PAPER PRESENTATION
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TOPIC : HOW TO WRITE A JUDGMENT

IV SESSION

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INTRODUCTION:-

- A judgment is the statement given by the Judge, on the grounds of a decree or order. It is the outcome of the proceedings in the Court.

- The writing of a judgment is one of the most important and time consuming tasks performed by a Judge.

- The making and the writing of a judgment and the style in which it is written, varies from Judge to Judge and reflects the characteristic of a Judge. Every Judge, of every rank has his own style of writing judgment.

- A judgment is distinct from a formal order as it gives reasons for arriving at a conclusion. In United States it is called the 'opinion', meaning the explanation given by a Judge for the order finally proposed or made.

THE STAKE HOLDERS:-

- A judgment is not written only for the benefit of the parties. It is also written for benefit of the members of legal profession, other judges, students of law, and civil society.

- The losing party is the primary focus of concern. The winner is not much interested in the reasons for success, as he is convinced of the righteousness of the cause, anyway.

- The judgments and orders written by the courts also uphold the intellectual integrity of the system of law, impartiality, and logical reasoning.

- The Judges must give their reasoning honestly to the best of their ability without any fear, bias, prejudice or personal perceptions and any concern that the appellate Court may reach to a different conclusion.

- The Judge must state the facts explicitly, precisely, and consciously as they are found on record and give reasons with sufficient and honest reasoning without any bias, prejudices, or perceptions for the decision.

- The judgment reflects the conscience of a Judge, who writes it, and evidences his/her impartiality, integrity, and intellectual honesty. The judgment writing also provides an opportunity to the judicial officer to demonstrate his ability and worthiness to be a participant in the high tradition of moral integrity, honesty and social utility.

THE OPENING STATEMENT:-

- A judgment must begin with clear recital of facts of the case, cause of action and the way the case has been brought to the Court. A Judge must have essential facts in mind, and its narration should be brief but without any mistake.

- The importance of first paragraph of the judgment cannot be overemphasized. It must answer the questions as to how, when, where, what and why, which.

- Ordinarily a brief statement of fact is sufficient if it indicates the context of the dispute so that legal principles chosen for decision can be understood. At times, however, it may be necessary for judgment to record substance of factual context and the details of evidence placed before the Court.

THE ISSUES/ CHARGES:-

- The judgment must quote the issues/ or charges immediately after the narration of facts. It is always advisable to decide preliminary issues like limitation, valuation, or authority of Court before going into the merits of the case.

- The formulation of issues, should be initiated as early in the proceedings as possible. Once the parties are clear in their mind about the essential questions, they may shorten the proceedings.

THE EVIDENCE:-

- The judge must give the details of the evidence led before it. However, only the cogent relevant and admissible evidence must be narrated and that too very briefly giving the purpose for such evidence was led.

- The documents and exhibits admitted in evidence after they are proved on record must find their mention along with oral evidence by which they were proved.

THE CONTENTIONS:-

- A Judgment must briefly state the contentions of the counsels on the points of determination. As far as possible all the contentions raised by the counsels except those, which are frivolous, must be mentioned on the record.

- After the Judge has met with all the contentions he must record that no other point was pressed.

THE DISCUSSION OF EVIDENCE:-

- Before deciding an issue or recording a finding on a charge, the relevant evidence must be discussed.

- Every Judge has his own style of discussing the evidence. It is, however, always better to discuss the evidence before giving an opinion to rely upon it.

THE REASONS:-

- "…The life of the law has not been logic: it has been experience. The felt necessities of the time the prevalent moral and political theories, institutions of public policy, avowed or unconscious, even the prejudices which judges share with their fellowmen, have had a good deal more to do than the syllogism in determining the rules by which men should be governed."

- Justice Oliver Wendell Homes (Common Law, p.1)

THE FINDINGS:-

- The reasons are the soul of a judgment. The findings recorded by the Judge must be based on the reasons and reasoning to support or to explain such findings.

- There is no rigid rule, as to how a finding may be recorded. The Judge, however, should give his reasons. It is not sufficient to say that he/she believes the evidence or agrees with the argument.

- An elaborate argument does not always require elaborate reasons to accept or not to accept the point.

