

**GUJARAT NATIONAL LAW UNIVERSITY  
GANDHINAGAR**

Course: Interpretation of Statutes  
Semester-IV (Batch: 2014-19)

End Semester Examination: April-May 2016

Date: 3<sup>rd</sup> May, 2016

Duration: 3 hours

Max. Marks: 50

**Instructions:**

- Read the questions properly and write the answers in the given answer book.
- The respective marks for each question are indicated in-line.
- Do not write any thing on the question paper.
- Indicate correct question numbers in front of the answers.
- No questions or clarifications can be sought during the exam period, answer as it is, giving reason, if any.

Answer **any five** of the following questions

Marks

- Q.1 A Claim Petition was filed before the Railway Claims Tribunal, Ernakulam Bench (hereinafter referred to as the 'Tribunal') by the husband and a minor son of Smt. Abja who died on 23.5.1996 in a train accident at Varkala Railway station. The Tribunal disallowed the claim, but the appeal against the said decision was allowed by the Kerala High Court. By the impugned judgment dated 25.6.2001, the High Court awarded compensation of Rs. 2 lacks along with interest at the rate of 12% from the date of the petition till the date of payment was granted. Aggrieved by this judgment an appeal has been filed by the Union of India before the Supreme Court. *There is no dispute that Smt. Abja was a bona fide passenger holding a second class season ticket and an identity card issued by the Southern Railway.* As per the forensic report the cause of death was due to multiple injuries in the accident. The deceased fell on to the railway track and was run over by train No. 6349 Parasuram Express. (10)

Before the Tribunal, prosecution witness, K. Rajan, deposed that while he was at Varkala railway station he found one passenger falling from the Parasuram Express and the train was stopped, he went to the north side of the platform and saw the injured lying on the platform. He further stated that the person falling down was the lady who died on the spot. Also stated that, the deceased fell down from the compartment of the train when the train was moving.

The Tribunal held that prosecution witness is an interested witness because if he was present on the spot he would have definitely helped the Station Master in removing the dead body from the railway track. Further, the police would have definitely recorded his evidence. For this reason, the Tribunal disbelieved the evidence of prosecution witness. However, the evidence of defense witness, D. Sajjan, who was the Station Master at the railway station, corroborated the evidence of prosecution witness. Defense witness deposed that he saw a girl running towards the train and trying to enter the train and she fell down. He had further stated that the deceased Abja had attempted to board the train and fell down from the running train. For this reason, the Tribunal held that this was not an 'untoward incident' within the meaning of the expression in Section 123(c) of the Railways Act, 1989 as it was not an accidental falling of a passenger from a train carrying passengers.

*The Union of India has challenged Judgment of the High Court of Kerala before the Supreme Court*

which reversed finding of the Railway Claims Tribunal that a bona fide passenger who suffered fatal injury consequent to fall from a train while trying to board it, is not entitled to compensation as definition of 'untoward incident' takes in only passengers falling out of the train while travelling in it.

The relevant provisions of law are as under:

Section 2(29) of the Railways Act defines 'passenger' to mean a person traveling with a valid pass or ticket.

Section 123(c) of the Railways Act defines 'untoward incident' to include the accidental falling of any passenger from a train carrying passengers.

Section 124.4 of the Railways Act states: **Compensation on account of untoward incident** – When in the course of working a railway an untoward incident occurs, then whether or not there has been any wrongful act, neglect or default on the part of the railway administration such as would entitle a passenger who has been injured or the dependent of a passenger who has been killed to maintain an action and recover damages in respect thereof, the railway administration shall, notwithstanding anything contained in any other law, be liable to pay compensation to such extent as may be prescribed and to that extent only for loss occasioned by the death of, or injury to, a passenger as a result of such untoward incident:

Provided that no compensation shall be payable under this section by the railway administration if the passenger dies or suffers injury due to -

- (a) Suicide or attempted suicide by him;
- (b) Self-inflicted injury;
- (c) His own criminal act;
- (d) Any act committed by him in a state of intoxication or insanity;
- (e) Any natural cause or disease or medical or surgical treatment unless such treatment becomes necessary due to injury caused by the said untoward incident.

Explanation - For the purposes of this section, "passenger" includes -

- (i) A railway servant on duty; and
- (ii) A person who has purchased a valid ticket for traveling by a train carrying passengers, on any date or a valid platform ticket and becomes a victim of an untoward incident.

In the light of the above mentioned facts and laws discuss the following:

- (a) What are the possible contentions of both the parties?
- (b) What are the rules of interpretation be applied to decide the case?
- (c) Clearly give the reasons for the application of particular rules of interpretation.

- Q.2 "That the maxim '*judicis est just dicere, non dare*' best expounds the role of the court. It is to interpret the law, not to create it. The Court cannot act as a sympathetic caddie who nudges the ball into the hole because the putt missed the hole. Even a caddie cannot do so without inviting censure and more. If the legislation falls short of the mark, the Court could do nothing more than to declare it to be thus, giving its reasons, so that the legislature may take notice and promptly remedy the situation, this is precisely what has happened in the present case."

