

## CONTENTS

<b>1</b>	<b>Civil Procedure</b>	— <i>P Puneeth</i>	1
<b>2</b>	<b>Company Law</b>	— <i>Arya A Kumar</i>	39
<b>3</b>	<b>Conflict of Laws</b>	— <i>Lakshmi Jambholkar</i>	59
<b>4</b>	<b>Constitutional Law-I</b>	— <i>S.N. Singh</i>	103
<b>5</b>	<b>Constitutional Law-II</b>	— <i>M.R.K. Prasad</i>	209
<b>6</b>	<b>Consumer Protection Law</b>	— <i>Ashok R Patil</i>	243
<b>7</b>	<b>Criminal Law</b>	— <i>Jyoti Dogra Sood</i>	275
<b>8</b>	<b>Criminal Procedure</b>	— <i>K N Chandrasekharan Pillai</i>	309
<b>9</b>	<b>Cyber Law</b>	— <i>Deepa Kharb</i>	323
<b>10</b>	<b>Election Law</b>	— <i>Virendra Kumar</i>	351
<b>11</b>	<b>Environmental Law</b>	— <i>G.B. Reddy</i>	403
<b>12</b>	<b>Forensic Law</b>	— <i>G.K. Goswami</i>	431
<b>13</b>	<b>Hindu Law</b>	— <i>Poonam Pradhan Saxena</i>	453
<b>14</b>	<b>Intellectual Property Law</b>	— <i>Lisa P Lukose</i>	487
<b>15</b>	<b>International Law</b>	— <i>Manoj Kumar Sinha</i>	513
<b>16</b>	<b>Labour Management Relations</b>	— <i>Bushan Tilak Kaul</i>	529
<b>17</b>	<b>Mercantile Law</b>	— <i>Farooq Ahmad Mir</i>	563
<b>18</b>	<b>Muslim Law</b>	— <i>Furqan Ahmad</i>	581
<b>19</b>	<b>Social Security Law</b>	— <i>S. C. Srivastava</i>	605
<b>20</b>	<b>Tort Law</b>	— <i>B. C. Nirmal</i>	623
<b>21</b>	<b>Women and the Law</b>	— <i>Latika Vashist</i>	641
<b>22</b>	<b>Central Legislation Law</b>	— <i>S. Sivakumar</i>	687
<b>23</b>	<b>Competition Law</b>	— <i>Vinod Dixit</i>	701
<b>24</b>	<b>Property Law</b>	— <i>Annam Subrahmanyam</i>	731
<b>25</b>	<b>Socio-Economic Offence</b>	— <i>Anurag Deep</i>	765

**VOLUMES  
OF  
ANNUAL SURVEY OF INDIAN LAW**

Vol. I	:	1965
Vol. II	:	1966
Vol. III-IV	:	1967-68
Vol. V	:	1969
Vol. VI	:	1970
Vol. VII	:	1971
Vol. VIII	:	1972
Vol. IX	:	1973
Vol. X	:	1974
Vol. XI	:	1975
Vol. XII	:	1976
Vol. XIII	:	1977
Vol. XIV	:	1978
Vol. XV	:	1979
Vol. XVI	:	1980
Vol. XVII	:	1981
Vol. XVIII	:	1982
Vol. XIX	:	1983
Vol. XX	:	1984
Vol. XXI	:	1985
Vol. XXII	:	1986
Vol. XXIII	:	1987
Vol. XXIV	:	1988
Vol. XXV	:	1989
Vol. XXVI	:	1990
Vol. XXVII	:	1991
Vol. XXVIII	:	1992
Vol. XXIX	:	1993
Vol. XXX	:	1994
Vol. XXXI	:	1995
Vol. XXXII	:	1996
Vol. XXXIII-IV	:	1997-98
Vol. XXXV	:	1999
Vol. XXXVI	:	2000
Vol. XXXVII	:	2001
Vol. XXXVIII	:	2002
Vol. XXXIX	:	2003
Vol. XL	:	2004
Vol. XLI	:	2005
Vol. XLII	:	2006
Vol. XLIII	:	2007
Vol. XLIV	:	2008
Vol. XLV	:	2009
Vol. XLVI	:	2010
Vol. XLVII	:	2011
Vol. XLVIII	:	2012
Vol. XLIX	:	2013
Vol. L	:	2014
Vol.LI	:	2015
Vol.LII	:	2016
Vol.LIII	:	2017

