



Legal Languages

Dr. Shonal John

Respair Academy



Convert the following into negative sentences

- 1. William is uneducated
- William is not educated.
- 2. I think that was a foolish bargain.
- I think that was not a wise bargain
- 3. The judge disagreed with the lawyer on a vital point.
- The judge did not agree with the lawyer on a vital point.
- 4. Your behavior towards your parents is bad
- You behavior towards your parents is not good.
- 5. Where there is smoke there is fire.
- There is no smoke without a fire.



Convert the following into affirmative sentences

- 1. I will never forget my teacher's advice.
- I will always remember my teacher's advice.
- 2. India is not a poor country.
- India is a rich country
- 3. Georgy did not like the colour of his shirt
- Georgy disliked the colour of his shirt
- 4. No student in his class is as tall as he is
- He is the tallest student in his class
- 5. He did not succeed in spite of many efforts
- He failed in spite of many efforts



CONVERSION OF INTERROGATIVE SENTENCES INTO ASSERTIVE

- 1. Can I ever forget your kindness?
- I can never forget your kindness
- 2. Shall I ever forget those happy days?
- I shall never forget those happy days
- 3. Who authorised you to sign these documents?
- No one authorised you to sign these documents
- 4. Isn't she exceptionally intelligent for her age?
- She is exceptionally intelligent for her age
- 5. Can anyone beat Sachin Tendulkar in cricket?
- No one can excel Sachin Tendulkar in cricket

Respair Academy



Change the following sentences from Active Voice to Passive Voice

- 1. The hen laid golden eggs
- Golden eggs were laid by the hen.
- 2. He will bake the cake
- The cake will be baked by him
- 3. The dog chased the cat
- The cat was chased by the dog
- 4. Richard lost the money
- The money was lost by Richard
- 5. The magistrate will punish the guilty.
- The guilty will be punished by the magistrate



Respair Academy

Change the voice from Passive to Active

- 1. He was elected captain
 - They elected him captain.
- 2. Two new houses were built by them
 - They built two new houses
- 3. They were refused permission by us
 - We refused them permission
- 4. This palace was built by King Solomon
 - King Solomon had built this palace
- 5. The front gate was mobbed by his admirers
 - His admirers mobbed the front gate

Respair Academy



Superlative

Bold	bolder	boldest
Good	better	best
Bad	worse	worst
Young	younger	youngest
Beautiful	more beautiful	most beautiful
Easy	easier	easiest
Little	less	least
Careful	more careful	most careful
Far	farther	farthest
In	inner	innermost
Up	upper	uppermost



Respair Academy

Question Tags

- 1. Bring me some hot coffee.
Bring me some hot coffee, will you ?
- 2. Let us go and eat dinner.
- Let us go and eat dinner, shall we ?
- 3. He will certainly help you
- He will certainly help you, won't he?
- 4. He did not return the book.
- He did not return the book, did he?
- 5. They always work hard.
- They always work hard, don't they?



Citations



- 1. **Laxman versus Meena AIR 1997 Cal 312**

This is the citation of a case where **Laxman** is the Plaintiff / Petitioner / Appellant and **Meena** is the Defendant / Respondent. The case is reported in **All India Reporter** in the year **1997** on page **312**. This case was decided by the **Calcutta High Court**.

- 2. **Ramdas v/s Chinnappa (1958) 2 SCC 304**

This is the citation of a case where **Ramdas** is the Petitioner/Appellant and **Chinnappa** is the Respondent. The case is reported in the **Second Volume of Supreme Court Cases** in the year **1958**, on page **304**. This case was decided by the Supreme Court.

- 3. **Nagarjun v/s State 1985 Cr. L.J. 2071**

This is the citation of case where **Nagarjun** is the Appellant and the **State** is the Respondent. This case is reported in **Criminal Law Journal** in the year **1985** on page **2071**.