- The reasons even if they are brief must satisfy the logical mind.

THE LOGICAL REASONING:-

- The logical reasoning, however, must follow in reaching to a conclusion.

- A Judge is not free from partiality and bias. There may be a lurking or subconscious bias, which may not be known to the Judge himself.

- The bias may have arisen because any factor, which ordinarily affect the life of the human being.

- With experience a Judge may identify such bias and may win over it.

- The best way to overcome the judgment to be affected by such outside and unknown factors is to follow logical reasoning.

The process to arrive at a conclusion:-

- The method of arriving at a conclusion is the most important part of judgment writing. The process by which the conclusion is arrived, and the statement in the judgment of that process, tests a judge of his ability, impartiality, and integrity.

THE PROCESSES TO ARRIVE AT A CONCLUSION:-

- (i) Analogical process is a form of inductive process. It uses common sense, science, philosophy and humanities, but it is only an auxiliary method. It is also known as a case-based method.
- (ii) Inductive process, means following some degree of certainty. The conclusion contains more information than provided in the premises.
- (iii) Syllogistic or deductive process, means following a deductive scheme of a formal argument consisting of a major and minor premise and a conclusion.
- (iv) Inferential process, relies mostly upon evidence to reach a conclusion. It follows one valid conclusion to the other, forming an unbroken chain.
- (v) Intuitive process, is a psychological process by which the conclusion is arrived at more by intuition rather than reasons.
- In all these methods, in case what is being done is to arrive as a truth, the method is justified.

NEUTRALITY AND IMPARTIALITY:-

- There is a difference between neutrality and impartiality.
- The neutrality means the Judge is non-partisan and non-aligned.
- Impartiality requires a Judge to rise above all values and perspectives. It requires a judge or adjudicator to be fair and give equal treatment in the proceedings to all rivals or disputants.
- Impartiality also requires cool reason, uncontaminated thinking, without being influenced by personal commitments, biases and preconceptions.

RATIONALITY:-

- Rationality is a term related to the idea of reason. It has dual aspects. One aspect associates it with comprehension, intelligence or inference drawn in an orderly way such as syllogism. The other aspect associates it with explanation, understanding and justification.
- A logical argument is rational if it is logically valid.
- Rationality is however, a broader term than being logical. It also includes uncertain but sensible arguments based on probability, expectation, and personal experience whereas the logic deals with provable facts and demonstrably valid relations between them.

THE OPERATIVE PORTION:-

- A Judge must clearly write the operative portion of the judgment, which pronounces his conclusion over the issues brought before him.

- He must give clear and precise direction and the way the directions must be obeyed in conformity with the prayers made in the plaint.

THE LANGUAGE:-

- Plain and simple language has always been preferred and appreciated in writing judgments. Brevity, simplicity, and clarity are the hallmarks of the good judgment.

- It is better to avoid invidious examples, jargons, unnecessary quotations, and lecture. A controlled judgment without any legalese, sharp criticism, pinching comments, and sarcasm invokes respect to the court.

- Short sentences and para phrasing, head notes and subheading, wherever it is necessary, is a recommended style of writing a judgment.

- A judge should keep a dictionary, preferably legal, a grammar book and a thesaurus of the language in which the judgment is written close to him, when writing judgment.

THE BREVITY:-

- Brevity is the virtue of a wise man and is familiarized by those, who have clarity in mind.

- No one likes to read long and verbose judgments.

- Brief opinions are comfortable in reading.

THE DESIGN AND STRUCTURE:-

- The judgment must be designed and structured so that readers find their way through it easily and quickly.

- It is necessary to revise the judgment. A revised judgment takes care of errors and reassures the Judge of the correctness of his opinion.

THE HUMILITY AND CHARACTER:-

- The language employed by a Judge speaks of his character.

- A humble Judge with human personality avoids using intemperate and language. It is always better to avoid using words ‘I’, ‘can’ and ‘must’ in the judgments.

- Judges should see that their pronouncements are judicial in nature and do not normally depart from sobriety, moderation, and reserve. They should refrain from sarcasm, and factiousness.

