

## Weekly Update for Law Optional UPSC

A mix of Conceptual, Current/Contemporary Topics

2nd September - 8th September 2024

1. Importance of Reasoned Judgments in Judicial Proceedings.....	1
2. High Court Collegium in Judicial Appointments.....	2
3. Murder and Vicarious Liability.....	3
4. Supreme Court Exonerates Car Dealer from Liability in Test Drive Accident.....	4
5. Importance of Compensation in Delayed Property Possession.....	5

### Weekly Focus

Case of the Week: Ramana Dayaram Shetty v. International Airport Authority of India.....	6
Repeated PYQ.....	7

Join [Telegram](#) or [Whatsapp](#) for Weekly Update

FOUNDAION BATCH  
LAW OPTIONAL  
Starts: 13th Sept 2024  
For UPSC 2025

ENQUIRE NOW

CONTACT US

8595020903  
www.DeFactoLaw.in

### 1. Importance of Reasoned Judgments in Judicial Proceedings

In a significant ruling, the Supreme Court of India reiterated the importance of providing clear reasoning in judicial decisions, setting aside a judgement from the Allahabad High Court's Division Bench for failing to furnish adequate reasons. In the case of State Project Director, UP Education for All Project Board & Ors. vs. Saroj Maurya & Ors, the Court observed that no decision could be legally sustainable in the absence of a reasoned judgement, highlighting the necessity for transparency and clarity in judicial orders.

#### The Case at Hand

The case involved an appeal against a Division Bench decision of the Allahabad High Court, which had upheld a Single Judge's ruling without providing any substantial reasoning. The Division Bench merely expressed its agreement with the Single Judge's approach without discussing the issues at hand. Senior Advocate Garima Prashad, representing the State of Uttar Pradesh, argued that the Division Bench had erred in upholding the Single Judge's decision without addressing the government orders and circulars that were relevant to the case. The appellant contended that a fair opportunity to be heard, in light of these documents, was denied, violating principles of procedural fairness.

### **Supreme Court's View on Reasoned Judgments**

The Supreme Court Bench, comprising Justices Hima Kohli and Sandeep Mehta, held that the impugned judgement could not stand as it lacked reasoning. In doing so, the Court relied on the precedent set in CCT vs. Shukla & Bros. (2010), where the importance of reasoned judgments was emphasised. The Court highlighted that the concept of a reasoned judgement is a fundamental component of the rule of law and a mandatory requirement under procedural law. According to the Court, clarity in judgement writing ensures that decisions are not only fair and just but also transparent and comprehensible to both the parties involved and the broader public.

### **Why Reasoning is Crucial**

The Supreme Court further elaborated that reasoned judgments serve multiple purposes. First, they clarify the judge's thoughts, ensuring that the decision is based on a logical analysis of the facts and law. Second, reasoned judgments communicate the rationale behind the decision to the parties, fostering transparency. Third, they allow for proper appellate review, ensuring that the reasoning can be assessed by higher courts. As the Court observed, the absence of reasons can undermine public confidence in the judiciary, leading to uncertainty and frustration among those affected by the decisions.

### **Remand to the High Court's Division Bench**

In light of the Division Bench's failure to provide adequate reasoning, the Supreme Court set aside the impugned judgement and remanded the matter back to the High Court's Division Bench. The parties were directed to re-argue the case, taking into account any subsequent developments that might have occurred. The Court granted both sides the liberty to present new arguments on both factual and legal grounds. This decision ensures that the Division Bench will have to deliver a fresh judgement, this time accompanied by proper reasoning, thereby adhering to the principles of judicial transparency.

## **2. High Court Collegium in Judicial Appointments**

In a recent judgement, the Supreme Court of India emphasised the collective role of the High Court Collegium in judicial appointments, holding that the Chief Justice of a High Court cannot unilaterally reconsider recommendations. This ruling came in the case of Chirag Bhanu Singh v. State of Himachal Pradesh, where the Court directed the Himachal Pradesh High Court Collegium to reconsider the elevation of two District Judges, Mr. Chirag Bhanu Singh and Mr. Arvind Malhotra.