Abbreviations

- **AIR** – All India Reporter
- **SCC** – Supreme Court Cases
- **SCR** – Supreme Court Reports
- **SCC (Cri.)** – Supreme Court Cases Criminal
- **Cr. L. J** – Criminal Law Journal
- **DMC** – Divorce and Matrimonial Cases
- **WN** – Weekly Notes
- **ITR** – Income Tax Reports
- **All E.R.** - All England Law Reports
- **Mah.L.J.** - Maharashtra Law Journal

Respair Academy





- **Amicus Curiae** – Friend of the Court. Example: AM Singhvi in case of DK vs State of West Bengal.
- **Appeal** - a complaint to a superior court of the injustice done or error committed by an inferior court, whose judgment or decision the court is called upon to correct or reverse.
- **Review** - is an application for a reconsideration of the matter before the court by the same judge who had earlier decided it.
- **Decree** - as the formal expression of an adjudication which, so far as regards the court expressing it, conclusively determines the rights of the parties with regard to all or any of the matters in controversy in the suit.
- **Complaint** - complaint as any allegation made orally or in writing to a Magistrate, with a view to his taking action under the CrPC, that some person, whether known or unknown, has committed an offence.
- **Charge** - A charge may be defined as a precise formulation of a specific accusation made against a person for an offence alleged to have been committed by him



- **Adjournment** - The court may, at any stage of the suit, grant time to any of the parties, and from time to time, adjourn (postpone) the hearing of the suit, if sufficient cause is shown for so doing, and reasons for such adjournment are recorded in writing.
- **Servient and dominant rights** - A, as the owner of a house, has a right of way over the land of his neighbour, B. A's house is the dominant heritage, and A is the dominant owner. B's land is the servient heritage, and B is the servient owner.
- **Injunction** - as the order of a competent court to — forbid or restrain the commission of a threatened wrong, or forbid or restrain the continuation of a wrong already begun, or command the restoration of status quo.
- **Temporary (Interim) Injunction** - it is effective only until a particular date, or till the next date of hearing, or till the final disposal of the suit, or till further orders are passed by the court.
- **Permanent (Perpetual) Injunction** - This injunction is the final outcome of the suit
- **Power of Attorney** - Any instrument empowering a specified person to act for and in the name of the person executing it
- **Pleadings** - statements in writing, drawn up and filed by each party to a case, stating what his contentions will be at the trial and giving all such details as his opponent needs to know in order to prepare his case in answer



- **Discharge:** If the court finds no ground to proceed against an accused brought before it, the court may discharge him.
- **After trial begins:**
- **Conviction:** However, if the court deems otherwise, the trial begins and at the end thereof, it is proved that the accused had, in fact, committed the offence, he is convicted of that offence.
- **Acquittal:** If it is shown that he had not committed the act for which he was charged, he is acquitted.
- **Plaint:** A plaint is a statement of claim. It is by presenting this document that a suit is instituted and commenced.
- The **plaintiff** is the person who institutes the plaint, and the person against whom the plaint is filed is called the **defendant**.

Respair Academy



Short title

THE PROTECTION OF HUMAN RIGHTS ACT, 1993 - ST

(C)

Official Citation

(ACT NO. 10 of 1994) - OC

Date of Assent

[08th January, 1994]

CT
An Act to provide for the Constitution of a National Human Rights Commission, State Human Rights Commission in States and Human Rights Courts for better protection of Human Rights and for matters connected therewith or incidental thereto.

Preamble

Long title

BE it enacted by the Parliament in the Forty-Fourth Year of the Republic of India as follows:

Enacting formula

1. Short Title, Extent and Commencement. Marginal Notes

(1) This Act may be called The Protection of Human Rights Act, 1993. Extent

(2) It extends to the whole of India. Provided that it shall apply to the State of Jammu and Kashmir only in so far as it pertains to the matters relatable to any of the entries enumerated in List I or List II in the Seventh Schedule to the Constitution as applicable to that State.

(3) It shall be deemed to have come into force on the 28th day of September, 1993. Date of commencement

