

LAWBY WRITES



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EDITORIAL



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How not to be broke as a lawyer in India?

The legal industry in India is estimated to be around 2.49 billion USD or approximately Rs.21000 odd crores in India, a research data put out by Mordor Intelligence affirms. The BCI estimates that every year, close to 60,000 new lawyers enter the profession. A data provided by the Law Ministry in 2023 reveals that there are more than 20 lakh lawyers in India. The distance between skill and good earnings is seen the maximum in the legal profession. The Madras High Court, in the case of ***Farida Begum vs Puducherry Government (2024 SCC OnLine Mad 2113)***, has directed Seniors to pay Rs.15000 to Rs.20000 as salary to Juniors given the pathetic state of low income and exploitation. Somewhere, most of the lawyers who have aced court craft but have not built financial acumen.

However, the more pressing question is, in a profession where talent and professional competence cannot be accurately measured by quantitative yardsticks, what is the best way to improve the perceived value in the eyes of a potential client? There is no straight jacket formula. In simple words, do good legal work and learn to network. Even then, conversion of clients or monetization of skills is not guaranteed. **The antidote to irregular and low earnings is to save more and invest smartly.**

In India, there are several investment options that need to be explored by lawyers, especially the young professionals. It is in their best interest to invest their savings in Fixed Deposits, Recurring Deposits, physical gold or SGB (Sovereign Gold Bonds) or silver ETFs, Public Provident Funds and also in the stock market as SIPs (Systematic Investment plans) or SWPs (Systematic withdrawal Plans). **Please consult a Chartered Accountant or a SEBI-registered financial advisor to tailor investments to your income bracket.**

As a young independent lawyer who is building from scratch, it would also be **best to delay big-ticket purchases like buying a car or property in your first 3 years unless it's a necessity.** Renting a home can free up capital for investments that compound. Embracing a frugal mindset, like **working from co-working spaces at cheaper prices instead of renting plush offices or buying second-hand law books or using online resources like Manupatra or SCC Online (shared subscriptions with peers)**, will help in reducing cost burden. Remember, medical emergencies can wipe out savings. Please do get health insurance and term insurance at the earliest possible.

In India, the massive population ensures that the wealth disparity is extreme. **It is prudent to have more than a single stream of income and to save for bad days.** Keep an emergency fund handy always for the well-being of your family. **With the coming of AI legal fee rationalization and a downward revision is a given. Do not be penny-wise and pound-foolish. Learn finance now.**





LEGAL CRISPS

What you cannot carry while entering or leaving India?

-Murshida Banu T

In India, the **Customs Act of 1962** regulates the import and export of prohibited and restricted goods. Violating its provisions can lead to confiscation, heavy penalties, or imprisonment. Therefore, it's crucial to understand the permissible and prohibited items when entering or exiting the country. International travel is subject to different rules, and customs laws specifically are essential to ensure internal security, economic stability, and cultural preservation.

The Customs Act, along with other laws such as the **Foreign Trade (Development & Regulation) Act of 1992**, regulates all goods that are to be freely brought in and out of the country. Several guidelines are issued by other departments, such as the **Directorate General of Foreign Trade (DGFT)** and the **Bureau of Indian Standards (BIS)**, and International Treaties may interfere with the list of restricted and prohibited items. These regulations aim to prevent smuggling, protect public health and safety, safeguard the environment, and preserve the nation's cultural heritage.

On entering or leaving India, a traveller is prohibited from carrying narcotic drugs, counterfeit currency, obscene material, or goods of wildlife parts such as ivory, animal skins, or endangered plants. Additionally, goods that infringe upon intellectual property rights, like pirated software or fake branded goods, will not be allowed. Travellers cannot export antiques, rare cultural artefacts, sandalwood, and marine species that are endangered, primarily coral. There are limits on carrying gold, silver, firearms, drones, live animals, and medicines beyond permissible limits of personal use.

In the case of ***Nidhi Kapoor v. Principal Commissioner (2023 SCC OnLine Del 5099)***, the Delhi High Court held that gold would be considered a "prohibited item" under the Customs Act if the conditions for import were not fulfilled. The court also clarified that the term 'prohibited' may also encompass regulations and restrictions. In the case of ***Jagdev Damodaran v. Deputy Commissioner of Customs (ACCA) (2017 SCC OnLine Ker 445)***, the Kerala High Court held that the petitioner is not entitled to a direction to release the drone that was detained by the customs at the airport because drones were classified as prohibited. The petitioner was required to get permission/ license from the Directorate General of Civil Aviation (DGCA) and the Directorate General of Foreign Trade (DGFT).