## CONTENTS

<b>1 CIVIL PROCEDURE</b>		<b>1-38</b>
I	INTRODUCTION	1
II	JURISDICTION	1
	Jurisdiction of labour court to decide service disputes between cooperative society and its employee	2
	Declaratory suit claiming legal heirship	2
	Inter-country dispute: Jurisdiction to determine guardianship	3
	SARFAESI Act, 2002: Ouster of civil courts jurisdiction	3
	Objection as to the competence of the court	4
III	RES JUDICATA	4
	Exceptions to res judicata	7
	Res - Sub judice and judicata	8
	Application of res – judicata between co-defendants	9
IV	PLEADINGS	9
	Application for amendment of pleadings and production of documents	10
	Rejection of plaint	10
	Cause of action	11
	Delay in filing written statement	11
	Contentions contrary to pleadings	12
V	PARTIES	12
	Necessary and proper parties	12
	Suit on behalf of a minor: Next friend/guardian	13
	Parties in an eviction suit	14
	Determination of legal representative of the deceased	16
	Abetment of suit as a result of non-impleadment of legal representatives	17
VI	APPEAL	17
	Maintainability of appeal against final decree	17
	Second appeal	18
	Maintainability of letters patent appeal against the order passed in exercise of supervisory jurisdiction under article 227	20
	Appeal in arbitration matters under the Commercial Courts Act, 2015	21
	Appeal under section 173 of the Motor Vehicles Act, 1988	22
	Appeal under section 30 of the Employee's Compensation Act, 1923	22
	Admission of additional evidence by appellate court	22
	Scope of article 136: Re-appreciation of evidence	24
	Right to withdraw appeal	25
	Re-adjudication of issue(s) not challenged before the appellate court	25
VII	REVIEW AND REVISION	25
	Distinction between appeal and review	25
	Revision	26

	Challenge to a compromise decree in review petition	27
	Maintainability of review petition filed by a third party	27
VIII	JUDGMENT, DECREE AND ORDERS	28
IX	EXECUTION	28
	Participation of decree holder in action sale	29
	Setting aside sale of immovable property in execution of a decree	29
	Limits on the powers of the executing court	31
X	LIMITATION	31
	Determination and condonation of delay	31
	Delay in filing election petition: Inapplicability of the provisions of Limitation Act	31
	Proceedings under Insolvency and Bankruptcy Code: Applicability of Limitation of Act	32
	Period of limitation for seeking an execution of a decree	32
XI	MISCELLANEOUS	33
	Issue and service of summons	33
	Remedies available against ex parte decree	34
	Election petition: Adherence to technicalities	35
	Payment of interest	35
	Reference of dispute to arbitration: Section 89, CPC	35
	Direction for temple administration	35
	Granting and moulding of relief at interlocutory stage	36
	Scientific investigation to ascertain the truth	36
	Taking into account the events taken place subsequent to filing of suit Counter claim: Order VIII, rule 6-A	37
XII	CONCLUSION	38
	<b>2 COMPANY LAW</b>	<b>39-57</b>
I	INTRODUCTION	39
II	INSOLVENCY RESOLUTION PROCESS	39
III	OPERATIONAL CREDITORS	44
IV	OPPRESSION AND MISMANAGEMENT	45
V	REDUCTION OF SHARE CAPITAL	48
VI	SCHEME OF AMALGAMATION	49
VII	SCHEME OF ARRANGEMENT	50
VIII	ARBITRATION	51
IX	PETITION FOR RELIEF	54
X	MISCELLANEOUS	55
XI	WINDING UP	56
XII	CONCLUSION	57
	<b>3 CONFLICT OF LAWS</b>	<b>59-101</b>
I	INTRODUCTION	59
II	ADMIRALTY JURISDICTION	59
III	CONTRACTS	65

IV	FAMILY LAW	68
	Marriage and divorce	68
	Anti-suit injunction in matrimonial matter	69
	Recognition of foreign divorce decree	71
	Succession	71
	Succession of property to Indian Christians	74
	Child custody	77
V	CONFLICT OF LAW ISSUES IN INTERNATIONAL COMMERCIAL ARBITRATION	87
	Jurisdiction of Indian courts with respect to Foreign Seated Arbitrations	88
	Applicable law to determine interest on award	91
	Determination of Juridical seat in international commercial arbitration	92
	Concept of seat in India seated/domestic arbitration	95
	Enforcement of foreign arbitral awards	96
VI	FOREIGN JUDGMENTS	100
VII	CONCLUSION	101
	<b>4 CONSTITUTIONAL LAW-I</b>	<b>103-207</b>
	<b>(FUNDAMENTAL RIGHTS)</b>	
I	INTRODUCTION	103
II	RIGHT TO EQUALITY	109
	Reasonable classification rule	109
	Discrimination and arbitrariness	113
	Discriminatory conditions of bail	114
	Discriminatory freedom of sex	118
	Gender equality: Adultery de-criminalised	122
	Validity of the practice banning women between the age of 10-50 from entering a temple	127
III	RESERVATION IN ADMISSIONS AND PUBLIC EMPLOYMENT	129
	Validity of institutional preference in admissions to medical courses	129
	Application of creamy layer principle to SC/ST	132
	Effect of migration on reservation from the state of origin to another state	135
	Admission of a candidate belonging to SC/ST/OBC under reserved category if a meritorious candidate of that category has opted a reserved seat	139
	Persons with low vision can't be denied reservation in admission to MBBS course	139
IV	DISTRIBUTION OF STATE LARGESSE	140
V	RIGHT TO FREEDOM OF SPEECH AND EXPRESSION	147
	Freedom of artistic creations in films	147
	Freedom in writing	149
	Freedom of expression in matters of sex	151