Respair Academy

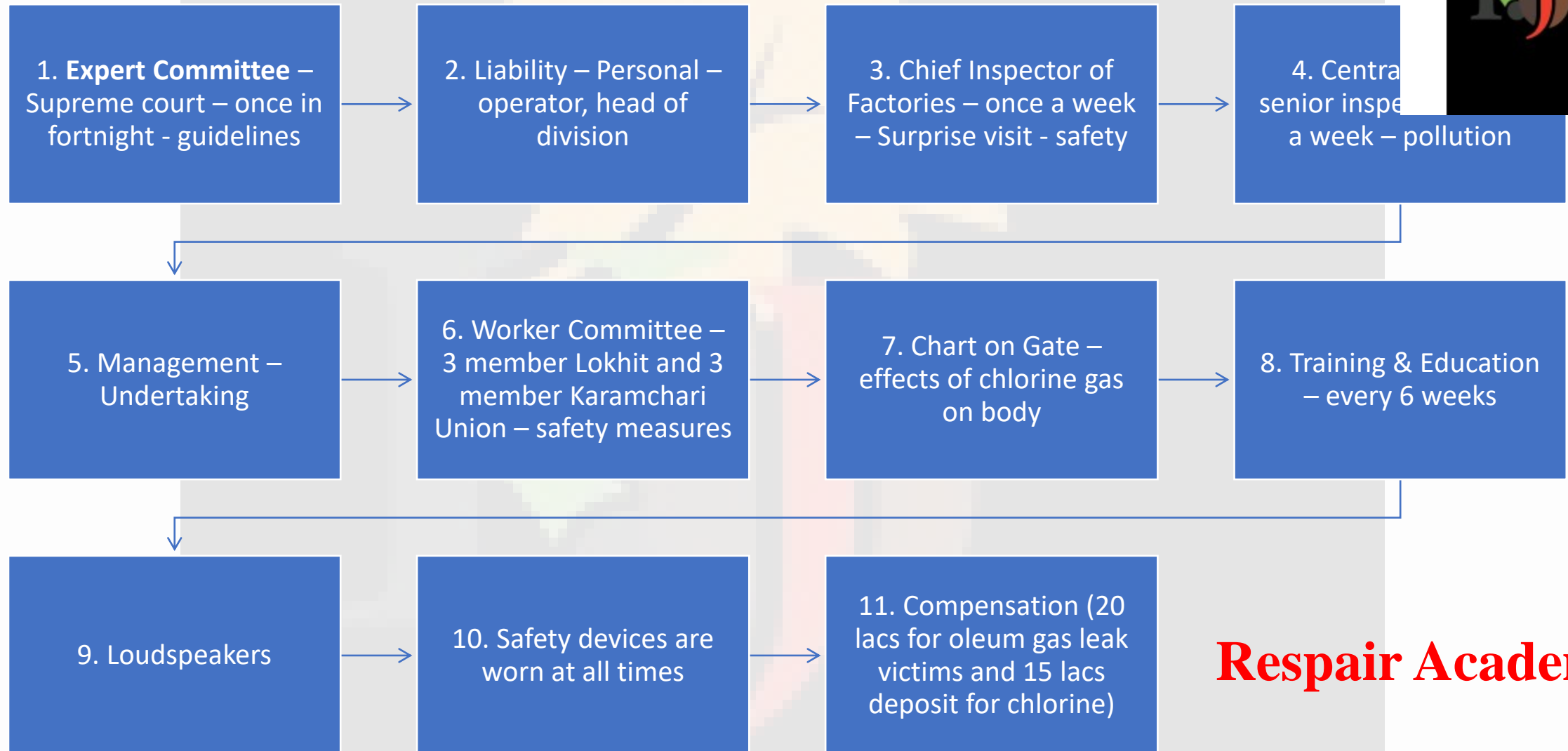
Case Law: MC Mehta vs Union of India

Link: <https://lawbhoomi.com/m-c-mehta-vs-union-of-india-ors/>

Respair Academy



Guidelines for MC Mehta vs UOI



Respair Academy



Case Law: Vishaka vs State of Rajasthan

Link:

<https://shorturl.at/mqDQT>

Respair Academy

Guidelines for Vishakha vs State of Rajasthan



1. Duty of employer

2. Sexual harassment definition (colored remarks, physical advances, sexual favours, show pornography, verbal or nonverbal contact of sexual nature)

3. Preventive Steps by employer – Standing Order – policies

4. Criminal Proceedings – a complaint to authorities if offence is punishable under IPC

5. Disciplinary action

6. Complaint Mechanism

7. Complaints Committee – one member of NGO/third party, more than half female members, head – woman. Annual report to Govt.

