Topic IV

Judgment Writing

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Introduction

Judgment writing is recognized as a learned skill that can be practiced, improved, and refined. It is an art where clarity serves as its color and brevity its attraction. A well-structured judgment enhances clarity and conciseness, ensuring a complete reasoning process. Fundamentally, a judgment represents the final culmination of a trial, whether civil or criminal, rooted in facts, rules of evidence, and the governing law. This process inherently demands a keen skill in appreciating evidence, drawing upon common sense, natural events, human conduct, probabilities, and improbabilities. The quality of judgments is paramount, as they significantly enhance the judiciary's image and public confidence by demonstrating a commitment to just, fair, and quality justice. It reflects the judge's intellectual strength and signifies a worthy judicial system, making the acquisition of this skill indispensable for judicial officers.

Core Principles and Purpose of a Judgment

The profound importance of a judgment stems from its multifaceted purposes and the core principles it embodies:

- **Reflection of the Judge's Mind and Personality:** The reasons articulated in a judgment reveal the judge's thought process, their

approach to the case, their grasp of factual and legal questions, and the depth of their legal knowledge. In essence, the judgment reflects the personality of the judge.

- **Reason as the Soul:** The supreme requirement of a good judgment is reason. The value, binding character, or persuasive power of a judgment is intrinsically linked to the presentation and articulation of these reasons. Every conclusion must be supported by reasons duly recorded.
- **Ending Controversy:** A primary purpose of a judgment is to bring an end to the controversy involved in the matter, setting the dispute at rest. It has a concept of finality in a broader sense.
- **Transparency and Accountability:** Judgments inform the parties of the reasons for the decision, demonstrating fairness and correctness. They serve to exclude arbitrariness and bias, ensuring that justice is not only done but is seen to be manifestly done. The requirement to provide reasons fosters care, caution, and transparency in judicial decision-making.
- **Guidance for Appellate Courts:** Judgments provide the reasons for appellate or superior courts to consider. A reasoned judgment is considered an essential part of the fair administration of justice.

Definition of Judgment

Section 2(9) of the Civil Procedure Code (CPC) defines a judgment as *"the statement given by the Judge of the grounds for a decree or order*". It is the affirmation by law of the legal consequences attending a proved or admitted state of facts. Judicial precedents further define it as *a decision that affects the merits of a question between parties, determining some right or liability.* A judgment declares the existence of a right, recognizes the commission of an injury, or negatives an allegation. While

the CPC provides a definition, no equivalent definition exists in the Criminal Procedure Code.

Related definitions include:

- Section 2(14) CPC, which defines an "Order" as a formal expression of any Civil Court decision that is not a decree.
- Section 33 CPC, which states that a judgment is pronounced after a case is heard, and a decree then follows.
- Order XX of the CPC, specifically addresses "Judgment and Decree".
- The form of judgment is prescribed by Rule 143 and Form 24 of the Civil Rules of Practice.

Essential Elements and Structure of a Judgment

Hon'ble Mr. Justice M.M. Corbett, Former Chief Justice of the Supreme Court of South Africa, recommends a basic structural form for judgment writing. These elements, when combined with other Precedents and practices ensure a comprehensive and comprehensible judgment:

1. Beginning of the Judgment: This should prominently display the name of the Court, the title and number of the case, the name and designation of the Judge, and the date of delivery. This ensures clear identification of the matter and the deciding authority.

2. Opening of the Judgment / Introduction Section: This provides a brief introduction to the case, its nature (civil/criminal), and its current stage (trial, appeal, revision, or miscellaneous). It should include a concise narration of the plaintiff/petitioner/appellant's case, followed by a similar narration for the defendant/non-petitioner/respondent's case, focusing on relevant facts and avoiding repetition.

3. Setting out of the Facts: Facts should be gathered from pleadings and evidence, avoiding verbatim repetition. It is convenient to set out undisputed facts first, deferring disputed facts until after issues are identified and while considering each individual issue. Irrelevant evidence and facts can be discarded.

4. Issues and Points for Determination: The judge should frame issues (for civil cases, as per Order 14 CPC) or points for determination/charges (for criminal cases, as per Section 354 CrPC/392 BNSS). This helps to define the scope of the trial, ensuring the judge remains focused. Framing issues or charges is a legal obligation, and formulating points for determination helps maintain focus.

- The "Order" under Section 2(14) is defined as formal expression of any decision of a Civil Court, which is not a decree. Section 33 of CPC says that 'the court, after the case has been heard, shall pronounce Judgment, and on such Judgment a decree shall follow. Order XX of the Code, deals with "Judgment and Decree."
- Rue 143 and Form 24 of Civil Rules of Practice prescribes the form of judgment.
- In Sri Nanjundachari Vs The chairman, 1999 (2) ALT 14.1 (DNOHC), it is held that it is mandatory on the part of the trial court to frame all necessary issues arising from pleadings i.e. material proposition of fact and law as affirmed by one party and denied by the other. The court shall ordinarily pronounce judgment on all issues. But where any issue relates to the jurisdiction of the court or a bar created by Law for the 69 time being in force, the court may postpone main issues in controversy and decide the pertaining issues first. In criminal matters the court will frame the points for determination while dictating Judgment.