### **The Collegium System: A Collaborative Process**

The Supreme Court bench, comprising Justices Hrishikesh Roy and Prashant Kumar Mishra, reiterated that judicial appointments to superior courts must be based on the collective wisdom of the Collegium, which includes the Chief Justice and two senior judges of the High Court. The Court emphasised that appointments are not the prerogative of any one individual but must reflect the collaborative input of the Collegium members. This process is designed to ensure transparency and accountability in the judiciary.

**Background of the Case**

The dispute arose when the petitioners, two senior district judges, challenged the Himachal Pradesh High Court Collegium's decision to ignore their elevation. They had been recommended for elevation by the High Court Collegium on 6th December 2022, but the Supreme Court Collegium deferred their consideration in July 2023. Later, in January 2024, the Supreme Court Collegium remitted the matter for reconsideration to the Chief Justice of the Himachal Pradesh High Court. However, instead of considering the petitioners, the High Court Collegium recommended the elevation of two other judges.

**The Chief Justice's Unilateral Action**

In the present case, the Chief Justice of the Himachal Pradesh High Court sent a letter on 6th March 2024 to the Supreme Court Collegium, assessing the suitability of the petitioners individually. The Registrar General of the High Court claimed that this action was in compliance with the Supreme Court Collegium's January 2024 resolution.

The Supreme Court, however, rejected this claim, noting that the Chief Justice could not act alone in reconsidering the recommendation. The Court held that any decision regarding judicial appointments must be made collectively by the High Court Collegium after proper consultation and deliberation among all members. The Court referred to previous judgments, including the Second Judges Case and Third Judges Case, which established the collegium system, curtailing the primacy of the Chief Justice in such matters.

**Judicial Review and the Role of Consultation**

In its judgement, the Court also clarified the scope of judicial review in matters of judicial appointments. Citing the judgement in Mahesh Chandra Gupta v. Union of India (1998), the Court distinguished between "eligibility" and "suitability." While the suitability of a candidate for elevation is non-justiciable and beyond the scope of judicial review, the lack of effective consultation within the Collegium can be reviewed by the judiciary. The Court concluded that the lack of collective consultation in this case was a procedural irregularity that invalidated the Chief Justice's decision.

**The Supreme Court's Direction**

Given the procedural inconsistencies, the Supreme Court quashed the Chief Justice's individual assessment and directed the Himachal Pradesh High Court Collegium to reconsider the petitioners' elevation in line with the law. The Court also held that the decision must reflect the collective views of all Collegium members, as required by the Supreme Court's resolution dated 4th January 2024, and the Law Minister's letter dated 16th January 2024.

**3. Murder and Vicarious Liability**

In a significant judgement, the Supreme Court upheld the conviction and sentencing of the appellant, Nitya Nand, in the case of Nitya Nand v. State of U.P. & Anr., affirming the principles of vicarious liability under Indian law. The appellant had been found guilty of murder and rioting armed with a deadly weapon under Sections 148 and 302 read with 149 of the Indian Penal Code (IPC). The case revolved around the appellant's participation in an unlawful assembly that resulted in the death of one Satya Narain, a dispute stemming from a property-related conflict.

**Background of the Case**

The case originated from a longstanding family dispute involving the will of Laxmi Narain, which was executed in favour of the sons of the deceased, Satya Narain. This decision enraged Shree Dev, Laxmi Narain's brother, and his three sons, including the appellant, Nitya Nand. In retaliation, they attacked Satya Narain with weapons, leading to his death.

The prosecution's case rested on the argument that Nitya Nand was part of an unlawful assembly that had the common object of committing murder. Though Nitya Nand claimed that his role was limited to firing a pistol in the air to frighten others and facilitate his escape, the courts found him guilty due to his involvement in the unlawful assembly.

**Appellant's Defence: Insufficient Evidence?**

Nitya Nand's defence argued that he should not have been convicted for murder as there was no evidence that his actions directly caused any injuries. The defence highlighted that no firearms injuries were found on the deceased and no country-made pistol or cartridge was recovered. Further, they pointed out that key witnesses, such as Laxmi Narain, were not examined by the prosecution.