8. Worker's Initiative – meetings (employers-employees)

9. Awareness to new female employees

10. Third party harassment



**Case Law:
DK Basu
VS
State of West Bengal**

Link:

<https://shorturl.at/cnWX3>

Respair Academy

Guidelines for DK Basu vs State of West Bengal



1. Identification badge of police officer

2. Memo – sign officer, arrestee, relatives/friends/notable person in area

3. Notify to relatives/friend

4. Inform District Police Station or Legal Aid Organization

5. Rights of the arrestee to be informed

6. Case Diary – Name of the inspector under custody, date, time, place of arrest

7. Inspection Memo – Initial Medical examination

8. Every 48 hrs medical examination

9. Magistrate- all documents to be sent

10. Attorney- can be present during interrogation.

11. Inform Police Control Room



**Case Law:
Aruna Ramchandra
Shanbaug
vs
Union of India**

Link: <https://shorturl.at/jlV23>

Respair Academy

Case Law: Joseph Shrine VS Union of India

Link: <https://shorturl.at/jDJX0>

Respair Academy





Case Law: Indian Young Lawyers Association VS The State of Kerala

Link: <https://shorturl.at/vGQWZ>
Repair Academy

*Law
Reports/Journals*

Respair Academy



All India Reporter



1. It is published by All India Reporter Pvt. Ltd. Nagpur
2. It is a **private publication** which is published on monthly basis
3. It covers judgements of all branches of law (civil, criminal)
4. It is described as a “**treasure house**” of Indian case law
5. It publishes judgements of both Supreme and High Courts with respects of all Law
6. It includes both Central and State Act which no other law journal covers.

AIR Manual

Published on yearly basis

Features:

1. Head notes always preceded judgement and gives us the gist of the entire judgements along with references of relevant paragraph of judgement where proposition of law is decided by the court. List of all cases referred or used in that particular judgement.
2. Journal Section: this section will publish the article on various topics of legal interest.
3. Covering all recent statues/law passed by the Parliament. (Any amendments, acts, statues etc.)
4. It has a digest section. It includes all the latest cases which are decided by the Supreme Court of India.
5. It has AIR web registration coupon. After activation of coupon, one can refer their site for one year to refer cases on their site in order to find case law. If you need a printout then need to pay nominal charge

Respair Academy

Supreme Court Cases



1. It is a private publication by Eastern book company from Lucknow
2. It is published on **weekly basis**.
3. Supreme Court cases are done in **8 volume** and every volume has near 800 pages.
4. It will be publishing judgement of Supreme Court; both reportable and non reportable judgements. (Not used by judge as a precedent in following cases)

Features:

1. Head notes: The gist of the entire judgement.
2. Journal section: Articles which are current topic of legal interest.
3. List of all reported cases.
4. Subject Index: Cases will be classified with respect to the subject
5. **Notable Excerpts**: All quotations used in the case is published in this section.
6. SCC (Cri) - It deals with judgement of decisions of Criminal matters.
7. SCC online web -
8. Before Supreme Court came into existence we had Privy Council till 1949 which are also consist of Supreme Court and high court cases till 1949
9. It includes different statutory laws. (Rules, regulations) International material, Human rights, secondary material (reports of law commission, debates in the constitution). It gives us more exposure

Supreme Court Reports



- It is an **official publication of the Supreme Court of India** and it published by the Controller of the Publications, Delhi
- This is published on **monthly basis**
- It is published in volumes
- It will be reporting and publishing all the important cases and judgements by Supreme Court of India

Features:

- These cases are reported in chronological order in a series of volumes.
- It has a content section which has the name of the cases reported in that SCR
- There will be a subject-wise index in a chronological manner
- It has head notes (of two types)
- Prehead - head note in short followed by a detailed Head note
- Cases which are relied upon, referred or overruled by the Supreme Court along with citations, Name of the parties and name of the judge of that particular judgement and then text of the judgement
- Drawback - Cases aren't immediately reported. It's not prompt. Even though it's official publications, many rely upon their other reports as it's time for reporting the judgement. It is official and relevant

Lawyers Collective



- Published by AIR, Pvt. Ltd. Nagpur.
- It is a **monthly publication**
- Articles from lawyer and invite law students articles
- It has an editorial - thought provoking editorial with current interests in the legal field.
- Cover page - Cover story - current topic of legal interest
- Monthly updates - contain a summary of the judgement of the cases decided by the Supreme Court in a plain language and those will be judgement by SC in previous month. Summary will also be including citation of the case.
- **Legal diary** - Court round up - Publishing Information both at national and international level in the legal field. They get info from the newspaper of previous month.
- **Adalat Antics** - Cartoons and joked relating to court room.
- It doesn't invite commercial advertising but utilizes the funds for protecting to women's rights and HIV.