VI	FREEDOM OF PEACEFUL ASSEMBLY	151
VII	FREEDOM TO CARRY ON TRADE AND BUSINESS	155
	Right of an advocate to practise	158
VIII	RIGHT TO LIFE AND PERSONAL LIBERTY	160
	Right to reputation	160
	Right to life includes right to dignity	161
	Right to life with dignity includes right to die with dignity	163
	Right to freedom of sex	165
	No habeas corpus petition maintainable when a person is in custody by order of magistrate	166
	Right to privacy: Data Protection: Validity of Aadhaar of (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, 2016	167
	Consensual sexual activity between two adults di-criminalised	171
	Right to speedy and fair investigation	172
	Speedy trial of cases	174
	Fair trial of criminal cases	175
	Procedure in cases of absolute bar against grant of anticipatory bail in cases under the Atrocities Act	176
	Right to marry or have live-in relationship	182
	Directions to control child abuse	183
	Directions to control mob lynching	184
	Rights of victims of crime to appeal against acquittal without seeking leave appeal	185
	Directions issued for the elderly persons	187
IX	PREVENTIVE DETENTION	188
X	RIGHT TO RELIGIOUS FREEDOM	188
	Protection of temples of archaeological and historical importance	188
	Freedom of faith and management of religious affairs	189
	Payment of compensation for damage/destruction of religious places is not violative of article 27.	190
	Removal of a mosque from unauthorised place	190
	What constitutes a religious denomination under article 26 ?	191
	Enforceability of fundamental rights under article 25(1) against the Travancore Devaswom Board	193
	What constitutes an essential practice for a particular religion	195
	Right to change faith is a fundamental right	196
IX	RIGHTS OF MINORITIES	197
	Status of a minority educational institution	197
	Appointment of a teacher in a minority educational institution	197
XII	JUDICIAL REMEDIES	199
	Locus standi to initiate public interest litigation (PIL)	199
	Role and limits of PIL	200

XIII	AWARD OF COMPENSATION AND COST	201
	Compensation for arbitrary action	201
	Compensation for violation of right to life and personal liberty	202
	Application of polluter pay principle	202
	Compensation for repair/ restoration of religious of religious places destroyed during riots	203
	Imposition of cost for gross abuse of judicial process	203
XIV	CONCLUSION	203

## **5 CONSTITUTIONAL LAW – II** **209-242**

I	INTRODUCTION	209
II	ARTICLE 80	210
III	PARLIAMENTARY PRIVILEGES - ARTICLE 105	214
IV	SPECIAL LEAVE TO APPEAL: ARTICLE 136	218
	Review of judgements: Article 137	219
	Transfer of cases: Article 139 A	220
V	INDEPENDENCY AND ACCOUNTABILITY OF JUDICIARY	223
VI	ARTICLE 145	227
	Appointment of district judges: Article 233	230
	Writ jurisdiction article 226	231
	Power of superintendence: Article 227	232
	Special provisions in respect to Delhi: Article 239 AA	232
	Inconsistency between laws: Article 254	235
VII	IDENTIFICATION OF SCHEDULED CASTES AND SCHEDULED TRIBES: ARTICLE 341 AND 342	238
VIII	CONCLUSION	241

## **6 CONSUMER PROTECTION LAW** **243-274**

I	INTRODUCTION	243
II	TELECOM SECTOR	244
	Negligence resulting in deficiency of service	244
III	MEDICAL SECTOR	246
	Reasonable care of patient not taken	246
	Failure to perform surgery in ICU	247
	Death of patient after treatment	249
	Negligence in performing operation	249
IV	RAILWAYS SECTOR	251
	Theft of belongings of complainant	251
V	AIRLINES SECTOR	252
	Overbooking of flights	253
	Forcibly taking boarding passes	253
VI	BANKING SECTOR	254
	Availing of banking services to forward certain documents	255