HIDING/ MASKING PARTY NAMES:-

- With the growing enlightenment of the society the Supreme Court has in Bhupinder Sharma vs. State of HP (2003) 8 SCC 551 and State of Karnataka vs. Puttaraja (2004) 1 SCC 475, keeping in view the object of preventing social victimization or ostracism of the victim of a sexual offence found it appropriate that in the judgments, be it Supreme Court, High Court or District Courts the name of victim should not be indicated. It is sufficient to refer to her as victim.
- Similarly, the victims of sexual harassment, molestation, children in conflict with law or victims of offences under POSCO Act or in divorce and custody cases it is advisable to hide party names.

THE DISPARAGING REMARKS:-

- The primary purpose of pronouncing a verdict is to dispose of the matter in controversy between the parties before it.

- A judge, is not expected to drift away from pronouncing upon a controversy, and to sit in judgment over the conduct of the judicial or quasi-judicial authority, or the parties before him and indulge in criticism and commenting thereon unless such conduct comes, of necessity under review and the expression becomes part of reasoning to arrive at a conclusion necessary to decide the main controversy.

THE STYLE:-

- The style of judicial writing is constantly changing.

- The Latinism and legal clichés are the days of past.

- It may not be wise to use metaphors and idioms, or to give examples to prove a point.

- The judges avoid using words or expression showing gender, caste or creed bias, and their personal preferences.

TIMELINES IN PRONOUNCING JUDGMENTS:-

- In **Anil Rai vs. State of Bihar (2001) 7 SCC 318**, the Hon'ble Supreme Court took notice of the observations of the Arrears Committee constituted by Govt. of India on the recommendation of Chief Justices Conference. The Committee recommended that the reserved judgments should ordinarily be pronounced within a period of six weeks from the date of conclusion of the arguments.

ALTERATIONS/ADDITIONS AFTER PRONOUNCEMENT:-

- The judgment once pronounced cannot be altered or added to, save as provided in law. Section 151 and under Section 152 and 153 A of C.P.C provides for the amendment of the judgments, decree or order. Such corrections are restricted to mistakes in spelling of words, arithmetic or ministerial and cannot be invoked to

modify alter or add to the terms of the original order or decree to pass an effective judicial order after the judgment of the case. Order 20 Rule 3 C.P.C permits alterations and additions to a judgment so long as it is not signed.

THE EPILOGUE:-

- Diversity of opinion in judgment writing is the strength of the common law judicial tradition. It provides never ending stream of ideas and ways of communicating them.
- The experimental variety helps to develop the law. It is the privilege of each succeeding generation of judges to nurture the proud heritage and advance this precious legacy.

" Injustice anywhere is a threat to justice everywhere".

Section 353 of Code of Criminal Procedure,1973 deals with the judgment and section 354 of Code of Criminal Procedure,1973 deals with the form and contents of the Judgment and it is explained as follows:

Meaning:- Judgment is the final reasoned decision delivered by the criminal court relating to the guilt or innocence of the accused person.

Sections 353 Judgment:-

1. Judgment has to be delivered in the open court.

2. Judgment should be delivered by the presiding officer of the court.

3. It should be delivered after the termination of trial.

4. When a date is fixed for delivering the Judgment the court has to issue the notices to all the parties concerned with a direction to appear before the court on the date of delivering the Judgment.

5. When there are several parties in a case, court has to issue individual notices to each of them.

***** Omni bus notice should not be issued.

6. There are 3 methods of delivering the Judgment -

   a. By delivering the whole of the Judgment or

   b. By reading out the whole of the Judgment or

   c. By reading out the operative part of the Judgment & explaining the substance of the judgment in a language which is understood by the accused or his pleader.

7. Where Judgment is delivered under clause (a) the presiding officer shall cause it to be taken in short hand and signed the transcript on each page and put his signature, seal of the court and the date of issuance.

8. Where the operative part of the whole of the Judgment is read out, it shall be dated and signed by the presiding officer, in the open Court.

9. When the operative part is read out, a copy of the Judgment should be made available to the parties or their pleaders free of cost immediately.

10. When the personal attendance of the accused is dispensed with, he need not come to the court instead his pleader can take the copy of the judgment.

11. When there are several accused persons all may come to the Court to hear the judgment. Even if a few are present in the court still it can deliver the Judgment.