- In Velayudhan Vs. State of Kerala 1994 (1) ALT (Crl.) 112, it is held that the Judgment shall contain points of determination and, the reasons for decision on each point, must be considered separately as far as possible. Care should be taken that no material point on fact or law has been overlooked. The entire case depends on the issues/charges. Our appreciation of evidence must always be on issues/charges.

5. Reference to Evidence (Oral and Documentary): Oral evidence (e.g., PW-1, DW-1) and documentary evidence (e.g., Ex.P-1, Ex.D-1) should be briefly referenced by witness number and exhibit number, respectively. A brief overview of the number of witnesses and documents presented by each party should be included.

6. The Law and the Issues: Identification of the law and issues depends on the specific case context. This includes situations where facts are common, where parties agree on law, or where both facts and law are in dispute, or where the case depends on applying law to facts.

7. Applying the Law to the Facts / Decision on Issues Framed or Points Formulated: This stage determines how the case is decided. Issues or points should be decided in the order they are framed. Findings, especially in criminal trials, should be recorded charge-wise. Arguments must be discussed with reference to evidence, and findings must be supported by clear reasons and logic, rather than merely accepting or rejecting a party's case. Findings should be cohesive and linked, forming a reasoned and "speaking" judgment.

8. Determining the Relief: This section, including costs, depends on the findings of law and fact, and the conduct of the proceedings.

9. Decretal/Operative Part: This records the final outcome, such as granting or refusing relief in civil cases, or convicting or acquitting the accused in criminal cases. Judgment should finally record the result of the determination either granting relief or refusing to grant such relief in civil cases and convicting or acquitting the accused in criminal case and in the case of conviction, clearly indicating the quantum of sentence both in terms of imprisonment and fine and consequences of failure to pay fine within the prescribed time. Even in civil cases, this part of the judgment should be stated in clearest terms, leaving no scope for ambiguity. It should exactly indicate what the Court requires the parties to do and how the decision should be executed, and which party has to carry it out, the deadline for execution thereof. If it is a money decree, the amount of money to be paid, by which party, to whom and if interest is also to be paid, the rate and the period for which it has to be paid.

In civil cases. Order 48 Rule 3 of CPC provides that the forms given in the appendices, may be used as a guideline with such variation as the circumstances of each case may require, for the purpose therein mentioned.

11. Signature: The judgment concludes with the presiding officer's clear signature, typed name, designation, and the date of signing.

Qualities of a Good Judgment

The effectiveness of a judgment is gauged by its ability to clearly communicate the judge's intent to the readers. Several qualities are essential for a good judgment:

- **Clarity and Conciseness:** A judgment should be simple, brief, and clear. Lengthy judgments are generally not appreciated and can be

boring. Lucidity, rather than style, should be the prime aim. The guiding principle is "Simple, brief and clear is best".

- **Language:** Use easy and simple language that communicates immediately and faster. Avoid unfamiliar terminology, complicated phraseology, flowery language, literary allusions, or unnecessary words. Employ the active voice rather than the passive voice for direct impact. Judges should maintain a dignified and restrained tone, refraining from sarcasm in judgments. The language must be understandable to litigants, legal professionals, and other judges, laying down clear and definite law.
- **Reasoning:** As previously stated, all conclusions must be supported by reasons duly recorded. Findings should be reasoned and speaking," meaning they clearly explain how and why a conclusion was reached, rather than merely stating "dismissed" or "allowed". Parties have a fundamental right to understand how the judgment was reached.
- **Evidence Appreciation**: The judge should analyze evidence with care and thoroughness, discussing it and giving reasons for believing or disbelieving a particular witness. This involves testing the veracity of witnesses using pleadings, admitted documents, and identifying interested parties.
- **Avoiding Extensive Quoting:** Judges should refrain from quoting extensively from pleadings, evidence, or precedents. Instead, they should summarize and discuss these in their own language, quoting only the absolutely essential parts. Excessive quoting merely adds length and can obscure the central issues.
- **Headings and Sub-headings:** Using these can help arrange the judgment cohesively, aid reader convenience, and avoid repetition.

This helps readers navigate to specific sections of interest, prevents repetition, and keeps the discussion lively.

- **Criticism:** Criticism of parties, witnesses, or non-parties should be avoided unless absolutely necessary, and then expressed with utmost restraint, sobriety, and dignity.

