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EDITORIAL

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What does GPTW mean for law firms?

In the midst of all the condolences pouring in on the death of the 26-year-old Anna Sebastian Perayil, a Chartered Accountant working with Ernst and Young, India, due to work related stress and exploitative work environment, we find many employees from various institutions voicing concerns of management pressure to overwork. It has become quite common to accept demands from higher management to take work home and pull all-nighters to complete tasks allocated. Those who do not comply are marked poorly in their appraisal and removed from work. Labour regulations in India are not strictly followed mainly due to the underlying market conditions of abundance of manpower and shortage of employment opportunities that pay well.

Labour laws in India mandate an 8-hour work schedule with proper breaks for employees. Despite multiple statutory safeguards in place like the Factories Act 1948, Industrial Disputes Act 1947, Minimum Wages Act 1948, Payment of Bonus Act 1965, Employees Compensation Act 1923, Equal Remuneration Act 1976, Employees State Insurance Act 1948, Payment of Gratuity Act 1972, Maternity benefit Act, 1961, Employees Provident Fund and Miscellaneous provisions Act, 1952 and many more State and Central Acts we are still witnessing incidents of flagrant violations by companies. The efforts by the State and Central Government for the well being of employees, though commendable, still lack the will and muscle to punish entities as done in western nations for protection of labour rights.

In the field of law, the profession itself is quite well known for the long and harsh working hours and work-life imbalance. Every advocate understands the strain on the physical and mental front to run a case and provide proper legal recourse needed by the client. The legal profession primarily deals with crimes and mistakes of the society and dealing with this on a regular basis would slowly but surely place professionals in poor mental health bordering on pessimism and aggression.

GPTW, also known as Great Place to Work, is a concept followed by companies to attract and grow talent, monitor happiness and well being of employees in real time. Some of the prerogatives that law firms can do are **to ensure adequate and timely payment of salary, counsel and mentor juniors on career and work-related issues, allocate work in teams with proper senior level leadership, treat juniors with dignity and to value them, arrange for recreational activities that improve inter personal bonding amongst juniors and other workforce, ensure proper redressal mechanism of grievances and to instil a sense of protection by the law firm.**

Times are changing and the young generation of lawyers are not interested in glorifying overworking and unending hours of servitude. They are regularly raising voices against unpaid internships and poorly paid jobs which never happened earlier. It is time to create a GPTW or experience the GMOT (Great Migration of Talent).

LEGAL CRISPS

How Additional Evidence Can Override Witness Immunity

-Seethala B

The Supreme Court recently addressed a case that dealt with **Section 132 of the Evidence Act, 1872**, which provides complete immunity to a witness who made self-incriminating statements during the pre-summoning stage. This was established in the case of ***Raghuveer Sharan vs. District Sahakari Krishi Gramin Vikas Bank [2024 SCC OnLine SC 2489]***, which involved the appellant, a former bank cashier, who had altered fixed deposit records, resulting in charges of forgery. Initially, the appellant testified as a witness, admitting his involvement in the alterations. Later, during the trial, a prosecution witness named him the person responsible for the interpolations. The Trial Court, under Section 319 of the CrPC, summoned the appellant as an additional accused.

The appellant argued that his previous testimony should shield him from prosecution under Section 132, which offers qualified immunity for self-incriminating statements made as a witness. He claimed that there was no concrete evidence tying him to the crime. On the other hand, the bank argued that the protection of Section 132 didn't apply here because his prosecution wasn't based solely on his statements but also on evidence from the other witness.

The Supreme Court analysed Section 132 and stated that it was based on the legal maxim ***Nemo tenetur prodere seipsum***, which means no one is bound to incriminate himself and to place himself in peril. It provides qualified immunity to witnesses to encourage testimony without self-incrimination. However, this privilege does not extend to complete immunity if other independent evidence is available. The Court highlighted that Section 132's protection is meant to prevent prosecution solely based on a witness's statements but does not bar action if additional incriminating evidence exists.