However, the Supreme Court rejected these arguments. The Court noted that while the prosecution might have missed some aspects, such as the examination of key witnesses, the overall evidence and testimonies provided a strong case. The presence of the appellant at the crime scene, armed with a deadly weapon, and his role in facilitating the escape of the other accused persons, was enough to hold him liable.

**The Concept of Vicarious Liability under Section 149 IPC**

The crux of the Supreme Court's judgement rested on the application of Section 149 of the IPC, which deals with unlawful assemblies. Under Section 149, every member of an unlawful assembly is held liable for any offence committed by any member of that assembly if the offence is committed in pursuit of the common object.

In this case, the Court emphasised that when dealing with an unlawful assembly, it is not necessary to attribute a specific overt act to each member of the group. The mere presence of a person in an unlawful assembly with the common object of committing a crime makes them equally liable for the outcome. The Court cited previous judgments, such as *Yunis alias Kariya v. State of M.P.*, to reinforce this principle.

**4. Supreme Court Exonerates Car Dealer from Liability in Test Drive Accident**

The Supreme Court of India recently ruled that a car dealer cannot be held liable to pay compensation under the Motor Vehicles Act, 1988 for an accident that occurred during a test drive, involving a vehicle driven by the manufacturer's employee. This judgement clarifies the legal responsibilities of dealers, manufacturers, and employees in test drive-related accidents, highlighting the importance of determining actual ownership and control of the vehicle at the time of the incident.

**Background of the Case**

The case arose from an accident involving a Lancer car during a test drive, resulting in the death of a person. A claim petition was filed by the heirs of the deceased under Section 166 of the Motor Vehicles Act, 1988, against the car's driver, the manufacturer Hindustan Motors, and its dealer, Vaibhav Motors. The Tribunal had initially held the driver, Hindustan Motors, and Vaibhav Motors jointly and severally liable for compensation. However, Vaibhav Motors contested this decision, claiming it was not the owner of the vehicle at the time of the accident.

**Tribunal's Findings**

The Tribunal had found that Hindustan Motors was the vehicle's owner on the day of the accident, but since the vehicle was with the dealer, both the manufacturer and the dealer were held liable for the compensation. The dealer challenged this decision, arguing that the car had not been sold to it yet, and it was merely holding the vehicle as a dealer, without any ownership rights.

**Supreme Court's Observations**

The Supreme Court agreed with the submissions of Vaibhav Motors and held that the dealer was neither the owner nor in control of the vehicle at the time of the accident. The court ruled that Hindustan Motors, as the owner, was solely responsible for the vehicle and, therefore, liable for compensation along with the driver. The Court emphasised that the dealer could not be burdened with liability as the test drive was conducted by Hindustan Motors' employees, not by the dealer's representatives.

**Legal Definition of 'Owner'**

A key issue in the case was the interpretation of the term "owner" under the Motor Vehicles Act. The court referred to prior judgments to establish that ownership is not limited to the registered owner of the vehicle but extends to the party who had control and command of the vehicle at the time of the accident. In this case, Hindustan Motors retained control through its employees, thereby absolving the dealer from any tortious liability.

**5. Importance of Compensation in Delayed Property Possession**

In a recent decision, the National Consumer Disputes Redressal Commission (NCDRC), presided by Mr. Subhash Chandra and Dr. Sadhna Shanker, upheld the principle that compensation in property disputes should not only reimburse the financial losses of the buyer but also aim to restore what was lost due to the developer's deficiency. The NCDRC found that an interest rate of 9% was reasonable and fair in cases involving significant delays in property possession.

**Background of the Case**

The case in question revolved around a complainant who entered into two agreements with a developer and landowners for the purchase of a flat and a car parking space. The total consideration for the purchase was ₹28,05,000, of which the complainant paid ₹25,25,000, including an additional ₹25,000 for an electric metre. However, the developer failed to deliver the property in a habitable condition within the agreed timeframe.