12. Even if no party comes to the Court still judgment can be delivered.

13. When the accused person is inside the prison at the time of delivering the judgment court can issue notice to the jailor with a direction to make the appearance of the accused possible before it on the date of delivering the judgment.

14. Once the Judgment is delivered by the court, it should not be altered by it except for correcting clerical errors if any Sections 354 Form and contents of judgment:-

1. Judgment should always be in the language of the court.

2. It must contain the points for determination. (Facts in Issue)

3. It must state the brief facts of the case..

4. Judgment must contain the decision..

5. Judgment must contain the reasons for decision.

6. Judgment must contain the name of the offence and the law and the number of the section of that law under which the act of the accused is an offence.

7. Judgment must contain the conviction or acquittal of the accused and the punishment given to the accused in case he has been convicted

8. In case of acquittal of the accused the judgment must contain an order to set the accused at liberty.

9. Where it is doubtful as to what offence has been committed by the accused, the court shall distinctly express the same and pass the judgment in the alternative

10. When the conviction is for the offence punishable with death or imprisonment for life, if death penalty is awarded as punishment the court is required to record special reasons.

11. When any person is sentenced to death the sentence shall direct that the accused be hanged by the neck till he is dead.

Section 355-Metropolitan Magistrates Judgment :-

a) Serial number of the case.

b) The date of commission of the offence.

c) The date of the report or complaint.

d) The name of the complaint if any.

e) The name, parentage and residence of the accused.

f) The offence complained of and the offence proved if any.

g) The plea of the accused and his examination if any.

h) The finding

I) The sentence or other final order. The date on which proceedings of the case are terminated.

Q. "ESSENTIAL OF JUDGMENT IN CRIMINAL LAW"

1. Name of the court : Mention the name of the court and the place.
   For ex. in the court of 1st class magistrate or Sessions Judge, Guntur.

2. Date : Date, Month and year to be mentioned here.
   Ex. This Monday, the 13th April of 2019.

3. Name of the Presiding : Give the Name of the Magistrate or judge.

   Officer Ex. Present

4. Criminal Case No : Give the case number here. Ex.199/2019

5. Name of the parties : State Representatives State of Andhra Pradesh Represented by Inspector of police, Guntur : Complainant V/s Accused (Name of the accused to be given) Accused.

6. Title : Judgment

7. Introduction of the case: The Brief facts of the case to be mentioned here.

   (please give the facts stated in FIR)

8. Prosecution Version : Describe each prosecution witness with his name and status.

a) Description of status of P.Ws.

b) Prosecution Evidence.

c) It is necessary to allot a separate paragraph to the evidence of each P.W.

9. **Summary of the Prosecution Evidence:** Summary of prosecution evidence has to be given with reference to each prosecution witness and observations if any, concerning the demeanor of each prosecution witness.

10. Statement of the accused under Section 313 Cr.P.C.:

11. Charge is to be stated here and the plea of the accused has to be given.

12. Defence evidence if any: a) Description of status etc., of defence witnesses.

b) Defence Version.

c) It may be necessary to give separate paragraphs to each defence witness.

13. Summary of defence evidence: Summary of defence evidence has to be given with reference to each defence witness and Observations if any concerning the demeanor of each defence witness.

14. Review of the evidence, the law applicable thereto and the conclusion of the magistrate or judge relating to the guilt or innocence of the accused. (Reasons for arriving to a decision are to be given here)

15. Conviction or Acquittal

16. In case of conviction, sentence to the accused has to be given here.

17. Way of disposal of property in case if the offence relating to property.

18. Mode of delivering the judgment: Dictated to the shorthand writer and Pronounced by me in the open court on this day of Month, 2019.

19. Signature of the magistrate or judge,

Name of the court, place.

20. Seal of the court.

21. List of witnesses examined for Prosecution : P.w. 1- Name, status, place.

: P.w. 2 - Name, status, place.

For Defence : D.w. 1 Name, status, place.

: D.w. 2 - Name, status, place.

