



Regular¹ Legal Updates & Points

(Date: 04-05 April 2022)

[<https://www.legalmines.com>]

<p>[1]</p>	<p>Word/ Doctrine / Maxims of the Day: Word/ Doctrine of the Day : Quantum Meruit (QM): Quantum Meruit is a Latin phrase meaning "what one has earned". This doctrine is based upon the rule of restitution. This remedy is not a contractual remedy rather it is a quasi-contractual remedy. As a general rule if the party has contracted to do a particular work, but he did not complete because of refusal of one of the parties. Here as per QM doctrine the aggrieved is remunerated for whatever he has already done. For example, if A agrees to deliver B 500 bags of wheat. A has already delivered 100 bags and B refuses to accept any further supply. Here A can recover from B the value of 100 bags of wheat which he has already delivered. <u>Section 75</u> of the Indian Contract Act, 1872 impliedly deals with remedy as quantum meruit for breach of contract (BoC).</p>
<p>[2]</p>	<p>Question (?) / Issue for Discussion of the Day: What is expert evidence? Discuss relevant provisions as to expert opinion under the Indian Evidence Act, 1872.</p>
<p>[3]</p>	<p>Law / Bill of the Day: Article 338: Article 338 of the Indian Constitution talks of constitution of National Commission for Scheduled Castes. The Commission shall consist of a Chairperson, Vice-Chairperson and three other Members and the conditions of service and tenure of office of the Chairperson, Vice-Chairperson and other Members so appointed shall be such as the President may by rule determine. The Chairperson, Vice-Chairperson and other Members of the Commission shall be appointed by the President of India. It shall be the duty of the Commission, inter alia, to investigate and monitor all matters relating to the safeguards provided for the Scheduled Castes under this Constitution or under any other law for the time being in force or under any order of the Government and to evaluate the working of such safeguards. The Commission shall also inquire into specific complaints with respect to the deprivation of rights and safeguards of the Scheduled Castes.</p>

¹ . Earlier, it was published as "Daily Legal Updates and Points"



LegalMines

(Committed to legal awareness and prudence!.....)

REGULAR UPDATES!

[Issue No.:45(4) | 2022]

[4] Memorable Case Laws:

- (1) **Hussainara Khatoon vs Home Secretary, State of Bihar (1979 AIR 1369)** -Factually, this case relates as to the detention of undertrial prisoners in the Bihar jail. Few of these undertrial prisoners were serving in prison for a very long time, in fact, a period longer than their actual span of imprisonment awarded by the courts. This case is a landmark case on rights of undertrial prisoners. In this case it was held that speedy trial is the fundamental right of every citizen under Article 21 of the Indian Constitution. The three-judges Bench (P. N. Bhagwati, R.S. Pathak, A. D. Koshal) observed that the State cannot deny the constitutional right to a speedy trial to the accused by pleading financial or administrative inability.
- (2) **Bijoe Emmanuel vs State of Kerala (1987 AIR 748)** - The matter was concerned with forcing for the singing of the national anthem by a sect of certain community in School. The Hon'ble Supreme Court of India observed that though Article 51-A of the Indian Constitution commands that every citizen should respect the national anthem, the right of free speech and expression also includes the *right to remain silent* and that standing for the national anthem showed proper respect.

[5] Memorable Points (Cr.P.C.): Memorable points² as to **Criminal Procedure Code, 1973** (total **7 points** as to **Cr.P.C. already covered** under previous issues of "Regular Updates") are as under —

- (1) **True/ False:** Every arrest warrant shall remain in force until it is cancelled by the Court which issued it, or until it is executed—**True** (Refer Section 70 of the Cr.P.C.)
- (2) **True/ False:** A warrant directed to any police officer may also be executed by any other police officer whose name is endorsed upon the warrant by the officer to whom it is directed or endorsed—**True** (Refer Section 74 of the Cr.P.C.)
- (3) If a person violates order as to payment of maintenance under Section 125, he may be imprisoned upto _____?—**One Month** (Refer Section 125 of the Cr.P.C.)
- (4) Section _____ of the Cr.P.C. empowers a District Magistrate, Sub-divisional Magistrate or Magistrate of the first class that upon complaint made on oath of the abduction or unlawful detention of a woman, or a female child under the age of eighteen years for any unlawful purpose to make an order for the immediate restoration of such woman to her liberty, or of such female child to her husband, parent, guardian or other person

². The readers please be informed that total **83 points** (the Indian Penal Code, 1860) , **84 points** (CPC) and **93** (Indian Evidence Act) **memorable points** have been covered under previous issues of "Daily Legal Updates & Points" now known as "**Regular Legal Updates and Points**".