	Amount of compensation	255
VII	REAL ESTATE SECTOR	256
	Delay in granting possession	257
	Whether beneficiary on transfer of allotment of flat is a consumer under Consumer Protection Act 1986	259
	Failure to provide basic infrastructure	260
VIII	ELECTRICITY SECTOR	261
	Charging excess amount	262
IX	EDUCATION SECTOR	263
	Refund of amount deposited during admission	264
	Failure to disclose information in prospectus	265
X	INSURANCE SECTOR	266
	Repudiation of claim	266
	Lift given to passengers	268
	Failure to inform about rejection of insurance within reasonable time	269
	Concealment of facts by complainant	269
XI	HOTELS & RESTAURANTS	270
	Responsibility of hotel to vehicles in the parking lot	270
XII	POSTAL SECTOR	271
	Condonation of delay in filing application	271
XIII	CONCLUSION	273
	<b>7 CRIMINAL LAW</b>	<b>275-308</b>
I	INTRODUCTION	275
II	UNNATURAL OFFENCES	276
III	OFFENCES AGAINST HUMAN BODY	278
	Culpable homicide	278
	Murder 279	
	Shoddy investigation	282
	Last seen together	283
	Motive	284
	Culpable homicide not amounting to murder	284
	Sudden fight	285
	Sudden and grave provocation	285
	Mob lynching	287
	Honour killings	287
	Abduction	288
	Hurt	289
	Custodial deaths	289
IV	GENERAL DEFENCES	290
	Right of private defence	290
	Unsoundness of mind	290



V	OFFENCES AGAINST WOMEN	290
	Causing miscarriage	290
	Acid attack	291
	Female genital mutilation	291
	Rape	291
	Disclosure of identity	292
	Parental control	293
	Familial settlement	293
	Sexual violation	294
	Cruelty under section 498-A	294
	Dowry death	295
	Adultery	295
VI	JOINT LIABILITY	295
	Common intention	295
	Unlawful assembly	296
VII	OFFENCES AGAINST PROPERTY	297
	Dacoity	297
	Forgery	297
VIII	INCHOATE OFFENCES	298
	Abetment	298
	Conspiracy	298
	Attempt to murder	299
IX	SENTENCING	299
	Death penalty	300
	Review petition	301
	Judicial hierarchy	303
	Protection of Children from Sexual Offences (POCSO) Act, 2012 POCSO	303
	Concurrent sentencing	303
X	MISCELLANEOUS	304
	Destruction of evidence	304
	Compounding	304
	Medical evidence	304
	Compensation	305
XI	JUSTICE DELAYED	305
XII	CONCLUSION	307
	<b>8 CRIMINAL PROCEDURE</b>	<b>309-322</b>
I	INTRODUCTION	309
II	INVESTIGATION	309
	First information reports	310
	Initiation of criminal proceedings	311
III	BAIL	312
IV	TRIAL AND TRIAL PROCEDURE	313

V	CHARGING OF OFFENCES	315
	Appeal/revision	316
	Sentencing	316
	Compounding	317
VI	PROSECUTION UNDER NEGOTIABLE INSTRUMENTS ACT, 1888	317
VII	TRANSFER	318
VIII	DIRECTIONS	319
IX	EXERCISING INHERENT POWERS UNDER SECTION 482	320
X	CONCLUSION	322
	<b>9 CYBER LAW</b>	<b>323-349</b>
I	INTRODUCTION	323
II	'GENERALIA SPECIALIBUS GENERAL NON-DEROGANT'	323
III	INTERMEDIARY LIABILITY	326
IV	BLOCKING OF WEBSITES-SECTION 69A IT ACT	333
	Geoblocking	335
V	SECTION 65 B-ADMISSIBILITY OF ELECTRONIC EVIDENCE	336
VI	OBSCENITY	345
VII	COPYRIGHT-PROTECTED SYSTEM AND GOVERNMENT WORK	346
VIII	CONCLUSION	348
	<b>10 ELECTION LAW</b>	<b>351-401</b>
I	INTRODUCTION	351
II	DISMISSAL OF ELECTION PETITION IN LIMINE: HOW TO DETERMINE THE NON-DISCLOSURE OF CAUSE OF ACTION, ONE OF THE PIVOTAL GROUNDS OF DISMISSAL?	353
III	DECRIMINALIZATION OF POLITICS THROUGH JUDICIAL INTERVENTION: ITS LIMIT AND LIMITATION UNDER THE CONSTITUTION	369
IV	NONE OF THE ABOVE (NOTA) OPTION: WHETHER ITS INTRODUCTION INTO VOTING PROCESS OF COUNCIL OF STATES (RAJYA SABHA) IS VALID AND CONSTITUTIONAL?	385
V	ELECTION PETITION UNACCOMPANIED BY TREASURY CHALLAN: WHETHER CONSTITUTIONALLY VALID AND CAN BE DISMISSED SUMMARILY?	390
VI	STATUTORY PERIOD FOR PREFERRING AN ELECTION PETITION: WHETHER IT COULD BE EXTENDED BY THE HIGH COURT IN EXERCISE OF ITS POWER UNDER ARTICLE 226 OF THE CONSTITUTION?	394
VII	CONCLUSION	398
	<b>11 ENVIRONMENTAL LAW</b>	<b>403-429</b>
I	INTRODUCTION	403
II	CONSTRUCTIONS IN COASTAL REGULATION ZONE	403
III	MINING AND ENVIRONMENT	404
IV	ILLEGAL CONSTRUCTIONS AND ENVIRONMENTAL CLEARANCE	406