22. Exhibits for Prosecution

("P" series) : Ex. P.1, Ex. P.2... etc.,

For Defence ("D" series) : Ex. D.1, Ex. D.2.... etc.,

23. Material objects Marked : M.O.1: Dagger

: M.O.2: Stick... etc.,

24. Signature of the magistrate or Judge,

Name of the court, place :

25. Seal of the Court :

- Section 2(8) of Code of Civil Procedure,1908 defines judgment as **the statement given by the Judge on the grounds of a decree or order**.

- Order XX of Code of Civil Procedure,1908 provides a structured framework to how courts should conclude and record decisions.

- Section 33 of Code of Civil Procedure,1908 contemplates that the court, after the case has been heard, shall pronounce judgment, and on such judgment a decree shall follow.

- The following is the elaborate explanation of Order XX, Rules 1 to 13 of Code of Civil Procedure:

- It consists of Rules 1 to 13, providing a structured framework for how courts should conclude and record decisions.

- Detailed Explanation of Each Rule

- Rule 1 – Pronouncement of Judgment
  After the hearing of a case is completed, the court shall pronounce judgment.

  Time frame:

- Normally within 30 days of the conclusion of arguments.

- Can be extended to 60 days if the court records reasons.

- Pronouncement can be:

- In open court.

- By dictation to the stenographer or signing a typed copy.

- Rule 2 – Judgment when Pronounced A judgment should be pronounced in open court by the judge who heard the case.

- If the judge is unable to pronounce it (due to death, retirement), another judge may do so under certain conditions.

- Rule 3 – Judgment to be dated and signed

- The judgment must:

- Be dated and signed by the judge at the time of pronouncement.

- This ensures authenticity and legal sanctity.

- Rule 4 – Contents of Judgment
- Judgment must include:

- A concise statement of the case
- Points for determination
- The decision on those points
- Reasons for the decision
- In small cause court matters, a brief judgment may suffice.
- Rule 5 – Court to state its decision on each issue
- The court must decide and record its findings on each issue framed unless the case is disposed of on a preliminary issue.
- Rule 6 – Contents of Decree

  A decree should:
- Follow the judgment
- Clearly specify the relief granted
- Include costs, if any
- It forms the formal expression of the judgment.
- Rule 6A to 6C – Decree in Special Circumstances
- 6A: Decree can be drawn before judgment copy is prepared.
- 6B & 6C: Parties can submit draft decrees if needed.
- Rule 7 – Date of Decree
- The decree shall bear the same date as the judgment it is based on.
- Rule 8 – Procedure where Judge has vacated office If a judge leaves office after writing the judgment but before signing it, the successor judge cannot sign it.
- A new hearing may be necessary unless the judgment was already signed.
- Special Types of Decrees (Rules 9 to 13)
- Rule 9 – Decree for Recovery of Immovable Property Specifies what details must be in decrees involving possession, boundaries, etc.
- Rule 10 – Decree for Delivery of Movable Property Should describe the item, whether it is to be delivered as-is or its value to be paid.
- Rule 11 – Money Decrees

- Should specify:
- Principal amount
- Interest (past, present, future)
- Costs, if awarded
- Rule 12 – Decree for Possession and Mesne Profits Court may pass a preliminary decree for possession and determine mesne profits later through inquiry.
- Rule 12A – Decree for Specific Performance Decree should specify the period for performance of the contract.
- Rule 13 – Decree in Administration Suits Applies in suits for administration of estates.
- Preliminary decree may be passed first, with accounts and inquiry to follow.
- Key Concepts Under Order 20
- Judgment vs. Decree
- Judgment: The court's reasoning and findings on issues.
- Decree: The operative part of the judgment that can be enforced.
- Preliminary vs. Final Decree
- Preliminary Decree: Determines rights but further proceedings needed (e.g., partition, accounts).
- Final Decree: Completely disposes of the matter.
- Importance of Order 20 CPC
- Brings transparency and structure to the final stage of a civil suit.
- Ensures:
- Judgments are timely, reasoned, and properly recorded.
- Decrees are clear, enforceable, and fairly expressed.
- Conclusion
- Order 20 CPC is vital for the effective administration of justice. It governs how civil judgments are written, pronounced, and converted into enforceable decrees. It also provides specific guidance on how different types of decrees are to be framed, ensuring consistency and fairness in civil court procedures.

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