LegalMines

(Committed to legal awareness and prudence!.....)

REGULAR UPDATES!

[Issue No.:45(4) / 2022]

	<p>having the lawful charge of such child, and may compel compliance with such order, using such force as may be necessary—Section 98.</p> <p>(5) As per Section _____ of the Criminal Procedure Code, 1973, every High Court shall so exercise its superintendence over the Courts of Judicial Magistrates subordinate to it as to ensure that there is an expeditious and proper disposal of cases by such Magistrates—Section 483.</p>
[6]	<p>Memorable Points (Misc.): Memorable points under Indian Constitution and various miscellaneous important Acts are as under (total 370 points already covered under previous issues of "Daily Updates")—</p> <p>(1) Constitution of India, 1950: The State shall secure that the operation of the legal system promotes justice, on a basis of equal opportunity, and shall, in particular, provide free legal aid, by suitable legislation or schemes or in any other way, to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities. It is so provided under Article _____ of the Indian Constitution—Article 39-A.</p> <p>(2) Code of Civil Procedure: Rule 6 to Order XX deals with the —Contents of Decree</p> <p>(3) Indian Evidence Act, 1872: As per Section _____ of the IEA, an accomplice shall be a competent witness against an accused person; and a conviction is not illegal merely because it proceeds upon the uncorroborated testimony of an accomplice—Section 133.</p> <p>(4) Indian Penal Code, 1860: A commits house-trespass by making a hole through the wall of Z's house, and putting his hand through the aperture. This is offence of—House Breaking (Refer Illustration to Section 445 of the IPC, 1860).</p> <p>(5) Transfer of Property Act, 1882: True/ False: A lease of immoveable property determines— (a) by efflux of the time limited thereby—True (Refer Section 111 of the T.P.A, 1882)</p> <p>(6) Indian Contract Act, 1872: True/ False: A person who is usually of unsound mind, but occasionally of sound mind, may not make a contract when he is of sound mind—False (Refer Section 12 of the ICA, 1872)</p> <p>(7) Partnership Act, 1932: As per Section 70 of the Partnership Act, 1921, any person who signs any statement, amending statement, notice or intimation containing any particulars which he knows to be false or does not believe to be true, or containing</p>



LegalMines

(Committed to legal awareness and prudence!.....)

REGULAR UPDATES!

Issue No.:45(4) / 2022

particulars which he knows to be incomplete or does not believe to be complete, shall, on conviction, be punished with imprisonment for a term which may extend to—One year, or with fine, or with both. (Refer Section 70 of the Partnership Act, 1932).

- (8) **Sale of Goods Act, 1930**: True/ False: If one of several joint owners of goods has the sole possession of them by permission of the co-owners, the property in the goods is transferred to any person who buys them of such joint owner in good faith and has not at the time of the contract of sale notice that the seller has not authority to sell—**True** (Refer Section 28 of the SOGA,1930)
- (9) **Specific Relief Act, 1963**: True/ False: As per Section 30 of the SRA, 1963, on adjudging the rescission of a contract, the court may require the party to whom such relief is granted to restore, so far as may be, any benefit which he may have received from the other party and to make any compensation to him which justice may require—**True**
- (10) **Negotiable Instrument Act, 1881**: When the maker or holder of a negotiable instrument signs the same, otherwise than as such maker, for the purpose of negotiation, on the back or face thereof or on a slip of paper annexed thereto, or so signs for the same purpose a stamped paper intended to be completed as a negotiable instrument, he is said to _____ the same, and is called the “_____” —**Indorse; Indorser.** (Refer Section 15 of the NI Act, 1881)

[7] **G. K. / Current Affairs:**

- (1) Equal justice and free legal aid was inserted under DPSP by _____ Constitutional Amendment—**42nd Constitutional Amendment, 1976**
- (2) Article ____ of the Indian Constitution deals with the organization of Village Panchayat—**Article 40**
- (3) No person shall be eligible for appointment as Governor unless he is a citizen of India and has completed the age of _____ years—**Thirty Five Years** (Refer Article 157 of the Indian Constitution)
- (4) **True/ False**: CPC and Cr.P.C. are adjective laws—**True**
- (5) Sale of Goods Act was enacted in the year 1930. Prior to that, it was a part of the Transfer of Property Act, 1882—**False** (*Sale of Goods was part of the Indian Contract Act, 1872.*)

Thanking You!