The Court upheld the trial court's decision, stating that the protection under Section 132 does not prevent prosecution when additional evidence exists. Since the testimony of the other witness, combined with other evidence, implicated the appellant, the Court found no reason to overturn the decision to summon him as an additional accused. The appeal was ultimately dismissed, reinforcing that while witnesses have some protection from self-incrimination, this privilege is limited when the facts and evidence go beyond their own testimony.

CASE CHRONICLE

Service of notice via WhatsApp for Consumer cases

-Nithyaparvathy R G

Case: Aleena Nelson v Amjomol Jose

Citation: (LA. 977/2024 INC.C. 984/2023)

The District Consumer Disputes Redressal Commission, Ernakulam, has authorized the complainant to serve a legal notice via WhatsApp to the opposing party. This decision underscores the Commission's recognition of electronic means for serving notices, particularly to prevent parties from avoiding legal proceedings by frequently changing their addresses.

In this case, the complainant had ordered a kurta and a dupatta from Zuhriyaa Boutique's Instagram page and paid Rs. 1,400 through Google Pay. However, the complainant did not receive the items or any further communication from the seller. Attempts to resolve the issue, including visiting the seller's physical store and contacting customer service, were unsuccessful. Hence, the complainant filed a complaint with the District Consumer Disputes Redressal Commission in Ernakulam.

The complainant said that notices sent to the seller's address were returned. As he could not get an alternate address, he requested permission from the Commission to serve the notice via WhatsApp. The Commission emphasized that courts are increasingly accepting innovative communication channels, such as WhatsApp, for serving legal notices, particularly when traditional methods fail. The Commission mentioned the Supreme Court's decision in ***Re Cognizance for Extension of Limitation [(2020) 9 SCC 468]***, which allowed electronic notice service during the COVID-19 pandemic. The Commission also cited ***Monika Rani & Anr. v. State of Haryana & Ors. [2019 SCC OnLine P&H 6843]***, a case where serving notice via WhatsApp was permitted when traditional techniques were ineffective.

The Commission stated that multiple courts, including the Bombay High Court, have adopted regulations for electronically serving legal documents to accelerate judicial proceedings. These rules are reflected in regulations, including the Bombay High Court Service of Processes by **Electronic Mail Service (Civil Proceeding) Rules of 2017** and similar rules in other jurisdictions.

The Commission recognized the necessity of adapting to the latest communication means under Section 65 of the Consumer Protection Act of 2019, which allows for electronic service of notices, especially where parties may attempt to evade legal proceedings by changing addresses.

Given the judicial precedents and the seller's failure to respond to traditional channels, the Commission granted the complainant's request to serve the notice by WhatsApp and other technological means, such as email. The complaint was instructed to show proof of service to the Commission within one week to ensure that the vendor is aware of the proceedings and to avoid unnecessary delays in the case.

BEYOND THE OBVIOUS

Can driving without a license plate be considered cheating?

-Sri Sai Kamalini M S

The traffic rules, constantly evolving, play a crucial role in maintaining societal harmony. It is imperative for all to adhere to these rules. However, there are instances where the enforcement of these rules may seem unjust. In a recent case, ***Criminal Petition No.9953 of 2024***, the petitioner was accused under Section 420 of the Indian Penal Code, 1860(IPC) and Section 80(a) of the Motor Vehicles Act, 1988 of driving a vehicle without a number plate.

Section 420 of the IPC provides punishment for cheating and dishonestly inducing the delivery of property. Section 80(a) of the Motor Vehicles Act, 1988 provides the procedure for applying and granting permits. The counsel for the petitioner argued that the conditions under Section 420 were not satisfied as there was no proof that the vehicle was the property of Respondent 2 or that he had been cheated just for travelling without a number plate. He also mentioned that Section 80(a) would not be applicable in this scenario as it only mentions registration and that no punishment was prescribed in that section.

The Court, in its wisdom, ruled that driving without a license plate does not amount to cheating. It upheld the petitioner's arguments and allowed the petition, thereby quashing the proceedings against the petitioner. In general practice, the fine for this offence is typically ₹5,000 across various vehicle types, including two-wheelers, three-wheelers, and four-wheelers. The fine will be levied on the spot and the vehicles can also be seized if the fine is not paid.

MEET THE TEAM

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