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JUDGEMENTOPEDIA

(Learning Judgements For A Living)

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Is an Insurance Company justified in reducing a claim settlement through coercive bargaining over alleged warranty breach?

NEW INDIA
ASSURANCE CO. LTD.

V. JEYARAJAN
THAMP AND OTHERS
[2002 SCC ONLINE
NCDRC 99 : (2002) 3
CPJ 349 (NC)]

CONTEXT: The complainant, Mr. Thamp, insured his fishing vessel for Rs. 8,00,000 with New India Assurance Co. Ltd.. The State Bank of Travancore provided Mr. Thamp with a loan of Rs. 6,00,000 for the vessel. The vessel sank on September 11, 1998, due to a mechanical defect. The insurance company appointed a surveyor who assessed the loss at Rs. 8,00,000. The insurance company, however, contended that Mr. Thamp breached the warranty of the policy by operating the vessel during a weather warning, and settled the claim for Rs. 3,39,240. The State Commission, Kerala, ruled in favor of Mr. Thamp, finding that there was no breach of warranty and that the claim settlement was a result of coercive bargaining exploiting the weak financial condition of the respondent.

The National Consumer Disputes Redressal Commission upheld the State Commission's decision, **1** finding that there was no breach of warranty and that the insurance company engaged in coercive bargaining.

The Commission ordered the insurance company to **2** pay the remaining balance of the insured amount to the bank, who would then adjust Mr. Thamp's outstanding loan and pay him any remaining balance.

CONSUMER
PROTECTION ACT,
2019

Court rules serious offences under PoSH Act are not subject to limitation, emphasizing Natural Justice over hyper-technicalities

R. MOHANAKRISHNAN
VS. THE DEPUTY
INSPECTOR GENERAL
OF POLICE,
COIMBATORE RANGE
AND ORS.
[MANU/TN/2712/202
4]

CONTEXT: A writ petition was filed challenging the enquiry report submitted by the Internal Committee against R. Mohanakrishnan (petitioner), for sexually harassing multiple women, with complaints dating back to incidents in 2018. The petitioner argued that the complaints were time-barred under Section 9 of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013.

The court ruled that the complaint is not time-barred. The court acknowledged that while the alleged incidents

- 1 occurred in 2018 and the complaint was filed in 2022, the nature of the allegations, including rape and continuous harassment, constituted a continuing offense.

“As held by the Hon'ble Supreme Court of India in Mudrika Singh's case (cited supra) and Dilip Paul's case (cited supra), the petitioner cannot rely upon hyper technicalities.

- 2 Therefore, I answer the question against the petitioner that the complaint is not barred by limitation and as such is not violating of Section 9 of the Act.

Even the other contentions of the learned counsel for the petitioner regarding non supplying the complaint within the time frame, not acting upon the report within the time frame

- 3 etc., as noted supra, are only timelines intended to ensure prompt action and are not grounds for the delinquent to wriggle out of punishment or stall the very inquiry itself. The petitioner has to defend the charges in the inquiry on merits.”

**SECTION 9 OF SEXUAL
HARASSMENT OF
WOMEN AT
WORKPLACE
(PREVENTION,
PROHIBITION AND
REDRESSAL) ACT,
2013 (POSH)**

Can a plaintiff file suit for generic disparagement of a product even if the advertisement does not specifically name the plaintiff's product?

CONTEXT: The plaintiff, Marico Limited, holds a 45% market share in the oats category in India with its brand "Saffola Oats". The defendant, Alpino Health Foods Private Limited, manufactures a competing breakfast cereal product that contains rolled oats as a primary ingredient. The defendant launched an advertising campaign that disparages oats as a category, comparing them to inedible substances like "cement" and "lime powder" and suggesting they are unfit for human consumption. The plaintiff filed suit, alleging that this generic disparagement harms its business and reputation, even though the defendant's advertisements do not specifically mention "Saffola Oats".

1 The Court granted an ex-parte ad-interim injunction against the defendant, restraining them from publishing or communicating the disparaging advertisements.

2 The Court reasoned that the plaintiff had demonstrated a prima facie case for injunction, as generic disparagement without specifically identifying the rival product is objectionable.

3 The Court also found that the balance of convenience lies in favour of the plaintiff, who would suffer irreparable loss and injury if the injunction was not granted.

MARICO LIMITED
VS. ALPINO
HEALTH FOODS
PRIVATE LIMITED
[CS(OS) 872/2024]

ORDER XXXIX RULES
1 AND 2 OF THE CODE
OF CIVIL
PROCEDURE, 1908
(CPC)

SECTION 151 OF THE
CODE OF CIVIL
PROCEDURE, 1908
(CPC)

High Court upholds ISRO recruitment, dismisses review petition

RAVI KUMAR VS.
DEPARTMENT OF
SPACE AND OTHERS
[2024 SCC ONLINE
DEL 7636]

**ORDER 47 RULE 1 OF
THE CIVIL
PROCEDURE CODE,
1908 (CPC)**

CONTEXT: The petitioner, Mr. Ravi Kumar, who is also a practicing advocate, had applied for the position of Administrative Officer with the Indian Space Research Organisation (ISRO). Following the written test and interview stage, Mr. Kumar was not selected for the position, with the successful candidate (respondent no. 3) having scored higher in the overall selection process. Mr. Kumar challenged this outcome first in the Central Administrative Tribunal, and subsequently in the High Court of Delhi, both of which upheld the ISRO's selection process. Mr. Kumar then filed a review petition in the High Court, alleging errors in the original judgement, specifically in the court's recording and interpretation of the selection process and his participation in it. This petition is further complicated by Mr. Kumar's repeated attempts to challenge the court's authority and conduct during proceedings.

- 1 The court dismissed the review petition, finding it to be frivolous and without merit.
- 2 The court found no error apparent on the face of the record in the original judgement.
- 3 The court also imposed costs of Rs. 10,000/- to be paid by the petitioner to the Delhi High Court Legal Services Committee.

Whether a petition filed after 1st July 2024 can be adjudicated under the old criminal laws?

CONTEXT: The petitioner filed an application under Section 482 of the Code of Criminal Procedure, 1973. The court questioned the petitioner's counsel on why he filed under the old code when the new criminal laws, namely Bhartiya Nyaya Sanhita, 2023 (BNS), Bhartiya Nagrik Suraksha Sanhita, 2023 (BNSS) and Bhartiya Sakshya Adhinyam, 2023 (BSA), had already been implemented. The petitioner's counsel explained that he was following the practice adopted in the District Courts.

- 1 The court held that the reliance on the old laws is a clear violation of Parliament's intent and defeats the efforts made for the new laws' effective implementation.
- 2 The court granted the petitioner one week's time to amend the petition according to the new criminal laws.
- 3 The court directed the registry to ensure that new applications/petitions are filed under the new laws only.
- 4 It was clarified that if any proceeding is continuing in cases filed before 1st July 2024, it would be appropriate to refer to old provisions along with provisions in the new laws for a smooth transition.

STATE THROUGH RPF
V. DHARMENDRA @
DHARMA [CRL.L.P.
472/2024]

SECTION 482,
531(2)(a)
OF THE BHARATIYA
NAGARIK SURAKSHA
SANHITA 2023
(BNSS)