The Judge's Role and Conduct

The judge's role and conduct are integral to the quality of judgment writing and the administration of justice:

- **Judicial Qualities:** Hon'ble Murray Gleeson AC, a highly respected Australian jurist also a former Chief Justice of Australia, identifies Independence, Impartiality, Fairness, and Competence as four aspects of judicial status or performance.
- **Impartiality:** This is the essence of justice administration, requiring a demeanor that assures parties their case will be heard on its merits without personal predisposition. Judges should shun bias and prejudice (external or internal) and set aside personal philosophies and sympathies when assuming judicial robes, owing allegiance only to impartiality, truth, and justice.
- **Active Participation:** A judge should do "homework" by perusing pleadings, depositions, and issues before a hearing. This makes the hearing comfortable for the judge and interesting for lawyers, allowing the judge to become a participating Judge who clarifies factual discrepancies and discusses legal application. This active participation builds confidence in litigants, ensuring justice is seen to be done.

- **Maintaining Notes:** Judges should note down points during hearings, which assists in preparing the judgment and serves as a valuable repository of information.
- **Understanding Issues:** It is better to ask questions to understand the issue and its finer nuances of law than to attempt a decision without fully grasping them. The object of such questions should be to elicit relevant clarifications, not to exhibit knowledge.
- **Judicial Demeanor:** The judge's conduct in court greatly influences confidence. A judge should exhibit keenness to get to the root of the case and a desire to do justice. Caution should be exercised to avoid remarks that indicate a pre-determined mind or inclination towards one party.
- **Refinement and continuous Improvement:** The adage "There is no such thing as good writing, there is only good rewriting" aptly applies to judgment writing. A comprehensive editing process should include, using a checklist for topics/issues, checking accuracy of data, eliminating repetition, excluding irrelevant findings, pruning lengthy quotations, removing jargon, simplifying complex sentences, correcting punctuation, and scrutinizing paragraph length.

Judgments in Criminal Cases

Judgments in criminal cases have specific requirements mandated by the Criminal Procedure Code (CrPC):

- As per Section 354 of the Criminal Procedure Code (CrPC) or 393 of Bharatiya Nagarik Suraksha Samhitha (BNSS), the judgment must contain the point(s) for determination, the decision, and the reasons for the decision.

- It must specify the Section of law under which the accused is convicted and the punishment imposed.
- Separate sentences must be passed for each proved offense.
- The judgment should also indicate whether sentences run concurrently or consecutively.
- It must state whether the accused is entitled to a set-off for any period of detention undergone as an under-trial (as per Sections 427 and 428 CrPC or sec 467 and 468 BNSS).
- In case of acquittal, the court must state the offense of which the accused is acquitted and direct their liberty.
- The importance of the trial judge is even greater in criminal cases, as a wrong acquittal is as detrimental as an erroneous conviction. The framing of the charge is crucial.
- Common sense, logic, respect for moral values, and an understanding of human psychology are necessary for judges to render effective justice in criminal cases.
- Section 353 of the CrPC mandates that judgments be delivered in open court.
- Section 363 of the CrPC or section 404 of BNSS affirms the accused's right to a free copy of the judgment, to be furnished immediately if a sentence of imprisonment is passed.

Challenges and Importance of Quality

Writing a good quality judgment is an ongoing challenge amidst swelling litigation and insufficient research facilities. Despite judges being overburdened with cases, quality can never be sacrificed for quantity. A lack of clarity in judgments can lead to criticism, appeals, or even remands for fresh consideration. Clarity is paramount across facts, submissions, law points, reasoning, findings, and the final operative relief.

Delay in Delivery of the Judgment

Judgment should be delivered at the earliest possible time. In fact Order XX Rule 1 of CPC in its proviso requires that every endeavour should be made by the Court to pronounce the judgment within thirty days from the date on which the hearing of the case is concluded and if it is not practicable to do so on the ground of the exceptional and extraordinary circumstances of the case, the Court should fix a future date for pronouncement of the judgment which should not ordinarily be beyond sixty days from the date on which the hearing of the case was concluded. Early pronouncement of the judgment may save the Judge from unnecessary criticism.

Conclusion

Judgment writing is a demanding yet indispensable skill for judicial officers. It is a meticulous process that culminates in a self-contained document, providing a comprehensive narrative of the case, the court's resolution, and the reasoning behind it. The effectiveness of justice is significantly enhanced when judgments are clear, concise, well-reasoned, and diligently edited. By adhering to core principles, structural elements, and maintaining judicial integrity, judges can consistently deliver high-quality judgments that uphold the fairness of the judicial system, build public confidence, and serve as clear guides for all parties involved. The commitment to quality, despite challenges, is paramount to ensuring that justice is not only done but is seen to be manifestly done.

“Judgment writing: Where the art of words meets the essence of justice.”