Respair Academy

Criminal law Journal



- It is a private publication
- Published by All India Reporters Nagpur
- Monthly basis
- It will publishing judgement of Supreme Court and the High Court with respect to Criminal Matter.
- It is described as a “Veritable Gold Mine” of judgement of Indian Courts relating to Criminal matter.
- **Features:**
 1. Nominal table: it includes The reported cases relating to criminal matters
 2. Subject Index: cases are arranged subject wise of the reported notes along with their head notes.
 3. It gives us a list of cases. Those cases which are overruled or reversed or descendent from or which are followed
 4. Journal section: Those articles who is related to Criminal Law and Criminal Jurisprudence are published in the section. It published articles of lawyers, officers and law students too

Divorce and Matrimonial Cases (DMC)



- A private publication
- Published by DLT publications, Delhi
- It is publishing and reporting all important judgement related to matrimonial law (marriage, divorce, dowry, maintenance claims by spouses)
- It has a Head note (they also give information about whether an appeal was filed, allowed or dismissed)
- It has a subject index (which is divided into two parts. Cases subjective wise and section wise cases)

Respair Academy

Maharashtra Law Journal (MLJ)



- It is a private publication which is published by Chanturkar publishing house, Nagpur
- It is a monthly publication
- It will be reporting all important judgement decided by the High Court i.e. Mumbai HC and all courts outside Mumbai city but within Maharashtra.
- A bare text with all those Acts which are passed by legislature of Maharashtra
- Any amendments made to the existing statues are also published in this journal
- Notes from Supreme Court (ie landmark judgement of Supreme Court are published here)
- Nominal Index
- Detail Index (Subject - wise) - Detailed Subject Index and it has index of cases
- Index of notes from Supreme Court
- Also available on web online

Respair Academy

All England Law Report (All. E. R)



- It is a **private publication**
- Published by Lexis Nexis Butterworths, England
- Published on **weekly basis**
- It covers judgement of all the courts in England and Wales.
- Features:
 - It has a table of contents with subject wise classification of cases
 - Digest of cases - subject wise classification
 - They have index where there are various statues specified and under each statues there are relevant cases.
 - The judgement are given alongwith the page number of the judgement wherein the reference is made to that statue in that judgement
 - Cases are reported firstly in the name of the parties, name of the judge/judges, cases which are referred to and relied upon by the advocate and the judges and full text of the judgement.
 - Another section - Noter-Up, in this section, we find a list of cases; those cases which are considered approved, overruled, applied, affirmed or distinguished along with a label utilized by advocate for this particular section to find whether the judgement is still relevant or not.

Income Tax Report (ITR)



- It is a private publication
- Published on monthly basis
- Published from Chennai by Mr. Ramchandra
- It will be given as judgement relating to direct and indirect taxation
- They also publish all written statues, rules, regulations, circulars and also finance will, finance act and this particular law report is useful for practicing lawyer and advocates appearing before HC and also Income Tax Tribunals.

Respair Academy

Law Magazines

Respair Academy



One India One People



- It is not just a law magazine as it deals with various causes
- Various tourist places.
- Notice to the decision makers
- **Young India quiz** - questions of all different aspects of culture, tradition, heritage. Winner of the quiz alongwith photograph will be published in next issue
- **Cartoon of morparia-** Morparia Page
- **Great India** - Information of those Indians towards the freedom struggle, science and technology, sports, music, theatre etc. All personalities who have contributed towards the betterment of the country
- **Know your India** - Information of various places. Monuments, caves, sanctuaries, etc.

Respair Academy

Law Teller



- Publication of a magazine which is published every month
- Section with all important judgement of different courts are given
- Publication of articles of various socio legal elementals
- **Splash point** - different high court have different views and the SC gives a decision which is final is published in this section.
- Law for you - those decision where a particular point of law is discussed by the courts will be given in gist in one paragraph and second paragraph will be giving you the name and number of the petition/appeal along with citation.
- **Lighter side of law** - cartoons, joke related to courtroom
- A boon to the common people - some legal advice to the public.