Answer the following with reference to the above proposition:-

- (a) What was the name of the case?
- (b) What was the issue before the court?
- (c) Explain the different reasoning of the court
- (d) Which were the rules of interpretation applied by the court?

- Q.3 On 26<sup>th</sup> February 1996 the Chief Minister of Punjab while addressing dairy farmers at a state level function said that, *the State Government has abolished purchase tax on milk and milk*

*products in the State for the period 1.4.96 to 4.6.97. This announcement was given a wide publicity in several newspapers in the State.*

The Finance Minister of the State while presenting the budget for the year 1996-97, like all other budget speeches, it consisted of a review of achievements and a delineation of future economic measures proposed to be taken for the development of the State. It was said:

*In a package of measures, special relief was given to the farming community which is the backbone of the State's economy. Furthermore, last month the Chief Minister has abolished the purchase tax on milk. While this would reduce the inflow of tax revenue to the extent of Rs.6.93 crores, it will assist the milk producers, and also the milk co-operatives.*

The next circumstance was a letter of the Financial Commissioner dated 26.4.96 addressed to the Excise and Taxation Commissioner, the relevant extract of which reads as follows:

*Pursuant to the announcements made by the Finance Minister, Punjab, on the floor of the House and the announcement made by the Chief Minister, Punjab on 26.2.1996, while addressing a public function organized by the Milk-fed in connection with Milk Day at Milk Plant, Ludhiana relating to exemption of purchase tax on milk, it has been decided in principle, to abolish the purchase tax on Milk with effect from 1.4.1996. You are requested to send proposal along with the financial implication involved therein, immediately.*

In response to the above mentioned letter, a circular dated 26<sup>th</sup> April 1996 was issued by the Excise and Taxation Commissioner, Punjab to the entire Deputy and Assistant Excise and Taxation Commissioners and the Deputy Directors (Enforcement) in the State. Which states:

*The Government has decided to abolish purchase tax on milk and to exempt dhoop agarbatti, kumkun, kirpan, pens and ball-pens from the levy of sales tax. It has also decided to reduce rate of tax on stainless steel utensils from 10% to 4% on tractor parts from 8% to 2% and on bullion from 2% to 0.5% all these exceptions/reductions will be effective from 1.4.1996. To implement these decisions, necessary notifications are under process and likely to be issued shortly. This position may be brought to the notice of all the officers/officials for information and necessary action. The receipt of this communication may please be acknowledged.*

On 27<sup>th</sup> June 1996, a meeting was held under the chairmanship of the Chief Minister which was attended by the Finance Minister, the Excise and Taxation Minister and various Financial Commissioners. At the meeting, the decision to abolish purchase tax on milk was reiterated and it was decided to issue a formal notification in a day or two.

On 4<sup>th</sup> June 1997, the Council of Ministers held a meeting headed by the Chief Minister to consider various items on the agenda. One of the items was related to the abolishing of purchase tax on milk. The minutes cryptically record that the decision to abolish purchase tax on milk was not accepted. Consequently on 3<sup>rd</sup> July 1997 the Excise and Taxation Officer issued notices to the respondents requiring them to pay the amount of purchase tax for the whole of the year 1996-97.

The State Government has the power under Section 31 of the Punjab General Sales Tax Act, 1948 to amend Schedule and thereby remove goods from imposition of tax altogether. It provides:

*"The State Government after giving by notification not less than twenty days' notice of its intention so to do, may by notification add to, or delete from, schedule C any goods, and thereupon Schedule C shall be deemed to be amended accordingly."*

In addition, the State Government has the power to exempt the payment of tax under

Section 30 of the Punjab General Sales Tax Act, 1948 which reads:

**Power to exempt:** (1) The State Government, if satisfied that it is necessary or expedient so to do in the interest of cottage industries, may by notification exempt any class of co-operative societies, or persons from the payment of tax under this Act on the purchase or sale of any goods subject to such conditions as may be specified in such notification. Every notification made under sub-section (1) shall as soon as may be after it is made, be laid before the State Legislature.

In the light of the above mentioned case explain the following along with your views:

- (a) What was the issue before the Court?
  - (b) What were the contentions of the parties?
  - (c) Reasoning and decision of the Court and
  - (d) Different rules of interpretation applied by the Court.
- Q.4 What is Reference to Other Statutes? Elucidate the following statutes with the decided case laws: (2x5=10)
- (a) Statutes in *pari materia*.
  - (b) Assistance of later and earlier statutes.
- Q.5 Attempt briefly the following: (2x5=10)
- (a) *R v. Allen* (1985) 2 All ER 641
  - (b) *Cutter v. Eagle star insurance Co. Ltd* (1998) 4 All ER 417
- Q.6 Write short note on (2x5=10)
- (a) Operation of Penal and Declaratory Statutes
  - (b) Statutes affecting the Crown or the State

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