V	MEDICAL WASTE AND POLLUTION	406
VI	FORESTS RIGHTS ACT AND ENVIRONMENTAL PROTECTION	407
VII	NOISE POLLUTION AND ENVIRONMENT PROTECTION	408
VIII	ENVIRONMENT IMPACT ASSESSMENT NOTIFICATION 2006 AND BUILDING CONSTRUCTIONS	415
IX	JALLIKATTU AND GRANT OF PERMISSION	418
X	MASTER PLANS, DEVELOPMENT AND DISREGARD OF ENVIRONMENTAL PROTECTION	418
XI	DISCHARGE OF CHEMICAL AND TOXIC SUBSTANCES INTO UNDERGROUND BORE WELLS – CONTAMINATION OF UNDERGROUND WATER	420
XII	COMPLIANCE WITH BS-VI STANDARDS ON VEHICULAR POLLUTION	422
XIII	TRANSFERRABLE DEVELOPMENT RIGHT (TDR) AND DEVELOPMENTAL CONTROL REGULATIONS (DCR) AND IMPACT ON ENVIRONMENT	424
XIV	SAFETY OF MULLAPERIYAR DAM	425
XV	MISUSE OF PIL	425
XVI	LEGISLATIVE CHANGES RELATING TO ENVIRONMENTAL PROTECTION	426
	i. Dust mitigation measures	426
	ii. Corporate environment responsibility	428
	iii. The Environment (Protection) Amendment Rules, 2018	428
	iv. The Ministry of Environment, Forest and Climate Change has notified the Plastic Waste Management (Amendment) Rules 2018	428
XVII	CONCLUSION	428
	<b>12 FORENSIC LAW</b>	<b>431-452</b>
I	INTRODUCTION	431
II	CIVIL DISPUTE RESOLUTION	432
	Paternity determination	433
	Demand for second (repeat) DNA test	434
III	ADJUDICATION OF CRIME	435
	Issues of consent and privacy	435
	Procedural probity of forensic samples	437
	Order for DNA Test	437
	Human identification	437
	Identification of rape accused	439
	Age determination	440
	Childhood incestuous abuse	440
	Rape induced pregnancy of minor victims	441
	Anonymity of rape victim	442
	Role of DNA and other forensic inputs for determining culpability	443
	Medico-legal report	445

	Fingerprints	446
	Voice sample	447
	Video-graphy of crime scene	447
	Admissibility of the digital evidence	448
	Forensic frauds	448
	Shoddy investigation	448
	Hostility of sterling witnesses vis-a-vis forensic opinion	451
IV	CONCLUSION	452
	<b>13 HINDU LAW</b>	<b>453-485</b>
I	INTRODUCTION	453
II	HINDU ADOPTIONS AND MAINTENANCE ACT	453
	Validity of adoption	453
	Permission to give the child in adoption	454
	Effects of adoption	455
III	MAINTENANCE	455
	Proof of marriage	455
	Obligation of the father in law holding coparcenary property to maintain the widowed daughter in law	457
IV	HINDU MARRIAGE ACT, 1955	457
	Application of the Act to members of scheduled tribes	457
	Non availability of the Act to Muslims	458
	Validity of marriage	458
	Bigamy	460
	Registration of marriage	461
	Nullity of marriage taking consent to marriage by force/fraud	462
	Charge of infidelity and request to lead proof through DNA test	465
	Cruelty	466
	Desertion	468
	Divorce by mutual consent pursuant to an agreement	469
	Waiver of cooling off time period of six months	470
	Remarriage of divorced couple	471
V	HINDU MINORITY AND GUARDIANSHIP ACT 1956	471
	Distinguishing between a guardian and next friend	471
	Legal guardian for issuance of passport to destitute minor	472
	Custody of minor child	473
	Custody of the child who is a foreign national	474
VI	HINDU LAW	476
	Character of property: separate versus coparcenary	476
	Karta's power of alienation	477
	Succession rights of children born of void marriages and claim over ancestral property	478
VII	HINDU SUCCESSION ACT, 1956	479
	Application of the Act to Pondicherry	479