Despite being prepared to pay the remaining ₹3,05,000, the complainant faced continued delays from the developer. Frustrated by the lack of progress, the complainant sought redressal from the State Commission of West Bengal. The Commission ruled in favour of the complainant, awarding

₹3,00,000 in compensation and ₹10,000 in litigation costs. Unsatisfied with the extent of relief granted, the complainant appealed to the NCDRC for a more comprehensive judgement.

### **Uncontested Proceedings by the Developer**

Throughout the legal proceedings, the developer did not appear before the court to contest the allegations, leading the case to be heard *ex parte*. This absence of representation further highlighted the developer's negligence and contributed to the NCDRC's decision to rule decisively in favour of the complainant.

### **Key Judicial Precedents**

In delivering its verdict, the NCDRC referred to several landmark judgments by the Supreme Court, which guided its decision. One of the key cases cited was *Fortune Infrastructure Vs Trevor D' Lima* (2018), wherein the Supreme Court ruled that buyers could not be expected to wait indefinitely for possession. The judgement established that buyers were entitled to a refund and compensation when developers failed to deliver within a reasonable timeframe.

Similarly, in *Kolkata West International City Pvt. Ltd. Vs Devasis Rudra* (2019), the Supreme Court found that a seven-year delay in property possession was unreasonable and justified the refund ordered by the lower court. These precedents reinforced the notion that extended delays, as in the present case, constituted a clear deficiency in service.

### **NCDRC's Observations and Decision**

In its review of the case, the NCDRC noted that the developer's failure to deliver possession after receiving nearly 90% of the payment was a clear violation of the terms of the agreement. The Commission also referenced the Supreme Court's ruling in *Experion Developers Pvt. Ltd. Vs Sushma Ashok Shiroor* (2022), which emphasised that compensation in such cases must be both compensatory and restitutionary, reflecting the financial and emotional impact on the buyer.

Taking into account the substantial nine-year delay, the NCDRC ruled that the complainant's demand for compensation, adjustments, and litigation costs was justified. As a result, the developer was directed to hand over possession of the property within two months at no additional cost. Additionally, the developer was ordered to compensate the complainant for the delay at a rate of 6% per annum and to pay ₹1 lakh in litigation costs.

## **Case of the Week: Ramana Dayaram Shetty v. International Airport Authority of India**

The case of *Ramana Dayaram Shetty v. International Airport Authority of India* marked a significant development in administrative law and the concept of fairness in public contracting. The judgement by the Supreme Court of India emphasised the principle of equality before the law and expanded the interpretation of Article 14 of the Indian Constitution, particularly in the context of state instrumentalities.

### **Facts of the Case**

The International Airport Authority of India (respondent) had issued a tender for a contract to run a restaurant at the Bombay Airport. One of the eligibility criteria mentioned in the tender was that the applicant must have experience running a "2-star" hotel. *Ramana Dayaram Shetty* (petitioner), a

businessman, submitted a tender application without fulfilling this condition. However, the Airport Authority, while evaluating the tenders, awarded the contract to another party, which also did not meet the same requirement. Shetty, aggrieved by this decision, filed a writ petition alleging violation of Article 14 (right to equality) and claimed that the Airport Authority had acted arbitrarily.

### Issues

1. Whether the Airport Authority, being a public body, was subject to the mandate of Article 14 of the Constitution.
2. Whether the contract award process violated the principle of equality and fairness, as prescribed under Article 14.
3. Whether the Airport Authority's discretion to grant the contract was arbitrary and unreasonable.

The Supreme Court, in a landmark judgement, ruled in favour of Ramana Dayaram Shetty and laid down crucial principles regarding the conduct of public authorities, particularly in relation to Article 14.

### Key Observations:

- The Court emphasised that any public authority, which is an instrumentality of the State, must not act arbitrarily. It is bound to act reasonably, fairly, and in a non-discriminatory manner.
- It was held that the Airport Authority, being an instrumentality of the State, was bound by Article 14, and its actions must conform to the standards of fairness and equality.
- The Court found that the eligibility condition could not be ignored or relaxed arbitrarily, especially when it was specified in the tender notice. The relaxation of the condition without a valid reason amounted to discrimination and violated Article 14.
- The decision to award the contract to a party that did not meet the eligibility criteria was deemed unreasonable and arbitrary, leading to a breach of the principle of equality.