Respair Academy

Consumer Confrontation



- Named changed to **Insight**
- Once in every two months
- Publishing information on different consumer products available in the market. Office appliances, food product, household appliances
- It has its own laboratory
- It gives us information about various brands of consumer products
- It gives us information whether a product is safe and effective
- It is established by Consumer Education and Research Society and evening magazine is produced by it.
- Carry out product at their own expense.
- Food and health, Hygiene, Environment for benefit of consumer
- Letters - Write any complaints or suggestions (grievances) - Actions taken and the time limit. (Complaints resolved)
- Around the world - information at both national and international level is given in respect to health, environment and consumer related topics.

Respair Academy

Manupatra newslines



- A monthly magazine which is published by Manupatra Information solution Pvt. Ltd
- They published insightful interviews and articles which are published with critical
- **Law firm** - All the recent achievements of the lawyers are published. Mergers of law firms.
- **Campus watch** - They invite Information from the law College, inter college competition, festivals, etc.

Respair Academy

Search of Case Law



Respair Academy



Search of a case law

- Law of Contract - Avtar Singh
- Minor - Section 10,11
- Consideration - Section 2D

- Vicarious Liability - Law of Torts - Ratanlal and Dhirajlal.
- Remoteness of Damage - Law of Torts - Ratanlan and Dhirajlal

- Kidnapping - IPC 361 - Ratanlal and Dhirajlal
- Defamation - Law of Torts or IPC 499 - Ratanlal and Dhirajlal
- Indian Partnership ACT - Avtar Singh- Incoming Partner - Avtar Singh
- Section 125 CrPC - Maintenance to wife and parents (chapter)
maintenance time wife (topic) - Ratanlal & Dhirajlal

Respair Academy



Search of a case law



- Whether a minor contract is void ab Initio or whether minor can be beneficiary under contract
- 1. This topic is dealt with by
- 1. This topic whether a minor contract is void ab initio is dealt with by Indian Contract Act.
- 2. Now I would refer a reference book or a standard textbook by the on the said Act
- 3. Now I would go to the Chapter on in the reference book and look out for the topic with the title

Respair Academy

Search of a case law

- Chapters:
- Minor - Capacity to Contract
- Master and Servant - Vicarious Liability
- Kidnapping - Kidnapping
- Remoteness of damage - Remoteness of Damages

- Topics:
- Minor - Minor Agreement
- Vicarious liability- Masters liability towards Servant
- Kidnapping - Kidnapping
- Remoteness of damage - When damage is said to be remote

Respair Academy



Search of a case law

- 4. Once this is done then I would go to the appropriate sections of the Act.
- Minor - Section 10,11
- Defamation - IPC 499
- Consideration- Section 2D
- But not for topic on Law of Torts

Respair Academy



Search of a case law



- 5. Once this is done, then I will find a plethora of cases on the said points along with their citations. Which cases may be supported as well as those cases which are against my point.
- 6. This citations will be given either as a footnote or maybe even along with the name of the case in the body of the book
- 7. Then, I would carefully note down all these citations and with the help of the citations, I will find these cases in the relevant law reporter.
- 8. Once the case is located, the relevant law reporter, I would go through the head note and note down the principle laid in that place.

Respair Academy

Search of a case law



- 9. The judgement which is given in the case will also refer to several other cases which are referred to by both the lawyers of both the parties. List of such cases, along with the citations is given which I will note down.
- 10. With the help of the citations, I will refer the judgement of those cases in the relevant law reporter.
- 11. Each judgment when referred to will in turn refer to several other cases.
- 12. Thus, as a lawyer, I will held up with a plethora of cases on this point..

Respair Academy

Legal Maxims



ACTUS DEI NEMINI FACIT INJURIAM

- Law holds no man responsible for an act of God.
- Case law :
- Applied - **Nicholas vs Marsland** (reservoir case).
- Not applied **municipal corporation of Delhi vs Sushila Devi.**(Clock Tower Case),
Ryland vs Fletcher

SALUS POPULI EST SUPREMA LEX

- Public welfare is the highest law.
- **Necessitas Non habet Legem** (necessity needs no laws) – IPC Section 81
- Case law –
- Applied **Taylor vs Whitehead**
- Not applied **R V Dudley, Stephens**

Respair Academy



NEMO TENETUR SEIPSUM ACCUSARE

- **No man can be compelled to incriminate himself.**
Article 20 of Indian Constitution. (Fifthe amendment for US Constitution)
- Case law – Applied - **Nandini sathpathy vs P.L.Dani**
- Non Applied – **Mohd. Dasdadagir vs State of Madras**