	Devolution of interest in coparcenary property: share of the daughter	479
	Intestate succession	480
	Succession to the property of a female Hindu	481
	Succession Rights of a convert	483
VIII	CONCLUSION	485
	<b>14 INTELLECTUAL PROPERTY LAW</b>	<b>487-511</b>
I	INTRODUCTION	487
II	COPYRIGHT	487
	Title	487
	Question Papers	488
	Reduction on the duration	488
	Software copyright	488
	Customer database	489
	Copyright and Information Technology Act	489
	Copyright and trade mark	490
	Rectification of the register of Copyrights	491
	Cause of action in Copyright infringement and passing off	492
	TRAI Act vis-vis Copyright Act	493
III	TRADEMARK	
	Use of mark and territorial jurisdiction	493
	Jurisdiction vis a vis 'carries on business'	494
	Infringement and passing off by dishonest adaption	495
	Different goods in same class and concurrent use	495
	Rectification in infringement	496
	Passing off of trademarks and sub trademarks	497
	Prior user vis a vis registered proprietor	498
	Fraudulent, dishonest and illegal registration of mark by the defendent	500
	Removal for non use	500
	Trademark infringement through domain names	501
	Intermediary's liability in trademark infringement	502
	Unregistered copyright in trademark	505
	Compensatory costs	505
	Trademark and designs: Maintainability of composite suit	505
IV	INDUSTRIAL DESIGNS	506
	Newness and originality of design	506
	Balance of convenience and interim orders	507
V	TRADE SECRETS	507
	Confidential information and specific pleading	508
VI	PATENTS	509
	Patent working information	509
	Examination request	509
VII	MISCELLANANEOUS	510
	Supression of facts	510

	Scope of copyright in subject books	511
VIII	CONCLUSION	511
	<b>15 INTERNATIONAL LAW</b>	<b>513-527</b>
XIV	CONCLUSION	203
I	INTRODUCTION	513
II	APPROACH OF SUPREME COURT	513
III	HIGH COURT DECISIONS	524
IV	CONCLUSION	527
	<b>16 LABOUR MANAGEMENT RELATIONS</b>	<b>529-562</b>
I	INTRODUCTION	529
II	INDUSTRIAL DISPUTES ACT, 1947	529
	Retrenchment	529
	Deemed continuous service of one year under section 25B (2) explained	529
	Compensation and not reinstatement is the general rule:	531
	New judicial approach	
	Termination of service	532
	Compensation in preference to reinstatement: new mantra	532
	Termination of the services of employees appointed on year to year basis: relief moulded	533
	Alternation of service condition of employees without notice: Violative of section 9-A	534
	Disciplinary action	537
	Termination by way of disciplinary action: excluded from definition of 'retrenchment'.	537
	Principles of natural justice: One who alleges must prove	538
	Termination on account of misconduct of theft on basis of findings in a departmental enquiry notwithstanding acquittal ordered by criminal court	539
	Workman accused of murder reinstated by employer without back wages on being acquitted by appellate court: order of management upheld	542
	Liability under section 17-B is absolute	543
	Labour court/ Industrial tribunal may not become functus officio in certain circumstances after 30 days from the date of publication of award	544
	Settlement: legality, binding nature and applicability	545
	Applicability of Chapter V-B of the ID Act	548
	May involve determination of mixed questions of fact and law	551
	Section 33 (2) (b) and section 33A: Scope	
	Harmonization of right to livelihood with right to good environment	552
	Issue of Regularization	554

	Fixation of pay scales: a technical and complex matter which should be left to expert body	555
III	MISCELLANEOUS	556
IV	TRADE UNIONS	558
	Trade union: Definition	558
	Verification of membership of trade unions: secret ballot is alien both to the VCD and the Maharashtra statutes	559
V	CONCLUSION	561
	<b>17 MERCANTILE LAW</b>	<b>563-579</b>
I	INTRODUCTION	563
II	LAW OF CONTRACT	563
	Construction of contract	563
	Business efficacy test	564
	Law on tenders (online)	564
	Law on tenders (offline)	566
	Revocation of tender	568
	Black listing of the contractor	570
	Breach of contract	571
	Damages for breach of contract	572
	Reciprocal promise	572
	Unjust enrichment	573
	Banker's general lien	573
	Pledge	575
II	PARTNERSHIP ACT	576
	Dissolution of firm	576
	Effects of Non Registration of Firm	576
III	NEGOTIABLE INSTRUMENTS ACT	577
	Presumption of execution of negotiable instrument	577
IV	CONCLUSION	578
	<b>18 MUSLIM LAW</b>	<b>581-603</b>
I	INTRODUCTION	581
II	LAW RELATING TO STATUS	581
	Nikah (Marriage)	582
	Restraining the second marriage	582
	Impact of polygamous marriage	582
	Settlement of Mehr	583
	Dissolution of marriage	584
	Judicial dissolution at the instance of husband	584
	Role of register of marriage and divorce with process of dissolution of marriage	585
	Judicial dissolution at the instance of wife	585
	Jurisdiction of the court for dissolution of marriage	586