### Repeated PYQ

**Q. We must use our property so as not to cause discomfort to another's use of property. Yet a temporary discomfort is not actionable. Explain the law.**

The principle that individuals must use their property without causing discomfort or inconvenience to others is a fundamental tenet of tort law. This principle, rooted in the doctrine of nuisance, emphasises the balance between a person's right to enjoy their property and their obligation to respect the rights of others.

However, the law recognizes that not all discomforts caused by the use of property are actionable, particularly when such discomforts are temporary or trivial in nature. This principle of law ensures that only substantial and unreasonable interferences with the enjoyment of property give rise to legal action.

## Definition of Nuisance

In tort law, nuisance refers to an act that unlawfully interferes with an individual's enjoyment of their property. Nuisance can be categorised into two types: public nuisance and private nuisance. Public nuisance affects the rights of the public at large, while private nuisance interferes with an individual's use or enjoyment of their land. For an interference to be actionable as a private nuisance, it must be both substantial and unreasonable.

The classic legal maxim, "Sic utere tuo ut alienum non laedas," encapsulates the essence of nuisance law. It means that one must use their property in such a way that it does not harm others. While property ownership confers rights, it also imposes obligations, particularly in relation to neighbouring properties.

## Elements of Actionable Nuisance

For a nuisance to be actionable, the interference must meet certain criteria:

1. **Substantial Interference:** The interference must be more than trivial or minor. The discomfort must be significant enough to affect the reasonable use and enjoyment of the property.
2. **Unreasonable Use:** The action causing the interference must be unreasonable. Courts take into consideration various factors to assess the reasonableness of the interference, including the nature of the area (residential or industrial), the duration of the interference, and the utility of the defendant's actions.

## Temporary Discomfort and Non-Actionability

A key aspect of nuisance law is that not every discomfort or inconvenience gives rise to a claim. Temporary discomfort, particularly when it is of short duration or minor in impact, is generally not actionable. The rationale is that society must accommodate a reasonable degree of inconvenience to ensure the harmonious functioning of neighbourhoods and communities.

Nuisances that are temporary and do not cause substantial interference with the enjoyment of property are often deemed non-actionable. Temporary discomforts, such as construction noise or a fleeting unpleasant smell, typically fall within this category. The courts have recognized that some level of tolerance is necessary for modern living, where individuals are often subjected to minor inconveniences due to the activities of their neighbours.

In **Sturges v. Bridgman (1879)**, a classic nuisance case, the court held that for an action in nuisance to succeed, the interference must be substantial and ongoing. Temporary disturbances, such as noise from a passing vehicle or occasional smells from a nearby factory, are generally not considered actionable, as they do not constitute a continuous or unreasonable interference.

In **Bamford v. Turnley (1862)**, the court emphasised that some inconveniences must be tolerated in the interest of society. The judgement in this case highlighted the balance that courts must strike between an individual's right to enjoy their property and the societal need for activities such as construction, which may cause temporary inconveniences but benefit the public in the long run.

## The Rule of Reasonableness



The reasonableness of the interference is a crucial factor in determining whether the discomfort is actionable. In deciding whether a nuisance is actionable, courts consider:

- **Duration:** Temporary disturbances are less likely to be actionable, especially if they are part of an activity that is deemed necessary or beneficial, such as repairs or construction work.
- **Intensity:** If the discomfort is minor or trivial, it is unlikely to be actionable. Courts have recognized that minor inconveniences, such as occasional noise or odours, must be endured in a society where individuals live in close proximity to one another.
- **Utility of the Defendant's Activity:** Courts also weigh the benefits of the defendant's activity. For example, construction work may cause noise, but it serves a useful purpose that benefits the wider community. As long as the interference is temporary and reasonable, such activities are generally allowed to continue.