India's customs regulations protect the nation's economy, security, and culture, making it essential for Travellers to be aware of prohibited and restricted items. Stay informed and compliant to avoid legal consequences and travel disruptions. Travellers are advised to check out the latest customs notifications so that they know of any changes in the regulations.





Can Yoga be Copyrighted? The legal battle over cultural heritage

-Seethala B

Yoga, an ancient practice with its roots in **Indian philosophy**, has been an integral part of the country's cultural and spiritual heritage for thousands of years. India has taken several legal measures to protect **yoga and traditional knowledge** from misappropriation under **intellectual property (IP) laws**. The **Traditional Knowledge Digital Library (TKDL)**, established in 2001 by the **Council of Scientific and Industrial Research (CSIR)** and the **Ministry of AYUSH**, documents **4,778 yoga techniques** along with Ayurveda, Unani, Siddha, and Sowa Rigpa formulations to prevent unauthorized patent claims. India's **Patents Act, 1970 (Section 3p)** also prohibits patenting inventions that are merely **an aggregation or duplication of known traditional knowledge**. Additionally, the **Biological Diversity Act, 2002** mandates prior approval from the **National Biodiversity Authority (NBA)** for any intellectual property claims based on Indian biological materials and traditional practices.

In the case of ***Institute for Inner Studies v. Charlotte Anderson (CS(COMM) 501/2017)***, the Delhi High Court clarified that exclusive rights over yoga asanas and Pranic Healing, which are derivatives of ancient Indian yoga techniques, cannot be claimed under Indian Trademark Law or Copyright Law. A Philippines-based Institute for Inner Studies (IIS) sought to prevent others from teaching yoga postures developed by Master Choa Kok Sui, claiming trademark and copyright protection. The Court dismissed the trademark claim, ruling that the **expression "Pranic Healing" existed in a book by Swami Ramachakra (1906)** and was, therefore, in the public domain. It also held that the term was generic and lacked distinctiveness under Section 9 of the Trade Marks Act, 1999. Regarding copyright, IIS claimed ownership over books, CDs, and literature on Pranic Healing, arguing that performing the technique was a work of choreography under Section 13(a) of the Copyright Act, 1957. The Court rejected this, stating that while the demonstration of pranayama in a specific manner could be copyrighted, the technique itself, as traditional knowledge, could not. The ruling reinforced the principle that yoga techniques belong to the public domain and cannot be monopolized.

Similarly, in the case of ***Bikram's Yoga Coll. of India, L.P. v. Evolation Yoga, LLC (803 F.3d 1032)***, U.S. Courts of Appeals (9th Circuit, California) denied copyright protection to a sequence of **26 yoga postures and breathing exercises** created by Bikram Choudhury, stating that it was a **process or system meant to improve health and not an original expressive work**. The **U.S. Copyright Office** has also consistently refused to recognize yoga poses or sequences as copyrightable subject matter.

Over 130 yoga-related patents and trademarks exist worldwide, mainly covering **commercial products like yoga mats, apparel, and training programs** rather than the postures themselves. India actively monitors and files **pre-grant oppositions and third-party observations** at patent offices worldwide to prevent any wrongful IP claims over yoga.

The **legal stance remains clear—yoga, as part of India's intangible cultural heritage, cannot be privatized**. Instead, it must remain freely accessible while being protected from misappropriation through global legal frameworks. The **TKDL, NBA regulations, and judicial precedents** continue to uphold yoga's status as **traditional knowledge, ensuring its availability for all without commercial monopolization**.





CASE CHRONICLE

Supreme Court's guidelines for assessing child witness testimony

-Nithyaparvathy R G

CASE NAME: The State Of Madhya Pradesh vs Balveer Singh

CITATION: 2025 INSC 261

The Supreme Court of India has provided guidelines for evaluating child witness testimony to ensure fairness and accuracy. The Court emphasised that "The evidence of a child witness for all purposes is deemed to be on the same footing as any other witness as long the child is found to be competent to testify."