	Right incidental to judicial dissolution	586
	Cruelty-as the ground of dissolution	587
	Validity of divorce	588
	Constitutional validity of the ordinance	588
	Feasibility of the certificate of divorce issued by Jamat	589
	Nafqa (Maintenance)	589
	Maintenance as a ground of social defence	590
	Desertion as ground for granting maintenance	591
	Relevance of strict proof of marriage in proceedings for maintenance	591
	Right for maintenance works as a restraint against the transfer of property	592
	Maintenance on the ground of desertion	592
	Legality of territorial jurisdiction of a magistrate	593
	Maintenance clause by Muslim under Hindu law	593
	Maintenance on the ground of abuse and ill treatment	593
	Applicability of Domestic Violence Act, 2005	595
	Wilayat (Guardianship)	595
	Guardianship of the minor girl	596
III	LAW RELATING TO PROPERTY	596
	Hiba (Gift)	597
	Oral Gift	597
	Waqf	598
	Jurisdictional conflict between two tribunals	599
	Status of encroacher	600
IV	CONCLUSION	601
	<b>19 SOCIAL SECURITY LAW</b>	<b>605-621</b>
I	INTRODUCTION	605
II	EMPLOYEES' COMPENSATION	606
III	EMPLOYEES' PROVIDENT FUNDS	607
	Non-applicability of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 to Certain Establishments.	607
IV	PENSION	609
	Factual matrix	609
	Scope of pensionable salary under proviso to section 11(3) of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952	610
	Reliance on Supreme Court decision in a similar matter	610
	Paragraph 26(6) of the Employees' Provident Funds Scheme and its effect	610
	Response to the concern shown by the provident fund commissioner	611
V	EMPLOYEES' STATE INSURANCE	612
VI	GRATUITY	615



	Forfeiture of gratuity	616
VII	MINIMUM WAGES	618
VIII	EQUAL PAY FOR EQUAL WORK	619
IX	CONCLUSION	620
	<b>20 TORT LAW</b>	<b>623-640</b>
I	INTRODUCTION	623
II	VICARIOUS LIABILITY	623
	Vicarious liability of the state	624
	Vicarious liability of vehicle owner	626
III	PUBLIC LAW TORTS	626
IV	DEFAMATION	628
	“Poetic licence” and defamation vis-à-vis article 19(2)	629
	Civil defamation	630
V	NEGLIGENCE	631
	Medical negligence	635
	Tort of negligence by ‘corporate entity’	637
VI	COMPENSATION UNDER MOTOR VEHICLE ACT	637
VII	CONCLUSION	639
	<b>21 WOMEN AND THE LAW</b>	<b>641-686</b>
I	INTRODUCTION	641
II	RIGHTS, FREEDOMS AND CHOICE: OF SEXUALITY, LOVE AND INTIMACIES	642
	Honour crimes	645
	Decriminalization of consensual (homo)sexual intercourse in private	647
	Decriminalization of adultery	652
	Right to temple entry	655
	Wither freedom of choice	657
	Freedom of expression	657
	Kathua rape case	658
	Sexual violence PIL(S)	660
	Blasphemy	661
III	VIOLENCE IN/ OF MARRIAGE	662
	Section 498A: Rajesh Sharma overruled	662
	Wife killing	665
	Murder of husband	667
	Abetment of suicide	668
	Presumption under section 113A of Evidence Act	669
	State’s duty to appeal wrongful acquittals	670
	Giving false evidence	670
	Harassment of husband	671
	Maintenance under section 125 CrPC	671
	Presumption in favour of marriage under section 125 of the CrPC	672

	Compounding of offences	672
III	SEXUAL OFFENCES	673
	Rape or breach of promise to marry?	673
	Protection of identity of the victims of rape and sexual offences	674
	Stereotypes affecting the law	675
	Hostile witness	677
	Commuting death penalty	677
	Meaning of reasonable doubt in criminal jurisprudence	680
	POCSO: Mandatory disclosure, compensation	683
V	CIVIL LAW	684
	Rights as equal coparceners	684
	Termination from service	685
VI	IN LIEU OF A CONCLUSION	686
	<b>22 CENTRAL LEGISLATION</b>	<b>687-699</b>
I	INTRODUCTION	687
II	BANKING	687
	National Bank for Agriculture and Rural Development (Amendment) Act, 2018	687
III	BACKWARD CLASSES	688
	National Commission for Backward Classes (Repeal) Act, 2018	688
IV	GRATUITY	689
	Payment of Gratuity (Amendment) Act, 2018	689
V	COURTS	689
	The Commercial Courts, Commercial Division and Commercial Appellate Division of High Courts (Amendment) Act, 2018	689
VI	CRIMINAL LAW	690
	The Criminal Law (Amendment) Act, 2018	690
	The Fugitive Economic Offenders Act, 2018	692
VII	EDUCATION	693
	Indian Institute of Petroleum and Energy Act, 2017	693
VIII	SPORTS EDUCATION	693
	National Sports University Act, 2018	694
IX	GOODS AND SERVICES TAX	694
	Goods and Services Tax (Compensation to States) Amendment Act, 2017	694
	Central Goods and Services Tax (Amendment) Act, 2018	695
	Integrated Goods and Services Tax (Amendment) Act, 2018	695
	Union Territory Goods and Services Tax (Amendment) Act, 2018	696
X	INSOLVENCY AND BANKRUPTCY	696
	The Insolvency and Bankruptcy Code (Amendment) Act, 2017	696
XI	NEGOTIABLE INSTRUMENTS	697

