Weekly Update for Law Optional UPSC

A mix of Conceptual, Current/Contemporary Topics

26th April-1st May, 2026

1.SC Opens Door for Losing Party to Seek Post-Award Protection.....1
2. ICC Orders €7.25 Million Reparations in Al Hassan (Mali) Case — 65,202 Victims of Timbuktu Terror Atrocities..... 1

Weekly Focus

Case of the Week: Maneka Gandhi v. Union of India — Case Summary.....2
PYQ Solution..... 3

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1.SC Opens Door for Losing Party to Seek Post-Award Protection

In **Home Care Retail Marts Pvt. Ltd. v. Haresh N. Sanghavi**, the Supreme Court has authoritatively settled a key question of law on the scope of interim relief under the Arbitration and Conciliation Act, 1996.

A Bench of Justices Manoj Misra and Manmohan held that an **unsuccessful party in arbitration can invoke Section 9 even after the arbitral award**, rejecting the restrictive view that only an award-holder can seek such relief. The central issue before the Court was whether a losing party, having no enforceable award, can maintain a post-award interim application.

Resolving conflicting High Court rulings, the Court ruled that the expression “a party” under Section 9 includes all parties to the arbitration agreement, without distinction based on success or failure. Imposing such a limitation would amount to judicial legislation and defeat the statutory scheme.

The Court clarified that Section 9 serves a distinct purpose—**to preserve the subject matter or secure the disputed amount**—which is not addressed by remedies under Sections 34 or 36. Denial of such relief could render a party remediless during pendency of challenge to the award.

However, the Court cautioned that such relief must be granted sparingly, subject to stricter scrutiny of prima facie case, balance of convenience, and irreparable harm.

2. ICC Orders €7.25 Million Reparations in *Al Hassan* (Mali) Case — 65,202 Victims of Timbuktu Terror Atrocities

Trial Chamber X of the ICC delivered its reparations order in Prosecutor v. Al Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud on 28 April 2026 — one of the largest reparations orders in ICC history.

Al Hassan, the former head of the Islamic Police (Ansar Dine / Al-Qaeda in the Islamic Maghreb) during the 2012–2013 occupation of Timbuktu, Mali, was convicted in June 2024 on eight counts of war crimes and crimes against humanity — including torture, religious persecution (by enforcement of sharia), sexual slavery, outrages upon personal dignity, and other inhumane acts.

He was sentenced to 10 years (verdict final since December 2024). The Chamber ordered collective community-based reparations totalling approximately €7,250,000 covering 65,202 estimated victims. Since Al Hassan is indigent (represented by court-funded counsel), the payments are channelled through the Trust Fund for Victims, described as "one of the many innovations of the Rome Statute."

Measures include socio-economic support, educational programmes, vocational training, and psychological rehabilitation, with priority given to women and girls who suffered disproportionate harm under the extremist groups. Presiding Judge Kimberly Prost stated: Al Hassan is "the person financially liable for the cost of repairing the harm" even though enforcement through the Trust Fund is required. This is only the second time after Al Mahdi (2016, destruction of cultural heritage) that an ICC reparations order from Mali has been implemented.

Weekly Focus

Case of the Week: Maneka Gandhi v. Union of India — Case Summary

Facts:
Maneka Gandhi's passport was impounded by the Government of India under Section 10(3)(c) of the Passports Act, 1967 "in public interest." No reasons were initially furnished, and she was not given a prior hearing. She challenged the action as violative of her fundamental rights under Articles 14, 19, and 21 of the Constitution.

Issue (Question of Law):
Whether the procedure established by law under Article 21 must be fair, just, and reasonable, and whether Articles 14, 19, and 21 are mutually exclusive or interlinked. Also, whether denial of a hearing before impounding a passport violates principles of natural justice.

Held / Ratio:
A seven-judge Bench held that "procedure established by law" under Article 21 cannot be arbitrary, fanciful, or oppressive—it must be fair, just, and reasonable. The Court rejected the earlier narrow interpretation in *A.K. Gopalan*, ruling that Articles 14, 19, and 21 are interconnected and must be read together. Any law depriving personal liberty must satisfy tests of non-arbitrariness (Art. 14) and reasonableness (Art. 19).

The Court also held that audi alteram partem (right to be heard) is part of Article 21, though post-decisional hearing may suffice in urgent cases.

Key Doctrines Evolved:

- Golden Triangle Doctrine (Art. 14, 19, 21 interlinked)
- Due Process expansion in Indian law
- Natural justice embedded in personal liberty

Significance:
This case revolutionized Indian constitutional law by transforming Article 21 into a source of substantive due process. It marked a decisive shift from formal legality to fairness-based constitutionalism, enabling expansion of rights like privacy, dignity, legal aid, speedy trial, and more. It remains one of the most influential judgments in Indian legal history.

PYQ Solution

"Law of torts is said to be a development of the maxim *ubi jus ibi remedium*." Discuss. *(10 Marks)*

Introduction	Introduces the maxim as the bedrock of tort law, ensuring rights are not empty without remedies.
Body	- Evolution through case law (Ashby v. White) - Application in India (Bhim Singh case) - Statutory recognition and recent development
Conclusion	Concludes that tort law functions to actualize the maxim, securing justice for infringement of rights.

The maxim *ubi jus ibi remedium* — "where there is a right, there is a remedy" — forms the philosophical foundation of the **law of torts**. Tort law exists to provide relief to individuals whose legal rights have been violated. It reflects the principle that no wrong should go without redress if the legal system can provide a remedy.

Without A Remedy, A Right Becomes Meaningless

The law of torts is primarily judge-made and has evolved through common law to address civil wrongs. It ensures that where a person's legal right is infringed, they are entitled to seek remedy, often in the form of compensation. The maxim operates as a moral and legal compass — without a remedy, a right becomes meaningless.

In **Ashby v. White (1703),** a returning officer wrongfully denied a person the right to vote. Although the candidate won the election, the court upheld the voter's right and awarded damages, reinforcing the maxim. This case marked the recognition of intangible rights and established that even non-pecuniary loss deserves legal redress.

Indian courts, too, embrace the maxim as a guiding principle. In **Bhim Singh v. State of J&K (1985)**, where an MLA was unlawfully detained to prevent him from attending an Assembly session, the Supreme Court awarded compensation, holding that public law remedies exist for violation of constitutional rights.

Statutory Recognition
Though tort law in India lacks a codified statute, principles derived from the maxim are embedded in statutes like:

- **Section 9 of CPC**, which permits civil courts to try all suits unless barred.
- The **Specific Relief Act**, which provides equitable remedies beyond mere compensation.

The judiciary continues to expand tortious liability in areas like **environmental law** and **state accountability**, recognising the evolving nature of rights and the need for remedies, as seen in **MC Mehta v. Union of India** (Oleum Gas Leak case).

Thus, the **law of torts** is a living embodiment of the maxim *ubi jus ibi remedium*, ensuring that where rights are violated, remedies are made available by the courts, thereby upholding the rule of law and the notion of justice in civil society.

De Facto IAS