- **Competency:** According to Section 118 of the Indian Evidence Act, 1872 courts can allow anyone to testify if they understand the questions and provide rational answers.
- **Preliminary Examination:** Before recording a child's testimony, the trial judge must conduct an examination to assess the child's understanding of truthfulness and capacity to respond sensibly. The questions and the judge's satisfaction must be recorded for appellate review.
- **Reliability:** The court must be convinced that the child's statements are voluntary, free from external influences, and inspire confidence.
- **Tutoring:** Courts must carefully consider and rule out the possibility of tutoring, as children are particularly susceptible to suggestion.
- **Improvisation:** If a witness adds new details or alters facts, these inconsistencies must be addressed under Section 162 of the Code of Criminal Procedure, 1973 and Section 145 of the Evidence Act.
- **Fabrication:** In cases of suspected fabrication, the court looks for an opportunity for tutoring and a reasonable likelihood of tutoring, supported by evidence of motive or unfair investigation practices.
- **Corroboration:** Credible and confidence-inspiring evidence from a child can serve as the sole basis for a conviction. Corroboration may be necessary if the child's evidence appears tutored or includes significant discrepancies.
- **Delays in Recording Statements:** Delays in recording statements or the child residing with parties interested in the case should not automatically discredit the testimony.
- **Morgue Inquiry Report:** The absence of specific accusations in initial reports does not automatically mean later statements are tutored.
- **Minor Discrepancies:** Minor discrepancies should not discredit the evidence unless incompatible with overall credibility.
- **Interested Witnesses:** Evidence from related witnesses should be examined carefully to ensure it is credible, consistent, and reasonable.

"A child witness who has withstood his or her cross-examination at length and able to describe the scenario implicating the accused in detail as the author of crime, then minor discrepancies or parts of coached deposition that have crept in will not by itself affect the credibility of such child witness," the Court added.





BEYOND THE OBVIOUS

How Property Taxes impact home prices in metro cities?

-Saraswathy Thogainathan

Property Tax in Chennai is an important source of revenue for the city's administration, providing funds for essential services and infrastructure. The collection and assessment of the property tax are regulated by the Chennai City Municipal Corporation Act, 1919 and the Tamil Nadu District Municipalities Act, 1920. The Taxes in Chennai are levied based on several parameters.

The Property taxes in Chennai are assessed based on the following factors:

- 1. Classification of Zones:** Prime areas with better infrastructure, commercial activity and higher real estate demand are taxed at a higher rate, compared to areas with lesser developed areas. The classification is also based on other factors like access to metro, market value and road connectivity.
- 2. Usage Type:** Based on the usage of the space, the tax is determined. Commercial spaces generate higher revenue and, hence, higher taxes than residential spaces. Taxes for commercial spaces are three to five times higher than for residential spaces.
- 3. Built-up area Space:** Total area covered by the building, including walls and common areas. The larger the built-up area, the higher the tax rates.

As per Section 100 of the Chennai City Municipal Corporation Act, 1919, the concept of Reasonable Letting Value (R.L.V.) is used to determine the annual rental value and half-yearly tax for properties within Chennai city limits. The monthly R.L.V. is calculated based on the basic rate per square foot, which differs for residential and non-residential spaces.

How High Tax Rates Affect Purchasing of a Property

In a recent interview with Mint in February 2025, Real Estate Expert Niranjana Hiranandani, the Chairman of the National Real Estate Development Council (NAREDCO) & the Hiranandani Group, stated that high tax levels make it unsustainable for builders to construct cheaper homes. Tax relief on that front would make houses affordable for everyone. He further stated that 50% of the prices of expensive homes in Mumbai are all part of the taxes, be it stamp duty, development charges or others.

In the case of **A.S. Narayanasamy vs. The Commissioner & Anr. [W.P.No.12719 of 2024]**, The Madras High Court quashed the property tax revision, which was arbitrary and reinforced the principles of natural justice. This case provides legal backing for property owners to challenge inflated tax assessments by requesting reassessment from Greater Chennai Corporation.

Taxes on properties in metropolitan cities are influenced by various factors. Home buyers should verify tax assessments, consider long-term financial implications, and stay updated on policy changes to make informed decisions. If taxes seem unfair, individuals can seek reassessment, which can help reduce unnecessary financial burdens. Ultimately, **balanced taxation and reforms** are essential to ensure fair assessments and promote affordable housing in metropolitan cities.



LAWBY WRITES

Have Suggestions or Questions?

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