	The Negotiable Instruments (Amendment) Act, 2018	697
XII	SPECIFIC RELIEF	697
	The Specific Relief (Amendment) Act, 2018	697
XIII	MISCELLANEOUS	698
	Repealing and Amending Act, 2017	698
	The Repealing and Amending (Second) Act, 2017	698
XIV	CONCLUSION	699
	<b>23 COMPETITION LAW</b>	<b>701-732</b>
I	INTRODUCTION	701
II	TRENDS	701
III	SUPREME COURT	702
IV	SUPREME COURT-BID RIGGING	706
V	SUPREME COURT ON COMBINATION	708
VI	NCLAT- ANTI-COMPETITIVE AGREEMENT	709
VII	COMPETITION COMMISSION OF INDIA: ABUSE OF DOMINANT POSITION	713
VIII	CCI: ANTI COMPETITIVE AGREEMENT	722
IX	COMBINATION	724
X	CCI-CONFLICT OF JURISDICTION BETWEEN CCI AND A REGULATOR	725
XI	CCI: CARTELISATION	729
	<b>24 PROPERTY LAW</b>	<b>733-763</b>
I	INTRODUCTION	733
	Applicability of the Act	733
II	GENERAL PRINCIPLES	734
	Family arrangement	734
	Family settlement	734
	Validity of conditions in the allotment letter after the sale	735
	Ostensible owner	736
	Unauthorised transferor subsequently acquiring interest	737
	Lis pendens	738
	Lis Pendens only in genuine cases	739
	Knowledge or ignorance of Lis Pendens	739
	Part performance	739
	Possession and part performance	740
	Registration Amendment Act 2001 and part performance	741
III	SPECIFIC TRANSFERS	742
	Sale	742
	Specific performance	742
	Ex Parte cancellation of registered deed	743
	Payment of whole price not sine qua non	743

Unregistered agreement to sell and impleadment of necessary party	744
Agreement to sell coupled with possession	744
Unregistered agreement for sale	745
Sale and agreement to sell	745
Mortgage by conditional sale	745
Right of redemption of usufructuary mortgage	747
Right of redemption	748
The right of redemption	748
Accession and exchange	748
Lease	749
Registration of permanent lease	750
Cancellation of lease	751
Eviction of sub tenant	752
Surrender of lease	752
Termination of tenancy and notice to quit	753
Termination of sub-lease	753
Notice to quit	754
Application of TP Act vis a vis Tenancy Act	754
Notice of eviction in joint tenancy	755
Termination of lease of wakf property	756
Acceptance of enhanced rent and continuation of tenancy	756
Eviction under Jammu and Kashmir Tenancy Act	756
Res judicata and suit for eviction	757
Using leased property for commercial purpose	757
Transfer of coparcenary ownership and exchange under section 118 of the TPA	758
Gift and revocation	759
Gift deed and its validation	760
Attestation of gift	760
Proof of gift deed	760
Hindu woman's gift reserving right to possession	761
Will	761
Power of attorney and will	762
IV CONCLUSION	762
<b>25 SOCIO ECONOMIC OFFENCES</b>	<b>765-786</b>
I INTRODUCTION	765
II PREVENTION OF CORRUPTION ACT, 1988	765
Section 19(3)(c) of PCA vis-a-vis 482 of CrPC	766
<i>Satya Narayan Sharma</i> overruled	767

	Framing of charge: Nature whether interlocutory	767
III	MCOCA-NEW DEVELOPMENTS	768
	Interpretation of penal law	769
	Nature of organised crime	770
	Territorial nexus and criminal law	771
	Comparative jurisdiction	772
	Competent court	772
	Organized crime in Delhi is sine qua non	773
IV	NARCOTIC DRUGS AND PSYCHOTROPIC SUBSTANCES ACT, 1985	773
	Informant as investigator	774
	Dowry offence as socio economic crimes	776
V	DOWRY DEATH DUE TO ABETMENT: IS THE LAW SETTLED?	776
	Extramarital affairs as abetment to suicide	777
	Omission to inform the police	780
	Article 136 and dowry cases	781
	Outrageous delay and sentencing : Anusuiya	782
	Delay in higher courts	782
	E-court for better research	783
	Minimum content of a judicial decision : Sangeeta Agrawal case	783
	Dowry offences and mutual compromise	784
	Why should matrimonial compromise be encouraged?	785
VI	CONCLUDING REMARKS	786