LEGES POSTERIORES PRIORES CONTRARIAS ABROGANT

- Later law repeal earlier law inconsistent therewith.
- Applied – **kesavanand Bharati vs state of kerala 1973**
- Not applied – **R. v. St.Edmund's Salisbury ;**



NOVA CONSTITUTIO FUTURIS FORMAM IMPONERE DEBET NON PREATERITIS

- A new law ought be prospective and not retrospective in its operations.
- Case law
- Applied – Kanaiylal v Indumati Potdar AIR 1958 SC 444
- Non applied – **Croxford & others vs Universal Insurance Co.**
- **NOSCITUR A SOCIIS**
- Meaning of a doubtful word may be ascertained by reference to meaning of word associated with it.
- Case Applied – Mohd. Alamgir vs State of Bihar

EXPRESSIO UNIUS EST EXCLUSIO ALTERIUS

- The express mention of one thing implies the exclusion of another.
- Case law **Dickson v zizinia 10**
- **VIGILANTIBUS NON DORMIENTIBUS JURA SUBVENIUNT**
- The law assists those who are vigilant and not those who sleeps over their rights.
- Case law **Allcard v skinner (1887)**

Respair Academy



QUOD AB INITIO NON VALET IN TRACTU TEMPORIS NON CONVALESCIT

- That which is originally void does not by lapse of time become valid.
- Case law **mohiribibi v dharmodas ghosh**
- **IGNORANTIA FACTI EXCUSAT IGNORANTIA JURIS NON EXECUSAT.**
- Ignorance of fact excuses but ignorance of law doesnot.
- Case law **R vs Tolson case (Bigamy case) – S. 494 IPC**
- Not applied **R vs Prince case (Kidnapping Case)**

Respair Academy



NULLUS COMMODUM CAPERE POTEST DE INJURIA SUA PROPRIA.

- That which is originally void does not by lapse of time become valid.
- Case law **Devendra kumar v state of uttar Pradesh.**
- **CESSANTE RETIONE LEGIS CESSAT IPSA LEX.**
- Reason is the soul of law, when the reason of any particular law ceases so does the law itself.
- Case law **joseph shine v union of india.**

Respair Academy



ACTA EXTERIORA INDICANT INTERIORA SECRETA.

- Act indicate the intention.
- Case law **sahara vs sebi**
- **Six carpenter's case**
- **NEMO EST HAERES VIVENTIS.**
- Noone can be an heir during the life of his ancestor.
- Case law **Krishnakumar birla vs Rajendra singh Lodha.**

Respair Academy



DOMUS SUA CUIQUE EST TUTISSIMUM REFUGIUM.

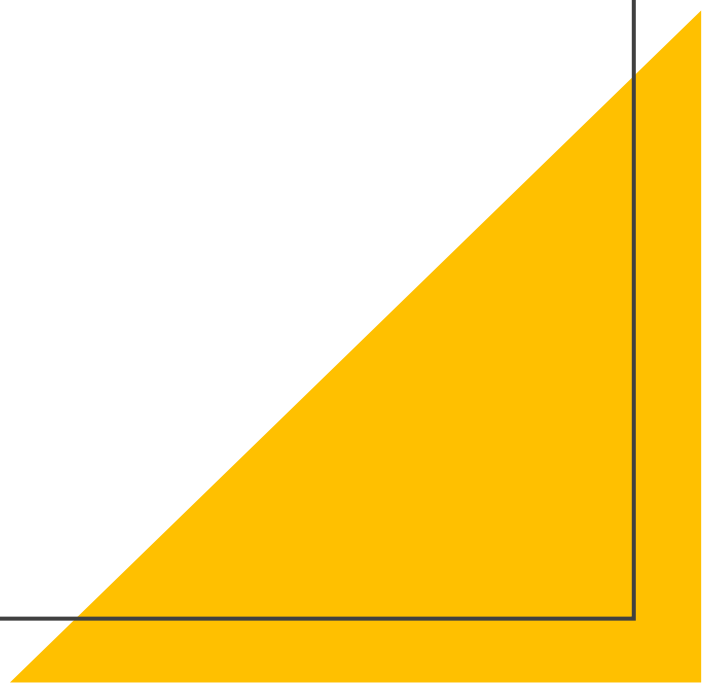
- Every man's house is his castle.
- Case law **smith vs Shirley.**

