitution and are also barred by Section 27 of the Indian Contract Act, 1872

1 The Delhi High Court in its order dated July 11, 2024 stated that “Such clauses in an agreement are usually decided upon voluntarily, as also such employment contracts are entered into by the parties by their own individual consent and volition. It is also noted that such clauses in employment contracts may in fact be necessary for the health of the employer institution as it provides the required stability and strength to the employer institution and its framework.”

2 “Any reasonable covenant operating during the term of the covenant would be valid and lawful. It cannot, therefore, be argued that in the present cases there is violation of any Fundamental Right as enshrined in the Constitution.”

3 It further added that contractual disputes related to lock-in periods in an employment contract are arbitrable.

LILY PACKERS
PRIVATE LIMITED
VS VAISHNAVI
VIJAY UMAK &
OTHERS

[ARB.P 1210/2023,
ARB.P 1212/2023,
ARB.P 1213/2023,
2024: DHC:5115]

**INDIAN CONTRACT
ACT, 1872**

**CONSTITUTION OF
INDIA**

Claimant's right to sue only one joint tortfeasor in motor accident cases

CONTEXT: In motor accident cases involving composite negligence, the claimant can sue only one of the joint tortfeasors and seek compensation solely from the other vehicle's owner, without needing to claim from the owner of the vehicle they were traveling in.

In cases of composite negligence, the claimant has the right to sue only one of the joint tortfeasors.

① Since the law permits a claimant to sue one of the two joint-tortfeasors, such a claimant cannot be forced by the Tribunal to seek relief against the other joint-tortfeasors also.

② It appears that the motor car is owned by one of the claimants. This is the plausible reason why the claimants do not want to implead the owner or insurer of the motor car.

③ The claimants cannot be compelled by the Tribunal to include the owner or insurer of the car as opposite parties.

G.CHANDRA
SHEKHARAN
SHIVAM AND ORS.
V/S. MR. RAJKUMAR
AGARWAL & ORS.
[2023:BHC-
AS:27069]

MOTOR VEHICLES
ACT, 1988

How did the Supreme Court address the prolonged case involving a defective BMW vehicle?

CONTEXT: The Supreme Court addressed appeals against a High Court order quashing criminal proceedings related to a defective BMW vehicle purchased in 2009. Despite the manufacturer's offer to replace the vehicle with a new one in 2012 as per the High Court's order, the complainant refused, instead seeking monetary compensation.

1 The complainant lodged an FIR under 418 & 420 of Indian Penal Code, 1860 and named the Manufacturer, Managing Director and other directors of BMW India as accused for selling him a BMW 7 series with a serious defect.

2 Upon payment, the High Court's order of quashing the criminal complaint because the ingredients of cheating was not established on the basis of the contents of the FIR would stand, but the direction to replace the vehicle with a new one was set aside.

3 The Court used its powers under Article 142 of the Constitution to ensure "substantial justice" and directed the manufacturer to pay compensation to the complainant given the case's long-standing nature (nearly 15 years).

4 The Court directed BMW India Private Limited to pay Rs 50 lakhs as compensation to the complainant by August 10, 2024.

STATE OF ANDHRA
PRADESH V. BMW
INDIA PVT LTD AND
ORS
[CRIMINAL APPEAL
NO. 1044 OF 2019]

**INDIAN PENAL
CODE, 1860**

**CODE OF CRIMINAL
PROCEDURE, 1973**

**CONSTITUTION OF
INDIA**

Procedure for determination of age of minor same for a child who is in conflict with law and a child who is the victim of a crime

CONTEXT: In this case, the Supreme Court of India noted that the procedure for determining the age of a child in conflict with the law under Rule 12 of the Juvenile Justice (Care and Protection of Children) Rules, 2007 could also be applied to cases under the POCSO Act, 2012.

① “Even though Rule 12 is strictly applicable only to determine the age of a child in conflict with law, we are of the view that the aforesaid statutory provision should be the basis for determining age, even for a child who is a victim of crime.

② For, in our view, there is hardly any difference in so far as the issue of minority is concerned, between a child in conflict with law, and a child who is a victim of crime.

③ Therefore, in our considered opinion, it would be just and appropriate to apply Rule 12 of the Juvenile Justice (Care and Protection of Children) Rules, 2007, to determine the age of the prosecutrix VW-PW6.”

JARNAIL SINGH VS
STATE OF
HARYANA
[AIR 2013 SUPREME
COURT 3467]

PROTECTION OF
CHILDREN FROM
SEXUAL OFFENCES
ACT, 2012

What are the steps that need to be taken while investigating white-collar crimes?

CONTEXT: The petitioners were various authorities of the bank who alleged various offences such as cheating, misappropriation of bank money, and forgery of documents while providing loans to various persons. The respondent contended that all the misappropriated loan transactions were scams, and the amount was about Rs. 9.5 crores.

1 “The investigation of white-collar crimes must be conducted by highly trained Investigating Officers who are well conversant with the system and the field in which the crime has been committed.

2 It would be expected for the Investigating Officer to immediately inform the concerned Airport Authorities so that the accused may not fly away outside the country's territory.

3 It is for the State to take necessary steps for proper investigations of such white-collar crimes, but at the same time, if the proper evidence is not produced to the Court by the Investigating Machinery of the State, the offenders may not have the deterrent effect for the commission of the crimes, and consequently it may have severe repercussions in the society at large.”

NOOR MOHAMMED

JAMALBHAI

LATIWALA VS

STATE OF

GUJARAT

[CRIMINAL MISC.

APPLICATION

APPEAL NO. 5326

OF 2003 15 APRIL

2004]

INDIAN PENAL

CODE, 1860