Respair Academy





Writs



Writs



- Taken from UK Constitution
- Article 32 – Supreme Court – fund right
- Article 226 – High Court – fund. Right/ legal right
- 5 types of Writs
- 1. **Habeas Corpus** (produce the body – ADM Jabalpur vs Shivkant Shukla) – Article 21 (Self, friend, family, relatives – writ petition – court – writ – officer – person presented in Court – free)
- 2. **Mandamus** (mandatory duty not discretionary; duty not done; legal injury; writ -> do your duty – public officers (not the president or governor))
- 3. **Prohibitio** (higher court - writ – lower court) (case – ultravires) – ongoing court trial
- 4. **Certiorari** (to be certified)(higher court – writ – lower court) (case – ultravires) – court trial has ended and decision has been given)
- 5. **Quo Warranto** (by what authority) (occupy public office without authority)

Writs



- The five prerogative writs are habeas corpus, mandamus, certiorari, prohibition and quo warranto.
- Under the Constitution of India, the Supreme Court (Art. 32) and the High Courts (Art. 226) can issue prerogative writs. Only the Supreme Court and High Courts are empowered to issue writs under the Constitution of India.
- The concept of writ jurisdiction is based on the Latin maxim, Ubi jus ibi remedium : Where there is a right, there must be a remedy. The Supreme Court is empowered by Art. 32 of the Constitution of India to issue writs. Likewise, Art. 226 of the Constitution confers a similar power on High Courts.
- **1. “Habeas corpus”** literally means 'Have the body' or 'Bring the body'. When this writ is issued, the authority which has detained a person is ordered to produce the detained person before the court, so that the court may decide on the validity and justification of such detention. A writ of habeas corpus is a means of relief from unlawful or unjustifiable detention, whether in prison or private custody. Thus, it can be issued against a governmental authority or even a private person.
- A petition for habeas corpus can be filed by the person who is detained. However, any other interested person, as for instance, his wife, parent, relative or even his friend, can file such a petition. Delay by itself is not a good ground for refusing relief in a petition for habeas corpus. Unlawful detention is a continuing wrong, and hence, the question of delay becomes irrelevant. Additionally, the right of personal liberty is the most cherished right and no amount of delay can defeat this right.
- **Case: ADM Jabalpur vs Shivkant Shukla (Habeas Corpus Case)**

Writs



- 2. **Mandamus** Mandamus literally means 'We command'. This writ is issued by the court to compel a public authority to perform a public duty imposed upon it by law. It directs the person concerned to do, or to refrain from doing, any act which such a person is law obliged to do or refrain from doing. A writ of mandamus can be issued against any governmental authority which is a 'State' within the meaning of Art. 12 of the Constitution of India, as for instance, a statutory tribunal or a state-controlled university
- 3. **Prohibitio** A writ of prohibition is issued to prevent a lower court or tribunal or a quasi-judicial authority from exceeding its jurisdiction or from exercising jurisdiction not vested in it.
- 4. **Certiorari** Certiorari literally means to certify'. This writ can be issued by a superior court calling for production of all records and proceedings of a lower court or tribunal to examine the legality or validity of an order passed by such a court or tribunal.
- A writ of certiorari can be issued against a lower court or tribunal if such court or tribunal has, inter alia,
 - a. acted without jurisdiction; or
 - b. acted in excess of its jurisdiction; or
 - c. refused to exercise jurisdiction; or
 - d. not observed the rules of natural justice.
- 5. **Quo Warranto** literally means 'By what authority'. This writ is issued when a public office is held by a person who is not qualified to hold such office

13 marks – Interpretation of Statutes



1. Short Title

2. Long Title

3. Preamble

4. Date of assent

5. Extent

6. Enacting formula

7. Date of commencement

8. Marginal Notes

9. Schedules

10. Sections and Subsections

11. Official Citations

12. Provisio

13. Saving clause

14. Definition clause

Respair Academy

Principles of Interpretation of Statutes

Respair Academy

The Literal Rule

- Emphasises the plain meaning of words

The Mischief Rule

- Aims to discern the lawmakers' intent by addressing the gaps in previous laws.

The Golden Rule

- Provides flexibility by allowing departure from the literal meaning to avoid absurd outcomes.

The Rule of Harmonious Construction

- Harmonises conflicting provisions to give effect to the overall purpose of the statute.

